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1st SESSION

36th LEGISLATURE

QUÉBEC, 16 JUNE 2000

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 16 June 2000

This day, at five minutes past ten o'clock in the evening, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

86 Police Act

87 An Act to amend the Professional Code and other legislative provisions

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124 An Act to amend the Act respecting municipal territorial organization and other legislative provisions

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To these bills the Royal assent was affixed by His Excellency the Lieutenant-Governor.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 87
(2000, chapter 13)

An Act to amend the Professional Code and other legislative provisions

Introduced 11 November 1999
Passage in principle 10 December 1999
Passage 14 June 2000
Assented to 16 June 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

This bill amends the Professional Code and other legislative provisions to facilitate the administration of the legislation governing the professions in Québec.

The bill modifies various rules concerning certain professional titles, including those of Industrial Relations Counsellor and Certified Translator or Certified Interpreter, the issuance of licences, remedies under the Professional Code and other legislation respecting the professions, the procedure applicable to professionals under certain regulations, inquiries relating to the indemnity fund, the procedure before the committee on discipline and the Professions Tribunal, professional inspections and the composition of the review committee.

The bill grants supplemental powers to the Bureau of a professional order as regards continuous education, refresher courses and refresher training, and expressly prohibits a person from holding the position of president and the position of secretary of a professional order simultaneously.

The bill amends the rules applicable to the exercise of certain activities. It authorizes the sale of ready-to-wear reading glasses under certain conditions, allows optometrists to prescribe and administer medication for therapeutic purposes and provide eye care under certain conditions, clarifies the right of podiatrists to make, transform, alter or sell podiatric ortheses and defines the conditions governing the operation of a dental prosthesis laboratory.

Lastly, the bill contains provisions to ensure the harmonization, coherence and concordance of certain provisions of the Professional Code and the Acts governing the professions.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting acupuncture (R.S.Q., chapter A-5.1);

– Land Surveyors Act (R.S.Q., chapter A-23);

– Hearing-aid Acousticians Act (R.S.Q., chapter A-33);

– Chiropractic Act (R.S.Q., chapter C-16);

– Professional Code (R.S.Q., chapter C-26);

– Dental Act (R.S.Q., chapter D-3);

– Denturologists Act (R.S.Q., chapter D-4);

– Nurses Act (R.S.Q., chapter I-8);

– Engineers Act (R.S.Q., chapter I-9);

– Veterinary Surgeons Act (R.S.Q., chapter M-8);

– Medical Act (R.S.Q., chapter M-9);

– Notarial Act (R.S.Q., chapter N-2);

– Dispensing Opticians Act (R.S.Q., chapter O-6);

– Optometry Act (R.S.Q., chapter O-7);

– Pharmacy Act (R.S.Q., chapter P-10);

– Podiatry Act (R.S.Q., chapter P-12);

– Midwives Act (1999, chapter 24).

Bill 87

AN ACT TO AMEND THE PROFESSIONAL CODE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 32 of the Professional Code (R.S.Q., chapter C-26), amended by section 17 of chapter 24 of the statutes of 1999, is again amended

(1) by replacing "technician" in the fourth line of the English text by "technologist";

(2) by adding the following paragraph at the end:

"The prohibition relating to the use of any titles, abbreviations or initials mentioned in the first paragraph or in an Act constituting a professional order extends to the use of such titles, abbreviations and initials in a feminine form."

2. Section 36 of the said Code is amended

(1) by replacing paragraph *f* by the following paragraph:

"(*f*) use the title "Certified Human Resources Professional" or "Certified Industrial Relations Counsellor" or any title or abbreviation which may lead to the belief that he is a certified human resources professional or a certified industrial relations counsellor, or use the initials "C.R.I.", "I.R.C.", "C.R.I.A.", "C.I.R.C.", "C.R.H.A." or "C.H.R.P." unless he holds a valid permit for that purpose and is entered on the roll of the Ordre professionnel des conseillers en ressources humaines et en relations industrielles agréés du Québec;";

(2) by inserting "Certified" before "Management" in the first line of paragraph *i* and by inserting "certified" before "management" in the third and in the fourth lines of the said paragraph;

(3) by inserting ", terminologues" after "traducteurs" in the last line of paragraph *t*;

(4) by adding the following paragraph at the end:

"The prohibition relating to the use of any titles, abbreviations or initials mentioned in the first paragraph extends to the use of such titles, abbreviations and initials in a feminine form."

3. Section 37 of the said Code is amended

(1) by replacing "relations industrielles" in the first line of paragraph *f* by "ressources humaines et en relations industrielles agréés";

(2) by inserting ", terminologues" after "traducteurs" in the last line of paragraph *t*.

4. Section 44 of the said Code is repealed.

5. Section 45 of the said Code is amended by adding the following paragraph at the end:

"A decision by the Bureau to refuse to issue a permit or enter an applicant on the roll shall be served on the applicant in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV."

6. Section 45.1 of the said Code is amended by adding the following paragraph at the end:

"A decision of the Bureau to restrict or suspend the right to engage in professional activities shall be served on the applicant in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV."

7. Section 55 of the said Code is amended

(1) by replacing "serve a period of refresher training or take a refresher course, or require him to do both" in the fourth and fifth lines of the first paragraph by "successfully complete a period of refresher training or a refresher course, or both such training and course";

(2) by replacing the second paragraph by the following paragraphs:

"Where the Bureau of an order requires a member of the order to successfully complete a period of refresher training or a refresher course, or both, the Bureau may, on the recommendation of the professional inspection committee or the committee on discipline or in the cases determined by a regulation under paragraph *j* of section 94, restrict or suspend the member's right to engage in professional activities until that requirement is met.

In case of repeated failure to successfully complete a period of refresher training or a refresher course involving a restriction or suspension, the Bureau may, after giving the professional concerned the opportunity to make written representations, strike the professional off the roll, or permanently restrict the professional's right to engage in professional activities reserved for members

of the order. The decision of the Bureau shall be served on the professional in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV."

8. The said Code is amended by inserting the following section after section 58:

"58.1. No professional may use the title of "Doctor" or an abbreviation of that title unless the title or abbreviation is placed

(1) immediately before the professional's name, where the professional holds a doctoral diploma recognized as a valid diploma for the issue of the permit or specialist's certificate held by the professional pursuant to a government regulation under the first paragraph of section 184 or a doctoral diploma recognized as equivalent by the Bureau of the order that issued the permit or certificate, and unless the professional's name is followed by a title reserved for the members of the order; or

(2) after the professional's name, and the title or abbreviation is followed by the name of the discipline in which the doctoral diploma is held.

This section does not apply to the members of the Ordre professionnel des dentistes du Québec, the Collège des médecins du Québec or the Ordre professionnel des médecins vétérinaires du Québec."

9. Section 59 of the said Code is amended by replacing "or 58" in the first line by ", 58 or 58.1".

10. Section 63 of the said Code is amended by replacing "by the regulations of the order" in the second line of the second paragraph by "in a regulation under paragraph *b* of section 93".

11. Section 66.1 of the said Code is amended by adding the following sentence at the end of the first paragraph: "However, the Bureau may, in a regulation under paragraph *b* of section 93, fix a longer period of up to 60 days."

12. Section 67 of the said Code, amended by section 58 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting the following sentence after "poll." in the third line of the first paragraph "However, the Bureau may, in a regulation under paragraph *b* of section 93, fix a longer period of up to 45 days.";

(2) by replacing "the number of members prescribed by regulation of the order" in the fourth and fifth lines of the first paragraph by "such number of members as may be determined by the Bureau in the regulation".

13. Section 69 of the said Code is amended by replacing "prescribed by regulation of the Bureau, where applicable" in paragraph *d* by "that may be prescribed by the Bureau in a regulation under paragraph *b* of section 93".

14. Section 71 of the said Code is amended by adding the following sentence at the end of the first paragraph: "However, the Bureau may, in a regulation under paragraph *b* of section 93, fix a longer period of up to 60 days."

15. Section 74 of the said Code is amended by replacing "by regulation" in the fourth line of the first paragraph by "in a regulation under paragraph *b* of section 93".

16. Section 80 of the said Code is amended by adding the following paragraph at the end:

"The president may not act as the secretary of the order, or exercise the functions assigned to the secretary by this Code or the Act constituting the professional order of which he is a member."

17. Section 86 of the said Code, amended by section 58 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting the following subparagraph after subparagraph *g* of the first paragraph:

"(*g*.1) recognize, in accordance with the standards prescribed under paragraph *i* of section 94, equivalence of terms and conditions for the issue of permits, specialist's certificates and special authorizations determined in a regulation under the said paragraph;";

(2) by adding the following subparagraph after subparagraph *t* of the first paragraph:

"(*u*) impose on any member who fails to take part in the training activities determined pursuant to a regulation made under paragraph *o* of section 94 the penalties prescribed in the regulation."

18. Section 89 of the said Code is amended by adding the following paragraphs at the end:

"A person, a committee or a member of a committee designated by the Bureau for the purposes of this section may conduct an inquiry and report to the Bureau on any claim filed with an indemnity fund.

The person or the committee members mentioned in the fifth paragraph shall take the oath set out in Schedule II.

Section 114 applies to any inquiry conducted pursuant to the fifth paragraph."

19. Section 90 of the said Code is amended by adding the following sentence at the end: "The Bureau may, in the regulation, provide for the appointment by the Bureau of a person responsible for professional inspection, delegate to that person the powers exercised by the committee or one of its members under sections 55, 112 and 113, and delegate to the professional inspection committee the powers exercised by the Bureau under those sections."

20. Section 94 of the said Code is amended

(1) by replacing "serve a period of refresher training or take a refresher course, or required to do both" in the first and second lines of paragraph *j* by "successfully complete a period of refresher training or a refresher course, or both such training and course";

(2) by adding the following paragraphs after paragraph *m*:

"(*n*) determine what is acceptable in lieu of a document required for the purposes of section 42 or paragraph *i* of section 94 of this Code, and the conditions applicable;

"(*o*) determine the continuing education activities or the framework for continuing education activities, in which the members or a class of members of the order are required to take part, in accordance with the terms and conditions fixed by resolution of the Bureau; the regulation must contain the reasons justifying the continuing education activities, the methods for monitoring, supervising or evaluating the activities, the penalties resulting from a failure to take part in the activities and, where applicable, the cases in which a member may be exempted from taking part in continuing education activities."

21. Section 95.2 of the said Code is amended by replacing "paragraph *j*" in the second line of the first paragraph by "paragraph *j*, *n* or *o*".

22. Section 95.3 of the said Code is amended by replacing "paragraph *j*" in the second line by "paragraph *j* or *o*".

23. Section 111 of the said Code, amended by section 58 of chapter 40 of the statutes of 1999, is again amended by adding the following sentence at the end: "The same requirement applies to a person appointed as the person responsible for professional inspections pursuant to section 90."

24. Section 113 of the said Code is replaced by the following section:

"113. The professional inspection committee may, for the reason it indicates, recommend to the Bureau of an order that it require a member of the order to successfully complete a period of refresher training or a refresher course, or require the member to do both and that it restrict or suspend the member's right to engage in professional activities until that requirement is met."

25. Section 114 of the said Code is amended by inserting "the person responsible for professional inspection appointed pursuant to section 90," after "committee," in the first line.

26. Section 123.3 of the said Code is amended by replacing the third and fourth paragraphs by the following paragraphs:

"The committee shall be composed of three persons appointed by the Bureau of the order, or of a greater number of persons fixed by resolution of the Bureau.

At least one of the persons appointed by the Bureau shall be chosen from among the directors appointed by the Office under section 78 or from among the persons whose names appear on a list that may be compiled by the Office for that purpose. A person appointed in accordance with this paragraph shall be entitled, to the extent and on the conditions determined by the Government, to an attendance allowance and the reimbursement of reasonable expenses incurred by the person in the exercise of the function of committee member. The allowance and the reimbursement shall be payable by the Office."

27. Section 123.6 of the said Code is amended by inserting "or assistant syndic" after "syndic" in the first line of the first paragraph, the second line of the second paragraph and the first and fifth lines of the third paragraph.

28. Section 123.7 of the said Code is amended by inserting "or assistant syndic" after "syndic" in the second line.

29. Section 151 of the said Code is amended by replacing the third paragraph by the following paragraphs:

"The costs are those related to the processing of the complaint. They include, in particular, service costs, registration fees, the cost of expert opinion admitted in evidence as well as the indemnities payable to summoned witnesses, computed in accordance with the tariff established in the Regulation respecting indemnities payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r.2). If the respondent is found guilty, the costs also include the travel and lodging expenses of the committee members referred to in section 138.

Where a condemnation to costs becomes executory, the secretary of the committee on discipline shall draw up a list of costs and shall have the list served in accordance with the Code of Civil Procedure. The list may be revised by the chairman of the committee on discipline on a motion filed within thirty days of the date of service. At least five days' notice in writing of the filing must be given to the parties. A motion for revision does not prevent or suspend the execution of the decision. The decision of the chairman of the committee on discipline concerning the revision of the list is final."

30. Section 160 of the said Code is amended by replacing the first paragraph by the following paragraph:

"160. A decision of the committee on discipline may, for any reason indicated by the committee, include a recommendation to the Bureau of the order that it require the professional to successfully complete a period of refresher training or a refresher course, or both, and that it restrict or suspend the professional's right to engage in professional activities until that requirement is met."

31. The said Code is amended by inserting the following section after section 162:

"162.1. The chairman of the tribunal shall receive the same additional remuneration as the additional remuneration to which the associate chief judge of the Court of Québec is entitled, and shall be entitled to the same allowance for official expenses."

32. Section 163 of the said Code is replaced by the following section:

"163. The hearing of the appeal on the merits shall be conducted before three judges of the tribunal. For all other matters, the tribunal shall consist of the chairman or the judge designated by the chairman. However, the judge hearing a motion may refer it to a panel of three judges, except in the case of a motion made under the second paragraph of section 171 or pursuant to the second paragraph of section 172.

Where the tribunal consists of a panel of three judges and one of their number ceases to act, whatever the cause, the hearing may be continued and a decision may be made by the two remaining judges."

33. Section 172 of the said Code is replaced by the following section:

"172. The tribunal shall sit in the judicial district of Québec or Montréal, depending on whether the respondent in first instance has his professional domicile in a district that is under the appellate jurisdiction of Québec or Montréal pursuant to article 30 of the Code of Civil Procedure.

However, upon a motion of a party served on the other parties, the tribunal may decide that the appeal will be heard in the judicial district in which the respondent in first instance has his professional domicile or, where the complainant in first instance is a person having lodged a complaint under the second paragraph of section 128, in the judicial district of the domicile of the complainant. The motion may be filed in any district referred to in this section. The hearing of the motion shall take place in the district in which the motion is filed."

34. Section 175 of the said Code is amended by inserting the following sentence after "them." in the second line of the second paragraph: "The costs

are costs arising from the hearing and include the cost of preparing and forwarding the record of the appeal, the service costs, registration fees and, where applicable, the cost of expert opinion admitted in evidence as well as the indemnities payable to summoned witnesses, computed in accordance with the tariff established in the Regulation respecting indemnities payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r.2) and, where applicable, the costs referred to in section 151."

35. The said Code is amended by inserting the following section after section 177:

"177.0.1. The party entitled to appeal costs shall prepare a bill thereof and have it served upon the party who owes the costs with a notice of a least five days from the date on which it will be presented for taxation to the clerk; the latter may require proof to be made under oath or by witnesses.

The taxation may be revised by the tribunal within 30 days, upon motion served on the opposite party. The motion for revision does not prevent or suspend the execution of the decision. The judgment rendered by the tribunal on the taxation of costs is final and not subject to appeal.

The taxation of costs established by the clerk or by the tribunal may, if payment is not made voluntarily, be homologated by the Superior Court or the Court of Québec, according to their respective jurisdictions having regard to the amount involved, by the mere filing of the taxation of costs with the clerk of the court and the taxation becomes executory as a judgment of that court."

36. Section 177.1 of the said Code is amended by adding the following paragraph at the end:

"The motion for revision must be filed within fifteen days counting, according to circumstances, from the day on which the party became aware of the decision, the new fact or the substantive or procedural defect likely to invalidate the decision. The time limit of fifteen days is peremptory; however, the tribunal may, on a motion, and provided that no more than six months have elapsed since the decision, relieve a party of the consequences of a failure to comply with the time limit if the party shows that it was, in fact, impossible to act sooner."

37. Section 182 of the said Code is replaced by the following section:

"182. The Office shall see to it that certain decisions under this division are made public, subject to any order banning the publication or release of information or documents issued by the committee on discipline or the Professions Tribunal under section 142 or 173.

A decision made public must, however, indicate the name of the order concerned."

38. Section 182.1 of the said Code, amended by section 1 of chapter 18 of the statutes of 1998, is again amended

(1) by inserting "45, 45.1 or" after "section" in the first line of subparagraph 1 of the first paragraph;

(2) by replacing "or the second paragraph of section 187.4" in the second line of subparagraph 1 of the first paragraph by ", the second paragraph of section 187, the second paragraph of section 187.4 or the second or third paragraph of section 187.9";

(3) by replacing subparagraph 3 of the first paragraph by the following subparagraphs:

"(3) a decision of the Bureau under section 16 of the Engineers Act (chapter I-9);

"(4) a decision of the Bureau under the second paragraph of subsection 2 of section 27 of the Veterinary Surgeons Act (chapter M-8);

"(5) a decision of the Administrative Committee under subsection 3 of section 121, subsection 1 of section 122 or section 162 of the Notarial Act (chapter N-2).";

(4) by replacing the second paragraph by the following paragraph:

"Sections 163, 165, 168, 169, 170, 171, 173, 174, 176 and 177.0.1 and the third and fourth paragraphs of section 177.1 apply to appeals from decisions referred to in the first paragraph. However, the reference in section 172 to section 163 shall be read as a reference to section 182.5.";

(5) by striking out the third, fourth and fifth paragraphs.

39. Section 182.2 of the said Code, amended by section 2 of chapter 18 of the statutes of 1998, is again amended

(1) by inserting "45, 45.1 or" after "section" in the first line of the fourth paragraph;

(2) by inserting ", subsection 3 of section 121, subsection 1 of section 122 or section 162 of the Notarial Act (chapter N-2)" after "Québec" in the fifth line of the fifth paragraph;

(3) by replacing the sixth paragraph by the following paragraph:

"The record relating to an appeal from a decision made under the second paragraph of section 187, the second paragraph of section 187.4 or the second or third paragraph of section 187.9 or under section 16 of the Engineers Act (chapter I-9) or the second paragraph of subsection 2 of section 27 of the

Veterinary Surgeons Act (chapter M-8) shall include, in particular, the record and decision of the Bureau and the motion for appeal."

40. Section 182.3 of the said Code is amended by inserting "the first paragraph of section 51 or" after "to" in the second line of the second paragraph.

41. Section 182.5 of the said Code is replaced by the following section:

"182.5. The tribunal shall sit in the judicial district of Québec or Montréal, depending on whether the judicial district in which the professional has his professional domicile or the judicial district in which an appellant who is not a member of an order has his domicile is under the appellate jurisdiction of Québec or Montréal pursuant to article 30 of the Code of Civil Procedure.

However, upon a motion of a party served on the other parties, the tribunal may decide that the appeal will be heard in the judicial district in which the professional has his professional domicile or in the judicial district in which the appellant who is not a member of an order has his domicile. The motion may be filed in any district referred to in this section. The hearing of the motion shall take place in the district in which the motion is filed."

42. Section 182.6 of the said Code is amended by adding the following at the end of the second paragraph: "The costs are costs arising from the hearing and include the cost of preparing and forwarding the record of the appeal, the service costs, registration fees and, where applicable, the cost of expert opinions admitted in evidence as well as the indemnities payable to summoned witnesses, computed in accordance with the tariff established in the Regulation respecting indemnities payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r.2)."

43. Section 182.10 of the said Code is repealed.

44. Section 187 of the said Code is amended by adding the following sentence at the end of the second paragraph: "A decision under this paragraph may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV."

45. The said Code is amended by inserting the following chapter after section 187.5:

"CHAPTER VI.2

"DENTAL PROSTHESIS LABORATORY MANAGEMENT PERMIT

"187.6. No person may operate a laboratory equipped to manufacture or repair dental prostheses unless such activities are under the direction of a person holding a dental prosthesis laboratory management permit.

"187.7. The Office shall make regulations fixing standards concerning

(1) the issue and holding of dental prosthesis laboratory management permits;

(2) the operation of laboratories equipped to manufacture or repair dental prostheses.

"187.8. A member of the Ordre professionnel des denturologistes du Québec or of the Ordre professionnel des techniciens et techniciennes dentaires du Québec who wishes to obtain a permit referred to in section 187.6 must apply in writing to the secretary of the professional order of which the person is a member.

Any other person who, on 11 November 1999, directs the activities of a laboratory equipped to manufacture or repair dental prostheses may obtain a permit referred to in section 187.6 if the person applies in writing to the secretary of the Ordre professionnel des techniciens et techniciennes dentaires du Québec on or before (*insert here the date occurring 90 days after the date of coming into force of this section*).

"187.9. The Bureau of a professional order referred to in the first paragraph of section 187.8 shall issue a permit to every person who meets the standards fixed by the Office and pays the fees prescribed in a resolution of the Bureau.

A decision to refuse to issue a permit to a person who applies therefor under the second paragraph of section 187.8 may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV.

In accordance with the standards fixed by the Office, a permit may be suspended or cancelled at any time by the Bureau of the professional order that issued the permit. A decision under this paragraph may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV.

"187.10. This chapter does not apply to a member of the Ordre professionnel des dentistes du Québec or the Ordre professionnel des denturologistes du Québec who manufactures or repairs a dental prosthesis for a natural person who has direct recourse to the member's services in the practice of his profession."

46. Section 190.1 of the said Code is amended by replacing "or an inspector or investigator of the professional inspection committee" in the third and fourth lines by ", an inspector, an investigator of the professional inspection committee or the employee of the order responsible for investigations into the matters referred to in section 189".

47. Section 192 of the said Code is amended

(1) by adding ", or the person responsible for professional inspections appointed under section 90" at the end of subparagraph 1 of the first paragraph;

(2) by adding the following subparagraph after subparagraph 7 of the first paragraph :

"(8) a person, committee or member of a committee designated by the Bureau for the purposes of section 89."

48. Section 193 of the said Code is amended

(1) by adding ", or the person responsible for professional inspections appointed under section 90" at the end of paragraph 1;

(2) by adding the following paragraph after paragraph 9 :

"(10) a person, committee or member of a committee designated by the Bureau for the purposes of section 89."

49. Section 196.7 of the said Code is amended by replacing "following the date of the request for remittance" in the fifth line by "of the fiscal year during which they are collected".

50. Schedule I to the said Code, amended by section 18 of chapter 24 of the statutes of 1999, is again amended

(1) by replacing "relations industrielles" in the first line of paragraph 27 by "ressources humaines et en relations industrielles agréés" ;

(2) by inserting ", terminologues" after "traducteurs" in the first line of paragraph 41.

ACT RESPECTING ACUPUNCTURE

51. Section 28 of the Act respecting acupuncture (R.S.Q., chapter A-5.1) is amended by inserting "to any person enrolled in the program leading to that diploma" after "techniques" " in the second line of paragraph 1.

52. Section 33 of the said Act is amended by replacing the part preceding paragraph 1 by the following :

"33. Every person who, after 30 June 1995, obtains the diploma recognized as valid under paragraph 1 of section 28 or in respect of whom the Bureau recognizes a diploma or training equivalence as regards that diploma may obtain a permit if the person meets either of the following conditions :".

LAND SURVEYORS ACT

53. Section 13 of the Land Surveyors Act (R.S.Q., chapter A-23), amended by section 208 of chapter 40 of the statutes of 1994, is again amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the second paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

54. Section 38 of the said Act is amended by striking out subparagraph *a* of the first paragraph.

HEARING-AID ACOUSTICIANS ACT

55. Section 12 of the Hearing-aid Acousticians Act (R.S.Q., chapter A-33) is amended by striking out the second sentence of the second paragraph.

CHIROPRACTIC ACT

56. Section 12 of the Chiropractic Act (R.S.Q., chapter C-16) is amended by striking out the second sentence of the second paragraph.

DENTAL ACT

57. Section 19 of the Dental Act (R.S.Q., chapter D-3) is amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the third paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

DENTUROLOGISTS ACT

58. Section 12 of the Denturologists Act (R.S.Q., chapter D-4) is amended by striking out the second sentence of the second paragraph.

NURSES ACT

59. Section 12 of the Nurses Act (R.S.Q., chapter I-8) is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph :

"(*b*) determine the conditions and formalities applicable to the issue of a registration certificate to a student in nursing, and the causes for and the conditions and formalities applicable to the revocation of such a certificate."

60. Section 23 of the said Act is replaced by the following section :

"23. A section shall be designated under the name of "Ordre régional des infirmières et infirmiers de (*insert here the appropriate region name or number*)."

61. Section 34 of the said Act is amended by replacing paragraph *b* by the following paragraph :

"(*b*) has fulfilled the conditions and formalities determined by regulation under subparagraph *b* of the first paragraph of section 12."

62. Section 38 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Subparagraph *a* of the first paragraph does not apply to an applicant holding a diploma awarded by an educational institution situated outside Québec and whose equivalence has been recognized pursuant to subparagraph *g* of the first paragraph of section 86 of the Professional Code, or to an applicant having completed training whose equivalence has been recognized pursuant to the said subparagraph, except where, in order to obtain recognition of the equivalence, the applicant was required to successfully complete a course or training period pursuant to a regulation made under paragraph *c* of section 93 of the Professional Code."

ENGINEERS ACT

63. Section 16 of the Engineers Act (R.S.Q., chapter I-9) is amended by adding the following paragraph at the end:

"A decision by the Bureau to refuse admission on the ground provided for in the first paragraph shall be served on the applicant in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV of the Professional Code (chapter C-26)."

64. Section 20 of the said Act is amended by striking out "Notwithstanding section 44 of the Professional Code (chapter C-26)," in the first line.

65. Section 21 of the said Act is repealed.

VETERINARY SURGEONS ACT

66. Section 6.1 of the Veterinary Surgeons Act (R.S.Q., chapter M-8) is amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the second paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

67. Section 27 of the said Act is amended by adding the following paragraph after the second paragraph of subsection 2:

"A decision by the Bureau to object to re-entry on the roll shall be served on the applicant in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance

with the provisions of Division VIII of Chapter IV of the Professional Code (chapter C-26)."

MEDICAL ACT

68. Section 15 of the Medical Act (R.S.Q., chapter M-9) is amended, in the French text, by replacing "immatriculation" in the fourth line of paragraph *c* by "inscription".

69. Section 19 of the said Act, amended by section 19 of chapter 24 of the statutes of 1999, is again amended

(1) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

"(*c*) determine the conditions and formalities applicable to the issue of a registration certificate to a medical student or a person serving a professional training period or pursuing specialized studies, together with the causes for and the conditions and formalities applicable to the revocation of such a certificate;";

(2) by replacing "Section 95.2 of the Professional Code applies" in the first line of the third paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

70. Section 29 of the said Act is amended

(1) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

"(*c*) has fulfilled the conditions and formalities determined by regulation under subparagraph *c* of the first paragraph of section 19.";

(2) by replacing "formalities determined by the Bureau" in the second line of the second paragraph by "conditions and formalities determined by regulation under subparagraph *c* of the first paragraph of section 19".

71. Section 33 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Subparagraph *a* of the first paragraph does not apply to an applicant

(1) holding a diploma awarded by an educational institution situated outside Québec and whose equivalence has been recognized pursuant to subparagraph *g* of the first paragraph of section 86 of the Professional Code, except where, in order to obtain recognition of the equivalence, the applicant was required to successfully complete a course or training period, pursuant to a regulation made under paragraph *c* of section 93 of the Professional Code;

(2) having obtained recognition of an equivalence from the Bureau under subparagraph *g*.1 of the first paragraph of section 86 of the Professional Code, except where, in order to obtain recognition of the equivalence, the applicant was required to successfully complete a course or training period pursuant to a regulation made under paragraph *i* of section 94 of the Professional Code."

72. Section 37 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Subparagraph *a* of the first paragraph does not apply to an applicant

(1) holding a diploma awarded by an educational institution situated outside Québec and whose equivalence has been recognized pursuant to subparagraph *g* of the first paragraph of section 86 of the Professional Code, except where, in order to obtain recognition of the equivalence, the applicant was required to successfully complete a course or training period pursuant to a regulation made under paragraph *c* of section 93 of the Professional Code;

(2) having obtained recognition of an equivalence from the Bureau under subparagraph *g*.1 of the first paragraph of section 86 of the Professional Code, except where, in order to obtain recognition of the equivalence, the applicant was required to successfully complete a course or training period pursuant to a regulation made under paragraph *i* of section 94 of the Professional Code."

73. Section 43 of the said Act, amended by section 20 of chapter 24 of the statutes of 1999, is again amended by striking out "or under section 22" in the second line of subparagraph *f* of the second paragraph.

NOTARIAL ACT

74. Section 121 of the Notarial Act (R.S.Q., chapter N-2) is amended by adding the following subsection after subsection 2:

"(3) In a case to which subsection 1 applies and upon an application to the secretary of the Order, the Administrative Committee may, on being satisfied that the protection of the public will not be compromised, declare the notary qualified to practise and, where applicable, restrict the notary's right to practise. The notary shall recover the full right to practise after obtaining a discharge under the Bankruptcy and Insolvency Act.

A decision by the Administrative Committee to refuse to declare a notary qualified to practise or to restrict the notary's right to practise shall be served on the notary in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV of the Professional Code."

75. Section 122 of the said Act is amended by adding the following paragraph at the end of subsection 1:

"A decision by the Administrative Committee to refuse a notary consent to resume the practice of his profession shall be served on the notary in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV of the Professional Code (chapter C-26)."

76. Section 162 of the said Act is amended by adding the following paragraph at the end:

"A decision by the Administrative Committee to refuse a notary consent to resume the practice of his profession shall be served on the notary in accordance with the Code of Civil Procedure (chapter C-25); the decision may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV of the Professional Code (chapter C-26)."

DISPENSING OPTICIANS ACT

77. Section 14 of the Dispensing Opticians Act (R.S.Q., chapter O-6) is amended by striking out the second sentence of the second paragraph.

78. Section 15 of the said Act, amended by section 199 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting the following paragraph after the first paragraph:

"Nothing in the first paragraph shall prevent a person from selling ready-to-wear reading glasses having single vision spherical lenses only, of identical power in both lenses of between + 0.50 and + 3.25 dioptres.";

(2) by replacing "This section" in the first line of the last paragraph by "The first paragraph".

OPTOMETRY ACT

79. Section 10 of the Optometry Act (R.S.Q., chapter O-7) is amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the third paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

80. Section 19.1 of the said Act is amended

(1) by inserting "the first paragraph of " after "referred to in " in paragraph 1;

(2) by inserting "the first paragraph of" after "under" in paragraph 2.

81. The said Act is amended by adding the following section after section 19.1:

"19.1.1. Notwithstanding section 16, an optometrist may also administer and prescribe medication to a patient for therapeutic purposes and provide eye care to the patient if the following conditions are met:

(1) the optometrist holds the permit referred to in the second paragraph of section 19.2;

(2) the medication or care provided is mentioned in the regulation made under the second paragraph of section 19.4;

(3) the optometrist acts in the cases and complies with the terms and conditions provided in the regulation, where such is the case."

82. Section 19.2 of the said Act is amended

(1) by replacing "of the permit" in the second line by "of a permit";

(2) by adding the following paragraph at the end:

"The Bureau shall also, by regulation, fix the standards for the issue and holding of a permit authorizing an optometrist to administer and prescribe medication to a patient for therapeutic purposes and to provide eye care to the patient in accordance with section 19.1.1."

83. The said Act is amended by adding the following paragraph at the end of section 19.4:

"The Office des professions du Québec shall also determine periodically, by regulation, after consultation with the Conseil consultatif de pharmacologie, the Ordre des optométristes du Québec, the Ordre des médecins du Québec and the Ordre des pharmaciens du Québec, the medications that may be administered and prescribed for therapeutic purposes by an optometrist and the eye care that may be provided by an optometrist in accordance with section 19.1.1, and determine, if expedient, the cases in which and the terms and conditions according to which such medications may be administered or prescribed or such care may be provided by an optometrist."

84. Section 24 of the said Act is amended by replacing the second sentence of the second paragraph by the following sentence: "However, notwithstanding section 58.1 of the Professional Code, every optometrist who is a member of the Ordre des optométristes du Québec on *(insert here the date of coming into force of this section)* may add the title of doctor in optometry to his name."

85. Section 25 of the said Act, amended by section 200 of chapter 40 of the statutes of 1999, is again amended by inserting the following paragraph after the third paragraph:

"Nothing in this section shall prevent a person from selling ready-to-wear reading glasses having single vision spherical lenses only, of identical power in both lenses of between + 0.50 and + 3.25 dioptres."

PHARMACY ACT

86. Section 8 of the Pharmacy Act (R.S.Q., chapter P-10) is amended by inserting "shall" before "provide" in the first line of paragraph *b* and by replacing, in the French text, "immatriculation" in the second line of that paragraph by "inscription".

87. Section 10 of the said Act is amended

(1) by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) determine the other conditions and formalities applicable to the issue of a registration certificate to a student in pharmacy, together with the causes for and the conditions and formalities applicable to the revocation of such a certificate;";

(2) by replacing "Section 95.2 of the Professional Code applies" in the first line of the third paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

88. Section 12 of the said Act is amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the second paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

89. Section 15 of the said Act is amended by replacing paragraph *c* by the following paragraph:

"(*c*) has fulfilled the conditions and formalities determined by regulation under subparagraph *b* of the first paragraph of section 10."

90. Section 19 of the said Act is amended by replacing the third paragraph by the following paragraph:

"Subparagraph *a* of the first paragraph does not apply to an applicant holding a diploma awarded by an educational institution situated outside Québec and whose equivalence has been recognized pursuant to subparagraph *g* of the first paragraph of section 86 of the Professional Code, or to an applicant having completed training whose equivalence has been recognized pursuant to the said subparagraph, except where, in order to obtain recognition of the equivalence, the applicant was required to successfully complete a course or training period pursuant to a regulation made under paragraph *c* of section 93 of the Professional Code."

91. Section 26 of the said Act is amended by striking out the second paragraph.

PODIATRY ACT

92. Section 6 of the Podiatry Act (R.S.Q., chapter P-12) is amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the third paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

93. Section 13 of the said Act is amended by adding the following paragraph at the end:

"However, a podiatrist is authorized to manufacture, transform, alter or sell podiatric ortheses even if the podiatrist does not hold a permit issued under the Public Health Protection Act (chapter P-35)."

94. Section 15 of the said Act is amended by striking out the second sentence of the second paragraph.

MIDWIVES ACT

95. Section 5 of the Midwives Act (1999, chapter 24) is amended by replacing "Section 95.2 of the Professional Code applies" in the first line of the second paragraph by "Sections 95.2 and 95.3 of the Professional Code apply".

FINAL PROVISION

96. The provisions of this Act come into force on the date or dates to be fixed by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 94
(2000, chapter 15)

Financial Administration Act

Introduced 11 November 1999
Passage in principle 25 November 1999
Passage 14 June 2000
Assented to 16 June 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

This bill replaces the current Financial Administration Act with a new Act that will complete the reform of government accounting practices announced in the Budget Speech of 31 March 1998.

The bill establishes a new management framework for the financial resources of all government departments, bodies and enterprises. It specifies the responsibilities of ministers and chief executive officers of budget-funded bodies with regard to the use of the resources allocated to them, and fixes the rules governing their financial operations.

The functions and powers of the Minister of Finance relating to the management of the consolidated revenue fund, the public debt and the sinking funds assigned by law to the management of the Minister are determined in the bill.

In addition, the bill assigns new responsibilities to the Minister of Finance in connection with contracts for financial and banking services entered into by government departments and bodies.

Lastly, the bill indicates how the Government is to account for its financial management, and specifies the information that must be provided to the National Assembly.

LEGISLATION REPLACED BY THIS BILL:

– Financial Administration Act (R.S.Q., chapter A-6).

LEGISLATION AMENDED BY THIS BILL:

– Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2);

– Act respecting the National Assembly (R.S.Q., chapter A-23.1);

– Crop Insurance Act (R.S.Q., chapter A-30);

– Act respecting farm income stabilization insurance (R.S.Q., chapter A-31);

– Public Curator Act (R.S.Q., chapter C-81);

– Election Act (R.S.Q., chapter E-3.3);

– Act respecting the elimination of the deficit and a balanced budget (R.S.Q., chapter E-4.01);

– Act to establish a fund to combat poverty through reintegration into the labour market (R.S.Q., chapter F-3.2.0.3);

– Act to establish the special local activities financing fund (R.S.Q., chapter F-4.01);

– Forest Act (R.S.Q., chapter F-4.1);

– Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14);

– Act respecting the Ministère de l'Éducation (R.S.Q., chapter M-15);

– Act respecting the Ministère de l'Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);

– Act respecting the Ministère de l'Industrie et du Commerce (R.S.Q., chapter M-17);

– Act respecting the Ministère de la Justice (R.S.Q., chapter M-19);

– Act respecting the Ministère de la Sécurité publique (R.S.Q., chapter M-19.3);

– Act respecting the Ministère des Régions (R.S.Q., chapter M-25.001);

– Act respecting the Ministère des Relations avec les citoyens et de l'Immigration (R.S.Q., chapter M-25.01);

– Act respecting the Ministère des Relations internationales (R.S.Q., chapter M-25.1.1);

– Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2);

– Act respecting the Ministère des Transports (R.S.Q., chapter M-28);

– Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30);

– Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

– Act respecting labour standards (R.S.Q., chapter N-1.1);

– Act to facilitate the payment of support (R.S.Q., chapter P-2.2);

– Public Protector Act (R.S.Q., chapter P-32);

– Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1);

– Act respecting government services to departments and public bodies (R.S.Q., chapter S-6.1);

– Courts of Justice Act (R.S.Q., chapter T-16);

– Auditor General Act (R.S.Q., chapter V-5.01);

– Act respecting assistance and compensation for victims of crime (1993, chapter 54);

– Act to establish a disaster assistance fund for certain areas affected by the torrential rains of 19 and 20 July 1996 (1996, chapter 45);

– Act to establish a fund in respect of the ice storm of 5 to 9 January 1998 (1998, chapter 9);

– Act respecting the Ministère des Finances (1999, chapter 77);

– Act respecting international financial centres (1999, chapter 86);

– Act to establish the Québec Youth Fund (2000, chapter 14).

Bill 94

FINANCIAL ADMINISTRATION ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT AND SCOPE

1. The object of this Act is to establish a management framework for the financial resources of government departments, bodies and enterprises. This Act specifies the means by which the Government is to account for its management and the information that must be provided for that purpose to the National Assembly.

2. For the purposes of this Act, the following bodies are government bodies:

(1) the budget-funded bodies listed in Schedule 1; and

(2) the bodies other than budget-funded bodies listed in Schedule 2.

Persons designated or appointed by the Government or a minister and listed in Schedules 1 and 2, respectively, together with the personnel directed by them, are considered to be budget-funded bodies or bodies other than budget-funded bodies, in the exercise of the functions assigned to them by law or by the Government or the minister.

The enterprises listed in Schedule 3 are government enterprises.

3. The Government may amend a schedule to this Act following the establishment or abolition of a body or enterprise or the amendment of the Act constituting a body or enterprise, or where a body or enterprise no longer possesses the characteristics of the category in which it is classified according to the Government's accounting policies.

The Government may also amend a schedule to this Act to add a body or enterprise that has acquired the characteristics of a government body or enterprise according to the Government's accounting policies.

4. Subject to the second paragraph of section 110 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1), the provisions applicable to budget-funded bodies also apply to the management of the financial resources of the National Assembly, except the provisions of sections 30 and 31.

As well, the provisions applicable to budget-funded bodies apply to the management of the financial resources of persons designated or appointed by the National Assembly to exercise a function coming under the authority of the Assembly to the extent provided in the Act under which they are designated or appointed and to the management of the financial resources of the Commission de la représentation established under the Election Act (R.S.Q., chapter E-3.3) to the extent provided in that Act.

CHAPTER II

CONSOLIDATED REVENUE FUND

5. The consolidated revenue fund consists of all money received or collected from any source over which Parliament has the power of appropriation.

6. Money received under a contract or agreement that provides for the money to be allocated to a specific purpose may be accounted for in a specified purpose account.

Money received on the condition that it be allocated to a specific purpose may also be accounted for in a specified purpose account.

Every disbursement chargeable to a specified purpose account constitutes a charge against the consolidated revenue fund up to the amount determined by the Government at the time the specified purpose account is established.

No money derived from levies, taxes and duties, or from transfer payments by the Government of Canada under the Federal-Provincial Fiscal Arrangements Act (Revised Statutes of Canada (1985), chapter F-8) or the Canada Assistance Plan (Revised Statutes of Canada (1985), chapter C-1), may be accounted for in a specified purpose account.

7. A specified purpose account is established by the Government on the joint proposal of the chair of the Conseil du trésor and the Minister. The Government shall determine the nature of the activities and the costs chargeable to the account and the limits on the disbursements that may be made from the account. The manner in which the account is to be managed shall be determined by the Conseil du trésor.

An order in council under this section may have effect from the beginning of the fiscal year during which it is made.

8. The Minister may deposit money from the consolidated revenue fund with the Caisse de dépôt et placement du Québec, up to the amount recorded in the non-budgetary pension plans account shown in the financial statements of the Government, in order to establish a pension plans sinking fund to provide for the payment of some or all of the benefits under the pension plans. Any benefit payment affecting that account may be reimbursed to the consolidated revenue fund out of the sinking fund.

The Caisse de dépôt et placement du Québec shall administer deposits under the first paragraph in accordance with the investment policy determined by the Minister.

9. All charges, expenses and costs attributable to the management of the fund and the collection of money paid into the fund constitute a permanent charge against the consolidated revenue fund.

10. All loans and other debts contracted by the Government through the issue of bonds, debt securities or otherwise, the interest and fees payable in connection with such bonds, loans or debts and the sinking funds established to repay them also constitute a charge against the consolidated revenue fund.

11. Money collected and received by departments and budget-funded bodies is paid to the credit of the Minister and deposited with the financial institutions designated by the Minister, in accordance with the rules established by the Conseil du trésor.

12. Every person who collects or receives money for or on behalf of a department or budget-funded body must, until the money is remitted to the Minister, deposit it with a financial institution designated by the Minister, in accordance with the rules established by the Conseil du trésor.

13. Money paid into the consolidated revenue fund over which Parliament does not have the power of appropriation must be returned to the person having a right to that money, in accordance with the rules established by the Conseil du trésor.

14. Each minister and chief executive officer of a budget-funded body shall keep a record of money collected and received and of financial claims administered and shall make the proper entries in the government accounting system, in accordance with the rules established by the Conseil du trésor.

15. The Minister may invest money from the consolidated revenue fund or from a sinking fund entrusted by law to the management of the Minister, and may dispose of or terminate such investments according to their terms.

16. The Minister may, where the Minister deems it advisable for the sound and efficient management of the consolidated revenue fund, the public debt, including the pension plans account, and the sinking funds entrusted by law to the management of the Minister, acquire, hold, invest in or make

(1) currency exchange or interest rate exchange agreements;

(2) futures contracts;

(3) purchase contracts or contracts for the purchase or sale of options;

(4) contracts for the short sale of investments, financial contracts and instruments that the Minister is authorized to acquire, hold, invest in or make under section 15 or this section; or

(5) any other financial instrument or contract determined by the Minister.

The Minister may assume any obligation related to a transaction effected pursuant to the first paragraph.

The Minister may effect a transaction referred to in the first paragraph with any special fund.

The Minister may dispose of or terminate such instruments, contracts and agreements, according to their terms.

17. The transactions referred to in section 15 or 16 may be effected by any person and by any means authorized for that purpose by the Minister.

18. The charges, expenses and other costs relating to a transaction effected under section 15 or 16 are management charges, expenses and costs attributable to the management of the consolidated revenue fund within the meaning of section 9, with the exception of those relating to a sinking fund that are payable out of that fund.

19. A transaction effected under section 16 is valid, and its validity cannot be contested if it was effected in accordance with section 17, except where the cause of invalidity is set out in the terms of the transaction.

Payments arising from such a transaction are also valid, and their validity cannot be contested, except to the extent provided for in the first paragraph.

CHAPTER III

FINANCIAL COMMITMENTS AND PAYMENTS

20. Ministers and chief executive officers of budget-funded bodies are responsible for the financial resources allocated to them and accountable for the financial commitments they make, for the expenditures and capital costs arising from those commitments, and for the payment thereof.

21. No financial commitment may be made or is valid unless there is a sufficient balance available out of an appropriation against which the expenditure arising from the commitment may be charged in the fiscal year during which the commitment is made.

The performance of obligations arising from a financial commitment in a fiscal year subsequent to the year in which the commitment is made is subject to there being a sufficient balance available out of an appropriation against which the expenditures arising from the performance of the obligations may be charged.

These provisions also apply to a financial commitment relating to a capital expenditure and the charging thereof against an appropriation.

22. Section 21 does not apply to borrowings made under this Act, or where it is provided by law that an expenditure or cost is to be charged against or an obligation is to be discharged out of the consolidated revenue fund.

Section 21 does not apply to the payment of charges, expenses and costs that constitute a charge against the consolidated revenue fund.

23. Expenditures and costs arising from financial commitments pertaining to the remuneration, employee benefits and other conditions of employment of public servants shall be charged against the appropriations granted by Parliament or, where applicable, in accordance with the Act constituting the body concerned.

24. Ministers and chief executive officers of budget-funded bodies shall keep a record of financial commitments and of the expenditures and costs chargeable against each appropriation, in accordance with the prescribed division into allotments. They shall make the proper entries in the government accounting system in accordance with the rules established by the Conseil du trésor.

25. The amount by which an expenditure recorded in the accounts for a given fiscal year exceeds the appropriation for that year shall be charged against the appropriation granted for the same purpose by Parliament for the following fiscal year.

The same applies to excess capital costs.

26. Every payment out of the consolidated revenue fund shall be made by means of a cheque signed by the Minister, the Deputy Minister or any member of the personnel of the Ministère des Finances authorized for that purpose by the Minister.

The Minister may allow the use of another means of payment, on the conditions determined by the Minister.

27. No payment out of the consolidated revenue fund may be made except on the requisition of a minister, a deputy minister, a chief executive officer, or a member of the personnel of or a holder of a position within the department or body concerned who has been authorized for that purpose. The requisition must be made in the form prescribed by the Conseil du trésor and be submitted with the documents determined by the Conseil du trésor.

28. No requisition for payment may be made unless the person making the requisition certifies that there is legislative authority for making the payment and that

(1) the amount claimed is a lawful charge against an appropriation;

(2) the amount claimed is due for the discharge of an obligation that has been validly assumed or in return for the performance of an obligation that has been performed in accordance with the conditions attached to it; and

(3) the requisition for payment and the applicable terms and conditions are consistent with the rules established by the Conseil du trésor.

29. The Minister may, in the cases and on the conditions determined by the Minister, delegate the power to issue an instruction for payment out of the consolidated revenue fund to another minister, a deputy minister, a chief executive officer or any other person designated by the Minister.

The Minister may, on the conditions determined by the Minister, allow a signature to be affixed on the negotiable instruments determined by the Minister by a person authorized by a financial institution with which the Minister does business.

30. The Minister may refuse to issue an instruction for payment. In such a case, the Minister shall advise the person who made the requisition without delay of the reasons for the refusal.

The person who made the requisition may request that the Conseil du trésor, after consulting the Minister, rule on the refusal. The Minister shall, where warranted, issue the instruction for payment.

31. The Minister may order that all or part of a payment be suspended for the time fixed by the Minister. The decision must be notified to the minister or chief executive officer concerned and to the Conseil du trésor.

32. Sections 30 and 31 do not apply to transactions or borrowings made under this Act or where it is provided by law that the sums necessary for the payment of an expenditure, expense or cost or for the performance of an obligation are to be taken out of the consolidated revenue fund.

Nor do those sections apply to charges, expenses and costs that constitute a charge against the consolidated revenue fund.

CHAPTER IV

GOVERNMENTAL COMPENSATION

33. Any payment to be made by or on behalf of a body determined by the Minister and referred to in the second paragraph of section 36 to a person who is indebted to a department or body referred to in the first paragraph of section 36 is subject to governmental compensation.

This section applies notwithstanding section 33 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

34. The Minister, in accordance with the rules prescribed by the Minister, shall advise the body which is to make the payment of the amount in respect of which governmental compensation is to be applied and direct the body to forward such amount to the Minister for payment into the consolidated revenue fund or, where applicable, into a special fund. The Minister shall also advise the person entitled to the payment of the compensation to be applied.

35. Compensation shall not be applied, or shall be suspended, in respect of the payments and debts determined by the Government.

36. A minister or chief executive officer of a budget-funded body must provide the Minister, on request, with any information necessary for the purposes of section 33.

A body referred to in section 31.1.4 of the Act respecting the Ministère du Revenu must provide to the Minister, on request, any information relating to payments referred to in section 33 to be made by the body.

37. The information referred to in section 36 may be provided by the transfer of information files to be compared, coupled or cross-matched with any other file held by the Minister.

Any transfer of an information file under the first paragraph must be authorized by the Minister. The Minister shall record the name of the department or body having transferred a file in accordance with the first paragraph. Any person who applies therefor shall be given access to such record.

38. The Minister shall prescribe the information transfer procedure and the form of cross-matching codes.

39. The minister or chief executive officer concerned shall advise the debtor of the existence and nature of the claim against the debtor, of the time allotted for payment and of the cross-matching code which will be used in the application of governmental compensation.

40. Compensation shall not be applied before the claim and the payment have been cross-matched by means of the cross-matching code and at least one other piece of information obtained by the Minister.

41. The Minister may not communicate information provided in accordance with section 36 to anyone other than the Minister of Revenue for the purposes of the powers conferred by Division IV of Chapter III of the Act respecting the Ministère du Revenu, except with the authorization of the person to whom the information relates or of the person authorized by law to give such authorization on behalf of that person.

42. For the purposes of this chapter, the Minister shall establish a management procedure framework for the exchange of information. The framework shall specify, among other things, the departments and bodies concerned, the purpose of the exchange of information, the information transfer techniques and means to be employed, the information involved and the confidentiality safeguards and security measures to be applied.

The framework shall be submitted to the Commission d'accès à l'information, which shall give its opinion within 30 days. The framework, once approved by the Government, shall apply to all departments and bodies named therein.

The framework, the opinion of the Commission and the instrument evidencing the approval of the Government shall be tabled in the National Assembly within 30 days of the date of approval or, if the Assembly is not in session, within 30 days of resumption.

The framework shall be published in the *Gazette officielle du Québec* within 30 days of its tabling in the National Assembly.

43. Sections 36 and 38 shall prevail over any provision of a special Act.

44. Section 36 applies notwithstanding sections 68, 68.1 and 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

45. The Minister may, in writing and to the extent specified, delegate to a minister, a chief executive officer or any other person the exercise of the Minister's functions under this chapter.

CHAPTER V

SPECIAL FUNDS

46. The Government may, on the recommendation of the chair of the Conseil du trésor and of the Minister, establish special funds for the financing of activities relating to the sale of goods or services and for the financing of information technologies used in a department or budget-funded body.

A special fund may not, however, be established by the Government where the goods or services in question are offered to the departments or bodies on an exclusive basis or where the latter alone offer the goods or services in question.

47. An order in council under section 46 may have effect from the beginning of the fiscal year during which it is made.

48. The Government shall determine the name of each special fund, the date of the beginning of its activities and its assets and liabilities. It shall also determine the nature of the goods, services and assets financed by the special fund and the nature of the costs chargeable to it. The Government shall designate the minister responsible for the special fund.

The manner in which the special fund is to be managed shall be determined by the Conseil du trésor.

49. A special fund shall be made up of the following, exclusive of the interest earned:

(1) the money collected from the sale of goods or services financed by the special fund;

(2) the money paid into it by the minister responsible for the special fund out of the appropriations granted for that purpose by Parliament;

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

(4) the money paid into it by the Minister pursuant to the first paragraph of section 51 and the first paragraph of section 52.

50. The management of the money making up a special fund is entrusted to the Minister. The money shall be paid to the order of the Minister and deposited with the financial institutions designated by the Minister.

The minister responsible for the special fund shall keep the books of account of the special fund and record the financial commitments chargeable to it. The minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances.

51. The minister responsible for a special fund may, as the manager of the special fund, borrow from the Minister out of the financing fund established under the Act respecting the Ministère des Finances (1999, chapter 77).

Any amount paid into a special fund pursuant to such a loan shall be repayable out of the special fund.

52. The Minister may, with the authorization of the Government and on the conditions it determines, make advances to a special fund out of the consolidated revenue fund.

The Minister may, conversely, make advances to the consolidated revenue fund, on a short-term basis and on the conditions the Minister determines, out of any money paid into a special fund that is not required for its operation.

Any advance made to a fund shall be repayable out of that fund.

53. The remuneration and expenses pertaining to the employee benefits and other conditions of employment of the persons assigned, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), to activities related to a special fund shall be paid out of the special fund.

54. The surpluses accumulated by a special fund shall be paid into the consolidated revenue fund on the date and to the extent determined by the Government.

55. The provisions of sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 apply to a special fund, with the necessary modifications.

56. The fiscal year of a special fund ends on 31 March.

57. Notwithstanding any provision to the contrary, the Minister shall, in the event of a deficiency in the consolidated revenue fund, pay out of the special funds any amount required for the execution of a judgment against the State that has become *res judicata*.

CHAPTER VI

FINANCIAL CONTRACTS

58. The Government may, by regulation and on the recommendation of the Minister,

(1) determine the terms of banking and financial services contracts made in the name of the Government by a minister or by a government body;

(2) determine the cases in which such contracts are subject to authorization by the Government or the Minister.

The terms of a contract and the cases in which the contract is subject to authorization may vary in respect of all contracts, certain categories of contracts or certain contracts made by a minister or body designated in the regulation.

59. A minister or a body, with the authorization of the Government upon the recommendation of the Minister, in the case of a contract that cannot be concluded without authorization by the Government, or with the authorization of the Minister in any other case, may enter into a contract whose terms differ from those applicable to it pursuant to a regulation made under section 58. The Government or the Minister, as the case may be, may determine the terms applicable to the contract.

60. The powers conferred on the Government or the Minister by section 59 shall be exercised, with respect to persons designated by the National Assembly to exercise a function under the authority of the Assembly and with respect to the Commission de la représentation, by the Office of the National Assembly.

CHAPTER VII

PUBLIC DEBT

DIVISION I

BORROWINGS

61. Borrowings shall be effected by the Minister with the authorization of the Government.

62. The Government shall determine such amounts, characteristics, terms and conditions as it considers necessary with respect to borrowings effected pursuant to this division.

63. Borrowings may also be effected under a borrowing plan authorized by the Government; the maximum amount of the borrowings effected under the plan and such characteristics and limits as are deemed necessary by the Government in relation to such borrowings shall be established by the Government.

The Government may authorize the Minister generally to effect any borrowing under the plan, to establish the amounts and other characteristics thereof, and to agree to the applicable terms and conditions, including those relating to the currency of payment and the registration of the securities.

64. The Government may authorize the Minister to withdraw from the consolidated revenue fund any money up to the amount required to create an adequate sinking-fund to provide for the repayment of any borrowing effected under this division.

Whenever a borrowing for which a sinking-fund has been created is redeemed before maturity or renewed or paid off at maturity, the Government may authorize the Minister to transfer such sinking-fund or any part thereof and apply it to another borrowing effected or to be effected, in whole or in part, for the purpose of redeeming before maturity or renewing or paying off at maturity the borrowing for which such sinking-fund was created, or funding any temporary borrowings effected for the purpose of such redemption, renewal or payment, or funding any renewal of such temporary loans.

The management of the money making up such sinking-funds and the revenues derived therefrom shall be entrusted to the Minister.

65. Section 17 applies to borrowings referred to in this division.

66. The Government may provide for registration as to both principal and interest, in such manner and upon such terms and conditions as it determines, of bonds or other debt securities issued for borrowing purposes.

67. The Government may make regulations providing for

(1) the transfer, transmission, exchange, purchase by agreement or redemption of any bond or other debt security;

(2) the replacement of bonds or other debt securities which have been damaged, lost, stolen or destroyed, the payment of interest or capital to their holders or the guarantees they must furnish;

(3) the correction of errors in the registration of bonds or other debt securities; and

(4) the examination and cancellation procedure for bonds and other debt securities issued by Québec that are redeemed before maturity.

68. The Government may modify any part of the public debt by replacing any bonds or other debt securities by any other bonds or debt securities.

The first paragraph shall not be construed as allowing a bond or other debt security to be replaced unless the right to do so has been stipulated or the consent of the holder of the bond or security or of the creditor has been obtained.

69. Where bonds or other debt securities are redeemed before maturity or purchased by agreement, the Minister may maintain them in force in order to reissue them, provided that the characteristics, terms and conditions of the issue do not expressly provide otherwise. The Minister may then reissue the bonds or other debt securities, either by reissuing the same bonds or debt securities or by issuing other bonds or debt securities in their place; with regard to the new issue, the person holding rights in the bonds or other debt securities has the same rights and privileges as if the bonds or other debt securities had not been previously issued.

The reissue of a bond or other debt security, or the issue of another bond or debt security in its place, shall not be considered as the issue of a new bond or new debt security for the purposes of any provision of an order in council limiting the amount or the number of bonds or other debt securities to be issued.

DIVISION II

SAVINGS PRODUCTS

70. The Government may authorize the issue and sale of savings products under a borrowing plan the maximum amount, characteristics and limits of which shall be established by the Government to the extent it deems necessary.

The borrowing plan may provide that the issue, sale and management of a savings product are to be effected by means of a book based system.

The borrowing plan may also provide for the sale of fixed-term annuities.

71. The Minister shall determine the amounts and characteristics of and the other terms and conditions applicable to each issue and sale of savings products under a borrowing plan established in accordance with this division.

72. The Minister may effect any transaction under a borrowing plan established in accordance with this division. The Minister may also, if so authorized by the borrowing plan, enter into contracts for the payment of fixed-term annuities. The funds earmarked for the payment of an annuity shall be regarded as the principal of a loan.

Such funds are exempt from seizure in the hands of the Minister as though they were fixed-term annuities transacted by insurers, provided that a beneficiary in the event of death is designated in the manner set out in the provisions of the Civil Code concerning insurance.

73. For the purposes of this division, the Government may, by regulation,

(1) define the book based system and determine its mode of operation and characteristics as well as ownership and evidentiary rules concerning entries made in the system;

(2) determine conditions for participation and classes of qualifying clients and purchasers;

(3) determine the terms and conditions of assignment, transfer and payment of securities;

(4) determine prohibitions or restrictions concerning the assignment of and the right to dispose of securities;

(5) determine prohibitions or restrictions concerning the granting of movable hypothecs on securities and determine terms and conditions for the granting of such hypothecs as well as conditions for the exercise of related rights or remedies; and

(6) determine administration fees and other fees payable by clients of the book based system and by purchasers of savings products and fixed-term annuities.

74. A regulation under section 73 may specify which of its provisions may be made applicable, by decision of the Minister, to the different savings products authorized and issued under this division.

75. The information to be furnished by clients of the book based system shall be determined by the Minister and requested in the forms prescribed by the Minister.

76. Sections 63 to 67 apply to any borrowing effected under this division, with the necessary modifications.

CHAPTER VIII

BORROWING PLANS AND FINANCIAL INSTRUMENTS AND CONTRACTS

77. For the purposes of this chapter,

(1) "financial instrument or contract" means any financial instrument or contract whose object is the management of financial risks, in particular currency exchange agreements, interest rate exchange agreements, contracts for the purchase or sale of options and futures contracts;

(2) "body" means

(*a*) a body referred to in any of subparagraphs 1 to 5 of the first paragraph of section 24 of the Act respecting the Ministère des Finances;

(*b*) a government agency or government enterprise referred to in section 4 or paragraph 1 of section 5 of the Auditor General Act (R.S.Q., chapter V-5.01); or

(*c*) joint stock companies all the voting shares of which form part of the domain of the State.

78. Bodies which have the power to borrow may, within the scope of a borrowing plan established by the body which sets the maximum amount and characteristics of borrowings and the applicable limits, and with the authorizations or approvals required by law for the exercise of their power to borrow, conclude without further authorization or approval any borrowing transaction under the borrowing plan and establish the amounts and other characteristics of, and fix or accept the terms and conditions relating to, each such transaction.

79. Bodies which have the power to borrow may, with the authorizations and approvals required by law for the exercise of that power, conclude currency exchange agreements or interest rate exchange agreements, or terminate such agreements according to their terms.

This section does not apply to a body in respect of an agreement referred to in this section, insofar as the body is expressly empowered to conclude such an agreement by law or by the Act constituting the body.

80. In addition to the powers granted to them by section 79, bodies which have the power to borrow may, with the authorizations and approvals required by law for the exercise of that power, and if they deem it advisable for sound and efficient financial management, acquire, hold, invest in, conclude, dispose of or terminate, according to their terms, such financial instruments or contracts as the Government may determine for one or more bodies or for a category of bodies.

This section does not apply to a body in respect of a financial instrument or contract, insofar as the power to acquire, hold, invest in or conclude such an instrument or contract is expressly provided by law or by the Act constituting the body.

81. Transactions carried out within the framework of a program established by a body and approved by the Government are not subject to the authorizations and approvals referred to in the first paragraph of sections 79 and 80 where the program establishes the principal mandatory characteristics of the transactions and limits the financial commitments which may arise from them.

82. The Government may, in respect of those financial instruments and contracts which it determines and in respect of currency or interest rate exchange agreements, exempt one or more bodies or a category of bodies, conditionally or unconditionally, from the obligation to obtain the authorizations and approvals required by the first paragraph of sections 79 and 80.

83. A body may, notwithstanding any provision of any other Act applicable to it, determine, within the scope of a borrowing plan referred to in section 78 or of a program referred to in section 81, that the power to borrow or to effect transactions under sections 79 and 80, or the power to approve the terms and conditions thereof, may be exercised by two or more of its officers authorized by the body for that purpose.

CHAPTER IX

PUBLIC ACCOUNTS AND OTHER FINANCIAL REPORTS

84. The fiscal year of the Government shall begin on 1 April in one year and end on 31 March in the next year.

85. The public accounts shall be prepared for each fiscal year by the comptroller of finance on behalf of the Minister in the form determined by the Minister.

86. The public accounts shall comprise

(1) the consolidated financial statements of the Government;

(2) information on the revenues, expenditures and other costs of government departments and budget-funded bodies;

(3) a statement of the statutory and annual appropriations and of the special warrants for the fiscal year, and of the expenditures and other costs charged against each appropriation or special warrant;

(4) a report of the excess of the expenditures and other costs of the departments and budget-funded bodies entered in the accounts for a fiscal year over the appropriations for the same year; and

(5) any other information needed to account for the financial position of the Government.

87. The Minister shall table the public accounts in the National Assembly not later than 31 December following the close of the fiscal year or, if the National Assembly is not in session, not later than the fifteenth day after resumption.

88. The Minister shall prepare the other financial reports of the Government in the form, with the content and at the intervals determined by the Minister.

89. The minister responsible for a body other than a budget-funded body or for a government enterprise shall forward, to the comptroller of finance, in the form, with the content and at the intervals determined by the Minister, the financial information needed to prepare the public accounts and the other financial reports of the Government.

This section also applies to the chief executive officer of a public body and to the chief executive officer of a government agency or a government enterprise referred to in any of sections 3 to 5 of the Auditor General Act as regards financial information relating to property held in trust that is administered by the chief executive officer.

90. The minister shall also forward to the Minister, where so required by the Minister, the operating budget, capital budget and financing budget, as approved, of each body other than a budget-funded body or government enterprise for which the minister is responsible.

Any amendment made to such a budget in the course of a fiscal year that may affect the Government's financial forecasts must be forwarded immediately to the Minister.

91. The accumulated surplus of a body other than a budget-funded body shall be paid into the consolidated revenue fund on the dates and to the extent determined by the Government on the recommendation of the Minister.

The same applies to the dividends payable by a government enterprise where it is provided by law that the dividends are determined by the Government.

92. The comptroller of finance shall prepare a statement of any report and special warrant issued pursuant to section 51 of the Public Administration Act (2000, chapter 8) and the corresponding expenditures and other costs.

The statement shall be tabled in the National Assembly by the minister who reported the urgency of the situation not later than the third day after resumption.

CHAPTER X

AMENDING PROVISIONS

93. Section 14 of the Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Justice shall keep the books of account and record the financial commitments chargeable to the assistance fund. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

94. Section 19 of the said Act, amended by section 100 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"19. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the assistance fund, with the necessary modifications."

95. Section 112 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) is repealed.

96. Sections 71.2 and 71.3 of the Crop Insurance Act (R.S.Q., chapter A-30) are amended by replacing "Division VIII.1 of the Financial Administration Act (chapter A-6)" by "Chapter VIII of the Financial Administration Act (2000, chapter 15)".

97. Section 10.3 and section 10.4 of the Act respecting farm income stabilization insurance (R.S.Q., chapter A-31) are amended by replacing "Division VIII.1 of the Financial Administration Act (chapter A-6)" by "Chapter VIII of the Financial Administration Act (2000, chapter 15)".

98. Section 26.9 of the Public Curator Act (R.S.Q., chapter C-81), enacted by section 11 of chapter 80 of the statutes of 1997, is amended by replacing "The departments and bodies referred to in the first paragraph of section 14 of the Financial Administration Act (chapter A-6)" in the second paragraph by "The departments and budget-funded bodies referred to in section 2 of the Financial Administration Act (2000, chapter 15)".

99. Section 65 of the said Act is amended by replacing "section 49 of the Financial Administration Act (chapter A-6)" by "Chapter VI of the Financial Administration Act".

100. The Election Act (R.S.Q., chapter E-3.3) is amended by inserting the following section:

"488.3. The provisions of the Financial Administration Act (2000, chapter 15) applicable to budget-funded bodies, except sections 30 and 31,

apply to the management of the financial resources of the Commission de la représentation and of the Chief Electoral Officer."

101. Section 15 of the Act respecting the elimination of the deficit and a balanced budget (R.S.Q., chapter E-4.01) is amended by replacing "fiscal year 1996-97" in the second paragraph by "preceding fiscal year".

102. Section 4 of the Act to establish a fund to combat poverty through reintegration into the labour market (R.S.Q., chapter F-3.2.0.3) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

103. Section 8 of the said Act, amended by section 147 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"8. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

104. Section 12 of the Act to establish the special local activities financing fund (R.S.Q., chapter F-4.01) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do no exceed and are consistent with the available balances."

105. Section 16 of the said Act, amended by section 148 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"16. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

106. Section 170.5 of the Forest Act (R.S.Q., chapter F-4.1) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

107. Section 170.9 of the said Act, amended by section 149 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"170.9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

108. Section 21.4 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

109. Section 21.10 of the said Act, amended by section 158 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"21.10. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

110. Section 13.4 of the Act respecting the Ministère de l'Éducation (R.S.Q., chapter M-15) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Education shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

111. Section 13.8 of the said Act, amended by section 159 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"13.8. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

112. Section 61 of the Act respecting the Ministère de l'Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Employment and Solidarity shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

113. Section 66 of the said Act, amended by section 160 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"66. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

114. Section 17.4 of the Act respecting the Ministère de l'Industrie et du Commerce (R.S.Q., chapter M-17) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

115. Section 17.10 of the said Act, amended by section 161 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"17.10. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

116. Section 32.4 of the Act respecting the Ministère de la Justice (R.S.Q., chapter M-19) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Justice shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

117. Section 32. 9 of the said Act, amended by section 163 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"32.9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

118. Section 14.4 of the Act respecting the Ministère de la Sécurité publique (R.S.Q., chapter M-19.3) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Public Security shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

119. Section 14.9 of the said Act, amended by section 164 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"14.9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

120. Section 27 of the Act respecting the Ministère des Régions (R.S.Q., chapter M-25.001) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Regions shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

121. Section 32 of the said Act, amended by section 165 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"32. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

122. Section 20 of the Act respecting the Ministère des Relations avec les citoyens et de l'Immigration (R.S.Q., chapter M-25.01) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Relations with the Citizens and Immigration shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

123. Section 25 of the said Act, amended by section 166 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"25. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

124. Section 35.4 of the Act respecting the Ministère des Relations internationales (R.S.Q., chapter M-25.1.1) is amended by replacing the second paragraph by the following paragraph:

"The Minister of International Relations shall keep the books of account of the funds and record the financial commitments chargeable to them. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

125. Section 35.8 of the said Act, amended by section 167 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"35.8. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the special funds, with the necessary modifications."

126. Section 17.5 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Natural Resources shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

127. Section 17.8 of the said Act, amended by section 168 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"17.8. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

128. Section 12.25 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Transport shall keep the books of account of the fund. The Minister shall also ensure that payments do not exceed the available balances."

129. Section 12.27 of the said Act, amended by section 169 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"12.27. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

130. Section 12.33 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The Minister of Transport shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

131. Section 12.37 of the said Act, amended by section 170 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"12.37. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

132. Section 3.34 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

133. Section 3.38 of the said Act, amended by section 171 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"3.38. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

134. Section 31.1.3 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing "under the fourth paragraph of section 13.1 of the Financial Administration Act (chapter A-6)" by "under section 35 of the Financial Administration Act (2000, chapter 15)".

135. Section 69.1 of the said Act is amended

(1) by replacing subparagraph *a* of the second paragraph by the following subparagraph:

"(*a*) the Comptroller of Finance, in respect of the exercise of the powers referred to in sections 18 and 22 of the Act respecting the Ministère des Finances;";

(2) by adding "and in respect of the exercise of the functions referred to in sections 26 and 33 to 36 of the Financial Administration Act" at the end of subparagraph *d* of the second paragraph.

136. Section 97.4 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

137. Section 97.9 of the said Act, amended by section 173 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"97.9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the Fund, with the necessary modifications."

138. Section 6.2 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing "the provisions of section 29.1 of the Financial Administration Act (R.S.Q., chapter A-6)" in the second paragraph by "the provisions of sections 6 and 7 of the Financial Administration Act (2000, chapter 15)".

139. Section 43 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is replaced by the following section:

"43. The sums making up the Fund shall be managed by the Minister. The Minister shall keep the books of account of the Fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

140. Section 44 of the said Act, amended by section 178 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"44. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the Fund, with the necessary modifications."

141. The Public Protector Act (R.S.Q., chapter P-32) is amended by inserting the following section before section 36:

"35.3. The provisions of the Financial Administration Act (2000, chapter 15) applicable to budget-funded bodies, except sections 30 and 31, apply to the management of the financial resources of the Public Protector."

142. Section 2.1 of the Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1), amended by section 181 of the Public Administration Act (2000, chapter 8), is again amended by replacing the first paragraph by the following paragraph:

"2.1. The sums paid into the fund are subject to the provisions of sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) with the necessary modifications."

143. Section 15 of the Act respecting government services to departments and public bodies (R.S.Q., chapter S-6.1) is amended by replacing the second paragraph by the following paragraph:

"The minister responsible for the administration of this Act shall keep the books of account of the funds and record the financial commitments chargeable to them. The minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

144. Section 19 of the said Act, amended by section 191 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"19. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the funds, with the necessary modifications."

145. Section 21.2 of the said Act is replaced by the following section:

"21.2. The minister responsible for the administration of this Act may, for the purpose of managing a special fund established under section 11, effect a transaction referred to in section 16 of the Financial Administration Act between the special fund and the consolidated revenue fund.

Sections 16 to 19 of that Act apply to such a transaction, with the necessary modifications."

146. Section 246.37 of the Courts of Justice Act (R.S.Q., chapter T-16), amended by section 222 of the Public Administration Act (2000, chapter 8), is again amended by adding the following paragraph:

"Sections 30 and 31 of the said Act do not apply to the committee."

147. Section 37 of the Auditor General Act (R.S.Q., chapter V-5.01) is amended by replacing "in accordance with Division VIII of the Financial Administration Act (chapter A-6)" by "in accordance with Chapter IX of the Financial Administration Act (2000, chapter 15)".

148. Section 62 of the said Act is repealed.

149. The said Act is amended by inserting the following section after section 66:

"66.1. The provisions of the Financial Administration Act (2000, chapter 15) applicable to budget-funded bodies, except sections 30 and 31, apply to the management of the financial resources of the Auditor General."

150. Section 68 of the said Act is repealed.

151. Section 176 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54) is amended by replacing the second paragraph by the following paragraph:

"The Minister of Justice shall keep the books of account of the fund and record the financial commitments chargeable to it. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

152. Section 177 of the said Act, amended by section 228 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"177. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the Fonds, with the necessary modifications."

153. Section 6 of the Act to establish a disaster assistance fund for certain areas affected by the torrential rains of 19 and 20 July 1996 (1996, chapter 45) is amended by replacing the second paragraph by the following paragraph:

"The chair of the Conseil du trésor shall keep the books of account of the fund and record the financial commitments chargeable to it. The chair shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

154. Section 9 of the said Act, amended by section 230 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

155. Section 6 of the Act to establish a fund in respect of the ice storm of 5 to 9 January 1998 (1998, chapter 9) is amended by replacing the second paragraph by the following paragraph:

"The chair of the Conseil du trésor shall keep the books of account of the fund and record the financial commitments chargeable to it. The chair shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

156. Section 9 of the said Act, amended by section 231 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

157. Section 36 of the Act respecting the Ministère des Finances (1999, chapter 77) is amended by replacing "88 and 89" in the first line by "89 and 90".

158. Section 40 of the Act respecting international financial centres (1999, chapter 86) is amended by replacing the second paragraph by the following paragraph:

"The Minister shall keep the books of account for and record the financial commitments chargeable against the fund. The Minister shall also ensure that the commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

159. Section 41 of the said Act is amended by replacing "established under section 69.1 of the Financial Administration Act (R.S.Q., chapter A-6)" by "established under the Act respecting the Ministère des Finances (1999, chapter 77)".

160. Section 46 of the said Act, amended by section 238 of the Public Administration Act (2000, chapter 8), is replaced by the following section:

"46. The provisions of sections 20, 21, 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

161. Section 4 of the Act to establish the Québec Youth Fund (2000, chapter 14) is amended by replacing the second paragraph by the following paragraph:

"The minister responsible for the administration of this Act shall keep the books of account for and record the financial commitments chargeable against the fund. The minister shall also ensure that the commitments and the payments arising therefrom do not exceed and are consistent with the available balances."

162. Section 8 of the said Act is replaced by the following section:

"8. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (2000, chapter 15) apply to the fund, with the necessary modifications."

CHAPTER XI

TRANSITIONAL AND FINAL PROVISIONS

163. Unless otherwise indicated by the context, a reference in any text or document, regardless of its form or medium, to the Financial Administration Act (R.S.Q., chapter A-6) is a reference to this Act.

164. Orders in council under sections 36.1 and 64 of the Financial Administration Act (R.S.Q., chapter A-6) that are in force on 15 June 2000 shall remain in force until they are replaced pursuant to this Act.

165. The financing fund established by section 24 of the Act respecting the Ministère des Finances (1999, chapter 77) shall continue the financing fund established by section 69.1 of the Financial Administration Act (R.S.Q., chapter A-6).

166. This Act replaces the Financial Administration Act.

167. The Minister of Finance is responsible for the administration of this Act.

168. The provisions of this Act come into force on the date or dates fixed by the Government.

SCHEDULE 1

BUDGET-FUNDED BODIES

Bureau d'audiences publiques sur l'environnement
Comité de déontologie policière
Comité de la rémunération des juges de la Cour du Québec et des cours municipales
Commission consultative de l'enseignement privé
Commission d'accès à l'information
Commission de la fonction publique
Commission de l'équité salariale
Commission de protection de la langue française
Commission de protection du territoire agricole du Québec
Commission de toponymie
Commission des biens culturels du Québec
Commission des droits de la personne et des droits de la jeunesse
Commission des transports du Québec
Commission d'évaluation de l'enseignement collégial
Commission municipale du Québec
Commission québécoise des libérations conditionnelles
Conseil consultatif du travail et de la main-d'œuvre
Conseil de la famille et de l'enfance
Conseil de la justice administrative
Conseil de la langue française
Conseil de la magistrature
Conseil de la santé et du bien-être
Conseil de la science et de la technologie
Conseil des aînés
Conseil des relations interculturelles
Conseil des services essentiels
Conseil du statut de la femme
Conseil médical du Québec
Conseil permanent de la jeunesse
Conseil supérieur de l'éducation
Coroners office
Health and Social Services Complaints Commissioner
Human Rights Tribunal
Inspector General of Financial Institutions
Office de la langue française
Office de la protection du consommateur
Office des personnes handicapées du Québec
Police Ethics Commissioner
Public Curator
Régie des alcools, des courses et des jeux
Régie des assurances agricoles du Québec
Régie des marchés agricoles et alimentaires du Québec
Régie du bâtiment du Québec
Régie du cinéma
Régie du logement
Société de la faune et des parcs du Québec

SCHEDULE 2

BODIES OTHER THAN BUDGET-FUNDED BODIES

Administrative Tribunal of Québec
Agence de l'efficacité énergétique
Agence métropolitaine de transport
Bibliothèque nationale du Québec
Bureau d'accréditation des pêcheurs et des aides-pêcheurs du Québec
Building Commissioner
Commission de la capitale nationale du Québec
Commission de reconnaissance des associations d'artistes et des associations de producteurs
Commission des lésions professionnelles
Commission des normes du travail
Commission des services juridiques
Commission des valeurs mobilières du Québec
Conseil des arts et des lettres du Québec
Corporation d'urgences-santé de la région de Montréal métropolitain
Fondation de la faune du Québec
Fonds d'aide aux recours collectifs
Fonds d'assurance-prêts agricoles et forestiers
Fonds de la recherche en santé du Québec
Fonds pour la formation de chercheurs et l'aide à la recherche
Grande bibliothèque du Québec
Héma-Québec
Institut de la statistique du Québec
Institut de police du Québec
Institut de tourisme et d'hôtellerie du Québec
Institut national de santé publique du Québec
Investissement-Québec
Kativik Environmental Advisory Committee
Kativik Environmental Quality Commission
Musée d'art contemporain de Montréal
Musée de la civilisation
Musée du Québec
Office de la sécurité du revenu des chasseurs et piégeurs cris
Office des professions du Québec
Parc technologique du Québec métropolitain
Régie de l'assurance-maladie du Québec
Régie de l'énergie
Régie des installations olympiques
Sidbec
Société d'habitation du Québec
Société de développement des entreprises culturelles
Société de financement agricole
Société de la Place des Arts de Montréal
Société de télédiffusion du Québec
Société des traversiers du Québec
Société d'investissement Jeunesse

Société du Centre des congrès de Québec
Société du Grand Théâtre de Québec
Société du Palais des congrès de Montréal
Société du parc industriel et portuaire de Bécancour
Société du parc industriel et portuaire Québec-Sud
Société immobilière du Québec
Société nationale de l'amiante
Société québécoise d'assainissement des eaux
Société québécoise de récupération et de recyclage
Société québécoise d'information juridique

SCHEDULE 3

GOVERNMENT ENTERPRISES

Centre de recherche industrielle du Québec
Commission de la santé et de la sécurité du travail
Corporation d'hébergement du Québec
Financement-Québec
Fonds d'indemnisation du courtage immobilier
Hydro-Québec
Immobilière SHQ
Loto-Québec
Régie de l'assurance-dépôt du Québec
Société de développement de la Baie James
Société de l'assurance automobile du Québec
Société des alcools du Québec
Société des établissements de plein air du Québec
Société générale de financement du Québec
Société Innovatech du Grand Montréal
Société Innovatech du Sud du Québec
Société Innovatech Québec et Chaudière - Appalaches
Société Innovatech Régions ressources

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 110
(2000, chapter 19)

An Act to amend various legislative provisions concerning municipal affairs

Introduced 11 May 2000
Passage in principle 23 May 2000
Passage 16 June 2000
Assented to 16 June 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

The purpose of this bill is to grant new powers to municipalities and supramunicipal bodies and to amend various rules relating to municipal administration.

The bill introduces legislative provisions that will allow regional county municipalities, intermunicipal boards, urban communities and the transit authorities within the urban communities to adopt by-laws to create financial reserves to provide for certain expenditures specified in the by-law.

The bill empowers intermunicipal boards to finance certain property, services or activities by means of a tariff involving either a fixed amount or a subscription to be paid by users or beneficiaries.

The bill amends the Act respecting elections and referendums in municipalities to clarify distinctions between sole owners and undivided co-owners of immovables and between sole occupants and co-occupants of establishments as regards entitlement to be entered on the list of electors or the referendum list and to clarify the rules for entry on those lists.

The bill amends various other rules in the Cities and Towns Act and the Municipal Code of Québec regarding identification requirements for municipal officers during inspections and certain contractual restrictions that apply to municipal employees and elected municipal office holders.

The bill amends the Act respecting municipal taxation to provide that, from the municipal fiscal year 2001, industrial anti-pollution equipment will no longer be entered on the assessment roll. It also provides for amendments, to be applicable from 1 January 2001, to the rules governing the redistribution to municipalities of the sums collected as property taxes from gas distribution, telecommunications and electric power systems.

The bill amends the Act respecting fabriques to exempt transfers of the property of fabriques *dissolved following a change in the status of a parish from the duties on transfers of immovables. It also amends the Act respecting the Régie du logement to allow notaries in the employ of the board to act alone as special clerks or commissioners and to preside at hearings.*

The bill amends the Charter of the city of Québec to enable the city in its zoning by-law to regulate, by zone, structures and derogatory uses protected by vested rights. The Charter of the city of Montréal is amended to reduce the percentage to be provided for in the city's budget for contingency expenditure. Lastly, the bill contains various transitional provisions to ensure that certain administrative acts performed by municipalities are legal and cannot be contested.

LEGISLATION AMENDED BY THIS BILL:

– Cities and Towns Act (R.S.Q., chapter C-19);

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1);

– Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);

– Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);

– Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);

– Act respecting fabriques (R.S.Q., chapter F-1);

– Act respecting municipal taxation (R.S.Q., chapter F-2.1);

– Act respecting the Régie du logement (R.S.Q., chapter R-8.1);

– Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1);

– Charter of the city of Québec (1929, chapter 95);

– Charter of the city of Montréal (1959-60, chapter 102).

Bill 110

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING MUNICIPAL AFFAIRS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CITIES AND TOWNS ACT

1. Section 3 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 51 of chapter 40 of the statutes of 1999 and section 13 of chapter 43 of the statutes of 1999, is again amended

(1) by replacing the first paragraph by the following paragraph:

"3. The Government, by order, upon the petition of the council of a municipality governed by this Act or of Ville de Montréal or Ville de Québec, may repeal any provision of the charter of the petitioning municipality or any provision of another Act which applies exclusively to that municipality.";

(2) by replacing the third paragraph by the following paragraph:

"The Québec Official Publisher shall insert in each annual volume of the statutes of Québec a table giving the date of the coming into force of the order made before the volume was printed and the legislative provisions the order repeals."

2. Section 116 of the said Act, amended by section 51 of chapter 40 of the statutes of 1999 and section 13 of chapter 43 of the statutes of 1999, is again amended

(1) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

"(4) Any person who has, directly or indirectly, personally or through an associate, any contract with the municipality;";

(2) by inserting the following paragraph after the first paragraph:

"Subparagraph 4 of the first paragraph does not apply to a contract whose object is the appointment of a person to the position of officer or employee, the supply of services generally offered by the municipality or the sale or leasing, on non-preferential terms, of an immovable."

3. Section 411 of the said Act is amended

(1) by inserting ", at any reasonable time," after "examine" in the second line of paragraph 1;

(2) by adding the following paragraph at the end:

"The officers or employees who carry out an inspection shall, on request, produce identification and a certificate issued by the municipality attesting their authority."

4. The said Act is amended by inserting the following sections after section 468.45:

"468.45.1. The management board may, by by-law, establish a financial reserve for any purpose within its jurisdiction to finance expenditures other than capital expenditures.

The by-law must set out

(1) the purpose for which the reserve is established;

(2) the projected amount of the reserve;

(3) the mode of financing of the reserve;

(4) in the case of a reserve of specified duration, the duration of existence of the reserve;

(5) the allocation of the amount, if any, by which income exceeds expenditures at the end of the existence of the reserve.

The duration of existence of a reserve must be determined, unless such determination is inconsistent with the purpose for which the reserve is established.

"468.45.2. A financial reserve shall be made up of the sums allocated to it each year and interest earned on the sums.

The sums allocated to the reserve may derive only from surpluses in a fiscal year that are used for that purpose pursuant to subparagraph 3 of the second paragraph of section 468.45, or from the excess amount referred to in section 244.4 of the Act respecting municipal taxation (chapter F-2.1), derived from a mode of tariffing established by the management board under section 468.47.1.

"468.45.3. Sections 468.37 to 468.39 apply, adapted as required, to a by-law provided for in section 468.45.1.

"468.45.4. All expenditures necessary for the carrying out of the purpose for which the reserve was established must have been made on or before the date on which the reserve ceases to exist.

The treasurer must file, not later than at the last meeting of the board of directors before that time, a statement of the income and expenditures of the reserve.

The board of directors shall allocate the amount, if any, by which the reserve's income exceeds its expenditures in accordance with the provisions of the by-law under which the reserve was established. If there is no such provision, any amount in excess shall be paid to the municipalities in the territory under the jurisdiction of the management board, in the proportion determined under section 468.5.

"468.45.5. A by-law establishing a financial reserve may not provide for a projected amount that, if added to the projected amounts of reserves already established by by-law and still in existence, results in an amount exceeding 15% of the other appropriations provided for in the budget of the fiscal year during which the by-law establishing the reserve is adopted.

"468.45.6. The sums allocated to a financial reserve established under section 468.45.1 must be invested in accordance with section 99."

5. The said Act is amended by inserting the following section after section 468.47:

"468.47.1. Subject to the regulation of the Government made under paragraph 8.2 of section 262 of the Act respecting municipal taxation (chapter F-2.1), the management board may, by by-law, provide that all or part of its property, services or activities shall be financed by means of a tariff involving a fixed amount, exigible on an *ad hoc* basis, in the form of a subscription or under terms similar to those of a subscription for the use of a property or service or in respect of a benefit derived from an activity.

Sections 244.3 to 244.6 and the first paragraph of section 244.8 of the Act respecting municipal taxation apply, adapted as required, to the tariff referred to in the first paragraph."

MUNICIPAL CODE OF QUÉBEC

6. Article 269 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), amended by section 13 of chapter 43 of the statutes of 1999, is again amended

(1) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

"(4) any person who has, directly or indirectly, personally or through an associate, any contract with the municipality;";

(2) by inserting the following paragraph after the first paragraph:

"Subparagraph 4 of the first paragraph does not apply to a contract whose object is the appointment of a person to the position of officer or employee, the supply of services generally offered by the municipality or the sale or leasing, on non-preferential terms, of an immovable."

7. The said Code is amended by inserting the following articles after article 614:

"614.1. The management board may, by by-law, establish a financial reserve for any purpose within its jurisdiction to finance expenditures other than capital expenditures.

The by-law must set out

(1) the purpose for which the reserve is established;

(2) the projected amount of the reserve;

(3) the mode of financing of the reserve;

(4) in the case of a reserve of specified duration, the duration of existence of the reserve;

(5) the allocation of the amount, if any, by which income exceeds expenditures at the end of the existence of the reserve.

The duration of existence of a reserve must be determined, unless such determination is inconsistent with the purpose for which the reserve is established.

"614.2. A financial reserve shall be made up of the sums allocated to it each year and interest earned on the sums.

The sums allocated to the reserve may derive only from surpluses in a fiscal year that are used for that purpose pursuant to subparagraph 3 of the second paragraph of article 614, or from the excess amount referred to in section 244.4 of the Act respecting municipal taxation (chapter F-2.1), derived from a mode of tariffing established by the management board under article 617.1.

"614.3. Articles 606 to 608 apply, adapted as required, to a by-law provided for in article 614.1.

"614.4. All expenditures necessary for the carrying out of the purpose for which the reserve was established must have been made on or before the date on which the reserve ceases to exist.

The treasurer must file, not later than at the last meeting of the board of directors before that time, a statement of the income and expenditures of the reserve.

The board of directors shall allocate the amount, if any, by which the reserve's income exceeds its expenditures in accordance with the provisions of the by-law under which the reserve was established. If there is no such provision, any amount in excess shall be paid to the municipalities in the territory under the jurisdiction of the management board, in the proportion determined under article 574.

"614.5. A by-law establishing a financial reserve may not provide for a projected amount that, if added to the projected amounts of reserves already established by by-law and still in existence, results in an amount exceeding 15% of the other appropriations provided for in the budget of the fiscal year during which the by-law establishing the reserve is adopted.

"614.6. The sums allocated to a financial reserve established under article 614.1 must be invested in accordance with section 99 of the Cities and Towns Act (chapter C-19)."

8. The said Code is amended by inserting the following article after article 617:

"617.1. Subject to the regulation of the Government made under paragraph 8.2 of section 262 of the Act respecting municipal taxation (chapter F-2.1), the management board may, by by-law, provide that all or part of its property, services or activities shall be financed by means of a tariff involving a fixed amount, exigible on an *ad hoc* basis, in the form of a subscription or under terms similar to those of a subscription for the use of a property or service or in respect of a benefit derived from an activity.

Sections 244.3 to 244.6 and the first paragraph of section 244.8 of the Act respecting municipal taxation apply, adapted as required, to the tariff referred to in the first paragraph."

9. Article 691 of the said Code, amended by section 60 of chapter 40 of the statutes of 1999, is again amended by replacing "15" in the first line of the third paragraph by "30".

10. Article 1094.1 of the said Code is amended

(1) by striking out "local" in the first line of the first paragraph;

(2) by adding the following sentence at the end of the first paragraph: "However, no regional county municipality may establish such a reserve for the benefit of a specific sector."

11. Article 1094.2 of the said Code is amended by replacing ", or" in the third line of the second paragraph by "or, in the case of a reserve established by a local municipality,".

12. Article 1094.3 of the said Code is amended

(1) by inserting ", in the case of a local municipality," after "approval" in the second line of the first paragraph;

(2) by inserting "or, in the case of a regional county municipality, to the Minister of Municipal Affairs and Greater Montréal" after "established" in the third line of the first paragraph;

(3) by inserting "of a local municipality" after "by-law" in the first line of the second paragraph.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE L'OUTAOUAIS

13. The Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1) is amended by inserting the following sections after section 153.12:

"153.13. The Community may, by by-law, establish a financial reserve for any purpose within its jurisdiction to finance expenditures other than capital expenditures.

The by-law must set out

(1) the purpose for which the reserve is established;

(2) the projected amount of the reserve;

(3) the mode of financing of the reserve;

(4) in the case of a reserve of specified duration, the duration of existence of the reserve;

(5) the allocation of the amount, if any, by which income exceeds expenditures at the end of the existence of the reserve.

The duration of existence of a reserve must be determined, unless such determination is inconsistent with the purpose for which the reserve is established.

"153.14. A financial reserve shall be made up of the sums allocated to it each year and interest earned on the sums.

The reserve may be made up only of sums from the portion of the general fund of the Community allocated for that purpose by the Council or of the excess amount referred to in section 244.4 of the Act respecting municipal taxation (chapter F-2.1), derived from a mode of tariffing established by the Community under section 143.3.

"153.15. The by-law establishing a financial reserve must be approved by the Minister.

"153.16. All expenditures necessary for the carrying out of the purpose for which the reserve was established must have been made on or before the date on which the reserve ceases to exist.

The treasurer must file, not later than at the last meeting of the Council before that time, a statement of the income and expenditures of the reserve.

The Council shall allocate the amount, if any, by which the reserve's income exceeds its expenditures in accordance with the provisions of the by-law under which the reserve was established. If there is no such provision, any amount in excess shall be paid into the general fund.

"153.17. A by-law establishing a financial reserve may not provide for a projected amount that, if added to the projected amounts of reserves already established by by-law and still in existence, results in an amount exceeding 15% of the other appropriations provided for in the budget of the fiscal year during which the by-law establishing the reserve is adopted.

"153.18. The sums allocated to a financial reserve established under section 153.13 must be invested in accordance with section 151.1."

14. The said Act is amended by inserting the following section after section 191:

"191.1. Sections 153.13 to 153.18 apply, adapted as required, to the transit authority. Notwithstanding the second paragraph of section 153.14, the financial reserve of the transit authority may be made up only of sums from the portion of the general fund of the transit authority allocated for that purpose by the board of directors."

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE MONTRÉAL

15. The Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended by inserting the following sections after section 225:

"225.1. The Community may, by by-law, establish a financial reserve for any purpose within its jurisdiction to finance expenditures other than capital expenditures.

The by-law must set out

(1) the purpose for which the reserve is established;

(2) the projected amount of the reserve;

(3) the mode of financing of the reserve;

(4) in the case of a reserve of specified duration, the duration of existence of the reserve;

(5) the allocation of the amount, if any, by which income exceeds expenditures at the end of the existence of the reserve.

The duration of existence of a reserve must be determined, unless such determination is inconsistent with the purpose for which the reserve is established.

"225.2. A financial reserve shall be made up of the sums allocated to it each year and interest earned on the sums.

The reserve may be made up only of sums from the portion of the general fund of the Community allocated for that purpose by the Council or of the excess amount referred to in section 244.4 of the Act respecting municipal taxation (chapter F-2.1), derived from a mode of tariffing established by the Community under section 222.1.

"225.3. The by-law establishing a financial reserve must be approved by the Minister.

"225.4. All expenditures necessary for the carrying out of the purpose for which the reserve was established must have been made on or before the date on which the reserve ceases to exist.

The treasurer must file, not later than at the last meeting of the Council before that time, a statement of the income and expenditures of the reserve.

The Council shall allocate the amount, if any, by which the reserve's income exceeds its expenditures in accordance with the provisions of the by-law under which the reserve was established. If there is no such provision, any amount in excess shall be paid into the general fund.

"225.5. A by-law establishing a financial reserve may not provide for a projected amount that, if added to the projected amounts of reserves already established by by-law and still in existence, results in an amount exceeding 15% of the other appropriations provided for in the budget of the fiscal year during which the by-law establishing the reserve is adopted.

"225.6. The sums allocated to a financial reserve established under section 225.1 must be invested in accordance with section 231.4."

16. The said Act is amended by inserting the following section after section 305:

"305.1. Sections 225.1 to 225.6 apply, adapted as required, to the Société. Notwithstanding the second paragraph of section 225.2, the financial reserve of the Société may be made up only of sums from the portion of the general fund of the Société allocated for that purpose by the board of directors."

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE QUÉBEC

17. The Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3) is amended by inserting the following sections after section 85:

"85.1. The Community may, by by-law, establish a financial reserve for any purpose within its jurisdiction to finance expenditures other than capital expenditures.

The by-law must set out

(1) the purpose for which the reserve is established;

(2) the projected amount of the reserve;

(3) the mode of financing of the reserve;

(4) in the case of a reserve of specified duration, the duration of existence of the reserve;

(5) the allocation of the amount, if any, by which income exceeds expenditures at the end of the existence of the reserve.

The duration of existence of a reserve must be determined, unless such determination is inconsistent with the purpose for which the reserve is established.

"85.2. A financial reserve shall be made up of the sums allocated to it each year and interest earned on the sums.

The reserve may be made up only of sums from the portion of the general fund of the Community allocated for that purpose by the Council or of the excess amount referred to in section 244.4 of the Act respecting municipal taxation (chapter F-2.1), derived from a mode of tariffing established by the Community under section 157.3.

"85.3. The by-law establishing a financial reserve must be approved by the Minister.

"85.4. All expenditures necessary for the carrying out of the purpose for which the reserve was established must have been made on or before the date on which the reserve ceases to exist.

The treasurer must file, not later than at the last meeting of the Council before that time, a statement of the income and expenditures of the reserve.

The Council shall allocate the amount, if any, by which the reserve's income exceeds its expenditures in accordance with the provisions of the by-law under which the reserve was established. If there is no such provision, any amount in excess shall be paid into the general fund.

"85.5. A by-law establishing a financial reserve may not provide for a projected amount that, if added to the projected amounts of reserves already established by by-law and still in existence, results in an amount exceeding 15% of the other appropriations provided for in the budget of the fiscal year during which the by-law establishing the reserve is adopted.

"85.6. The sums allocated to a financial reserve established under section 85.1 must be invested in accordance with section 166.1."

18. The said Act is amended by inserting the following section after section 210:

"210.1. Sections 85.1 to 85.6 apply, adapted as required, to the Société. Notwithstanding the second paragraph of section 85.2, the financial reserve of the Société may be made up only of sums from the portion of the general fund of the Société allocated for that purpose by the board of directors."

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

19. Section 54 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2), amended by section 3 of chapter 25 of the statutes of 1999 and section 114 of chapter 40 of the statutes of 1999, is again amended by replacing the second paragraph by the following paragraph:

"However, in the case of undivided co-owners of an immovable and of co-occupants of a business establishment, only the co-owner or the co-occupant designated for that purpose pursuant to section 55 is entitled to have his name entered on the list of electors as the owner of the immovable or as the occupant of the business establishment."

20. Section 55.1 of the said Act, enacted by section 5 of chapter 25 of the statutes of 1999, is amended

(1) by replacing the first paragraph by the following paragraphs:

"55.1. In order for a person designated pursuant to section 55 to be able to exercise the right to be entered on the list of electors or any other right related thereto, the municipality must have received the power of attorney.

In order for a person entitled to be entered on the list of electors as the sole owner of an immovable or as sole occupant of a business establishment to be able to exercise that right, the municipality must have received a writing signed by the person and applying for such an entry.

The application for entry or the power of attorney takes effect upon receipt by the municipality and remains valid until it is withdrawn or replaced.

An application for entry made or a power of attorney given for the purposes of the list of electors to be used in a poll must be transmitted to the returning officer not later than 35 days before polling day.";

(2) by replacing "first" in the second line of the second paragraph by "fourth".

21. Section 305 of the said Act is amended by inserting the following subparagraph after subparagraph 5 of the first paragraph:

"(5.1) where the object of the contract is the sale or leasing, on non-preferential terms, of an immovable;".

22. Section 518 of the said Act, replaced by section 65 of chapter 25 of the statutes of 1999 and amended by section 114 of chapter 40 of the statutes of 1999, is again amended by inserting "is a natural person who" after "person" in the first line of subparagraph 1 of the first paragraph.

23. Section 525 of the said Act, amended by section 67 of chapter 25 of the statutes of 1999 and section 114 of chapter 40 of the statutes of 1999, is again amended by replacing the second paragraph by the following paragraph:

"However, in the case of undivided co-owners of an immovable and of co-occupants of a business establishment, only the co-owner or the co-occupant designated for that purpose pursuant to section 526 is entitled to have his name entered on the referendum list as the owner of the immovable or as the occupant of the business establishment."

24. Section 526.1 of the said Act, enacted by section 69 of chapter 25 of the statutes of 1999, is amended

(1) by replacing the first paragraph by the following paragraphs:

"526.1. In order for a person designated pursuant to section 526 to be able to exercise the right to be entered on the referendum list or any other right related thereto, the municipality must have received the power of attorney.

In order for a person entitled to be entered on the referendum list as the sole owner of an immovable or as the sole occupant of a business establishment to be entitled to exercise that right, the municipality must have received a signed writing in the case of a natural person or a resolution in the case of a legal person, applying for such an entry.

The application for entry or the power of attorney takes effect upon receipt by the municipality and remains valid until it is withdrawn or replaced.

An application for entry made or a power of attorney given for the purposes of the referendum list to be used in a poll must be transmitted to the clerk or the secretary-treasurer not later than 30 days before the day fixed for the referendum poll.";

(2) by replacing "first" in the second line of the second paragraph by "fourth".

25. Section 527 of the said Act, replaced by section 70 of chapter 25 of the statutes of 1999, is amended by replacing "or a signed writing" in the third and fourth lines of the second paragraph by ", a signed writing or a resolution".

26. Section 528 of the said Act, amended by section 71 of chapter 25 of the statutes of 1999 and section 114 of chapter 40 of the statutes of 1999, is again amended

(1) by striking out the third paragraph;

(2) by inserting the following paragraphs after the fourth paragraph:

"The resolution takes effect upon receipt by the municipality and remains valid until it is replaced.

A resolution adopted for the purposes of the referendum list to be used in a poll must be transmitted to the clerk or the secretary-treasurer not later than 30 days before the day fixed for the referendum poll.";

(3) by replacing "third" in the first line of the fifth paragraph by "fifth".

ACT RESPECTING FABRIQUES

27. The Act respecting fabriques (R.S.Q., chapter F-1) is amended by inserting the following section after section 16:

"16.1. The Act respecting duties on transfers of immovables (chapter D-15.1) does not apply to a transfer of the property of a *fabrique* following the dissolution of the *fabrique* pursuant to section 16."

ACT RESPECTING MUNICIPAL TAXATION

28. Section 65 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended

(1) by inserting the following subparagraph after subparagraph 1 of the first paragraph:

"(1.1) machines, apparatus and their accessories, other than those of an oil refinery, which are used or intended for the purpose of the abatement or control of pollution, within the meaning of the Environment Quality Act (chapter Q-2), that may result from industrial production or for the purpose of monitoring such pollution;";

(2) by inserting "or 1.1" after "subparagraph 1" in the first line of the second paragraph;

(3) by inserting "or 1.1" after "subparagraph 1" in the third line of the third paragraph;

(4) by inserting "or 1.1" after "subparagraph 1" in the first line of the fourth paragraph.

29. Section 230 of the said Act is repealed.

30. Section 253.37 of the said Act, amended by section 133 of chapter 40 of the statutes of 1999, is again amended by replacing "10" in the second line of the third paragraph by "5".

31. Section 262 of the said Act, amended by section 133 of chapter 40 of the statutes of 1999, is again amended

(1) by striking out paragraph 4;

(2) by striking out "230," in the second line of paragraph 8.4;

(3) by adding the following paragraph after paragraph 10:

"(11) determine the scope of any provision of Division IV of Chapter V by listing the immovables which, in accordance with the provision, must or must not be entered on the property assessment roll."

32. Section 262.1 of the said Act, amended by section 30 of chapter 90 of the statutes of 1999, is repealed.

ACT RESPECTING THE RÉGIE DU LOGEMENT

33. Section 29 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), amended by section 247 of chapter 40 of the statutes of 1999,

is again amended by replacing "or advocates" in the third line of the second paragraph by ", advocates or notaries".

34. Section 30 of the said Act is amended by replacing "or advocates" in the second line by ", advocates or notaries".

ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

35. Section 358.4 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) is amended by adding the following sentence at the end of the first paragraph: "The Minister may, on the Minister's own initiative, exercise that power for a contract or any class of contracts."

CHARTER OF THE CITY OF QUÉBEC

36. Section 336 of the Charter of the city of Québec (1929, chapter 95), amended by section 8 of chapter 122 of the statutes of 1930-31, section 5 of chapter 104 of the statutes of 1931-32, section 19 of chapter 111 of the statutes of 1935, section 67 of chapter 102 of the statutes of 1937, section 12 of chapter 104 of the statutes of 1938, section 22 of chapter 102 of the statutes of 1939, section 27 of chapter 74 of the statutes of 1940, section 12 of chapter 50 of the statutes of 1943, section 8 of chapter 47 of the statutes of 1944, section 20 of chapter 71 of the statutes of 1945, section 17 of chapter 51 of the statutes of 1948, section 3 of chapter 22 of the statutes of 1950, section 8 of chapter 63 of the statutes of 1951-52, section 4 of chapter 36 of the statutes of 1952-53, section 3 of chapter 52 of the statutes of 1952-53, section 1 of chapter 67 of the statutes of 1955-56, section 9 of chapter 50 of the statutes of 1957-58, section 6 of chapter 96 of the statutes of 1960-61, section 7 of chapter 66 of the statutes of 1963 (1st session), section 5 of chapter 69 of the statutes of 1964, section 2 of chapter 85 of the statutes of 1966-67, section 38 of chapter 86 of the statutes of 1969, sections 29 to 31 of chapter 68 of the statutes of 1970, section 146 of chapter 55 of the statutes of 1972, section 29 of chapter 75 of the statutes of 1972, section 8 of chapter 80 of the statutes of 1973, section 12 of chapter 97 of the statutes of 1974, section 15 of chapter 54 of the statutes of 1976, section 457 of chapter 72 of the statutes of 1979, sections 23, 45 and 51 of chapter 42 of the statutes of 1980, section 272 of chapter 63 of the statutes of 1982, section 17 of chapter 64 of the statutes of 1982, sections 22, 59 and 60 of chapter 61 of the statutes of 1984, section 140 of chapter 27 of the statutes of 1985, section 22 of chapter 116 of the statutes of 1986, section 17 of chapter 88 of the statutes of 1988, section 1 of chapter 81 of the statutes of 1989, sections 1155 to 1168 of chapter 4 of the statutes of 1990, section 9 of chapter 91 of the statutes of 1990, section 15 of chapter 84 of the statutes of 1991, section 702 of chapter 61 of the statutes of 1992, section 34 of chapter 65 of the statutes of 1992, section 108 of chapter 30 of the statutes of 1994, section 22 of chapter 55 of the statutes of 1994, section 20 of chapter 85 of the statutes of 1996, section 65 of chapter 51 of the statutes of 1997 and section 19 of chapter 93 of the statutes of 1999, is again amended

(1) by inserting ", by zone or for the whole territory," after "regulating" in the first line of subparagraph 15 of paragraph 42*a*;

(2) by inserting the following subparagraph after subparagraph 15 of paragraph 42*a*:

"(15.1) establishing, for the purposes of subparagraph 15, classes of structures and derogatory uses protected by vested rights and prescribing rules that vary according to each class;".

CHARTER OF THE CITY OF MONTRÉAL

37. Article 664 of the Charter of the city of Montréal (1959-60, chapter 102), amended by section 74 of chapter 77 of the statutes of 1977 and section 24 of chapter 87 of the statutes of 1988, is again amended by replacing "1 1/2%" in the first line of the second paragraph by "1%".

TRANSITIONAL AND FINAL PROVISIONS

38. Sections 28 and 30 have effect for the purposes of every municipal fiscal year from the municipal fiscal year 2001.

39. Section 29, paragraphs 1 and 2 of section 31 and section 32 take effect on 1 January 2001.

Until that date, section 230 of the Act respecting municipal taxation and the regulation made under paragraph 4 of section 262 of that Act shall apply, in respect of the revenues derived from the tax provided for in section 221 of that Act, only to the revenues collected before 1 July 2000.

In addition, the regulation shall apply with the following modifications:

(1) in addition to the operations under section 5 of the regulation and section 51 of chapter 90 of the statutes of 1999 for the purpose of establishing the net amount to be apportioned for the 2000 municipal fiscal period, the Minister of Municipal Affairs and Greater Montréal shall

(*a*) take out a sum of $53,676 which the Minister shall pay to Village de Melocheville;

(*b*) add a sum of $1,000,000;

(2) for a local municipality to be entitled to receive an aliquot share of the net amount to be apportioned for a fiscal period, the budget or the financial report necessary for the determination of the aliquot share must have been received by the Minister, in accordance with the regulation, before 1 November 2000;

(3) if a local municipality is entitled to receive an aliquot share by reason of the receipt of the budget but not of the financial report, its standardized and

weighted aggregate taxation rate used for the purpose of determining its aliquot share is the rate that results from the application of the third paragraph of section 11 of the regulation, without the 15% increase provided for therein and with, where applicable, the adaptation provided for in subparagraph 3 of the first paragraph of section 16 of the regulation;

(4) subparagraph 3 of this paragraph does not modify the sum of the standardized and weighted aggregate taxation rates of all the municipalities that was established for a fiscal period preceding the 2000 fiscal period; for the purpose of establishing such a sum for the 2000 fiscal period, the first and third paragraphs of section 11 of the regulation apply, as if the reference date mentioned therein were 1 November 2000, without the 15% increase provided for in that third paragraph and with, where applicable, the adaptation provided for in subparagraph 3 of the first paragraph of section 16 of the regulation;

(5) every aliquot share that a municipality is entitled to receive under subparagraph 2 of this paragraph shall be paid to the municipality, notwithstanding section 14 and subparagraphs 4 to 6 of the first paragraph of section 16 of the regulation, not later than 31 December 2000; in the case of an aliquot share payable for a fiscal period preceding the 2000 fiscal period, the aliquot share amount shall be taken into account as soon as it is determined without waiting for payment thereof, notwithstanding the second paragraph of section 15 of the regulation, for the purpose of determining whether there is a balance remaining of the net amount to be apportioned for that preceding fiscal period, and of establishing as a consequence the net amount to be apportioned for the 2000 fiscal period;

(6) for the purposes of subparagraphs 2 to 4 of this paragraph, paragraph 3 of section 17 of the regulation applies in respect of the budget or the financial report necessary for the determination of the aliquot share of a municipality referred to in that section.

40. A program implemented by the Government or any of its ministers or bodies to compensate municipalities for all or part of a reduction in their property tax base as a consequence of the application of section 28 shall, for the purpose of establishing the reduction, disregard an immovable or part of an immovable referred to in that section entered on the assessment roll on a date which is subsequent to 14 March 2000.

41. The payment of the sum of $146,128.20 on 10 April 1996 by the Minister of Agriculture, Fisheries and Food to Bleuetière Coopérative de St-Augustin Dalmas as a reimbursement of property taxes, is deemed validly made pursuant to the provisions of Division VII.1 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14).

42. The amounts paid by Bleuetière Coopérative de St-Augustin Dalmas to Municipalité de Péribonka and Paroisse de Saint-Augustin for renovation work on waterways, ditches and drains carried out on land used by the

cooperative are, for the purposes of section 36.2 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14) in respect of the fiscal year 1996, deemed to be a payment of valid property taxes giving entitlement to a maximum reimbursement of $103,341.81.

43. The agreement between Quartier international de Montréal and Ville de Montréal entered into on 30 March 2000 and the agreement between the Ministère des Affaires municipales et de la Métropole, Quartier international de Montréal and Ville de Montréal entered into on 14 April 2000 in connection with the work to redevelop Quartier international de la Ville de Montréal described in those agreements are valid and any party is authorized to make the decisions and perform the acts required to meet the rights and obligations of the party under those agreements.

44. Loan by-laws 02-98, 03-98 and 04-98 of Municipalité de Petite-Vallée may not be invalidated on the ground that they were not approved in accordance with the formalities provided by law.

The secretary-treasurer of the municipality shall enter a reference to this Act in the book of the by-laws of the municipality at the end of each of those by-laws.

The compensation imposed and levied by Municipalité de Petite-Vallée for the fiscal years 1999 and 2000 to ensure the maintenance and administration of the waterworks system and the payment of interest and repayment of the principal on the loans contracted under by-laws 02-98 and 03-98 is declared valid.

The municipality shall, during the fiscal year 2000, amend loan by-laws 02-98 and 03-98 in accordance with the Act governing the municipality for the purpose of establishing a compensation for the annual repayment of the loans contracted under those by-laws.

The loans contracted by the municipality under by-laws 02-98, 03-98 and 04-98 may not be invalidated on the ground that the by-laws were not approved in accordance with the formalities provided by law.

45. The Minister of Municipal Affairs and Greater Montréal may, notwithstanding subsection 2 of section 569 of the Cities and Towns Act (R.S.Q., chapter C-19), authorize Ville de Roberval to borrow from its working-fund the moneys required to pay the expenditures incurred for the carrying out of work referred to in Resolutions 2000-167 and 2000-168 adopted on 3 April 2000.

The Minister may also grant such an authorization to the city for the financing of any work to complete the work referred to in the first paragraph.

46. This Act comes into force on 16 June 2000.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 112
(2000, chapter 20)

Fire Safety Act

Introduced 2 May 2000
Passage in principle 6 June 2000
Passage 14 June 2000
Assented to 16 June 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

The object of this bill is the protection of persons and property against fires of any nature. The bill determines the parameters of fire safety in its main aspects, namely fire prevention, emergency response procedures, emergency response operations, the training of fire safety services personnel, and the determination of the point of origin, probable causes and circumstances of fires.

The bill sets out the general obligations incumbent on every person regarding fire prevention and the reporting of fire hazards.

As regards the responsibilities of municipalities, the bill proposes the establishment of a fire safety cover plan for determining protection objectives and the actions necessary to achieve them. The powers and duties of municipal fire safety services and their personnel are determined in the bill.

A firefighters school called École nationale des pompiers du Québec will be established, and its mission, organization and powers are defined.

The duties of the fire investigation commissioner and the roles of firefighters and police officers in the determination of the point of origin, probable causes and circumstances of fires are specified in the bill.

The bill defines the responsibilities of the Minister of Public Security in fire safety matters.

LEGISLATION REPLACED BY THIS BILL :

– Fire Investigations Act (R.S.Q., chapter E-8);

– Act respecting municipal fire fighting cooperation (R.S.Q., chapter E-11);

– Fire Prevention Act (R.S.Q., chapter P-23).

LEGISLATION AMENDED BY THIS BILL:

– Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);

– Building Act (R.S.Q., chapter B-1.1);

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1);

– Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);

– Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);

– Act respecting the Ministère de la Sécurité publique (R.S.Q., chapter M-19.3);

– Act respecting municipal regulation of public buildings (R.S.Q., chapter R-18);

– Act respecting the Québec sales tax (R.S.Q., chapter T-0.1).

Bill 112

FIRE SAFETY ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT AND APPLICATION

1. The object of this Act is the protection of persons and property, except forest resources which are protected pursuant to the Forest Act (R.S.Q., chapter F-4.1), against fires of any nature.

For the purposes of this Act, any explosion likely to cause a fire shall be considered to be a fire.

2. This Act does not operate to limit the obligations imposed or powers granted by or under other Acts.

3. This Act is binding on the Government, on government departments and on bodies that are mandataries of the State.

CHAPTER II

PERSONS

4. It is the duty of all persons to seek to remove or reduce fire hazards by acting with foresight and prudence in that regard.

5. Every person whose activities or property constitute a high or particular fire hazard, according to any regulation that may be made by the Government, is bound to report the hazard to the secretary-treasurer or clerk of the local municipality where the fire hazard is located. The report shall set out, in addition to the particulars required by regulation, the hazard the activity or property constitutes, the location of the hazard, the measures taken to reduce the probability and consequences of a fire, and the private firefighting resources at the disposal of or enlisted by the person.

In the case of significant changes making the particulars set out in the report inaccurate, the person making the report is bound to make the necessary corrections. The person is also bound, upon ceasing the activity or disposing of the property, to give the person having received the report a notice to that effect together with a statement describing the manner in which the property or the elements that constituted a fire hazard have been disposed of.

The person receiving fire hazard reports, corrections and notices must, within 30 days of receipt, transmit copies to the regional authority whose territory includes the municipality and to the fire safety service serving the territory where the fire hazard is located.

6. Where a particular property is a threat to public safety owing to the presence of fire hazards or to damage caused by a fire, the owner is bound, on receipt of a formal notice from the local municipality where the property is located, to take the measures necessary to ensure the protection of persons and property.

If there is an emergency, if the owner fails to act within the time specified or if the owner is unknown, cannot be found or cannot be ascertained, the remedies provided for in sections 231, 232 and 233 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) apply, with the necessary modifications.

7. Insurers and claims adjusters whose services are required following a fire must, not later than 31 March of the year that follows the fire, report to the Minister the date, time and place of occurrence, the findings of the insurer and adjuster and any information they possess regarding the nature and assessment of the damage, the point of origin and probable causes of the fire and the characteristics of the damaged immovable or property.

However, any information whose disclosure would be likely to affect judicial proceedings in which the insurer or claims adjuster has an interest may be communicated only once the judgment in the case has become *res judicata*.

CHAPTER III

LOCAL AND REGIONAL AUTHORITIES

DIVISION I

FIRE SAFETY COVER PLAN

8. The regional county municipalities, urban communities and the Kativik Regional Government shall, in conjunction with the local municipalities within their territorial limits, establish, in compliance with the policies determined by the Minister, a fire safety cover plan designed to determine, for the whole of their territory, fire protection objectives and the actions required to achieve them.

The cities of Laval and Mirabel have the same responsibility with regard to their territories. For the purposes of this division, the cities of Laval and Mirabel shall be considered to be regional authorities.

Unless it is also considered to be a regional authority with the authorization of the Minister, any other local municipality whose territory is not within the territorial limits of a regional authority must make an agreement with a regional authority or a local authority whereby the territory of the local municipality is to be considered to be within the territorial limits of that authority for the purposes of this division, or with other municipalities in the same situation to associate for the purpose of establishing a fire safety cover plan for the whole of their territory. In the latter case, one of the municipalities, designated for that purpose in the agreement, shall be considered to be a regional authority for the purposes of this division.

9. All or part of the fire safety cover plan of a regional authority may be established jointly with other regional authorities so as to take into account the risks and resources within their territorial limits as well as the risks and resources within contiguous local municipalities.

10. The fire safety cover plan shall include, in addition to the fire hazard reports made under section 5, an inventory, evaluation and classification of the fire risks present in the territory concerned and specify their location. The fire safety cover plan shall also include an inventory and evaluation of existing or planned fire protection measures, the human, physical and financial resources allocated to fire safety by the local or regional authorities or by intermunicipal boards, and the infrastructures and water sources available for fire safety purposes. In addition, the fire safety cover plan shall include an analysis of the functional relations between those resources and an evaluation of the operational procedures in force.

The fire safety cover plan shall determine, for each class of risk listed or each part of the territory defined, optimum fire protection objectives that can be achieved having regard to the measures and resources in place. The fire safety cover plan shall also specify the actions to be taken by the municipalities and, where applicable, the regional authority to achieve the determined objectives on incorporating their implementation plans.

Lastly, the fire safety cover plan shall contain a procedure for the periodic assessment of the effectiveness of the actions taken and the degree to which the determined objectives have been attained.

11. The fire safety cover plan may include similar elements with regard to other emergency situations likely to require the use of the same resources. However, those elements create obligations only to the extent determined by the local or regional authority concerned and only if expressly specified.

12. The fire safety cover plan must be established, in accordance with the procedure set out in the following sections, after notification to that effect from the Minister.

13. Local municipalities must provide the regional authority with the information necessary for the drawing up of the fire safety cover plan. Local municipalities must also indicate the means they can resort to to optimize their resources as regards fire safety matters.

14. After making a list and an evaluation of the risks, means, measures and resources reported, the regional authority shall propose the optimum protection objectives that may be achieved by the development of appropriate measures and the efficient management of all available resources. The objectives may pertain to prevention, personnel training, emergency preparedness and emergency response procedures.

The regional authority shall also propose strategies for achieving those objectives, such as the adoption of minimum safety rules, the development of uniform operational procedures and the establishment or sharing of services.

15. The municipalities shall convey their opinion to the regional authority concerning its proposals, mentioning in particular the impact the implementation of the proposals would have on the organization of their human, physical and financial resources.

Once the exchanges are completed, the regional authority shall determine optimum protection objectives for each class of risk or part of the territory it defines as well as the actions needed, on a regional or local scale or over part of the territory, to achieve the objectives. The regional authority shall also determine a procedure for the periodic assessment of the effectiveness of the actions taken and the degree to which the determined objectives have been attained.

16. Each municipality concerned and, where applicable, the regional authority shall then determine the specific actions they must take and the conditions for their implementation, specifying, in particular, the area of jurisdiction of the authority or the intermunicipal board in charge, the resources allocated to the measures envisaged, any necessary intermunicipal agreements, the actions that may be implemented immediately and, in other cases, the phases and schedule of implementation. Such specific actions may include the adoption of regulatory measures, the establishment of inspection measures and of procedures for the calling, mobilization and deployment of resources, or the planning of personnel training activities.

Such actions and the conditions of implementation shall be set out in a plan adopted by the authority responsible for the implementation of the plan or, in the case of an intermunicipal board, in a joint plan adopted by the municipalities concerned.

17. Before incorporating the implementation plans into the draft fire safety cover plan, the regional authority shall verify that they are in compliance with the objectives determined and the actions needed.

18. A draft fire safety cover plan shall then be submitted for consultation to the population of the territory of the regional authority at a public meeting held by the authority, and shall also be transmitted to contiguous regional authorities.

19. Changes may be made to the draft of the fire safety cover plan and, if applicable, to the implementation plans, to reflect the results of consultations.

20. The draft of the fire safety cover plan shall then be submitted to the Minister who shall verify that it is in compliance with ministerial policies determined under section 137.

The draft plan must be submitted with

(1) the opinion of each local municipality having taken part in its preparation;

(2) a report on the consultations held, the results of the consultations, and the reasons for any disagreement;

(3) a document setting out the approximate costs of the various measures proposed, the mode of financing of the measures, and, in the case of intermunicipal measures, the method of apportionment of the costs.

The draft must be submitted before the second anniversary of the notice prescribing the establishment of a fire safety cover plan. Additional time may, however, be granted by the Minister following an application made no later than 120 days before the deadline.

21. Within 120 days after receipt of all the documents, the Minister shall issue a certificate of compliance to the regional authority or propose any amendments the Minister considers necessary to remedy any deficiency within the time indicated by the Minister.

22. Any amendments proposed by the Minister may be made by the regional authority or, in the case of amendments to an implementation plan, by the authority concerned, and do not require consultation.

23. Once the certificate of compliance has been issued, the fire safety cover plan is adopted without amendment.

Only the council of the regional authority may adopt the fire safety cover plan. On pain of nullity, such adoption must be preceded by a notice of motion or a notice calling a meeting of the council, accompanied with a copy of the draft fire safety cover plan.

24. The fire safety cover plan comes into force on the day the regional authority publishes a notice to that effect in a newspaper circulated in its territory, or on any later date specified in the notice.

However, the date of its coming into force shall not be later than 60 days after the date of issue of the certificate of compliance.

25. Once in force, the fire safety cover plan is binding on the regional authority and the local municipalities concerned, subject to section 11.

26. As soon as practicable after the coming into force of the fire safety cover plan, a certified copy and a summary of the plan shall be transmitted to each local municipality concerned, to each contiguous regional authority and to the Minister.

The same applies in the case of any subsequent amendment to the fire safety cover plan.

27. Every local municipality must, for the information of its citizens, keep all the documents transmitted in its office and make them available for consultation and reproduction.

28. Once the fire safety cover plan is in force, it may be amended to reflect technological change, a change in territorial limits or an increase in risk levels or for any other valid reason, provided that the plan continues to be in compliance with ministerial policies.

The fire safety cover plan must be amended to reflect new ministerial policies with which it is not in compliance. In such a case, the amendments necessary must be made within 12 months after transmission of the new policies.

29. The fire safety cover plan must, in addition, be revised during the sixth year following the date of its coming into force or of its last certificate of compliance.

30. Any amendment to the fire safety cover plan made to bring the plan into compliance with ministerial policies or to amend the protection objectives, reduce the measures or extend the schedule of implementation and any revision thereof must be made according to the procedure prescribed for the establishment of the plan.

31. The fire safety cover plan and any amendment made thereto and in respect of which the Minister has issued a certificate of compliance are deemed to be in compliance with ministerial policies and the implementation plans are deemed to be in compliance with the determined objectives of the fire safety cover plan, once they have been adopted in accordance with the procedure set out in this division.

DIVISION II

OTHER RESPONSIBILITIES AND MUTUAL ASSISTANCE

32. Every local municipality shall be responsible for the application, in its territory, of the provisions of section 5 concerning fire hazard reporting.

In that respect, the inspectors of the municipality or of any authority to which the municipality delegates responsibility have the power to

(1) enter, at any reasonable time, premises where the inspectors have reasonable grounds to believe that an activity or property that constitutes a reportable fire hazard is carried on or is situated;

(2) take photographs of the premises;

(3) require any information or any explanation relating to the enforcement of the provisions of section 5 and the production of any relevant document;

(4) test, or order the owner or occupant to test, any reported fire detector, alarm, extinguisher or emergency equipment to ascertain its effectiveness.

An inspector must, on request, produce identification and proof of appointment.

A municipality, an authority to which responsibility is delegated or an inspector cannot be prosecuted by reason of any act performed in good faith in the exercise of such functions.

33. If a fire in the territory of a local municipality or the territory served by its fire safety service exceeds the capabilities of its service, the local municipality may, through its mayor or, in the absence of the mayor, the acting mayor or two other members of the municipal council or any municipal officer designated for that purpose by way of a by-law, call upon any of their municipal counterparts to obtain the intervention or assistance of the fire safety service of another municipality.

The cost of the intervention or assistance shall be borne by the municipality having requested it, according to a reasonable tariff established by resolution by the providing municipality.

However, outside assistance shall not be taken into account in the preparation of the fire safety cover plan or implementation plan.

This section applies, with the necessary modifications, to a regional authority or an intermunicipal board in charge of the application of emergency response procedures.

34. A local municipality in whose territory a fire has occurred must, not later than 31 March of the year that follows the fire, report to the Minister the date, time and place of occurrence, the nature and assessment of the damage and, if known, the point of origin, probable causes and immediate circumstances of the fire, including the characteristics of the damaged property and the sequence of events.

However, any information whose disclosure would be likely to affect judicial proceedings in which the municipality has an interest may be communicated only once the judgment in the case has become *res judicata*.

35. Every local or regional authority and every intermunicipal board in charge of the implementation of measures provided for in a fire safety cover plan must, within three months after the end of their fiscal year, adopt, by resolution, and transmit to the Minister a report of their fire safety activities for the preceding fiscal year and their fire safety projects for the coming year to their council.

DIVISION III

MUNICIPAL FIRE SAFETY SERVICES

36. The fire safety service established by a local or regional authority or by an intermunicipal board shall be in charge of firefighting and rescue operations in the event of a fire.

It may also be in charge, together with the other services concerned, of emergency response in the case of other emergencies, assistance to accident victims, disaster assistance and emergency evacuation.

In exercising its functions, the fire safety service shall also participate in the evaluation of fire risks and other hazards, the prevention of fires, emergency response procedures as well as in the determination of the point of origin, probable causes and circumstances of fires.

37. The fire safety service shall be staffed by full-time or part-time firefighters or by volunteer firefighters. The fire chief must be a firefighter.

38. Conditions governing the exercise of functions related to the areas of practice mentioned in section 53 in a fire safety service may be prescribed by regulation of the Government. Such conditions may be fixed according to classes of personnel. The regulation may include exemptions or provisional conditions for the personnel in office.

Any training received to meet the conditions fixed by the Government must be validated by the École nationale des pompiers du Québec.

39. Emergency response operations in the event of a fire shall be conducted under the authority of the fire chief or, if the fire chief is absent, of a firefighter designated by the fire chief.

Where a fire requires the joint intervention of several fire safety services, all the emergency response operations shall be under the direction of the fire chief of the fire safety service serving the locality where the fire occurs, unless otherwise agreed. If there is no fire safety service in the municipality concerned, the operations shall be under the direction of the fire chief designated by the person having required the intervention under section 33.

However, until the fire chief or designated firefighter arrives at the scene of the fire, the first firefighter to arrive at the scene shall direct operations.

40. Firefighters may, in the performance of their duties, enter any premises affected or threatened by a fire or any other hazard or emergency, and any adjacent premises for the purpose of fighting the fire or providing assistance.

Firefighters may also, in the performance of their duties and under the authority of the person directing operations,

(1) use the necessary means to enter premises where there is serious threat to persons or property or adjacent premises for the purpose of removing or reducing the threat or providing assistance;

(2) prohibit access to and interrupt or divert traffic in a protection zone or impose special rules in that zone;

(3) order evacuation of the premises as a safety measure in a perilous situation where there are no other means of protection;

(4) order the shutting off of an establishment's energy supply or, where a simple procedure suffices, shut off the supply themselves to guarantee the safety of operations after ensuring that such an action will not put others at risk;

(5) authorize the demolition of a structure to prevent the spread of fire;

(6) order any other measure necessary to secure the premises;

(7) accept or require, where the firefighting personnel available is insufficient, the assistance of any person capable of providing assistance;

(8) accept or requisition the necessary private firefighting resources where the resources of the service are insufficient or not readily accessible in an emergency.

41. During an emergency, common repute shall be sufficient proof of the appointment of a firefighter and of the firefighter's right to act in that capacity.

42. The authority responsible for a service that has expressly accepted, required or requisitioned a person's assistance or property under subparagraph 7 or 8 of the second paragraph of section 40 is bound, within one month from the date a claim is filed with the authority by that person in the year following the emergency, to grant to the person compensation determined on the basis of the current rates for the hiring of that type of service or property.

The authority responsible for the service must also assume the representation or defence of such a person in a coroner's inquest or a fire investigation commissioner's inquiry or in a proceeding concerning an act in the performance of the tasks entrusted to the person during the emergency and referred to a court, a tribunal or a body exercising adjudicative functions.

The authority may, rather than assuming a person's representation or defence, agree with the person on the reimbursement of reasonable costs incurred by the person or the person's representative. However, the authority is dispensed from that obligation where

(1) the person specifically consents thereto in writing;

(2) the authority is the plaintiff in the proceeding;

(3) the act in question amounts to a gross or intentional fault; or

(4) the person is convicted of an offence or indictable offence and had no reasonable grounds to believe that his or her conduct was in conformity with the law.

43. Subject to any restrictions that may be imposed by a police service in the cases referred to in section 45, the fire chief or a qualified person designated by the fire chief for that purpose must, in respect of every fire having occurred in the territory served by the service, determine the point of origin, probable causes and immediate circumstances, including the characteristics of the damaged immovable or property and the sequence of events.

44. For the purposes of section 43, the fire chief or the person designated by the fire chief may, during the 24 hours following the fire,

(1) prohibit access to the scene of the fire to facilitate the search for or the preservation of any thing relevant for the purposes of his or her functions;

(2) inspect the damaged premises and examine or seize any document or thing found on the premises and which the fire chief believes may be of assistance in determining the point of origin, probable causes or immediate circumstances of the fire;

(3) take photographs of the premises and of any thing;

(4) make copies of any documents;

(5) conduct or commission, on the premises, the expert appraisals considered necessary;

(6) collect the accounts of witnesses.

45. The fire chief or the person designated by the fire chief shall, without delay and before beginning any search, report to the police service having jurisdiction in the territory, any fire

(1) involving loss of life;

(2) the probable cause of which is not obviously accidental or in respect of which there is reason to believe an indictable offence has been committed;

(3) that is a particular case specified by the police service.

46. The provisions respecting things seized in the Code of Penal Procedure (R.S.Q., chapter C-25.1) apply, with the necessary modifications, to the documents and things seized under section 44, once they have been seized.

47. The members of a fire safety service and the persons whose assistance is expressly accepted or is required under subparagraph 7 of the second paragraph of section 40, are exempt from liability for any damage that may result from their intervention during a fire or other emergency in respect of which mandatory emergency procedures are set out in the fire safety cover plan pursuant to section 11, unless the damage results from their intentional or gross fault.

The exemption applies to the authority having established the service or having required the person's intervention or assistance, except if the authority has failed to adopt a plan for the implementation of the fire safety cover plan as required or if the measures or procedures provided for in the applicable implementation plan and relating to the acts in question were not implemented as established.

48. Any undertaking that provides, under a contract with a local or regional authority or intermunicipal board, fire safety services in the territory of a municipality, and the firefighters in its employ, have, for the purposes of this division, the obligations, powers, rights and immunity of a local municipality and the members of its fire safety service under this division.

CHAPTER IV

ÉCOLE NATIONALE DES POMPIERS DU QUÉBEC

DIVISION I

ESTABLISHMENT

49. A firefighters school to be known as the École nationale des pompiers du Québec is hereby established.

50. The school is a legal person and a mandatary of the Government.

The school binds none but itself when it acts in its own name. The execution of the obligations of the school may be levied against its property even though its property forms part of the domain of the State.

51. The head office of the school shall be located at the place determined by the Government. Notice of the location of the head office and of any change in its location shall be published in the *Gazette officielle du Québec*.

DIVISION II

MISSION AND POWERS

52. The mission of the school is to ensure that firefighters and other municipal fire safety personnel in Québec receive pertinent, high-quality and coherent qualifying professional training.

53. Qualifying professional training of municipal fire safety personnel means training that prepares individuals for a specific professional activity and entitles them to exercise the activity in the following areas of firefighting:

(1) fire safety service management;

(2) fire prevention;

(3) emergency management;

(4) disaster intervention;

(5) determination of the point of origin, probable causes and circumstances of fires.

54. The qualifying professional training of municipal fire safety personnel consists of basic professional training and advanced professional training.

Basic professional training enables individuals to acquire the skills and knowledge required in a given area of firefighting.

Advanced professional training enables firefighters to upgrade their skills or to acquire a particular skill in any of the areas of firefighting.

55. The school may offer basic professional training activities. It may not, however, except with the authorization of and in compliance with the conditions determined by the Minister of Education, offer a vocational training program leading to a vocational studies diploma, a diploma of college studies or an attestation of college studies, or offer an equivalent program.

The school may also offer, for the benefit of municipal personnel, advanced training activities and conduct training-oriented fire safety research. It may also, with the authorization of and in compliance with the conditions determined by the Minister of Public Security, offer similar activities to any person working in the field of fire safety or in a related field in the public or private sector.

The school may participate in the development of fire safety study programs and training activities offered by educational institutions, fire safety services or other organizations. The school shall recognize the equivalence of diplomas and attestations of studies and approve the basic and advanced professional training activities that are offered by such educational institutions or organizations or by fire safety instructors and that meet its standards. It may also develop internship programs or examinations designed to measure the skills acquired outside the context of the school.

56. The school may, by agreement, give a mandate to educational institutions or fire safety services or other organizations offering fire safety training, to develop or teach the school's training courses or study programs. Every such agreement must set out the validation standards, if any, applicable to the courses and programs concerned.

The school may also enter into any agreement it considers relevant to the pursuit of its mission with researchers, experts, fire safety services and educational or research institutions.

57. The school shall advise fire safety services, the associations representing their members and the associations representing other members of municipal fire safety personnel in professional training matters.

The school shall encourage cooperation among the various institutions offering training for municipal fire safety personnel and shall keep the Minister informed in that regard.

The school shall conduct or commission research or studies in areas related to the work of municipal fire safety personnel and that may have an impact on their training ; the results shall be published and disseminated by the school, in particular among fire safety services providers.

58. The school shall foster, facilitate and plan exchanges of expertise with persons or bodies outside Québec and, in particular, encourage participation by Québec specialists in international exchange missions on fire safety training.

The school may, subject to the applicable legislative provisions, enter into an agreement with a government in Canada or abroad, a department or agency of such a government, an international organization or an agency of an international organization.

59. The Minister may give to the school any mandate within the scope of the school's mission.

The Minister may also issue guidelines concerning the objectives and policies of the school. The guidelines must be approved by the Government after consultation with the governing board. The guidelines come into force on the day of approval and shall be tabled in the National Assembly within 15 days of being approved or, if the Assembly is not in session, within 15 days of resumption.

60. The school shall establish, by by-law, standards relating to its professional training activities, the approval of training activities developed outside the context of the school, admission requirements, teaching requirements, internship programs, examinations and the certificates and attestations of studies awarded by the school and shall establish standards of equivalence. The by-laws must be submitted to the Minister for approval.

The school shall keep registers in the manner determined in its by-laws.

61. The school may provide lodging services to its students.

DIVISION III

OPERATION

62. The governing board of the school shall be composed of 15 members.

The following are permanent members:

(1) the Deputy Minister of Public Security or the Deputy Minister's representative;

(2) the fire chief of the fire safety service of Ville de Montréal, or the fire chief's representative;

(3) the fire chief of the fire safety service of Ville de Québec, or the fire chief's representative;

(4) the director general of the school;

(5) a member of the personnel of the Ministère de l'Éducation, designated by the Deputy Minister of Education.

The following members shall be appointed by the Government for a term of two years, after consultation of the associations concerned:

(1) two persons from the associations representing Québec fire chiefs;

(2) one person from the association representing Québec fire prevention technicians;

(3) one person from the association representing Québec firefighting instructors;

(4) three persons from the associations representing members of the fire safety services established by local or regional authorities or by intermunicipal boards;

(5) three persons from the associations representing local or regional authorities.

At the end of their terms, the non-permanent members shall remain in office until replaced or reappointed. Any vacancy occurring before the end of a term shall be filled for the remainder of that term.

63. The Government shall appoint a chair and a vice-chair for a term of two years from among the members of the governing board. The director general of the school is not eligible for the position of chair or vice-chair.

64. In the exercise of their functions, the members of the governing board must act in accordance with the rules of ethics and professional conduct applicable to public office holders and in the interests of the school.

65. The members of the governing board, other than the director general, shall receive no remuneration, except in the cases, on the conditions and to the extent determined by the Government. They are, however, entitled to be reimbursed for expenses they incur in the exercise of their functions, on the conditions and to the extent determined by the Government.

66. The governing board shall meet at least once every three months.

The quorum of the board is eight members, including the chair or vice-chair. The board may, however, proceed with the business of the meeting even if the quorum is not attained because certain members have left the meeting temporarily owing to a conflict of interest. In the case of a tie-vote, the chair or, in the absence of the chair, the vice-chair has a casting vote.

67. The Government shall appoint a director general for a term not exceeding five years and, where required, assistant director generals. At the end of their terms, the director general and assistant director generals shall remain in office until replaced or reappointed.

The Government shall fix the remuneration, employee benefits and other conditions of employment of the director general and assistant director generals.

68. The staffing plan as well as the selection criteria and procedure of appointment of the members of the school's personnel shall be determined in a by-law made by the school.

Subject to the provisions of any collective agreement, the standards and scales of remuneration, employee benefits and other conditions of employment of the members of the personnel shall also be determined in the by-law in accordance with the conditions defined by the Government.

69. No member of the personnel of the school may, on pain of dismissal, hold another employment or a direct or indirect interest in an enterprise or body which may cause the member's personal interest to conflict with that of the school. Where the interest devolves by succession or gift, it must be renounced or disposed of with dispatch.

70. No instrument, document or writing binds the school or may be attributed to it unless it is signed by the chair of the governing board, the director general or a member of the personnel authorized by a resolution of the board published in the *Gazette officielle du Québec*.

The board may, also by a resolution published in the *Gazette officielle du Québec*, subject to the conditions and on the documents it determines, allow a signature to be affixed by automatic or electronic means, or allow a signature to be engraved, lithographed or printed. However, the facsimile has the value of the signature only if the document is countersigned by a person referred to in the first paragraph.

A document or copy of a document emanating from the school is authentic if it is signed or certified true by a person referred to in the first paragraph.

71. The school may make by-laws for its internal management, in particular, by-laws

(1) to establish an administrative committee or any other standing or temporary committee and determine its functions and powers and the term of office of its members;

(2) to determine the functions and powers of the chair and vice-chair of the governing board and of the director general, the assistant director generals and the other members of the school's personnel.

DIVISION IV

FINANCIAL PROVISIONS AND REPORTS

72. The school may not, except with the authorization of the Government,

(1) construct, acquire, alienate or lease or hypothecate any immovable;

(2) make a financial commitment for a term or amount exceeding that determined by the Government;

(3) contract a loan that increases its total outstanding borrowings to more than the amount determined by the Government.

73. The Government may, subject to the terms and conditions it determines,

(1) guarantee the payment of the principal of and interest on any loan contracted by the school;

(2) guarantee the performance of any other obligation of the school;

(3) authorize the Minister of Finance to advance to the school any amount considered necessary for the pursuit of its mission.

Any sums paid by the Government as a consequence of such guarantee or as an advance to the school shall be taken out of the consolidated revenue fund.

74. Where the school acquires an immovable that forms part of the domain of the State, the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) does not apply.

75. The school may not operate a commercial enterprise or acquire shares issued by an enterprise. The school may not grant loans, make gifts, give grants or act as surety.

76. The school may charge tuition fees on the conditions it fixes by by-law. The school may also, with the authorization of the Minister, impose charges or fees for its other services.

77. The fiscal year of the school ends on 30 June.

78. The books and accounts of the school shall be audited by the Auditor General each year and whenever so ordered by the Government. The auditor's report must be submitted with the financial statements of the school.

79. Within four months after the end of its fiscal year, the school shall forward to the Minister its financial statements and a report of its activities for the preceding fiscal year. The Minister shall request and, where appropriate, cause to be included in the report of activities any information the Minister considers to be relevant.

The Minister shall table the financial statements and the report of activities in the National Assembly within 30 days of receiving them or, if the Assembly is not in session, within 30 days of resumption.

80. Every year, the school shall submit to the Minister its budgetary estimates for the following fiscal year in accordance with the procedure determined by the Minister.

CHAPTER V

FIRE INVESTIGATION COMMISSIONER

DIVISION I

JURISDICTION AND IMMUNITY

81. It is the function of the fire investigation commissioner, subject to the power vested in the coroner by section 82, to determine the point of origin, probable causes and circumstances of a fire and to examine any causes and circumstances having a connection with other fires and, where appropriate, to make any recommendation aimed at ensuring better protection of persons and property against fires.

The fire investigation commissioner shall first conduct an investigation in accordance with Division IV of this chapter and, if the conditions described in Division V exist, the commissioner shall then hold an inquiry.

In no case may the fire investigation commissioner draw any conclusion as to civil or criminal liability.

82. Where a fire involves loss of life, the coroner shall exercise, in addition to the responsibilities entrusted to the coroner under the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2), the responsibility for determining the point of origin, probable causes and circumstances of the fire according to the procedure determined in that Act.

Once the causes and circumstances have been established, the fire investigation commissioner may examine them if they have any connection with other fires.

83. The fire investigation commissioner and any person acting under the commissioner's authority may not be prosecuted by reason of any act performed in good faith in the exercise of their functions.

84. Except on a question of jurisdiction, no proceeding under article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) or extraordinary recourse within the meaning of that Code may be exercised and no injunction may be granted against the fire investigation commissioner acting in an official capacity or against any person acting under the commissioner's authority.

A judge of the Court of Appeal may, upon a motion, summarily annul any proceeding brought or decision rendered contrary to the first paragraph.

DIVISION II

APPOINTMENT AND ORGANIZATION

85. Upon the recommendation of the Minister, the Government shall appoint fire investigation commissioners and, if needed, substitute fire investigation commissioners.

The instrument of appointment of a fire investigation commissioner may determine a territory to which the commissioner is assigned.

86. In exceptional cases, the Minister may appoint a fire investigation commissioner to investigate a particular fire or a series of similar fires.

87. The term of fire investigation commissioners appointed by the Government shall not exceed five years.

Notwithstanding the expiry of their term, fire investigation commissioners other than substitute fire investigation commissioners shall remain in office until replaced or reappointed.

88. The remuneration, employee benefits and other conditions of employment of fire investigation commissioners shall be determined by the Government, and the necessary sums shall be paid out of the appropriations granted each year to the Minister by the National Assembly, subject to the exceptions provided in the charters of the cities of Québec and Montréal with regard to the fire investigation commissioners appointed for those cities.

89. In addition to the persons and resources assigned to fire investigation commissioners by municipalities, the Minister of Public Security shall place at the disposal of the fire investigation commissioners the personnel and physical resources necessary for the purposes of this chapter.

In addition, the Minister shall have custody of the records of fire investigation commissioners, which shall consist of the original copies of their investigation or inquiry reports and appended documents.

90. Before taking office, fire investigation commissioners shall take the following oath before a judge or any person authorized to receive oaths under section 219 of the Courts of Justice Act (R.S.Q., chapter T-16):

"I declare under oath that I will faithfully, truly and impartially discharge the duties of my office of fire investigation commissioner and that I will not accept any sum of money or other consideration for what I may do in discharging the duties of my office apart from what is allowed to me by law."

The writing evidencing the oath shall be transmitted to the Minister.

91. Not later than 31 March, every fire investigation commissioner shall transmit to the Minister a report of activities for the preceding calendar year.

The report may include the recommendations or a summary of the recommendations made following investigations.

The Minister shall table the report in the National Assembly within 30 days of receiving it or, if the Assembly is not in session, within 30 days of resumption.

DIVISION III

NOTICE OF FIRE

92. The fire chief of the fire safety service that directed the emergency response operations or, if there was no intervention, the secretary-treasurer or clerk of the local municipality in whose territory the fire occurred shall notify the competent fire investigation commissioner as soon as practicable

(1) if the point of origin and the probable causes of the fire have not been determined;

(2) if the circumstances of the fire are unclear; or

(3) if a connection seems to exist between the probable causes or the circumstances of the fire and other fires.

Moreover, if an investigation was conducted under section 43, the fire chief must send to the fire investigation commissioner a copy of the investigation report and, if applicable, of the minutes of a seizure under section 44.

Where a fire involves loss of life, the notice and documents must be transmitted to the coroner.

DIVISION IV

INVESTIGATION

93. The fire investigation commissioner shall, on his or her initiative or on the Minister's request, conduct an investigation to determine the point of origin, probable causes and circumstances of any fire in the commissioner's area of jurisdiction or to examine the causes or circumstances of the fire if there is any connection with other fires.

94. A firefighter or peace officer having conducted a search in connection with a fire that is being investigated by the fire investigation commissioner shall, upon request and with due diligence, deliver to the commissioner a copy of the report and, if applicable, of the minutes of a seizure under section 44, as well as the things seized if they are not being detained for the purposes of a judicial proceeding.

The fire investigation commissioner may require a firefighter or a peace officer to conduct or pursue a search in connection with a fire being investigated by the commissioner.

95. The fire investigation commissioner or any firefighter, peace officer or other person specially designated in writing by the commissioner for a specified period may, to determine the point of origin, probable causes and circumstances of a fire or to establish any connection with other fires,

(1) prohibit access to the scene of the fire, for the time needed for the investigation, to facilitate the search for or the preservation of any thing that may be useful to the investigation;

(2) inspect the scene of the fire and any other premises if there is reasonable cause to believe an inspection may be useful to the investigation, and examine or seize documents or things on the premises that, in the person's opinion, may be of assistance in determining the point of origin, probable causes or circumstances of the fire or establishing any connection with other fires;

(3) enter any premises to search for and seize any document or thing that may be useful to the investigation if there is reasonable cause to believe the document or thing can be found on those premises;

(4) take photographs of the premises and of any thing;

(5) make copies of documents;

(6) conduct or order such expert appraisals as are considered necessary; and

(7) collect the accounts of witnesses.

However, premises may not be entered for inspection purposes or for the purpose of searching for, examining or seizing any things without the prior authorization of a justice of the peace. Prior authorization may be granted, subject to the conditions specified, if the justice of the peace is satisfied on the basis of a sworn statement of the fire investigation commissioner or the person designated by the latter that the point of origin, probable causes or circumstances have not been determined or that connections with other fires have not been established and that there is reason to believe that inspecting the premises and searching for, examining or seizing any things found on the premises may prove relevant to the investigation. The authorization, whether acted upon or not, shall be returned to the justice of the peace who granted it not later than 15 days after its issue.

However, no authorization is required for access to the damaged premises within 24 hours after a fire or where the conditions for obtaining the authorization exist and, owing to the urgency of the situation, the time required to obtain an authorization may seriously endanger human health or safety or the safety of property, or result in the disappearance, destruction or loss of anything that may be useful to the commissioner's investigation.

96. Subject to the conditions determined by the justice of the peace, the inspection of occupied premises shall be conducted at a reasonable hour except where it is necessary to proceed without delay in order to collect or preserve any thing that may be useful to the investigation.

Subject to the same conditions, the fire investigation commissioner shall determine the time and place, other than the damaged premises, within which powers delegated under section 95 may be exercised by the person designated by the fire investigation commissioner and the documents and things the investigation commissioner wishes to investigate.

97. A fire investigation commissioner or the person designated by the latter who enters premises must, if so requested, produce identification and proof of appointment.

98. The provisions respecting things seized in the Code of Penal Procedure (R.S.Q., chapter C-25.1) apply, with the necessary modifications, to the documents and things seized in an investigation, once they have been seized.

99. On completing an investigation, the fire investigation commissioner shall, with due diligence, draft the investigation report and send a certified copy to the Minister and to the person who sent the notice of fire.

The report shall contain

(1) the date and place where the fire occurred;

(2) all relevant information concerning the point of origin, probable causes and circumstances of the fire and any information relating to any connection with other fires;

(3) where appropriate, recommendations aimed at ensuring better protection of persons and property against fires;

(4) the opinion of the fire investigation commissioner concerning the expediency of holding an inquiry.

If the fire investigation commissioner does not intend to hold an inquiry, he or she must append the documents mentioned in subparagraph 1 of the first paragraph of section 124 to the original of the report.

DIVISION V

INQUIRY

100. An inquiry concerning the point of origin, probable causes or circumstances of a fire or concerning any connection with other fires may be initiated if the fire investigation commissioner is of the opinion, following his or her investigation, that an inquiry would be expedient and would not impede the progress of any current police investigation.

To determine whether an inquiry would be expedient, the fire investigation commissioner shall consider whether it is necessary to hear witnesses, particularly

(1) to obtain information that may be of assistance in determining the point of origin, probable causes or circumstances of the fire or establishing any connection with other fires;

(2) to inform the public concerning those matters;

(3) to enable the fire investigation commissioner to make recommendations aimed at ensuring better protection of persons and property against fires.

101. An inquiry must be held by the fire investigation commissioner whenever the Minister so requests.

102. Notwithstanding sections 100 and 101, where criminal proceedings have been brought against a person in connection with a fire, the fire investigation commissioner may not hold or continue an inquiry into the matter until the judgment has become *res judicata*. In such a case, the fire investigation commissioner shall inform the Minister and the person who sent the notice of fire.

103. A single inquiry by the fire investigation commissioner shall be held concerning a fire even if the fire caused injury to several persons.

A single inquiry may be held concerning two or more fires the probable causes or the circumstances of which are similar.

104. The fire investigation commissioner must hold the inquiry with diligence.

105. The provisions respecting an investigation apply, with the necessary modifications, to an inquiry.

106. Where an inquiry is held, the hearing must take place in the territory of the local municipality or in the judicial district where the fire or, in the case of an inquiry concerning two or more fires, where one of the fires occurred unless exceptional circumstances warrant its being held in another locality.

The secretary-treasurer or the clerk of the local municipality where the hearing is to be held must, on request of the fire investigation commissioner, allow the fire investigation commissioner to use the necessary premises. If the hearing is to be held in a locality where a court of justice sits, the clerk of the court shall have the same obligations, unless the premises are being used for court sittings or sittings of other bodies exercising adjudicative functions.

107. The fire investigation commissioner may, if he or she considers it necessary, retain the services of a secretary, an interpreter and a sufficient number of peace officers to keep order during the hearing.

The persons whose services are so retained are entitled to the fees and allowances specified in the tariff established by regulation by the Government, unless they are already being remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

108. The fire investigation commissioner must give reasonable notice of the place, date and time of the hearing to the Minister, to the Attorney General and to any person or body the fire investigation commissioner recognizes as an interested person.

109. The hearing is open to the public.

However, the fire investigation commissioner may order that the hearing or any part thereof be held in private in the interests of public order.

110. The fire investigation commissioner has the duty to ensure the confidentiality of information disclosed to an attorney or a member of the clergy by reason of their position or profession.

The fire investigation commissioner may, on the commissioner's own initiative or on request, ban the disclosure, publication or release of any information that is or may be disclosed during the hearing if the fire investigation commissioner considers it necessary in the public interest or for the protection of a person's privacy, reputation or right to a fair trial or if the information is confidential.

The fire investigation commissioner may also prohibit picture-taking, sketching, filming, videotaping, or radio or television broadcasting during a hearing.

111. At the beginning of the hearing, the fire investigation commissioner shall inform the persons present of the purpose of the hearing, the grounds that warrant it and, where applicable, the reasons why the fire investigation commissioner decided to hold the hearing in a locality other than the locality where the fire occurred.

Such information shall be recorded in writing and attested under the fire investigation commissioner's oath of office.

112. The fire investigation commissioner has full authority over the conduct of the hearing and must conduct the proceedings fairly.

The fire investigation commissioner is authorized to administer the oath to any person summoned and may order that witnesses testify outside each other's presence.

113. The fire investigation commissioner shall summon to the hearing any person who, in the opinion of the commissioner, can provide information that is relevant to the inquiry, in order to examine the person or order the person to produce any document or thing the commissioner considers necessary as specified by the commissioner. The fire investigation commissioner may also summon a person at the request of the Attorney General or of an interested person.

The summons shall be effected by means of a writing signed and served in accordance with the rules of the Code of Civil Procedure (R.S.Q., chapter C-25), except where the person is present at the hearing.

Persons summoned or required to testify are entitled to the allowances and expenses specified in the tariff established by regulation by the Government.

114. Where a person who has been duly summoned and to whom expenses have been advanced fails to appear, the fire investigation commissioner may apply to a judge of the Court of Québec for the issue of a warrant for the person's arrest pursuant to article 284 of the Code of Civil Procedure, which shall then apply with the necessary modifications.

115. Every person under 18 years of age who is arrested under a warrant of arrest shall be entrusted to the director of youth protection until the person's appearance. The director of youth protection shall entrust the person so arrested to the care of an institution operating a rehabilitation centre within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) or a reception centre within the meaning of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) and shall without delay notify the parents, or any other person having parental authority, of the place where the person is being kept, of the time and place at which the person is to appear and of the nature of the proceedings.

116. The fire investigation commissioner shall require every person summoned as a witness to take an oath.

The commissioner may, however, hear the testimony of a person who has not taken an oath if, in the commissioner's opinion, the person does not understand the nature of an oath but understands his or her duty to tell the truth and is able to report facts that came to his or her knowledge.

117. The fire investigation commissioner shall inform every person summoned as a witness of the right to abstain from giving testimony in the cases and subject to the conditions provided in articles 307 and 308 of the Code of Civil Procedure, and of the right of witnesses not to have any testimony given by them used to incriminate them in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

The fire investigation commissioner shall also inform every person under 18 years of age of the right to be represented by an advocate, grant the person reasonable time to retain the services of an advocate and, if necessary, delay the giving of the person's testimony.

118. The fire investigation commissioner may compel any person to disclose anything that has been revealed to him or her by reason of his or her profession or position notwithstanding any inconsistent provision of a general law or special Act, except articles 307 and 308 of the Code of Civil Procedure and any provisions ensuring the confidentiality of information revealed to an advocate or minister of religion.

119. The Attorney General and interested persons or their attorneys may be heard at the hearing, put to the witnesses any relevant question to the extent that it is necessary for the purposes of the inquiry and, at the end of the hearing, make representations.

120. The depositions of witnesses, the representations made to the fire investigation commissioner and the statements or decisions made by the commissioner shall be taken down by stenography or recorded in any other manner allowed before the courts.

The Minister and the Attorney General may require the transcription of the stenographic notes or recordings and obtain a copy of the transcript. Upon payment of the fee prescribed by regulation of the Government, any interested person may also require such transcription and obtain a copy of the transcript.

121. The stenographer or the person charged with recording the depositions shall, before acting, take the following oath before the fire investigation commissioner:

"*I declare under oath that I will faithfully and accurately take down by stenography or record the depositions of witnesses, the representations made and the statements and decisions made by the fire investigation commissioner .....…..…..… concerning the fire that occurred at.....…. on ..... and that the copies or transcripts that I will furnish will be true and accurate.*"

122. The fire investigation commissioner may adjourn an inquiry when it appears absolutely impossible to the fire investigation commissioner to arrive at the truth immediately.

However, the fire investigation commissioner must resume the inquiry whenever the Minister so requires.

123. Once the hearing is completed, the fire investigation commissioner shall, with diligence, draft a report and send a certified copy to the Minister and to the person who sent the notice of fire.

The report shall contain

(1) the date and place where the fire occurred;

(2) all relevant information concerning the point of origin, probable causes and circumstances of the fire and any information relating to any connection with other fires; and

(3) where appropriate, recommendations aimed at ensuring better protection of persons and property against fires.

124. The following shall be appended to the original of the report:

(1) all documents produced during the investigation, which may include

(*a*) the investigation report of a firefighter or a peace officer;

(*b*) a copy of the minutes of seizure;

(*c*) photographs taken and copies made during the investigation;

(*d*) expert reports; and

(*e*) any other document required by the fire investigation commissioner; and

(2) all documents pertaining to the inquiry:

(*a*) a copy of the summons issued to witnesses;

(*b*) where applicable, a copy of the warrants of arrest and of any decision rendered by a judge before whom an arrested person appeared;

(*c*) a copy of the writing recording the information given under section 111;

(*d*) the original stenographic notes or recordings made at the hearing and, where applicable, the original transcript of the stenographic notes or recordings; and

(*e*) where applicable, a copy of the order banning the disclosure, publication or release of information reported at the hearing or prohibiting picture-taking, sketching, filming, videotaping or radio or television broadcasting during the hearing.

A certified copy of such documents shall be sent to the Minister on request.

125. Once the inquiry has been completed, the witnesses must recover the documents and things they produced or forwarded.

Any unrecovered document or thing may be destroyed after the expiry of one year following the end of the inquiry.

DIVISION VI

DOCUMENTS AND INFORMATION

126. Where the fire investigation commissioner considers it appropriate, the commissioner shall transmit to the government departments, bodies or persons concerned the recommendations contained in his or her investigation report or inquiry report.

127. The investigation report and the inquiry report are public, except the documents to be appended and the passages that are subject to an order banning disclosure, publication or release.

However, once the fire investigation commissioner has transmitted a report to the Minister and to the person who sent the notice of fire, the documents appended to the report, except for the report of a peace officer, become public and may be consulted by any person, unless the fire investigation commissioner considers it necessary to ban their disclosure, publication or release in the public interest, for the protection of a person's privacy, reputation or right to a fair trial or because the information is confidential.

128. The disclosure, publication or release at any time of any information that would reveal the name or address or the identity of a person under 18 years of age involved in a fire or called upon to testify at an inquiry is prohibited.

129. The fire investigation commissioner and any person acting under the commissioner's authority shall, before allowing access to a report or appended documents, or before transmitting a copy, delete any passages banned from publication or release.

The first paragraph does not apply to reports and documents communicated or transmitted to the Minister.

130. Notwithstanding the first paragraph of section 129, the fire investigation commissioner may allow consultation of an unexpurgated report or unexpurgated appended documents or transmit certified copies of them to

(1) the Attorney General;

(2) a government department, body or person that has established to the satisfaction of the fire investigation commissioner that the documents will be used for the purpose of ascertaining or asserting the rights of the department, body or person;

(3) a government department or public body that has established to the satisfaction of the fire investigation commissioner that the documents will be used in the pursuit of the public interest.

However, the report of a peace officer not filed as evidence during a hearing cannot be consulted or transmitted except with the express permission of the Minister or a person authorized by the Minister for that purpose.

131. Notwithstanding the foregoing, where required in the public interest, the Minister or the fire investigation commissioner may disclose, publish or release information that has not been made public contained in an investigation report or inquiry report or in appended documents.

However, the report of a peace officer not filed as evidence during a hearing cannot be disclosed, published or released by the fire investigation commissioner except with the express permission of the Minister or a person authorized by the Minister for that purpose.

132. Access to or receipt of an investigation report or inquiry report or an appended document does not constitute an authorization to disclose, publish or release information it contains that has not been made public, unless it is necessary for ascertaining or asserting the rights of the government department, body or person, or necessary in the public interest, where the department, body or person consulted or received the report or document for that purpose.

133. The orders of the fire investigation commissioner banning the disclosure, publication or release of information apply notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

DIVISION VII

CONTEMPT

134. Any person who

(1) contravenes an order of the fire investigation commissioner,

(2) is competent to testify, but refuses to take the oath, to answer questions that are lawfully put or to produce the documents or things required by the fire investigation commissioner,

(3) disrupts a hearing, or

(4) discloses, publishes or releases information or a document in contravention of the provisions of Division VI,

is in contempt of court and may be condemned accordingly by the Superior Court on a motion of the fire investigation commissioner.

CHAPTER VI

MINISTER OF PUBLIC SECURITY

135. The Minister of Public Security is responsible for fire safety.

The Minister is in charge of setting general policies in the field of fire safety. The Minister shall ensure that regional authorities determine optimum fire protection objectives, that the actions required to achieve such objectives are implemented, that fire safety personnel members are properly trained, that research and development is carried out in the field of fire safety, and that an appropriate response is made to the recommendations of the fire investigation commissioner.

136. The Minister shall coordinate the actions of government departments and bodies that are mandataries of the State and advise them on fire safety.

The Minister may require such departments and bodies to provide all relevant information on their policies, projects and achievements in the field of fire safety, and a copy of their fire hazard reports.

137. The Minister is, more specifically, in charge of determining policies concerning fire prevention, personnel training, emergency preparedness and emergency response procedures for regional and local authorities.

For that purpose, the Minister shall classify fire risks and list and describe the fire protection objectives and the minimum measures to be considered by regional and local authorities in the establishment of their fire safety cover plan and in their implementation plan.

The Minister may, subject to the conditions determined by the Minister, grant financial assistance to a regional or local authority for the establishment, amendment or revision of a fire safety cover plan or for the implementation of planned actions.

138. The Minister shall publish the policies the Minister intends to establish for regional or local authorities in the *Gazette officielle du Québec* together with a notice inviting interested persons to submit their views to the Minister within the time specified.

Once established, the policies shall be published in the *Gazette officielle du Québec*.

139. The Minister shall advise regional or local authorities and intermunicipal boards in charge of the implementation of measures to which this Act applies. The Minister shall monitor their actions to ensure that they meet the responsibilities incumbent upon them under this Act, and verify the effectiveness of the fire safety services they provide.

For that purpose, the Minister may transmit guidelines to the authorities and to the boards concerning any matter relating to this Act or its regulatory instruments, and request any relevant information concerning their projects and achievements.

140. The Minister shall foster or encourage fire safety initiatives by regional or local authorities, insurers and other fire safety stakeholders and facilitate the formation of associations working in the same field, in particular by providing financial or technical support on the conditions determined by the Minister.

141. The Minister shall contribute to the information of the public so as to ensure public participation in the achievement of the objectives of this Act, in particular by disseminating information and advice on preventing fires or reducing their consequences.

142. In addition, the Minister may

(1) conduct, commission or promote research on risk management or the planning of emergency response procedures or research aimed at improving fire prevention, fire detection, fire alarm and firefighting techniques, methods and equipment;

(2) propose, coordinate and carry out activities or work designed to remove or reduce the risks or consequences of a fire;

(3) conduct analyses of statistical data and studies on the fire safety situation throughout Québec and at the regional and local levels, or on the repercussions of that situation, in particular on the regional economy or on fire insurance, and make the data or studies public.

143. In carrying out his or her functions, the Minister may, subject to the applicable legislative provisions, enter into an agreement with a government in Canada or abroad, a department or agency of such a government, an international organization or an agency of an international organization, or with a regional or local authority or any natural or legal person.

144. The Minister may establish any form for the purposes of this Act and determine, by regulation, the statistics and documents relating to this Act that regional or local authorities, intermunicipal boards in charge of the implementation of measures to which this Act applies, insurers and claims adjusters must keep or transmit to the Minister and the form and content of the notices and reports prescribed by this Act.

145. To ascertain the effectiveness of the actions implemented pursuant to this Act or the effectiveness of fire safety services, or to assess compliance with the applicable provisions of this Act and the regulations, the Minister or a member of the Minister's personnel designated for that purpose by the Minister may

(1) require a local or regional authority, an intermunicipal board in charge of the implementation of measures to which this Act applies or a fire safety service, its personnel, insurers, claims adjusters and other fire safety stakeholders to communicate, for examination or reproduction, any document, information or explanation the Minister considers necessary for the carrying out of his or her functions;

(2) enter a fire station or any other place where there is equipment or an infrastructure identified in a fire safety cover plan to inspect the fire safety equipment or infrastructure and to conduct or order tests to verify their effectiveness.

146. An inspector must, on request, produce identification and proof of appointment.

147. Where there is a deficiency in the actions of a local or regional authority or an intermunicipal board, the Minister may, after an overall assessment of the situation and after giving the authority or board an opportunity to present observations, recommend corrective measures or, if the Minister is of the opinion that public security so requires, order that the measures the Minister considers necessary be taken to ensure the protection of persons and property against fire.

148. The Minister or a person designated by the Minister may inquire into any matter to which this Act applies, subject to the powers conferred on the fire investigation commissioner or the coroner under Chapter V.

The Minister may transmit the conclusions of the inquiry to the persons concerned.

Where corrective measures are recommended, the Minister may require the persons concerned to indicate their intentions, within the time determined by the Minister. The Minister may, when recommending to a local or regional authority or to an intermunicipal board measures which the Minister considers to be imperative to ensure public safety, order their implementation and a compliance report within the time determined by the Minister.

149. The Minister, an inspector or an investigator cannot be prosecuted by reason of any act performed in good faith in the exercise of their functions.

150. Neither the Minister nor any person under the authority of the Minister may disclose any information reported to the Minister or person pursuant to section 7 or 34 in relation to the point of origin, probable causes or circumstances of a fire, nor may the Minister or the person communicate any document obtained under either of those sections without the consent of their author.

CHAPTER VII

REGULATORY POWERS OF THE GOVERNMENT

151. In addition to the powers otherwise conferred on it by this Act, the Government may, by regulation,

(1) determine standards applicable to badges and other identification papers of firefighters;

(2) determine standards applicable to the equipment of a fire safety service, the conditions governing the use of the equipment, and vehicle identification standards;

(3) determine the decorations and citations that may be awarded, the cases in which they may be awarded, the procedure for awarding decorations and citations, and the classes of persons or bodies that may qualify therefor;

(4) fix the amounts payable to obtain a certified copy of a report of the fire investigation commissioner or of appended documents;

(5) determine a tariff of fees, compensation and expenses that may be paid during an investigation made by the fire investigation commissioner and taken out of the appropriations granted each year to the Minister for the purposes of this Act, the terms and conditions of payment and the classes of persons to which the tariff applies.

CHAPTER VIII

PENAL PROVISIONS AND PROCEEDINGS

152. Every person who, in contravention of section 5, fails to report a hazard is guilty of an offence and is liable to a fine of $500 to $3,000 in the case of a natural person and to a fine of $1,500 to $10,000 in the case of a legal person.

153. Every insurer or claims adjuster who does not make a report to the Minister in accordance with section 7 is guilty of an offence and is liable to a fine of $500 to $3,000.

154. Every employer who, by discriminatory measures or reprisals, a change of conditions of employment, transfer, suspension or dismissal or any other sanction, prevents any member of the personnel from acting as a volunteer firefighter or attempts to sanction the personnel member for having acted in that capacity, is guilty of an offence and is liable to a fine of $200 to $1,000, provided the firefighter has informed the employer of his or her duties as a firefighter and has made arrangements that are to apply in the event the firefighter must leave work precipitously or cannot report for work.

In addition, a person who feels aggrieved by a measure referred to in the first paragraph may exercise a recourse before a labour commissioner as if it were a recourse related to the exercise of a right under the Labour Code (R.S.Q., chapter C-27). Sections 15 to 20, 118 to 137, 139, 139.1, 140, 146.1 and 150 to 152 of the Code apply, with the necessary modifications.

155. Every person who hinders the Minister, an investigator, inspector, municipal inspector, firefighter or peace officer in the exercise of the powers vested in them under this Act, refuses to obey an order they are entitled to give, to communicate the information or documents they are entitled to require or, without valid cause, to provide the help or assistance they may require, knowingly makes false statements, or conceals or destroys documents or other things relevant for the purposes of their functions is guilty of an offence and is liable to a fine of $1,000 to $5,000.

The same applies in respect of any person who enters damaged premises contrary to a prohibition ordered under section 95 by the fire investigation commissioner or the person designated by the fire investigation commissioner pursuant to that section, who knowingly makes false statements or who conceals or destroys documents or other things relevant for an investigation.

156. In the case of a second or subsequent offence, the minimum and maximum fines shall be doubled.

157. Penal proceedings for an offence under a provision of section 5 that a local municipality is in charge of enforcing may be instituted by the municipality.

Where that is the case, proceedings may be brought before the competent municipal court.

Where the municipality is the prosecuting party, the fine imposed belongs to the municipality.

Where proceedings are brought before a municipal court, the costs relating to the proceedings belong to the municipality in which the court has jurisdiction, except any part of the costs remitted by the collector to another prosecuting party under article 366 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) and any costs remitted to the defendant or imposed on the prosecuting municipality under article 223 of that Code.

CHAPTER IX

AMENDING PROVISIONS

158. This Act replaces the Fire Investigations Act (R.S.Q., chapter E-8), the Act respecting municipal fire fighting cooperation (R.S.Q., chapter E-11) and the Fire Prevention Act (R.S.Q., chapter P-23).

A reference to any of those Acts is a reference to the corresponding provisions of this Act.

159. The Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by inserting the following after section 12:

"PERSONS ASSISTING MEMBERS OF A MUNICIPAL FIRE SAFETY SERVICE

"12.0.1. Every person who, during a fire, assists the firefighters of a municipal fire safety service after the person's assistance has been expressly accepted or required pursuant to subparagraph 7 of the second paragraph of section 40 of the Fire Safety Act (2000, chapter 20), is considered to be a worker in the employ of the authority responsible for the service.

The right to return to work does not, however, apply to a person referred to in the first paragraph."

160. Section 77 of the said Act is amended by inserting ", 12.0.1" after "12" in the first paragraph.

161. Section 78 of the said Act is amended by inserting ", 12.0.1" after "12" in the first paragraph.

162. Section 81 of the said Act is amended by inserting "or 12.0.1" after "12".

163. The said Act is amended by inserting the following section after section 293:

"293.1. An authority responsible for a municipal fire safety service which, during a calendar year, has used the services of persons referred to in section 12.0.1 must, before 15 March of the following year, transmit to the Commission a statement setting out

(1) the nature and average duration of the work performed by those persons;

(2) the number of persons involved in the course of the past year and an estimate of the number of persons likely to be involved in the current year."

164. Section 296 of the said Act is amended by inserting the following paragraph after the second paragraph:

"An authority responsible for a municipal fire safety service described in section 293.1 shall keep a detailed register of the names and addresses of the persons referred to in section 12.0.1."

165. Section 310 of the said Act is amended by inserting the following paragraph after paragraph 3:

"(3.1) the authority responsible for a municipal fire safety service as the employer of a person referred to in section 12.0.1;".

166. Section 440 of the said Act is amended by inserting ", 12, 12.0.1" after "11".

167. Section 267 of the Building Act (R.S.Q., chapter B-1.1) is repealed.

168. Article 555 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), amended by section 158 of chapter 36 of the statutes of 1999, is again amended by striking out the second paragraph of paragraph 4.

169. Section 84.1 of the Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1), amended by section 38 of chapter 75 of the statutes of 1999, is again amended by adding the following paragraph at the end:

"(4) the Fire Safety Act (2000, chapter 20)."

170. Section 121.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2), amended by section 39 of chapter 75 of the statutes of 1999, is again amended by adding the following paragraph at the end:

"(4) the adoption of a fire safety cover plan for its territory under the Fire Safety Act (2000, chapter 20)."

171. Section 94.1 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3), amended by section 40 of chapter 75 of the statutes of 1999, is again amended by adding the following paragraph at the end:

"(4) the Fire Safety Act (2000, chapter 20)."

172. Section 8 of the Act respecting the Ministère de la Sécurité publique (R.S.Q., chapter M-19.3) is amended by replacing "prevention" in the second paragraph by "protection" and by replacing "Fire Prevention Act (chapter P-23)" at the end by "Fire Safety Act (2000, chapter 20)."

173. Section 9 of the said Act, amended by section 20 of chapter 8 of the statutes of 1999, is again amended by replacing paragraph 8 by the following paragraph:

"(8) to see to it that fire investigation commissioners investigate the point of origin, probable causes and circumstances of a fire or explosion and any connection with other fires or explosions with a view to making recommendations to improve the protection of persons and property against fires;".

174. Section 7 of the Act respecting municipal regulation of public buildings (R.S.Q., chapter R-18) is amended

(1) by replacing "civilian firemen" and "firemen" wherever they appear in subsection 2 by "firefighters";

(2) by inserting "or the municipal fire safety service" after "police force" in the third line of subsection 2.

175. Section 162 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by replacing "fire prevention service" in paragraph 7 by "fire safety service".

CHAPTER X

TRANSITIONAL PROVISIONS

176. The Minister shall, within 18 months after the publication of the first ministerial policies destined for regional authorities, send the notices required under section 12 to the regional authorities.

177. Any intermunicipal agreement relating to fire safety entered into before the coming into force of the first fire safety cover plan applicable to any of the parties to the agreement and not incorporated in the agreement, shall continue to have effect until its date of expiry except in the case of any renewal not approved by the Minister, unless the parties agree to terminate the agreement prematurely.

178. No person may be required to comply with section 5 earlier than 60 days after the date of the coming into force of the first regulation respecting reportable fire hazards.

179. The quality of firefighter required by section 37 for the exercise of the functions of fire chief is not required in respect of the persons holding the position of fire chief on 2 May 2000, even upon a renewal of their contract, for as long as they continue to hold that position.

180. Every by-law made by the École nationale des pompiers du Québec under section 68 must be submitted to the Government for approval; such approval shall be in lieu of the conditions defined by the Government referred to in that section, until the date of the coming into force of section 37 of the Public Administration Act (2000, chapter 8).

181. An investigation or inquiry in progress at the time of coming into force of Chapter V of this Act shall be completed in accordance with the provisions of that chapter.

182. A regulation made under the Fire Investigations Act (R.S.Q., chapter E-8) or the Fire Prevention Act (R.S.Q., chapter P-23) is deemed to have been made under this Act, insofar as it is consistent with this Act.

183. The fire investigation commissioner in office on 21 December 1983 is *ex officio* coroner in the case referred to in section 82.

184. The five-year term specified in section 87 shall not affect the current term of the fire investigation commissioner, which shall continue until the expiry of the term provided.

CHAPTER XI

FINAL PROVISIONS

185. The Minister of Public Security is responsible for the administration of this Act.

186. The provisions of this Act come into force on the date or dates to be fixed by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 123
(2000, chapter 26)

An Act to amend the Agricultural Products, Marine Products and Food Act and other legislative provisions

Introduced 10 May 2000
Passage in principle 1 June 2000
Passage 16 June 2000
Assented to 16 June 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

This bill amends the Agricultural Products, Marine Products and Food Act to integrate the dairy products and substitutes sector currently governed by the Dairy Products and Dairy Products Substitutes Act. The provisions of the Agricultural Products, Marine Products and Food Act as amended under this bill will then apply to all food products, including dairy products and dairy product substitutes.

The bill introduces new measures dealing with the safety, traceability and recall of food products.

Various powers to intervene are granted under the bill to both the Minister and the authorized persons as a means of ensuring food safety. The bill also proposes in that regard certain modifications to existing powers.

The permit system in existence in the agri-food sector is revised under the bill, as is the current registration system.

The bill contains various legislative provisions conferring powers, in particular to allow for smooth integration of the dairy products and substitutes sector and for the recovery of certain costs.

The bill proposes a revamping of the penal provisions, especially to reflect increased risks to the health of consumers.

Lastly, the bill contains various amending, consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

– Cities and Towns Act (R.S.Q., chapter C-19);

– Highway Safety Code (R.S.Q., chapter C-24.2);

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);

– Tourist Establishments Act (R.S.Q., chapter E-15.1);

– Act respecting administrative justice (R.S.Q., chapter J-3);

– Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1);

– Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29);

– Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30);

– Plant Protection Act (R.S.Q., chapter P-39.01);

– Animal Health Protection Act (R.S.Q., chapter P-42);

– Marine Products Processing Act (R.S.Q., chapter T-11.01).

Bill 123

AN ACT TO AMEND THE AGRICULTURAL PRODUCTS, MARINE PRODUCTS AND FOOD ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

AGRICULTURAL PRODUCTS, MARINE PRODUCTS AND FOOD ACT

1. The title of the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) is replaced by the following title:

"FOOD PRODUCTS ACT".

2. Section 1 of the said Act is amended

(1) by inserting the following subparagraphs after subparagraph *a*.2 of the first paragraph:

"(*a*.3) "dairy product": milk, or any derivative of milk, and any food product made with milk as the sole ingredient or the main ingredient;

"(*a*.4) "dairy product substitute": any food product which may be substituted for a dairy product and which, in its external characteristics or its mode of use, resembles a dairy product;";

(2) by inserting ", a dairy product, a dairy product substitute" after "water product" in subparagraph *c* of the first paragraph;

(3) by inserting the following subparagraphs after subparagraph *c* of the first paragraph:

"(*c*.1) "dairy producer": any person who sells or delivers milk or cream from a herd operated by the person;

"(*c*.2) "dairy plant": an establishment or a vehicle where raw milk or cream is received or where a dairy product is prepared for wholesale;";

(4) by inserting the following subparagraph after subparagraph *j* of the first paragraph:

"(*j*.1) "dairy distributor": any person, other than a retailer operating a retail establishment or a restaurateur who delivers or causes to be delivered milk or cream to customers;";

(5) by adding the following paragraph after the second paragraph:

"For the purposes of this Act and unless the context indicates a different meaning, "person" includes a partnership, an association, a cooperative or a body."

3. Section 2 of the said Act is repealed.

4. Section 3 of the said Act is amended

(1) by inserting "receive, purchase for resale," after "remuneration," in the second line;

(2) by replacing "or that is deteriorated so that it is" in the fifth line by ", that is so deteriorated as to be";

(3) by inserting ", whose safety for human consumption is uncertain," after "consumption," in the sixth line.

5. Section 3.1 of the said Act is amended

(1) by inserting "a packing-house, an establishment," after "operating" in the first line of the first paragraph;

(2) by inserting, in the first paragraph, "received," after "unloaded," in the second line, by inserting "animals whose products are intended for human consumption are found or where" after "where" in the fifth line and by replacing "premises" in the sixth line by "packing-house, establishment, premises, places, vehicle";

(3) by inserting ", any storing of products or any other operation" after "procedure" in the second line of the second paragraph.

6. The said Act is amended by inserting the following sections after section 3.1:

"3.2. Every operator referred to in section 3.1 shall

(1) use equipment or facilities that are in good working order and designed, constructed, manufactured, maintained and arranged in a manner that permits them to function in accordance with their intended use, permits the cleaning and disinfecting of all surfaces and does not contaminate the products;

(2) use premises, places or vehicles that are designed, constructed and maintained in a manner that permits the operations therein to be performed

under sanitary conditions, permits the cleaning and disinfecting of all surfaces and does not contaminate the products;

(3) lay out and maintain the areas surrounding the packing-house, establishment or premises in a manner that does not contaminate the places, equipment or products.

"3.3. Every operator referred to in section 3.1 shall ensure that the persons present in the areas where products, material and packaging are handled or stored, or in the product preparation areas, and in any place where animals whose products are intended for human consumption are found, comply with the rules of hygiene and sanitation prescribed by regulation. The operator shall ensure that all personnel, including the operator, present in those areas and places comply with the measures prescribed by regulation.

"3.4. Every operator referred to in section 3.1 shall withdraw or recall any product intended for human consumption that is unfit for human consumption, that is so deteriorated as to be unfit for human consumption, whose safety is uncertain, for which there is no information or for which the information appearing on the product or its packaging does not enable the product to be consumed safely.

To that end, the operator must have a traceability system that meets the requirements prescribed by regulation.

"3.5. Every person who keeps, for commercial or philanthropic purposes or to be given, for promotional purposes, a product that is recalled shall comply with the recall."

7. Section 4 of the said Act is replaced by the following sections:

"4. No person shall use on a product, its container, label or package, on any sign relating thereto or in any document concerning the advertising, keeping, handling or distribution of a product for sale, any inaccurate, false or misleading indication or indication that could confuse the purchaser as to the source, nature, category, class, quality, condition, quantity, composition, preservation or safe use of the product.

The absence of an indication, or an incomprehensible or illegible indication, on any of the elements described in the first paragraph is considered to be an inaccurate, false or misleading indication.

"4.1. In addition, no person shall

(1) use the words "milk", "cream", "butter", "cheese" or a derivative of any of those words to designate a dairy product substitute;

(2) use any words, trademarks, names or images that evoke the dairy industry to designate a dairy product substitute."

8. Section 5 of the said Act is repealed.

9. Section 7 of the said Act is amended by replacing "an establishment, vehicle or premises" in the second and third lines by "a packing-house, an establishment, premises or a vehicle" and by replacing "*l*.1 or *m* to *p*" in the fourth line by "*n*.1 to *n*.4".

10. The said Act is amended by inserting the following sections after section 7:

"7.1. No person shall mix a dairy product or constituent of a dairy product with a dairy product substitute, except to the extent provided by regulation.

"7.2. No person shall prepare, offer for sale, sell, deliver, process or keep, display or transport for the purpose of sale any dairy product substitute that is not designated by regulation.

"7.3. If the holder of a permit required under subparagraph *k*.4 of the first paragraph of section 9 ceases, permanently or for at least 10 consecutive months, to prepare or sell by wholesale any class of dairy product substitutes covered by the permit, the holder must inform the Minister not later than 30 days thereafter.

"7.4. The Minister shall modify the permit required under subparagraph *k*.4 of the first paragraph of section 9 if the holder ceases to prepare or sell by wholesale a class of products covered by the permit or more than one class of such products.

"7.5. Every dairy product substitute must meet the standards respecting composition, colour, quality, form and format determined by regulation, and the recipient, packaging or wrapping containing the dairy product substitute must bear the name, origin, quantity and composition of the product.

"7.6. In any establishment where food is served for remuneration, no person shall offer or serve a dairy product substitute without informing the consumer by means of an indication on the menu or, if there is no menu, a sign or label."

11. Section 8 of the said Act is amended by adding the following paragraphs at the end:

"Notwithstanding the first paragraph, a farm producer within the meaning of the Farm Producers Act (chapter P-28) who is in possession of a product intended for human consumption for the purposes of sale or the furnishing of services for remuneration must register with the Minister. For that purpose, the farm producer must furnish information concerning the farm producer's identity, location and operations.

The second paragraph does not apply to a farm producer who has consented in writing to have the information furnished by the farm producer pursuant to the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (chapter M-14) stand in lieu of registration."

12. The said Act is amended by inserting the following sections after section 8:

"8.1. Processing operations in a dairy plant must be directed by a person holding a certificate attesting that the person has the qualifications required for that purpose, issued by the Institut de technologie agricole de Saint-Hyacinthe, or any other certificate recognized as equivalent by the Minister.

"8.2. Milk and cream collecting at the farm must be carried out by a person holding

(1) a certificate attesting that the person has the qualifications required for that purpose, issued by the Institut de technologie agricole de Saint-Hyacinthe, or any other certificate recognized as equivalent by the Minister;

(2) a tester's permit.

However, an operator of a dairy plant who receives or uses milk or cream that has not been collected in accordance with the first paragraph must have in the operator's service a person who holds the permit and the certificate required under that paragraph."

13. Section 9 of the said Act is amended

(1) by replacing subparagraphs *a* to *d* of the first paragraph by the following subparagraphs:

"(*a*) operate an establishment or a vehicle where mammals or birds are slaughtered;

"(*b*) operate an establishment or a vehicle where meat or meat products intended for human consumption are prepared, for the purpose of sale by wholesale, by the operator or the person retaining the operator's services for remuneration;

"(*c*) operate an establishment where inedible products are prepared or stored, unless the person holds the permit required under subparagraph *k*.1 for the establishment;

"(*d*) salvage inedible products, unless the person already holds the permit required under subparagraph *c*;";

(2) by striking out subparagraphs *g* to *j* of the first paragraph;

(3) by replacing subparagraph *k* of the first paragraph by the following subparagraph:

"(*k*) operate an establishment or a vehicle where agricultural products of vegetable origin intended for human consumption are prepared, for the purpose of sale by wholesale, by the operator or the person retaining the operator's services for remuneration, unless the person holds the permit required by subparagraph *k*.4 in relation to the preparation of dairy product substitutes for the establishment;";

(4) by inserting the following subparagraphs after subparagraph *k* of the first paragraph:

"(*k*.1) operate a dairy plant;

"(*k*.2) transport or cause to be transported milk or cream from a dairy producer's farm to a dairy plant;

"(*k*.3) act as a dairy distributor, unless the person holds the permit required under subparagraph *k*.1 for the establishment;

"(*k*.4) operate an establishment where a dairy product substitute is prepared or sold by wholesale;";

(5) by replacing subparagraphs *l* to *n* of the first paragraph by the following subparagraphs:

"(*l*) operate a food plant;

"(*m*) transport spring water or mineral water in a tank or operate an establishment where water is bottled, for the purpose of sale by wholesale, by the operator or the person retaining the operator's services for remuneration;

"(*n*) operate an establishment or a vehicle where ice is made or packaged, for the purpose of sale by wholesale, by the operator or the person retaining the operator's services for remuneration;

"(*n*.1) operate an establishment where products for human consumption are stored, for the purpose of sale by wholesale, by the operator or the person retaining the operator's services for remuneration, unless the person holds the permit required under subparagraph *a*, *b*, *e*, *f* or subparagraphs *k* to *n* for the establishment;

"(*n*.2) purchase products intended for human consumption, for the purpose of resale by wholesale, unless the person holds the permit required under subparagraph *a*, *b*, *e*, *f*, *k*, *k*.1, *k*.3 or *k*.4 in relation to the dairy product substitute wholesaler's permit or subparagraphs *l* to *n*.1;

"(*n*.3) operate an establishment or a vehicle where products are prepared for the purpose of furnishing services for remuneration, in respect of products

intended to be consumed by the owner of the products, unless the person holds the permit required under subparagraph *a*, *k*.1 or *k*.4 in relation to the preparation of dairy product substitutes for the establishment or vehicle, as applicable;

"(*n*.4) operate an establishment, premises or a vehicle where retail or restaurant activities are engaged in or where products are prepared or stored to be used for such activities in another establishment, other premises or another vehicle operated by the operator or by the person retaining the operator's services for remuneration, unless the person holds the permit required under subparagraph *a*, *k*.1, *k*.3 or *k*.4 in relation to the preparation of dairy product substitutes for the establishment or vehicle, as applicable;";

(6) by striking out subparagraphs *o* and *p* of the first paragraph;

(7) by striking out the second paragraph.

14. Section 10 of the said Act is amended

(1) by replacing, in the French text, "ou" in the last line of the third paragraph by "et";

(2) by replacing "subparagraphs *e* and *f*" in the third line of the fourth paragraph by "subparagraph *e*" and by striking out "or fresh water products" in the ninth line of that paragraph;

(3) by adding the following paragraph at the end:

"The Minister may not, however, issue a dairy plant permit unless the Minister has obtained a favourable opinion from the Régie des marchés agricoles et alimentaires du Québec concerning the particulars mentioned in section 43.1 of the Act respecting the marketing of agricultural, food and fish products (chapter M-35.1). The same applies to the permit prescribed by subparagraph *l* of the first paragraph of section 9 where the applicant is applying to operate a dairy plant."

15. Section 11.1 of the said Act is amended

(1) by replacing "*c*.4, *d* to *e*.3, *e*.6 to *h* and *j* to *l*" in the fourth line of the first paragraph by "*a*.2, *a*.4 to *c*.3, *d* to *e*.3, *e*.5.1, *e*.6, *e*.8 to *g*, *h*, *j* to *l* and *m*.1";

(2) by adding the following sentence at the end: "The holder of the authorization must also pay to the Government the costs incurred to open and examine the file and all other costs incurred by the Minister in relation to the authorization."

16. Section 13 of the said Act is amended

(1) by inserting ", packing-house" after "establishment" in the first line;

(2) by adding the following paragraph at the end:

"A document from the Minister or an authorized person that relates to the permit holder's operations must be posted up by the permit holder in compliance with such conditions as the Minister may determine by regulation."

17. Section 15 of the said Act is amended

(1) by replacing paragraph *a* by the following paragraph:

"(*a*) who has been convicted of or has pleaded guilty to an offence against this Act or the regulations, unless the holder has received a pardon for the offence;";

(2) by inserting the following paragraph after paragraph *b*.1:

"(*b*.2) who repeatedly fails to comply with this Act or a regulation under this Act;";

(3) by adding the following paragraph at the end:

"In addition, the Minister may refuse to issue a permit if the applicant is or has been an officer, director or partner of an association, partnership or person whose permit is suspended or cancelled at the time the permit is applied for."

18. Section 32 of the said Act is amended by replacing "shall provide" in the second line of the first paragraph by "may provide".

19. Section 33 of the said Act is amended

(1) by replacing "premises where a product is prepared, packed, processed, packaged, stored, unloaded," in the second and third lines by "a packing-house or an establishment, premises or a vehicle where a product is prepared, conditioned, processed, packed, stored, unloaded, received,";

(2) by inserting "or where animals whose products are intended for human consumption or inedible products are found" after "slaughtered" in the eighth line;

(3) by replacing "such premises" in paragraph 1 by "such packing-house, establishment, premises or vehicle";

(4) by replacing "the premises, equipment" in the first line of paragraph 2 by "in the packing-house, establishment, premises or vehicle, the places, equipment, material, apparatus";

(5) by replacing "in which such a product is transported" in paragraph 3 by "used for transporting such a product";

(6) by replacing "premises or equipment" in the first line of paragraph 4 by "packing-house, establishment, premises, vehicle, places, material, apparatus or equipment".

20. The said Act is amended by inserting the following section after section 33:

"33.0.1. Where a living animal is seized under a regulation made pursuant to paragraph *c*.3 or *c*.5 of section 40, the provisions of the Animal Health Protection Act (chapter P-42) apply to the seizure."

21. Section 33.1 of the said Act is amended

(1) by replacing "or is deteriorated so that it is unfit for human consumption" in the fifth line by "or is so deteriorated as to be unfit for human consumption or that the safety of the product for human consumption is uncertain";

(2) by adding the following paragraph at the end:

"In addition, the authorized person may seize any product intended for animal consumption if the authorized person has reasonable grounds to believe that the product constitutes a danger to the life or health of consumers."

22. Section 33.1.3 of the said Act is amended by inserting "the product shall be confiscated by an authorized person and" after "to do so," in the fifth line.

23. Section 33.2 of the said Act is amended by replacing "33.3, 33.4" in the second line of the second paragraph by "33.2.1, 33.3, 33.4, 33.4.1".

24. The said Act is amended by inserting the following section after section 33.2:

"33.2.1. Where the thing seized is perishable or likely to depreciate rapidly and its safety is ensured, the judge may, on the application of the seizor, authorize the sale of the thing.

At least one clear day's prior notice of the application must be served on the person from whom the thing was seized and on the persons who claim to have a right in the thing. However, the judge may exempt the seizor from service if deterioration of the thing seized is imminent.

The sale shall be made on the conditions fixed by the judge. The proceeds of sale shall be deposited with the Ministère des Finances in accordance with the Deposit Act (chapter D-5)."

25. Section 33.3 of the said Act is amended by inserting "or the proceeds of the sale thereof" after "seized" in the first line.

26. Section 33.4 of the said Act is amended

(1) by inserting "or the proceeds of the sale thereof" after "thing" in the second line of the first paragraph;

(2) by replacing "thing is maintained and its release" in the second and third lines of the third paragraph by "thing or the proceeds of the sale thereof is maintained and release".

27. The said Act is amended by inserting the following section after section 33.4:

"33.4.1. Notwithstanding sections 33.4 and 33.7, where a thing seized or the proceeds of the sale thereof cannot be returned as a result of unlawful possession to the person from whom the thing was seized or to a person who claims to have a right therein, the judge shall, on the application of the seizor or the prosecutor, order the confiscation of the thing or proceeds; if unlawful possession is not proved, the judge shall designate the person to whom the thing or the proceeds may be returned.

Prior notice of the application must be served on the person from whom the thing was seized and on the other person entitled to make such an application, except where they are in the presence of the judge. Such prior notice may, where applicable, be given with the statement of offence, specifying that the application for confiscation is to be made at the time of the judgment.

The Minister shall prescribe the procedure for disposing of the thing confiscated."

28. Section 33.5 of the said Act is amended by inserting "or the proceeds of the sale thereof" after "seized" in the first line.

29. Section 33.7 of the said Act is amended

(1) by adding "or of the proceeds of the sale thereof" at the end of the first paragraph;

(2) by inserting "or of the proceeds of the sale thereof" after "confiscated" in the first line of the third paragraph.

30. Section 33.8 of the said Act is amended

(1) by replacing "or deteriorated so that it is unfit for human consumption" in the second and third lines of the first paragraph by "or is so deteriorated as to be unfit for human consumption or that the safety of the product for human consumption is uncertain";

(2) by replacing "the authorized" in the first line of the second paragraph by "an authorized";

(3) by replacing "or deteriorated so that it is unfit for human consumption" in the first and second lines of the third paragraph by "or so deteriorated as to be unfit for human consumption, or any product whose safety for human consumption is uncertain," and by replacing "by the" in the third line of the third paragraph by "by an".

31. Section 33.9 of the said Act is amended by replacing "his supervision" in the fourth line by "an authorized person's supervision and as the Minister directs".

32. The said Act is amended by inserting the following sections after section 33.9:

"33.9.1. An authorized person may, in the exercise of the authorized person's functions and for a maximum period of five days, order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease the operation of an apparatus or equipment if the authorized person has reasonable grounds to believe that owing to the operation or condition of the apparatus or equipment, the safety of products for human consumption is uncertain.

The order shall state the grounds for the authorized person's decision.

The order takes effect when a written statement of the order is given to the operator or a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

"33.9.2. An authorized person may, in the exercise of the authorized person's functions and for a maximum period of five days, order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease or restrict, to the extent determined by the authorized person, the operation of the packing-house, establishment, premises or vehicle if the authorized person has reasonable grounds to believe that the operation results in an imminent danger to the life or health of consumers.

The order shall state the grounds for the authorized person's decision.

The order takes effect when a written statement of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons."

33. Section 33.10 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

"33.10. The Minister may, for a maximum period of 30 days, extend the order provided for in section 33.9.2 or order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease or restrict, to the extent the Minister determines, the operation of the

packing-house, establishment, premises or vehicle if the Minister is of the opinion that the operation results in an imminent danger to the life or health of consumers.";

(2) by replacing the third paragraph by the following paragraph:

"The order takes effect upon the giving of a copy of the order to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons."

34. Section 33.11 of the said Act is amended

(1) by replacing "served personally or on any person responsible for an establishment, on any person" in the third and fourth lines of the first paragraph by "notified, personally to the operator or to a person responsible for a packing-house, establishment or vehicle, to any person";

(2) by replacing "the preparation, production" in the fourth and fifth lines of the first paragraph by "in the production, preparation";

(3) by replacing "to his" in the sixth line of the first paragraph by "to the packing-house or";

(4) by inserting "at the person's expense" after "dispose of it" in the seventh line of the first paragraph;

(5) by inserting the following paragraph after the first paragraph:

"The Minister may also, where the Minister considers it necessary and urgent for the protection of the public in the case of a contravention of a provision of section 4 in relation to an inaccurate, false or misleading indication concerning the safe use of a product, or in the absence of any indication concerning the safe use of a product, by written notice notified, personally to a person referred to in the first paragraph, order the person to recall the product to the packing-house or establishment, to retain it, to bring the product into compliance or to dispose of it at the person's expense within the time and in accordance with the conditions determined by the Minister.";

(6) by inserting "provided for in the first paragraph" after "order" in the first line of the second paragraph;

(7) by replacing the last paragraph by the following paragraph:

"An order under this section takes effect when a copy of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons."

35. The said Act is amended by inserting the following sections after section 33.11:

"33.11.1. The Minister may, where the Minister considers it necessary and urgent for the protection of the public in the case of a contravention of a provision of section 4 other than the provision relating to the safe use of a product, or where a product is unfit for human consumption or is so deteriorated as to be unfit for human consumption but does not constitute a health risk, by written notice notified personally to a person responsible for a packing-house, establishment, premises or vehicle or to any person who engages in the production, preparation, conditioning, packaging, storing, selling, supplying or distribution of a product, order the person to recall the product to the packing-house or establishment, to retain it, to take the appropriate corrective action or to dispose of it at the person's expense within the time and in accordance with the conditions determined by the Minister.

The person subject to the order may apply in writing to the Minister, within the time indicated in the order, for authorization to take the appropriate corrective action.

The order takes effect when a copy of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

"33.11.2. The Minister may, by regulation, where the Minister considers it necessary for the protection of the public, determine that a product is a danger to the health or safety of consumers and indicate how the product is to be disposed of or eliminated safely.

Any person in possession of a product subject to the regulation must comply with the regulation.

The provisions of Divisions III and IV of the Regulations Act (chapter R-18.1) relating to the publication and coming into force of proposed regulations and regulations do not apply to such a regulation. The regulation shall be published in the *Gazette officielle du Québec*. However, it shall come into force on the date it is made by the Minister and shall be disseminated by any other means the Minister considers necessary."

36. Section 33.12 of the said Act is amended by replacing "33.10 or 33.11" in the first and second lines by ", 33.9.1 to 33.11.1".

37. The said Act is amended by inserting the following section after section 33.12:

"33.13. The Minister or the person designated by the Minister may, in the public interest, disclose any information held by the Minister which is necessary for the protection of the health or safety of consumers.

The Minister or the person designated by the Minister may also, in the public interest, disclose any information held by the Minister which is necessary

for the protection of the interests of consumers in the case of a contravention of section 4, after informing the person to whom the information relates.

The first and second paragraphs apply, notwithstanding paragraphs 5 and 9 of section 28 and section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

38. Section 34 of the said Act is amended by replacing “a slaughter-house or plant contemplated” in the first and second lines by “an establishment or a vehicle referred to”.

39. Section 35 of the said Act is amended

(1) by replacing “in charge of a place or of a vehicle” in the first line by “responsible for a packing-house, an establishment, premises or a vehicle or for any other place”;

(2) by replacing “in his inquiry, facilitate his access to the product and” in the third and fourth lines by “in the exercise of his functions, facilitate access to the product, the packing-house, establishment, premises or vehicle or to the place, and to”.

40. Section 40 of the said Act is amended

(1) by replacing “or the preparation” in the first line of paragraph *a* by “, the production, preservation, handling, preparation” and by replacing “or for the furnishing of a service for remuneration” in the third and fourth lines by “, the furnishing of a service for remuneration or the display of a product”;

(2) by inserting the following paragraph after paragraph *a*:

“(*a*.01) regulate the preparation processes, in particular pasteurization, canning, aseptic packaging and sterilization;”;

(3) by replacing paragraph *a*.1 by the following paragraph:

“(*a*.1) establish, in particular for the purposes of sanitation, the rules respecting the construction, layout, installation, material, equipment, location and maintenance of slaughter-houses or packing-houses, establishments, premises or vehicles where operations referred to in paragraph *a*, operations relating to inedible products or operations relating to premises in which there are animals whose products are intended for human consumption, are carried on;”;

(4) by inserting the following paragraphs after paragraph *a*.2:

“(*a*.3) determine, for the purposes of subparagraph *a*.3 of the first paragraph of section 1, the cases in which milk or any derivative of milk ceases to be a dairy product after being treated, modified, processed or reconstituted, and the

criteria whereby milk is to be considered the main ingredient in the making of a dairy product;

"(*a*.4) authorize standardization of the proportion of fat and other solids of any dairy product it indicates, subject to the conditions and according to the processes it determines, including skimming;";

(5) by striking out, in paragraph *b*, ", in the production of a product," in the first line, and by replacing "such" in the second line by "a";

(6) by inserting the following paragraphs after paragraph *b*:

"(*b*.1) prohibit, to the extent it indicates, the adding of dairy product substitutes or other ingredients to any dairy product or constituent of a dairy product;

"(*b*.2) designate the dairy product substitutes that may be prepared, offered for sale, sold, delivered, processed, held, displayed or transported for sale;";

(7) by replacing paragraph *c* by the following paragraph:

"(*c*) prohibit or regulate the sale, holding, transportation, salvaging, distribution, preparation, denaturation, packaging, labelling, use, disposal or elimination of inedible products, the slaughtering of animals in an establishment where inedible products are prepared or stored or where operations relating to inedible products held by a salvager or by the operator of such an establishment are carried on;";

(8) by striking out paragraph *c*.1;

(9) by striking out "in a slaughter-house," in the first line of paragraph *c*.3 and by inserting "or inedible" after "consumption" in the seventh line;

(10) by striking out paragraph *c*.4;

(11) by striking out "where the Minister considers it necessary and urgent for the protection of the public in any region he determines," in the first and second lines of paragraph *c*.5 and by inserting "or inedible" after "consumption" in the seventh line;

(12) by inserting ", wholesomeness, colour, proportion of constituents, presentation" after "quality" in the third line of paragraph *e*;

(13) by striking out paragraph *e*.1;

(14) by replacing paragraph *e*.2 by the following paragraph:

"(*e*.2) require the operator of a packing-house, establishment, premises or vehicle to submit the packing-house, establishment, premises or vehicle to a

quality and sanitation control inspection in accordance with the conditions determined by the Minister;";

(15) by inserting the following paragraph after paragraph *e*.2:

"(*e*.2.1) determine apparatus calibration methods and the persons or classes of persons who are to use them;";

(16) by inserting the following paragraph after paragraph *e*.3:

"(*e*.3.1) identify the diseases or germs of diseases that may be communicated by food;";

(17) by replacing paragraph *e*.4 by the following paragraph:

"(*e*.4) prescribe the rules of hygiene and sanitation applicable to any person who is in contact with food or with the material or equipment that is in contact with food in a packing-house, an establishment, premises or a vehicle referred to in section 33, require such a person to furnish a statement of health to the person's employer and to undergo such examinations as are necessary to establish that the person is not affected with a disease or is not a carrier of germs of diseases referred to in paragraph *e*.3.1 and, on conditions it determines, prescribe that the employer hold a medical certificate attesting that the person is not affected with such a disease and is not a carrier of such germs;";

(18) by replacing paragraph *e*.5 by the following paragraph:

"(*e*.5) prescribe withdrawal measures and the cases in which they are to be applied as well as special hygiene or sanitation measures applicable to any person affected with a disease or carrying germs of a disease referred to in paragraph *e*.3.1, who is in contact with food or with the material or equipment that is in contact with food in a packing-house, an establishment, premises or a vehicle referred to in section 33;";

(19) by inserting the following paragraphs after paragraph *e*.5:

"(*e*.5.1) determine the minimum training or learning experience necessary, in particular with respect to hygiene, sanitation or the monitoring of the processes involved in food processing;

"(*e*.5.2) determine the functions to be exercised by a person holding a tester's permit;";

(20) by replacing "require from a person referred to in paragraph *e*.4 appropriate training in matters of hygiene and cleanliness and that he" in the first and second lines of paragraph *e*.6 by "determine the persons or classes of persons that must undergo the training referred to in paragraph *e*.5.1 and, where applicable, that they";

(21) by inserting by the following paragraphs after paragraph *e*.6:

"(*e*.7) prescribe the rules of hygiene and sanitation applicable to the persons who are present in the areas or places referred to in section 3.3;

"(*e*.8) prescribe the conditions to be fulfilled by a person required to register with the Minister, the documents or the information to be furnished by the person, the books or registers to be kept and retained by the person, the reports to be submitted by the person and the annual fees to be paid by the person for registration;";

(22) by replacing paragraph *f* by the following paragraph:

"(*f*) determine the conditions of issue, renewal, suspension or cancellation of a permit, the documents or the information to be furnished by an applicant or holder, the books or registers to be kept and retained by the applicant or holder, the cases in which a permit may be issued for a period of less than 12 months, the fees payable for the permits according to the period of validity, the nature or the category, subcategory or class of the holders or permits, the costs for the opening and examination of an application for a permit or authorization;";

(23) by inserting the following paragraph after paragraph *g*:

"(*g*.1) determine, in addition to the persons referred to in section 3.4, the persons required to have a traceability system and prescribe the minimum system standards, which may vary according to the activity or product and pertain, in particular, to the reception, shipping and production register, lot identification and recall and control procedures;";

(24) by replacing "the containers," in the first line of paragraph *j* by "containers and in particular their size, capacity and characteristics, the" and by replacing "meat unfit for human consumption" in the third and fourth lines by "inedible products";

(25) by replacing "to operate an establishment" in the second and third lines of paragraph *k* by "require registration of the hours,";

(26) by replacing "or classification" in the first line of paragraph *k*.1 by ", inspection, classification or stamping";

(27) by inserting the following paragraph after paragraph *k*.1:

"(*k*.2) determine the cases in which analyses or controls are required and data is to be entered by the operator in a register made available to authorized persons;";

(28) by replacing paragraph *l* by the following paragraph:

"(*l*) define, for the purposes of this Act and the regulations, "canning", "packing-house", "cream", "denaturation", "inedible product", "water by volume", "spring water", "bottled water", "mineral water", "aseptic packaging", "establishment", "bottled water dispenser", "milk", "pasturization", "preparation", "prepare", "salvager", "salvaging", "sterilisation" and "food plant";";

(29) by inserting the following paragraph after paragraph *m*:

"(*m*.1) prescribe the rules to be complied with by the holder of a tester's permit relating to milk or cream collecting at the farm and the taking of samples;".

41. Sections 40.1 and 40.2 of the said Act are repealed.

42. Section 42 of the said Act is amended by replacing "$750" in the second line by "$2,000", and "$2 250" in the third line by "$6,000".

43. Section 43 of the said Act is replaced by the following section:

"43. Every person who contravenes a provision of a regulation under paragraph *a*, *a*.1, *d*, *e*.4 or *e*.7 of section 40 relating to the washing of hands, the processes of heating or cooling of products, defrosting methods or the temperature of products, or relating to insects, rodents or their excrements is liable to a fine of $250 to $3,000 and, for any subsequent contravention, to a fine of $750 to $9,000."

44. Section 44 of the said Act is replaced by the following section:

"44. Every person who contravenes any of the following provisions is liable to a fine of $500 to $3,000 and, for any subsequent contravention, to a fine of $1,500 to $9,000:

(1) a provision of section 4, except the provision concerning the safe use of a product, or a provision of section 4.1 or of sections 8 to 8.2;

(2) a provision of any of subparagraphs *k*.2, *k*.3 and *k*.4 of the first paragraph of section 9 in relation to, in the case of the latter subparagraph, a dairy product substitute wholesaler's permit, or a provision of any of subparagraphs *n*.1 to *n*.4 of the first paragraph of that section;

(3) a provision of section 13;

(4) a provision of a regulation under paragraph *e*, *h* or *j*.1 of section 40 in relation to any false or misleading indication or falsification concerning a product, or a provision of a regulation under paragraph *e*.2, *e*.5.1 or *e*.6 of that section."

45. Section 44.2 of the said Act is repealed.

46. Section 45 of the said Act is replaced by the following section:

"45. Every person who contravenes any of the following provisions is liable to a fine of $1,000 to $6,000 and, for any subsequent contravention, to a fine of $3,000 to $18,000:

(1) a provision of any of sections 3.3 to 3.5, 33.2, 33.3.1, 36 and 37;

(2) a condition or restriction indicated on the person's permit pursuant to section 10 or 11 or a condition of an authorization issued under section 11.1;

(3) the second paragraph of section 32.1, or furnishes erroneous, falsified or misleading information or documents;

(4) a provision of a regulation under section 7;

(5) a provision of a regulation under any of the following paragraphs of section 40:

(*a*) paragraph *a*, *c* or *j* concerning the inscription of a production lot number;

(*b*) paragraph *e*.8, *f*, *g*.1 or *k*.2 concerning registers other than registers relating to inedible products;

(*c*) paragraph *g* concerning conditions or restrictions attaching to a category of permits;

(*d*) paragraph *c*, *d* or *j* concerning the absence of inscription on the containers of inedible products and, in the case of the latter paragraph, on the means of transport of inedible products."

47. Section 45.1 of the said Act is replaced by the following section:

"45.1. Every person who contravenes any of the following provisions is liable to a fine of $2,000 to $15,000 and, for any subsequent contravention, to a fine of $6,000 to $45,000:

(1) a provision of section 3 concerning a product whose safety is uncertain;

(2) a provision of section 3.1;

(3) a provision of section 4 concerning the safe use of a product;

(4) a provision of any of subparagraphs *b* to *f*, *k*, *k*.1 and *k*.4 concerning dairy product substitute preparation permits, or *l*, *m* and *n* of the first paragraph of section 9;

(5) a provision of section 34 concerning hours of operation;

(6) a provision of a regulation under any of the following paragraphs of section 40:

(*a*) paragraph *a* or *c* concerning the exclusivity of operations relating to inedible products;

(*b*) paragraph *a*.01 concerning preparation processes;

(*c*) paragraph *a*.1 concerning the exclusive use of premises, apparatus or equipment;

(*d*) paragraph *c* concerning the denaturation or use of inedible products;

(*e*) paragraph *e* concerning sanitation standards for inedible products;

(*f*) paragraph *e*.8, *f*, *g*.1 or *k*.2 concerning registers relating to inedible products;

(*g*) paragraph *j* concerning restricted use containers for inedible products;

(*h*) paragraph *k* concerning the requirement to register permanent inspection hours."

48. The said Act is amended by inserting the following section after section 45.1.1:

"45.1.2. Every person who contravenes a provision of a regulation under section 40 concerning physical, chemical or microbiological standards in relation to a product is liable to a fine of $750 to $2,000 and, for any subsequent contravention, to a fine of $2,250 to $6,000.

Where a person is found guilty of an offence described in the first paragraph and the product constitutes a health risk, the amount of the fine is $2,000 to $15,000 and, for any subsequent contravention, $6,000 to $45,000."

49. Section 45.2 of the said Act is replaced by the following sections:

"45.2. Every person who contravenes subparagraph *a* of the first paragraph of section 9, an order under any of sections 33.9.1 to 33.11.1, a provision of a regulation under section 33.11.2, a provision of a regulation under section 6 in relation to stamping, or of paragraph *c* of section 40 in relation to the disposal of inedible meat is liable to a fine of $5,000 to $15,000 and, for any subsequent contravention, to a fine of $15,000 to $45,000.

"45.3. Every person who engages in an activity to which section 9 applies while the person's permit is suspended or cancelled under section 15 is liable to a fine of $5,000 to $15,000 and, for any subsequent contravention, to a fine of $15,000 to $45,000."

50. Section 46 of the said Act is replaced by the following sections:

"46. Where a legal person is guilty of an offence against section 3 in relation to a product unfit for human consumption, so deteriorated as to be unfit for human consumption or whose safety for human consumption is uncertain, section 9 or 11.1 in relation to the operation of a packing-house, establishment, premises or vehicle while its permit is suspended or cancelled under section 15, an order under any of sections 33.9.1 to 33.11.1 or a regulation under section 33.11.2, section 34 in relation to the operating hours fixed in that section, or contravenes the conditions or restrictions indicated in its permit or the provisions of regulations concerning stamping, the origin of products or inedible meat, every officer, director, partner, employee or mandatary of that legal person who prescribed or authorized the committing of the offence, or who consented thereto or acquiesced or participated therein, is deemed a party to the offence and is liable to the penalties provided for in section 44, 45, 45.1, 45.1.1, 45.1.2, 45.2 or 45.3, whether or not the legal person has been prosecuted or convicted.

"46.1. In determining the amount of the fine, the court shall take into account, in particular,

(1) the seriousness of the risk to consumers' health;

(2) the benefits and revenues the offender has derived from the offence;

(3) the socio-economic consequences for society."

51. Section 53 of the said Act is amended

(1) by inserting "a packing-house or" after "operator of" in the first line of the first paragraph;

(2) by inserting "a packing-house, of" after "operator of" in the first line of the third paragraph.

52. Section 56.1 of the said Act is amended by inserting "a packing-house," after "in" in the fourth line of paragraph *b*.

ANIMAL HEALTH PROTECTION ACT

53. Section 1 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended by adding the following at the end: "The duties of the Minister include ensuring that an appropriate level of animal health protection is maintained."

54. The said Act is amended by inserting the following section after section 2:

"2.0.1. A veterinary surgeon designated by the Minister or any other person authorized for that purpose by the Minister may enter, at any reasonable time, any premises, other than a dwelling-house, or any vehicle where there is an animal or animal carcass in order to take, free of charge, any samples of the animal's products or tissues, in particular blood or semen, any samples of its secretion, its excreta or its dejecta or any samples of the animal's immediate environment required to determine the state of health of the animal.

An injection administered to an animal to determine if the animal is affected with a disease, an infectious agent or a syndrome is considered to be a taking of a tissue sample.

Before taking a sample, the designated veterinary surgeon or the authorized person must produce identification and the certificate signed by the Minister attesting to the veterinary surgeon's or the person's authority and inform the owner or the person in charge of the premises or the vehicle or any person in such premises or vehicle of the compulsory character of the sample taking and state how the information collected and the results of the analyses will be used.

At the request of the designated veterinary surgeon or of the authorized person, the owner or custodian of the animal must provide any relevant information, in particular information on the age, origin and health history of the animal, that is required for the selection of the animals from which samples will be taken and for the determination of their representativeness and condition of health.

For the purposes of this section, the provisions of the first paragraph of section 55.11 and of section 55.12 apply, with the necessary modifications."

55. Section 55.13 of the said Act is amended by inserting "a person authorized for the purposes of section 2.0.1," after "surgeon," in the first line.

56. Section 55.43 of the said Act, amended by section 236 of chapter 40 of the statutes of 1999, is again amended by inserting "2.0.1," after "section" in the first line of the first paragraph.

OTHER AMENDING PROVISIONS

57. The Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1) is amended by inserting the following section after section 40.5:

"40.5.1. The Régie may determine by regulation any matter that relates to the payment of milk and cream by a milk dealer."

58. Section 43.1 of the Act respecting the marketing of agricultural, food and fish products, enacted by section 12 of the Act to repeal the Grain Act and

to amend the Act respecting the marketing of agricultural, food and fish products and other legislative provisions (1999, chapter 50) is amended by replacing "32 of the Dairy Products and Dairy Products Substitutes Act (chapter P-30)" in the second and third lines by "10 of the Food Products Act".

59. Section 410 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29) or in the Dairy Products and Dairy Products Substitutes Act (chapter P-30)" in the second and third lines of the second paragraph by "Food Products Act".

60. Section 519.65 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended

(1) by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29)" in paragraph 4 by "Food Products Act";

(2) by striking out paragraph 5.

61. Article 490 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29) or in the Dairy Products and Dairy Products Substitutes Act (chapter P-30)" in the second and third lines of the second paragraph by "Food Products Act".

62. Section 153.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended

(1) by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29) or with the Dairy Products and Dairy Products Substitutes Act (chapter P-30)" in the third, fourth and fifth lines of subparagraph 3 of the first paragraph by "Food Products Act";

(2) by replacing "Agricultural Products, Marine Products and Food Act or an inspector within the meaning of the Dairy Products and Dairy Products Substitutes Act" in the second, third and fourth lines of subparagraph 5 of the first paragraph by "Food Products Act".

63. Sections 11 and 11.1 of the Tourist Establishments Act (R.S.Q., chapter E-15.1) are amended by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29) or the Dairy Products and Dairy Products Substitutes Act (chapter P-30)" in their respective paragraphs 2 by "Food Products Act".

64. Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 32 of chapter 32 and section 68 of chapter 50 of the statutes of 1999, is again amended

(1) by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29)" in paragraph 15 by "Food Products Act";

(2) by striking out paragraph 15.1.

65. Sections 1 to 3, 5 to 12, 23 to 37, 42, 48 to 51, 53, 55 to 59 and 63 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) are repealed.

66. Section 18 of the Plant Protection Act (R.S.Q., chapter P-39.01) is amended, in the French text, by replacing "le modèle" in the third line by "la forme et la teneur".

67. Section 3 of the Marine Products Processing Act (R.S.Q., chapter T-11.01) is amended by replacing "Agricultural Products, Marine Products and Food Act (chapter P-29)" in the fifth and sixth lines of the second paragraph by "Food Products Act".

TRANSITIONAL AND FINAL PROVISIONS

68. In any other Act and in any regulation, order in council, order or document, unless the context indicates a different meaning and subject to the necessary modifications, a reference to the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) or to any of its provisions becomes a reference to the Food Products Act or to the corresponding provision of that Act.

69. In any regulation, order in council or document made pursuant to the Agricultural Products, Marine Products and Food Act, unless the context indicates a different meaning and subject to the necessary modifications, the expressions "meat unfit for human consumption", "eggs unfit for human consumption", "fresh water products unfit for human consumption" and "marine products unfit for human consumption" are replaced respectively by the expressions "inedible meat", "inedible eggs", "inedible freshwater products" and "inedible marine products".

70. Until the coming into force of paragraphs *c* and *d* of the first paragraph of section 9 of the Food Products Act, as introduced by paragraph 1 of section 13 of this Act and until the coming into force of paragraph 2 of that section,

(1) in subparagraph *d* of the first paragraph of section 9 of the Agricultural Products, Marine Products and Food Act, the expression "meat unfit for human consumption" is replaced by the expression "inedible meat";

(2) in subparagraphs *g* and *h* of the first paragraph of section 9 of the Agricultural Products, Marine Products and Food Act, the expression "fishery products unfit for human consumption" is replaced by the expression "inedible fishery products".

71. In any other Act, unless the context indicates a different meaning and subject to the necessary modifications, a reference to the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) or to any of its provisions becomes a reference to the Food Products Act or to the corresponding provision of that Act.

72. In any regulation, order in council, order or other document made pursuant to the Dairy Products and Dairy Products Substitutes Act, unless the context indicates a different meaning and subject to the necessary modifications,

(1) a reference to the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) or to any of its provisions becomes a reference to the Food Products Act or to the corresponding provision of that Act;

(2) the words "substitute" and "substitutes" are replaced respectively by "dairy product substitute" and "dairy product substitutes";

(3) the words "manufacturer", "manufacturing" and any word derived from the verb "to manufacture" are respectively replaced by "preparer", "preparing" and by the appropriate word derived from the verb "to prepare";

(4) the words "factory", "dairy factory" and "factory or plant" are replaced by "dairy plant";

(5) the words "producer" and "distributor" are replaced respectively by "dairy producer" and "dairy distributor";

(6) the definitions of "milk" and "cream" and the expressions "modified milk" and "milk dealer" in section 1 of the Dairy Products and Dairy Products Substitutes Act continue to apply until they are replaced or repealed.

The application of subparagraph 1 of the first paragraph shall not operate to exempt from the application of the Food Products Act any product whatsoever within the meaning of that Act.

73. Permits issued under the Dairy Products and Dairy Products Substitutes Act are deemed to be permits issued under the Food Products Act.

74. The provisions of regulations made under the Dairy Products and Dairy Products Substitutes Act remain in force until they are replaced or repealed by a regulation made under the Food Products Act or under the Act respecting the marketing of agricultural, food and fish products.

75. In the French text of the Agricultural Products, Marine Products and Food Act, as amended by this Act, and in any regulation, order, order in council or other document made under the Agricultural Products, Marine Products and Food Act or under the Dairy Products and Dairy Products Substitutes Act, the expression "vente en détail" is replaced by "vente au détail", wherever it occurs.

76. Until a regulation is made under paragraph *e*.5.2 of section 40 of the Food Products Act as introduced by section 40 of this Act, the functions of a person holding a tester's permit are to accept or refuse milk or cream on the basis of the standards established under the Agricultural Products, Marine Products and Food Act, as amended by this Act, to verify and record the temperature of milk and cream, to take samples to allow for analysis of composition and quality and to measure their volume.

77. The Government may, by regulation, prescribe transitional measures for the purposes of this Act.

Such a regulation must be made before (*insert here the date that is one year after the date of coming into force of this section*) and may, if so provided therein, apply in respect of any date that is not prior to 16 June 2000.

78. This Act comes into force on 16 June 2000, except the provisions of section 11, paragraphs 1, 3, 5 and 7 of section 13 and sections 38 and 77 which come into force on the date or dates to be fixed by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 131
(2000, chapter 32)

An Act to amend the pension plans of the public and parapublic sectors

Introduced 11 May 2000
Passage in principle 25 May 2000
Passage 16 June 2000
Assented to 16 June 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

This bill proposes various amendments to the Acts respecting the pension plans in the public and parapublic sectors to give effect to the agreements entered into by the Government and the representatives of the main associations of employees of the state. This bill proposes other amendments reflecting for the most part various recommendations of the pension committees.

The bill modifies the pension eligibility criteria provided for in the Act respecting the Government and Public Employees Retirement Plan by allowing retirement without actuarial reduction at 60 years of age or after 35 years of service. A new formula for the indexing of pensions is proposed for years of service subsequent to 31 December 1999. Furthermore, employees on leave without pay during a year or having at least one day of service in a calendar year will be entitled to be credited with a full year for the purposes of pension eligibility.

The bill also provides for new reduced contribution rates for the years 2000 and 2001 and allows for additional benefits to be added to the amount of an employee's pension. In addition, it defines the powers of the pension committees of unionizable and non-unionizable employees.

The bill proposes other amendments to the Government and Public Employees Retirement Plan that are to apply specifically to non-unionizable employees. The bill introduces additional pension eligibility criteria removing any actuarial reduction for employees who have reached 55 years and whose age and years of service total 88. The actuarial pension reduction factor is also lowered for those employees and the average of the best three years of salary earned is retained as pensionable salary for the purpose of computing the amount of pension.

Moreover, the bill allows non-unionizable employees who are members of the Teachers Pension Plan or the Civil Service Superannuation Plan to elect to participate in the Government and Public Employees Retirement Plan according to a special contribution rate.

The bill also proposes various amendments applicable to all the pension plans of the public and parapublic sectors, in particular by allowing the offset, total or partial, as the case may be, of the actuarial reduction applicable to pension benefits, broadening the notion of spouse and relaxing certain rules for appeal. In addition, the bill proposes, in respect of those plans, except for the Pension Plan of Peace Officers in Correctional Services, an extension of the time during which a person may be exempted from the payment of contributions by reason of disability.

The bill also amends the Teachers Pension Plan and the Civil Service Superannuation Plan, in particular to propose a new pension adjustment formula for years of service beginning after 31 December 1999, allow the redemption of a paid training period and provide adjustments to the provisions relating to the minimal benefits guaranteed by the plan and to the benefits for physical or mental disability.

Lastly, the bill proposes amendments of a technical nature, concerning in particular the financing of some of the proposed improvements and the applicability of the Government and Public Employees Retirement Plan to certain bodies.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1);

– Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);

– Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12).

Bill 131

AN ACT TO AMEND THE PENSION PLANS OF THE PUBLIC AND PARAPUBLIC SECTORS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

1. The Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1) is amended by inserting the following section after section 8:

"8.1. The person referred to in the first paragraph of section 8, who is a non-unionizable employee within the meaning of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10), shall contribute to this plan according to the contribution rate provided for in the said Act that is applicable to unionizable employees, from which 1% must be subtracted.

However, the reduction of 1% must not be considered for the purposes of sections 31 to 31.2 of the Act respecting the Government and Public Employees Retirement Plan, nor for the purposes of Chapter VI.1 of this Act or for the purpose of computing the benefits payable under this plan."

2. Section 33 of the said Act, amended by section 20 of chapter 14 of the statutes of 1999, is again amended by adding the following at the end: "or who, during the year preceding the employee's or pensioner's death, was living in a conjugal relationship with the employee or pensioner while one of the following situations occurred:

(1) a child was or is to be born of their union;

(2) they adopted a child together; or

(3) one of them adopted a child of the other."

3. The said Act is amended by inserting the following division after section 35.8:

“DIVISION III.3

“ADDITIONAL BENEFITS

“35.9. A person is entitled, if the limit provided for in section 22 is not reached, to have amounts provided for in sections 73.1 and 73.2 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) added to the amount of the person’s pension in respect of the years or parts of a year of service which are used for the purposes of eligibility for a pension under this plan and in respect of which a paid-up annuity certificate has been issued or pension credit has been granted under section 101, 113 or 158 of that Act. The second paragraph of section 23 of this Act and sections 73.5 and 73.7 of the Act respecting the Government and Public Employees Retirement Plan, adapted as required, apply in respect of pension amounts so added.

The pension amounts added under the first paragraph must be consistent with the limits prescribed by regulation, if not, the amounts shall be adjusted in the manner prescribed in the regulation.

This section does not apply to a retired person who, after 31 December 1999, applies for the redemption of service pursuant to which the person has years or parts of a year credited under this plan and in respect of which pension credit is granted under sections 101, 113 and 158 of the Act respecting the Government and Public Employees Retirement Plan.”

4. Section 41.8 of the said Act is amended by inserting the following paragraph after paragraph 1:

“(1.1) establish the limits applicable to a pension amount added under section 35.9 and the manner in which an amount that exceeds the limits is to be adjusted;”.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

5. Section 58 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2), amended by section 21 of chapter 14 of the statutes of 1999, is again amended by adding the following at the end: “or who, during the year preceding the employee’s or pensioner’s death, was living in a conjugal relationship with the employee or pensioner while one of the following situations occurred:

(1) a child was or is to be born of their union;

(2) they adopted a child together; or

(3) one of them adopted a child of the other.”

6. Section 140 of the said Act is amended by adding the following paragraph after the second paragraph:

"However, where a beneficiary has not applied, within the time limit provided for in the second paragraph, for a review of the reduction amount of the beneficiary's pension applicable from the month following the beneficiary's sixty-fifth birthday, the beneficiary may do so within one year after the date on which the Commission mails the confirmation of the application of that reduction."

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

7. Section 21 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended

(1) by replacing "two" in the last line of the first paragraph by "three";

(2) by replacing "two" in the first line of the second paragraph by "three".

8. The said Act is amended by inserting the following section after section 21:

"21.1. A person referred to in the first paragraph of section 21 who, under the salary insurance plan provided for in the person's conditions of employment, is entitled only to salary insurance benefits for a maximum period of two years of service, shall continue to participate in the plan, even if the person's employer has terminated the person's employment, during the year following the last day of that two-year period, if on that day the person is disabled within the meaning of the person's salary insurance plan.

During that year, the service credited to that person, without contributions, is the service that would have been credited if the person had held employment and the person's pensionable salary is the salary the person would have received.

However, the service credited to a person who dies, resigns or retires during the year following the two-year period provided for in the first paragraph shall be reduced by the period between the date of the event and the end of that year. The service credited under this section to a person who again holds pensionable employment during that period shall be reduced by the period between the person's first day of service in pensionable employment and the end of that year."

9. Section 24.0.1 of the said Act is amended by replacing "under section 13" in the third line by "under section 13 or 215.0.0.1.1".

10. Section 29 of the said Act is amended by replacing "to 7% from" in the eleventh line of the first paragraph by "to the contribution rate determined by regulation under section 177, applied to".

11. Section 33 of the said Act is amended by replacing the first paragraph by the following paragraph:

"33. For the purposes of this plan, the normal retirement age is 65 years of age. However, an employee who ceases to participate in the plan is entitled to a pension if the employee

(1) has attained 60 years of age;

(2) has at least 35 years of service;

(3) has attained 55 years of age, subject to section 38."

12. Section 38 of the said Act is amended

(1) by replacing "In the cases described in subparagraphs 3 and 4 of the first paragraph of section 33" in the first and second lines by "Where an employee is entitled to a pension under subparagraph 3 of the first paragraph of section 33,";

(2) by replacing "the pension" in the third and fourth lines by "that pension";

(3) by replacing "or, as the case may be," in the sixth line by "and, if applicable, under section 215.0.0.6 or";

(4) by adding the following paragraph at the end:

"Where section 74.1 applies, the amount of the employee's pension established under the first paragraph must take into account the provisions of the regulation made under section 74.2."

13. Section 44 of the said Act, amended by section 23 of chapter 14 of the statutes of 1999, is again amended by adding the following at the end: "or who, during the year preceding the employee's or pensioner's death, was living in a conjugal relationship with the employee or pensioner while one of the following situations occurred:

(1) a child was or is to be born of their union;

(2) they adopted a child together; or

(3) one of them adopted a child of the other."

14. The said Act is amended by inserting the following division after section 73:

"DIVISION IV.1

"ADDITIONAL BENEFITS

"73.1. The amount of the employee's pension is increased by an amount of pension equal to 1.1% of the average pensionable salary used in computing the employee's pension for each year and part of a year:

(1) the employee had credited under this plan and in respect of which the employee obtained a paid-up annuity certificate or in respect of which pension credit is or would have been granted to the employee;

(2) that have been recognized, solely for purposes of eligibility, to a female employee under section 221.1;

(3) that have been recognized, solely for purposes of eligibility, to an employee for the amounts corresponding to years and parts of years so recognized and transferred into a locked-in retirement account after the employee's employer has been designated as a body referred to in Schedule I or after the employee's participation in the plan after a vote has been taken under section 6 or 7 of the Act.

"73.2. An employee who is under 65 years of age is also entitled to have a pension amount of $230 added to the amount of the employee's pension for each of the years considered pursuant to section 73.1. The amount is payable until the end of the month in which the pensioner attains 65 years of age.

"73.3. Section 38 applies in respect of any pension amounts added under sections 73.1 and 73.2.

"73.4. The pension amounts added under sections 73.1 and 73.2 must be consistent with the limits prescribed by regulation, if not, the amounts shall be adjusted in the manner prescribed in the regulation.

"73.5. The pension amounts added under sections 73.1 and 73.2 are indexed annually, at the time prescribed under section 119 of the Act respecting the Québec Pension Plan (chapter R-9), by the excess of the rate of increase of the Pension Index determined by that Act over 3%. Section 78 applies to the indexing.

"73.6. The reduction of 2% referred to in section 43.1 does not apply to the pension amount added under section 73.2 and the pension granted to the spouse, in case of the death of the pensioner, shall be computed without reference to that amount.

"73.7. Section 73.1 applies to an employee who is entitled to a deferred pension. However, that section and section 73.2 do not apply to the person who ceased to participate in the plan before 31 December 1999 nor to a pensioner under this plan, the Pension Plan of Peace Officers in Correctional

Services, the Teachers Pension Plan, the Civil Service Superannuation Plan, the Pension Plan of Certain Teachers or pension plans established under sections 9, 10 and 10.0.1, who holds or again holds pensionable employment except, in the latter case, in respect of the years and parts of a year of service that have already entitled the pensioner to the amounts referred to in those sections.

The pension of the spouse of an employee who dies after becoming eligible for a pension and the amounts paid to the spouse or successors of an employee who dies before becoming eligible for a pension must take into account the benefit provided for in section 73.1."

15. The said Act is amended by inserting the following sections after section 74:

"74.1. For each calendar year from 1 January 1987, the days and parts of a day that are not credited to an employee who holds pensionable employment under the plan for at least one day during that calendar year shall be considered solely for purposes of eligibility for a pension.

However, during the year in which the employee begins to participate in the plan, the days comprised between 1 January and the first day on which the employee holds pensionable employment shall not be considered for the purposes of eligibility. Moreover, during the year in which the employee ceases to participate in the plan, the days comprised between the last day on which the employee holds pensionable employment and 31 December shall not be considered, but where the employee ceases to participate in the plan when the employee is not holding pensionable employment, the days, if any, shall be considered until the date on which the Commission receives an application for the redemption of service by virtue of which the employee had years and parts of a year of service credited or counted under the plan or until the employee becomes eligible for a pension.

Subject to section 74, the first and second paragraphs also apply to an employee to whom the days and parts of a day during which the employee was on leave without pay were not credited pursuant to section 24.

This section does not apply for the purposes of Division III of Chapter IV of this Title.

"74.2. For the purposes of section 74.1, the Government may, by regulation, establish a factor of reduction of a pension and criteria for the application of that factor. The Government may also designate categories and subcategories of employees to whom the factor and the criteria are not applicable."

16. Section 77 of the said Act is amended

(1) by replacing ", by the excess of that rate over 3%" in subparagraph 2 of the first paragraph by "but prior to 1 January 2000, by the excess of the rate of the increase of the Pension Index over 3%;";

(2) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

"(3) for that part attributable to service subsequent to 31 December 1999, by the formula provided for in subparagraph 2 of this paragraph or by one-half of the rate of increase of the Pension Index, according to the formula which is the most advantageous.";

(3) by inserting the following paragraph after the first paragraph:

"Where the number of years of service credited exceeds 35 years, subparagraphs 1 to 3 of the first paragraph are applied in the order which is the most advantageous for the pensioner."

17. Section 86 of the said Act, amended by section 5 of chapter 73 of the statutes of 1999, is again amended by striking out "not later than 1 January 2000" in the third and fourth lines of subparagraph 2 of the first paragraph.

18. Section 87 of the said Act, amended by section 6 of chapter 73 of the statutes of 1999, is repealed.

19. Section 98 of the said Act is amended by replacing "section 13" in the first line of the first paragraph by "section 13 or 215.0.0.1.1".

20. Section 99 of the said Act is amended by inserting the following paragraph after the first paragraph:

"The regulations made under section 75.1 of the Act respecting the Teachers Pension Plan (chapter R-11), section 111.2 of the Act respecting the Civil Service Superannuation Plan (chapter R-12) and the sections of those Acts which concern the eligibility for a pension and the payment of a pension by reason of permanent and total disability, in force on 1 January 2000, apply to an employee if the years or parts of a year of service that had been credited under the plans established by those Acts have been credited under this plan in accordance with section 98, until a pension becomes payable under this plan. The provisions apply only if they are more advantageous than those of this plan."

21. Section 107 of the said Act is amended by replacing the second sentence by the following sentence: "Where the person is entitled, under section 33, to a pension on the date on which the person ceases participating in the plan, the pension credit shall also be adjusted in the same manner for the period between that date and the date on which the pension credit is granted."

22. Section 107.1 of the said Act, enacted by section 8 of chapter 73 of the statutes of 1999, is replaced by the following:

"107.1. The Government may increase, by regulation applicable from 1 January 2000, the pension credits obtained under section 101, fix the limits applicable to the increases and provide for special provisions that may vary from those provided for in sections 91, 92 and 107 by using the actuarial surplus pertaining to the pension credits. The Government shall determine the portion of the surplus to be applied to the increase and the application of the special provisions and, if applicable, the rules of redistribution of the surpluses.

Subsequently, the pension credits may be increased from 1 January of each year that follows the production of the actuarial valuation of the pension credits where the valuation determines a surplus. The Government may, for that purpose, exercise the powers provided for in the first paragraph.

The manner in which pension credits are adjusted and the special provisions applicable under the first and second paragraphs may vary according to the nature of the pension credits and the supplemental pension plan under which they were obtained."

23. The said Act is amended by inserting the following section after section 115.9:

"115.10. An employee who participates in the retirement plan established by the Government under section 10 and who, in accordance with that plan, elects to participate in this plan, shall be credited, for pension purposes, with the years and parts of a year of service credited under the retirement plan established by the Government in accordance with that section.

The years and parts of a year of service credited under that plan shall be credited, for pension purposes, to the employee who, for the reasons provided for in that plan, ceases to hold pensionable employment under that plan and holds, within 180 days, pensionable employment under this plan.

The first and second paragraphs apply to the employee if the employee has not received a refund of the employee's contributions or if the service credited to the employee is not recognized under this plan."

24. Section 125 of the said Act is amended

(1) by striking out "and any amendment made will be at the expense of the employees if it entails additional costs";

(2) by adding the following sentence at the end: "Any amendment entailing additional costs for the plan may be authorized by the Government."

25. The said Act is amended by inserting the following section after section 131:

"131.1. Notwithstanding section 130, the sums necessary for the payment of the additional benefits provided for in sections 73.1 and 73.2 are taken out of the employees' contribution fund at the Caisse de dépôt et placement du Québec."

26. Section 133 of the said Act is amended by inserting "and for the transfers made under sections 133.10 and 215.0.0.19" after "130" in the second line.

27. The said Act is amended by inserting the following after section 133:

"DIVISION III

"FINANCING FOR THE PURPOSES OF DIVISION IV.1 OF CHAPTER IV WITH RESPECT TO EMPLOYEES OTHER THAN THOSE GOVERNED BY TITLE IV.0.1

"133.1. The actuarial value of the additional benefits resulting from the application of Division IV.1 of Chapter IV of this Title, with respect to employees who at the time they ceased to participate in the plan were not governed by Title IV.0.1, shall be financed by the unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec up to an amount of 680 million dollars on 1 January 2000.

The actuarial value of the additional benefits which exceeds the amount provided for in the first paragraph shall be financed by the consolidated revenue fund.

"133.2. The actuarial value of the additional benefits referred to in section 133.1 and pertaining to the years and parts of a year referred to in paragraphs 1 to 3 of section 73.1 and in respect of which benefits were obtained on 31 December 1999 shall be established within six months of the filing of the actuarial valuation provided for in section 174 on the basis of the data finalized on 31 December 1999. The actuarial value shall be established on the basis of the assumptions used in that valuation and bear interest from 1 January 2000.

"133.3. The actuarial value of the additional benefits referred to in section 133.1 and pertaining to the years and parts of a year referred to in paragraphs 1 to 3 of section 73.1 and in respect of which benefits were acquired after 31 December 1999 shall be established on 1 January of each year in which the benefits are acquired. Each of the actuarial values shall be computed during the year following the year in which the benefits were acquired, on the basis of the assumptions used in the actuarial valuation filed under section 174 and available before the end of the year of the computation. Each of the actuarial values shall bear interest from 1 January of the year in which the benefits were acquired.

"133.4. For the purposes of sections 133.2 and 133.3, the additional benefits shall be established taking account of the provisions of the Act in force on 1 January 2000.

"133.5. Subject to section 133.6, where the total of the actuarial values established under sections 133.2 and 133.3, with interest accrued until 1 January of the year in which the last benefits referred to in section 133.3 were acquired and have been computed, exceeds the amount of 680 million dollars established under section 133.1 with interest accrued until that date, an amount equal to the excess accumulated amount shall be transferred from the consolidated revenue fund to the unionizable employees' contribution fund, with interest from the same date until the date of transfer.

Subsequently and subject to section 133.6, an amount equal to the actuarial value established under section 133.3 with interest accrued shall be transferred every year from the consolidated revenue fund to the unionizable employees' contribution fund.

"133.6. For the purposes of this division, the actuarial values established under sections 133.2, 133.3 and 133.5 shall be adjusted, in the manner prescribed by regulation, in order to take into account the actuarial value of the additional benefits of each employee who, at the time the employee ceased to participate, was governed by Title IV.0.1 whereas the employee was not governed thereby at the time he or she acquired the benefits referred to in section 133.2 or 133.3, or who had ceased to be governed by that Title whereas the employee was governed thereby at the time he or she acquired them.

The regulation may prescribe the rules and the manner in which the actuarial values shall be computed and adjusted, determine the cases, conditions and procedure of the transfers of funds relating to those adjustments.

"133.7. For the purposes of this division, the interest rate corresponds to the annual rate of return realized on the basis of the market value of the unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec.

However, if at the time of a transfer of funds the rate referred to in the first paragraph is not determined, the monthly rates realized on the basis of the market value of the contribution fund of those employees at the Caisse de dépôt et placement du Québec on the date of transfer apply. For the residual period, the rate applicable is the rate determined for the calendar year concerned in the most recent actuarial valuation filed under section 174.

"DIVISION IV

"TEMPORARY FINANCING FOR THE PURPOSES OF SECTIONS 33, 74.1 AND 74.2 WITH RESPECT TO EMPLOYEES OTHER THAN THOSE GOVERNED BY TITLE IV.0.1

"133.8. A temporary dedicated fund is hereby established in the unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec, for the purpose of financing, with respect to employees not governed by Title IV.0.1, the additional benefits resulting from the application, from 1 January 2000, of the measures provided for in sections 33, 74.1 and 74.2.

The dedicated fund and the employees' contribution fund must be the subject of separate accounting. The dedicated fund is subjected to paragraph 2.1 of section 165.

"133.9. An amount of 325 million dollars shall be transferred, not later than 31 December 2000, from the unionizable employees' contribution fund to the dedicated fund with interest computed, from 1 January 2000 until the date of transfer of that amount, at the rate determined under section 133.7. The amount is intended for the financing of the additional benefits that result from the application, from 1 January 2000, of sections 33, 74.1 and 74.2 and that pertain to years and parts of a year of service prior to 1 January 2000.

"133.10. Every year, an amount equal to 0.224% of the pensionable salary of the employees not governed by Title IV.0.1 shall be transferred from the employers' contributory fund at the Caisse de dépôt et placement du Québec to the dedicated fund. The amount is intended for the financing of the additional benefits that result from the application, from 1 January 2000, of sections 33, 74.1 and 74.2, and that pertain to years and parts of a year of service subsequent to 31 December 1999.

"133.11. The transfers made in accordance with xsection 133.10 shall end on the date on which the total of the accumulated transfers with interest from the date of the respective transfers equals the amount of 325 million dollars with interest accrued.

For the purposes of the first paragraph, the interest rate is determined under section 133.7.

"133.12. Before 31 December 2000, the following transfers shall be made:

(1) from the dedicated fund to the consolidated revenue fund, an amount of 10.6 million dollars on 1 January 2000, intended for the financing of the additional benefits that result from the application, from 1 January 2000, of sections 33, 74.1 and 74.2, and that pertain to the years and parts of a year of service relating to the Teachers Pension Plan and the Civil Service Superannuation Plan which have been transferred to this plan;

(2) from the dedicated fund to the employers' contributory fund, an amount of 12.1 million dollars on 1 January 2000, intended for the financing of 2/12 of the additional benefits that result from the application, from 1 January 2000, of sections 33, 74.1 and 74.2, and that pertain to the years and parts of a year of service credited and prior to 1 July 1982.

The amounts established under subparagraphs 1 and 2 of the first paragraph shall bear interest from 1 January 2000 until the date of each transfer, at the rate determined under section 133.7.

"133.13. In the year following each three-year period, there shall be transferred from the dedicated fund to the unionizable employees' contribution fund and the employers' contributory fund, in equal shares, an amount corresponding to the actuarial value of the difference between the benefits that result from the application of sections 33, 74.1 and 74.2 and the benefits that would result from the application of section 33 as it read on 31 December 1999, with respect to each of the employees other than the employees governed by Title IV.0.1 who have retired during the period from 1 January of the first year of the three-year period to 31 December of the last year of that period. Shall be excluded from that difference, where applicable,

(1) the part of the difference that pertains to the years and parts of a year of service relating to the Teachers Pension Plan or the Civil Service Superannuation Plan which have been transferred to this plan;

(2) 2/12 of the part of the difference that pertains to the years and parts of a year of service credited and prior to 1 July 1982.

For the purposes of the first paragraph, the employees who would not have been eligible for an immediate pension under section 33 as it read on 31 December 1999 shall be considered as having been eligible for an immediate pension to which is applied the actuarial reduction provided for in section 38 as it read on that date, until the time when they would have been eligible for a pension without actuarial reduction.

The actuarial value of the benefits provided for in the first paragraph shall be established on the basis of the assumptions used in the most recent actuarial valuation of the plan that is available at the time of the transfer and prepared under section 174. The actuarial value shall bear interest, from the date of retirement of each of the employees referred to in the first paragraph until the date of the transfer, at the rate determined under section 133.7.

"133.14. On the date on which the transfers from the employers' contributory fund to the dedicated fund end pursuant to section 133.11, the balance of the dedicated fund shall be transferred, in equal shares, to the employers' contributory fund and to the unionizable employees' contribution fund. After that operation, the dedicated fund shall be dissolved.

"133.15. For the purpose of this division and unless otherwise provided, any reference to sections 33, 74.1 and 74.2 is a reference to those sections as they read on 1 January 2000."

28. Section 134 of the said Act, amended by section 9 of chapter 73 of the statutes of 1999, is again amended

(1) by inserting the following subparagraphs after subparagraph 9:

"(9.1) establish, for the purposes of section 73.4, the limits applicable to a pension amount added under sections 73.1 and 73.2 and the manner in which an amount that exceeds the limits is to be adjusted;

"(9.2) establish, for the purposes of section 74.2, a pension reduction factor and the criteria for the application of that factor and designate categories and subcategories of employees to whom the factor and the criteria are not applicable;";

(2) by replacing subparagraph 13.1 by the following subparagraph:

"(13.1) determine, for the purposes of sections 107.1 and 158.0.1, the increase of pension credits, fix the limits and the rules applicable to the increase, prescribe, for the purposes of those sections, special provisions that may vary from those provided for in sections 91, 92 and 107, in order to take into account, for those purposes, the nature of the pension credits and the pension plan under which they have been obtained;";

(3) by inserting the following subparagraph after subparagraph 15:

"(15.1) determine, for the purposes of sections 133.6 and 215.0.0.15, the rules and the manner in which the actuarial values are to be computed and adjusted and determine the cases, conditions and procedure of the transfers of funds relating to those adjustments;".

29. Section 158.0.1 of the said Act, enacted by section 12 of chapter 73 of the statutes of 1999, is replaced by the following:

"158.0.1. Where the agreement of transfer grants pension credits, section 107.1 applies, with the necessary modifications."

30. Section 165 of the said Act is amended

(1) by inserting the following paragraph after paragraph 1:

"(1.1) determining the terms and conditions of implementation of the agreements entered into by the parties negotiating the conditions of employment of the employees referred to in paragraph 1 where the agreements do not provide therefor, to the extent that the costs of those terms and conditions are consistent with the budget of the Commission;";

(2) by adding the following paragraph after paragraph 5:

"(6) making recommendations to the parties negotiating the conditions of employment of the employees who are members of the pension plans mentioned in paragraph 1 respecting the application of those pension plans."

31. Section 169 of the said Act is amended by adding the following sentence at the end: "However, the chairman is not entitled to vote where a recommendation referred to in paragraph 6 of section 165 or in paragraph 10 of section 173.2 entails an increase of the costs of the plan or an overrun of the budget of the Commission."

32. Section 173.2 of the said Act is amended

(1) by inserting the following paragraph after paragraph 1:

"(1.1) determining the terms and conditions of the implementation of the amendments agreed on by the associations representing those employees and the Government where the agreements do not provide therefor, to the extent that the costs of those terms and conditions are consistent with the budget of the Commission;";

(2) by adding the following paragraph after paragraph 9:

"(10) making recommendations to the associations representing those employees and to the Government respecting the application of the plan in respect of those employees."

33. The said Act is amended by inserting the following section after section 173.3:

"173.3.1. The quorum of the sittings of the committee includes the chairman, the majority of the members representing the non-unionizable employees and the majority of the other members."

34. Section 173.4 of the said Act is amended by inserting ", 167, 169" after "166".

35. Section 179 of the said Act is amended by adding the following paragraph after the second paragraph:

"However, where a beneficiary has not requested, within the time limit provided for in the second paragraph, the re-examination of the amount of the reduction of the beneficiary's pension applicable from the month following the beneficiary's sixty-fifth birthday, the beneficiary may do so within one year after the date on which the Commission has mailed the confirmation of the application of that reduction."

36. Section 183 of the said Act is amended

(1) by replacing "a substitute to replace the arbitrators whenever they are absent or unable to act" in the fourth and fifth lines of the last paragraph by "substitutes to replace the arbitrators whenever they are absent, unable to act or having an excess of work";

(2) by replacing "the substitute" in the first line of the second paragraph by "the substitutes".

37. The said Act is amended by inserting the following after the heading of Title IV.0.1:

"CHAPTER I

"GENERAL PROVISIONS".

38. The said Act is amended by inserting the following section after section 215.0.0.1:

"215.0.0.1.1. An employee who, on 31 December 1999, participates in the Teachers Pension Plan or the Civil Service Superannuation Plan in an employment that would be non-unionizable within the meaning of this Title, if the employee participated in this plan, may elect, if the employee has the corresponding classification, to participate in this plan by transmitting a notice to that effect to the Commission before 1 January 2001. The plan, including the special provisions applicable by virtue of this Title, applies to the employee from 1 January 2000.

However, the employee must, to maintain membership in the plan and be governed by the special provisions, have held non-unionizable employment, with the corresponding classification, for a period of 24 consecutive months beginning not sooner than 1 January 1998."

39. The said Act is amended by inserting the following after section 215.0.0.5:

"CHAPTER II

"SPECIAL PROVISIONS

"215.0.0.6. In addition to what is provided for in section 33, a pension is granted to the employee whose age and the years of service total 88 or more, if the employee has 55 years of age or more.

"215.0.0.7. For the purpose of computing the average pensionable salary provided for in section 36, the aggregate of the contributory periods corresponding to each year for which the salaries are retained pursuant to subparagraph 2 of the first paragraph of that section, must be equal to 3, or where the total is less than 3, selecting all the salaries.

However, for the purposes of section 106, for the employees who, on 31 December 1999, participated in the plan after a vote taken under section 6 or 7, the basis for computing the pension credit is the basis that was in force on that date.

"215.0.0.8. Where an employee is entitled to a pension under subparagraph 3 of the first paragraph of section 33, the reduction factor of the employee's pension provided for in the first paragraph of section 38 is 1/4 of 1% per month.

"215.0.0.9. The contribution rate provided for in section 29 that is applicable to the employee who elected to participate in the plan under section 215.0.0.1.1, is established by adding 4% to the contribution rate applicable to the employee referred to in section 215.0.0.1, up to a maximum of 7.25% for the employees who participated in the Civil Service Superannuation Plan, and 8.08% for the employees who participated in the Teachers Pension Plan.

Where the contribution rate applicable to the employee referred to in section 215.0.0.1 is equal to or greater than the maximums established in the first paragraph, the contribution rate applicable to the employee who has made an election becomes, from that time, the contribution rate applicable to the employee referred to in section 215.0.0.1.

"CHAPTER III

"FINANCING

"DIVISION I

"FINANCING FOR THE PURPOSES OF DIVISION IV.1 OF CHAPTER IV OF TITLE I WITH RESPECT TO EMPLOYEES GOVERNED BY THIS TITLE

"215.0.0.10. The actuarial value of the additional benefits resulting from the application of Division IV.1 of Chapter IV of Title I, with respect to the employees who, at the time they cease to participate in the plan, are governed by this Title, shall be financed by the non-unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec up to an amount of 172 million dollars on 1 January 2000.

The actuarial value of the additional benefits that exceeds the amount provided for in the first paragraph shall be financed by the consolidated revenue fund.

"215.0.0.11. The actuarial value of the additional benefits referred to in section 215.0.0.10 and pertaining to years and parts of a year referred to in paragraphs 1 to 3 of section 73.1 and in respect of which benefits were acquired on 31 December 1999 shall be established within six months of the filing of the actuarial valuation provided for in section 174 on the basis of the

data finalized on 31 December 1999. The actuarial value shall be established on the basis of the assumptions used in that valuation and shall bear interest from 1 January 2000.

"215.0.0.12. The actuarial value of the additional benefits referred to in section 215.0.0.10 and pertaining to years and parts of a year referred to in paragraphs 1 to 3 of section 73.1 and in respect of which benefits were acquired after 31 December 1999 shall be established on 1 January of each year in which those benefits were acquired. Each of the actuarial values shall be computed during the year following the year in which those benefits were acquired, on the basis of the assumptions used in the actuarial valuation filed under section 174 and available before the end of the year of the computation. Each of the actuarial values shall bear interest from 1 January of the year in which those benefits were acquired.

"215.0.0.13. For the purposes of sections 215.0.0.11 and 215.0.0.12, the additional benefits shall be established taking account of the provisions of the Act in force on 1 January 2000.

"215.0.0.14. Subject to section 215.0.0.15, where the total of the actuarial values established under sections 215.0.0.11 and 215.0.0.12, with interest accrued until 1 January of the year in which the last benefits referred to in section 215.0.0.12 were acquired and have been computed, exceeds the amount of 172 million dollars established under section 215.0.0.10 with interest accrued until that date, an amount equal to the excess accumulated amount shall be transferred from the consolidated revenue fund to the non-unionizable employee's contribution fund, with interest from the same date until the date of transfer.

Subsequently and subject to section 215.0.0.15, an amount equal to the actuarial value established under section 215.0.0.12 with interest accrued shall be transferred every year from the consolidated revenue fund to the non-unionizable employees' contribution fund.

"215.0.0.15. For the purposes of this division, the actuarial values established under sections 215.0.0.11, 215.0.0.12 and 215.0.0.14 shall be adjusted, in the manner prescribed by regulation, in order to take into account the actuarial value of the additional benefits of each employee who, at the time the employee ceased to contribute, was governed by this Title whereas the employee was not governed thereby at the time he or she acquired the benefits referred to in sections 215.0.0.11 and 215.0.0.12, or who had ceased to be governed by this Title whereas the employee was governed thereby at the time he or she acquired them.

The regulation may prescribe the rules and the manner in which the actuarial values shall be computed and adjusted, determine the cases, conditions and procedure of the transfers of funds relating to those adjustments.

"215.0.0.16. For the purposes of this division, the interest rate corresponds to the annual rate of return realized on the basis of the market value of the non-unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec.

However, if at the time of a transfer of funds the rate referred to in the first paragraph is not determined, the monthly rates realized on the basis of the market value of the contribution fund of those employees at the Caisse de dépôt et placement du Québec on the date of transfer apply. For the residual period, the rate applicable is the rate determined for the calendar year concerned in the most recent actuarial valuation filed under section 174.

"DIVISION II

"TEMPORARY FINANCING FOR THE PURPOSES OF SECTIONS 33, 74.1, 74.2, 77, 215.0.0.1.1 AND 215.0.0.6 TO 215.0.0.8 WITH RESPECT TO EMPLOYEES GOVERNED BY THIS TITLE

"215.0.0.17. A temporary dedicated fund is hereby established in the non-unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec, for the purpose of financing, with respect to employees governed by this Title, the additional benefits resulting from the application, from 1 January 2000, of the measures provided for in sections 33, 74.1, 74.2, 77 and 215.0.0.6 to 215.0.0.8, and with respect to the years and parts of a year transferred from the Teachers Pension Plan and the Civil Service Superannuation Plan to this plan from 1 January 2000.

The dedicated fund and the employees' contribution fund must be the subject of separate accounting. The dedicated fund is subject to paragraph 3 of section 173.2.

"215.0.0.18. Not later than 31 December 2000, the following transfers shall be made:

(1) from the non-unionizable employees' contribution fund to the dedicated fund, an amount of 433 million dollars with the interest computed from 1 January 2000 until the date of transfer of that amount, at the rate determined under section 215.0.0.16;

(2) from the consolidated revenue fund to the dedicated fund, an amount of 44 million dollars with the interest computed from 1 January 2000 until the date of transfer of that amount, at the rate determined under section 215.0.0.16.

The amounts are intended for the financing of the additional benefits that result from the application, from 1 January 2000, of the measures referred to in section 215.0.0.17 and that pertain to years and parts of a year of service prior to 1 January 2000.

"215.0.0.19. Each year, an amount equal to 2.72% of the pensionable salary of the employees governed by this Title shall be transferred from the

employers' contributory fund at the Caisse de dépôt et placement du Québec to the dedicated fund. The amount is intended for the financing of the additional benefits that result from the application, from 1 January 2000, of the measures referred to in section 215.0.0.17, and that pertain to years and parts of a year of service subsequent to 31 December 1999.

"215.0.0.20. The transfers made in accordance with section 215.0.0.19 shall terminate on the date on which the aggregate of the amount of 44 million dollars, accumulated with interest from 1 January 2000, and the amount of all transfers made in accordance with that section, accumulated with interest from the date of the respective transfers, equals the amount of 433 million dollars with accrued interest.

For the purposes of the first paragraph, the rate of interest is determined in accordance with section 215.0.0.16.

"215.0.0.21. Before 31 December 2000, the following transfers shall be made:

(1) from the dedicated fund to the consolidated revenue fund, an amount of 16.2 million dollars on 1 January 2000, intended for the financing of the additional benefits that result from the application, from 1 January 2000, of the measures referred to in section 215.0.0.17 and that pertain to the years and parts of a year of service relating to the Teachers Pension Plan and the Civil Service Superannuation Plan which have been transferred to this plan before 1 January 2000;

(2) from the dedicated fund to the employers' contributory fund, an amount of 19.9 million dollars on 1 January 2000, intended for the financing of 2/12 of the additional benefits that result from the application, from 1 January 2000, of the measures referred to in section 215.0.0.17 and that pertain to years and parts of a year of service credited and prior to 1 July 1982.

The amounts established in subparagraphs 1 and 2 of the first paragraph shall bear interest, from 1 January 2000 until the date of each transfer, at the rate determined in accordance with section 215.0.0.16.

"215.0.0.22. Not later than 31 December 2001, there shall be transferred from the dedicated fund to the consolidated revenue fund an amount determined by regulation, intended for the financing of the additional benefits that result from the application, from 1 January 2000, of the measures provided for in sections 33, 74.1, 74.2, 77 and 215.0.0.6 to 215.0.0.8 and that pertain to the years and parts of a year of service transferred from the Teachers Pension Plan and the Civil Service Superannuation Plan to this plan pursuant to section 215.0.0.1.1.

The amount shall correspond to the actuarial value of the difference between the additional benefits that result from the application of the measures referred to in the first paragraph and the benefits that would result from the application

of the provisions of the Teachers Pension Plan or the Civil Service Superannuation Plan, as the case may be, as they read on 31 December 1999.

The amount shall be computed on the basis of the assumptions used in the most recent actuarial valuation of the plan that is available at the time of the transfer and prepared under section 174 and shall bear interest from 1 January 2000 until the date of transfer, at the rate determined in accordance with section 215.0.0.16.

"215.0.0.23. In the year following each three-year period, there shall be transferred from the dedicated fund to the non-unionizable employees' contribution fund and the employers' contributory fund, in equal shares, an amount corresponding to the actuarial value of the difference between the benefits that result from the application of section 215.0.0.17 and the benefits that would result from the application of sections 33 and 77 as they read on 31 December 1999, with respect to each of the employees governed by this Title who have retired during the period from 1 January of the first year of the three-year period to 31 December of the last year of that period. Shall be excluded from that difference, where applicable,

(1) the part of the difference that pertains to the years and parts of a year of service relating to the Teachers Pension Plan or the Civil Service Superannuation Plan which have been transferred to this plan;

(2) 2/12 of the part of the difference that pertains to the years and parts of a year of service credited prior to 1 July 1982.

For the purposes of the first paragraph, the employees who would not have been eligible for an immediate pension under section 33 as it read on 31 December 1999 shall be considered as having been eligible for an immediate pension to which is applied the actuarial reduction provided for in section 38 as it read on that date, until the time when they would have been eligible for a pension without actuarial reduction.

The actuarial value of the benefits provided for in the first paragraph shall be established on the basis of the assumptions used in the most recent actuarial valuation of the plan that is available at the time of the transfer and prepared under section 174. The actuarial value shall bear interest, from the date of retirement of each of the employees referred to in the first paragraph until the date of the transfer, at the rate determined under section 215.0.0.16.

"215.0.0.24. On the date on which the transfers from the employers' contributory fund to the dedicated fund is terminated pursuant to section 215.0.0.20, the balance of the dedicated fund shall be transferred, in equal shares, to the employers' contributory fund and to the non-unionizable employees' contribution fund. After that operation, the dedicated fund shall be dissolved.

"215.0.0.25. For the purposes of this division and unless otherwise provided, any reference to sections 33, 74.1, 74.2, 77, 215.0.0.1.1 and 215.0.0.6 to 215.0.0.8 is a reference to those sections as they read on 1 January 2000."

40. Section 215.5.0.2 of the said Act is amended by inserting the following paragraph after the first paragraph:

"For the purposes of this section, references to sections 33 and 38 are references to those sections as they read on 31 December 1999."

41. Section 215.5.1 of the said Act is amended by inserting the following paragraph after the second paragraph:

"For the purposes of this section, references to sections 33 and 38 are references to those sections as they read on 31 December 1999."

42. The said Act is amended by inserting the following after the heading of Title IV.2:

"CHAPTER I

"OFFSET OF THE ACTUARIAL REDUCTION

"215.12.0.1. This chapter applies to the person who

(1) ceased to participate in the Pension Plan of Certain Teachers, the Pension Plan of Peace Officers in Correctional Services, the Government and Public Employees Retirement Plan, the Teachers Pension Plan, the Civil Service Superannuation Plan, the Pension Plan of the employees of the Centre hospitalier Côte-des-Neiges or in the Pension Plan of the federal employees integrated into the public service of the Government of Québec;

(2) is entitled to a reduced pension under one of those plans;

(3) retires on the day following the day on which the person ceases to participate in a pension plan.

"215.12.0.2. The amount of the pension and, where applicable, the amount of the pension credit of the person referred to in section 215.12.0.1 shall be increased, in accordance with the actuarial assumptions and methods determined by regulation, by an amount corresponding to the actuarial reduction applicable under the person's plan, if the person pays to the Commission the amount established at the date on which the person retires. The reduction may be offset in whole or in part.

The amount established in the first paragraph must be paid within 60 days after the day on which the person ceases participating in a pension plan.

The first paragraph applies within the limits authorized under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and

the amount paid by the person pursuant to the first paragraph must come from a registered retirement savings plan or a registered pension plan within the meaning of the Income Tax Act or from the part of the person's retirement allowance that is transferable to one of those plans in accordance with that Act.

"215.12.0.3. The employer of the person referred to in section 215.12.0.1 may, if the employer applies therefor to the Commission, pay in whole or in part, on or before the date on which the person ceases to be a person to whom a pension plan is applicable, the amount established in accordance with the first paragraph of section 215.12.0.2.

Where the employer pays only part of the amount referred to in the first paragraph, the person may pay the balance, in whole or in part, within the time limit provided for in the second paragraph of section 215.12.0.2 and the third paragraph of that section applies.

"215.12.0.4. For the purposes of the payment of benefits, the indexing of the pension or the adjustment of the pension credit, the amount corresponding to the actuarial reduction that has been offset under section 215.12.0.2 or 215.12.0.3 shall be added to the pension or, where applicable, to the pension credit and it shall be apportioned among each part of pension or pension credit or, where applicable, in proportion to the amount paid on the amount established pursuant to those sections.

"215.12.0.5. The amounts paid to the Commission pursuant to section 215.12.0.2 or 215.12.0.3 shall be paid into different funds at the Caisse de dépôt et placement du Québec or into the consolidated revenue fund, according to the pension plan concerned.

"215.12.0.6. Where a pensioner under the Pension Plan of Certain Teachers, the Pension Plan of Peace Officers in Correctional Services, the Government and Public Employees Retirement Plan, the Teachers Pension Plan or the Civil Service Superannuation Plan holds or again holds pensionable employment under the Pension Plan of Peace Officers in Correctional Services or under the Government and Public Employees Retirement Plan, the amount added to the pensioner's benefit ceases to be paid in the same proportion and manner as the benefit has ceased to be paid to the pensioner. Where applicable, that amount shall continue to be indexed or shall be increased as if the benefit were being paid for the period during which it is not paid and it shall again be added to the indexed, increased and recomputed benefit in accordance with the pensioner's pension plan when the payment of the benefit resumes.

"215.12.0.7. Any review made by the Commission to increase or reduce a pension being paid does not entail the review of the amount added pursuant to section 215.12.0.2 or 215.12.0.3.

"215.12.0.8. This chapter does not apply if the person dies before the person's benefit becomes payable.

“CHAPTER II

“SPECIAL MEASURES APPLICABLE TO A CATEGORY OR SUBCATEGORY OF PERSONS DETERMINED BY REGULATION”.

43. Section 215.12 of the said Act is amended by replacing “Title” in the third line of the first paragraph by “chapter”.

44. Section 215.13 of the said Act is amended

(1) by striking out “and measures designed to compensate, in whole or in part, the actuarial reduction of pension benefits” in the second, third and fourth lines of subparagraph 3 of the first paragraph;

(2) by inserting the following subparagraph after subparagraph 5 of the first paragraph:

“(6) in respect of a person whose employer under the plan has not deducted from the pensionable salary an annual amount provided for in the pension plan whereas the person was an employee to whom the pension plan applied, the terms and conditions of payment of the necessary sums by the person, the person’s spouse or successors and, as the case may be, the applicable rate of interest. The Government may also determine, notwithstanding sections 187 to 191.1, the terms and conditions of payment of the contributory amounts by the employers, and the employers exempted from such payment.”

45. Section 215.14 of the said Act is amended by replacing “Title” in the second line by “chapter”.

46. Section 215.15 of the said Act is amended by replacing “Title” in the first line by “chapter”.

47. The said Act is amended by inserting the following headings after section 215.15:

“CHAPTER III

“MISCELLANEOUS PROVISIONS”.

48. Schedule I to the said Act, amended by Orders in Council 467-99 dated 28 April 1999, 633-99 dated 9 June 1999, 819-99 dated 7 July 1999, 902-99 dated 11 August 1999, 1398-99 and 1399-99 dated 15 December 1999, 166-2000 dated 1 March 2000 and 561-2000 dated 9 May 2000 and by section 54 of chapter 11 of the statutes of 1999, section 54 of chapter 34 of the statutes of 1999 and section 14 of chapter 73 of the statutes of 1999, is again amended

(1) by replacing “the Centre d’Insémination artificielle du Québec (C.I.A.Q.) inc.” in paragraph 1 by “the Centre d’insémination artificielle (C.I.A.Q.) société en commandite, with respect to employees who held employment with

the Centre d'Insémination artificielle du Québec (C.I.A.Q.) inc. and participated in this plan on 31 December 1998";

(2) by inserting the following, in alphabetical order, in paragraph 1: "COREM, in respect of the permanent employees who were transferred by the Government of Québec within the framework of the transfer of the activities of the Centre de recherche minérale of the Ministère des Ressources naturelles to COREM and who participated in the plan on 26 September 1999";

(3) by striking out "the Fédération du personnel de soutien scolaire" in paragraph 1.

49. Schedule II.1 to the said Act, amended by Orders in Council 467-99 dated 28 April 1999, 633-99 dated 9 June 1999, 819-99 dated 7 July 1999, 947-99 dated 25 August 1999, 1251-99 dated 17 November 1999 and 166-2000 dated 1 March 2000, is again amended by inserting, in alphabetical order, "the Fédération du personnel de soutien scolaire (FPSS - CEQ)".

ACT RESPECTING THE TEACHERS PENSION PLAN

50. Section 2.2 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended by replacing "mental or physical disability" in the fifth and sixth lines of the second paragraph by "permanent and total disability under subparagraph 6 of the first paragraph of section 32 or to a benefit for mental or physical disability paid under a plan established by section 75.1".

51. Section 18 of the said Act is amended

(1) by replacing "two" in the last line of the first paragraph by "three";

(2) by replacing "two" in the first line of the second paragraph by "three".

52. The said Act is amended by inserting the following section after section 18:

"18.1. A person referred to in the first paragraph of section 18 who, under the salary insurance plan provided for in the person's conditions of employment, is entitled only to salary insurance benefits for a maximum period of two years of service, shall continue to participate in the plan, even if the person's employer has terminated the person's employment, during the year following the last day of that two-year period, if on that day the person is disabled within the meaning of the person's salary insurance plan and if during that year the person does not hold pensionable employment under the plan.

During that year, the service credited to that person, without contributions, is the service that would have been credited if the person had held employment and the person's pensionable salary is the salary the person would have received.

However, the service credited to a person who dies, resigns or retires during the year following the two-year period provided for in the first paragraph shall be reduced by the period between the date of the event and the end of that year. The service credited under this section to a person who again holds pensionable employment during that period shall be reduced by the period between the person's first day of service in pensionable employment and the end of that year."

53. The said Act is amended by inserting the following division after section 28.5.5:

"DIVISION II.2

"REDEMPTION OF A PAID TRAINING PERIOD

"28.5.6. A teacher is entitled to pension credit, computed in relation to the years or parts of a year of past service as a paid trainee, by counting such years or parts of a year under the plan.

The categories or subcategories of employees and the rules, terms and conditions applicable to have years or parts of a year of past service as a paid trainee counted, the years or parts of a year of service which may be counted and their number, which may vary according to the category and subcategory of employees, shall be determined by regulation made under subparagraph 11.3 of the first paragraph of section 134 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

"28.5.7. The years and parts of a year of service for which pension credit is granted under this division shall be added, solely for the purposes of eligibility for a pension, to the years of service credited to a teacher under section 16.

"28.5.8. Sections 88, 90 to 93, the second paragraph of section 95 and sections 96 and 97 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) shall apply to the pension credit obtained under section 28.5.6, with the necessary modifications.

"28.5.9. The amount that a teacher must pay to be entitled to pension credit shall be determined according to the tariff of premiums appearing in Schedule IV to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

The amounts paid by a teacher to acquire pension credit shall be paid into the consolidated revenue fund.

"28.5.10. The years and parts of a year of service for which pension credit is granted shall be added to the years of service credited to the teacher to determine, in case of death, the right of the spouse to a pension even if the teacher died before completing all the payments computed in accordance with

section 96 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

"28.5.11. Sections 73.1 to 73.7 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) shall apply, with the necessary modifications, to a teacher who has acquired pension credit under this division. Any reference to a provision of that Act is a reference to the corresponding provision of this Act."

54. The said Act is amended by inserting the following section after section 29.1:

"29.1.1. The rate of contribution that must be levied on the pensionable salary of the teacher, who, if the teacher participated in the Government and Public Employees Retirement Plan, would be a non-unionizable employee within the meaning of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10), shall be reduced by a factor of 0.83% applied to each of the rates established in subparagraphs 1 to 3 of the first paragraph of section 29 of this Act.

However, the reduction shall not be considered for the purposes of sections 31 and 31.1, nor for the purposes of Chapter V.1 of this Act or for the purposes of the computation of the benefits payable under this plan."

55. Section 32 of the said Act is amended by replacing subparagraph 6 of the first paragraph by the following subparagraph:

"(6) is totally and permanently disabled within the meaning of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);".

56. Section 38 of the said Act is amended by replacing "physical or mental disability under this plan," in the first and second lines of the third paragraph by "total and permanent disability under subparagraph 6 of the first paragraph of section 32".

57. Section 41.1 of the said Act is amended by replacing "physical or mental disability" in the first and second lines by "total and permanent disability under subparagraph 6 of the first paragraph of section 32".

58. Section 46 of the said Act, amended by section 24 of chapter 14 of the statutes of 1999, is again amended by adding the following at the end: "or who, during the year prior to the teacher's or pensioner's death, was living in a conjugal relationship with the teacher or pensioner while one of the following situations occurred:

(1) a child was or is to be born of their union;

(2) they adopted a child together; or

(3) one of them adopted a child of the other."

59. Section 51 of the said Act is amended by replacing "physically or mentally disabled" in subparagraph 3 of the first paragraph by "totally and permanently disabled within the meaning of subparagraph 6 of the first paragraph of section 32".

60. Section 63 of the said Act is amended

(1) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

"(2) for that part attributable to service subsequent to 30 June 1982 but prior to 1 January 2000, by the amount by which the rate of increase in the Pension Index exceeds 3%;";

(2) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

"(3) for that part attributable to service subsequent to 31 December 1999, by the formula provided for in subparagraph 2 of this paragraph or by one-half of the rate of increase in the Pension Index, according to the formula which is the most advantageous.";

(3) by inserting the following paragraph after the first paragraph:

"Where the number of years of service credited exceeds 35 years, subparagraphs 1 to 3 of the first paragraph are applied in the order which is the most advantageous for the pensioner."

61. Section 65 of the said Act is amended by inserting ", before 1 January 2000," after "granted" in the first line of the first paragraph.

62. Section 66 of the said Act is amended by replacing "physical or mental disability" in the second line of the second paragraph by "total and permanent disability within the meaning of subparagraph 6 of the first paragraph of section 32".

63. Section 73 of the said Act is amended by striking out paragraph 5.

64. The said Act is amended by inserting the following section after section 75:

"75.1. The Government may, with respect to participants, establish a plan which provides for supplementary benefits as

(1) minimum benefits granted to the beneficiary of a pension;

(2) benefits for physical or mental disability, within the meaning of the supplementary benefits plan, payable to the teacher who is not totally and permanently disabled within the meaning of subparagraph 6 of the first paragraph of section 32.

Benefits accumulated during the marriage under the supplementary benefits plan form part of the family patrimony established under the Civil Code of Québec. In that respect, the Government may render the rules contained in or enacted pursuant to Chapter V.1 applicable to the plan. It may also enact special rules concerning the determination and evaluation of the supplementary benefits so granted.

The amounts paid under the supplementary benefits plan are inalienable and unseizable. However, they are unseizable only up to 50% in the case of partition of the family patrimony between spouses, the payment of support or the payment of a compensatory allowance.

An order under the first or second paragraph may have effect up to 12 months before the date on which it is made."

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

65. Section 55.1 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by replacing "mental or physical disability" in the fifth and sixth lines of the second paragraph by "total and permanent disability under subparagraph 3 of the first paragraph of section 56".

66. Section 56 of the said Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

"(3) is totally and permanently disabled within the meaning of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);".

67. Section 60 of the said Act is amended

(1) by replacing "two" in the last line of the first paragraph by "three";

(2) by replacing "two" in the first line of the second paragraph by "three".

68. The said Act is amended by inserting the following section after section 60:

"60.0.1. A person referred to in the first paragraph of section 60 who, under the salary insurance plan provided for in the person's conditions of employment, is entitled only to salary insurance benefits for a maximum period of two years of service, shall continue to participate in the plan, even if the person's employer has terminated the person's employment, during the year following the last day of that two-year period if on that day the person is disabled within the meaning of the person's salary insurance plan.

During that year, the service credited to that person, without contributions, is the service that would have been credited if the person had held employment and the person's pensionable salary is the salary the person would have received.

However, the service credited to a person who dies, resigns or retires during the year following the two-year period provided for in the first paragraph shall be reduced by the period between the date of the event and the end of that year. The service credited under this section to a person who again holds pensionable employment shall be reduced by the period between the person's first day of service in pensionable employment and the end of that year."

69. Section 63.3 of the said Act is amended by replacing "physical or mental disability under the plan provided for in this division" in the first and second lines of the third paragraph by "total and permanent disability under subparagraph 3 of the first paragraph of section 56".

70. Section 64 of the said Act is amended

(1) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

"(2) for that part attributable to service subsequent to 30 June 1982 but prior to 1 January 2000, by the amount by which the rate of increase in the Pension Index exceeds 3%;";

(2) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

"(3) for that part attributable to service subsequent to 31 December 1999, by the formula provided for in subparagraph 2 of this paragraph or by one-half of the rate of increase in the Pension Index, according to the formula which is the most advantageous.";

(3) by inserting the following paragraph after the first paragraph:

"Where the number of years of service credited exceeds 35 years, subparagraphs 1 to 3 of the first paragraph are applied in the order which is the most advantageous for the pensioner."

71. Section 65 of the said Act is amended by inserting ", before 1 January 2000," after "granted" in the first line of the first paragraph.

72. Section 68.1 of the said Act is amended by replacing "physical or mental disability" in the first and second lines by "total and permanent disability under subparagraph 3 of the first paragraph of section 56".

73. The said Act is amended by inserting the following section after section 69.0.1:

"69.0.2. The rate of contribution that must be levied on the pensionable salary of the officer, who, if the officer participated in the Government and Public Employees Retirement Plan, would be a non-unionizable employee within the meaning of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10), shall be reduced by a factor of 0.83% applied to each of the rates established under subparagraphs 1 to 3 of the first paragraph of section 69 of this Act.

However, the reduction shall not be considered for the purposes of sections 72 to 72.2, nor for the purposes of Division III.1 of this Act or for the purposes of the computation of the benefits payable under this plan."

74. Section 74 of the said Act is amended by replacing "physical or mental disability" in the second line of the second paragraph by "total and permanent disability under subparagraph 3 of the first paragraph of section 56".

75. Section 77 of the said Act, amended by section 25 of chapter 14 of the statutes of 1999, is again amended by adding the following at the end: "or who, during the year prior to the officer's or pensioner's death, was living in a conjugal relationship with the officer or pensioner while one of the following situations occurred:

(1) a child was or is to be born of their union;

(2) they adopted a child together; or

(3) one of them adopted a child of the other."

76. Section 84 of the said Act is amended by replacing "physically or mentally disabled" in subparagraph 3 of the first paragraph by "totally or permanently disabled within the meaning of subparagraph 3 of the first paragraph of section 56".

77. The said Act is amended by inserting the following subdivision after section 99.17:

"§3.1. — *Redemption of a paid training period*

"99.17.1. An officer is entitled to pension credit computed in relation to the years or parts of a year of past service as a paid trainee, by counting such years or parts of a year under the plan.

The categories or subcategories of employees and the rules, terms and conditions applicable to have years or parts of a year of past service as a paid trainee counted, the years or parts of a year of service that may be counted and their number, which may vary according to the category and subcategory of employees, shall be determined by regulation made under subparagraph 11.3 of the first paragraph of section 134 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

"99.17.2. The years and parts of a year of service for which pension credit is granted under this subdivision shall be added solely for the purpose of eligibility for a pension, to the years of service credited to an officer under section 58.

"99.17.3. Sections 88, 90 to 93, the second paragraph of section 95 and sections 96 and 97 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) shall apply to the pension credit obtained under section 99.17.1, with the necessary modifications.

"99.17.4. The amount that an officer must pay to be entitled to a pension credit shall be determined according to the tariff of premiums appearing in Schedule IV to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

The amounts paid by an officer to acquire pension credit shall be paid into the consolidated revenue fund.

"99.17.5. The years and parts of a year of service for which pension credit is granted shall be added to the years of service credited to the officer to determine, in case of death, the right of the spouse to a pension even if the officer died before completing all the payments computed in accordance with section 96 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

"99.17.6. Sections 73.1 to 73.7 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) shall apply, with the necessary modifications, to an officer who has acquired pension credit under this subdivision. Any reference to another provision of that Act is a reference to the corresponding provision of this Act."

78. Section 109 of the said Act is amended by striking out paragraph 1.

79. The said Act is amended by inserting the following section after section 111.1:

"111.2. The Government may, with respect to participants, establish a plan which provides for supplementary benefits as

(1) minimum benefits granted to the beneficiary of a pension;

(2) benefits for physical or mental disability, within the meaning of the supplementary benefits plan, payable to the officer who is not totally and permanently disabled within the meaning of subparagraph 3 of the first paragraph of section 56.

Benefits accumulated during the marriage under the supplementary benefits plan form part of the family patrimony established under the Civil Code of Québec. In that respect, the Government may render the rules contained in

Division III.1 or enacted under the provisions of that chapter applicable to the plan. It may also enact special rules concerning the determination and evaluation of the supplementary benefits so granted.

The amounts paid under the supplementary benefits plan are inalienable and unseizable. However, they are unseizable only up to 50% in the case of partition of the family patrimony between spouses, the payment of support or the payment of a compensatory allowance.

An order under the first or second paragraph may have effect up to 12 months before the date on which it is made."

TRANSITIONAL AND FINAL PROVISIONS

80. The rate of contribution provided for in section 29 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) with respect to employees other than those governed by Title IV.0.1 of this Act is equal to 5.35%, from 1 January 2000 until 31 December 2001. From 1 January 2002, the rate is equal to 6.20% subject to the first paragraph of section 177 of that Act.

81. The rate of contribution provided for in section 29 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) with respect to employees referred to in Title IV.0.1 of the said Act is equal to 1%, from 1 January 2000 until 31 December 2001. From 1 January 2002, the rate is equal to 4.50%, subject to the first paragraph of section 177 of that Act.

82. Representatives of the employees on the pension committee referred to in section 164 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) shall, each year, have at their disposal, for the benefit of the employees and the beneficiaries, a maximum amount of $150,000 taken out of the employees' contribution fund to assume the cost of professional services relating to their pension plan.

The same applies to representatives of employees on the pension committee referred to in section 173.1 of that Act. However, the maximum annual amount shall be $250,000 and shall be taken out of the non-unionizable employees' contribution fund.

83. The mention of the Centrale de coordination santé de la région de Québec (03) Inc. in Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) with respect to employees that have been transferred in 1996 from the Coopérative des techniciens ambulanciers du Québec métropolitain to the Centrale de coordination santé de la région de Québec (03) Inc. has effect from 1 January 1997.

84. Notwithstanding the third paragraph of section 35.9 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1), the first and second paragraphs of the said section apply to the person who was participating in the Pension Plan of Certain Teachers on 31 December 1999 and who retired after that date but before 1 January 2001 if the person's application for the redemption of past service is received by the Commission before the latter date.

85. Sections 7, 8, 51, 52, 67 and 68 of this Act apply to any person who benefits from a period of exemption from contributions on 31 December 1999 taking into account the exemption period that has elapsed on that date.

86. Sections 11, 12 and 15 of this Act and sections 215.0.0.6 to 215.0.0.8 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) apply to an employee who ceases to participate in the Government and Public Employees Retirement Plan on or after 31 December 1999.

87. Notwithstanding any inconsistent provision of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), the persons who were participating in the Government and Public Employees Retirement Plan on 31 December 1999 and who retired after that date but before 1 January 2001 may avail themselves of the provisions of this Act relating to the redemption of past service if their application is received by the Commission before the latter date and, in that case, Division IV.1 of Chapter IV of this Act applies.

88. For the purposes of section 42 of this Act, the actuarial assumptions and methods provided for in Schedule III to the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan, enacted by Order in Council 690-96 (1996, G.O. 2, 2759) are applicable until a regulation is made under that section.

89. For the first application of sections 133.13 and 215.0.0.22 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), the first three-year period applies to employees who were participating in the Government and Public Employees Retirement Plan on 31 December 1999 and who retired between 1 January 2000 and 31 December 2002.

90. An application for redemption of past service filed by an employee referred to in section 215.0.0.1.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) before the employee elects to participate in the Government and Public Employees Retirement Plan pursuant to that section shall be continued according to the terms and conditions provided for in the pension plan of which the employee was a member. Any service so redeemed shall be counted or, as the case may be, credited under the Government and Public Employees Retirement Plan according to the provisions of the plan. The sums paid shall be deposited into the consolidated revenue fund.

91. An employee who does not meet the conditions set out in the second paragraph of section 215.0.0.1.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) shall resume participation in the Teachers Pension Plan or the Civil Service Superannuation Plan, as the case may be, from the day following the day on which the employee ceases to hold non-unionizable employment within the meaning of that Act.

In such a case, the years and parts of a year credited or counted under the Government and Public Employees Retirement Plan shall, for pension purposes, be credited or counted under the Teachers Pension Plan or the Civil Service Superannuation Plan, as the case may be. In addition, unless refunded to the employee, the contributions paid into the non-unionizable employees' contribution fund at the Caisse de dépôt et placement du Québec in respect of that employee shall be transferred to the consolidated revenue fund with accrued interest until the date of transfer.

92. The person who, on 31 December 1999, participates in the Teachers Pension Plan or the Civil Service Superannuation Plan in employment that, if the person participated in the Government and Public Employees Retirement Plan, would be non-unionizable within the meaning of Title IV.0.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), who retires under the person's plan after the said date but before 1 January 2001, may, if the person held such employment, with the corresponding classification, during a period of 24 consecutive months ending on the date of the person's retirement, elect to participate in the Government and Public Employees Retirement Plan in accordance with section 215.0.0.1.1 of that Act. The plan applies to that person from 1 January 2000 and the person is deemed to retire under that plan at the date on which the person retired under the Teachers Pension Plan or the Civil Service Superannuation Plan. Section 87 of this Act applies to such a person, with the necessary modifications.

93. For the purposes of section 121 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), the first paragraph of section 215.0.0.7 of that Act does not apply to a person who retired before 1 January 2000.

94. The persons who were participating in the Teachers Pension Plan or the Civil Service Superannuation Plan on 31 December 1999 and who retired under any of those plans after the said date but before 1 January 2001 may avail themselves of section 53 or 77 of this Act, as the case may be, if their application for the redemption of service is received by the Commission before the latter date.

95. Notwithstanding the second paragraph of section 3.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) or the second paragraph of section 4.1 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1), where a person

ceases to participate in his or her pension plan when the person is not holding pensionable employment under that plan, is eligible for a pension before 1 January 2000 and resigns after 31 December 1999, the person is deemed, for the purposes of eligibility for benefits and their computation and for the purposes of Division IV.1 of Chapter IV of Title I of the Act respecting the Government and Public Employees Retirement Plan or of Division III.3 of the Act respecting the Pension Plan of Certain Teachers, to have ceased to participate on the date of the person's resignation.

96. The first regulations made under section 28 of this Act may, where they so provide, have effect from 1 January 2000.

97. The first regulations enacted after 16 June 2000 and amending the Regulation respecting the partition and assignment of benefits accrued under the Government and Public Employees Retirement Plan, enacted by Order in Council 351-91 (1991, G.O. 2, 1307), the Regulation respecting the partition and assignment of benefits accrued under the Teachers Pension Plan, enacted by decision CT 176506 (1991, G.O. 2, 1334) of the Conseil du trésor, the Regulation respecting the partition and assignment of benefits accrued under the pension plans provided for by the Act respecting the Civil Service Superannuation Plan, enacted by decision CT 176507 (1991, G.O. 2, 1327), the Regulation respecting the partition and assignment of benefits accrued under the Pension Plan of Certain Teachers, enacted by Order in Council 840-91 (1991, G.O. 2, 2114) may, where they so provide, have effect from 1 January 2000 if they operate to give effect to an amendment resulting from this Act.

Furthermore, the first regulations enacted under the second paragraph of section 75.1 of the Act respecting the Teachers Pension Plan and under the second paragraph of section 111.2 of the Act respecting the Civil Service Superannuation Plan may, where they so provide, have effect from 1 January 2000.

98. Sections 1 to 5, 7 to 20, 22, 25 to 34, 37 to 47 and 50 to 79 have effect from 1 January 2000.

99. Sections 6 and 35 have effect from 4 November 1998.

100. Section 23 has effect from 16 February 1978.

101. Paragraph 1 of section 48 has effect from 1 January 1999.

102. Paragraph 2 of section 48 has effect from 27 September 1999.

103. Paragraph 3 of section 48 and section 49 have effect from 27 August 1998.

104. This Act comes into force on 16 June 2000

Notices

Notice

An Act respecting the conservation and development of wildlife
(R.S.Q., c. C-61.1)

Content of an outfitter's licence

Notice is hereby given that the Regulation respecting the content of an outfitter's licence, the text of which appears below, was adopted by the Société de la faune et des parcs du Québec by resolution No. 00-24 dated July 3, 2000, in accordance with section 54.1 of the Act respecting the conservation and development of wildlife, amended by section 56 of Chapter 36 of the Statutes of 1999.

HERVÉ BOLDUC,
Secretary

Regulation respecting the content of an outfitter's licence

An Act respecting the conservation and development of wildlife
(R.S.Q., c. C-61.1, ss. 54.1 and 164; 1999, c. 36, ss. 56 and 118)

1. An outfitter's licence shall indicate

(1) the name and address of the licence holder, his resident status, the address of his principal place of business with respect to his outfitter's activities and the name of his authorized representative;

(2) the licence number and the dates of issuance and expiry;

(3) the territory where the licence holder may offer his services;

(4) the accommodation facilities owned or leased by the licence holder under a lease contract entered into with a person who does not hold an outfitter's licence and the lodging capacity of each unit; and

(5) the nature of the rights granted or, where the outfitting operation is located in the James Bay and New Québec territories, the allowed activities related to hunting and fishing.

It shall be signed by the chief executive officer of the Société de la faune et des parcs du Québec and countersigned by the person issuing it; in addition, a stamp of the Fondation de la Faune for the current year shall be affixed thereto.

2. Section 3.1 of the Regulation respecting outfitters (R.R.Q., 1981, C-61, r.30)* is revoked.

3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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* The Regulation respecting outfitters (R.R.Q., 1981, c. C-61, r.30) was last amended by the Regulation made by Order in Council 1064-95 dated 9 August 1995 (1995, *G.O.* 2, 2670). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

Index Statutory Instruments

Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified