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NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 84
(2002, chapter 6)

An Act instituting civil unions and establishing new rules of filiation

Introduced 25 April 2002
Passage in principle 7 May 2002
Passage 7 June 2002
Assented to 8 June 2002

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EXPLANATORY NOTES

This bill creates an institution, the civil union, for couples of the opposite or the same sex who wish to make a public commitment to live together as a couple and to uphold the rights and obligations stemming from such status. New provisions introduced into the Civil Code provide for the formation, solemnization, publication and dissolution of a civil union and for its civil consequences as regards such matters as the contribution towards domestic expenses, the family residence, the family patrimony, the compensatory allowance, the obligation of support and the right to inherit. The new spouses will be permitted to enter into a contract establishing a civil union regime, governed by the same rules as those applicable to matrimonial regimes and marriage contracts. In the absence of a contract, the regime of partnership of acquests will apply. The necessary acts relating to the new civil status will be drawn up, modified and published by the registrar of civil status.

The bill amends the Civil Code to add new assisted procreation rules and clarify adoption rules as regards same-sex parents.

The bill also amends the Civil Code and other legislation to formalize recognition of the new status of civil union spouses, who will have the same rights and obligations as married couples. Moreover, the bill extends not only to civil union spouses but also to same-sex or traditional de facto spouses the applicability of certain provisions that relate to situations encountered by persons who are living together. Such provisions pertain to such matters as consenting to the care required by a person's state of health, conflict of interest situations or causes of disqualification and non-compellability rules.

LEGISLATION AMENDED BY THIS BILL :

– Civil Code of Québec ;

– Workmen's Compensation Act (R.S.Q., chapter A-3) ;

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

– Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) ;

– Act respecting financial assistance for education expenses (R.S.Q., chapter A-13.3);

– Legal Aid Act (R.S.Q., chapter A-14);

– Act respecting land use planning and development (R.S.Q., chapter A-19.1);

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

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

– Automobile Insurance Act (R.S.Q., chapter A-25);

– Act respecting insurance (R.S.Q., chapter A-32);

– Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);

– Savings and Credit Unions Act (R.S.Q., chapter C-4.1);

– Charter of human rights and freedoms (R.S.Q., chapter C-12);

– Highway Safety Code (R.S.Q., chapter C-24.2);

– Code of Civil Procedure (R.S.Q., chapter C-25);

– Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1);

– Cooperatives Act (R.S.Q., chapter C-67.2);

– Act respecting financial services cooperatives (R.S.Q., chapter C-67.3);

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

– Mining Duties Act (R.S.Q., chapter D-15);

– Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1);

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

– Act respecting school elections (R.S.Q., chapter E-2.3);

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

– Act respecting reciprocal enforcement of maintenance orders (R.S.Q., chapter E-19);

– Taxation Act (R.S.Q., chapter I-3);

– Interpretation Act (R.S.Q., chapter I-16);

– Jurors Act (R.S.Q., chapter J-2);

– 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);

– Act respecting liquor permits (R.S.Q., chapter P-9.1);

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

– Act respecting the protection of persons whose mental state presents a danger to themselves or to others (R.S.Q., chapter P-38.001);

– Act respecting the collection of certain debts (R.S.Q., chapter R-2.2);

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

– Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);

– 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 Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);

– 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);

– Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);

– Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16);

– Act respecting property tax refund (R.S.Q., chapter R-20.1);

– Act respecting health services and social services (R.S.Q., chapter S-4.2);

– Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);

– Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001);

– Professional Syndicates Act (R.S.Q., chapter S-40);

– Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);

– Act respecting transportation by taxi (R.S.Q., chapter T-11.1);

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

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

– Act respecting the Pension Plan of Management Personnel (2001, chapter 31).

Bill 84

AN ACT INSTITUTING CIVIL UNIONS AND ESTABLISHING NEW RULES OF FILIATION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

AMENDMENTS TO THE CIVIL CODE

1. Article 15 of the Civil Code of Québec (1991, chapter 64) is amended

(1) by replacing "his consent" in the English text by "consent";

(2) by replacing "spouse or, if he" by "married, civil union or *de facto* spouse or, if the person";

(3) by replacing "his" wherever it appears in the English text by "his or her".

2. Article 56 of the said Code is amended

(1) by replacing "his" in the English text of the first paragraph by "his or her";

(2) by replacing "his spouse" in the second paragraph by "his or her married or civil union spouse".

3. Article 61 of the said Code is amended

(1) by replacing "his reasons and gives the name of his father and mother" in the English text of the first paragraph by "the reasons for the application and gives the names of his or her father and mother";

(2) by replacing "the name of his spouse and of his children" in the first paragraph by "the name of his or her married or civil union spouse and children";

(3) by replacing "his children's" in the English text of the first paragraph by "the children's";

(4) by replacing "his" in the English text of the second paragraph by "the".

4. Article 82 of the said Code is amended by replacing "Spouses" by "Married or civil union spouses".

5. Article 88 of the said Code is amended by inserting “or civil union” after “expenses of the marriage”.

6. Article 89 of the said Code is amended

(1) by replacing “spouse” in the first paragraph by “married or civil union spouse”;

(2) by replacing “époux” in the French text of the first paragraph by “conjoints”.

7. Article 93 of the said Code is amended

(1) by replacing “his birth” in the English text of the first paragraph by “his or her birth”;

(2) by replacing “marriage, the place of his last domicile, the names of his father, mother and spouse, and” in the first paragraph by “, if applicable, marriage or civil union, the name of the spouse, the names of his or her father and mother as well as his or her last domicile, and”;

(3) by replacing “his death” in the English text of the first paragraph by “death”.

8. Article 96 of the said Code is amended by inserting “or civil union” after “matrimonial” in the first and second paragraphs.

9. Article 97 of the said Code is amended

(1) by inserting “or civil union” after “marriage” in the first paragraph;

(2) by adding “or the dissolution of a civil union” at the end of the second paragraph.

10. Article 107 of the said Code is amended by inserting “or civil union” after “marriage” in the first paragraph.

11. Article 108 of the said Code, amended by section 3 of chapter 47 of the statutes of 1999, is again amended by inserting “, civil unions” after “marriages” in the first paragraph.

12. Article 114 of the said Code is amended by replacing “, one of the parents” in the first paragraph by “or civil union, one of the spouses”.

13. Article 115 of the said Code is amended by adding the following sentence at the end of the first paragraph: “Where the parents are of the same sex, they are designated as the mothers or fathers of the child, as the case may be.”

14. The said Code is amended by inserting the following after article 121:

"§3.1. — *Acts of civil union*

"**121.1.** The declaration of civil union is made without delay to the registrar of civil status by the person having solemnized the civil union.

"**121.2.** The declaration of civil union states the names and domicile and places and dates of birth of the spouses, the date and place of solemnization of the civil union, and the names of their fathers and mothers and witnesses. Where applicable, the declaration indicates that a dispensation from publication has been granted.

The declaration also states the name, domicile and quality of the officiant and indicates, where applicable, the officiant's religious affiliation.

"**121.3.** The declaration is signed by the officiant, the spouses and the witnesses."

15. Article 126 of the said Code is amended by replacing the part of the first paragraph that follows "date of birth" by the following: "and, if applicable, of marriage or civil union of the deceased, the name of the spouse, the names of the father and mother and the last domicile of the deceased and the place, date and time of death as well as the time, place and mode of disposal of the body."

16. Article 129 of the said Code, amended by section 7 of chapter 47 of the statutes of 1999, is again amended by inserting the following paragraph after the first paragraph:

"The notary who executes a joint declaration dissolving a civil union gives notice of the declaration without delay to the registrar of civil status."

17. Article 130 of the said Code, amended by section 8 of chapter 47 of the statutes of 1999, is again amended

(1) by inserting ", civil union" after "marriage" in the first paragraph;

(2) by replacing "maternity or paternity established" in the second paragraph by "a bond of filiation established".

18. Article 134 of the said Code, amended by section 9 of chapter 47 of the statutes of 1999, is again amended by inserting "or civil union" after "marriage" wherever it appears in the first paragraph.

19. Article 135 of the said Code, amended by section 10 of chapter 47 of the statutes of 1999, is again amended

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

"Upon notification of a notarized joint declaration or a judgment dissolving a civil union, the registrar shall make a notation of the declaration or judgment in the computerized version of the acts of birth and civil union of each of the persons concerned.";

(2) by inserting "or civil union" after "nullity of marriage" in the last paragraph;

(3) by inserting "or civil union" after "act of marriage" in the last paragraph.

20. Article 146 of the said Code is amended

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

"**146.** A certificate of civil status sets forth the person's name, sex, place and date of birth and, if the person is deceased, the place and date of death. It also sets forth, if applicable, the place and date of marriage or civil union and the name of the spouse.";

(2) by inserting ", civil union" after "marriage" in the second paragraph.

21. Article 258 of the said Code is amended

(1) by replacing "himself or of administering his property by reason, in particular, of illness, deficiency or debility due to age which impairs his mental faculties or his physical ability to express his will" in the English text of the first paragraph by "himself or herself or of administering property by reason, in particular, of illness, deficiency or debility due to age which impairs the person's mental faculties or physical ability to express his or her will";

(2) by replacing "his spouse" in the second paragraph by "his or her married or civil union spouse".

22. Article 365 of the said Code is amended by striking out the second paragraph.

23. Article 366 of the said Code, amended by section 28 of chapter 21 of the statutes of 1996 and section 20 of chapter 53 of the statutes of 1999, is again amended

(1) by inserting ", every notary authorized by law to execute notarized acts and, within the territory defined in the instrument of designation, any other person designated by the Minister of Justice among such officials as mayors, members of municipal or borough councils and municipal officers" after "Minister of Justice" in the first paragraph;

(2) by inserting ", that he solemnizes marriages in places which conform to those rites or to the rules prescribed by the Minister of Justice" after "permanent nature" in the second paragraph.

24. Article 373 of the said Code is replaced by the following article:

"**373.** Before solemnizing a marriage, the officiant ascertains the identity of the intended spouses, compliance with the conditions for the formation of the marriage and observance of the formalities prescribed by law. More particularly, the officiant ascertains that the intended spouses are free from any previous bond of marriage or civil union and, in the case of minors, that the person having parental authority or, if applicable, the tutor has consented to the marriage."

25. Article 376 of the said Code is replaced by the following article:

"**376.** Clerks and deputy clerks, notaries and persons designated by the Minister of Justice solemnize marriages according to the rules prescribed by the Minister of Justice.

Clerks and deputy clerks collect the duties fixed by regulation of the Government from the intended spouses, on behalf of the Minister of Finance.

Notaries and designated persons collect the agreed fees from the intended spouses. However, mayors, other members of municipal or borough councils and municipal officers collect the duties fixed by municipal by-law from the intended spouses, on behalf of the municipality; such duties must be in keeping with the minimum and maximum amounts fixed by regulation of the Government."

26. Article 377 of the said Code is replaced by the following article:

"**377.** The minister responsible for civil status and the Minister of Justice keep the registrar of civil status informed of the authorizations, designations and revocations they give, make or take part in with respect to officiants competent to solemnize marriages, so that appropriate entries and corrections may be made in a register.

For the same purposes, the secretary of the Ordre des notaires du Québec maintains, and communicates to the registrar of civil status, an updated list of the notaries who are competent to solemnize marriages, specifying the date on which each notary became so competent and, if known, the date on which the notary will cease to be so competent.

If an officiant is unable to act or dies, the religious society, the clerk of the Superior Court or the secretary of the Ordre des notaires du Québec, as the case may be, is responsible for informing the registrar of civil status so that the appropriate corrections may be made in the register."

27. The said Code is amended by inserting the following Title after article 521 :

"TITLE ONE.1

"CIVIL UNION

"CHAPTER I

"FORMATION OF CIVIL UNION

"**521.1.** A civil union is a commitment by two persons eighteen years of age or over who express their free and enlightened consent to live together and to uphold the rights and obligations that derive from that status.

A civil union may only be contracted between persons who are free from any previous bond of marriage or civil union and who in relation to each other are neither an ascendant or a descendant, nor a brother or a sister.

"**521.2.** A civil union must be contracted openly before an officiant competent to solemnize marriages and in the presence of two witnesses.

No minister of religion may be compelled to solemnize a civil union to which there is an impediment according to the minister's religion and the discipline of the religious society to which he or she belongs.

"**521.3.** Before proceeding with a civil union, the officiant ascertains the identity of the intended spouses as well as compliance with the conditions for the formation of a civil union and observance of the formalities prescribed by law.

The solemnization of a civil union is subject to the same rules, with the necessary modifications, as are applicable to the solemnization of a marriage, including the rules relating to prior publication.

"**521.4.** Any interested person may oppose a civil union between persons incapable of contracting a civil union.

A minor may act alone to oppose a civil union.

"**521.5.** A civil union is proved by an act of civil union, except where another mode of proof is authorized by law.

Possession of the status of civil union spouses compensates for a defect of form in the act of civil union.

“CHAPTER II

“CIVIL EFFECTS OF CIVIL UNION

“**521.6.** The spouses in a civil union have the same rights and obligations.

They owe each other respect, fidelity, succour and assistance.

They are bound to live together.

The effects of the civil union as regards the direction of the family, the exercise of parental authority, contribution towards expenses, the family residence, the family patrimony and the compensatory allowance are the same as the effects of marriage, with the necessary modifications.

Whatever their civil union regime, the spouses may not derogate from the provisions of this article.

“**521.7.** A civil union creates a family connection between each spouse and the relatives of his or her spouse.

“**521.8.** A civil union regime may be created by and any kind of stipulation may be made in a civil union contract, subject to the imperative provisions of law and public order.

Spouses who, before the solemnization of their civil union, have not so fixed their civil union regime are subject to the regime of partnership of acquests.

Civil union regimes, whether legal or conventional, and civil union contracts are subject to the same rules as are applicable to matrimonial regimes and marriage contracts, with the necessary modifications.

“**521.9.** If spouses cannot agree as to the exercise of their rights and the performance of their duties, they or either of them may apply to the court, which will decide in the best interests of the family after fostering conciliation of the parties.

“CHAPTER III

“NULLITY OF CIVIL UNION

“**521.10.** A civil union which is not contracted in accordance with the prescriptions of this Title may be declared null upon the application of any interested person, although the court may decide according to the circumstances.

No action lies after the lapse of three years from the solemnization, except where public order is concerned.

"**521.11.** The nullity of a civil union entails the same effects as the nullity of a marriage.

"CHAPTER IV

"DISSOLUTION OF CIVIL UNION

"**521.12.** A civil union is dissolved by the death of either spouse. It is also dissolved by a court judgment or by a notarized joint declaration where the spouses' will to live together is irretrievably undermined.

"**521.13.** The spouses may consent, by way of a joint declaration, to the dissolution of the civil union provided they settle all the consequences of the dissolution in an agreement.

The declaration and the agreement must be executed before a notary and recorded in notarial acts *en minute*.

The notary may not execute the declaration before the agreement is recorded in a notarized transaction contract. The notary must inform the spouses beforehand of the consequences of the dissolution and make sure that they truly consent to the dissolution and that the agreement is not contrary to imperative provisions of law or public order. If appropriate, the notary may provide information to the spouses on any available conciliation services.

"**521.14.** The transaction contract specifies the date on which the net value of the family patrimony is established. The date may not be earlier than the date of the joint procedure for the dissolution of the civil union or the date on which the spouses ceased living together, or later than the date of the execution of the contract before a notary.

"**521.15.** The joint declaration dissolving a civil union states the names and domicile of the spouses, their places and dates of birth and the place and date of solemnization of the union; it also indicates the places and dates of execution of the transaction contract and of the declaration as well as the minute number given to each of those acts.

"**521.16.** From the date of their execution before a notary and without further formality, the joint declaration dissolving the civil union and the transaction contract have the effects of a judgment dissolving a civil union.

In addition to being notified to the registrar of civil status, the notarized declaration must be sent to the depositary of the original civil union contract and to the depositary of any contract modifying the civil union regime established by the original contract. The depositary is bound to make a reference to the joint declaration of dissolution on the original of the contract and on any copy issued, specifying the date of the declaration, the minute number and the name and address of the notary who executed the declaration.

The notarized declaration and transaction must also be sent to the Régie des rentes du Québec.

A notice of the notarized declaration must be entered in the register of personal and movable real rights on the application of the executing notary.

"**521.17.** In the absence of a joint declaration dissolving the civil union executed before a notary or where the interests of the common children of the spouses are at stake, the dissolution of the union must be pronounced by the court.

The court must ascertain that the spouses' will to live together is irretrievably undermined, foster conciliation and see to the interests of the children and the protection of their rights. During the proceeding, the court may determine provisional measures, as in the case of separation from bed and board.

Upon or after pronouncing the dissolution, the court may order one of the spouses to pay support to the other, decide as to the custody, maintenance and education of the children, in their best interests and with due regard for their rights, and in keeping with any agreements made between the spouses.

"**521.18.** The dissolution of a civil union does not deprive the children of the advantages secured to them by law or by the civil union contract.

The rights and obligations of parents towards their children are unaffected by the dissolution of the union.

"**521.19.** The dissolution of a civil union entails the dissolution of the civil union regime. Between the spouses, the effects of the dissolution of the regime are retroactive to the day of the death, the day of execution of the joint declaration of dissolution before a notary or, if the spouses so stipulated in the notarized transaction, the day on which the net value of the family patrimony is established. If the dissolution is pronounced by the court, its effects are retroactive to the day of the application to the court, unless the court makes them retroactive to the day on which the spouses ceased living together.

Dissolution, otherwise than by death, entails the lapse of gifts *mortis causa* made by one spouse to the other in consideration of the civil union. It does not entail the lapse of other gifts *mortis causa* or of gifts *inter vivos* between the spouses in consideration of the union, except that the court may, upon pronouncing the dissolution, declare such gifts lapsed or reduce them, or order the payment of gifts *inter vivos* deferred for such time as it may fix."

28. Article 525 of the said Code is amended

(1) by inserting "or a civil union between persons of opposite sex" after "marriage" in the first paragraph;

(2) by replacing "the dissolution or annulment of the marriage" in the English text of the first paragraph by "its dissolution or annulment";

(3) by replacing "husband" in the first paragraph by "spouse";

(4) by striking out "the husband's" in the second paragraph;

(5) by inserting "of married spouses" after "separation from bed and board" in the second paragraph;

(6) by replacing the last paragraph by the following paragraph:

"The presumption is also rebutted in respect of the former spouse if the child born is within three hundred days of the dissolution or annulment of the marriage or civil union, but after a subsequent marriage or civil union of the child's mother."

29. Article 535 of the said Code is amended by inserting "or civil union spouse" after "husband" in the second paragraph.

30. The said Code is amended by replacing Section III of Chapter I of Title Two by the following chapter:

"CHAPTER I.1

"FILIATION OF CHILDREN BORN OF ASSISTED PROCREATION

"**538.** A parental project involving assisted procreation exists from the moment a person alone decides or spouses by mutual consent decide, in order to have a child, to resort to the genetic material of a person who is not party to the parental project.

"**538.1.** As in the case of filiation by blood, the filiation of a child born of assisted procreation is established by the act of birth. In the absence of an act of birth, uninterrupted possession of status is sufficient; the latter is established by an adequate combination of facts which indicate the relationship of filiation between the child, the woman who gave birth to the child and, where applicable, the other party to the parental project.

This filiation creates the same rights and obligations as filiation by blood.

"**538.2.** The contribution of genetic material for the purposes of a third-party parental project does not create any bond of filiation between the contributor and the child born of the parental project.

However, if the genetic material is provided by way of sexual intercourse, a bound of filiation may be established, in the year following the birth, between the contributor and the child. During that period, the spouse of the woman who gave birth to the child may not invoke possession of status consistent with the act of birth in order to oppose the application for establishment of the filiation.

"**538.3.** If a child is born of a parental project involving assisted procreation between married or civil union spouses during the marriage or the civil union or within three hundred days after its dissolution or annulment, the spouse of the woman who gave birth to the child is presumed to be the child's other parent.

The presumption is rebutted if the child is born more than three hundred days after the judgment ordering separation from bed and board of the married spouses, unless they have voluntarily resumed living together before the birth.

The presumption is also rebutted in respect of the former spouse if the child is born within three hundred days of the termination of the marriage or civil union, but after a subsequent marriage or civil union of the woman who gave birth to the child.

"**539.** No person may contest the filiation of a child solely on the grounds of the child being born of a parental project involving assisted procreation. However, the married or civil union spouse of the woman who gave birth to the child may contest the filiation and disavow the child if there was no mutual parental project or if it is established that the child was not born of the assisted procreation.

The rules governing actions relating to filiation by blood apply with the necessary modifications to any contestation of a filiation established pursuant to this chapter.

"**539.1.** If both parents are women, the rights and obligations assigned by law to the father, insofar as they differ from the mother's, are assigned to the mother who did not give birth to the child.

"**540.** A person who, after consenting to a parental project outside marriage or a civil union, fails to declare his or her bond of filiation with the child born of that project in the register of civil status is liable toward the child and the child's mother.

"**541.** Any agreement whereby a woman undertakes to procreate or carry a child for another person is absolutely null.

"**542.** Nominative information relating to medically assisted procreation is confidential.

However, where the health of a person born of medically assisted procreation or of any descendant of that person could be seriously harmed if the person were deprived of the information requested, the court may allow the information to be transmitted confidentially to the medical authorities concerned. A descendant of such a person may also exercise this right where the health of that descendant or of a close relative could be seriously harmed if the descendant were deprived of the information requested."

31. Article 555 of the said Code is amended by replacing "of the spouse or the concubinary of the father or mother, if they have been cohabiting as concubinaries" by "of the spouse of the father or mother. However, in the case of *de facto* spouses, they must have been cohabiting".

32. Article 577 of the said Code is amended

(1) by replacing "his" in the English text of the first and second paragraphs by "his or her";

(2) by inserting "or a civil union" after "marriage" in the second paragraph.

33. Article 578 of the said Code is amended

(1) by inserting "or civil union" after "marriage" in the second paragraph;

(2) by replacing "his" in the English text of the second paragraph by "his or her".

34. The said Code is amended by inserting the following article after article 578:

"**578.1.** If the parents of an adopted child are of the same sex and where different rights and obligations are assigned by law to the father and to the mother, the parent who is biologically related to the child has the rights and obligations assigned to the father in the case of a male couple and those assigned to the mother in the case of a female couple. The adoptive parent has the rights and obligations assigned by law to the other parent.

If neither parent is biologically related to the child, the rights and obligations of each parent are determined in the adoption judgment."

35. Article 579 of the said Code is amended

(1) by replacing "his" wherever it appears in the English text of the first paragraph by "his or her";

(2) by striking out "or concubinary" in the second paragraph.

36. Article 585 of the said Code, amended by section 1 of chapter 28 of the statutes of 1996, is again amended by replacing "Spouses" by "Married or civil union spouses".

37. Article 624 of the said Code is amended

(1) by replacing "surviving spouse" by "surviving married or civil union spouse";

(2) by inserting "or civil union" after "marriage".

38. Article 653 of the said Code is amended by replacing "surviving spouse" by "surviving married or civil union spouse".

39. Article 654 of the said Code is amended by replacing "of his matrimonial rights and benefits" by "of his or her rights and benefits by reason of the marriage or civil union".

40. Article 706 of the said Code is amended

(1) by inserting "or civil union" after "marriage";

(2) by replacing, in the English text, "his" wherever it appears by "his or her" and "he has made" by "he or she has made".

41. Article 757 of the said Code, amended by section 716 of chapter 57 of the statutes of 1992, is again amended by replacing "limiting the rights of the surviving spouse in the event of a remarriage" in the second paragraph by "limiting the rights of a surviving spouse in the event of a remarriage or new civil union".

42. Article 764 of the said Code is amended

(1) by replacing "divorce" in the first paragraph by "a divorce or the dissolution of a civil union";

(2) by inserting "or civil union" after "marriage" in the last paragraph;

(3) by replacing "des époux" in the French text of the last paragraph by "des conjoints".

43. Article 809 of the said Code is amended by inserting "married or civil union" before "spouses".

44. Article 840 of the said Code is amended by replacing "to the surviving spouse" at the end by "to the surviving married or civil union spouse".

45. Article 844 of the said Code is amended by replacing "of the spouse" in the second paragraph by "of the married or civil union spouse".

46. Article 851 of the said Code is amended by replacing "of the surviving spouse" in the first paragraph by "of the surviving married or civil union spouse".

47. Article 856 of the said Code is amended

(1) by replacing "The surviving spouse" in the first paragraph by "The surviving married or civil union spouse";

(2) by replacing “his” in the English text of the first paragraph by “his or her”;

(3) by replacing “he” in the English text of the second paragraph by “he or she”.

48. Article 857 of the said Code is amended by replacing “The surviving spouse” by “The surviving married or civil union spouse”.

49. Article 1696 of the said Code, amended by section 716 of chapter 57 of the statutes of 1992, is again amended

(1) by replacing “with him or a person related to him” in the English text by “with or related to the creditor”;

(2) by inserting “a spouse,” before “a relative by blood”;

(3) by inserting “or a civil union” after “connected by marriage” in the English text;

(4) by replacing “him, a partner or a legal person of which he is a director or which he controls” in the English text by “the creditor, a partner or a legal person of which the creditor is a director or which he or she controls”.

50. Articles 1813, 1819 and 1822, the heading of Section V of Chapter II of Title Two of Book Five and article 1839 of the said Code are amended by replacing “marriage contract” by “marriage or civil union contract”.

51. Article 1840 of the said Code is amended

(1) by replacing “marriage contract” in the first and second paragraphs by “marriage or civil union contract”;

(2) by replacing “époux” wherever it appears in the French text of the first paragraph by “conjoints”.

52. Article 1938 of the said Code is amended

(1) by replacing “The spouse of a lessee or a person who has been living with a lessee for at least six months, being the concubinary” in the first paragraph by “The married or civil union spouse of a lessee, or a person who has been living with the lessee for at least six months, being the *de facto* spouse”;

(2) by replacing “a person connected to him by marriage” in the English text of the first paragraph by “a person connected to the lessee by marriage or a civil union”;

(3) by replacing "he" wherever it appears in the English text of the first and second paragraphs by "he or she";

(4) by replacing "himself" and "him" in the English text of the second paragraph by "himself or herself" and "him or her", respectively.

53. Article 1957 of the said Code is amended

(1) by replacing the English text of the first paragraph by the following paragraph:

"**1957.** The lessor of a dwelling who is the owner of the dwelling may repossess it as a residence for himself or herself or for ascendants or descendants in the first degree or for any other relative or person connected by marriage or a civil union of whom the lessor is the main support.";

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

"The lessor may also repossess the dwelling as a residence for a spouse of whom the lessor remains the main support after a separation from bed and board or divorce or the dissolution of a civil union."

54. Article 1958 of the said Code is amended

(1) by replacing "his spouse" in the English text by "his or her spouse";

(2) by striking out "or his concubinary" at the end.

55. Article 2444 of the said Code is amended by replacing "his spouse" by "his or her married or civil union spouse".

56. Article 2449 of the said Code is amended by replacing "of his spouse" in the first paragraph by "of his or her married or civil union spouse".

57. Article 2457 of the said Code is amended by replacing "the spouse" by "the married or civil union spouse".

58. Article 2459 of the said Code is amended by replacing "Divorce or nullity of marriage causes" in the second paragraph by "Divorce or nullity of marriage or the dissolution or nullity of a civil union causes".

59. Article 2906 of the said Code is amended by replacing "Spouses" by "Married or civil union spouses".

60. Article 2999 of the said Code is amended

(1) by inserting "or civil union" after "matrimonial" in the first paragraph;

(2) by replacing “spouse” in the second paragraph by “married or civil union spouse”.

61. Article 3022 of the said Code, amended by section 56 of chapter 42 of the statutes of 2000, is again amended by replacing “spouses” in the first paragraph by “married or civil union spouses”.

62. Article 3062 of the said Code is amended

(1) by replacing “where the spouses consent” in the first paragraph by “where the married or civil union spouses consent”;

(2) by replacing “époux” wherever it otherwise appears in the French text by “conjoints”;

(3) by replacing “the marriage has been annulled” in the first paragraph by “the civil union has been dissolved, the marriage or civil union has been annulled”;

(4) by inserting “or the notarized joint declaration of dissolution” after “judgment” in the second paragraph.

63. The said Code is amended by inserting the following after article 3090:

“§3.1. — *Civil union*

“**3090.1.** A civil union is governed with respect to its essential and formal validity by the law of the place of its solemnization.

That law also applies to the effects of a civil union, except those binding all spouses regardless of the civil union regime, which are subject to the law of the country of domicile of the spouses.

“**3090.2.** The dissolution of a civil union is governed by the law of the country of domicile of the spouses or by the law of the place of its solemnization. The effects of the dissolution are subject to the law governing the dissolution.

“**3090.3.** Where the spouses are domiciled in different countries, the applicable law is the law of their common place of residence or, failing that, the law of their last common place of residence or, failing that, the law of the place of solemnization of the civil union or the law of the court seized of the application for dissolution, as the case may be.”

64. Article 3096 of the said Code is replaced by the following article:

“**3096.** The obligation of support between spouses who are divorced or separated from bed and board, between spouses whose civil union is dissolved or spouses whose marriage or union has been declared null is governed by the

law applicable to the divorce, separation from bed and board, dissolution of the civil union or annulment of the marriage or civil union."

65. Article 3099 of the said Code is amended

(1) by replacing "the spouse or a child of the deceased, to a large degree," in the first paragraph by "the married or civil union spouse or a child of the deceased, to a large degree,";

(2) by replacing "he" in the English text of the first paragraph by "he or she".

66. The heading of subsection 8 of Section II of Chapter III of Title Two of Book Ten of the said Code is amended by inserting "*or civil union*" after "*Matrimonial*".

67. Article 3122 of the said Code is amended by inserting "or civil union" after "matrimonial".

68. Article 3123 of the said Code is amended

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

"**3123.** The matrimonial or civil union regime of spouses who have not entered into matrimonial or civil union agreements is governed by the law of their country of domicile at the time of their marriage or civil union.";

(2) by replacing "époux" in the French text of the second paragraph by "conjoints";

(3) by replacing "the marriage" in the second paragraph by "their marriage or civil union".

69. Article 3124 of the said Code is amended

(1) by inserting "or civil union" after "matrimonial" in the first and second paragraphs;

(2) by replacing "époux" wherever it appears in the French text by "conjoints".

70. Article 3144 of the said Code is replaced by the following article:

"**3144.** A Québec authority has jurisdiction in matters relating to the nullity of a marriage or the dissolution or nullity of a civil union when the domicile or place of residence of one of the spouses or the place of solemnization of their marriage or civil union is in Québec."

71. Article 3145 of the said Code is replaced by the following article:

"**3145.** As regards the effects of marriage or a civil union, particularly those that are binding on all spouses regardless of their matrimonial or civil union regime, a Québec authority has jurisdiction when the domicile or place of residence of one of the spouses is in Québec."

72. Article 3154 of the said Code is amended

(1) by replacing "of matrimonial regime" in the first paragraph by "relating to a matrimonial or civil union regime";

(2) by replacing "des époux" wherever it appears in the French text by "des conjoints";

(3) by replacing "cet époux" in the French text of subparagraph 1 of the first paragraph by "ce conjoint";

(4) by replacing "his domicile" in the English text of the second paragraph by "his or her domicile".

73. Article 3167 of the said Code is amended

(1) by replacing "his" wherever it appears in the English text by "his or her";

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

"In actions relating to the dissolution of a civil union, the jurisdiction of a foreign authority is recognized only if the country concerned recognizes that institution; where that is the case, its jurisdiction is recognized subject to the same conditions as in matters of divorce."

AMENDMENTS TO OTHER LEGISLATION AND CONSEQUENTIAL AMENDMENTS

74. Section 2 of the Workmen's Compensation Act (R.S.Q., chapter A-3), amended by section 2 of chapter 57 of the statutes of 1978, section 251 of chapter 63 of the statutes of 1979 and section 1 of chapter 14 of the statutes of 1999, is again amended

(1) by replacing "married and who live together" in subparagraph *a* of paragraph *e* of subsection 1 by "married or in a civil union and who live together";

(2) by replacing "is married or, as the case may be, has been married, to a worker" in subparagraph 2 of paragraph *l* of subsection 1 by "is or was married to or in a civil union with the worker";

(3) by replacing "whose marriage has been dissolved by a decree nisi of divorce or declared null by a judgment in nullity of marriage" in subparagraph i of subparagraph 2 of paragraph *l* of subsection 1 by "whose marriage to or civil union with the worker has been dissolved or declared null by a final judgment or whose civil union with the worker has been dissolved by a notarized joint declaration of dissolution";

(4) by replacing "consorts" and "consort" wherever they appear in the English text by "spouses" and "spouse", respectively.

75. Section 36 of the said Act, replaced by section 20 of chapter 57 of the statutes of 1978, is amended

(1) by replacing "when he or she remarries or he or she lives as husband and wife with another person" in the first paragraph of subsection 2 by "when he or she remarries or enters into a civil union, or lives in a *de facto* union, with another person, whether of the opposite sex or the same sex,";

(2) by replacing "consort" and "consorts" wherever they appear in the English text by "spouse" and "spouses", respectively.

76. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by replacing "is married to" in paragraph 1 of the definition of "spouse" by "is married to, or in a civil union with,".

77. Section 3 of the Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) is amended

(1) by replacing "he lived" in the English text by "he or she lived";

(2) by replacing "the spouse" in paragraph 5 by "the married or civil union spouse".

78. Section 2 of the Act respecting financial assistance for education expenses (R.S.Q., chapter A-13.3) is amended by replacing "married to" in the definition of "spouse" by "married to, or in a civil union with,".

79. Section 4 of the said Act, amended by section 191 of chapter 54 of the statutes of 1993, section 73 of chapter 2 of the statutes of 1994 and section 1 of chapter 18 of the statutes of 2001, is again amended by replacing "married" in subparagraph 1 of the first paragraph by "married or in a civil union".

80. Section 1.1 of the Legal Aid Act (R.S.Q., chapter A-14) is amended

(1) by replacing "two persons who are married to each other" in paragraph 1 by "two persons who are married to or in a civil union with each other";

(2) by inserting “of opposite sex or the same sex” after “two persons” in paragraph 2.

81. Section 4.8 of the said Act is amended by inserting “or civil union” after “marriage” in paragraph 4.

82. Section 113 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by striking out “or *de facto* spouse” in subparagraph 3.1 of the second paragraph.

83. Section 46 of the Land Surveyors Act (R.S.Q., chapter A-23) is amended by replacing “A person allied or related” by “The spouse of or a person allied or related”.

84. Section 71 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) is amended by replacing “by the effect of an Act or as the result of a marriage” by “by the effect of an Act or because of a marriage, a civil union or a *de facto* union to which he or she is party”.

85. Section 2 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended

(1) by replacing “is married to” in the definition of “spouse” by “is married to or in a civil union with”;

(2) by replacing “or whose marriage to the victim has been dissolved by a final judgment of divorce or declared null by a declaration of nullity of marriage” in paragraph 2 of the definition of “dependant” by “whose marriage to or civil union with the victim has been dissolved or declared null by a final judgment, or whose civil union has been dissolved by a notarized joint declaration of dissolution”.

86. Section 1 of the Act respecting insurance (R.S.Q., chapter A-32) is amended

(1) by replacing “who is married to and cohabits with another person” in paragraph *v* by “who is married to, or in a civil union with, and cohabits with another person”;

(2) by striking out “outside marriage” in paragraph *v*.

87. Section 40 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2) is amended

(1) by inserting “, civil union, *de facto* union” after “marriage” in subparagraph *a* of the second paragraph;

(2) by replacing "if one is married to the other or to" in subparagraph *b* of the third paragraph by ", a civil union or a *de facto* union if one is connected with the other or with".

88. Section 209 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1) is amended

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

"(1) is married to, or in a civil union with, and cohabits with another person;";

(2) by striking out "outside marriage" in paragraph 2.

89. Section 47 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by replacing "Husband and wife have, in the marriage," in the first paragraph by "Married or civil union spouses have, in the marriage or civil union,".

90. Section 92 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended by replacing "spouse" in paragraph 6 by "married or civil union spouse".

91. Article 70 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended

(1) by replacing "oppositions to marriage" in the second paragraph by "oppositions to a marriage or a civil union";

(2) by inserting "or civil union" after "matrimonial" in the second paragraph;

(3) by replacing "where the marriage is to be solemnized" in the second paragraph by "where the marriage or civil union is to be solemnized".

92. Article 121 of the said Code is amended

(1) by replacing "he is interested" in the English text by "he or she is interested";

(2) by replacing "which concern his relations" by "which concern his or her spouse or a relative".

93. Article 195 of the said Code is amended by replacing "as to bed and board, in nullity of marriage or for divorce" in the first paragraph by "from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union".

94. Article 196 of the said Code is amended by replacing "annulment of marriage" in the second paragraph by "annulment of a marriage or a civil union".

95. Article 234 of the said Code is amended

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

"(1) If the judge is the spouse of or related or allied within the degree of cousin-german inclusively to one of the parties;";

(2) by replacing "he", "himself", "him" and "his" wherever they appear in the English text by "the judge", "himself or herself", "him or her" and "his or her", respectively;

(3) by inserting "is the spouse of or" before "is related" in paragraph 9 .

96. Article 295 of the said Code is amended

(1) by inserting "A spousal or family" before "Relationship" in the second paragraph;

(2) by inserting "or a civil union" after "connection by marriage" in the English text of the second paragraph.

97. Article 307 of the said Code is amended by replacing "consort during the marriage" by "spouse during their life together".

98. Article 394 of the said Code is amended by replacing "as to bed and board, in nullity of marriage or for divorce" by "from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union".

99. Article 404 of the said Code is amended

(1) by replacing "annulment of marriage" in the last paragraph by "annulment of a marriage or a civil union";

(2) by replacing "his defence" in the English text of the last paragraph by "a defence";

(3) by replacing "as to bed and board" in the English text of the last paragraph by "from bed and board";

(4) by replacing "or for divorce" in the last paragraph by "or divorce or for the dissolution of a civil union".

100. Article 457 of the said Code is amended by replacing "as to bed and board, in nullity of marriage or for divorce" by "from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union".

101. Article 553 of the said Code is amended

(1) by replacing "his consort" in the English text of subparagraph *a* of the first paragraph of subparagraph 11 of the first paragraph by "his or her spouse";

(2) by striking out "person to whom the debtor is married or, if the person is not married, the" in the second paragraph of subparagraph 11 of the first paragraph and by replacing "spouse of the debtor" at the end of that paragraph by "*de facto* spouse of the debtor, provided the debtor is neither married nor in a civil union";

(3) by inserting "between married or civil union spouses" after "allowance" in the last paragraph.

102. Article 583.2 of the said Code is amended

(1) by replacing "he" in the English text of the first paragraph by "he or she";

(2) by replacing "his" in the English text of the second paragraph by "his or her";

(3) by inserting "spouses," before "relatives" in the second paragraph.

103. Article 647 of the said Code is amended by inserting "or civil union" after "marriage" in the second last paragraph.

104. Article 734.0.1 of the said Code is amended

(1) by replacing "as to bed and board or for divorce" in the first paragraph by "from bed and board or divorce or for the dissolution or annulment of a civil union";

(2) by inserting "or civil union" after "matrimonial" in the first paragraph.

105. Article 813.3 of the said Code is amended by replacing "as to bed and board, in nullity of marriage or for divorce," by "from bed and board, marriage annulment or divorce or for the annulment or dissolution of a civil union,".

106. Article 813.4 of the said Code, amended by section 133 of chapter 42 of the statutes of 2000, is again amended

(1) by replacing "as to bed and board, nullity of marriage or divorce" in the first paragraph by "from bed and board, marriage annulment or divorce or for the annulment or dissolution of a civil union";

(2) by replacing "époux" wherever it appears in the French text by "conjoints" or "conjoint", as the case may be;

(3) by replacing “his matrimonial” in the first paragraph by “his or her matrimonial or civil union”.

107. Article 814.3 of the said Code is amended by inserting “or civil union” after “marriage”.

108. Article 815.2.1 of the said Code is amended by inserting “or civil union” after “marriage” in the first paragraph.

109. Article 817 of the said Code is amended

(1) by replacing “as to bed and board, the nullity of a marriage or a divorce” by “from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union”;

(2) by adding “or civil union” at the end.

110. Article 817.2 of the said Code is amended

(1) by replacing “as to bed and board, for nullity of marriage or for divorce” in the first paragraph by “from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union”;

(2) by inserting “or civil union” after “marriage” and after “matrimonial” in the second paragraph.

111. The heading of Chapter II of Title IV of Book V of the said Code is amended by adding “OR A CIVIL UNION” at the end.

112. Article 818.2 of the said Code is amended

(1) by inserting “or civil union” after “matrimonial”;

(2) by striking out “marriage”.

113. The heading of Section II of Chapter II of Title IV of Book V of the said Code is amended by adding “OR TO A CIVIL UNION” at the end.

114. Article 819 of the said Code is amended

(1) by inserting “or to a civil union” after “marriage”;

(2) by replacing “époux” in the French text by “conjoints”.

115. Articles 819.1 and 819.2 of the said Code are amended by replacing “marriage” at the end by “marriage or civil union”.

116. The heading of Chapter V of Title IV of Book V of the said Code is amended by replacing "AS TO BED AND BOARD AND FOR DIVORCE" by "FROM BED AND BOARD OR DIVORCE OR FOR DISSOLUTION OF A CIVIL UNION".

117. Article 822 of the said Code is amended

(1) by replacing "Les époux" in the French text by "Les conjoints";

(2) by replacing "as to bed and board or for divorce" by "from bed and board or divorce or for the dissolution of their civil union".

118. Article 822.1 of the said Code is amended

(1) by replacing "époux" wherever it appears in the French text by "conjoints";

(2) by replacing "as to bed and board or of their divorce" in the first paragraph by "from bed and board or divorce or of the dissolution of their civil union";

(3) by inserting "or civil union" after "matrimonial" in the first paragraph.

119. Article 822.2 of the said Code is amended by replacing "des époux" in the French text of the second paragraph by "des conjoints".

120. Article 822.3 of the said Code is amended

(1) by replacing "des époux" in the French text by "des conjoints";

(2) by replacing "as to bed and board or for divorce" by "from bed and board or divorce or for the dissolution of a civil union".

121. Article 822.4 of the said Code is amended

(1) by replacing "as to bed and board or for divorce" by "from bed and board or divorce or for the dissolution of a civil union";

(2) by replacing "époux" wherever it appears in the French text of the first and second paragraphs by "conjoints".

122. Article 822.5 of the said Code is amended by replacing "as to bed and board or divorce" by "from bed and board or divorce or the dissolution of a civil union".

123. Article 825.2 of the said Code is amended

(1) by replacing "as the case may be, on his spouse," by "if applicable, on his or her married or civil union spouse,";

(2) by replacing "on his children 14 years of age or older and on his ascendants" in the English text by "his or her children 14 years of age or older and his or her ascendants".

124. Article 865.2 of the said Code is amended

(1) by inserting "or civil union" after "expenses of the marriage" in the first paragraph;

(2) by replacing "spouses" in the first paragraph by "married or civil union spouses";

(3) by replacing "he" in the English text of the second paragraph by "he or she".

125. Article 955 of the said Code is amended

(1) by inserting "spouse," before "relative" at the end of the first paragraph;

(2) by inserting "or a civil union" after "connected by marriage" at the end of the English text of the first paragraph.

126. Section 39 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) is amended by replacing the first paragraph by the following paragraph:

"**39.** The spouse of a Member or pensioner is the person married to or in a civil union with the Member or pensioner or, provided that neither is married or in a civil union, the person of the opposite or the same sex who, at the time of the death, was living in a *de facto* union with the Member or pensioner and had been publicly represented as the Member's or pensioner's spouse for at least three years or, if a child has issued or will issue from their *de facto* union, for at least one year."

127. Section 56 of the said Act is amended

(1) by inserting "or annulment or dissolution of a civil union" after "annulment of marriage" in the first paragraph;

(2) by replacing "period of the marriage" in the first paragraph by "duration of the marriage or civil union";

(3) by replacing "his" in the English text of the first and second paragraphs by "his or her";

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

128. Section 57 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

129. Section 66 of the said Act is amended by replacing "between the spouses" in the last paragraph by "between married or civil union spouses".

130. Section 70 of the said Act is amended by inserting "or civil union" after "marriage" in the first paragraph.

131. Section 69 of the Cooperatives Act (R.S.Q., chapter C-67.2) is amended

(1) by replacing "his spouse or his child" in the English text of the first paragraph by "his or her spouse or children";

(2) by replacing "his place" in the English text of the first paragraph by "his or her place";

(3) by inserting ", or in a civil union with," after "married to" in the last paragraph.

132. Section 116 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended

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

"(1) is married to or in a civil union with and cohabits with another person;";

(2) by replacing "in a conjugal relationship outside marriage" in paragraph 2 by "of the opposite or the same sex in a conjugal relationship".

133. Section 3 of the Mining Duties Act (R.S.Q., chapter D-15) is amended by inserting ", civil union, *de facto* union" after "marriage" in paragraph *a*.

134. Section 4 of the said Act is amended

(1) by replacing "his" in the English text of paragraph *a* by "his or her";

(2) by replacing "marriage if one is married to the other or to" in paragraph *b* by "marriage, a civil union or a *de facto* union if one is connected with the other or with";

(3) by replacing "or by marriage if his" in paragraph c by "or by marriage, a civil union or a *de facto* union if his or her".

135. Section 20 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) is amended

(1) by replacing "consorts" in the English text of subparagraph *d* of the first paragraph and the second paragraph by "spouses";

(2) by replacing "his favour" in the English text of subparagraph *g* of the first paragraph by "his or her favour";

(3) by replacing "in addition to its ordinary meaning" in the second paragraph by "in addition to married or civil union spouses".

136. Section 131 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by striking out ", including a *de facto* spouse," in the first paragraph.

137. Section 46 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended

(1) by replacing "him" in the English text of subparagraph 1 of the second paragraph by "him or her";

(2) by replacing subparagraph 2 of the second paragraph by the following subparagraph:

"(2) "spouse" means a person who is married to, or in a civil union with, and cohabits with the person referred to in the first paragraph, or a person of the opposite or the same sex who lives with that person in a *de facto* union and who is publicly represented as that person's spouse."

138. Section 205 of the Election Act (R.S.Q., chapter E-3.3) is amended by replacing "who is the spouse or *de facto* spouse of or a relative of," in the first paragraph by "who is the spouse or a relative of".

139. Section 293 of the said Act is amended

(1) by replacing "his" in the English text of the first paragraph by "his or her";

(2) by replacing ", or *de facto* spouse, and the" in subparagraph 3 of the second paragraph by "and".

140. Section 4 of the Act respecting reciprocal enforcement of maintenance orders (R.S.Q., chapter E-19) is amended by adding "or the civil union" at the end.

141. Section 2.2 of the Taxation Act (R.S.Q., chapter I-3) is amended by striking out "of the opposite sex".

142. Section 2.2.1 of the said Act, amended by section 2 of chapter 53 of the statutes of 2001, is again amended

(1) by inserting "or of a civil union" after "subparagraph *a*" in subparagraphs *b*, *c* and *d* of the first paragraph;

(2) by adding the following subparagraph at the end of the first paragraph:

"(*e*) references to a matrimonial regime include a civil union regime."

143. The Interpretation Act (R.S.Q., chapter I-16) is amended by inserting the following section after section 61:

"**61.1.** The word "spouse" means a married or civil union spouse.

The word "spouse" includes a *de facto* spouse unless the context indicates otherwise. Two persons of opposite sex or the same sex who live together and represent themselves publicly as a couple are *de facto* spouses regardless, except where otherwise provided, of how long they have been living together. If, in the absence of a legal criterion for the recognition of a *de facto* union, a controversy arises as to whether persons are living together, that fact is presumed when they have been cohabiting for at least one year or from the time they together become the parents of a child."

144. Section 1 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended

(1) by replacing "consort" in the English text of paragraph 3 by "spouse";

(2) by replacing subparagraph *a* of paragraph 3 by the following subparagraph:

"(*a*) are married or in a civil union and cohabiting;";

(3) by inserting "being of opposite sex or the same sex," at the beginning of subparagraph *b* of paragraph 3;

(4) by replacing "he" and "him" wherever they appear in the English text of paragraph 10 by "he or she" and "him or her", respectively.

145. Section 81 of the said Act is amended

(1) by replacing "his wedding day" in the first paragraph by "the day of his or her wedding or civil union";

(2) by replacing "on the wedding day of one of his children, of his" in the second paragraph by "on the day of the wedding or civil union of his or her child,";

(3) by replacing “his consort” in the English text of the second paragraph by “his or her spouse”;

(4) by replacing “his” in the English text of the third paragraph by “his or her”.

146. Section 1 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is amended by adding the following paragraph at the end:

“The same applies to support payable under a transaction made upon a joint declaration dissolving a civil union executed before a notary where the transaction and the declaration are notified to the Minister or where the Minister ascertains, upon an application by the creditor and notification of the documents, that the debtor of support is in default.”

147. Section 8 of the said Act, amended by section 3 of chapter 55 of the statutes of 2001, is again amended by inserting “of documents referred to in the second paragraph of section 1,” after “Upon receipt” in the first paragraph.

148. Section 23 of the said Act is amended

(1) by inserting “or, in the case of support referred to in the second paragraph of section 1, at the office of the court of the domicile of the debtor of support” after “at the office of the court having awarded the support” in the first paragraph;

(2) by striking out “having awarded the support” in the second paragraph.

149. Section 25 of the said Act is amended by inserting “or subsequent to the notification of documents referred to in the second paragraph of section 1” after “subsequent to the original judgment awarding support”.

150. Section 8 of the Public Protector Act (R.S.Q., chapter P-32) is amended

(1) by replacing “spouse of the Public Protector or of his assistant, as the case may be,” in the second last paragraph by “married or civil union spouse of the Public Protector or of his or her assistant”;

(2) by replacing “his” and “he” wherever they appear in the English text by “his or her” and “he or she”, respectively.

151. Section 2 of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (R.S.Q., chapter P-38.001) is amended

(1) by striking out “or *de facto* spouse” in the second paragraph;

(2) by inserting “or a civil union” after “by marriage” in the English text of the second paragraph.

152. Section 3 of the Act respecting the collection of certain debts (R.S.Q., chapter R-2.2) is amended

(1) by replacing "him" in the English text of subparagraph 2 of the first paragraph by "him or her";

(2) by replacing "his" in the English text of subparagraphs 2 and 4 of the first paragraph by "his or her";

(3) by replacing "spouses" in subparagraph 4 of the first paragraph by "married or civil union spouses".

153. Section 34 of the said Act, amended by section 103 of chapter 32 of the statutes of 2001, is again amended

(1) by replacing "who has notified him in writing to communicate with him in writing only" in the English text of subparagraph 2 of the first paragraph by "having sent a written notice requesting written communication only";

(2) by replacing "the spouse" in subparagraph 3 of the first paragraph by "the married or civil union spouse";

(3) by replacing "he must then identify himself" in the English text of subparagraph 3 of the first paragraph by "the debtor must then identify himself or herself";

(4) by replacing "their spouses" in subparagraph 4 of the first paragraph by "their married or civil union spouses";

(5) by replacing "his" in the English text of subparagraphs 3, 4, 5 and 9 of the first paragraph by "his or her".

154. Section 64 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended

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

"(1) if the commissioner is the spouse of or related or allied within the degree of cousin-german inclusively to one of the parties;";

(2) by replacing "he", "himself", "him" and "his" wherever they appear in the English text by "the commissioner", "himself or herself", "him or her" and "his or her", respectively;

(3) by inserting "is the spouse of or" before "is related" in paragraph 11.

155. Section 72 of the said Act is amended

(1) by replacing "his consort" in the first paragraph of the English text by "his or her spouse";

(2) by replacing “himself”, “he” and “him” in the English text of the second paragraph by “personally”, “he or she” and “him or her”, respectively;

(3) by inserting “or a civil union” after “by marriage” in the English text of the second paragraph.

156. Section 91 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended

(1) by striking out “or”, in the English text, at the end of subparagraph *a* of the first paragraph and by inserting the following subparagraph after that subparagraph:

“(*a*.1) is in a civil union with the contributor; or”;

(2) by replacing “unmarried” in subparagraph *b* of the first paragraph by “neither married nor in a civil union”;

(3) by inserting “, a civil union” after “marriage” in the second paragraph.

157. The heading of subdivision 1 of Division I.1 of Title IV of the said Act is amended by adding “*or civil union*” at the end.

158. Section 102.1 of the said Act is amended

(1) by inserting “or in the case of the dissolution otherwise than by death or the annulment of a civil union,” after “nullity of marriage,” in the first paragraph;

(2) by inserting “where the notarized transaction settling the consequences of the dissolution of the civil union contains such provisions” before “or where” in the second paragraph;

(3) by inserting “or the notarized transaction” after “indication of the court” in the third paragraph.

159. Section 102.2 of the said Act is amended by adding the following paragraph at the end:

“(*c*) two persons whose civil union has been declared null by a judgment or has been dissolved by a judgment or a notarized joint declaration.”

160. Section 102.3 of the said Act is amended

(1) by inserting “or civil union” after “of their marriage” in the first paragraph;

(2) by inserting “or the dissolution or annulment of their civil union” after “bed and board” at the end of the first paragraph;

(3) by replacing “les époux” wherever they appear in the French text of the second paragraph by “les conjoints”;

(4) by replacing “if the court indicates, in the judgment giving rise to partition or in a subsequent judgment” in the second paragraph by “if the court, in the judgment giving rise to partition or in a subsequent judgment, or the notarized transaction indicates”.

161. Section 102.3.1 of the said Act is amended

(1) by inserting “or the dissolution or annulment of a civil union” after “annulment of marriage”;

(2) by inserting “or former spouse” after “spouse”;

(3) by adding “or civil union” at the end.

162. Section 102.5 of the said Act is amended

(1) by inserting “or the judgment of dissolution or annulment of the civil union or notarized joint declaration dissolving the civil union” after “bed and board” in the first paragraph;

(2) by replacing “the dissolution, annulment of marriage, or separation from bed and board results from a judgment pronounced outside” in the second paragraph by “the judgment or the notarized declaration is from outside”;

(3) by adding “or declaration” at the end of the third paragraph.

163. Section 102.6 of the said Act is amended by replacing “from a judgment pronounced outside” in the first paragraph by “from a judgment or a notarized declaration from outside”.

164. Section 102.8 of the said Act is amended by replacing “of a judgment pronounced outside” by “of a judgment or a notarized declaration from outside”.

165. Section 102.10.1 of the said Act is amended by inserting “, as regards former married spouses or spouses legally separated from bed and board,” after “apply only”.

166. Section 102.10.3 of the said Act is amended

(1) by inserting “or in a civil union with” after “married to” in paragraph *a*;

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

"(*c*) former civil union spouses who lived in a *de facto* union before their civil union; the latter spouses are, with respect to the period of *de facto* union, considered to be *de facto* spouses from the date of effect of the dissolution, by way of a judgment or of a notarized joint declaration, or the annulment of their civil union."

167. Section 102.10.4 of the said Act is amended by replacing "of the judgment of divorce, annulment of marriage or separation from bed and board" in the first paragraph by "of the divorce, annulment of marriage, separation from bed and board or dissolution or annulment of the civil union".

168. Section 102.10.5 of the said Act is amended

(1) by adding "or civil union" at the end of the first paragraph;

(2) by inserting "or in a civil union with" after "married to" in subparagraph *b* of the second paragraph.

169. Section 114 of the said Act is amended

(1) by replacing "after his marriage" by "after his or her marriage or civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by replacing "at the time of his marriage" wherever it appears by "at the time of his or her marriage or civil union";

(4) by striking out "his having" in the English text;

(5) by replacing "he had been living" in the English text by "he or she had been living";

(6) by inserting "or civil union" after "their marriage".

170. Section 158.3 of the said Act is amended

(1) by replacing "and not legally separated from bed and board" in subparagraph 1 of the first paragraph by "and not legally separated from bed and board or if they are in a civil union";

(2) by replacing "is married to" in subparagraph 2 of the first paragraph by "is married to or in a civil union with".

171. Section 158.6 of the said Act is amended

(1) by replacing "married spouses" in subparagraph *a* of paragraph 2 by "married or civil union spouses";

(2) by replacing “du mariage” in the French text of subparagraph *a* of paragraph 2 by “de leur union”;

(3) by inserting “or civil union” after “their marriage” in subparagraph *a* of paragraph 2;

(4) by inserting “or civil union” after “the marriage” in subparagraph *a* of paragraph 2.

172. Section 158.8 of the said Act is amended

(1) by inserting the following after the third line in paragraph *c*:

“— a judgment of dissolution or annulment of the civil union of the spouses or a notarized joint declaration dissolving the civil union, or”;

(2) by replacing “married spouses” in paragraph *c* by “married or civil union spouses”.

173. Section 219 of the said Act is amended by replacing “married spouses who lived in a *de facto* union before their marriage” in paragraph *g*.2 by “married or civil union spouses who lived in a *de facto* union before their marriage or civil union”.

174. Section 33 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1) is amended by replacing the introductory paragraph by the following paragraph:

“**33.** For the purposes of the plan, the spouse is the person who is married to or in a civil union with the employee or pensioner, as the case may be, or, provided neither is married or in a civil union at the time of the death of the employee or pensioner, the person of the opposite or the same sex who has been living in a conjugal relationship with the employee or pensioner for a period of not less than three years immediately prior to the employee’s or pensioner’s death, and had been publicly represented as the employee’s or pensioner’s spouse by the employee or pensioner 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:”.

175. Section 41.1 of the said Act is amended

(1) by replacing “, annulment of marriage” in the first paragraph by “or marriage annulment, for the dissolution or annulment of a civil union”;

(2) by replacing “his spouse” wherever it appears in the English text by “his or her spouse”;

(3) by inserting “or civil union” after “the marriage” in the first paragraph;

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

176. Section 41.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

177. Section 58 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2) is amended by replacing the introductory paragraph by the following paragraph:

"**58.** For the purposes of the plan, the spouse is the person who is married to or in a civil union with the employee or pensioner, as the case may be, or, provided neither is married or in a civil union at the time of death of the employee or pensioner, the person of the opposite or the same sex who had been living in a conjugal relationship with the employee or pensioner for a period of not less than three years immediately prior to the death of the employee or pensioner and had been publicly represented as the employee's or pensioner's spouse by the employee or pensioner 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:".

178. Section 125.1 of the said Act is amended

(1) by replacing ", annulment of marriage" in the first paragraph by "or marriage annulment, for the dissolution or annulment of a civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by inserting "or civil union" after "the marriage" in the first paragraph;

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

179. Section 125.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

180. Section 44 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is replaced by the following section:

"**44.** For the purposes of this Act, the spouse is the person who is married to or in a civil union with a participant or pensioner or, provided neither is married or in a civil union, at the time of the death of the participant or pensioner, the person of the opposite or the same sex who had been living in a conjugal relationship with the participant or pensioner and had been publicly represented as the participant's or pensioner's spouse for one year if a child is born or to be born of their union or, otherwise, for not less than three years."

181. Section 63.1 of the said Act is amended

(1) by replacing ", annulment of marriage" in the first paragraph by "or marriage annulment, for the dissolution or annulment of a civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by replacing "the marriage" in the first paragraph by "the marriage or civil union";

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

182. Section 63.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

183. Section 44 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing the introductory paragraph by the following paragraph:

"**44.** For the purposes of the plan, the spouse is the person who is married to or in a civil union with the employee or pensioner, as the case may be, or, provided neither is married or in a civil union at the time of the death of the employee or pensioner, the person of the opposite or the same sex who had been living in a conjugal relationship with the pensioner or employee for a period of not less than three years immediately prior to the employee's or pensioner's death, and had been publicly represented as the employee's or pensioner's spouse by the employee or pensioner 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:".

184. Section 122.1 of the said Act is amended

(1) by replacing ", annulment of marriage" in the first paragraph by "or marriage annulment, for the dissolution or annulment of a civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by replacing "the marriage" in the first paragraph by "the marriage or civil union";

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

185. Section 122.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

186. Section 46 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended by replacing the introductory paragraph by the following paragraph:

"**46.** For the purposes of the plan, the spouse is the person who is married to or in a civil union with the teacher or pensioner, as the case may be, or, provided neither is married or in a civil union at the time of the death of the teacher or pensioner, the person of the opposite or the same sex who had been living in a conjugal relationship with the teacher or pensioner for a period of not less than three years immediately prior to the teacher's or pensioner's death, and had been publicly represented as the teacher's or pensioner's spouse by the teacher or pensioner 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:".

187. Section 72.1 of the said Act is amended

(1) by replacing ", annulment of marriage" in the first paragraph by "or marriage annulment, for the dissolution or annulment of a civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by replacing "the marriage" in the first paragraph by "the marriage or civil union";

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

188. Section 72.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

189. Section 75.1 of the said Act is amended

(1) by inserting "or civil union" after "marriage" in the second paragraph;

(2) by replacing "between spouses" in the third paragraph by "between married or civil union spouses".

190. Section 77 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by replacing the introductory paragraph by the following paragraph:

"**77.** For the purposes of this Act, the spouse is the person who is married to or in a civil union with the officer or pensioner or, provided neither is married or in a civil union at the time of the death of the officer or pensioner, the person of the opposite or the same sex who had been living in a conjugal relationship with the officer or pensioner for a period of not less than three years immediately prior to the officer's or pensioner's death, and had been publicly represented as the officer's or pensioner's spouse by the officer or pensioner 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:".

191. Section 108.1 of the said Act is amended

(1) by replacing ", annulment of marriage" in the first paragraph by "or marriage annulment, for the dissolution or annulment of a civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by replacing "the marriage" in the first paragraph by "the marriage or civil union";

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

192. Section 108.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or

on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

193. Section 111.2 of the said Act is amended

(1) by inserting "or civil union" after "marriage" in the second paragraph;

(2) by replacing "between spouses" in the third paragraph by "between married or civil union spouses".

194. Section 85 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended

(1) by replacing "married to" in subparagraph 1 of the first paragraph by "married to or in a civil union with";

(2) by replacing "an unmarried member" in subparagraph 2 of the first paragraph by "a member who is neither married nor in a civil union";

(3) by inserting "or civil union" after "a marriage" in the third paragraph.

195. Section 89 of the said Act is amended

(1) by replacing "annulment of marriage or" by "marriage annulment, by the dissolution or annulment of their civil union or by the";

(2) by inserting ", dissolution or annulment of the civil union" before "or cessation of conjugal relationship".

196. Section 89.1 of the said Act is amended by replacing "or as of the date of the cessation of conjugal relationship" in the first paragraph by ", as of the date of dissolution of the civil union or as of the date of the cessation of the conjugal relationship".

197. Section 90 of the said Act is amended by inserting ", has contracted a civil union" after "remarried".

198. Section 107 of the said Act is amended

(1) by replacing "annulment of marriage" in the first paragraph by "marriage annulment or the dissolution otherwise than by death or the annulment of a civil union";

(2) by inserting "or a notarized joint declaration dissolving a civil union" after "the court" in the first paragraph;

(3) by inserting "or the notarized declaration" after "the court" in the second paragraph;

(4) by adding “or by the notarized declaration” at the end of the second paragraph.

199. Section 108 of the said Act is amended

(1) by replacing “, annulment of marriage or” in the first paragraph by “or marriage annulment, for the dissolution or annulment of a civil union or for the”;

(2) by replacing “his spouse” in the English text of the first paragraph by “his or her spouse”;

(3) by inserting “or of a joint procedure before a notary for the dissolution of their civil union” after “family matter” in the third paragraph.

200. Section 178 of the said Act is amended by replacing “married to each other” in the first paragraph by “married to or in a civil union with each other”.

201. Section 300.4 of the said Act is amended by inserting “, dissolutions or annulments of a civil union” after “separations from bed and board”.

202. Sections 27, 28, 30 and 30.1 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16) are amended

(1) by replacing “spouse” wherever it appears by “married or civil union spouse”;

(2) by replacing “he”, “him” and “his” wherever they appear in the English text by “he or she”, “him or her” and “his or her”, respectively.

203. Section 41.4 of the said Act is amended

(1) by replacing “, annulment of marriage” by “or marriage annulment, for the dissolution or annulment of a civil union”;

(2) by replacing “his spouse” in the English text by “his or her spouse”;

(3) by replacing “the marriage” by “the marriage or civil union”;

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

“The member or former member and his or her spouse are also entitled to receive a statement of benefits, upon an application in writing to the pension committee, for the purposes of a pre-hearing mediation concerning a family matter or of a joint procedure before a notary for the dissolution of their civil union. The statement shall contain the information determined by regulation.”

204. Section 41.5 of the said Act is amended by adding "or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union" at the end of the second paragraph.

205. Section 1.0.1 of the Act respecting property tax refund (R.S.Q., chapter R-20.1) is replaced by the following section:

"**1.0.1.** The rules provided for in section 2.2.1 of the Taxation Act (chapter I-3), adapted as required, apply to this Act and the regulations."

206. Section 513 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended

(1) by replacing "married user" in the second paragraph by "user who is married or in a civil union";

(2) by replacing "his father" in the English text of the second paragraph by "the user's father".

207. Section 6 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) is amended

(1) by inserting ", or in a civil union with," after "married to" in paragraph 1 of the definition of "spouse" in the first paragraph;

(2) by inserting "without being married or in a civil union" after "same sex" in paragraph 2 of the definition of "spouse" in the first paragraph.

208. Section 19 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is amended

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

"(1) persons who are married or in a civil union with each other and who cohabit;";

(2) by inserting "of opposite sex or the same sex" after "persons" in subparagraph 2 of the first paragraph.

209. Section 20 of the said Act is amended by inserting "nor in a civil union" after "nor married" in subparagraph 2 of the first paragraph and in the second paragraph.

210. Section 28 of the said Act, amended by section 143 of chapter 9 of the statutes of 2001, is again amended by adding "or in a civil union" at the end of subparagraph 3 of the first paragraph.

211. Section 43 of the said Act is amended by adding the following sentence at the end of the second paragraph : "As well, in the case of a joint procedure for the dissolution of a civil union, the recipient must so inform the Minister at least 10 days before the date on which the agreement is to be executed before a notary."

212. Section 72 of the said Act, amended by section 4 of chapter 44 of the statutes of 2001, is again amended by inserting "or in a civil union" after "nor married" in subparagraph 2 of the first paragraph.

213. Sections 104 and 111 of the said Act are amended by inserting "or by a transaction and joint declaration of dissolution of a civil union executed before a notary" after "judgment" in the first paragraph.

214. Section 79.1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by adding "or civil union" at the end.

215. Section 80.1 of the said Act is amended by adding "or civil union" at the end of the second paragraph.

216. Section 91 of the Act respecting transportation by taxi (R.S.Q., chapter T-11.1) is amended by inserting ", civil unions" after "weddings" in the first paragraph.

217. Section 122.1 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting "or civil union" after "marriage".

218. Section 224.14 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended

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

"(1) is married to or in a civil union with the judge ;" ;

(2) by replacing "who was unmarried" in paragraph 2 by "the latter being neither married nor in a civil union".

219. Section 224.28 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended by replacing "between spouses" in the second paragraph by "between married or civil union spouses".

220. Section 236 of the said Act is amended

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

"(1) is married to or in a civil union with the judge ;" ;

(2) by replacing "who was unmarried" in paragraph 2 by "the latter being neither married nor in a civil union".

221. Section 244.13 of the said Act is amended by replacing "between spouses" in the second paragraph by "between married or civil union spouses".

222. Section 246.10 of the said Act is amended by replacing "surviving spouse" by "surviving married or civil union spouse".

223. Section 246.12 of the said Act is amended

(1) by replacing "spouse" wherever it appears in the second paragraph by "married or civil union spouse";

(2) by replacing "paid to his", "he" and "his heirs" in the English text of the second paragraph by "paid to the judge's", "he or she" and "his or her heirs", respectively.

224. Section 246.14.2 of the said Act is amended

(1) by replacing "his spouse" in the first paragraph by "his or her married or civil union spouse";

(2) by replacing "spouse" in the second paragraph by "married or civil union spouse";

(3) by replacing "his spouse" in the last paragraph by "his or her married or civil union spouse";

(4) by replacing "he" and "his" wherever they appear in the English text by "he or she" and "his or her", respectively.

225. Section 246.14.5 of the said Act is amended by replacing "between spouses" in the second paragraph by "between married or civil union spouses".

226. Section 246.16 of the said Act, amended by section 16 of chapter 8 of the statutes of 2001, is again amended

(1) by replacing ", annulment of marriage" in the first paragraph by "or marriage annulment, for the dissolution or annulment of a civil union";

(2) by replacing "his spouse" wherever it appears in the English text by "his or her spouse";

(3) by inserting "or civil union" after "the marriage" in the first paragraph;

(4) by adding "or of a joint procedure before a notary for the dissolution of their civil union" at the end of the second paragraph.

227. Section 246.17 of the said Act, amended by section 16 of chapter 8 of the statutes of 2001, is again amended by replacing the second paragraph by the following paragraph:

"The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

228. Section 76 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54), amended by section 32 of chapter 14 of the statutes of 1999, is again amended by inserting "or in a civil union with" after "married to" in the definition of "spouse".

229. Section 197 of the said Act, amended by section 33 of chapter 14 of the statutes of 1999, is again amended by inserting "or in a civil union with" after "married to" in the definition of "spouse" in paragraph 2.

230. Section 65 of the Act respecting the Pension Plan of Management Personnel (2001, chapter 31) is amended by replacing the introductory paragraph by the following paragraph:

"**65.** For the purposes of the plan, the spouse is the person who is married to or in a civil union with the employee or pensioner or, provided neither is married or in a civil union at the time of the death of the employee or pensioner, the person of the opposite or the same sex who had been living in a conjugal relationship with the employee or pensioner for a period of not less than three years immediately prior to the employee's or pensioner's death, and had been publicly represented as the employee's or pensioner's spouse by the employee or pensioner or who, during the year prior to 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:".

231. Section 163 of the said Act is amended

(1) by inserting ", dissolution or annulment of a civil union" after "annulment of marriage" in the first paragraph;

(2) by inserting "or civil union" after "the marriage" in the first paragraph;

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

"The employee or former employee and his or her spouse are also entitled to receive a statement of benefits, upon an application in writing to the pension committee, for the purposes of a pre-hearing mediation concerning a family matter or of a joint procedure before a notary for the dissolution of their civil union. The statement shall contain the information determined by regulation."

232. Section 164 of the said Act is amended by replacing the first sentence of the second paragraph by the following sentence: "The benefits shall be established and assessed on the date on which the spouses ceased living together, on the date of institution of the proceedings or on the date determined

in the notarized transaction settling the consequences of the dissolution of the civil union, as the case may be."

233. Section 208 of the said Act is amended

(1) by inserting "or a civil union" after "during marriage" in the second paragraph;

(2) by replacing "between spouses" in the third paragraph by "between married or civil union spouses".

234. Section 210 of the said Act is amended by inserting "or civil union" after "marriage" wherever it appears in subparagraph 1 of the second paragraph.

235. The words "by marriage" in the English text of articles 125, 206, 229, 269, 723 and 3095 of the Civil Code of Québec (1991, chapter 64) and in section 52 of the Public Curator Act (R.S.Q., chapter C-81) are replaced by the words "by marriage or a civil union".

The words "relatives, persons connected by marriage or friends", "relatives, persons connected by marriage and friends" and "relatives, relatives by marriage or friends" in the English text of articles 222, 224, 225, 226, 231, 266 and 267 of the Civil Code of Québec and in sections 14 and 15 of the Public Curator Act are replaced by the words "relatives, persons connected by marriage or a civil union and friends".

236. The words "consort" and "consorts" wherever they appear in the English text of article 235 of the Code of Civil Procedure (R.S.Q., chapter C-25), section 6 of the Jurors Act (R.S.Q., chapter J-2), sections 39.1, 54, 80, 80.1, 81.1 and 81.10 of the Act respecting labour standards (R.S.Q., chapter N-1.1), sections 77 and 77.0.1 of the Act respecting liquor permits (R.S.Q., chapter P-9.1), section 65 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) and section 9 of the Professional Syndicates Act (R.S.Q., chapter S-40) are replaced by "spouse" and "spouses", respectively.

237. In all regulations to which the Regulations Act (R.S.Q., chapter R-18.1) applies, unless the context indicates otherwise, the concepts of marriage, annulment of marriage, divorce or dissolution of marriage shall be read as inclusive of a civil union and annulment or dissolution of a civil union, the concepts of married spouse or married person as inclusive of civil union spouses, the concept of fiancé as inclusive of a person having made a promise of civil union and the concepts of marriage contract and matrimonial regime as inclusive of a civil union contract and a civil union regime, with the necessary modifications.

238. The amendments to the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) introduced by section 208 apply, with regard to the Parental Wage Assistance Program established under that Act, only in respect of years subsequent to the year in which they come into force.

239. Acts made before the date of coming into force of the new provisions shall produce the effects attached thereto by the new provisions. However, hereditary rights may not be exercised with respect to successions open before the coming into force of the new provisions except, in the case of a substitution that is not yet open, in favour of the substitutes.

240. Until 30 June 2005, tardy declarations of filiation in respect of a child born of a mutual parental project before the coming into force of the new provisions and incidental applications for authorization to add all or part of the declarant's name to the child's name are not subject to the obligation to publish a notice or to pay the duties prescribed by the Civil Code.

241. Until they are amended by an order of the Minister of Justice, the Rules respecting the solemnization of civil marriages made by Ministerial Order 1440 dated 6 July 1994 (1994, G.O. 2, 2975) are applicable, with the necessary modifications, to persons who are or become authorized to solemnize marriages under the new provisions introduced by section 23.

However, those persons are not required to solemnize marriages in a room of a courthouse or of any other building in which a court of law sits and are not required to wear a gown, provided they comply with the other requirements of the Rules respecting the solemnization of civil marriages concerning the place of solemnization of marriages and the proper attire.

242. Until the minimum and maximum amounts of the duties that may be collected from intended spouses by mayors, other members of municipal or borough councils and municipal officers designated by the Minister of Justice under the new provisions introduced by section 25 are fixed by regulation of the Government pursuant to those provisions, the duties that may be collected are those prescribed with respect to marriages solemnized by clerks or deputy clerks of the Superior Court by the Tariff of Court Costs in Civil Matters and Court Office Fees made by Order in Council 256-95 (1995, G.O. 2, 918).

243. Every person who, by the effect of this Act, is subject to new obligations or restrictions is required to conform therewith before 1 October 2002 or, if the person must dispose of assets or withdraw from a contract, before 1 January 2003.

244. Not later than 30 June 2005, the Minister of Justice shall report to the Government on the application of section 61.1 of the Interpretation Act (R.S.Q., chapter I-16) and on the advisability of maintaining or amending it.

The report shall be tabled by the Minister in the National Assembly within the ensuing 30 days or, if the Assembly is not sitting, within 30 days of resumption.

245. This Act comes into force on 24 June 2002, except sections 228 and 229, which come into force on the date of coming into force of the provisions they amend.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 86
(2002, chapter 32)

An Act to amend the Courts of Justice Act, the Act respecting municipal courts and other legislative provisions

Introduced 30 April 2002
Passage in principle 8 May 2002
Passage 14 June 2002
Assented to 14 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill amends the Courts of Justice Act, the Act respecting municipal courts and various other legislation relating to the administration of justice.

The bill proposes the necessary amendments to give legislative effect to the resolution passed by the National Assembly on 18 December 2001 as regards the determination of the remuneration of the judges of the Court of Québec and the municipal courts. The amendments concern the pension plan of the judges of the Court of Québec, the remuneration of the assistant judges of that court as well as the payment by the Government of the expenses incidental to the functions of the judge responsible for professional development activities intended for judges of the municipal courts.

The bill proposes amendments to ensure maintenance of the jurisdiction of persons exercising adjudicative functions who are appointed to a court or body in which no concurrent functions may be exercised, so that those persons may dispose of the cases they were hearing at the time of their appointment.

The bill proposes various amendments that concern the Labour Court so that the chief judge of the Court of Québec, who exercises the powers and functions of the chief judge of the Labour Court, may as the need arises assign judges of the Labour Court to the Court of Québec or temporarily assign judges of the Court of Québec to the Labour Court.

Lastly, the bill makes amendments of a technical nature to the legislative provisions that apply to justices of the peace.

LEGISLATION AMENDED BY THIS BILL:

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

– Act respecting municipal courts (R.S.Q., chapter C-72.01);

– Interpretation Act (R.S.Q., chapter I-16);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

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

– Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, chapter 26).

Bill 86

AN ACT TO AMEND THE COURTS OF JUSTICE ACT, THE ACT RESPECTING MUNICIPAL COURTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 119 of the Professional Code (R.S.Q., chapter C-26) is amended by adding the following paragraphs at the end:

"A chairman or substitute chairman of a committee who is appointed to a court or body in which no concurrent functions may be exercised, shall retain jurisdiction and may continue, without remuneration therefor, to perform his duties within the committee to conclude the cases of which he was seized at the time of the appointment.

However, if the appointment is made after the committee has made a finding of guilt and the person appointed does not avail himself of the provisions of the third paragraph, another committee shall be formed to hear the parties in relation to the penalty and to impose it. The committee shall impose the penalty within 90 days after being formed."

2. The Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by inserting the following section after section 86:

"**86.0.1.** Notwithstanding sections 85 and 86, the costs of reimbursing the judge responsible for professional development activities intended for municipal court judges for expenses incidental to the judge's functions shall be assumed by the Government."

3. The Interpretation Act (R.S.Q., chapter I-16) is amended by inserting the following section after section 55:

"**55.1.** The fact that a person exercising adjudicative functions is appointed to a court or body in which no concurrent functions may be exercised shall not operate to cause that person, by that sole fact, to lose jurisdiction over the cases of which the person was seized at the time of the appointment. The person may then conclude those cases without remuneration therefor and without it being necessary to obtain authorization."

4. The Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the following section after section 158.0.1:

"**158.0.2.** Where, pursuant to section 246.23.1 of the Courts of Justice Act (chapter T-16), a judge requests the transfer, to the judge's pension plan referred to in that section, of the value of the benefits accrued to the judge before the judge's appointment under a pension plan administered by the Commission, the Commission shall, notwithstanding any provision to the contrary, transfer the amount that is the greater of

(1) the sum of the contributions with interest at the rate fixed in Schedule VI, if any, accrued to the date of the transfer; and

(2) the actuarial value of the judge's pension established on that same date in accordance with the actuarial assumptions and methods determined by the regulation made pursuant to subparagraph 2 of the first paragraph of section 215.13 of this Act."

5. Section 118 of the Courts of Justice Act (R.S.Q., chapter T-16) is replaced by the following section:

"**118.** A retired judge authorized by the Government to exercise judicial functions assigned by the chief judge is entitled to receive for each working day the annual salary of a judge of the court, established pursuant to section 115, divided by the number of working days in the year."

6. Section 158 of the said Act is amended by replacing "districts as he indicates" in the third line of the first paragraph by "districts or territories as the Minister indicates".

7. Section 162 of the said Act, replaced by section 393 of chapter 31 of the statutes of 2001, is again replaced by the following sections:

"**162.** Section 95 applies to a justice of the peace appointed under section 158, provided that the deed of appointment indicates clearly that this section is applicable to the justice of the peace.

"**162.1.** The deed of appointment of a justice of the peace to whom section 95 applies may provide for participation in the Government and Public Employees Retirement Plan or the Pension Plan of Management Personnel. In such case, section 4 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) or section 3 of the Act respecting the Pension Plan of Management Personnel (2001, chapter 31), as the case may be, shall cease to apply to the justice of the peace."

8. Section 224.2 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended by inserting the following sentence after the first sentence of the first paragraph: "The contributions shall be reduced to 1% of the judge's annual salary when the judge has accumulated 21.7 years of service and continues to hold office."

9. Section 224.11 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended by striking out "and any salary paid to the judge shall be reduced in accordance with section 118 from the time the payment of the pension begins" in the fourth and fifth lines of the second paragraph.

10. Section 224.25 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended

(1) by striking out ", and the judge's salary shall be reduced in accordance with section 118" in the second and third lines of the first paragraph;

(2) by replacing ", and the judge's salary shall be reduced in accordance with section 118" in the third and fourth lines of the second paragraph by "However, a sum equal to the amounts the judge receives as pension and, if applicable, as supplementary benefits granted under the plan established pursuant to the second paragraph of section 122, shall be deducted from the judge's salary."

11. Section 227 of the said Act, amended by section 12 of chapter 8 of the statutes of 2001, is again amended by striking out the last sentence of the second paragraph.

12. Section 244.3 of the said Act is amended

(1) by replacing "to receive his pension, and his salary shall be reduced in accordance with section 118" in the second and third lines of the first paragraph by "to receive a pension";

(2) by replacing "to receive his pension, and his salary shall be reduced in accordance with section 118" in the third and fourth lines of the second paragraph by "to receive a pension. However, a sum equal to the amounts the judge receives as pension and, if applicable, as supplementary benefits granted under the plan established pursuant to the second paragraph of section 122, shall be deducted from the judge's salary."

13. Section 244.11 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 1990 but prior to 1 January 2000, by the excess of the rate over 3%;";

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

"(3) for that part attributable to service subsequent to 31 December 1999, in accordance with the formula set out in subparagraph 2, or by one-half of the rate of increase in the Pension Index, whichever formula is more advantageous to the judge.";

(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 to the judge."

14. Section 246.22 of the said Act, amended by section 16 of chapter 8 of the statutes of 2001, is again amended by adding the following paragraph at the end:

"A regulation made under this section may take effect on a date fixed in the regulation that is prior to the date of publication of the regulation in the *Gazette officielle du Québec*."

15. The said Act is amended by inserting the following sections after section 246.23:

"**246.23.1.** A judge may have an amount corresponding to the value of the benefits accrued to the judge under another pension plan before the judge's appointment transferred to the judge's pension plan provided for in Part V.1 or VI, provided the benefits are transferable. The transfer gives entitlement to a deferred life annuity payable at 65 years of age which shall be added to the pension accrued under the provisions of the pension plan of which the judge is a member.

The administrator of the pension plan from which the accrued benefits are to be transferred shall assess the value of the benefits to be transferred. The Commission shall determine the amount of the deferred pension to the date of the transfer, on the basis of the value transferred and according to the actuarial methods and assumptions used in the most recent actuarial valuation prepared under section 246.26 in relation to the pension plan of which the judge is a member.

The transfer application must be made within 180 days following the date of the judge's appointment.

For the purposes of this section, any registered pension plan within the meaning of the Taxation Act (chapter I-3) is a pension plan.

The provisions of this section do not apply to the plans in respect of which a transfer agreement is made under section 246.24.

"**246.23.2.** The deferred pension is indexed annually in accordance with the first paragraph of section 224.23, beginning on 1 January following the date on which it becomes payable.

"**246.23.3.** A judge to whom section 246.23.1 applies may elect to receive early payment or to postpone the payment of the deferred pension to a date other than the judge's sixty-fifth birthday. However, the deferred pension

is not payable before the date on which the judge retires and has reached 55 years of age, or after 31 December of the year in which the judge reaches 69 years of age. Where the judge elects to receive early payment, the deferred pension is reduced, for its duration, by 0.5% per month for each month between the date on which it becomes payable and the judge's sixty-fifth birthday. Where the judge postpones payment, the deferred pension is increased by the same percentage for each month between the latter date and the date on which it becomes payable.

If the judge dies while retired and the total amount of deferred pension paid to the judge under section 246.23.1 is less than the amount transferred pursuant to the first paragraph of that provision, with interest accrued to the date of retirement, the difference shall be refunded to the judge's heirs. If the judge dies or otherwise ceases to hold office before payment of the pension begins, the amount transferred with accrued interest shall be refunded to the judge's heirs or the judge, as the case may be.

"**246.23.4.** The arbitration provided for in section 245 applies to disputes arising in the application of sections 246.23.1 to 246.23.3 between the judge and the Commission."

16. The Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, chapter 26), as amended by chapter 49 of the statutes of 2001, is again amended

(1) by inserting the following section after section 210.1 :

"**210.1.1.** The chief judge of the Court of Québec may, to ensure the proper dispatch of the business of the Labour Court, assign judges of the Court of Québec to the Labour Court for such period as the chief judge determines. Judges so assigned shall exercise the same powers and functions as the judges of the Labour Court." ;

(2) by inserting the following section after section 210.2 :

"**210.2.1.** The leave without pay from the Court of Québec available to the judges of the Labour Court under any provision giving entitlement thereto pursuant to section 161 of the Act to amend the Courts of Justice Act and other legislation to establish the Court of Québec (1988, chapter 21) ceases to have effect as of 14 June 2002."

17. Section 13 also applies to pensions being paid on 14 June 2002.

18. The judges in office on 14 June 2002 may, within 180 days following that date, avail themselves of the right conferred by section 246.23.1 of the Courts of Justice Act entitling judges to transfer to their pension plan the value of benefits accrued under another plan prior to their appointment as judges.

19. This Act comes into force on 14 June 2002.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 89
(2002, chapter 24)

An Act respecting the Québec correctional system

Introduced 7 May 2002
Passage in principle 21 May 2002
Passage 11 June 2002
Assented to 13 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

The purpose of this bill is to establish the general principles that are to guide the actions of correctional services of the Ministère de la Sécurité publique, the Commission québécoise des libérations conditionnelles and their community-based partners as well as all other stakeholders of the correctional system as they exercise their respective functions. Underlying these general principles is the objective of protecting society, ensuring compliance with the decisions of the courts and reintegrating offenders into the community.

The bill defines the role of correctional services officers, parole officers and correctional counsellors, granting them the status of peace officers in the exercise of their functions.

The various responsibilities the correctional services have in relation to the persons committed to their care and custody are determined in the bill. Accordingly, the correctional services will assess each such person and establish an electronic record using all means available to obtain the necessary information. In addition, the content of a person's record that must be communicated to the Commission québécoise des libérations conditionnelles is determined. As well, the bill provides for various reintegration support programs and services for offenders and for community supervision.

The bill provides that the Government may establish correctional facilities and community correctional centres and make agreements with Native communities to entrust them with the administration of community correctional centres. The responsibilities of inmates are determined, particularly as regards personnel members and other inmates, and provides for the creation of discipline committees to deal with the situation of undesirable conduct on the part of inmates.

The bill authorizes the director of a correctional facility to grant temporary absences for medical, humanitarian or reintegration purposes or to enable offenders to participate in the activities of a reintegration support fund or in spiritual activities. The persons to whom each type of temporary absence may be granted are specified along with the reasons that may be invoked and the terms and conditions that apply.

The Commission québécoise des libérations conditionnelles is authorized to grant temporary absences after one sixth of the sentence has been served in the case of sentences of six months or more. Several of the current provisions of the Act to promote the parole of inmates, in particular those pertaining to conditional release and to the composition and operation of the Commission québécoise des libérations conditionnelles is retained.

The correctional services and the Commission québécoise des libérations conditionnelles will be required to inform certain victims of an offence of the date of eligibility for temporary absence or conditional release of the person who committed the offence and of the date of such an absence or release.

Various community-based organizations meeting specific criteria may be recognized through an agreement by the Minister as partners of the correctional services. Such organizations will offer activities or services that supplement those of the correctional services and that are designed to meet the needs of offenders.

The current provisions of the Act respecting correctional services are maintained for the essential, in particular the provisions relating to the fund for the benefit of confined persons to be called Fonds de soutien à la réinsertion sociale.

Two new coordinating bodies will be created, a committee under the name Comité de concertation des Services correctionnels et de la Commission québécoise des libérations conditionnelles, and a council under the name Conseil des pratiques correctionnelles du Québec.

Lastly, the bill defines the responsibilities of the Minister of Public Security as regards Québec's correctional system.

LEGISLATION REPLACED BY THIS BILL:

– Act to promote the parole of inmates (R.S.Q., chapter L-1.1);

– Act respecting correctional services (R.S.Q., chapter S-4.01).

LEGISLATION AMENDED BY THIS BILL:

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

– Food Products Act (R.S.Q., chapter P-29);

– Youth Protection Act (R.S.Q., chapter P-34.1);

– Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Tobacco Act (R.S.Q., chapter T-0.01);

– Marine Products Processing Act (R.S.Q., chapter T-11.01).

Bill 89

AN ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PRINCIPLES

1. The correctional services of the Ministère de la Sécurité publique, the Commission québécoise des libérations conditionnelles and the community-based organizations which are their partners, as well as all society's stakeholders having an interest in the correctional system shall facilitate the reintegration of offenders into the community. In keeping with the fundamental rights of the offenders, the correctional services shall contribute to the maintenance of a safe society by helping offenders become law-abiding citizens and by providing reasonable and humane measures of security and control in their regard, while recognizing their potential for rehabilitation and their willingness to engage in a reintegration process.

2. The protection of society, through individualized freedom-restricting measures, and compliance with court decisions are the paramount considerations in the pursuit of the reintegration of offenders into the community.

CHAPTER II

CORRECTIONAL SERVICES

DIVISION I

MANDATE

3. In collaboration with the institutions and bodies sharing the same mission, the correctional services shall endeavour to enlighten the courts and shall be responsible for the care, in the community or in a correctional facility, of the persons committed to their custody and facilitate the reintegration of offenders into the community.

More specifically, the correctional services are responsible for

(1) the provision of pre-sentencing reports and any other information requested by the courts;

(2) the assessment of the persons committed to their custody;

(3) the supervision in the community and the care of the persons committed to their custody, until the end of their sentences;

(4) the development and implementation of programs and services that contribute to the reintegration of offenders, and the facilitation of access to specialized programs and services offered by community-based resources; and

(5) the carrying out of research in the corrections field, in conjunction with the other stakeholders.

DIVISION II

PERSONNEL

§1. — *Correctional officers*

4. Correctional officers shall be responsible for the supervision of offenders in the community and for the custody of inmates, they shall take part in the assessment of offenders and facilitate their reintegration into the community.

Correctional officers shall encourage the participation of inmates in activities designed to assist them in acquiring socially acceptable values and behaviour. Relations between correctional officers and inmates shall be established with a view to providing assistance and support to such persons while observing their behaviour.

5. Correctional officers shall have the status of peace officers

(1) in the correctional facility and on the lands occupied by the facility, with respect to any person in the facility or on the lands;

(2) with respect to any person in their custody outside the facility; and

(3) with respect to offenders in whose respect a warrant has been issued under section 68 or 161 or in whose respect there is reasonable cause to believe that a warrant under either of those sections will soon be issued.

However, in the latter case, the person arrested must be released if the warrant is not in fact issued within twelve hours.

6. A police officer may arrest a person in whose respect a warrant has been issued under section 68 or 161.

The police officer may also arrest a person in whose respect there is reasonable cause to believe that a warrant under either of those sections will soon be issued.

However, in the latter case, the person arrested must be released if the warrant is not in fact issued within twelve hours.

§2. — *Probation officers and correctional counsellors*

7. At the request of the courts, probation officers shall prepare pre-sentencing reports on convicted offenders so as to assess the possibility of their reintegration into the community.

Probation officers shall perform various assessment and intervention activities in relation to offenders, support them through their reintegration process and, where necessary, refer them to the relevant community-based resources.

8. Correctional counsellors shall, in particular, develop and implement reintegration programs and support services, encourage offenders to develop an awareness of their behaviour and initiate a process focusing on responsibilization. Correctional counsellors shall also act as resource persons with respect to the delinquency problems of offenders.

9. Probation officers and correctional counsellors have the status of peace officers in the exercise of their functions.

§3. — *Destitution*

10. Any correctional officer, probation officer, correctional counsellor or correctional facility manager who is convicted, in any place, of an act or omission described in the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) as an offence or one of the offences to which section 183 of that Code applies, created by one of the Acts enumerated therein, triable only on indictment shall, once the judgment has become *res judicata*, be automatically dismissed.

A disciplinary sanction of dismissal must, once the judgment concerned has become *res judicata*, be imposed on any correctional officer, probation officer, correctional counsellor or correctional facility manager who is convicted, in any place, of such an act or omission punishable on summary conviction or by indictment, unless he or she shows that specific circumstances justify another sanction.

11. Any person referred to in section 10 who is convicted of an act or omission referred to in that section must inform his or her director or competent authority of the conviction.

DIVISION III

ASSESSMENT, RECORD AND SUPPORT OF PERSONS COMMITTED TO THE CUSTODY OF THE CORRECTIONAL SERVICES

§1. — *Assessment*

12. The correctional services shall, upon being entrusted with the custody and care of a person, make an assessment of the person in a manner compatible with the length of the sentence, the person's status and the nature of the offence.

The correctional services must inform the person of the provisions respecting temporary absence and conditional release.

13. The purpose of the assessment is to determine a person's risk of reoffending and potential for reintegration, determined on the basis in particular of the person's needs as regards his or her delinquency problems, and the assistance and support resources required.

14. The assessment of a person shall serve in particular in establishing the terms and conditions of the person's custody and care, and of his or her reintegration plan and the making of decisions concerning temporary absence or conditional release.

15. The correctional services may retain the services of psychologists, psychiatrists, social workers, criminologists, sexologists and other professionals if necessary in order to complete the assessment of a person.

§2. — *Record and information*

16. A single, continuous electronic record shall be established by the correctional services on each person committed to their custody.

17. Appropriate and specific indications must be entered in the record of persons having a history of behaviour targeted by government policies, such as policies regarding domestic violence or sexual assault, or of behaviour related to pedophilia, organized crime or serious violence against persons, for the purpose of enabling informed sentence management and documenting the rehabilitation process of the persons concerned.

18. The correctional services shall take all reasonable steps as soon as is possible to obtain such information concerning the persons committed to their custody as is necessary for the provision of custody and care, sentence management or the making of decisions concerning temporary absence or conditional release.

The bodies or persons holding the information are required to disclose the information to the correctional services on request.

19. The record maintained by the correctional services, which must in all cases be communicated to the Commission québécoise des libérations conditionnelles to enable it to render informed decisions concerning temporary absence and conditional release, shall include

(1) warrants of committal relating to the current sentence;

(2) court orders under execution or which will take effect at a later date;

(3) judicial records;

(4) pre-sentencing reports;

(5) the information and documents contained in the record maintained by the court, the victim statement, the summary of events and the police statement;

(6) the offender's assessment and correctional intervention plan;

(7) the recommendation of the facility director or the person designated by the director concerning temporary absence or conditional release;

(8) the reports relating to the current sentence describing the offender's rehabilitation process and conduct while in custody and, where applicable, during a temporary absence;

(9) the reports filed prior to the current sentence describing the offender's behaviour while in custody or during the application of a community measure, at the provincial or federal level;

(10) any verification of the reintegration plan and any confirmation of admission into a community-based resource or a program;

(11) any psychological, psychiatric or sexological report prepared in connection with the offender's assessment made at any stage of the judicial or correctional process and related to the current or a prior sentence.

20. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with a government in or outside Canada, a department or body of that government, an international organization or a body of that organization providing for the collection or communication of necessary information concerning persons committed to the custody of the correctional services.

§3. — *Reintegration programs and support services*

21. The Minister shall develop and offer programs and services to encourage offenders to develop an awareness of the consequences of their behaviour and initiate a personal process focusing on developing their sense of responsibility.

The programs and services offered shall make special allowance for the specific needs of women and Native persons.

22. The Minister shall see to it that the offenders' access to specialized programs and services offered by community-based resources to foster their reintegration into the community and support their rehabilitation is facilitated. Such programs and services are designed to initiate the process of solving the problems associated with the delinquency of the offenders, in particular problems of domestic violence, sexual deviance, pedophilia, alcoholism and substance abuse.

23. The Minister may enter into an agreement with a government department or body for the development and implementation of services adapted to the needs of offenders, in particular as regards treatment, academic education and employment.

24. An accused person may participate, on a voluntary basis, in the programs and services offered in the facilities where he or she is detained.

DIVISION IV

COMMUNITY SUPERVISION

25. Community supervision is exercised in respect of offenders placed under a community measure such as a probation order or a suspended sentence or persons who have been granted a temporary absence or conditional release.

Community supervision seeks to ensure the protection of society and facilitate the reintegration of offenders into the community, and is effected through both control and reintegration interventions.

26. The purpose of control interventions is to ensure that the conditions imposed on the person are complied with.

Reintegration interventions shall be determined on the basis of the needs of the person and include assistance and support measures. Such interventions shall be designed to support the rehabilitation process and gain better knowledge of the person, consolidate a relationship of trust, solicit assistance from the person's family and social network and offer adapted services.

27. The probation officers, correctional officers and, in the case of a suspended sentence, supervision officers designated by the Minister shall be responsible for community supervision in accordance with the applicable legislative provisions and for the supervised persons' need for support and assistance.

28. Stakeholders from community-based organizations that are partners of the correctional services shall participate in community supervision to the extent and on the conditions determined by the Minister.

DIVISION V

CORRECTIONAL FACILITIES AND COMMUNITY CORRECTIONAL CENTRES

29. The Government may establish correctional facilities and community correctional centres.

The Government may also establish, on the conditions it determines, that any immovable or part of an immovable it specifies may be used as a correctional facility and determine the provisions of this Act that apply to it.

30. A correctional facility established under the first paragraph of section 29 shall be managed by a public servant called "facility director".

The facility director is responsible for the custody of the persons admitted to the facility until their final release or their transfer to another facility.

31. The Government may, in accordance with the applicable legislative provisions, enter into an agreement with a Native community represented by its band council or the Northern Village council or with a group of communities so represented or any other Native group entrusting the Native community with all or part of the administration of a community correctional centre or with the community supervision of Native offenders.

32. An agreement under section 31 shall specify

(1) where the agreement concerns the administration of a community correctional centre, its location and the provisions of this Act that apply to it, with the necessary modifications;

(2) the nature and extent of the activities or services provided by the Minister and by the Native community or group of communities;

(3) the number and, as appropriate, the categories of persons to be assigned to such activities or services;

(4) the respective roles and responsibilities of the Minister and the Native community or group of communities;

(5) the financial compensation paid to the Native community or group of communities by the Minister;

(6) the nature of the information communicated by one party that is necessary to the exercise of the functions of the other party;

(7) the provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) that are to apply to the information so communicated, and the measures to be taken by each party to ensure that the information is used only for the

purposes of its mandate and is not retained when the reason for which it was obtained no longer exists;

(8) the periodic evaluation procedure to be used by the Minister;

(9) the dispute resolution mechanism for the settlement of issues concerning the interpretation or implementation of the agreement;

(10) reporting and accountability mechanisms to be used by the Native community or group of communities;

(11) the obligation for the Native community or group of communities to provide reports or other information required by the Minister concerning the rehabilitation of the persons committed to its custody;

(12) the obligation for the Native community or group of communities to cooperate in any investigation that may be requested by the Minister into an incident involving a person committed to its custody; and

(13) the term of the agreement, which shall not exceed five years.

The persons in the employ of the Native community or the group of communities who are assigned to the implementation of the agreement are required to take the oath provided for in Schedule I.

An agreement between the Government and a Native community or group of communities may be terminated by either party on six months' notice. In the absence of such notice, the agreement shall be renewed automatically for the same term.

33. A person sentenced to more than one term of imprisonment or sentenced to imprisonment while in custody is deemed to be serving only one sentence beginning on the first day of the first of the sentences to be served and ending on the expiration of the last of the sentences to be served.

34. A facility director may order that an inmate be transferred to another correctional facility.

35. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with another government in Canada for the transfer of a person confined in a prison as defined by the Prisons and Reformatories Act (Revised Statutes of Canada, 1985, chapter P-20) or in a penitentiary as defined in the Corrections and Conditional Release Act (Statutes of Canada, 1992, chapter 20) to a correctional facility or for the transfer of a person confined in a correctional facility to a prison or penitentiary.

36. Any person who is in a place other than a correctional facility during a transfer to another correctional facility or a temporary absence or while otherwise under the responsibility of the director of a correctional facility, is

deemed for the purposes of this Act and the regulations and directives to continue to be in custody.

DIVISION VI

RESPONSIBILITIES OF INMATES

37. An inmate must be respectful of the personnel and other inmates and of their property and the property of the correctional facility ; an inmate must, in addition, comply with the other responsibilities determined by regulation.

38. An offender whose conduct is respectful towards the personnel and the other inmates may earn remission time.

Remission time may be earned provided the person complies with the regulations and directives of the correctional facility, observes the conditions of a temporary absence and participates in the programs and activities included in his or her plan for reintegration into the community.

Remission is calculated on the basis of one day of remission for two days of imprisonment during which the person complies with the conditions provided for in this section, up to one third of the sentence.

39. Where an offender does not comply with the conditions set out in section 38, a discipline committee established in the manner provided for in section 40 may refuse to grant or grant only part of the remission.

In addition, the committee may cancel any remission standing to a person's credit. However, where more than fifteen days of remission are to be cancelled, the committee must obtain the prior approval of the facility director.

DIVISION VII

DISCIPLINE COMMITTEE

40. A discipline committee shall be established in each correctional facility.

The facility director shall designate, from among the correctional officers, probation officers, correctional counsellors and correctional facility managers, two persons who shall act as members of the discipline committee.

41. A discipline committee shall examine the situation of an inmate who has failed to comply with his or her responsibilities and shall, if appropriate, determine the sanction to be imposed.

An inmate may apply to the facility director for a review of a decision of the discipline committee. However, a decision of the discipline committee cancelling more than fifteen days of remission standing to a person's credit may be reviewed only by a person designated by the Minister.

DIVISION VIII

TEMPORARY ABSENCES

§1. — *Temporary absence for medical purposes*

42. The facility director may, at all times, authorize the temporary absence of an inmate for medical purposes, in particular where

(1) the inmate is terminally ill;

(2) the inmate's state of health requires immediate hospitalization;

(3) the inmate must undergo an evaluation or medical examinations in a specialized environment; or

(4) the inmate requires care or treatment that cannot be provided in the correctional facility.

43. The facility director shall determine the conditions that are to apply to the person and the duration of a temporary absence.

44. Where the life or health of an inmate is in danger and urgent medical treatment is required, the facility director may authorize the temporary absence without other formality provided the inmate is escorted by a correctional officer if the facility director considers it advisable.

§2. — *Temporary absence to attend activities of a reintegration support fund or participate in spiritual activities*

45. The facility director may, at all times, authorize the temporary absence of an offender so that he or she may participate in an activity of the fund established under section 74, or in a spiritual activity.

The object of a spiritual activity is to help offenders find a meaning to their lives, improve their physical, psychological and social well-being and develop their potential as human beings, at the moral and religious levels.

46. A person whose temporary absence has been authorized to participate in a fund activity or in a spiritual activity must return to the correctional facility each night.

47. The facility director shall determine the conditions that apply to the person.

48. The criteria for granting a request for the authorization of a temporary absence to participate in the activities of the reintegration fund or in spiritual activities are

(1) the protection of society in relation to the offender's risk of reoffending and potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems;

(2) the nature, seriousness and consequences of the offence committed by the offender; and

(3) the offender's behaviour and his or her capacity to comply with the conditions imposed.

§3. — *Temporary absence for humanitarian purposes*

49. The facility director may, at all times, authorize the temporary absence of an offender for humanitarian purposes where requested in writing by the offender, for one of the following reasons:

(1) the birth, baptism or marriage of his or her child;

(2) the serious illness, death or funeral of his or her spouse, or his or her child, father, mother, brother or sister or a person who stood in lieu of his or her father or mother;

(3) the offender's obligation to care for a sick spouse, or his or her child, father, mother, brother or sister or a person who stood in lieu of his or her father or mother, where no other relative can do so;

(4) the necessity to provide support or assistance to his or her spouse, or his or her child, father, mother or a person who stood in lieu of his or her father or mother where, failing such support or assistance, serious prejudice would be caused to any of those persons;

(5) a personal obligation within a judicial or administrative process where the very nature of the obligation precludes a mandatary duly designated for that purpose from acting, or where failure to perform or undertake the acts or proceedings could cause serious prejudice to a third person.

50. The facility director shall determine the conditions that apply to the person and, depending on the reason for the temporary absence, its duration, which shall not exceed twenty days.

51. The facility director may authorize the temporary absence of an accused person for humanitarian purposes on the death or funeral of the accused person's spouse, or his or her child, brother or sister, or father, mother or a person who stood in lieu of the accused person's father or mother, or to visit any of those persons who is seriously ill.

Where a temporary absence is authorized for such purposes, the person must be under the constant custody and supervision of a correctional officer.

52. The criteria for granting a request for the authorization of a temporary absence for humanitarian purposes are

(1) the protection of society in relation to the inmate's risk of reoffending determined on the basis, in particular, of his or her needs as regards his or her delinquency problems;

(2) the nature, seriousness and consequences of the offence committed by the offender; and

(3) the inmate's behaviour and his or her capacity to comply with the conditions imposed.

§4. — *Temporary absence for reintegration purposes*

53. Temporary absence for reintegration purposes constitutes a stage in the offender's rehabilitation process, forms part of his or her preparation for release and takes place within the framework of a plan for his or her reintegration into the community.

A person is eligible for temporary absence after serving one sixth of any sentence of less than six months imposed by the court.

54. If a person applies therefor in writing, the facility director may authorize a temporary absence for reintegration purposes, in particular to allow the person

(1) to hold remunerated employment;

(2) to actively seek remunerated employment;

(3) to perform volunteer work in a community-based resource;

(4) to undertake or pursue secondary, college or university studies;

(5) to undergo an academic assessment for the purpose of returning to school;

(6) to undergo an eligibility assessment for future accommodation in a community-based residential facility or stay in such a facility;

(7) to participate, in the community, in an assistance or support program or therapy in relation to his or her needs; or

(8) to maintain or reestablish contacts with his or her family or social network.

55. The facility director shall determine the conditions that apply to the person and the duration of the temporary absence, which may not exceed sixty days.

The facility director or the director responsible for community supervision may, after examining the person's record, renew a temporary absence if he or she has complied with the attached conditions and has behaved satisfactorily, and if no new fact prevents a renewal or warrants a refusal.

56. The criteria for granting a request for the authorization of a temporary absence for reintegration purposes include

(1) the protection of society in relation to the offender's risk of reoffending and potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems and the availability of resources;

(2) the nature, seriousness and consequences of the offence committed by the offender;

(3) the degree to which the offender understands and assumes responsibility for his or her criminal behaviour and the consequences of the offence for the victim and for society;

(4) the offender's judicial record and corrections history;

(5) the offender's personality and behaviour, his or her rehabilitation progress since the sentence was imposed, his or her willingness to become involved in a process of change and his or her capacity to fulfil his or her obligations;

(6) the offender's behaviour during incarceration under an earlier sentence or during the earlier application of a community measure, at the provincial or federal level;

(7) the offender's previous employment and work skills;

(8) the family and social resources available; and

(9) the appropriateness of the reintegration plan having regard to the offender's risk of reoffending and his or her capacity to complete the plan with the appropriate support.

§5. — *Temporary absence examining board*

57. A temporary absence examining board shall be established in each correctional facility.

58. Each board shall consist of three persons designated by the facility director from among the correctional officers, probation officers, correctional counsellors and correctional facility managers.

However, in the case of a request for a temporary absence by a person serving a sentence of thirty days or less or a sentence served intermittently and

a request for a temporary absence to participate in fund activities or spiritual activities, the board shall consist of two persons.

59. Each temporary absence except an absence for medical purposes, in preparation for conditional release or for a family visit must be preceded by a recommendation from a temporary absence examining board.

60. An inmate who so requests is entitled to submit observations and, where expedient, to produce documents to complete his or her record. An inmate is also entitled to be represented or assisted before the board by any person of his or her choice other than an inmate from another correctional facility.

61. As soon as possible after the receipt of a request for a temporary absence, the board shall examine the request and transmit its recommendation to the facility director.

The board shall give reasons for its recommendation, suggest conditions to be imposed on the inmate, report the observations presented by the inmate and mention any representations made by the victim.

62. The board's recommendation is not binding on the facility director.

The facility director may request additional information from the board if he or she considers it necessary for the purposes of a decision.

§6. — *Decision*

63. The decision of the facility director must be rendered in writing, with reasons, as soon as possible following receipt of the board's recommendation, if any, and the inmate must be informed thereof as quickly as possible.

64. The facility director must inform the police forces of the temporary absence granted to an offender and of the attached conditions.

65. A person to whom a temporary absence is granted must be advised that the police forces and, if applicable, the victim have been informed of the temporary absence and of the conditions attached thereto.

66. Temporary absence shall not be granted, except for medical purposes, to a young person within the meaning of the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1) who has been committed to custody under that Act or to a person serving a sentence for contempt of court in a civil or penal matter where the person is required to return before the court pursuant to a condition of his or her sentence.

67. The decision to grant temporary absence shall not take effect where a new fact is discovered which, if it had been known in time, may have warranted a different decision or where warranted by the occurrence of an event.

The facility director shall reexamine the offender's record within the time prescribed by regulation and, after giving the offender an opportunity to submit observations, the facility director may

(1) maintain the decision to grant temporary absence and, if necessary, modify the conditions thereof; or

(2) cancel the decision to grant temporary absence.

68. The facility director or the director responsible for community supervision may suspend an offender's temporary absence, issue a warrant of apprehension and order the offender's recommitment to custody,

(1) where there are reasonable grounds to believe that the offender has breached a condition attached to the temporary absence or that action must be taken to prevent such a breach;

(2) for any valid reason invoked by the offender; or

(3) where a new fact is discovered which, if it had been known at the time temporary absence was granted, may have warranted a different decision or where an event not covered by subparagraphs 1 and 2 occurs that warrants a suspension.

The offender must, as soon as is possible, be given written reasons for the suspension.

69. Following a decision to suspend an offender's temporary absence, the facility director or the director responsible for community supervision must re-examine the facts and may cancel the suspension or revoke or terminate the temporary absence as soon as possible.

Before the decision is rendered, the person concerned is entitled, on request, to submit observations and, where expedient, to produce documents to complete his or her record. The person is also entitled, on request, to be assisted or represented before the board by any person of his or her choice other than an inmate from another correctional facility.

70. An offender may not reapply for a temporary absence for reintegration purposes unless thirty days have elapsed since the date of a refusal or revocation or, even if the 30-day period has not elapsed, unless a favourable recommendation is made in that respect by the person in charge of the case.

§7. — *Review*

71. Within seven days of notification of a decision of the facility director or the director responsible for community supervision refusing, revoking or terminating an absence for reintegration purposes, an offender may apply to the person designated by the Minister for a review of the decision.

The application must be made in writing and establish that

(1) the applicable legislative prescriptions have not been complied with; or

(2) the decision was based on incomplete or erroneous information.

72. After giving the person concerned an opportunity to submit observations, the person designated by the Minister shall decide on the record and may confirm or cancel the initial decision and, in the latter case, render the decision that should have been rendered.

73. The decision must be rendered within seven days of the application and be transmitted to the offender.

DIVISION IX

PROGRAM OF ACTIVITIES FOR OFFENDERS

§1. — *Reintegration support fund*

74. A reintegration support fund shall be established in each correctional facility.

The name of a reintegration support fund must include the expression "Fonds de soutien à la réinsertion sociale" and the name of the correctional facility.

75. The functions of a fund shall be to establish each year, on the date fixed by the Fonds central de soutien à la réinsertion sociale, established under section 102, and within the framework determined by regulation, a program of activities for offenders, and see to its implementation. The program and any modification to the program must be approved by the Fonds central.

A further function of a fund is to assist offenders financially, in accordance with the conditions prescribed by regulation.

For those purposes, a fund shall be made up of

(1) the sums deducted from the remuneration owed to offenders, according to the percentage fixed by regulation;

(2) the gifts made for the benefit of offenders, subject to the conditions attached thereto;

(3) any revenues generated within the framework of a program of activities;

(4) other sums of money from sources that may be determined by regulation; and

(5) the interest earned on the sums of money making up the fund.

76. A program of activities for offenders must propose academic, vocational and personal development activities, work activities, whether remunerated or not, and sports, socio-cultural and recreational activities.

An accused person may participate, on a voluntary basis, in the program of activities proposed in the facility where he or she is detained. The provisions of this division apply to such participation, with the necessary adaptations.

77. The Minister or the person designated by the Minister may, within the framework of a program of activities for offenders,

(1) entrust a fund with the organization and management of services; and

(2) take any reasonable measures to place the necessary services, personnel, premises and facilities of the correctional facility at the disposal of the fund, on the conditions prescribed by regulation.

78. The facility director may authorize an offender to engage in activities offered within the scope of a program of activities for offenders.

In the cases determined by regulation, such authorization may not be granted without the advice of the person designated by regulation having been taken into account.

79. A fund is a legal person.

80. A fund shall have its head office at the correctional facility.

81. A fund shall be administered by a board of directors composed of the director of the correctional facility, four persons appointed by the Minister and two offenders chosen by the facility director.

Two of the members shall be appointed by the Minister from among the public servants of the Ministère de la Sécurité publique and two members shall be chosen from among persons who are resident in the region of the correctional facility and show an interest in the reintegration of offenders; one of these members must be a representative of the business community.

82. The term of office of a member of the board of directors other than the facility director shall not exceed two years and may be renewed.

The members shall remain in office despite the expiry of their terms until replaced or reappointed.

83. The members of the board of directors shall designate a chair, a vice-chair, a secretary and a treasurer from among their number. The vice-chair shall replace the chair when the chair is absent or unable to act.

84. A majority of the members of the board of directors, including the facility director or a public servant, constitutes a quorum.

In the event of a tie, the chair has a casting vote.

85. A decision signed by all the members of the board of directors has the same force as if it had been made at a regular board meeting.

86. The board of directors shall administer the affairs and exercise all the powers of the fund.

87. A fund may, in particular,

(1) enter into any contract to enable an offender to participate in activities inside or outside the correctional facility, subject to the rules prescribed by regulation;

(2) contract loans to finance a program of activities, according to the rules prescribed by regulation;

(3) authorize expenses to be paid out of the fund; and

(4) hire any person necessary to the pursuit of its functions.

88. A fund may make a gift or grant a loan, with or without interest, to another fund established under section 74.

89. The Government may, on the conditions it determines, guarantee, out of the consolidated revenue fund or otherwise, the payment in principal and interest of any loan or bear the cost of any other obligation contracted by a fund.

90. The revenues from a contract entered into under paragraph 1 of section 87 shall be paid into the fund established in the correctional facility.

91. A fund shall deduct from the remuneration owed to an inmate in the correctional facility an amount, calculated according to the percentage fixed by regulation, that shall be paid into the fund as well as any amount that must be deducted pursuant to an Act in force in Québec or pursuant to a court decision.

The balance of the remuneration shall be paid to the facility director, who shall give the offender the allowance determined by regulation out of the balance.

92. Subject to any contrary agreement in writing authorized by the Minister, any balance remaining in the remuneration shall be deposited by the facility director with a financial institution and credited to the savings account held in trust for that purpose by the director. The amount and interest owed to an offender shall be paid to him or her by the facility director upon release.

93. The facility director shall give the offender an account of the remuneration received on his or her behalf and of the deductions and deposits made under section 91 or 92 upon the offender's release and, at his or her request, once a month or less.

94. Each fund must pay a contribution to the central fund at the time fixed by the central fund.

The contribution shall be determined by the central fund within the limits prescribed by regulation, and may differ from one fund to the other depending on the financial capacity and program of activities of each fund.

95. The fiscal year of a fund ends on 31 December.

96. No deed, document or writing binds a fund unless it is signed by the chair or any other duly authorized officer.

97. Not later than 30 June each year, a fund shall submit its financial statements and a report on its activities for the preceding fiscal year to the Minister. The financial statements and the activities report must contain all the information required by the Minister.

A copy of the financial statements, activities report and auditor's report must also be transmitted to the central fund.

98. A fund shall provide to the Minister any additional information the Minister requires on its activities.

99. The books and accounts of a fund shall be audited each year.

The Minister may, at any time, order that the books and accounts of a fund be also audited by an auditor designated by the Minister.

100. If the correctional facility is closed, the fund shall be liquidated in accordance with the rules and the terms and conditions prescribed by regulation.

101. The Minister must take every reasonable measure to facilitate the carrying out of the programs of activities of the funds established in correctional facilities.

§2. — *Reintegration support central fund*

102. A central fund called the "Fonds central de soutien à la réinsertion sociale" is hereby established.

103. The functions of the central fund are

(1) to support any fund established in a correctional facility that is in need of financial assistance and, for that purpose, make a gift or grant a loan to the fund with or without interest;

(2) to develop policies concerning programs of activities and advise the Government on the regulations to be made;

(3) to advise any fund established in a correctional facility concerning the organization and development of programs of activities;

(4) to approve the programs of activities of the funds established in correctional facilities.

104. The central fund shall, for the purposes of paragraph 1 of section 103, manage, in accordance with the regulations, a fund made up of

(1) the contributions paid pursuant to section 94 by the funds established in correctional facilities;

(2) other sums of money from sources that may be determined by regulation;

(3) the interest earned on the sums of money making up the fund.

105. The central fund is a legal person.

106. The central fund shall have its head office at the Ministère de la Sécurité publique.

107. The central fund shall be administered by a board of directors composed of seven members appointed by the Minister. Three members shall be chosen from among the directors of the correctional facilities, two from among the public servants of the correctional services, and two from among other persons who show an interest in the reintegration of offenders, including a representative of the business community.

The members of the board of directors shall be appointed for a renewable term of two years.

The members shall remain in office despite the expiry of their terms until replaced or reappointed.

108. The Minister may give the central fund guidelines regarding the development of programs of activities.

109. Sections 83 to 86 and 95 to 99 apply to the central fund, with the necessary modifications.

CHAPTER III

COMMUNITY-BASED ORGANIZATIONS

110. The Minister may recognize a community-based organization as a partner of the correctional services if the organization

(1) offers activities or services designed to meet the needs of offenders and to supplement the activities or services offered by the correctional services;

(2) is a non-profit corrections organization, whose board of directors is composed in the majority of persons from the community served by the organization; and

(3) has the human, material and organizational resources appropriate to its activities and services having regard to the standards established by the Minister.

The Minister shall establish the standards after obtaining the advice of the parole board, the correctional services and the associations representing the non-profit community-based corrections organizations.

111. The activities or services offered by a community-based organization to supplement the activities or services offered by the correctional services and meet the needs of offenders are the following:

(1) participation in the community supervision of offenders;

(2) development and implementation of psychosocial support and basic social skills development programs;

(3) residential services with support and assistance activities;

(4) development of substitute social networks;

(5) any activity or service considered appropriate having regard to the needs of offenders or the policies of the correctional services.

112. A community-based organization is recognized by the Minister as a partner of the correctional services by means of a partnership agreement.

113. The partnership agreement shall determine, in particular,

(1) the nature and scope of the activities or services provided by the community-based organization;

(2) the contact and communication mechanisms between the community-based organization and the Minister;

(3) the general criteria for the assessment of the activities or services offered by the community-based organization, in particular as regards the human, material, financial and organizational resources allocated to the services;

(4) the Minister's responsibilities as regards the planning of the tasks entrusted to the community-based organization;

(5) the financial compensation paid by the Minister to the community-based organization;

(6) the provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information that apply to the information that will be disclosed to the organization and the measures the organization must take to ensure that the information is used only for the purposes of its mandate and is not retained when the reason for which it was obtained no longer exists;

(7) a dispute resolution mechanism for the settlement of disputes concerning the interpretation or implementation of the agreement;

(8) the term of the agreement, which shall not exceed five years;

(9) the organization's reporting and accountability mechanisms;

(10) the organization's obligation to provide reports or other information required by the Minister concerning the progress accomplished by an offender to whom it is providing activities or services;

(11) the organization's obligation to cooperate in any investigation that may be requested by the Minister into an incident involving an offender to whom it is providing activities or services;

(12) the periodic evaluation to be made by the Minister; and

(13) the sanctions that may be imposed on persons in the employ of the community-based organization in case of the violation of their oath of secrecy.

An agreement between the Minister and a community-based organization may be terminated by either party on six months' notice. In the absence of such notice, the agreement shall be renewed automatically for the same term.

114. A community-based organization recognized as a partner of the correctional services shall have access to any information at the disposal of the correctional services concerning offenders to whom it is providing activities or services, and that is necessary to the carrying out of its work.

115. Every person in the employ of the community-based organization who is assigned to the implementation of the agreement is required to take the oath set out in Schedule I.

CHAPTER IV

COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

DIVISION I

ESTABLISHMENT

116. A parole board is hereby established under the name "Commission québécoise des libérations conditionnelles".

117. The parole board shall have its head office at the place determined by the Government. Notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

118. The parole board shall hold its sittings at the places it determines.

The parole board may hold sittings in several places simultaneously.

DIVISION II

MANDATE

119. The parole board shall make the decisions concerning temporary absences in preparation for conditional release, temporary absences for family visit and the conditional release of inmates serving a sentence of six months or more in a correctional facility.

In particular, the parole board shall

(1) facilitate the reintegration of offenders into the community having regard to the decisions of the courts and the protection of society;

(2) consider all necessary and available information that pertains to the offenders before making a decision; and

(3) establish policies that are consistent with those established by the Minister, transmit the policies to the Minister and see that they are disseminated.

DIVISION III

COMPOSITION AND OPERATION

120. The parole board shall be composed of not more than twelve full-time members including a chair and vice-chair, of part-time members in a number determined by the Government and of at least one community member per region determined by regulation.

121. The members of the parole board shall be appointed by the Government.

122. The full-time members and part-time members shall be appointed for terms not exceeding five years and the community members for terms not exceeding three years.

123. The members of the parole board shall remain in office at the expiry of their terms until reappointed or replaced.

124. The members of the parole board and any person designated by the parole board may not be prosecuted by reason of official acts done in good faith in the exercise of their functions.

125. The Government shall fix the salary and the conditions of employment of the full-time members and part-time members and the fees and allowances of the community members of the parole board.

126. The secretary and the other members of the personnel of the parole board are appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

127. The chair of the parole board shall administer and have the general direction of the parole board.

The functions of the chair shall include the responsibility of coordinating and assigning the work of the members of the parole board, defining the policies of the parole board and ensuring that a high standard of quality and coherence is maintained in the parole board's decisions.

128. The chair may delegate all or some of the chair's powers and duties to the vice-chair.

129. The vice-chair shall exercise the functions and powers of the chair when the chair is absent or unable to act, or if the office of chair is vacant.

130. Where a full-time or part-time member is absent or unable to act, the chair may designate a community member to replace that member. A person so designated is deemed to be a full-time or part-time member, depending on the member replaced, for the purposes of section 154.

131. The parole board may adopt internal management by-laws.

132. Originals and copies of documents emanating from the parole board are authentic if signed or certified true by the chair, the secretary or a member designated by the chair.

133. Except on a question of jurisdiction, no remedy 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 parole board or against any of its members acting in their official capacity.

A judge of the Court of Appeal may, on a motion, annul by summary proceeding any proceeding brought or decision rendered contrary to the first paragraph.

134. Not later than 30 June each year, the parole board must submit an annual management report to the Minister.

The Minister shall table the report of the parole board in the National Assembly in accordance with section 26 of the Public Administration Act (R.S.Q., chapter A-6.01).

DIVISION IV

TEMPORARY ABSENCE

§1. — *Temporary absence in preparation for conditional release*

135. Temporary absence in preparation for conditional release shall constitute a stage in the offender's rehabilitation process, forms part of his or her preparation for conditional release and takes place within the framework of a plan for his or her reintegration into the community.

A person is eligible for temporary absence after serving one sixth of a sentence of six months or more imposed by the court and ceases to be eligible on becoming eligible for conditional release.

136. Where a person applies therefor in writing, the parole board may authorize a temporary absence in preparation for conditional release, in particular to allow the person

(1) to hold remunerated employment;

(2) to actively seek remunerated employment;

(3) to perform volunteer work in a community-based resource;

(4) to undertake or pursue secondary, college or university studies;

(5) to undergo an academic assessment for the purpose of returning to school;

(6) to undergo an eligibility assessment for future accommodation in a community-based residential facility or stay in such a facility;

(7) to participate, in the community, in an assistance or support program or therapy that is consistent with his or her needs; or

(8) to maintain or reestablish contacts with his or her family or social network.

137. The parole board shall determine the conditions that apply to the person and the duration of the temporary absence, which may not exceed sixty days.

138. A member of the parole board may, after examining the person's record, renew a temporary absence if he or she has complied with the attached conditions and has behaved satisfactorily, and if no new fact prevents a renewal or warrants a refusal.

139. A person may not reapply for a temporary absence in preparation for conditional release following a decision refusing, terminating or cancelling such an absence.

§2. — *Temporary absence for family visit*

140. An offender may, following a decision refusing, revoking or terminating his or her conditional release, apply to the parole board in writing for permission to be absent for the purpose of visiting his or her family, namely a spouse, child, father, mother, brother or sister or a person who stood in lieu of his or her father or mother.

141. A full-time or part-time member of the parole board shall examine the case on the record and consider the following criteria:

(1) the protection of society in relation to the person's risk of reoffending and his or her potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems;

(2) the nature, seriousness and consequences of the offence committed by the person;

(3) the person's behaviour while in custody and, if applicable, during a prior temporary absence and his or her capacity to comply with the conditions imposed; and

(4) whether or not a family member has agreed to welcome the offender and whether or not the family visit may foster his or her reintegration.

The person is entitled to submit observations and, if applicable, file documents to complete his or her file.

142. The member of the parole board shall determine the conditions that are to apply to the person and the duration of temporary absence, which may not exceed 72 hours per month. The time required to travel from the place of detention to the person's destination is not included in the duration of the absence.

The member of the parole board may, in addition, determine the frequency of temporary absences for family visits or in the case of a refusal, the date on which the person may re-apply in accordance with section 140.

DIVISION V

CONDITIONAL RELEASE

§1. — *Eligibility*

143. An offender who is serving a sentence of six months or more in a correctional facility following a conviction under an Act in force in Québec is eligible for conditional release unless conditional release is waived in writing by the offender.

The parole board may, on the conditions it determines, grant conditional release to an offender to facilitate his or her reintegration into the community if there is no serious risk that he or she will not comply with the attached conditions or that serious prejudice to society will result therefrom.

144. The length of conditional release is the time remaining to be served by the offender at the time conditional release is granted, to which any remission time standing to the credit of the offender must be added.

145. An offender becomes eligible for conditional release

(1) after serving seven years of imprisonment, in the case of an offender sentenced to life imprisonment as a maximum sentence;

(2) after serving one half of the sentence of imprisonment imposed by the court or ten years, whichever is shorter, in the case of a sentence of imprisonment of two years or more, where the circumstances set out in section 743.6 of the Criminal Code apply; or

(3) after serving one third of the sentence of imprisonment imposed by the court or seven years, whichever is shorter, in other cases.

Any time spent in custody between the day of arrest and the day on which the sentence was imposed shall be included in calculating the period referred to in subparagraph 1.

146. An offender who receives an additional sentence becomes eligible for conditional release

(1) after serving both any remaining period of ineligibility under the initial sentence and one third of the additional sentence, commencing on the day on which the additional sentence is imposed, if it is to be served consecutively and is imposed under the Criminal Code or another federal statute; or

(2) after serving one third of a single sentence determined pursuant to section 33, in other cases.

The parole board must study the offender's record in relation to the new date of eligibility.

147. An offender who receives an additional sentence to be served consecutively to a portion of the sentence of imprisonment currently being served in accordance with section 33 is eligible for conditional release only on the latest of the following dates:

(1) the date on which the offender has served a third of the sentence being served at the time the additional sentence is imposed;

(2) the date on which the offender has served a third of the additional sentence, determined from the date the additional sentence is imposed;

(3) the date on which the offender has served a third of the sentence of imprisonment determined in accordance with section 33.

The parole board must, in such a case, examine the record of the person on the basis of the new date of eligibility.

148. The conditional release of a person on whom an additional sentence is imposed is suspended and may be resumed only

(1) after the offender has served one third of the additional sentence, commencing on the day on which the additional sentence is imposed, if it is to be served consecutively and is imposed under the Criminal Code or another federal statute; or

(2) after the offender has served one third of a single sentence determined pursuant to section 33, in other cases.

However, conditional release cannot resume if the parole board or a person designated in writing by the parole board has ordered a suspension pursuant to section 161.

149. Notwithstanding sections 145 to 148, conditional release may be granted to an offender

(1) who is terminally ill;

(2) whose physical or mental health is likely to suffer serious damage if he or she continues to be held in confinement;

(3) for whom continued confinement would constitute an excessive hardship that was not reasonably foreseeable at the time the offender was sentenced; or

(4) who is the subject of an order to be surrendered under the Extradition Act (Statutes of Canada, 1999, chapter 18) and to be detained until surrendered.

150. A young person within the meaning of the Young Offenders Act who has been committed to custody under that Act and a person convicted for civil or criminal contempt of court where the sentence includes a requirement that the offender return before the court are not eligible for temporary absence or conditional release.

The parole board is not required to examine the case of a person who, at the time fixed for an examination, is unlawfully at large or stands accused. If the person is unlawfully at large, however, the parole board shall forthwith examine the case after being informed of the offender's recommitment.

§2. — *Re-examination*

151. A person whose conditional release has been refused, terminated or revoked may, after the expiry of the time provided for an application for re-examination, submit another application for re-examination by the parole board.

152. Any application submitted within six months following a decision refusing, terminating or revoking a conditional release must establish that new and significant facts have occurred since the decision or that measures proposed by the parole board in a previous decision have been implemented.

The member of the parole board to whom the application is referred shall reject it if it does not meet the conditions set out in the first paragraph or shall refer it to the parole board for re-examination.

153. The parole board shall re-examine any application submitted more than six months after a decision refusing, terminating or revoking a conditional release is rendered.

DIVISION VI

PROCEDURE

154. The quorum of the parole board is two members, one of whom must be a full-time or part-time member. The decision must be unanimous.

In the case of disagreement, the matter shall be referred to two other members.

155. On examining the case of a person eligible for temporary absence in preparation for conditional release or eligible for conditional release, the parole board shall consider the following criteria:

(1) the protection of society in relation to the offender's risk of reoffending and of his or her potential for reintegration determined on the basis, in particular, of his or her needs as regards his or her delinquency problems and the availability of resources;

(2) the nature, seriousness and consequences of the offence committed by the offender;

(3) the degree to which the offender understands and assumes responsibility for his or her criminal behaviour and the consequences of the offence for the victim and for society;

(4) the offender's judicial record and corrections history;

(5) the offender's personality and behaviour, his or her rehabilitation progress since the sentence was imposed, his or her willingness to become involved in a process of change and his or her capacity to fulfil his or her obligations;

(6) the offender's behaviour during incarceration under an earlier sentence or during the earlier application of a community measure, at the provincial or federal level;

(7) the offender's previous employment and work skills;

(8) the family and social resources available; and

(9) the appropriateness of the reintegration plan having regard to the offender's risk of reoffending and his or her capacity to complete the plan with the appropriate support.

156. During the examination of his or her record, the offender is entitled to be present and submit observations and, where expedient, to produce documents to complete his or her record, unless that right is waived in writing by the offender.

The offender is also entitled to be represented or assisted by any person of his or her choice other than an inmate from another correctional facility.

157. The parole board shall, with diligence, render a reasoned decision in writing.

A copy of the decision must be given to the offender and to the correctional services as soon as possible.

158. The parole board must inform the police forces of the temporary absence or conditional release granted to an offender and of the conditions that apply.

159. A person to whom a temporary absence or conditional release is granted must be advised that the police forces and, if applicable, the victim have been informed of the temporary absence or conditional release and of the conditions attached thereto.

DIVISION VII

CANCELLATION, SUSPENSION, TERMINATION AND REVOCATION

160. The decision to grant temporary absence or conditional release shall not take effect where a new fact is discovered which, if it had been known in time, may have warranted a different decision or where warranted by the occurrence of an event.

The parole board or, in the case of a temporary absence for a family visit, a member of the parole board, shall reexamine the offender's record within the time prescribed by regulation and, after giving the offender an opportunity to submit observations, the board or member may

(1) maintain the decision to grant the temporary absence or conditional release and, if necessary, modify the conditions thereof; or

(2) cancel the decision to grant the temporary absence or conditional relase.

161. A member of the parole board or a person designated by the parole board in writing may suspend an offender's temporary absence or conditional release, and, if appropriate, issue a warrant of apprehension and order the commitment of the offender,

(1) where he or she has reasonable cause to believe that the offender has breached a condition attached to a temporary absence or conditional release or that action must be taken to prevent such a breach;

(2) for any valid reason invoked by the offender; or

(3) where a new fact is discovered which, if it had been known at the time temporary absence or conditional release was granted, may have warranted a different decision or where an event not covered by subparagraphs 1 and 2 occurs that warrants a suspension.

The decision must be rendered in writing and include reasons.

162. The member of the parole board who ordered the suspension under section 161 or, after consulting the parole board, the person designated by the

parole board in writing may, within five days after the recommitment of the offender in the case of a temporary absence, and within ten days after the recommitment of the offender in the case of a conditional release, cancel the suspension or refer the case to the parole board.

The director must, as soon as possible, give a copy of the decision to the person recommitted.

163. Where an offender's case is referred to the parole board under section 162, the parole board must examine the case within ten days after the recommitment of the offender in the case of a suspension for a valid reason invoked by the offender or in the case of a suspension of a temporary absence. The parole board must examine the case within twenty-one days after the recommitment of the offender in the case of conditional release.

The parole board may

(1) revoke the offender's temporary absence or conditional release and order that the offender be committed to custody;

(2) order the termination of the temporary absence or conditional release if the suspension was for a valid reason invoked by the offender and order that the offender be committed to custody; or

(3) cancel the suspension and release the offender on the conditions it determines.

164. A person whose conditional release is revoked must complete the portion of his or her term of imprisonment that remained to be served at the time conditional release was granted, less

(1) any time spent under conditional release;

(2) any time spent in custody by reason of the suspension of a conditional release; and

(3) any remission time for the period spent in custody by reason of the suspension.

The parole board may recredit an offender whose conditional release is revoked with all or part of the remission time standing to his or her credit at the time conditional release was granted.

165. A person whose conditional release has been terminated must complete the portion of the term of imprisonment that remained to be served at the time conditional release was granted, less

(1) any remission time standing to his or her credit at the time conditional release was granted;

(2) any time spent under conditional release;

(3) any time spent in custody by reason of the suspension of a conditional release; and

(4) any remission time for the period spent in custody by reason of the suspension.

166. Where the suspension of conditional release is cancelled, the person is deemed to have continued serving his or her sentence during the period beginning on the date of the suspension and ending on the date on which the suspension is cancelled.

DIVISION VIII

MODIFICATION OF CONDITIONS

167. A member of the parole board or a person designated in writing by the parole board may mitigate or suppress the conditions during a temporary absence or a conditional release.

A member of the parole board or, after consulting the parole board, the person designated may reinforce or add to the conditions.

A decision under the second paragraph may not be made without giving the offender an opportunity to submit observations.

168. The decision shall be rendered in writing and include reasons. A copy shall be transmitted as soon as possible to the offender, to the secretary of the parole board and to the correctional services.

DIVISION IX

REVIEW

169. A person may, if the parole board renders a decision refusing or revoking his or her temporary absence or conditional release or ordering its termination, apply for a review of the decision by a committee composed of three full-time or part-time members of the parole board who did not take part in the initial decision.

170. The application must be made in writing within seven days of the decision in the case of a temporary absence and within fourteen days in the case of a conditional release, and establish that

(1) the members of the parole board did not comply with the applicable legislative prescriptions; or

(2) the decision was based on incomplete or erroneous information.

171. The committee, after giving the person an opportunity to submit observations, shall make a determination on the record and may render either of the following decisions:

(1) affirm, cancel or vary the decision; or

(2) order a new review of the case and maintain the decision pending review.

172. The committee must render a majority decision within seven days of the application in the case of a temporary absence and within fourteen days in the case of a conditional release, and shall transmit the decision to the offender and to the correctional services.

CHAPTER V

VICTIMS

173. Victims are entitled to be treated with courtesy, justice and comprehension and in a manner that is respectful of their dignity and privacy.

174. For the purposes of this Act, a victim is any natural person who suffers physical or psychological injury or incurs property loss as a result of the perpetration of an offence.

If the person referred to in the first paragraph dies, is a minor or is otherwise unable to receive communication of the information to be communicated under section 175 or to make representations, the person's spouse, a relative or a child of the person or any other person in whose custody or care the person is placed shall, if he or she applies therefor, be considered to be a victim.

175. The facility director or the chair of the parole board, as the case may be, must take all reasonable measures to communicate to a victim under the terms of a government policy such as the policy on domestic violence or sexual assault, a victim of an offence relating to a behaviour related to pedophilia and any other victim who so requests all or part of the following information, unless there is reasonable cause to believe that the disclosure would compromise the safety of the offender:

(1) the date of the offender's eligibility for a temporary absence for reintegration purposes or in preparation for conditional release or of the offender's eligibility for conditional release;

(2) the date of the offender's temporary absence for reintegration purposes, in preparation for conditional release or for a family visit or of the offender's conditional release together with the attached conditions and the offender's destination during such absence; and

(3) the date of the offender's full release.

The same rules apply with respect to any other person if there is reasonable cause to believe that the offender's release may compromise the safety of that person.

176. A victim may make written representations to the facility director or to the president of the parole board, as the case may be, concerning a temporary absence for reintegration purposes, in preparation for conditional release or for a family visit or a conditional release granted to an offender.

CHAPTER VI

COORDINATION BODIES

DIVISION I

COMITÉ DE CONCERTATION DES SERVICES CORRECTIONNELS ET DE LA COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

§1. — *Establishment*

177. A coordinating committee called the "Comité de concertation des Services correctionnels et de la Commission québécoise des libérations conditionnelles" is hereby established.

§2. — *Mandate*

178. The mandate of the committee is

(1) to facilitate the harmonization of the respective conceptions and practices of the correctional services and the parole board in accordance with the orientations and general policies established by the Minister;

(2) to establish a research program;

(3) to harmonize the continuing education programs of the correctional services and the parole board;

(4) to foster coordinated implementation by the correctional services and the parole board of changes rendered necessary by changes in legislation, social trends, information and communication technologies, professional practices, government policies and orientations and other transformations in the correctional environment that may affect existing practices; and

(5) to carry out any mandate conferred on it by the Minister.

§3. — *Composition and operation*

179. The committee shall be composed of the Deputy Minister of Public Security, the Associate Deputy Minister for Correctional Services and the chair of the parole board.

The committee may also retain the services of any person to act as an advisor.

180. The committee shall be chaired by the Deputy Minister, who shall direct its activities and coordinate its work.

The committee shall meet as often as is necessary in the carrying out of its mandate and shall not later than 30 June each year transmit to the Minister a report on its activities.

DIVISION II

CONSEIL DES PRATIQUES CORRECTIONNELLES DU QUÉBEC

§1. — *Establishment*

181. A corrections council called the "Conseil des pratiques correctionnelles du Québec" is hereby established.

182. The corrections council shall have its head office in the territory of Ville de Québec.

§2. — *Mandate*

183. The mandate of the corrections council is to facilitate collaboration and coordinated action among the various stakeholders of society involved in the reintegration of offenders into the community and to seek continued improvement of the correctional system.

Within the scope of its mandate, the corrections council shall

(1) promote public awareness of the issues involved in the reintegration of offenders into the community and participate in social debate in that respect;

(2) encourage communication between the various stakeholders having an interest in the reintegration of offenders into the community;

(3) encourage collaboration between the correctional services, the parole board and their corrections partners;

(4) encourage and promote scientific research on the correctional system; and

(5) give advice on any other subject, at the request of the Minister.

§3. — *Composition and operation*

184. The corrections council shall be composed of eighteen members including

(1) a chair appointed by the Minister;

(2) twelve persons recognized for their expertise or interest in the correctional system, appointed by the Minister after consultation with the groups concerned;

(3) the Associate Deputy Minister for Correctional Services or his or her representative;

(4) three members of the managerial personnel of the correctional services, appointed by the Minister; and

(5) the chair of the Commission québécoise des libérations conditionnelles or his or her representative.

The chair of the corrections council shall be appointed for a term not exceeding five years.

The persons referred to in subparagraphs 2 and 4 of the first paragraph shall be appointed for a term not exceeding three years. However, five members of the first council shall be appointed for one year, five members for two years and five members for three years.

The term of a member may not be renewed more than once. At the end of their terms, the members shall remain in office until they are replaced or reappointed.

185. The chair shall direct the activities of the corrections council and coordinate its work. The chair shall also act as liaison between the corrections council and the Minister.

If the chair is unable to act, the Minister shall designate one of the members to replace the chair.

186. The members of the corrections council shall receive no remuneration, except in the cases, on the conditions and to the extent that may be determined by the Government.

The members are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

187. The corrections council shall meet as often as necessary, at the request of the chair, of a majority of the members or of the Minister.

The corrections council may hold its sittings at any place in Québec.

Ten members, including the chair, shall constitute a quorum.

In the case of a tie, the chair has a casting vote.

188. The corrections council shall transmit to the Minister, not later than 30 June each year, a report on its activities; the report must also contain all the information that the Minister may require.

189. The secretarial services of the corrections council shall be furnished by the Ministère de la Sécurité publique.

CHAPTER VII

SPECIAL RESPONSIBILITIES OF THE MINISTER OF PUBLIC SECURITY

190. The Minister shall be responsible for determining the general policies concerning Québec's correctional system. More particularly, the Minister shall be responsible for developing and proposing strategies and policies in such matters.

191. The Minister shall see to the enforcement of the legal standards applicable in the field of corrections. The Minister shall encourage coordinated action on the part of the various stakeholders in the field of corrections.

192. The Minister shall promote and encourage, as regards the reintegration of offenders into the community, initiatives from the various social players, including the creation of associations devoted to offender reintegration, in particular through financial or technical support, on the conditions the Minister determines. The Minister shall disseminate information to enable citizens to become involved in the pursuit of the objectives of this Act.

CHAPTER VIII

REGULATORY POWERS AND DIRECTIVES

193. The Government may, by regulation,

(1) determine, in addition to the powers already provided for in this Act, the powers that the director of a correctional facility may exercise;

(2) establish with respect to correctional officers, probation officers, correctional counsellors or managers working with persons entrusted to the correctional services, specific rules of conduct that may be adapted for the various categories of position concerned or made applicable only to certain of them and that determine

(*a*) their duties and standards of conduct in their relations with persons entrusted to the correctional services,

(*b*) the implementation mechanisms, including the designation of the persons responsible for ascertaining compliance with those rules, and

(*c*) the sanctions applicable in case of violation;

(3) establish standards respecting the administration and internal management of correctional facilities and the surveillance and security measures that must be taken in correctional facilities;

(4) establish a procedure to process complaints from inmates;

(5) determine the cases in which persons entrusted to the correctional services, visitors, personnel members and the cells of a correctional facility may be searched, the kinds of searches permitted, the conditions in which searches may be conducted and the persons or categories of persons who may conduct such searches;

(6) prescribe administrative segregation measures that may be taken against an inmate where there are reasonable grounds to believe that the inmate is in possession of contraband and, for that purpose,

(*a*) determine the categories of inmates who may be the subject of administrative segregation measures;

(*b*) designate the employees or categories of employees who are authorized to impose administrative segregation measures and determine their powers;

(*c*) determine the cases in which administrative segregation measures may be imposed, their duration and the conditions applicable to their implementation;

(*d*) specify the rules of procedure for the imposition of administrative segregation measures, in particular as regards the rights of inmates;

(*e*) prescribe a mechanism for the review of such a decision by the director of the correctional facility, determine its powers, establish the time frame for the review and provide for the inmate's right to submit observations to the director;

(7) determine, in addition to the responsibilities already provided for in this Act, the responsibilities of inmates;

(8) determine the measures that a member of the personnel of a correctional facility must take on becoming aware of a breach of discipline, establish the rules of procedure and decision criteria to be used by discipline committees as well as the punishment they may impose, and determine the conditions applicable to the decision review mechanism;

(9) establish standards respecting hygiene, health care, physical exercise, food, clothing and other articles that must be provided to inmates;

(10) determine the classes of persons who may visit inmates or who are authorized to visit correctional facilities, and the rules applicable in such circumstances;

(11) regulate the application of the provisions of this Act that relate to remission;

(12) determine the measures that must be taken upon the release of inmates to meet their basic needs;

(13) determine the content of the record transmitted to the director by a temporary absence examining board or, in the case of a review, the record transmitted by a director to the person designated by the Minister;

(14) specify the terms and conditions applicable to the preparation and execution of an order imposing hours of community service;

(15) fix criteria for the establishment of a program of activities and establish standards for its implementation;

(16) establish standards respecting the remuneration and other conditions of employment of persons exercising functions under a program of activities;

(17) establish the conditions subject to which a fund may financially assist an inmate;

(18) fix the percentage of remuneration owed to an inmate to be paid into a fund, which may vary according to criteria the Government determines;

(19) determine the rules applicable to the making of a contract by a fund concerning the carrying out of activities inside or outside a correctional facility;

(20) determine the rules applicable to loans contracted by a fund to finance a program of activities;

(21) determine the standards applicable to the management of the sums that make up a fund referred to in section 75 or 104 and determine the source of other sums that may make up such a fund;

(22) establish the conditions subject to which the services, the personnel, the premises and the equipment of a correctional facility may be put at the disposal of a fund;

(23) determine the rules applicable to the liquidation of a fund established in a correctional facility;

(24) set the limits within which the central fund is to determine the contribution to be paid by each fund, which may vary according to criteria the Government determines;

(25) determine the allowance an inmate in a correctional facility may receive out of the remuneration owed and the purchases and reimbursements the inmate may make;

(26) determine, for the purposes of the second paragraph of section 78, the cases where an authorization may not be granted without taking into account the opinion of the person designated for that purpose;

(27) determine the nature of the information the parole board is required to transmit to a person eligible for conditional release;

(28) determine the regions for the purposes of section 120; and

(29) establish rules of procedure for the application of Chapter IV of this Act.

In case of discrepancy between the rules of conduct established under subparagraph 2 of the first paragraph and the standards of ethics and discipline established under the Public Service Act, the more demanding rules and principles apply.

194. The Minister or the person designated by the Minister and the director, for the facility under his or her management, may, subject to the regulations, issue directives respecting any matter referred to in subparagraphs 3, 9 and 12 of the first paragraph of section 193.

A directive issued by a facility director must be submitted to the Minister or person designated by the Minister for approval.

CHAPTER IX

PENAL PROVISIONS

195. Any person who contravenes the provisions of section 11 is guilty of an offence and is liable to a fine of $250 to $2,500.

196. Any person who is employed by a community-based organization, a Native community or a group of communities and who, without being duly authorized to do so, discloses or communicates confidential information that has been transmitted to him or her within the scope of an agreement entered into under section 31 or 112 is guilty of an offence and is liable to a fine of $250 to $2,500.

197. Any person who deceives others into believing that the person is a member of the personnel of the correctional services having the status of peace officer, in particular by wearing a uniform or a badge, is guilty of an offence and is liable to a fine of $500 to $3,000.

198. Any officer of the correctional services who wears the uniform, badge or service weapon or uses other items belonging to the employer when not on duty or authorized by his or her superior is guilty of an offence and is liable to a fine of $500 to $3,000.

199. Any person who helps or, by encouragement, advice or consent or by an authorization or order, induces another person to commit an offence under this Act, is guilty of an offence. Any person found guilty under this section is liable to the same penalty as is prescribed for the offence that was committed.

CHAPTER X

MISCELLANEOUS PROVISIONS

200. The parole board must, not later than (*insert here the date occurring three years after the coming into force of section 136*), report to the Minister on the application of section 136 and on the advisability of maintaining it in force or, as the case may be, amending it.

The form and tenor of the report shall be determined by the Minister.

The report shall be tabled in the National Assembly by the Minister within fifteen days of receipt if the Assembly is sitting or, if it is not sitting, within fifteen days of resumption.

201. Only sections 12 to 48 and paragraph 11 of section 51 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) apply to

(1) remunerated work performed by an offender within the scope of a program of activities; the reintegration support fund of the correctional facility where the offender is in custody, established pursuant to section 74, is presumed to be the offender's employer; and

(2) hours of community service performed by an offender under a probation or suspension order; the Government in such case is presumed to be the offender's employer.

The contribution of the employer is established according to the standards applicable pursuant to that Act by the Commission de la santé et de la sécurité du travail.

202. Chapter III of the Public Administration Act (R.S.Q., chapter A-6.01), Chapter IV of the Building Act (R.S.Q., chapter B-1.1), the Labour Code (R.S.Q., chapter C-27), the Act respecting collective agreement decrees (R.S.Q., chapter D-2), the Public Service Act (R.S.Q., chapter F-3.1.1), the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5), the Master Electricians Act (R.S.Q., chapter M-3), the Master Pipe-Mechanics Act (R.S.Q., chapter M-4), the Act respecting labour standards (R.S.Q., chapter N-1.1) and the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) do not apply to inmates and offenders who carry out

(1) work inside a correctional facility;

(2) work outside a correctional facility in an enterprise operated by the reintegration support fund of the facility; or

(3) hours of community service performed under a probation or suspension order.

203. The Minister of Public Security is responsible for the administration of this Act.

CHAPTER XI

AMENDING PROVISIONS

DIVISION I

GENERAL AMENDMENT

204. The words "Act respecting correctional services (chapter S-4.01)" are replaced by the words "Act respecting the Québec correctional system (2002, chapter 24)" in the following provisions:

(1) subparagraph *k* of the first paragraph of section 1 of the Food Products Act (R.S.Q., chapter P-29);

(2) section 11 of the Youth Protection Act (R.S.Q., chapter P-34.1);

(3) paragraph 1 of section 38 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);

(4) paragraph 8 of section 1 of Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

(5) paragraph 11 of section 2 and the first paragraph of section 9 of the Tobacco Act (R.S.Q., chapter T-0.01);

(6) the first paragraph of section 3 of the Marine Products Processing Act (R.S.Q., chapter T-11.01).

DIVISION II

SPECIFIC AMENDMENTS

205. Section 12.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

(1) by replacing "fund for the benefit of confined persons established in a house of detention under section 22.0.1 of the Act respecting correctional services (chapter S-4.01) if he" by "reintegration support fund established in a correctional facility under section 74 of the Act respecting the Québec correctional system (2002, chapter 24) if the person";

(2) by replacing "22.0.16 to 22.0.18" in the second paragraph by "91 to 93".

206. Sections 294 and 296 of the said Act are amended by replacing "to a fund for the benefit of confined persons contemplated", wherever those words appear, by "to a reintegration support fund referred to".

207. Section 9 of the Tobacco Act (R.S.Q., chapter T-0.01) is amended by replacing "warden of a house of detention", wherever those words appear by "director of a correctional facility", and "warden may permit" by "director may permit".

CHAPTER XII

TRANSITIONAL PROVISIONS

208. The part-time members of the Commission québécoise des libérations conditionnelles in office on (*insert here the date of coming into force of section 120*) are deemed, for the unexpired portion of their term of office, to have been appointed as community members.

209. Unless the context indicates otherwise, in every text or document, whatever the nature or the medium, a reference to the Act to promote the parole of inmates or the Act respecting correctional services, or any of their provisions, is a reference to this Act or to the corresponding provision of this Act.

210. This Act replaces the Act to promote the parole of inmates (R.S.Q., chapter L-1.1) and the Act respecting correctional services (R.S.Q., chapter S-4.01).

CHAPTER XIII

FINAL PROVISION

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

SCHEDULE I

OATH OF DISCRETION
(*Sections 32 and 115*)

I swear that I will not reveal or make known, without being duly authorized, any nominative information or any information capable of compromising the safety of the population, members of the personnel or offenders, that may come to my knowledge in the exercise of my functions.

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NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 90
(2002, chapter 33)

An Act to amend the Professional Code and other legislative provisions as regards the health sector

Introduced 1 May 2002
Passage in principle 12 June 2002
Passage 14 June 2002
Assented to 14 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill establishes a new division of fields of professional practice in the health sector and identifies activities henceforth reserved to physicians, pharmacists, nurses, radiology technologists, dieticians, speech therapists and audiologists, physiotherapists, occupational therapists, nursing assistants, medical technologists and respiratory therapists.

In addition, the bill contains provisions to authorize non-professionals to engage in certain activities in specific circumstances or in certain well-identified environments, so as to better address the health needs of the population.

Furthermore, a framework is established to allow professionals who are not physicians, nurses for instance, to engage in certain medical activities. A committee or a physician will be designated by the Bureau of the Collège des médecins du Québec to verify the quality of such activities. The physicians working with such professionals outside a centre operated by a health or social services institution will be required to obtain the Bureau's authorization with respect to local conditions applicable to such activities. Finally, various measures are introduced to ensure proper supervision of medical activities engaged in by non-physicians in institutions.

LEGISLATION AMENDED BY THIS BILL:

– Health Insurance Act (R.S.Q., chapter A-29);

– Act respecting prescription drug insurance (R.S.Q., chapter A-29.01);

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

– Nurses Act (R.S.Q., chapter I-8);

– Medical Act (R.S.Q., chapter M-9);

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

– Act respecting health services and social services (R.S.Q., chapter S-4.2);

– Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

– Radiology Technologists Act (R.S.Q., chapter T-5).

Bill 90

AN ACT TO AMEND THE PROFESSIONAL CODE AND OTHER LEGISLATIVE PROVISIONS AS REGARDS THE HEALTH SECTOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 37 of the Professional Code (R.S.Q., chapter C-26), amended by section 124 of chapter 56 of the statutes of 2000, is again amended

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

"(*c*) the Ordre professionnel des diététistes du Québec: assess the nutritional status of a person and determine and ensure the implementation of a response strategy designed to tailor diet to needs in order to maintain or restore health;";

(2) by replacing paragraph *m* by the following paragraph:

"(*m*) the Ordre professionnel des orthophonistes et audiologistes du Québec: assess the auditory, language, voice and speech functions, determine a treatment and intervention plan and ensure its implementation in order to improve or restore communication;";

(3) by replacing paragraph *n* by the following paragraph:

"(*n*) the Ordre professionnel des physiothérapeutes du Québec: assess physical function limitations and disabilities related to the neurological, musculoskeletal and cardiopulmonary systems, determine a treatment plan and apply treatment in order to obtain optimal functional performance;";

(4) by replacing paragraph *o* by the following paragraph:

"(*o*) the Ordre professionnel des ergothérapeutes du Québec: assess the functional abilities of a person, determine and implement a treatment and intervention plan, develop, restore or maintain skills, compensate disabilities, reduce handicapping situations and tailor the environment to needs in order to foster optimal autonomy;";

(5) by replacing paragraph *p* by the following paragraph:

"(*p*) the Ordre professionnel des infirmières et infirmiers auxiliaires du Québec: participate in the assessment of a person's state of health and in the

carrying out of a care plan, provide nursing and medical care and treatment to maintain or restore health and prevent illness, and provide palliative care;";

(6) by replacing paragraph *q* by the following paragraph:

"(*q*) the Ordre professionnel des technologistes médicaux du Québec: conduct analyses and tests in the field of medical biology on the human body or on specimens and ensure the technical validity of the results for diagnostic or therapeutic follow-up purposes;";

(7) by replacing paragraph *s* by the following paragraph:

"(*s*) the Ordre professionnel des inhalothérapeutes du Québec: participate in the assessment of cardiopulmonary function for diagnostic or therapeutic follow-up purposes, participate in the administration of anesthesia, and deal with problems affecting the cardiopulmonary system;".

2. The said Code is amended by inserting the following sections after section 37:

"**37.1.** Every member of one of the following professional orders may engage in the following professional activities, which are reserved to such members within the scope of the activities they may engage in under section 37:

(1) the Ordre professionnel des diététistes du Québec:

(*a*) determine a nutritional treatment plan, including the appropriate feeding route, where an individual prescription indicates that nutrition is a determining factor in the treatment of an illness; and

(*b*) monitor the nutritional status of persons whose nutritional treatment plan has been determined;

(2) the Ordre professionnel des orthophonistes et audiologistes du Québec:

(*a*) assess hearing disorders in order to determine an audiological treatment and intervention plan;

(*b*) adjust a hearing aid in the course of an audiological procedure;

(*c*) make a functional assessment of a person where required under an Act; and

(*d*) assess language, speech and voice disorders in order to determine an orthophonic treatment and intervention plan;

(3) the Ordre professionnel des physiothérapeutes du Québec:

(*a*) assess neuromusculoskeletal function in a person having a physical function limitation or disability;

(*b*) make a functional assessment of a person where required under an Act;

(*c*) introduce an instrument or a finger in the human body beyond the labia majora or anal margin;

(*d*) introduce an instrument in the human body in and beyond the pharynx or the nasal vestibule;

(*e*) use invasive forms of energy;

(*f*) provide treatment for wounds;

(*g*) make decisions as to the use of restraint measures;

(*h*) insert needles under the dermis to reduce inflammation, as a supplemental means, provided a training certificate has been issued to the member by the Order pursuant to a regulation under paragraph *o* of section 94; and

(*i*) perform spinal and joint manipulations, provided a training certificate has been issued to the member by the Order pursuant to a regulation under paragraph *o* of section 94;

(4) the Ordre professionnel des ergothérapeutes du Québec:

(*a*) make a functional assessment of a person where required under an Act;

(*b*) assess neuromusculoskeletal function in a person having a physical function limitation or disability;

(*c*) provide treatment for wounds; and

(*d*) make decisions as to the use of restraint measures;

(5) the Ordre professionnel des infirmières et infirmiers auxiliaires du Québec:

(*a*) apply invasive measures for the maintenance of therapeutic equipment;

(*b*) take specimens, according to a prescription;

(*c*) provide care and treatment for wounds and alterations of the skin and teguments, according to a prescription or a nursing plan;

(*d*) observe the state of consciousness of a person and monitor neurological signs;

(*e*) mix substances to complete the preparation of a medication, according to a prescription;

(*f*) administer prescribed medications or other prescribed substances via routes other than the intravenous route;

(*g*) participate in vaccination operations under the Public Health Act (2001, chapter 60);

(*h*) introduce an instrument or a finger, according to a prescription, beyond the nasal vestibule, labia majora, urinary meatus or anal margin or into an artificial opening in the human body; and

(*i*) introduce an instrument, according to a prescription, into a peripheral vein in order to take a specimen, provided a training certificate has been issued to the member by the Order pursuant to a regulation under paragraph *o* of section 94;

(6) the Ordre professionnel des technologistes médicaux du Québec:

(*a*) take specimens;

(*b*) perform phlebotomies, according to a prescription;

(*c*) introduce an instrument, according to a prescription, in and beyond the pharynx or beyond the nasal vestibule, urinary meatus, labia majora or anal margin or into a peripheral vein;

(*d*) administer, including intravenously from a peripheral site, prescribed medications or other prescribed substances, provided a training certificate has been issued to the member by the Order pursuant to a regulation under paragraph *o* of section 94; and

(*e*) mix substances to complete the preparation of a medication, according to a prescription;

(7) the Ordre professionnel des inhalothérapeutes du Québec:

(*a*) provide ventilatory assistance, according to a prescription;

(*b*) take specimens, according to a prescription;

(*c*) test cardiopulmonary function, according to a prescription;

(*d*) provide clinical monitoring of the condition of persons under anesthesia, including sedation analgesia, or under ventilatory assistance;

(*e*) administer and adjust prescribed medications or other prescribed substances;

(*f*) mix substances to complete the preparation of a medication, according to a prescription; and

(*g*) introduce an instrument, according to a prescription, into a peripheral vein or an artificial opening or in and beyond the pharynx or beyond the nasal vestibule.

"**37.2.** A person shall not in any manner engage in a professional activity reserved under section 37.1 to members of a professional order, claim to have the right to do so or act in such a way as to lead to the belief that the person is authorized to do so, unless the person holds a valid, appropriate permit and is entered on the roll of the order empowered to issue the permit, except if it is allowed by law."

3. The said Code is amended by inserting the following section after section 39:

"**39.1.** Notwithstanding section 37.2, the president of an order may by special authorization empower a person legally authorized to practise outside Québec the same profession as the members of the order to engage in the activities reserved for them under section 37.1 on behalf of any person or group of persons and for the period indicated in the authorization.

The authorization shall be valid for a period not exceeding 12 months and shall be renewed only by the Bureau.

If the president refuses to grant the authorization applied for, the application may be made to the Bureau and its decision in that respect is not subject to appeal."

4. The said Code is amended by inserting the following division after section 39.1:

"**DIVISION III.1**

"SPECIAL PROVISIONS RESPECTING CERTAIN PROFESSIONS

"**39.2.** In this division, the words "order" and "professional order" mean a professional order mentioned in any of paragraphs 3, 5, 15, 21, 24, 34 to 38 and 40 of Schedule I.

"**39.3.** For the purposes of section 37.1 of this Code and the second paragraph of section 36 of the Nurses Act (chapter I-8), the word "prescription" means a direction given to a professional by a physician, a dentist or another professional authorized by law, specifying the medications, treatments, examinations or other forms of care to be provided to a person or a group of persons, the circumstances in which they may be provided and the possible contraindications. A prescription may be individual or collective.

For the purposes of the second paragraph of section 7 of the Radiology Technologists Act (chapter T-5), the word "prescription" also means a direction given by a veterinary surgeon or a person holding a permit referred to in section 186.

The definition of the word "prescription" set out in the first paragraph applies, in addition to paragraph *j* of section 1 of the Pharmacy Act (chapter P-10), for the purposes of subparagraph 5 of the second paragraph of section 17 of that Act.

"**39.4.** The field of practice of the members of an order includes disseminating information, promoting health and preventing illness, accidents and social problems among individuals and within families and communities to the extent that such activities are related to their professional activities.

"**39.5.** Section 37.2 shall not prevent persons or categories of persons from engaging in professional activities that may be engaged in by members of a professional order, provided that they do so in accordance with the provisions of a regulation under paragraph *h* of section 94.

"**39.6.** Notwithstanding any inconsistent provision, a parent, a childcare provider or an informal caregiver may engage in professional activities reserved to members of an order.

For the purposes of this section, an informal caregiver is a close relation who provides care and regular support, without remuneration, to another person.

"**39.7.** The invasive care involved in assistance with activities of daily living that is required on a sustained basis for the maintenance of health does not constitute a professional activity reserved to members of an order where it is provided by a person as part of the activities of an intermediate or family-type resource referred to in the Act respecting health services and social services (chapter S-4.2) or as part of a home care program provided by an institution operating a local community service centre.

"**39.8.** Notwithstanding any inconsistent provision, a person working for an intermediate or family-type resource referred to in section 39.7 or under a home care program provided by an institution operating a local community service centre, or a person working in a school or another temporary alternative environment for children, may administer prescribed ready-to-administer medications by oral, topical, transdermal, ophthalmic, otic or rectal route or by inhalation, and administer insulin by subcutaneous route.

"**39.9.** The Office may, by regulation, determine places, cases and circumstances in which a person may engage in the activities described in sections 39.7 and 39.8 as well as the applicable conditions and procedures.

When drafting such a regulation, the Office must have due regard for the availability of professionals in those places, cases and circumstances and for the supervision provided by a centre operated by an institution.

Before making a regulation under the first paragraph, the Office must consult with the Minister of Health and Social Services and the professional orders concerned.

"**39.10.** Any person acting on behalf of Héma-Québec may take blood specimens by means of pre-installed tubing."

5. Section 94 of the said Code, amended by section 6 of chapter 34 of the statutes of 2001, is again amended

(1) by adding "and, where applicable, the conditions of practice" at the end of paragraph *e*;

(2) by replacing "professional acts that may be engaged in by members of the order, those that may be engaged in" in the first and second lines of paragraph *h* by "professional activities that may be engaged in by members of the order, those that may be engaged in" and by replacing "engage in such acts" in the fifth line of that paragraph by "engage in such activities".

6. Section 188.1 of the said Code is amended by inserting "or engage in an professional activity that is reserved under section 37.1" after "exclusive profession" in the third line of subparagraph 3 of the first paragraph.

7. Section 189 of the said Code is amended by inserting ", unlawful engagement in a professional activity reserved to its members in the case of an order referred to in section 39.2" after "practise" in the fourth line of the first paragraph.

AMENDING PROVISIONS

HEALTH INSURANCE ACT

8. Section 3 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing "or a midwife" in the sixth line of the third paragraph by ", a midwife or another professional authorized by law or a regulation under subparagraph *b* of the first paragraph of section 19 of the Medical Act (chapter M-9)".

ACT RESPECTING PRESCRIPTION DRUG INSURANCE

9. Section 8 of the Act respecting prescription drug insurance (R.S.Q., chapter A-29.01) is amended

(1) by replacing "or a midwife" in the fifth line of the first paragraph by ", a midwife or another professional authorized by law or a regulation under subparagraph *b* of the first paragraph of section 19 of the Medical Act (chapter M-9)";

(2) by adding "of the Minister" at the end of the first paragraph.

NURSES ACT

10. Section 12 of the Nurses Act (R.S.Q., chapter I-8) is replaced by the following:

"**12.** In addition to the duties provided in sections 87 to 93 of the Professional Code, the Bureau shall, by regulation, 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."

11. Section 14 of the said Act is amended by adding the following paragraph at the end:

"(*f*) regulate, in accordance with paragraphs *e*, *h* and *i* of section 94 of the Professional Code, the classes of specialization to which members of the Order must belong to engage in activities referred to in section 36.1; for that purpose, the Bureau may, in the regulation, establish an advisory committee."

12. Section 36 of the said Act is replaced by the following sections:

"**36.** The practice of nursing consists in assessing a person's state of health, determining and carrying out of the nursing care and treatment plan, providing nursing and medical care and treatment in order to maintain or restore health and prevent illness, and providing palliative care.

The following activities in the practice of nursing are reserved to nurses:

(1) assessing the physical and mental condition of a symptomatic person;

(2) providing clinical monitoring of the condition of persons whose state of health is problematic, including monitoring and adjusting the therapeutic nursing plan;

(3) initiating diagnostic and therapeutic measures, according to a prescription;

(4) initiating diagnostic measures for the purposes of a screening operation under the Public Health Act (2001, chapter 60);

(5) performing invasive examinations and diagnostic tests, according to a prescription;

(6) providing and adjusting medical treatment, according to a prescription;

(7) determining the treatment plan for wounds and alterations of the skin and teguments and providing the required care and treatment;

(8) applying invasive techniques;

(9) participating in pregnancy care, deliveries and postpartum care;

(10) providing nursing follow-up for persons with complex health problems;

(11) administering and adjusting prescribed medications or other prescribed substances;

(12) performing vaccinations as part of a vaccination operation under the Public Health Act;

(13) mixing substances to complete the preparation of a medication, according to a prescription; and

(14) making decisions as to the use of restraint measures.

"**36.1.** Nurses may, if they are so authorized by regulations under subparagraph *b* of the first paragraph of section 19 of the Medical Act (chapter M-9) and under paragraph *f* of section 14 of this Act, engage in one or more of the following activities referred to in the second paragraph of section 31 of the Medical Act:

(1) prescribing diagnostic examinations;

(2) using diagnostic techniques that are invasive or entail risks of injury;

(3) prescribing medications and other substances;

(4) prescribing medical treatment; and

(5) using techniques or applying medical treatments that are invasive or entail risks of injury."

13. Section 37 of the said Act is repealed.

14. Section 41 of the said Act is amended

(1) by replacing "do any of the acts described in" in the second line of the first paragraph by "engage in any of the activities described in the second paragraph of";

(2) by replacing "acts done" in the first line of the second paragraph by "activities engaged in";

(3) by striking out subparagraphs *c* and *d* of the second paragraph;

(4) by striking out the third paragraph.

MEDICAL ACT

15. The Medical Act (R.S.Q., chapter M-9) is amended by inserting the following section after section 18.1:

"**18.2.** The Bureau may verify the quality of activities referred to in the second paragraph of section 31 engaged in by persons authorized by a regulation of the Bureau.

For that purpose, a committee or a member of the Order designated by the Bureau may obtain from the authorized persons and the physicians with whom they work or from any institution operating a centre in which such activities are engaged in, any information the committee or member considers useful that is directly related to those activities, and professional secrecy may not be invoked by any of them.

Where the authorized persons are professionals, the Bureau, if it considers it necessary, shall transmit the verification report to the professional order concerned."

16. Section 19 of the said Act is amended

(1) by replacing "acts contemplated in section 31 those" in the first line of subparagraph *b* of the first paragraph by "activities referred to in the second paragraph of section 31 those" and by replacing "done" in the second line of that subparagraph by "engaged in";

(2) by adding "for that purpose, the Bureau may, in the regulation, establish an advisory committee;" at the end of subparagraph *b* of the first paragraph.

17. Section 31 of the said Act is replaced by the following:

"**31.** The practice of medicine consists in assessing and diagnosing any deficiency in the health of human beings and in preventing and treating illness to maintain or restore health.

The following activities in the practice of medicine are reserved to physicians:

(1) diagnosing illnesses;

(2) prescribing diagnostic examinations;

(3) using diagnostic techniques that are invasive or entail risks of injury;

(4) determining medical treatment;

(5) prescribing medications and other substances;

(6) prescribing treatment;

(7) using techniques or applying treatments that are invasive or entail risks of injury, including aesthetic procedures;

(8) providing clinical monitoring of the condition of patients whose state of health is problematic;

(9) providing pregnancy care and conducting deliveries; and

(10) making decisions as to the use of restraint measures."

18. Section 32 of the said Act is repealed.

19. The said Act is amended by inserting the following section after section 42:

"**42.1.** Where a member of a professional order is authorized, by a regulation of the Bureau under subparagraph *b* of the first paragraph of section 19, to engage in an activity referred to in the second paragraph of section 31 and the member intends to engage in the activity outside a centre operated by an institution within the meaning of the Act respecting health services and social services (chapter S-4.2) or of the Act respecting health services and social services for Cree Native persons (chapter S-5), the physician working with the professional shall transmit to the Bureau a proposal concerning the local conditions under which the activity may be engaged in; the proposal must be authorized by the Bureau.

The secretary of the Collège shall inform the professional order concerned of the conditions that have been authorized.

The physician working with the professional shall supervise the manner in which the activity is carried on by the authorized professional."

20. Section 43 of the said Act is amended

(1) by replacing "perform any of the acts described in" in the second line of the first paragraph by "engage in any activity described in the second paragraph of";

(2) by replacing "acts performed" in the first line of the second paragraph by "activities engaged in";

(3) by replacing "performs" in the third line of subparagraph *d* of the second paragraph by "engages in".

PHARMACY ACT

21. Section 10 of the Pharmacy Act (R.S.Q., chapter P-10) is amended by replacing "acts contemplated in section 17 those" in the first line of subparagraph *a* of the first paragraph by "activities referred to in the second paragraph of section 17 those" and by replacing "performed" in the second line of that subparagraph by "engaged in".

22. Section 17 of the said Act is replaced by the following section:

"**17.** The practice of pharmacy consists in determining and ensuring the proper use of medications, particularly to identify and prevent pharmacotherapeutic problems, and in preparing, storing and delivering medications in order to maintain or restore health.

The following activities in the practice of pharmacy are reserved to pharmacists:

(1) issuing a pharmaceutical opinion;

(2) preparing medications;

(3) selling medications, in accordance with the regulation under section 37.1;

(4) supervising medication therapy;

(5) initiating or adjusting medication therapy, according to a prescription, making use, where applicable, of appropriate laboratory analyses;

(6) prescribing and personally dispensing emergency oral contraception medication, provided a training certificate has been issued to the pharmacist by the Order pursuant to a regulation under paragraph *o* of section 94 of the Professional Code."

23. Section 35 of the said Act is amended

(1) by replacing "perform any of the acts described in" in the second line of the first paragraph by "engage in any of the activities described in the second paragraph of";

(2) by replacing "acts performed" in the first line of the second paragraph by "activities engaged in";

(3) by replacing "performs" in the third line of subparagraph *a* of the second paragraph by "engages in".

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

24. Section 190 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended

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

"(1.1) where applicable, supervising, subject to the responsibilities of the director of nursing care under subparagraphs 1 and 1.1 of the first paragraph of section 207, the activities referred to in the second paragraph of section 31 of the Medical Act (chapter M-9) that are engaged in by nurses or other professionals of the department who are authorized to engage in those activities by a regulation of the Bureau of the Collège des médecins du Québec;";

(2) by replacing "of the role described in subparagraph 1" in the third line of the second paragraph by "of the roles described in subparagraphs 1 and 1.1".

25. Section 192 of the said Act is amended by replacing "of the council of physicians, dentists and pharmacists, where such council exists" at the end of the second paragraph by "of the council of physicians, dentists and pharmacists, where such council exists and, as regards the rules governing medical care and the rules governing the use of medicines applicable to nurses authorized to engage in activities referred to in section 36.1 of the Nurses Act (chapter I-8), the recommendation of the council of nurses".

26. Section 207 of the said Act is amended

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

"(1.1) where applicable, cooperate in the supervision of the activities referred to in section 36.1 of the Nurses Act (chapter I-8);";

(2) by inserting the following subparagraphs after subparagraph 2 of the first paragraph:

"(2.1) where applicable, cooperate in determining the rules governing medical care and the rules governing the use of medicines applicable to nurses authorized to engage in activities referred to in section 36.1 of the Nurses Act;

"(2.2) where applicable, keep and update a register of the nurses authorized to engage in one or more of the activities referred to in section 36.1 of the Nurses Act;".

27. The said Act is amended by inserting the following section after section 207:

"**207.1.** The director of nursing care may, for disciplinary reasons or on grounds of incompetence, particularly on the advice of the head of a clinical department or the director of professional services, limit or suspend a nurse's right to engage in one or more of the activities referred to in section 36.1 of the Nurses Act in the centre.

In urgent cases, if the director of nursing care is unable or fails to act, the head of a clinical department or the director of professional services may apply a measure referred to in the first paragraph for a period not exceeding five days. The head of a clinical department or the director of professional services shall notify the director of nursing care as soon as possible.

If the director of nursing care refuses to apply a measure referred to in the first paragraph, such a measure may be applied by the executive director of the institution after consultation with the council of physicians, dentists and pharmacists and the council of nurses.

The Ordre des infirmières et infirmiers du Québec must be informed of any measure applied under this section."

28. Section 220 of the said Act is amended

(1) by adding "and, where applicable, in cooperation with the council of physicians, dentists and pharmacists, the quality of the activities referred to in section 36.1 of the Nurses Act (chapter I-8) engaged in in the centre" at the end of subparagraph 1 of the first paragraph;

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

"(2.1) making recommendations on the rules governing medical care and the rules governing the use of medicines applicable to their members in the centre;".

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

29. Section 71.2 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) is amended by inserting the following subparagraph after subparagraph 1 of the first paragraph:

"(1.1) where applicable, supervise, subject to the responsibilities of the director of nursing care, the activities referred to in the second paragraph of section 31 of the Medical Act (chapter M-9) that are engaged in by nurses or other professionals of the department who are authorized to engage in those activities by a regulation of the Bureau of the Collège des médecins du Québec;".

30. The said Act is amended by inserting the following section after section 115:

"**115.1.** The director of nursing care may, for disciplinary reasons or on grounds of incompetence, particularly on the advice of the head of a clinical department or the director of professional services, limit or suspend a nurse's right to engage in one or more of the activities referred to in section 36.1 of the Nurses Act (chapter I-8) in the centre.

In urgent cases, if the director of nursing care is unable or fails to act, the head of a clinical department or the director of professional services may apply a measure referred to in the first paragraph for a period not exceeding five days. The head of a clinical department or the director of professional services shall notify the director of nursing care as soon as possible.

If the director of nursing care refuses to apply a measure referred to in the first paragraph, such a measure may be applied by the executive director of the institution after consultation with the council of physicians, dentists and pharmacists.

The Ordre des infirmières et infirmiers du Québec must be informed of any measure applied under this section."

RADIOLOGY TECHNOLOGISTS ACT

31. Section 7 of the Radiology Technologists Act (R.S.Q., chapter T-5) is replaced by the following section:

"**7.** The practice of medical imaging technology and radiation oncology consists in using ionizing radiation, radioelements and other forms of energy for treatment or to produce images or data for diagnostic or therapeutic purposes.

The following activities in the practice of medical imaging technology and radiation oncology are reserved to radiology technologists:

(1) administering prescribed medications or other prescribed substances;

(2) using ionizing radiation, radioelements or other forms of energy, according to a prescription;

(3) monitoring reactions to medications and other substances;

(4) introducing an instrument, according to a prescription, in and beyond the pharynx or beyond the urinary meatus, labia majora or anal margin or into a peripheral vein or artificial opening; and

(5) mixing substances to complete the preparation of a medication, according to a prescription."

32. Section 8 of the said Act is repealed.

33. Section 12 of the said Act is amended

(1) by replacing “perform any act described in” in the second line of the first paragraph by “engage in any of the activities described in the second paragraph of”;

(2) by replacing “acts performed” in the first line of the second paragraph by “activities engaged in”.

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

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 92
(2002, chapter 34)

An Act respecting the Commission des droits de la personne et des droits de la jeunesse

Introduced 8 May 2002
Passage in principle 22 May 2002
Passage 13 June 2002
Assented to 14 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTE

The bill amends the Charter of human rights and freedoms and the Youth Protection Act concerning the operation of the Commission des droits de la personne et des droits de la jeunesse. For that purpose, the bill grants the same jurisdiction to all the members of the Commission in the exercise of their functions. In addition, the bill changes the period covered by the annual report of the Commission and the conditions governing the publication and distribution of the report.

LEGISLATION AMENDED BY THIS BILL :

– Charter of human rights and freedoms (R.S.Q., chapter C-12);

– Youth Protection Act (R.S.Q., chapter P-34.1).

Bill 92

AN ACT RESPECTING THE COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 58 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by replacing "15" in the first paragraph by "13".

2. Section 58.1 of the said Charter is replaced by the following section:

"**58.1.** Five members of the Commission shall be chosen from among persons capable of making a notable contribution to the examination and resolution of problems relating to human rights and freedoms, and five other members from among persons capable of making a notable contribution to the examination and resolution of problems relating to the protection of the rights of young persons."

3. Section 58.2 of the said Charter is repealed.

4. Section 65 of the said Charter is amended by adding the following paragraph at the end:

"The president shall designate a vice-president who shall be responsible more particularly for the mandate entrusted to the Commission by this Charter, and another vice-president who shall be responsible more particularly for the mandate entrusted by the Youth Protection Act. The president shall inform the President of the National Assembly thereof, who shall inform the Assembly."

5. Section 73 of the said Charter is amended

(1) by replacing "31 March" in the first line of the first paragraph by "30 June" and by replacing "for the preceding calendar year" in the second and third lines by "for the preceding fiscal year";

(2) by replacing "determined by order of the Government" in the last line of the second paragraph by "and in the manner deemed appropriate by the Commission".

6. Section 23.1 of the Youth Protection Act (R.S.Q., chapter P-34.1) is replaced by the following section:

"**23.1.** The duty provided for in paragraph *b* of section 23 must be discharged by a group of not less than three members of the Commission designated by the president.

However, the decision to hold an investigation, to file an application for the disclosure of information under the second paragraph of section 72.5 or to disclose information under the second paragraph of section 72.6 or under section 72.7 shall be made by the president or by a person designated by the president from among the members of the Commission or its personnel.

The Commission may review the decision to hold an investigation made under the second paragraph."

7. This Act comes into force on 14 June 2002, except section 1, which comes into force on the date fixed by the Government.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 97

(2002, chapter 26)

An Act to amend the Act respecting the Ministère des Régions

Introduced 8 May 2002
Passage in principle 23 May 2002
Passage 12 June 2002
Assented to 13 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill amends the Act respecting the Ministère des Régions to authorize the regional county municipalities and any local municipality whose territory is not comprised within the territory of a regional county municipality to enter into any agreement with the Minister of Regions needed to implement a local or regional development policy of the Government.

The bill provides that regional county municipalities and local municipalities signing such agreements have the necessary powers to meet their commitments and exercise their responsibilities under the agreement for the purposes of the implementation of the policy of the Government.

Bill 97

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DES RÉGIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Ministère des Régions (R.S.Q., chapter M-25.001) is amended by inserting the following after section 35:

"**CHAPTER III.1**

"AGREEMENT FOR THE IMPLEMENTATION OF CERTAIN POLICIES

"**35.1.** The Minister, with the authorization of the Government, may enter into any agreement with a regional county municipality or local municipality whose territory is not comprised within the territory of a regional county municipality where such an agreement is needed to implement any local or regional development policy of the Government in the territory of that municipality. The authorization of the Government may emanate from the content of the policy.

"**35.2.** An agreement under section 35.1 shall specify, among other things, any responsibility that is delegated to the regional county municipality or local municipality, and determine the conditions governing the delegation.

"**35.3.** The regional county municipality or local municipality that is party to an agreement under section 35.1 shall have the necessary powers to meet its commitments and exercise its responsibilities under the agreement for the purposes of the implementation of the policy.

The municipality may, among other things, institute any proceeding and exercise any power required to settle any dispute or disagreement resulting from the carrying out of the agreement.

"**35.4.** The Municipal Aid Prohibition Act (chapter I-15) does not apply to assistance granted pursuant to an agreement under section 35.1.

"**35.5.** The third paragraph of section 188 of the Act respecting land use planning and development (chapter A-19.1) does not apply in respect of a decision whereby the council of a regional county municipality enters into an agreement under section 35.1.

"**35.6.** The council of a regional county municipality may, by by-law, for the purposes of an agreement under section 35.1 and in respect of a local municipality whose territory is not covered by the agreement or only a part of whose territory is covered by the agreement, prescribe criteria for the determination of the number of votes and the number of the population attributed to any representative of the local municipality for the purpose of decision making by the regional county municipality in relation to the carrying out of the agreement. The by-law may also establish criteria for the determination of the proportion of the local municipality's contribution to the payment of the expenses of the regional county municipality relating to the agreement."

2. Section 1 has effect from 8 May 2002.

3. This Act comes into force on 13 June 2002.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 98
(2002, chapter 27)

An Act to amend the Act respecting prescription drug insurance and other legislative provisions

Introduced 8 May 2002
Passage in principle 4 June 2002
Passage 12 June 2002
Assented to 13 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill introduces amendments to the basic prescription drug insurance plan.

As concerns the operation of the plan, the bill modifies certain financial provisions pertaining to the determination of the premium, the deductible amount and the maximum contribution, to the coinsurance percentage and to the funding of the prescription drug insurance fund. Other adjustments are made, particularly to prevent a person whose situation changes during a year from paying more than the maximum contribution applicable to that person, to take advance prescription renewals and medication purchases into account in the computation of the contribution payable and to put a ceiling on the contribution payable by persons receiving 94% or more of the maximum amount of guaranteed income supplement.

In addition, the bill establishes the Conseil du médicament, which will replace the current Conseil consultatif de pharmacologie and Comité de revue de l'utilisation des médicaments. The main functions of the new council will be to assist the Minister in updating the list of medications and to promote optimal use of medications. For that purpose, the council will have access to certain information concerning the consumption of prescription medications, which information will be provided by the Régie de l'assurance maladie du Québec in non-nominative form as concerns the persons to whom medications were supplied.

The bill authorizes the Minister of Health and Social Services to enter into agreements with drug manufacturers for the purpose of funding activities promoting improved use of medications.

Lastly, the bill contains technical or consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL :

– Health Insurance Act (R.S.Q., chapter A-29);

– Act respecting prescription drug insurance (R.S.Q., chapter A-29.01);

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

– Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5).

Bill 98

AN ACT TO AMEND THE ACT RESPECTING PRESCRIPTION DRUG INSURANCE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING PRESCRIPTION DRUG INSURANCE

1. Section 8 of the Act respecting prescription drug insurance (R.S.Q., chapter A-29.01) is amended

(1) by replacing "and for" in the sixth line of the first paragraph by "or for";

(2) by inserting the following sentence at the end of the first paragraph: "Coverage also includes, in the cases, on the conditions and in the circumstances determined in the regulation, any other medication except medications or classes of medications determined in the regulation."

2. Section 12 of the said Act is amended by replacing "25%" in the second line by "27.4%".

3. Section 13 of the said Act is amended by replacing "$750" in the second line by "$822".

4. The said Act is amended by inserting the following section after section 13:

"**13.1.** The percentage provided in section 12 and the amount provided in section 13 shall be revised on 1 July each year, according to the rate of adjustment fixed annually by the Board pursuant to section 28.1."

5. Section 14 of the said Act is amended by adding the following paragraphs at the end:

"For the purposes of the deductible amount and maximum contribution, all costs of pharmaceutical services and medications that are borne by the eligible person for a reference period, according to the original plan, shall be taken into account, even if, during that period, there was a change in the person's status, income level or employee benefit plan, or if another person began providing coverage during that period.

The insurer or employee benefit plan administrator or the Board shall, following a request made within six months by the person affected by such a change, communicate to the person providing coverage after the change the information permitting the application of the deductible amount and the maximum contribution for that period."

6. Section 19 of the said Act is amended by adding the following paragraph at the end:

"The same applies to persons to whom section 15 applies if they received pharmaceutical services or medications but did not tell the pharmacist that they were registered with the Board. Such persons may apply to the Board for reimbursement of the cost of the services or medications in the manner prescribed in section 33, provided that the services or medications were provided in the three months preceding the application for reimbursement."

7. Section 23 of the said Act is amended

(1) by replacing "$350" in the fourth line of the first paragraph by "$422";

(2) by striking out the second and third paragraphs.

8. Section 26 of the said Act is amended

(1) by replacing "$100" in the first line by "$109.60";

(2) by striking out the second sentence.

9. Section 27 of the said Act is amended by replacing "25%" by "27.4%".

10. Section 28 of the said Act is amended

(1) by replacing "the maximum amount" in the first line of subparagraph 1 of the first paragraph by "94% or more of the maximum amount";

(2) by replacing "$500" in the first line of the second paragraph by "$548";

(3) by inserting "below 94%" after "fraction" in the second line of the second paragraph;

(4) by replacing "$750" in the first line of the third paragraph by "$822".

11. The said Act is amended by inserting the following section after section 28:

"**28.1.** The amounts provided in sections 23, 26 and 28 and the percentage provided in section 27 shall be revised on 1 July each year according to the rates of adjustment fixed annually by the Board pursuant to the rules determined

by regulation of the Government, in order to provide for the increase in the costs of the plan attributable to persons for whom coverage is provided by the Board.

The rates of adjustment and the revised amounts and percentages shall be published by the Board in the *Gazette officielle du Québec* except where the rates of adjustment determined by the Board are nil and the amounts and percentages remain unchanged."

12. Section 30 of the said Act is amended by inserting the following paragraphs at the end:

"When a prescription filled or renewed in a given month is renewed in advance within the same month even though it would normally have been renewed the following month, the renewal is considered to have taken place in the following month, and the deductible amount and the coinsurance payment for the following month shall, where applicable, be payable at that time.

For the purpose of computing the contribution, when a prescription that exceeds 31 days is filled or renewed for a period of more than 31 days even though it could have been filled or renewed for a shorter period, the prescription is considered to have been filled or renewed as many times as if it had been filled or renewed for periods of not more than 31 days; the deductible amount and the coinsurance payment for that month and for each of the following months shall, where applicable, be payable at that time."

13. Section 44 of the said Act is amended by replacing "and 13" in the last line of the second paragraph by ", 13 and 13.1".

14. Section 51 of the said Act is amended by replacing "appropriate" in subparagraph 2 of the second paragraph by "optimal".

15. The said Act is amended by inserting the following section after section 52:

"**52.1.** The Minister may make agreements with drug manufacturers for the purpose of funding activities to promote improved use of medications.

The agreements may specify, among other particulars, the sums of money the manufacturers undertake to pay and those that may be added by the Minister, as well as the manner in which the sums are to be managed."

16. The heading of Division II of Chapter IV and section 53 of the said Act are replaced by the following:

"CONSEIL DU MÉDICAMENT

"**53.** A medication council, called the "Conseil du médicament", is hereby established.

The council shall be composed of a president, a vice-president and thirteen other members including five experts in pharmacology, two experts in health economics or epidemiology, four persons who are neither physicians nor pharmacists nor representatives of an insurer, administrator of an employment benefit plan, drug manufacturer or drug wholesaler, a representative of the Minister and a director general.

Three of the five experts in pharmacology must be physicians and the other two must be pharmacists. One of the three physicians must be a general practitioner in clinical practice and another must be a specialist. One of the two pharmacists must be in clinical practice in a hospital and the other in the community.

The director general of the council and the member representing the Minister are not entitled to vote.

The president or the vice-president must be a physician and a member of the Collège des médecins du Québec."

17. Section 54 of the said Act is amended by adding the following sentence at the end: "No member, except the director general and the representative of the Minister, may serve more than two consecutive terms."

18. The said Act is amended by inserting the following section after section 54:

"**54.1.** The quorum at meetings of the council shall be seven members, including the president or the vice-president. In the case of a tie-vote, the person presiding the meeting shall have a casting vote."

19. Section 56 of the said Act is amended by inserting "a director general and" after "assign" in the first line.

20. Section 57 of the said Act is replaced by the following sections:

"**57.** The council shall be responsible for assisting the Minister in updating the list referred to in section 60 and for promoting optimal use of medications.

The functions of the council shall also include making recommendations to the Minister on the establishment and evolution of the prices of medications and on any other matter submitted by the Minister.

"**57.1.** For the purposes of updating the list referred to in section 60, the council shall advise the Minister on the following matters:

(1) the therapeutic value of each medication;

(2) the reasonableness of the price charged and the cost effectiveness ratio of each medication;

(3) the impact of the entry of a medication on the list as regards the health of the population and the other components of the health care system; and

(4) the expediency of entering medications on the list with regard to the purpose of the basic prescription drug insurance plan, which is to ensure that all persons have reasonable and fair access to the medications required by their state of health.

"**57.2.** For the purpose of promoting optimal use of medications, the council may, in particular,

(1) engage in or support procedures for the review of the use of medications;

(2) propose, or contribute to the development and implementation of, training, information and awareness strategies to improve drug prescribing and dispensing practices in cooperation and in conjunction with the various intervenors, including health services and social services institutions;

(3) make recommendations to the various intervenors and to health care professionals in order to improve the use of medications, without encroaching upon their respective responsibilities;

(4) propose or contribute to the development and implementation of public information and awareness strategies; and

(5) see to the assessment of problems related to the use of medications and the implementation of measures to prevent and correct such problems.

To that end, the council shall consult the Collège des médecins du Québec and the Ordre des pharmaciens du Québec at least once a year.

The council may, on request, obtain from the Board the following information, in non-nominative form as concerns the person to whom a medication was provided:

(1) a sequential number;

(2) the person's date of birth and sex;

(3) the profession and the specialty, if any, of the prescriber and the first three characters of the postal code of the prescriber's professional address;

(4) the name of the medication and the quantity dispensed;

(5) the prescription number and type, whether the prescription is a new prescription or a renewal, whether the prescription is a written or verbal prescription, the number of renewals authorized or the date of expiry, the dosage and the duration of the treatment; and

(6) the date on which the service was dispensed.

In addition to the information listed in the third paragraph and provided the physician or pharmacist concerned has not objected thereto, the council may, on request, obtain the following information from the Board for the sole purpose of sending the physician or pharmacist an individual practice profile for informational purposes:

(1) the pharmacy number and the dispensing pharmacist's number; and

(2) the prescriber's number or, in the absence thereof, the prescriber's surname and the initial of the prescriber's given name.

In addition, the council may, on request, obtain from the Board any other data in non-nominative form that is necessary to promote optimal use of medications.

"**57.3.** The council shall assess the measures implemented within the framework of its functions.

"**57.4.** The council may form committees to study any matter within its area of jurisdiction and determine their powers and duties."

21. The said Act is amended by inserting the following section after section 59:

"**59.1.** The council shall provide all information required by the Minister regarding its operations.

The council shall, each year, submit to the Minister the plan of its activities and, not later than 31 July each year, a report on its activities for the year ending on the preceding 31 March."

22. Section 60 of the said Act is amended

(1) by replacing "Conseil consultatif de pharmacologie" in the second line of the first paragraph by "Conseil du médicament";

(2) by replacing "and for" in the second line of the fifth paragraph by "or for";

(3) by inserting the following paragraph after the fifth paragraph:

"The list shall, in addition, set out the conditions, cases and circumstances on or in which the cost of any other medication, except medications or classes of medications specified in the list, is covered."

23. Section 63 of the said Act is amended

(1) by replacing "Conseil consultatif de pharmacologie" in the first and second lines of the first paragraph by "Conseil du médicament";

(2) by striking out ", insurers and the administrators of employee benefit plans" in the first and second lines of the third paragraph.

24. Section 64 of the said Act is replaced by the following section:

"**64.** A manufacturer or wholesaler referred to in section 63 shall, before the end of the period of temporary withdrawal, repay to the Board,

(1) in the case of a manufacturer, the difference between the selling price as defined in the manufacturer's commitment prescribed by ministerial regulation and the actual price of a medication sold by the manufacturer, based on the list of medications drawn up under section 60;

(2) in the case of a wholesaler, the difference between the selling price as defined in the wholesaler's commitment prescribed by ministerial regulation and the actual price of a medication sold by the wholesaler, based on the list of medications drawn up under section 60;

(3) in either case, the expenses incurred to advise health care professionals of the temporary withdrawal of the manufacturer's or wholesaler's accreditation.

The failure of a manufacturer or wholesaler to comply with the first paragraph is deemed to constitute a breach of commitment."

25. Section 65 of the said Act is amended by replacing "Conseil consultatif de pharmacologie" in the first and second lines by "Conseil du médicament".

26. Section 66 of the said Act is amended by replacing paragraphs 1 and 2 by the following paragraphs:

"(1) in the case of a manufacturer, the difference between the selling price as defined in the manufacturer's commitment prescribed by ministerial regulation and the actual price of a medication sold by the manufacturer, based on the list of medications drawn up under section 60;

"(2) in the case of a wholesaler, the difference between the selling price as defined in the wholesaler's commitment prescribed by ministerial regulation and the actual price of a medication sold by the wholesaler, based on the list of medications drawn up under section 60;".

27. Division IV of Chapter IV of the said Act, entitled "COMITÉ DE REVUE DE L'UTILISATION DES MÉDICAMENTS" and comprising sections 71 to 77, is repealed.

28. Section 78 of the said Act is amended

(1) by replacing subparagraph 7 of the first paragraph by the following subparagraph:

"(7) determine, for the purposes of sections 13.1 and 28.1, the rules pursuant to which rates of adjustment are to be fixed annually and specify the class of persons to which each rate is applicable, where that is the case;";

(2) by striking out subparagraph 8 of the first paragraph.

29. Section 80 of the said Act is amended by replacing "Conseil consultatif de pharmacologie" in the second line by "Conseil du médicament".

30. The said Act is amended by inserting the following section after section 86:

"**86.1.** Before the percentages and amounts set out in sections 12, 13, 23 and 26 to 28 are modified on 1 July 2005 and at the latest on 1 January 2005, the Minister shall report to the Government on the application of sections 13.1 and 28.1 and on the advisability of amending them.

The report shall be tabled in the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption. It shall be examined by the appropriate committee of the Assembly."

31. The French text of the said Act is amended by removing the hyphen from the expression "assurance-médicaments" wherever it occurs in the title and in sections 1, 51, 78 and 116.

The said Act is amended by replacing "advisory council" wherever that expression appears in the English text of sections 54, 55, 56, 58 and 59 by "council".

HEALTH INSURANCE ACT

32. Section 67 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 144 of chapter 60 of the statutes of 2001, is again amended by adding the following paragraphs at the end:

"Nor does it prohibit the disclosure of information obtained for the carrying out of this Act to the Minister of Revenue

(1) for the purposes of Division I.1 of Chapter IV of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), to enable the Minister of Revenue to verify the amounts payable pursuant to sections 37.6 and 37.8 of that Act;

(2) for the purposes of paragraph *m* of section 69.1 of the Act respecting the Ministère du Revenu (chapter M-31) to enable the Board to verify whether a person is a resident or a temporary resident of Québec within the meaning of this Act, or whether a person was required to register for the prescription drug insurance plan established by the Act respecting prescription drug insurance (chapter A-29.01); or

(3) for the purposes of section 28.1 of the Act respecting prescription drug insurance to enable the Board to obtain statistical information in non-nominative form from the Minister of Revenue with a view to establishing the maximum amount referred to in section 23.

Nor does it prohibit the disclosure to the Conseil du médicament, in non-nominative form as concerns the persons to whom a medication was provided, of the information referred to in the third and fourth paragraphs of section 57.2 of the Act respecting prescription drug insurance, or the disclosure, in non-nominative form, of any other necessary data referred to in the fifth paragraph of that section."

ACT RESPECTING THE MINISTÈRE DU REVENU

33. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 136 of chapter 9 of the statutes of 2001 and by section 12 of chapter 5 of the statutes of 2002, is again amended by replacing "resident or is deemed to be resident in" in subparagraph *m* of the second paragraph by "a resident or a temporary resident of".

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

34. Section 37.1 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5) is amended by inserting the following definitions in the proper alphabetical order:

""contribution rate" means the percentage applicable from 1 July of a particular year in respect of each of subparagraphs i and ii of subparagraphs *a* and *d* of the second paragraph of section 37.6, which

(*a*) for the year 2002,

i. in the case of subparagraph i of the said subparagraph *a*, is equal to 2.19%;

ii. in the case of subparagraph ii of the said subparagraph *a*, is equal to 4.38%;

iii. in the case of subparagraph i of the said subparagraph *d*, is equal to 3.29%; and

iv. in the case of subparagraph ii of the said subparagraph *d*, is equal to 6.58%; and

(*b*) for any year subsequent to 2002, is equal to the percentage applicable at 1 July of the year preceding that subsequent year or to such percentage as may be determined on 1 July of that subsequent year according to the rate of adjustment fixed annually by the Board pursuant to section 28.1 of the Act

respecting prescription drug insurance, rounded to the nearest whole percentage point or, if equidistant from two percentage points, to the higher of the two;

""average contribution rate" for a particular year means, for the purposes of any of subparagraphs i and ii of subparagraphs *a* and *d* of the second paragraph of section 37.6, the contribution rate applicable from 1 July of the particular year in respect of that subparagraph added to the contribution rate applicable from 1 July of the preceding year in respect of that subparagraph, divided by two and rounded to the nearest whole percentage point or, if equidistant from two percentage points, to the higher of the two;".

35. Section 37.6 of the said Act is amended

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

"(*a*) the aggregate, for each month of the year during which the individual is a beneficiary other than a beneficiary referred to in section 37.7, of

i. for each of those months from January to June, 1/12 of $422 or of such amount as may be determined on 1 July of the year preceding that year, for the purposes of section 23 of the Act respecting prescription drug insurance (chapter A-29.01), in accordance with the first paragraph of section 28.1 of that Act; and

ii. for each of those months from July to December, 1/12 of $422 or of such amount as may be determined on 1 July of that year, for the purposes of section 23 of the Act respecting prescription drug insurance, in accordance with the first paragraph of section 28.1 of that Act; and";

(2) by replacing subparagraphs *a* and *b* of the second paragraph by the following subparagraphs:

"(*a*) A is

i. the average contribution rate applicable for the year in respect of this subparagraph, if the individual has an eligible spouse for the year; or

ii the average contribution rate applicable for the year in respect of this subparagraph, in all other cases;

"(*b*) B is the lesser of the family income of the individual for the year and $5,000 or such other amount as may be prescribed for the year;";

(3) by replacing subparagraphs *d* and *e* of the second paragraph by the following subparagraphs:

"(*d*) D is

i. the average contribution rate applicable for the year in respect of this subparagraph, if the individual has an eligible spouse; or

ii the average contribution rate applicable for the year in respect of this subparagraph, in all other cases;

"(*e*) E is the amount by which the family income of the individual for the year exceeds $5,000 or such other amount as may be prescribed for the year."

36. The said Act is amended by inserting the following section after section 40.1:

"**40.1.1.** In addition to the sums paid pursuant to section 40.1, the Minister of Finance shall pay into the prescription drug insurance fund, out of the consolidated revenue fund and according to the development of needs as established within the scope of section 40.4, sums for a total amount which, combined with the sums paid pursuant to section 40.1, must be sufficient to meet the obligations referred to in section 40.2.

However, the sums added by the Minister of Finance under the first paragraph shall not exceed the sums and administration costs necessary to pay for the pharmaceutical services and the medications provided to a person referred to in paragraph 1, 2 or 3 of section 15 of the Act respecting prescription drug insurance."

37. Section 40.2 of the said Act is amended by replacing "in paragraph 4 of" in the second line of paragraph *a* by "in".

38. Section 40.3 of the said Act is amended by replacing "with section 40.1" in the first and second lines by "with sections 40.1 and 40.1.1".

39. Section 40.4 of the said Act is amended

(1) by replacing "first day of December preceding" in the third and fourth lines by "first day of June following";

(2) by inserting ", 40.1.1" after "40.1" in the fifth line.

40. Section 40.8 of the said Act is amended by replacing "in section 40.1" in the first line by "in sections 40.1 and 40.1.1".

TRANSITIONAL AND FINAL PROVISIONS

41. Unless the context indicates otherwise, in any Act, regulation, contract or other document,

(1) the hyphen in the expression "assurance-médicaments" in the French text is removed; and

(2) the expression “Conseil consultatif de pharmacologie” is replaced by the expression “Conseil du médicament”.

42. The term of office of the members of the Conseil consultatif de pharmacologie ends on (*insert here the date preceding the date of coming into force of section 16*).

The term of office of the members of the Comité de revue de l’utilisation des médicaments ends on (*insert here the date preceding the date of coming into force of section 27*).

43. Persons who are employees of the Réseau de revue d’utilisation des médicaments on 8 May 2002 become employees of the Ministère de la Santé et des Services sociaux to the extent that they are covered by a decision of the Conseil du trésor made before (*insert here the date occurring six months after the date of coming into force of section 16*), subject to the terms and conditions specified in that decision, provided they are still employees of the Réseau de revue d’utilisation des médicaments at the time of the transfer. Employees so transferred are deemed to have been appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

The Conseil du trésor may determine the classification, remuneration and any other condition of employment applicable to employees to whom the first paragraph applies.

44. Within the framework of a pilot project established by the Conseil du médicament and approved by the Minister of Health and Social Services, a pharmacist who provides a medication contained in the list of medications drawn up under section 60 of the Act respecting prescription drug insurance to a person to whom coverage is provided by the Régie de l’assurance maladie du Québec and who consents thereto may communicate to the Régie, in the manner set out in the pilot project, the therapeutic intent indicated on the prescription.

45. Section 37.1 of the Act respecting the Régie de l’assurance maladie du Québec, amended by section 34, applies from the year 2003 and section 37.6 of the Act respecting the Régie de l’assurance maladie du Québec, amended by section 35, applies from the year 2002.

However, where the said section 37.6 applies to the year 2002, it shall read

(1) as though subparagraph *a* of the first paragraph were replaced by the following subparagraph:

“(*a*) the aggregate, for each month of the year during which the individual is a beneficiary other than a beneficiary referred to in section 37.7, of 1/12 of $385 for each of those months from January to June and of 1/12 of $422 for each of those months from July to December;”;

(2) as though subparagraphs i and ii of subparagraph *a* of the second paragraph were replaced by the following subparagraphs:

"i. 2.10%, if the individual has an eligible spouse for the year; or

"ii. 4.19%, in all other cases;";

(3) as though subparagraphs i and ii of subparagraph *d* of the second paragraph were replaced by the following subparagraphs:

"i. 3.15%, if the individual has an eligible spouse for the year; or

"ii. 6.29%, in all other cases;".

46. Notwithstanding paragraph 1 of section 8 and section 9 of this Act, the deductible amount shall remain at $100 per year and the coinsurance percentage shall remain at 25% for the following persons until changes are made in their respect under sections 13.1 and 28.1 of the Act respecting prescription drug insurance:

(1) persons 65 years of age and over receiving the maximum amount of guaranteed monthly income supplement under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9); and

(2) persons to whom paragraph 2 or 3 of section 15 of the Act respecting prescription drug insurance applies and who are not exempted under section 29 of that Act.

47. The accumulated deficit as at 31 March 2002 of the Fonds de l'assurance médicaments, established by section 40.1 of the Act respecting the Régie de l'assurance maladie du Québec, shall be paid out of the consolidated revenue fund.

The Minister of Finance shall pay to the Fonds de l'assurance médicaments, out of the consolidated revenue fund, the sums required for that purpose.

48. The provisions of this Act come into force on the date or dates to be fixed by the Government, except paragraph 1 of section 1, sections 2, 3 and 6 to 9, paragraphs 2 and 4 of section 10, paragraph 2 of section 22, paragraph 2 of section 23, sections 24 and 26, the first paragraph of section 31, the first paragraph of section 32, sections 33 to 40, paragraph 1 of section 41 and sections 45 and 46, which come into force on 1 July 2002, and sections 4, 11, 13, 28 and 30, which come into force on 2 July 2002.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 101
(2002, chapter 36)

An Act to amend the Act respecting health services and social services as regards residences for the elderly

Introduced 8 May 2002
Passage in principle 28 May 2002
Passage 14 June 2002
Assented to 14 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill provides that a regional board is required to establish and maintain a register of residences for the elderly.

The bill imposes on the person in charge of such a residence the obligation to file with the regional board a declaration containing the information necessary to keep and update the register.

Bill 101

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AS REGARDS RESIDENCES FOR THE ELDERLY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by inserting the following sections after section 346:

"**346.0.1.** Each regional board must, for the purpose of identifying the resources as regards housing for elderly persons in its territory, establish and maintain a register of residences for the elderly.

A residence for the elderly is a congregate residential facility where rooms or apartments intended for elderly persons are offered for rent along with a varied range of services relating, in particular, to security, housekeeping assistance and assistance with social activities, except a facility operated by an institution and a building or residential facility where the services of an intermediate resource or a family-type resource are offered.

The information collected by a regional board to establish and maintain the register is as follows: the name and address of the owner or person in charge of the residence, the address and physical description of the residence, certain information concerning the building and the municipal permits held, certain characteristics of the residence, the services offered and the facilities available as well as the age groups of the clientele. Such information is public information.

"**346.0.2.** The person in charge of a residence for the elderly must on receiving its first resident and, subsequently, on 1 April each year, file with the regional board a declaration containing the information required under the last paragraph of section 346.0.1."

2. In the case of a residence for the elderly already having one or more residents on 14 June 2002, the obligation imposed by section 346.0.2 of the Act respecting health services and social services applies from 12 September 2002.

3. This Act comes into force on 14 June 2002.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 104
(2002, chapter 28)

An Act to amend the Charter of the French language

Introduced 7 May 2002
Passage in principle 28 May 2002
Passage 12 June 2002
Assented to 13 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill establishes the Office québécois de la langue française whose mission is to define and conduct Québec policy in the areas of linguistic officialization, terminology and the francization of the civil administration and enterprises. The Office is also responsible for ensuring compliance with the Charter of the French language.

The bill also establishes the Conseil supérieur de la langue française to advise the minister responsible for the administration of the Charter of the French language.

Amendments are made as concerns the language of instruction regarding eligibility for instruction in English. In addition, it is provided that college and university-level institutions will be required to adopt a policy on the use and quality of the French language, in keeping with their linguistic character.

Finally, certain changes are introduced in the provisions concerning the language of the civil administration and the francization of enterprises.

LEGISLATION AMENDED BY THIS BILL :

– Financial Administration Act (R.S.Q., chapter A-6.001);

– Charter of the French language (R.S.Q., chapter C-11);

– Labour Code (R.S.Q., chapter C-27);

– Securities Act (R.S.Q., chapter V-1.1).

Bill 104

AN ACT TO AMEND THE CHARTER OF THE FRENCH LANGUAGE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 16 of the Charter of the French language (R.S.Q., chapter C-11) is amended

(1) by inserting "only" after "use" in the first line;

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

"The Government may, however, determine by regulation the cases, conditions or circumstances in which another language may be used in addition to the official language."

2. Section 29.1 of the said Charter, amended by section 6 of chapter 57 of the statutes of 2000, is again amended by striking out ", the Cree School Board, the Kativik School Board" in the first paragraph.

3. Section 73 of the said Charter is amended by adding the following paragraphs at the end:

"However, instruction in English received in Québec in a private educational institution not accredited for the purposes of subsidies by the child for whom the request is made, or by a brother or sister of the child, shall be disregarded. The same applies to instruction in English received in Québec in such an institution after (*insert here the date of coming into force of this section*) by the father or mother of the child.

Instruction in English received pursuant to a special authorization under section 81, 85 or 85.1 shall also be disregarded."

4. Section 76 of the said Charter is amended by striking out "any of paragraphs 1 to 5 of" in the third and fourth lines of the second paragraph.

5. Section 76.1 of the said Charter is amended by striking out ", 81, 85.1" in the second line.

6. Section 81 of the said Charter is amended by inserting "if required to facilitate the learning process" after "English" in the second line of the first paragraph.

7. Sections 82 to 83.3 of the said Charter are repealed.

8. Section 83.4 of the said Charter is amended by replacing "made by the review committee" in the first line by "concerning a child's eligibility for instruction in English made pursuant to section 73, 76, 81, 85 or 86.1 by a designated person".

9. Section 85.1 of the said Charter is replaced by the following section:

"**85.1.** Where warranted by a serious family or humanitarian situation, the Minister of Education may, upon a reasoned request and on the recommendation of the examining committee, declare eligible for instruction in English a child who has been declared non-eligible by a person designated by the Minister.

The request must be filed within 30 days of notification of the unfavourable decision.

The request shall be submitted to an examining committee composed of three members designated by the Minister. The committee shall report its observations and recommendation to the Minister.

The Minister shall specify, in the report referred to in section 4 of the Act respecting the Ministère de l'Éducation (chapter M-15), the number of children declared eligible for instruction in English under this section and the grounds on which they were declared eligible."

10. The said Charter is amended by inserting the following chapter after section 88:

"CHAPTER VIII.1

"POLICIES OF COLLEGE OR UNIVERSITY-LEVEL INSTITUTIONS REGARDING THE USE AND QUALITY OF THE FRENCH LANGUAGE

"**88.1.** Before (*insert here the date occurring two years after the date of coming into force of this section*), every institution that provides college instruction, other than a private institution not accredited for the purposes of subsidies, must adopt a policy applicable to college-level instruction regarding the use and quality of the French language. The same applies to the university-level institutions listed in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).

Any institution to which the first paragraph applies that is founded or accredited after (*insert here the date of coming into force of this section*) must adopt such a policy within two years after it is founded or receives accreditation.

"**88.2.** In the case of an institution that provides college or university instruction in French to the majority of its students, the language policy must pertain to

(1) the language of instruction, including the language of manuals and other instructional tools, and the language of learning assessment instruments;

(2) the language of communication used by the administration of the institution in its official texts and documents as well as in any other form of communication;

(3) the quality of French and the command of the French language among the students, the teaching staff, especially upon hiring, and other staff members;

(4) the language of work; and

(5) the implementation of the policy and the monitoring of its application.

In the case of an institution that provides college or university instruction in English to the majority of its students, the language policy must pertain to the teaching of French as a second language, the language used by the administration of the institution in its written communications with the civil administration and legal persons established in Québec, and the implementation of the policy and the monitoring of its application.

"**88.3.** The language policy of an educational institution must be transmitted to the Minister of Education as soon as it is determined. The same applies to any amendment to the policy.

Upon request, an educational institution must transmit a report on the application of its policy to the Minister."

11. The said Charter is amended by replacing the heading of Title II by the following heading:

"LINGUISTIC OFFICIALIZATION, TOPONYMY
AND FRANCIZATION".

12. Chapter I of Title II of the said Charter, comprising section 99, is repealed.

13. The heading of Chapter II of Title II of the said Charter is replaced by the following heading:

"LINGUISTIC OFFICIALIZATION".

14. Sections 100 to 115 of the said Charter are repealed.

15. Section 116 of the said Charter is replaced by the following section:

"**116.** The departments and agencies of the civil administration may establish linguistic committees and determine their composition and operation.

The committees shall identify terminological deficiencies and problematical terms and expressions in their designated field. They shall submit the terms and expressions they favour to the Comité d'officialisation linguistique. The Comité may in turn submit them to the Office québécois de la langue française for standardization or recommendation.

If a department or agency does not establish a linguistic committee, the Office may, on the proposal of the Comité d'officialisation linguistique, make an official request that it do so."

16. The said Charter is amended by inserting the following section after section 116:

"**116.1.** The Office québécois de la langue française may, on the proposal of the Comité d'officialisation linguistique, recommend or standardize terms and expressions. The Office shall disseminate standardized terms and expressions, in particular through publication in the *Gazette officielle du Québec*."

17. Sections 119 to 121 of the said Charter are repealed.

18. Section 137 of the said Charter is amended by replacing "one-third" in the first line of the first paragraph by "half".

19. The said Charter is amended by inserting the following section after section 137:

"**137.1.** Workers' representatives on the francization committee or a subcommittee may, without loss of pay, absent themselves from work for the time required to attend meetings of the committee or subcommittee and to perform any committee or subcommittee task. They shall be deemed to be working and shall be remunerated at the normal rate during that time.

In no case may an employer not remunerate or dismiss, lay off, demote or transfer a worker for the sole reason that the worker took part in committee or subcommittee meetings or tasks.

Any worker who feels aggrieved by an action that is prohibited by the second paragraph may exercise the rights set out in the second or third paragraph of section 45, as the case may be."

20. Section 139 of the said Charter is amended by replacing "12" in the first line of the third paragraph by "six".

21. Section 140 of the said Charter is amended by replacing the second paragraph by the following paragraphs:

"If, however, the Office considers that the use of French is not generalized at all levels of the enterprise, it shall notify the enterprise that it must adopt a francization programme. In the case of an enterprise to which section 139 applies, the Office may, in addition, order the establishment of a francization committee of four or six members; in that case, sections 136 to 138 are applicable with the necessary modifications.

The francization programme shall be submitted to the Office within six months of the date on which the notice is received. The programme requires the approval of the Office."

22. Section 142 of the said Charter is amended by adding the following paragraph after paragraph 4:

"(5) the line of business of the enterprise."

23. Section 144 of the said Charter is amended by adding the following sentence at the end of the first paragraph: "Such agreements are valid for a renewable period of not more than five years."

24. Section 151 of the said Charter is amended by inserting "responsible for the administration of this Act" after "Minister" in the first line of the first paragraph.

25. The heading of Title III of the said Charter is replaced by the following heading:

"THE OFFICE QUÉBÉCOIS DE LA LANGUE FRANÇAISE".

26. Chapters I and II of Title III of the said Charter, comprising sections 157 to 165, are replaced by the following chapters:

"CHAPTER I

"ESTABLISHMENT

"**157.** A body is hereby established under the name of "Office québécois de la langue française".

"**158.** The head office of the Office shall be located in Québec or Montréal, at the place determined by the Government.

The address of the head office, as well as notice of any change thereof, shall be published in the *Gazette officielle du Québec*.

The Office shall have an office in Québec and another in Montréal and may have offices elsewhere in Québec.

"CHAPTER II

"MISSION AND POWERS

"**159.** The Office is responsible for defining and conducting Québec policy on linguistic officialization, terminology and the francization of the civil administration and enterprises.

The Office is also responsible for ensuring compliance with this Act.

"**160.** The Office shall monitor the linguistic situation in Québec and shall report thereon to the Minister at least every five years, especially as regards the use and status of the French language and the behaviour and attitudes of the various linguistic groups.

"**161.** The Office shall see to it that French is the normal and everyday language of work, communication, commerce and business in the civil administration and in enterprises. The Office may, among other things, take any appropriate measure to promote French.

The Office shall help define and develop the francization programmes provided for in this Act and monitor their application.

"**162.** The Office may assist and inform the civil administration, semipublic agencies, enterprises, associations and natural persons as regards the correction and enrichment of spoken and written French in Québec.

The Office may also receive observations and suggestions from such parties regarding the quality of the French language or problems encountered in the application of this Act, and report thereon to the Minister.

"**163.** The Office shall establish the research programmes needed for the application of this Act. It may carry out or commission the studies provided for in the research programmes.

"**164.** The Office may make agreements or take part in joint projects with any person or agency.

The Office may, in accordance with the applicable legislative provisions, make an agreement with a government other than that of Québec, a department or agency of such a government, an international organization or an agency of such an organization.

“CHAPTER II.1

“ORGANIZATION

“DIVISION I

“GENERAL PROVISIONS

“**165.** The Office shall be composed of eight members.

The members of the Office shall be appointed by the Government as follows:

(1) a president and director general, for a term not exceeding five years; and

(2) six persons, for a term not exceeding five years.

The associate deputy minister responsible for the implementation of language policy shall be a permanent non-voting member of the Office; the associate deputy minister may appoint a substitute.

At the expiry of their terms, non-permanent members shall remain in office until they are replaced or reappointed.

“**165.1.** The quorum at meetings of the Office is the majority of the members.

Meetings shall be presided over by the president and director general, who shall have a casting vote in the event of a tie.

“**165.2.** The Office may hold meetings anywhere in Québec.

The members of the Office may participate in a meeting by means of telephone or other communications equipment enabling all participants to hear one another.

“**165.3.** The president and director general is responsible for the management and administration of the Office within the scope of its internal by-laws and policies.

The powers and functions conferred on the Office by the first paragraph of section 38 and sections 40, 131 to 133, 139, 143 and 151 are exercised by the president and director general, who shall report periodically to the Office.

The Office may delegate any other power or function to the president and director general.

"**165.4.** If the president and director general is absent or unable to act, another member of the Office designated by the Minister shall act as a substitute.

"**165.5.** The office of president and director general shall be exercised on a full-time basis. The Government shall determine the remuneration, employment benefits and other conditions of employment of the president and director general.

The other members of the Office shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

"**165.6.** The staff of the Office shall be appointed pursuant to the Public Service Act (chapter F-3.1.1).

"**165.7.** Neither the Office nor its members, its staff or the members of its committees may be prosecuted by reason of official acts performed in good faith in the exercise of their powers and functions.

"**165.8.** The Office may make internal by-laws.

The Office may in particular establish permanent or temporary committees, define their powers and duties and determine their mode of constitution and operation.

The committees may, with the authorization of the Minister, be composed in whole or in part of persons who are not members of the Office.

Committee members shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

The Office may also generally authorize a member or staff member of the Office to act as a mediator to facilitate an agreement between the parties in accordance with section 47.

"**165.9.** The minutes of the meetings of the Office, approved by the Office, and documents and copies emanating from the Office or forming part of its records are authentic if signed or certified by the president and director general or by a staff member so authorized by the latter.

"**165.10.** Not later than 31 August each year, the Office shall submit a report to the Minister on its activities for the preceding fiscal year.

The Minister shall lay the report before the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

"DIVISION II

"COMITÉ D'OFFICIALISATION LINGUISTIQUE AND COMITÉ DE SUIVI DE LA SITUATION LINGUISTIQUE

"**165.11.** Committees are hereby established within the Office under the names of "Comité d'officialisation linguistique" and "Comité de suivi de la situation linguistique".

On request or on its own initiative, each of the committees shall, in its designated field, advise and submit proposals to the Office.

"**165.12.** Each of the committees shall be composed of five members appointed by the Office as follows:

(1) a committee chair, chosen from among the members of the Office, for the unexpired portion of his or her term as a member of the Office;

(2) a secretary, chosen from among the staff of the Office, for a term not exceeding four years; and

(3) three persons who are neither members nor staff members of the Office, for a term not exceeding four years.

The Comité d'officialisation linguistique shall include at least two French linguistics specialists and the Comité de suivi de la situation linguistique shall include at least two demography or sociolinguistics specialists.

At the expiry of their terms, committee members shall remain in office until they are replaced or reappointed.

"**165.13.** Committee members shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

"**165.14.** The committees shall operate under rules determined by the internal by-laws of the Office."

27. Chapter III of Title III of the said Charter, comprising sections 166 to 177, becomes Title III.1.

28. Section 167 of the said Charter is amended by replacing "chairman" in the second paragraph by "president and director general".

29. Section 170 of the said Charter is repealed.

30. Chapter IV of Title III of the said Charter, comprising sections 178 and 179, is repealed.

31. Title IV of the said Charter, comprising sections 185 to 204, is replaced by the following title:

"TITLE IV

"THE CONSEIL SUPÉRIEUR DE LA LANGUE FRANÇAISE

"**185.** A council is hereby established under the name "Conseil supérieur de la langue française".

"**186.** The head office of the Conseil shall be located in Québec, at the place determined by the Government.

The address of the head office, as well as notice of any change thereof, shall be published in the *Gazette officielle du Québec*.

"**187.** The mission of the Conseil is to advise the Minister responsible for the administration of this Act on any matter relating to the French language in Québec.

In that capacity, the Conseil shall

(1) advise the Minister on any matter the Minister submits to it;

(2) bring to the Minister's attention any matter which, in its opinion, requires the attention of the Government.

"**188.** In carrying out its mission, the Conseil may

(1) receive and hear observations from individuals or groups;

(2) conduct or commission such studies and research as it considers necessary.

The Conseil may also inform the public on any matter relating to the French language in Québec.

"**189.** The Conseil shall be composed of eight members.

The members of the Conseil shall be appointed by the Government as follows:

(1) a chair, for a term not exceeding five years; and

(2) seven persons, chosen after consultation with the bodies which the Government considers representative of consumers, educational circles, cultural communities, unions and management, for a term not exceeding five years.

At the expiry of their terms, members shall remain in office until they are replaced or reappointed.

"**190.** The quorum at meetings of the Conseil is the majority of the members.

Meetings shall be presided over by the chair, who shall have a casting vote in the event of a tie.

"**191.** The Conseil may hold meetings anywhere in Québec.

The members of the Conseil may participate in a meeting by means of telephone or other communications equipment enabling all participants to hear one another.

"**192.** The chair is responsible for the management and administration of the Conseil.

"**193.** If the chair is absent or unable to act, another member of the Conseil designated by the Minister shall act as a substitute.

"**194.** The office of chair shall be exercised on a full-time basis. The Government shall determine the remuneration, employment benefits and other conditions of employment of the chair.

The other members of the Conseil shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

"**195.** The staff of the Conseil shall be appointed pursuant to the Public Service Act (chapter F-3.1.1).

"**196.** The Conseil may provide for its internal management.

The Conseil may establish committees to assist it in the exercise of its powers and duties.

The committees may, with the authorization of the Minister, be composed, in whole or in part, by persons who are not members of the Conseil.

Committee members shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses

incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

"**197.** The minutes of the meetings of the Conseil, approved by the Conseil, and documents and copies emanating from the Conseil or forming part of its records are authentic if signed or certified by the chair or by a staff member so authorized by the latter.

"**198.** Not later than 31 August each year, the Conseil shall submit a report to the Minister on its activities for the preceding fiscal year.

The Minister shall lay the report before the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption."

32. Section 212 of the said Charter is amended by replacing "de la langue française, that of the Commission de protection de la langue française and that of the Conseil" in the second, third and fourth lines by "québécois de la langue française and the staff of the Conseil supérieur".

33. The said Charter is amended by replacing "Commission" in sections 166 to 169, 171, 172 and 175 to 177 by "Office".

34. The said Charter is amended by replacing "Office de la langue française" wherever it appears by "Office québécois de la langue française".

OTHER AMENDMENTS

FINANCIAL ADMINISTRATION ACT

35. Schedule I to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended

(1) by inserting "Conseil supérieur de la langue française" and "Office québécois de la langue française" in proper alphabetical order;

(2) by striking out "Commission de protection de la langue française", "Conseil de la langue française" and "Office de la langue française".

LABOUR CODE

36. Paragraph 1 of Schedule I to the Labour Code (R.S.Q., chapter C-27), enacted by section 70 of chapter 26 of the statutes of 2001, is amended by replacing "and the second paragraph of section 46" by ", the second paragraph of section 46 and the third paragraph of section 137.1".

SECURITIES ACT

37. Section 302.1 of the Securities Act (R.S.Q., chapter V-1.1) is amended by inserting "québécois" in the first line of the first paragraph after "Office".

TRANSITIONAL AND FINAL PROVISIONS

38. The Office québécois de la langue française replaces and acquires the rights and assumes the obligations of the Commission de protection de la langue française and the Office de la langue française.

The Conseil supérieur de la langue française replaces and acquires the rights and assumes the obligations of the Conseil de la langue française.

39. The terms of office of the members of the Commission de protection de la langue française, the Conseil de la langue française and the Office de la langue française shall end on 1 October 2002.

40. The personnel or staff of the Commission de protection de la langue française and the Office de la langue française become the staff of the Office québécois de la langue française.

The personnel or staff of the Conseil de la langue française become the staff of the Conseil supérieur de la langue française or the Office québécois de la langue française, as determined by the Government.

41. The Office québécois de la langue française becomes, without continuance of suit, party to any proceedings to which the Commission de protection de la langue française or the Office de la langue française was party.

42. In any text or document, unless the context indicates otherwise, a reference to the Commission de protection de la langue française or the Office de la langue française is a reference to the Office québécois de la langue française, and a reference to the Conseil de la langue française is a reference to the Conseil supérieur de la langue française.

43. The amendments introduced by sections 3 to 6 are applicable to requests being processed by a person designated by the Minister of Education on their respective dates of coming into force.

44. Applications for review before the review committee appointed under section 83 of the Charter of the French language filed under the former provisions of section 82 of the said Charter that are pending on (*insert here the date of coming into force of section 7*) are hereby terminated.

However, any person having filed such an application may, within 45 days of that date, exercise the remedy provided by the new provisions of section 83.4 of the said Charter or file a reasoned request with the Minister of Education pursuant to the new provisions of section 85.1 of the said Charter.

The file manager for the review committee shall, in writing and without delay, inform every person having filed an application with the review committee of the provisions of the first and second paragraphs.

45. The remedy before the Administrative Tribunal of Québec provided by the former provisions of section 83.4 of the Charter of the French language shall remain applicable in respect of any decision made by the review committee appointed under section 83 of the said Charter before (*insert here the date of coming into force of section 7*).

The former provisions of section 85.1 of the said Charter shall remain applicable in respect of any report ascertaining the existence of a serious family or humanitarian situation filed with the Minister of Education by the review committee before the date mentioned in the first paragraph.

46. The new time limit introduced by section 20 does not apply in respect of certificates of registration issued before (*insert here the date of coming into force of section 20 of this Act*).

47. The new time limit introduced by section 21 does not apply in respect of enterprises having received a notice before (*insert here the date of coming into force of section 21 of this Act*).

48. An agreement under section 144 of the Charter of the French language entered into before (*insert here the date of coming into force of section 23*) must be reviewed by the Office québécois de la langue française within four years of that date. If the agreement is not renewed following the review, it shall terminate one year after the enterprise concerned is notified of the non-renewal by the Office.

49. The provisions of this Act come into force on 1 October 2002, except the provisions of sections 1 to 10, 18 to 24 and 43 to 48, which come into force on the date or dates to be fixed by the Government.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 108
(2002, chapter 38)

An Act to amend the Act respecting health services and social services for Cree Native persons and various legislative provisions

Introduced 28 May 2002
Passage in principle 7 June 2002
Passage 14 June 2002
Assented to 14 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill amends the Act respecting health services and social services for Cree Native persons to allow the creation of a public health department in the territory of Region 10B covered by the James Bay and Northern Québec Agreement.

The bill also contains technical and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

– Act respecting Héma-Québec and the haemovigilance committee (R.S.Q., chapter H-1.1);

– Act respecting Institut national de santé publique du Québec (R.S.Q., chapter I-13.1.1);

– Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2);

– Act respecting occupational health and safety (R.S.Q., chapter S-2.1);

– Act respecting health services and social services (R.S.Q., chapter S-4.2);

– Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

– Public Health Act (2001, chapter 60).

Bill 108

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS AND VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) is amended by adding ", and in which public health activities are carried out in accordance with the provisions of the Public Health Act (2001, chapter 60)" at the end of subparagraph *g* of the first paragraph.

2. Section 54 of the said Act is amended by replacing subparagraph *e* of the first paragraph by the following subparagraph:

"(*e*) at the option of the Regional Authority, the public health director, a director of professional services of a hospital centre under the authority of the regional council, or both."

3. The said Act is amended by inserting the following sections after section 63.2:

"**63.3.** The regional council shall

(1) establish a public health department;

(2) ensure the security and confidentiality of the personal or confidential information obtained by the public health department in the exercise of its functions;

(3) entrust the management of the regional public health action plan provided for in section 63.16 to the public health director appointed under section 63.4;

(4) organize services and allocate available resources for the purposes of the regional public health action plan.

"**63.4.** Following an agreement with the Minister, the regional council shall appoint a public health director.

The Minister may require that a person representing the Minister participate in the process of selection of the public health director.

The public health director must be a physician trained in community health care and shall be appointed for a term of not more than four years.

The public health director may remain in office at the expiry of his term until he is replaced or reappointed by the regional council, if there has been an agreement to that effect between the Minister and the regional council.

"**63.5.** If the office of public health director becomes vacant or if the public health director is unable to act or is absent for an extended period of time, the regional council must appoint a person to temporarily replace the director, on the conditions determined by the council and following an agreement with the Minister, within 30 days of the vacancy, inability to act or absence or within any other time limit agreed upon by the regional council and the Minister.

"**63.6.** If the office of public health director becomes vacant, the regional council shall immediately set in motion the process of selection of a new director.

"**63.7.** The regional council may, if the public health director is guilty of grave misconduct or tolerates a situation which could pose a threat to the health of the population, withdraw the functions and powers vested in the public health director, with the consent of the Minister.

The regional council must, in that case, appoint a person to temporarily replace the director in accordance with the provisions of section 63.5.

"**63.8.** If the Minister ascertains that the public health director is guilty of grave misconduct or tolerates a situation which could pose a threat to the health of the population, the Minister may request the regional council to exercise the powers conferred on it by section 63.7.

If the regional council fails to act within the time specified, the Minister may withdraw the functions and powers vested in the director. In that case, a person shall be appointed to temporarily replace the director in accordance with the provisions of section 63.5.

"**63.9.** In every situation where no person is appointed to assume the functions and exercise the powers of public health director in the territory, whether for a fixed term or an interim period and for whatever reason, the national public health director or the person designated by the latter to represent him shall assume the functions and exercise the powers of public health director in the territory.

"**63.10.** The public health director shall assume all the functions and exercise all the powers entrusted to a public health director by the Acts and regulations of Québec.

The public health director shall, in particular, assume the functions provided for in section 373 of the Act respecting health services and social services (chapter S-4.2), within the regional council and with respect to the population of the territory.

"**63.11.** The public health director shall carry out any other mandate entrusted to the director by the regional council within the scope of his responsibilities.

"**63.12.** The public health director must, without delay, inform the regional council and the national public health director of any emergency or of any situation posing a threat to the health of the population.

"**63.13.** The national public health director may request the public health director to report on the decisions or advice made or given in the exercise of the national public health director's functions.

"**63.14.** With respect to the Public Health Act (2001, chapter 60), the regional council shall assume all the functions entrusted under that Act to a regional board or an institution operating a local community service centre, subject to the provisions of sections 63.15 to 63.18.

"**63.15.** Sections 11 and 12, the second paragraph of section 13 and sections 14, 15 and 17 of the Public Health Act do not apply in the territory of the regional council. They are replaced by sections 63.16 to 63.18 of this Act.

"**63.16.** The regional council must develop, implement, evaluate and regularly update a regional public health action plan and one or more local action plans.

The action plans must be consistent with the prescriptions of the national public health program and must take into account the specific characteristics of the population living in the territory.

Before implementing the plans, the regional council must consult the population living in the territory and the various resources concerned by the plans, using the means it considers the most appropriate.

"**63.17.** The regional action plan of the regional council must include a plan providing for the mobilization of the resources of the health and social services institutions in the territory whenever such resources are needed by the public health director to conduct an epidemiological investigation or to take the measures considered necessary to protect the health of the population if it is threatened.

"**63.18.** The regional council must submit the regional public health action plan and the local action plan or plans to the Minister, together with the proposed allocation of the budget available for such purpose in the territory, before implementing them."

4. Section 7 of the Act respecting Héma-Québec and the haemovigilance committee (R.S.Q., chapter H-1.1) is amended by adding "or the Act respecting health services and social services for Cree Native persons (chapter S-5)" at the end of subparagraph 6 of the first paragraph.

5. Section 46 of the said Act is amended by adding "or in the public health department established by the regional council under section 63.3 of the Act respecting health services and social services for Cree Native persons" at the end of subparagraph 2 of the first paragraph.

6. Section 3 of the Act respecting Institut national de santé publique du Québec (R.S.Q., chapter I-13.1.1) is amended by replacing "and" after "Services" in the second line of the first paragraph by a comma and by inserting "and to the regional council established under the Act respecting health services and social services for Cree Native persons (chapter S-5)" after "(chapter S-4.2)" in the third line of the first paragraph.

7. Section 9 of the said Act is amended by inserting "or the Act respecting health services and social services for Cree Native persons (chapter S-5)" at the end of subparagraph 2 of the first paragraph.

8. Section 20 of the said Act is amended by replacing "and" in the first line of the second paragraph by ", the regional council and all".

9. Section 5.1 of the Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2), enacted by section 108 of chapter 24 of the statutes of 2001, is amended

(1) by striking out "Québec" in the first line of the first paragraph of the English text;

(2) by replacing "Québec's" in the first line of the second paragraph of the English text by "The".

10. Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), amended by section 168 of chapter 26 and by section 167 of chapter 60 of the statutes of 2001, is again amended

(1) by replacing the definition of "public health director" by the following definition:

""public health director" means a public health director within the meaning of the Act respecting health services and social services or within the meaning of the Act respecting health services and social services for Cree Native persons;";

(2) by replacing "and the institution to which Part IV.2 of that Act applies" in the second and third lines of the definition of "regional board" by ", the institution to which Part IV.2 of that Act applies and the regional council within the meaning of the Act respecting health services and social services for Cree Native persons".

11. Section 373 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), amended by section 60 of chapter 24 of the statutes of 2001, is again amended by replacing the second paragraph by the following paragraph:

"The public health director shall assume, in addition, any other function entrusted to him by the Public Health Act (2001, chapter 60)."

12. Section 530.59 of the said Act is amended

(1) by striking out "the first paragraph of" in the second line of the first paragraph and by replacing "375" in the third line of that paragraph by "375.0.1";

(2) by replacing "paragraph 2" in the first and second lines of the second paragraph by "paragraph 1" and by replacing "375" in the third line of that paragraph by "375.0.1".

13. Section 2 of the Public Health Act (2001, chapter 60) is amended by adding "or the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5)" at the end of the third paragraph.

14. Section 10 of the said Act is amended by replacing "and in the territories of the different regional boards" in the second and third lines of the second paragraph by "and those obtained in the territory of each regional board and in the territory of the regional council".

15. Section 131 of the said Act is amended

(1) by replacing "The regional boards shall" at the beginning of the first paragraph by "The regional council and the regional boards shall";

(2) by replacing "The regional boards must" at the beginning of the third paragraph by "The regional council and the regional boards must".

16. Section 132 of the said Act is amended by striking out "of a regional board" in the second line of the first paragraph.

17. Sections 73 and 74 of the Organization and Management of Institutions Regulation (R.R.Q., 1981, chapter S-5, r.3.01) are repealed.

18. As of the coming into force of this Act, the national public health director or the person designated by the national public health director to represent him shall assume the functions and exercise the powers of the public health director in the territory of the regional council, until the first public health director is appointed.

19. This Act comes into force on 14 June 2002.

Coming into force of Acts

Gouvernement du Québec

O.C. 809-2002, 26 June 2002

An Act to amend the Act respecting municipal courts, the Courts of Justice Act and other legislative provisions (2002, c. 21)
— Coming into force

COMING INTO FORCE of the Act to amend the Act respecting municipal courts, the Courts of Justice Act and other legislative provisions

WHEREAS the Act to amend the Act respecting municipal courts, the Courts of Justice Act and other legislative provisions (2002, c. 21) was assented to on 13 June 2002;

WHEREAS under section 69 of the Act, its provisions will come into force on the date or dates to be fixed by the Government;

WHEREAS it is expedient to fix the date of coming into force of the provisions of that Act;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Justice:

THAT 1 July 2002 be fixed as the date of coming into force of the Act to amend the Act respecting municipal courts, the Courts of Justice Act and other legislative provisions (2002, c. 21), except:

(1) section 18, which will come into force on 26 June 2002;

(2) sections 9 and 54, which will come into force on 1 September 2002.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

5166

Gouvernement du Québec

O.C. 821-2002, 26 June 2002

An Act to amend the Act respecting prescription drug insurance and other legislative provisions (2002, c. 27)
— Coming into force of certain provisions

COMING INTO FORCE of certain provisions of the Act to amend the Act respecting prescription drug insurance and other legislative provisions (2002, c. 27)

WHEREAS the Act to amend the Act respecting prescription drug insurance and other legislative provisions (2002, c. 27) was assented to on 13 June 2002;

WHEREAS, under section 48 of the Act, the provisions of the Act come into force on the date or dates to be fixed by the Government, except paragraph 1 of section 1, sections 2, 3 and 6 to 9, paragraphs 2 and 4 of section 10, paragraph 2 of section 22, paragraph 2 of section 23, sections 24 and 26, the first paragraph of section 31, the first paragraph of section 32, sections 33 to 40, paragraph 1 of section 41 and sections 45 and 46, which come into force on 1 July 2002, and sections 4, 11, 13, 28 and 30, which come into force on 2 July 2002;

WHEREAS it is expedient to fix 26 June 2002 as the date of coming into force of the provisions of section 15 of the Act;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Health and Social Services and Minister of Health and Social Services:

THAT 26 June 2002 be fixed as the date of coming into force of the provisions of section 15 of the Act to amend the Act respecting prescription drug insurance and other legislative provisions (2002, c. 27).

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

5168

Regulations and other acts

Gouvernement du Québec

O.C. 811-2002, 26 June 2002

Code of Penal Procedure
(R.S.Q., c. C-25.1)

Penal matters
— Tariff of court costs

Regulation to amend the Tariff of court costs in penal matters

WHEREAS, under paragraph 1 of article 223 of the Code of Penal Procedure (R.S.Q., c. C-25.1), the judge may, when rendering judgment, order the defendant to pay the costs fixed by regulation where he convicts him of an offence and imposes a fine on him;

WHEREAS, under paragraph 11 of article 367 of the Code, the Government may, by regulation, fix the costs of execution of the judgment that may be awarded against a party;

WHEREAS section 13 of the Tariff of court costs in penal matters made by Order in Council 1412-93 dated 6 October 1993 provides for the costs of execution of the judgment that may be awarded against a party;

WHEREAS it is expedient to amend the Tariff of court costs in penal matters to include in the disbursements made by the collector for the recovery of a sum due in the costs of execution of the judgment that may be awarded against a party:

— the fees provided for in the agreement entered into between the Régie de l'assurance maladie du Québec and the Ministère de la Justice, under section 65.0.2 of the Health Insurance Act (R.S.Q., c. A-29) for manual retrieval and the transmission of information concerning a person who has failed to pay a sum due;

— the fees paid by the collector under the Act to promote the reform of the cadastre in Québec (R.S.Q., c. R-3.1; 2000, c. 42; 2001, c. 62), the fees paid by the collector for the registration of a legal hypothec and the other fees paid by the collector in accordance with the tariff adopted in accordance with the Act respecting registry offices (R.S.Q., c. B-9; 2000, c. 42 and c. 53);

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation to amend the Tariff of court costs in penal matters was published on page 1617 of Part 2 of the *Gazette officielle du Québec* of 20 March 2002 with a notice that it could be made by the Government upon the expiry of a 45-day period following that publication;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Justice:

THAT the Regulation to amend the Tariff of court costs in penal matters, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Tariff of court costs in penal matters[1]

Code of Penal Procedure
(R.S.Q., c. C-25.1, s. 367, par. 11)

1. Section 13 of the Tariff of court costs in penal matters is amended by adding the following after paragraph 11:

"(12) For any disbursement made by a collector to recover a sum due:

(a) the fees provided for in the agreement entered into between the Régie de l'assurance maladie du Québec and the Minister of Justice under section 65.0.2 of the Health Insurance Act (R.S.Q., c. A-29), for manual retrieval and transmission of information concerning a person who has not paid a sum due within the meaning of the Code of Penal Procedure within the prescribed time;

[1] The Tariff of court costs in penal matters, made by Order in Council 1412-93 dated 6 October 1993 (1993, *G.O.* 2, 5554), was last amended by the Regulation made by Order in Council 1210-96 dated 25 September 1996 (1996, *G.O.* 2, 4096).

(b) in addition to the fees provided for in section 8.1 of the Act to promote the reform of the cadastre in Québec (R.S.Q., c. R-3.1; 2000, c. 42, s. 211; 2001, c. 62), the fees paid by the collector for the registration of a legal hypothec provided for

i. in the Tariff of fees respecting publication by registration in the land register and the application of certain transitional provisions relating to the former registers of registry offices, made by Order in Council 1597-93 dated 17 November 1993;

ii. in the Tariff of fees respecting land registration, made by Order in Council 1074-2001 dated 12 September 2001;

(c) the fees paid by the collector in accordance with the Tariff of fees respecting the register of personal and movable real rights, made by Order in Council 1595-93 dated 17 November 1993.".

2. 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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Gouvernement du Québec

O.C. 846-2002, 26 June 2002

Highway Safety Code
(R.S.Q., c. C-24.2)

World Youth Day activities
— Daily log to be kept by school bus drivers when carrying participants

Regulation respecting the daily log to be kept by school bus drivers when carrying participants to World Youth Day activities

WHEREAS, under paragraph 39 of section 621 of the Highway Safety Code (R.S.Q., c. C-24.2), the Government may by regulation determine the form, content and rules for the retention of the reports, daily logs, files or other documents referred to in Title VIII.1 of the Code;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without the prior publication provided for in section 8 of that Act where the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under sections 13 and 18 of that Act, the reason justifying the absence of prior publication and such coming into force shall be published with the regulation;

WHEREAS, in the opinion of the Government, the urgency du to the following circumstances justifies the absence of prior publication and such coming into force:

— the World Youth Day will take place in Toronto on 28 July 2002; several dioceses will welcome young people from several countries; those youth and pilgrims from Québec will have to go to Toronto by bus, including school bus or minibus; it is necessary to simplify the information to be entered in the daily log of driving time and work time of bus drivers for the carrying of those people between 20 July and 31 July 2002;

IT IS ORDERED, therefore, on the recommendation of the Minister of Transport:

THAT the Regulation respecting the daily log to be kept by school bus drivers when carrying participants to World Youth Day activities, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the daily log to be kept by school bus drivers when carrying participants to World Youth Day activities

Highway Safety Code
(R.S.Q., c. C-24.2, s. 621, par. 39)

1. Despite the provisions of section 9 of the Regulation respecting hours of driving, hours of work and the heavy vehicle driver's record, made under O.C. 389-89 dated 15 March 1989, a driver who carries participants by chartered school bus or minibus to World Youth Day activities in Toronto between 20 July 2002 and 31 July 2002 satisfies the requirement to keep a daily log of driving time and work time by entering the following:

(1) the start of the workday:

a) the current date;

b) his name;

c) the name of the relief driver, if any;

d) the operator's name and main business address;

e) driving time and work time during the 6, 7 or 13 days, depending on the cycle used, preceding the day on which the trip starts; this requirement also applies to the driver who begins a trip covered by the first paragraph after returning to home base;

f) the odometer reading;

g) the licence plate number of the bus or minibus or the unit number shown on its registration certificate;

h) the time at the beginning of the workday;

(2) during the workday: the start and end of any rest time taken;

(3) at the end of the workday:

a) the time when work ended;

b) the total work time other than rest periods taken during the workday;

c) where work time is more than 13 hours, the time spent on duty other than driving which supports compliance with the limit of 13 hours of driving.

The driver must also sign the log.

2. A driver who keeps a daily log of driving time and work time in accordance with section 1:

(1) may not avail himself of the exemption provided under section 10 of the Regulation respecting hours of driving, hours of work and the heavy vehicle driver's record;

(2) in addition to the documents set forth in section 11 of that Regulation, the driver must keep aboard his vehicle a document stating that the trip is covered by section 1;

(3) upon his return from the trip, the driver must give a copy of the document to the operator and to the person supplying the services of a driver; this copy must be kept in the driver's record prescribed by section 14.1 of that Regulation.

3. This regulation comes into force on 20 July 2002.

5169

Gouvernement du Québec

O.C. 850-2002, 26 June 2002

An Act respecting labour relations, vocational training and manpower management in the construction industry
(R.S.Q., c. R-20)

Construction industry commissioner — Rules of procedure and practice

Rules of procedure and practice of the construction industry commissioner

WHEREAS, under section 23.4 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20), the construction industry commissioner may, by regulation, prescribe rules of procedure and practice;

WHEREAS, under that section, the rules may vary according to the matters, proceedings or applications referred to, brought before or filed with the construction industry commissioner;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Rules of procedure and practice of the construction commissioner were published in the *Gazette officielle du Québec* of 28 November 2001 with a notice that they could be submitted to the Government which could approve them upon the expiry of a 45-day period following the date of their publication;

WHEREAS the construction industry commissioner adopted the Rules of procedure and practice of the construction industry commissioner, with amendments, at a meeting on 6 May 2002;

WHEREAS it is expedient to approve the Rules;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour:

THAT the Rules of procedure and practice of the construction industry commissioner, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Rules of procedure and practice of the construction industry commissioner

An Act respecting labour relations, vocational training and manpower management in the construction industry
(R.S.Q., c. R-20, s. 23.4)

DIVISION I
SCOPE AND PURPOSE

1. This Regulation applies to matters, applications and proceedings submitted to the construction industry commissioner.

Its purpose is to ensure that proceedings are dealt with simply and expeditiously and in compliance with the rules of natural justice and equality of the parties.

2. For the purposes of this Regulation, the expression "construction industry commissioner" means the commissioner appointed under section 21.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20) and the expression "commissioner" means that commissioner or a deputy-commissioner to whom a matter, an application or a proceeding has been referred.

DIVISION II
GENERAL

§1. Secretariat

3. The offices of the construction industry commissioner's secretariat in Québec City and Montréal serve respectively the judicial districts listed in Schedule I.

4. Hearings shall be held at the chief place or its equivalent in the judicial district of the applicant's residence or in which the cause of action has arisen.

The construction industry commissioner may determine another place in the interests of justice.

§2. Proceedings

5. The introductory motion, as well as documents and notices, must be filed with the secretariat of the construction industry commissioner

(1) by delivery to the secretariat;

(2) by mail at the address of the secretariat; or

(3) by fax at the secretariat.

In every case, a copy must be sent to the other party or, as the case may be, to the party's representative.

In addition, in the case provided for in the second paragraph of section 21 of the Act respecting labour relations, vocational training and manpower management in the construction industry, the introductory motion shall be sent to the job site owner and to the contractor involved in the dispute, to every contractors' association listed in subparagraph *c*.1 of the first paragraph of section 1 of the Act, as well as to every association of employees that holds a certificate of representativeness under section 34 of the Act. Any other notice, motion or document shall be sent to the persons or associations that have appeared.

6. The date of filing of a document is the date on which the document is received at the secretariat of the construction industry commissioner.

7. The introductory motion shall be made in writing and shall contain the following information:

(1) the applicant's name, address, telephone number and, if applicable, the applicant's e-mail address and fax number;

(2) if the applicant is represented, the representative's name, address, telephone number and, if applicable, the representative's e-mail address and fax number;

(3) the name, address and telephone number of any other party to the motion and, if applicable, the party's e-mail address and fax number;

(4) a summary of the grounds in support of the matter, application or proceeding; and

(5) the relief sought.

8. The motion instituting proceedings under the third paragraph of section 21, or section 80.1 or 80.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry may be made on the form proposed by the construction industry commissioner.

9. The contested decision or the documents related to the facts that have given rise to the matter, application or proceeding must be attached to the motion.

Failing that, the motion must specify,

(1) if the subject of the matter, application or proceeding is a decision,

(a) the name of the authority that rendered the decision;

(b) the date of the decision; and

(c) the record number attributed by the authority; or

(2) if the subject of the matter, application or proceeding is not a decision, the facts that have given rise to it.

The motion must be signed by the applicant or the applicant's representative.

10. Any other party identified by the applicant in the introductory motion shall appear in writing within 10 days of the filing of the motion. Notwithstanding the foregoing, for proceedings under section 7.7 of the Act respecting labour relations, vocational training and manpower management in the construction industry, that time limit is 48 hours.

The appearance must contain the following information:

(1) the party's name, address, telephone number and, where applicable, the party's e-mail address and fax number;

(2) if the party is represented, the representative's name, address, telephone number and, if applicable, the representative's e-mail address and fax number.

No later than 30 days after the filing of the introductory motion, the party shall complete its appearance by providing

(1) a summary of its arguments; and

(2) the relief sought.

11. Any person may intervene, in writing, in a matter, an application or a proceeding to which that person is not a party, at any time before a decision is rendered.

The intervention must contain the following information:

(1) the intervening party's name, address and telephone number and, if applicable, the party's e-mail address and fax number;

(2) if the intervening party is represented, the representative's name, address and telephone number and, if applicable, the party's e-mail address and fax number;

(3) a summary of the intervening party's specific interest and grounds for the intervention; and

(4) the relief sought.

12. Any party may object to an intervention as soon as it is filed, on the ground of the intervening party's lack of interest; however, the intervention shall be received if the intervening party establishes the interest.

13. Any party to a matter, application or proceeding may, upon authorization of the construction industry commissioner and on the conditions determined by the commissioner, call upon a third party whose presence is necessary to reach a complete settlement of the case.

The commissioner may, *ex officio*, implead any party whose interests may be affected by the commissioner's decision.

14. Upon receipt of an introductory motion, the construction industry commissioner shall send an acknowledgement of receipt to the applicant, to the other party or, as the case may be, to their representatives.

15. The administrative authority whose decision is contested shall, within 30 days of receipt of the copy of the introductory motion, send to the construction industry commissioner a copy of the record in its possession relating to the contested decision. Notwithstanding the foregoing, for proceedings under section 7.7 of the Act respecting labour relations, vocational training and manpower management in the construction industry, that time limit is 48 hours.

16. The commissioner may accept a proceeding despite a defect of form or an irregularity.

17. The following are non-juridical days:

(1) Saturdays and Sundays;

(2) 1 and 2 January;

(3) Good Friday;

(4) Easter Monday;

(5) the Monday preceding 25 May;

(6) 24 June;

(7) 1 July;

(8) the first Monday in September;

(9) the second Monday in October;

(10) 24, 25, 26 and 31 December; and

(11) any other holiday fixed by the Government.

18. If the date on which an act must be done falls on a non-juridical day, that act may be validly done on the next juridical day.

19. In computing time limits, the day which marks the start of the period is not counted but, except in the case of clear days, the final day is counted.

§3. Representation

20. The parties may be represented by a person of their choice.

21. A representative shall notify in writing the construction industry commissioner and the other parties of his mandate.

The designation of a representative in a motion or another written document constitutes a notice of representation for the whole case to which it relates.

22. Any person who

(1) has agreed to represent a party after the filing of a motion,

(2) has ceased to represent a party, or

(3) has dismissed a representative or has replaced a representative

shall immediately notify in writing the construction industry commissioner and the other parties.

23. Every party and representative shall immediately inform the construction industry commissioner of any change in address or telephone number.

24. If a party is represented, communications from the construction industry commissioner, except the notice to appear and the notification of the commissioner's decision, shall be addressed to the representative only.

DIVISION III
ENTRY ON THE ROLL AND NOTICE OF HEARING

25. A notice of proof and hearing shall be sent to the parties within a reasonable time before the hearing and specify

(1) the subject, date, time and place of the hearing;

(2) the right of the parties to be assisted or represented; and

(3) the authority of the commissioner to proceed, without further notice or delay, notwithstanding the failure of a party to be present at the scheduled time and place if the party has not provided a valid excuse for the absence.

26. A party is validly called to the hearing by a notice sent to the party's last address appearing in the record of the construction industry commissioner. The notice is also sent to the representative at the representative's last address.

27. The commissioner may, with the consent of the parties, replace the hearing with a meeting with the parties in an attempt to bring them to settle the dispute by conciliation as provided for in section 21.0.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry, by written arguments, by a telephone conference call, by an examination of the record or by any other means.

28. The filing of a discontinuance or notice of settlement, other than a settlement reached through the conciliation provided for in section 21.0.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry, shall terminate the proceedings.

DIVISION IV
PRE-HEARING CONFERENCE

29. If the commissioner considers it useful and if the circumstances of a matter, application or proceeding allow it, the commissioner shall convene the parties to a pre-hearing conference.

The pre-hearing conference may be held by any means of communication.

30. The purpose of the pre-hearing conference is

(1) to define the issues to be dealt with at the hearing;

(2) to assess the advisability of clarifying and adding detail to the allegations of the parties and the relief sought;

(3) to facilitate the disclosure of documentary evidence between the parties;

(4) to plan the conduct of proceedings and the adducing of evidence at the hearing;

(5) to examine the possibility for the parties to admit some facts or to evidence them by affidavits;

(6) to examine any other issue likely to simplify or accelerate the conduct of the hearing;

(7) to examine the possibility of agreeing to a meeting among the parties to try to bring them to an agreement; and

(8) to examine the possibility of designating a person to meet with the parties for conciliation purposes pursuant to section 21.0.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry.

31. Where applicable, minutes of the pre-hearing conference shall be drawn up and signed by the commissioner who convened the parties. The text of any admission written and signed by the parties shall be attached to the minutes.

The agreements and decisions reported in the minutes shall govern the conduct of the hearing, unless the commissioner allows a departure therefrom during the hearing in order to prevent an injustice.

DIVISION V
HEARING

32. The commissioner may, *ex officio* or upon application by a party, prohibit or restrict the disclosure, publication or broadcasting of designated information or documents, where required to maintain public order or where their confidentiality must be protected to ensure the proper administration of justice.

33. The minutes of the hearing shall be drawn up in the manner established by the construction industry commissioner. They must include

(1) the date and place of the hearing;

(2) the name of the commissioner;

(3) the names and addresses of the parties and, where applicable, of their representatives and witnesses;

(4) the name and address of the interpreter, where applicable, and an indication that the interpreter took an oath;

(5) an indication that the hearing was recorded;

(6) a list of the exhibits that were produced;

(7) the incidental proceedings, objections and decisions rendered at the hearing, where applicable;

(8) every admission and any full or partial settlement;

(9) the date on which the matter was taken under advisement, where applicable.

34. The commissioner may, for cause, *ex officio* or upon application by one of the parties, postpone the hearing to another date or adjourn it.

The commissioner may attach conditions to the postponement or adjournment.

35. A party that wishes to have the hearing postponed shall file an application with the construction industry commissioner as soon as the grounds for the postponement become known.

The postponement shall be granted only if it is based on serious grounds and would better serve the interests of justice. No postponement shall be granted merely upon consent of the parties.

36. All persons attending a hearing shall behave with dignity and in a manner that shows respect for the judicial process. They shall refrain from doing anything that could disrupt the hearing.

DIVISION VI
PROCEEDINGS

37. The construction industry commissioner is not required to apply the rules of civil procedure except those relating to the time limits for summoning witnesses.

38. The party that requires the summoning of a witness shall complete the subpoena.

The party must serve the subpoena issued by a commissioner at least five clear days before the hearing or, for a subpoena to a minister or deputy minister of the Government, at least ten clear days before the hearing.

If the matter is urgent, a commissioner may reduce the time for service of a subpoena; it may not, however, be less than 12 hours. The commissioner shall indicate that such is the case on the subpoena.

39. Any witness that is heard shall swear to tell the truth.

A witness who does not understand the nature of the oath shall be exempted from that formality; the witness shall nonetheless be informed of the obligation to tell the truth.

40. Any party may examine and cross-examine a witness to the extent necessary to ensure procedural fairness.

41. The commissioner may order that witnesses must testify without the presence of any other witness.

42. A party that intends to produce an expert's report in evidence shall file it with the secretariat of the construction industry commissioner and send a copy to the other parties or, as the case may be, to their representatives, on the date fixed by the commissioner or, failing such a date, at least 30 days before the scheduled hearing date.

43. A party that intends to produce documents at the hearing shall provide a sufficient number of copies for the commissioner and the other parties.

44. A party may, at its own expense, have the hearing of the matter, application or proceeding recorded mechanically or by shorthand or stenotype.

A party that has the proceedings transcribed shall provide the construction industry commissioner with a copy of the transcript without charge.

DIVISION VII
DECISION

45. A commissioner who has taken a case under advisement may, *ex officio* or upon application by one of the parties before the decision is rendered, order the reopening of the case for the purposes and on the conditions the commissioner determines.

46. The original of the decision shall be kept in the file and a true copy shall be sent to every party and to their representatives.

DIVISION VIII
COMING INTO FORCE

47. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I
(s. 3)

1. The construction industry commissioner's secretariat in Québec City serves the following judicial districts and chief places:

District	Chief place	Other place
Alma	Alma	
Arthabaska	Victoriaville	–
Beauce	Saint-Joseph-de-Beauce	–
Bonaventure	New-Carlisle	–
Charlevoix	La Malbaie	–
Chicoutimi	Saguenay	–
Frontenac	Thetford-Mines	–
Gaspé	Percé	Sainte-Anne-des-Monts Îles-de-la-Madeleine
Hauterive	Baie-Comeau	–
Kamouraska	Rivière-du-Loup	–
Mingan	Sept-Îles	–
Montmagny	Montmagny	–
Québec	Québec City	–
Rimouski	Rimouski	Matane
Roberval	Roberval	Dolbeau
Saint-Maurice	Shawinigan	La Tuque
Trois-Rivières	Trois-Rivières	–

2. The construction industry commissioner's secretariat in Montréal serves the following judicial districts and chief places:

District	Chief place	Other place
Abitibi	Amos	Chibougamau, La Sarre, Val-d'Or
Beauharnois	Salaberry-de-Valleyfield	–
Bedford	Cowansville	Granby
Drummond	Drummondville	–
Hull	Gatineau	–
Iberville	Saint-Jean-sur-Richelieu	–
Joliette	Joliette	–
Labelle	Mont-Laurier	Maniwaki
Laval	Laval	–
Longueuil	Longueuil	–
Mégantic	Lac-Mégantic	–
Montréal	Montréal	–
Pontiac	Campbell's Bay	–
Richelieu	Sorel-Tracy	–
Rouyn-Noranda	Rouyn-Noranda	–
Saint-François	Sherbrooke	–
Saint-Hyacinthe	Saint-Hyacinthe	–
Témiscamingue	Ville-Marie	–
Terrebonne	Saint-Jérôme	–

Gouvernement du Québec

O.C. 851-2002, 26 June 2002

Labour Code
(R.S.Q., c. C-27)

Arbitrators
— Remuneration

Regulation respecting the remuneration of arbitrators

WHEREAS, under section 103 of the Labour Code (R.S.Q., c. C-27) the Government made the Regulation respecting the remuneration of arbitrators by Order in Council 1486-96 dated 27 November 1996;

WHEREAS, under section 103 of the Code, amended by section 57 of chapter 26 of the statutes of 2001, the Government may determine, by regulation, after consultation with the Conseil consultatif du travail et de la main-d'oeuvre, the remuneration and expenses to which the arbitrators of disputes and grievances appointed by the Minister are entitled, one or more methods for determining the remuneration and expenses to which the arbitrators chosen by the parties are entitled, and the situations in which the regulation does not apply;

WHEREAS the Government may also, under that section, determine who shall assume the payment of such remuneration and expenses and, where applicable, in what proportion;

WHEREAS it is expedient to replace the Regulation respecting the remuneration of arbitrators;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation respecting the remuneration of arbitrators, attached to this Order in Council, was published in Part 2 of the *Gazette officielle du Québec* of 24 April 2002 with a notice that it could be made by the Government upon the expiry of a 45-day period from that publication;

WHEREAS the comments received were studied;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour:

THAT the Regulation respecting the remuneration of arbitrators, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the remuneration of arbitrators

Labour Code
(R.S.Q., c. C-27, s. 103; 2001, c. 26, s. 57)

1. This Regulation applies to arbitrators of grievances and disputes.

It does not apply to the arbitration of a grievance involving an association of employees within the meaning of the Labour Code (R.S.Q., c. C-27) and the Government or a department, a government agency the personnel of which is appointed or remunerated under the Public Service Act (R.S.Q., c. F-3.1.1), a college or school board referred to in the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

2. An arbitrator is entitled to fees of $120 for each hour of arbitration hearing, for each hour of deliberation with the assessors and, subject to section 4, for each hour of deliberation and drafting of an award.

An arbitrator is entitled, for each day of hearing, to a minimum remuneration equivalent to three hours of fees at the rate set by the first paragraph.

3. A grievances arbitrator is also entitled to fees at the rate set by section 2 for each hour of a pre-hearing conference.

4. For deliberation and the drafting of awards, a grievances arbitrator is entitled to fees at the rate set by section 2 up to a maximum of 14 hours per day of hearing, 22 hours for two days of hearing and, where there are three days of hearing or more, 22 hours for the first two days and 5 hours for each subsequent day.

A disputes arbitrator is entitled to fees at the rate set by section 2 up to a maximum of 14 hours per day of hearing, 22 hours for two days of hearing, 27 hours for three days of hearing and, where there are four days of hearing or more, 27 hours for the first three days and 3 hours for each subsequent day.

An arbitrator is entitled to fees at the rate set by section 2 up to a maximum of 14 hours if no arbitration hearing is held.

5. For all expenses related to arbitration, namely fees for opening files, telephone calls, correspondence and the drafting and filing of duplicates or copies of the arbitration award, an arbitrator is also entitled to one hour of fees at the rate set by section 2.

6. An arbitrator's transportation costs and meal and accommodation expenses shall be reimbursed in accordance with the *Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents* (C.T. 194603 dated 30 March 2000) as it reads at the time it applies.

7. An arbitrator is entitled to a travel allowance when performing duties outside an 80-kilometre radius from the office.

The amount of the allowance corresponds to the amount obtained by multiplying the rate of $80 by the number of hours required for a round trip using the fastest means of transportation.

8. When a case is discontinued or fully settled more than 30 days before the hearing date, an arbitrator is entitled to one hour of fees at the rate set by section 2 as indemnity.

When a case is discontinued, fully settled or postponed at the request of a party 30 days or less before the date of the hearing, an arbitrator is entitled to three hours of fees at the rate set by section 2 but is not entitled to the expenses related to arbitration provided for in section 5.

9. An arbitrator is entitled to reimbursement of the actual costs incurred in renting a room for a hearing.

10. Except as provided for in sections 11, 15, 16 and 17, an arbitrator may not claim any fees, expenses, allowances or indemnities other than those set by sections 2 to 9.

11. An arbitrator chosen and remunerated by the parties or by any one of them may claim a remuneration that differs from that set by sections 2 to 8.

To that end, an arbitrator must declare to the Minister of Labour a tariff of remuneration that includes the hourly rate that the arbitrator will claim under sections 2 to 5, the amount of the expenses, allowances and indemnities referred to in sections 6 to 8 and the conditions for the application of those amounts.

12. The tariff of remuneration must be declared using the form proposed by the Ministère du Travail from 15 April to 15 May of each year.

13. The remuneration provided for in the tariff may be claimed only in respect of a grievance or dispute submitted to an arbitrator as of 1 July that follows the period referred to in section 12.

14. The tariff of remuneration remains in effect as long as it is not modified in accordance with section 12. Section 13 applies to the modified tariff of remuneration.

15. An arbitrator whose name is entered on the list of arbitrators referred to in section 77 of the Labour Code after the period referred to in section 12 may nonetheless declare the tariff of remuneration within 30 days following the date of that entry.

Notwithstanding section 13, the remuneration provided for in the tariff declared under the first paragraph may be claimed only in respect of a grievance or dispute submitted to an arbitrator from the date on which the Minister notifies the arbitrator that the declared tariff was entered on the list referred to in section 18.

16. Where an arbitrator belongs to a group of arbitrators, the arbitrator remunerated by the parties or by one of them may, to the extent provided for in this section, claim as remuneration, the lump sum provided for in the group tariff in respect of the grievance or dispute that was submitted to the arbitrator by the group.

The group of arbitrators must be constituted according to a juridical form prescribed by law and governed by an expedited arbitration process that prescribes in particular a common tariff of remuneration for all members.

The tariff must specify, among the remunerated acts and expenses referred to in sections 2 to 8, the acts and expenses included in the lump sum provided and the conditions for the application of the amount.

The tariff of remuneration must be declared to the Minister of Labour by the group of arbitrators and sections 12 to 14 apply, adapted as required.

The group of arbitrators must also send a copy of its deed of incorporation, the list of its members and of its expedited arbitration process.

17. A grievances arbitrator acting as a member of the Tribunal d'arbitrage procédure allégée (TAPA) shall be remunerated in accordance with the tariff established by the provisions of the expedited arbitration of grievances process administered by that court.

18. The Minister of Labour shall draw up a list of tariffs of remuneration declared under sections 11, 15 and 16, send a copy thereof to the Conseil consultatif du travail et de la main-d'œuvre and ensure periodically

the updating and distribution thereof in particular with the most representative associations of arbitrators, employees and employers.

The Minister shall put a copy of that list at the disposal of the public by any means deemed appropriate.

19. Unless otherwise provided for in the collective agreement, the parties shall assume jointly and equally payment of the fees, expenses, allowances and indemnities of a grievances arbitrator.

The parties shall assume jointly and equally payment of the fees, expenses, allowances and indemnities of an arbitrator in the case of a dispute referred under section 75 of the Labour Code or where the collective agreement prescribes that the dispute be referred to arbitration.

The Minister of Labour shall assume payment of the fees, expenses, allowances and indemnities of the arbitrator of a dispute referred under sections 93.3 and 97 of the Labour Code.

20. An arbitrator shall submit a detailed account of fees, making it possible to verify the validity of the fees, expenses, allowances and indemnities claimed per day.

21. This Regulation replaces the Regulation respecting the remuneration of arbitrators made by Order in Council 1486-96 dated 27 November 1996.

22. The provisions of the Regulation respecting the remuneration of arbitrators as they read before being replaced by this Regulation continue to apply in respect of the grievances and disputes submitted to arbitration before 1 December 2002.

23. For grievances and disputes submitted as of 1 December 2002, the arbitrator referred to in section 11 and the arbitrator belonging to a group of arbitrators referred to in section 16 may claim a remuneration that differs from the remuneration set by sections 2 to 8 insofar as the arbitrator referred to in section 11 and the group of arbitrators transmit to the Minister of Labour, between 1 September and 30 September 2002, their tariff of remuneration which includes the elements referred to in the second paragraph of section 11 and in the first paragraph of section 16.

24. This Regulation comes into force on 1 December 2002, except for section 3 which comes into force, whichever is later, on 1 December 2002 or on the date of coming into force of section 49 of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, c. 26) and section 23 which comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5171

M.O., 2002

Order of the Minister of State for Human Resources and Labour and Minister of Labour dated 26 June 2002

Building Act
(R.S.Q., c. B-1.1)

Delegation Agreement between the Régie du bâtiment du Québec and Ville de Montréal

The Minister of State for Human Resources and Labour and Minister of Labour,

CONSIDERING that, under the first paragraph of section 132 of the Building Act (R.S.Q., c. B-1.1), the Régie du bâtiment du Québec may enter into a written agreement with a local municipality to delegate to it, within its territory and to the extent specified, its powers and duties pursuant to sections 14 to 19, 21, 22, 24 to 27, 32 to 37.2 and 37.4 to 39 of the Act, with a view to ensuring the quality of construction work and public safety;

CONSIDERING that, under section 136 of the Act, an agreement requires approval by the Minister of State for Human Resources and Labour and Minister of Labour and comes into force on the tenth day following the date of its publication in the *Gazette officielle du Québec* of a notice to that effect or on any later date fixed therein;

CONSIDERING that the Delegation Agreement entered into on 26 March 2002 between the Régie du bâtiment du Québec and Ville de Montréal was approved by Minister's Order dated 27 March 2002 and is in force until 30 June 2002;

CONSIDERING that the Delegation Agreement entered into on 25 June 2002 between the Régie du bâtiment du Québec and Ville de Montréal replaces the 26 March 2002 Agreement and that it will be in force for an indefinite period;

CONSIDERING that it is expedient to approve that Agreement and to have it come into force ten days after the date of its publication in the *Gazette officielle du Québec* of this Minister's Order;

ORDERS:

(1) THAT the Delegation Agreement entered into on 25 June 2002 between the Régie du bâtiment du Québec and Ville de Montréal be approved;

(2) THAT this Minister's Order be published in the *Gazette officielle du Québec*; and

(3) THAT the Agreement come into force on 20 July 2002.

Québec, 26 June 2002

JEAN ROCHON,
Minister of State for Human Resources and Labour and Minister of Labour

5173

M.O., 2002

Order by the Minister of Public Security concerning the Règlement sur le régime des études de l'École nationale de police du Québec dated 28 June 2002

Police Act
(R.S.Q., c. P-13.1)

THE MINISTER OF PUBLIC SECURITY,

WHEREAS l'École nationale de police du Québec shall establish, by by-law, in accordance with section 16, paragraph 1 of the Police Act (R.S.Q., c. P-13.1), standards for its professional training activities, the approval of training activities developed outside the school, admission requirements, teaching requirements, examinations and certificates of studies and diplomas, as well as standards of equivalence. The by-law must be submitted to the Minister of Public Security;

WHEREAS on June 28, 2002, the governing board of l'École nationale de police du Québec has adopted the Règlement sur le régime des études de l'École nationale de police du Québec;

WHEREAS section 12 of Regulations Act (R.S.Q., c. R-18.1) which prescribes that a proposed regulation may be approved without having been published, prescribed by section 8 of this Act, if the authority approving it is of the opinion that the urgency of the situation requires it;

WHEREAS section 18 of this Act which prescribes that a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* when the authority that has approved it is of the opinion that the urgency of the situation requires it;

WHEREAS sections 13 and 18 of this Act which prescribe that the reason justifying the absence of the preliminary publication and such coming into force shall be published with the regulation;

WHEREAS the Minister of Public Security is of the opinion that the urgency due to the following circumstances justifies the absence of the preliminary publication and such coming into force of the Règlement sur le régime des études de l'École nationale de police du Québec hereby enclosed:

— l'École nationale de police du Québec must, from July 15, 2002, offer to her customers the new training programs in police work;

— l'École nationale de police du Québec has, in order to ensure the financing of its training programs, adopted on June 28, 2002, the Règlement sur les frais de scolarité, in accordance with section 42 of the Police Act (R.S.Q., c. P-13.1);

WHEREAS it has grounds to approve this regulation;

CONSEQUENTLY, the Minister of Public Security approves the Règlement sur le régime des études de l'École nationale de police du Québec enclosed.

NORMAND JUTRAS,
Minister of Public Security

Règlement sur le régime des études de l'École nationale de police du Québec

Police Act
(R.S.Q., c. P-13.1, s. 16)

SECTION I
TRAINING

§1. *Academic year*

1. The academic year of the École nationale de police du Québec begins on July 1 of one year and ends on June 30 of the following year.

§2. Areas of training

2. The School offers professional training programs and activities in the three following areas of police work:

1° police patrolling;

2° police investigation;

3° police management.

§3. Basic training program in police patrolling

3. The basic training program in police patrolling is designed to help a student learn basic police patrolling skills.

The over-all objective of this training program is to prepare a student to intervene adequately and efficiently within the framework of police operations specifically related to the functions of a police officer. It especially allows students to acquire the following skills:

1° strategically patrol an intervention sector;

2° intervene during regular situations;

3° intervene during at-risk situations;

4° intervene during planned situations;

5° integrate into police interventions the legal, methodological, technical (shooting, driving, physical intervention), psycho-social, community and ethical aspects.

The minimum duration of this program is 434 hours.

4. To be admitted to this program an applicant must meet the following conditions:

1° be a Canadian citizen;

2° have obtained a diploma of college studies in police technology issued by the Minister of Education or an attestation of college studies in police technology issued by a general and vocational college and, in the latter case, have previously obtained from a police force a promise of employment in the functions of a police officer;

3° hold a permanent driver's licence allowing him or her to drive an emergency vehicle;

4° not have been found guilty, in any place, of an act or omission defined in the Criminal Code (Revised Statutes of Canada (1985), chapter C-46), as an offence or of an offence referred to in section 183 of that Code under one of the acts listed therein;

5° have passed the physical tests and medical examination provided for in sub-section *j* of sections 2 and 3 of the By-law respecting standards of the Sûreté du Québec and municipal police forces for the hiring of constables and cadets (R.R.Q., 1981, c. P-13, r.14);

6° in the case of an applicant holding a diploma of college studies in police technology, have passed one of the following language tests, examinations or courses:

— the uniform examination in French, language of instruction and literature, as prescribed by the Minister of Education pursuant to section 26 of the College Education Regulations, approved by Order in Council n° 1006-93 dated July 14, 1993;

— the French examination required by an educational institution at the university level, in accordance with An Act respecting educational institutions at the university level (R.S.Q., c. E-14.1);

— the French language academic upgrading course taken in an educational institution at the university level;

— the "SEL" test administered by Télé-Université within the Université du Québec network;

— the "Language Exit Exam" test for an applicant from the John Abbott College.

7° pay the tuition fees chargeable pursuant to section 42 of the Act.

5. All applications for admission must be submitted in writing to the registrar using the form provided for that purpose. This application must be accompanied by the following documents:

1° the applicant's birth certificate or citizenship certificate;

2° a certified copy of the applicant's college studies report mentioning the diploma (DCS) obtained;

3° a copy of the applicant's driver's licence;

4° a document attesting that the applicant has met the requirements provided for in section 4, sub-section 5;

5° a document attesting that the applicant has passed one of the tests, examinations or courses provided for in section 4, sub-section 6, as the case may be;

6. The School determines the number of applicants who can be admitted to the program for any given academic year.

7. The School gives access priority to applicants holding a promise of employment in the functions of a police officer provided by a police force.

The School summons the other program applicants according to their rank on a priorization list, which is valid for one academic year.

This priorization list is made up of the results of one of the tests, examinations or courses provided for in section 4, sub-section 6, which accounts for 20% of the overall results, and of the college-level proficiency rating (R rating) which accounts for 80% and is calculated by taking into account the results of the French or English courses, the philosophy or "humanities" courses, the second language courses (English or French), and all the courses that make up the specific training of the police technology program.

The School compiles the results and assigns a corresponding rank to each applicant.

§4. Basic training program in police investigation

8. The basic training program in police investigation allows students to acquire basic police investigation skills.

The over-all objective of this program is to prepare a student to intervene adequately and efficiently within the framework of police operations specifically related to police investigations. It especially allows students to acquire the following skills:

1° perform police investigations;

2° carry out legal procedures related to police investigation activities, in accordance with due rights;

3° show behaviours and attitudes consistent with general ethics and police ethics;

4° establish connections between criminal analysis and police investigation;

5° communicate in the context of a police investigation;

6° handle information relative to the police investigation;

7° manage their work in the context of a police investigation.

The minimum duration of this program is 285 hours.

9. To be admitted to this program an applicant must hold a basic training diploma in police patrolling issued by the School, or they must have obtained the attestation of equivalence issued under Section III.

§5. Basic training program in police management

10. The basic training program in police management allows a student to acquire basic skills in police management.

The over-all objective of this program is to prepare students to intervene adequately and efficiently in the context of police operations specifically related to police management. It especially allows students to acquire the following skills:

1° structure the activities of the team;

2° establish connections between laws and regulations and police practice;

3° mobilize the members of the team;

4° control major operations;

5° conduct a performance appraisal of police officers;

6° supervise the activities of the team;

7° become integrated into the function of supervisor or person in charge of an investigation office;

8° assess the ethical problems of present-day police;

9° develop strategic directions and action plans;

10° manage human resources;

11° manage budgetary and material resources;

12° pilot the transformation of a police organization;

13° mobilize the actors on the political, administrative and operational levels;

14° lead operational activities during large-scale crises and events;

15° ensure the progress of regular operational activities.

The minimum duration of this program is 900 hours.

11. To be admitted an applicant must hold a basic training diploma in police patrolling issued by the School or have obtained the attestation of equivalence issued pursuant to Section III.

§6. Advanced training

12. The School offers professional training activities in every area of police work. The purpose of these activities is to allow police officers, peace officers as well as any person working in a security-related field to advance their career, update their knowledge or gain the new knowledge and skills currently required, especially as a result of the changes brought about in their work, the implementation of new technologies and the transformation of lay-out structures.

§7. In-service training

13. The School provides in-service training which covers all activities designed to facilitate the integration of a police officer into the police force to which the officer belongs and to allow the officer to perform police work within the force in as harmonious and functional a manner as possible.

SECTION II
EVALUATION AND DIPLOMA

14. The School evaluates the skills related to a program or professional training activity in which the student is registered.

The evaluation is done by means of theory exams, field work, situation scenarios, simulations or demonstrations.

15. The School issues to each student registered in a program or professional training activity a transcript of the student's academic record stating his evaluation results.

The evaluation results are established as follows:

A+	=	90 to 100%
A	=	87 to 89%
A-	=	84 to 86%
B+	=	81 to 83%
B	=	78 to 80%
B-	=	75 to 77%
C+	=	72 to 74%
C	=	69 to 71%
C-	=	66 to 68%
D+	=	63 to 65%
D	=	60 to 62%
E	=	59% or less

The minimum pass mark is "D".

16. The School issues a diploma to a student who has obtained at least a "D" in each of the skills included in a program and who has paid the tuition fees prescribed under section 42 of the Act. The name of the student and the title of the program are mentioned on the diploma.

SECTION III
RECOGNITION OF EQUIVALENCE

17. An equivalence for a program or professional training activity the School may be granted to an applicant when this applicant can show that his educational training, informal training or work experience enabled him to acquire the skills required for the program referred to in this regulation or for the professional training activity concerned.

The School determines if the applicant has the necessary skills for this program or for the professional training activity for which an equivalence is requested.

The evaluation is done by means of theory exams, field work, situation scenarios, simulations or demonstrations.

18. Any application for equivalence must be submitted in writing to the registrar on the form provided for that purpose. The following documents must be included with the application:

1° an original letter from a police force referred to in section 43 of the Act attesting its interest in engaging the services of this applicant when the latter wishes to obtain an equivalence for the basic training program in police patrolling;

2° a certified copy of the applicant's report card or academic record including a description of the courses taken;

3° a copy of the diploma for which an equivalence is requested;

4° an original letter from a police force attesting to the work experience of this applicant, if any.

The School shall only consider diplomas issued by one of the following educational institutions for the purpose of an application for equivalence to the basic training program in police patrolling:

— Atlantic Police Academy;

— Ontario Police College;

— Royal Canadian Mounted Police Academy;

— Justice Institute of British-Columbia.

19. The registrar must, within 30 days of the evaluation, notify the applicant in writing of the School's decision to grant the requested equivalence or not.

20. When an equivalence is granted, it is mentioned on the transcript of the academic record by the notation "ÉQ", without the results, and an attestation of equivalence is issued to the applicant by the School.

SECTION IV
APPROVAL OF ACTIVITIES

21. The School may, at the request of a police force, approve a professional training activity that has been developed outside the School when this activity is liable to be integrated into its programs or professional training activities offered in advanced training or in-service training.

22. Any application for approval of activities must be submitted in writing to the registrar on the form provided for that purpose. This application must be accompanied by the course training plan, which must state the over-all and specific objectives, the course content, the context of the training and the evaluation process and procedure for this course.

23. Within 60 days of the application, the registrar must inform the police force in writing of the School's decision to grant the requested approval of activities or not.

24. The police force registers the student at the School for each approved professional training activity and pays the School the approval of activities fees chargeable pursuant to section 42 of the Act.

SECTION V
FINAL PROVISIONS

25. This regulation replaces sections 1 to 14 of the Règlement sur les programmes de formation de l'Institut de police du Québec approved by Order in Council n° 1195-99 dated October 20, 1999.

26. This regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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Notice

Police Act
(R.S.Q., c. P-13.1)

École nationale de police du Québec — Tuition fees

CONCERNING the Règlement sur les frais de scolarité

WHEREAS l'École nationale de police du Québec may, in accordance with section 42 of the Police Act (R.S.Q., c. P-13.1), charge tuition fees on such conditions as it may prescribe by by-law;

WHEREAS on June 28, 2002, the governing board of l'École nationale de police du Québec has adopted the Règlement sur le régime des études de l'École nationale de police du Québec;

WHEREAS section 12 of Regulations Act (R.S.Q., c. R-18.1) prescribes that a proposed regulation may be approved without having been published, prescribed by section 8 of this Act, if the authority approving it is of the opinion that the urgency of the situation requires it;

WHEREAS section 18 of this Act prescribes that a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* when the authority that has approved it is of the opinion that the urgency of the situation requires it;

WHEREAS sections 13 and 18 of this Act prescribe that the reason justifying the absence of the preliminary publication and such coming into force shall be published with the regulation;

WHEREAS the governing board is of the opinion that the urgency due to the following circumstances justifies the absence of the preliminary publication and such coming into force of the Règlement sur les frais de scolarité hereby enclosed:

— l'École nationale de police du Québec must, from July 15, 2002, offer to her customers the new training programs in police work;

— l'École nationale de police du Québec must, in order to ensure the financing of its training programs, adopt on June 28, 2002, the Règlement sur les frais de scolarité, in accordance with section 42 of the Police Act (R.S.Q., c. P-13.1);

WHEREAS it has grounds to adopt this regulation;

CONSEQUENTLY, it has grounds to publish the Règlement sur les frais de scolarité enclosed.

Nicolet, June 28, 2002

The General Secretary,
GÉRALD LAPRISE

Règlement sur les frais de scolarité

Police Act
(R.S.Q., c. P-13.1, s. 42)

1. The tuition fees chargeable to a student admitted to the basic training program in police patrolling are:

1° $1,594 for the 2002 – 2003 academic year;

2° $1,896 for the 2003 – 2004 academic year;

3° $2,204 for the 2004 – 2005 academic year.

However, the tuition fees chargeable to any native student admitted within the framework of a tripartite agreement between the Government of Québec, the Government of Canada and a native community, or to any student who is not a Québec resident pursuant to section 1 of the Regulation respecting the definition of resident in Québec approved by Order in Council n° 910-98 dated July 8, 1998, amount to:

1° $13,300 for the 2002 – 2003 academic year;

2° $13,565 for the 2003 – 2004 academic year;

3° $13,835 for the 2004 – 2005 academic year.

2. The tuition fees chargeable to a student admitted to an advanced training course offered by l'École and registered by a police force as mentioned in section 43 of the Police Act (R.S.Q., c. P-13.1) shall be established at 23% of the cost of training.

Those fees shall drop to 11.5% of the cost of training for the period extending from July 1, 2003 to June 30, 2004.

3. This regulation replaces sections 15 to 18 of the Règlement sur les programmes de formation de l'Institut de police du Québec approved by Order in Council n° 1195-99 dated October 20, 1999.

4. This regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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M.O., 2002-011

Order of the Minister responsible for Wildlife and Parks dated 26 June 2002

An Act respecting the conservation and development of wildlife
(R.S.Q., c. C-61.1)

CONCERNING the Kipawa Controlled Zone

THE MINISTER RESPONSIBLE FOR WILDLIFE AND PARKS,

CONSIDERING the establishment of the Kipawa Controlled Zone by the Government under section 104 of the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), by Order in Council 510-89 dated April 5, 1989, modified by Orders in Council 1715-91 dated December 11, 1991 and 1438-97 dated November 5, 1997;

CONSIDERING section 104 of this Act, which provides that the Minister responsible for Wildlife and Parks may, after consultation with the Minister of Natural Resources, establish controlled zones on lands in the domain of the State, for the purposes of the development, utilisation and conservation of wildlife or of a wildlife species and accessorily, for the practice of recreational activities;

CONSIDERING section 33 of the Act to amend the Act respecting the conservation and development of wildlife and the Act respecting commercial fisheries and aquaculture (1998, c. 29), which provides that Orders in Council made by the Government under section 104 of the Act respecting the conservation and development of wildlife before June 17, 1998 remain in force until they are replaced by an order of the Minister;

CONSIDERING that it is expedient to modify the boundaries of the Kipawa controlled zone;

CONSIDERING that it is expedient to replace Schedule II of Order in Council 510-89 dated April 5, 1989;

CONSIDERING that the Minister of Natural Resources has been consulted on this subject;

ORDERS THAT :

Schedule II of Order in Council 510-89 dated April 5, 1989, modified by Orders in Council 1715-91 dated December 11, 1991 and 1438-97 dated November 5, 1997 be replaced by Schedule II attached hereto ;

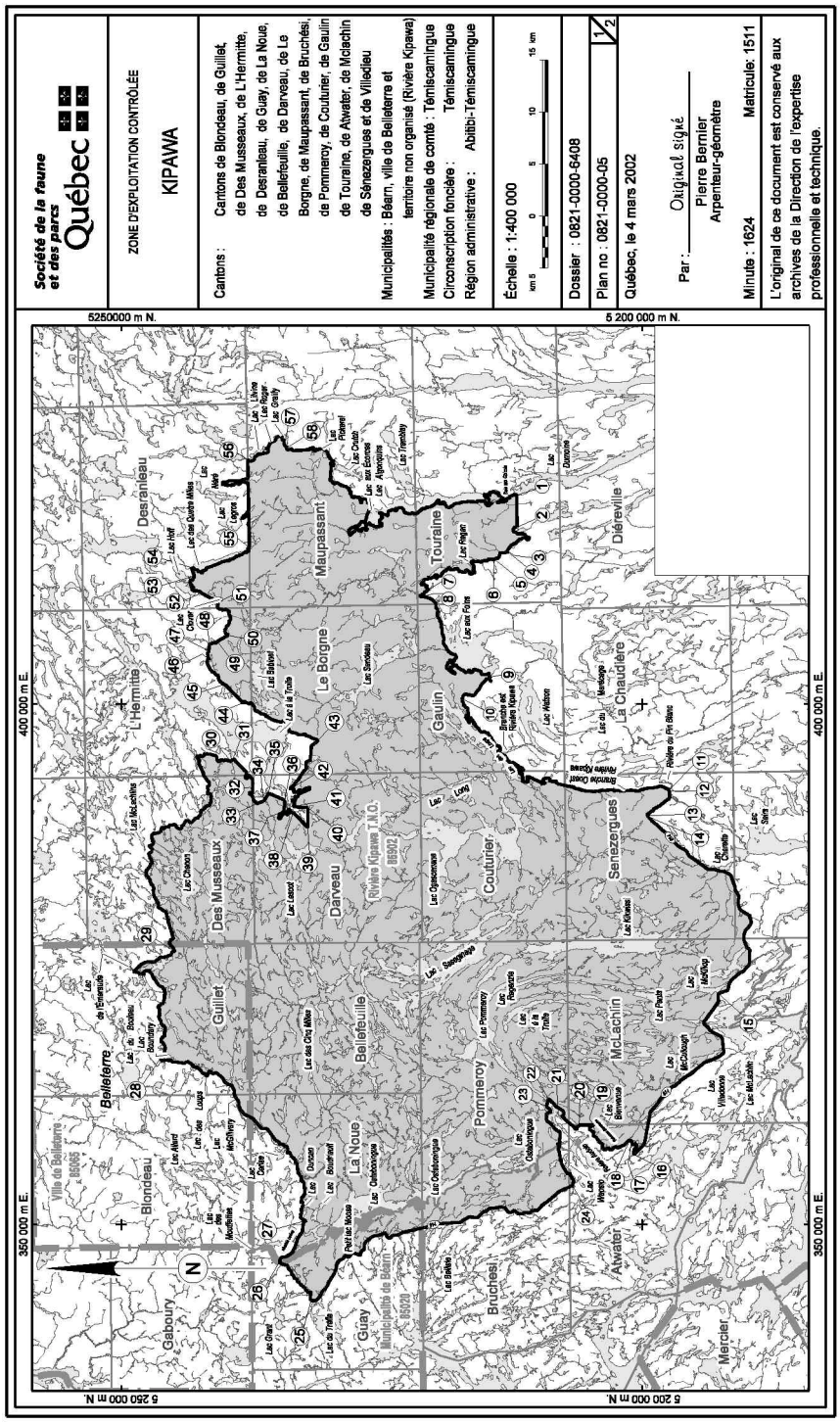
The English text of Schedule II of Order in Council 510-89 dated April 5, 1989, added by Order in Council 1438-97 dated November 5, 1997 also be replaced by Schedule II attached hereto ;

The present ministerial order takes effect on the day of its publication in the *Gazette officielle du Québec*.

Québec, 26 June 2002

RICHARD LEGENDRE,
Minister responsible for
Wildlife and Parks

SCHEDULE II


Société de la faune et des parcs
Québec
ZONE D'EXPLOITATION CONTRÔLÉE
KIPAWA
Cantons : Cantons de Blondeau, de Guillet, de Des Musseaux, de L'Hermitte, de Desranleau, de Guay, de La Noue, de Belleterre, de Bellefeuille, de Darveau, de Le Borgne, de Maupassant, de Bruchési, de Pommeroy, de Coutulier, de Gaulin de Touraine, de Atwater, de Mclachin de Sénezergues et de Villedieu
Municipalités : Béarn, ville de Belleterre et territoire non organisé (Rivière Kipawa)
Municipalité régionale de comté : Témiscamingue
Circonscription foncière : Témiscamingue
Région administrative : Abitibi-Témiscamingue
Échelle : 1:400 000
Dossier : 0821-0000-6408
Plan no : 0821-0000-05
1/2
Québec, le 4 mars 2002
Par : Original signé
Pierre Bernier
Arpenteur-géomètre
Minute : 1624
Matricule: 1511
L'original de ce document est conservé aux archives de la Direction de l'expertise professionnelle et technique.
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Belleterre
Blondeau
Guillet
Des Musseaux
L'Hermitte
Desranleau
Maupassant
Diéreville
Touraine
Le Borgne
Darveau
Gaulin
La Chaudière
Bellefeuille
La Noue
Pommeroy
Coutulier
Sénezergues
McLachlin
Bruchesi
Atwater
Guay
Gaboury
Mercier
Rivière Kipawa
Rivière Ottawa

Draft Regulations

Draft Regulation

Watercourses Act
(R.S.Q., c. R-13)

Domain of the State
— Granting and transfer of water rights
— Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and with section 89 of the Watercourses Act, that the Regulation respecting waters in the domain of the State, the text of which appears below, may be made by the Government upon the expiry of 60 days following this publication.

The purpose of the draft Regulation is to better manage water-related property in the domain of the State. On the one hand, it introduces new rules for increased flexibility and effectiveness when water rights in the domain of the State are granted or transferred. To that end, it proposes, in the cases and on the conditions specified, that the Minister of the Environment be authorized to sell certain backfilled property in the domain of the State. The rules relating to aquaculture leases are also reviewed to better adapt them to that activity.

On the other hand, the draft Regulation modernizes various aspects of the current provisions. In particular, as regards the updating of the various fees, rents or tariffs applicable when the Minister agrees to grant or transfer water rights in the domain of the State. The revision will increase the various amounts payable for granting or transferring water rights in the domain of the State in most cases. However, the amounts payable have been determined in consideration of facilitating public access to bodies of water.

Further information on the draft Regulation respecting waters in the domain of the State may be obtained by contacting Serge Hamel, Service de la gestion du domaine hydrique de l'État, Centre d'expertise hydrique, Ministère de l'Environnement, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, Aile Taschereau, 2e étage, Québec (Québec) G1R 5V7, by telephone at (418) 521-3818, extension 4854, by fax at (418) 643-1051 or by e-mail at serge.hamel@menv.gouv.qc.ca

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 60-day period, to the Minister of the Environment, Édifice Marie-Guyart, 30e étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7.

ANDRÉ BOISCLAIR,
Minister of the Environment

Regulation respecting waters in the domain of the State

Watercourses Act
(R.S.Q., c. R-13, s. 2, 4th and 5th pars. and s. 2.1)

DIVISION I
SCOPE

1. This Regulation determines the conditions under which the Minister of the Environment is authorized to alienate, lease or occupy property referred to in the third paragraph of section 2 of the Watercourses Act (R.S.Q., c. R-13) and to agree on the limits of such property. That property is hereinafter designated as water-related.

It also authorizes the occupation of such property by certain categories of minor works.

Notwithstanding the foregoing, this Regulation does not govern the granting and transfer of water rights referred to in section 37, 63 or 76 of the Watercourses Act. It does not govern the granting and transfer of rights to the federal government, its departments and agencies.

DIVISION II
OCCUPATION OF WATER BY MINOR WORKS

2. The owner of riparian land adjacent to water or one who leases such property for resort purposes may, without the authorization of the Minister, occupy free of charge the frontage of the property to install a platform on piles or a floating platform with a movable anchor or a boathouse on piles, provided that the area does not exceed 20 square metres and the platform does not occupy more than 1/10 of the width of the bed at that location.

DIVISION III
OCCUPATION, LEASE, ALIENATION AND AGREEMENT ON LIMITS OF THE WATER-RELATED PROPERTY

§1. General

3. The Minister may grant or transfer water rights with respect to part of the property only after notifying the owner of adjacent riparian land of that intent and after allowing the owner to make representations.

Notwithstanding the foregoing, for an occupation licence, a servitude or an act of sufferance, the Minister is not required to give advance notice if no construction or work is likely to be established. The same applies if the planned construction or work is intended to remain completely buried.

4. The Minister is authorized to provide for any clause, condition or servitude necessary to protect the public or the rights of riparian owners, in any deed or any agreement governing the granting or transfer of water rights.

5. Before granting water rights to a person who wishes to erect a construction or work, the Minister shall ensure

(1) that a certificate of authorization, if it is necessary to obtain one, was issued for that project under the Environment Quality Act (R.S.Q., c. Q-2) and the regulations thereunder; and

(2) that a certificate obtained from the clerk or secretary-treasurer of a local municipality or, for an unorganized territory, of a regional county municipality, certifies that the planned work complies with the applicable municipal by-laws.

§2. Financial provisions

6. All the amounts payable under this Regulation, including the fees provided for in Schedule I and except the amounts expressed as percentages shall be, as of 1 April 2003, adjusted on 1 April of each year according to the rate of increase in the general Consumer Price Index for Canada as published by Statistics Canada.

The rate of increase shall be calculated by determining the difference between the average monthly indexes for the 12-month period ending on 30 September of the preceding year and the average monthly indexes for the same period of the second preceding year. The adjusted amounts shall be rounded off to the nearest dollar, except for the rates per hectare or square metre referred to in section 7, in subparagraph 3 of the first paragraph of section 28 and in subparagraph *a* of paragraph 5 of section 1 of Schedule I.

The Minister shall inform the public of the annual adjustment by a notice published in the *Gazette officielle du Québec* and by any other means if the Minister deems it appropriate.

7. In this Division, when a reference is made to the value of water-related property, that value shall be determined on the date on which the Minister agrees to grant or transfer water rights or, as the case may be, when a readjustment of rent is made, by applying, for each square metre in question, the unit rate of the adjacent riparian land. The unit rate shall correspond to the standardized value of the land entered on the property assessment roll, calculated per square metre. Failing a standardized assessment, the rate shall be $0.19 per square metre.

8. The granting and transfer of water rights and the applications for agreement on the limits of that property shall be subject to the payment of administration fees provided for in Schedule I.

Those fees shall be deductible upon conclusion of a deed to the extent provided for in that Schedule. The deduction of those fees may however not give rise to a refund by the Minister, nor lower the amount below the minimum amount payable under this Regulation.

9. The fees for preparing and filing the plans and survey documents that are required to grant or transfer rights, or to agree on limits, shall be paid by the purchaser, lessee, licence holder or by the person who benefits from the right or the limits agreed on with the Minister.

The fees for registration or entry in the registry office and in the Terrier, as well as all fees and professional services required to obtain such registration or entry, including the fees for the preparation and receipt of a notarial act or the fees related to the attestation of a private writing shall also be paid by the purchaser, lessee, licence holder or by the person who benefits from the right or the limits agreed on with the Minister.

§3. Occupation, servitude and act of sufferance

10. The Minister may authorize a person to occupy for non-profit-making use part of the water-related property to install or maintain thereon any of the following works or constructions by issuing a licence to that effect:

(1) a platform, either a floating platform with a movable anchor or on piles, or a boathouse on piles the area of which exceeds 20 square metres or that occupies more than 1/10 of the width of the river at that place;

(2) work enabling water to be collected or evacuated;

(3) work to protect the shores or banks against erosion, subsidence, landslides or floods;

(4) a bridge whose foundations on the bed of the water course do not occupy more than 1/10 of the width at that place;

(5) a cable, a pipe or a work other than a jetty, used to link the two banks or shores or to travel from one to the other; or

(6) an anchor for mooring.

11. The licence shall specify the conditions for the occupation and shall state the following elements:

(1) any preliminary work and structures or accessories to be erected;

(2) the terms and conditions for the construction and operation of the planned work and constructions.

12. The amount required for the issue of a licence is $50 for each work and construction in question.

However, for an occupation described in paragraphs 4 and 5 of section 10, the amount required is $3 per linear metre of length of the work in question on the water property, without being less than $50 for each work or construction.

13. The term of the licence is one year, except for an occupation licence referred to in paragraphs 4 and 5 of section 10, which may be issued for a period not exceeding 25 years.

14. At term, the licence is renewed automatically and free of charge for the same term, unless the Minister gives a notice to the contrary to its holder in the 90 days preceding the expiry date of the licence.

Moreover, the Minister is authorized to cancel the licence if its holder does not comply with the conditions set therein, the provisions of the Environment Quality Act and those of the regulations thereunder or if the holder does not comply with the provisions of any authorization issued under that Act for the work or construction covered by the licence.

15. Any licence shall become void automatically where the occupation for which it was issued ceases.

16. The Minister is authorized to grant servitudes or acts of sufferance with respect to the water property.

17. The consideration required to grant a servitude shall correspond, for the entire duration of the servitude, to the value of the part of the water property covered by the servitude. However, the consideration may not be less than $250 if the area in question is one hectare or less and $250 per hectare if the area is larger.

18. The Minister is authorized to grant an act of sufferance free of charge.

§4. Lease

19. The Minister is authorized to lease part of the water-related property if the conditions provided for in this Subdivision are met.

20. The Minister is authorized to lease part of the water-related property with the agreement of the owner of the adjacent riparian land, or, if such part of the property is subject to a lease for resort purposes, the agreement of the lessee.

The Minister is not required to obtain the agreement if the lease allows for the maintenance of works or buildings for public use.

21. The maximum term of a lease is 25 years.

22. The maximum area of the part of the water-related property covered by a lease is 5 hectares.

23. A part of the water-related property may not be leased at an annual rent lower than the following rents:

(1) if the lease allows the lessee to carry on profit-making activities, the highest of the following amounts:

(a) 10% of the value of the part of the water property in question; or

(*b*) $250;

(2) where only non-profit-making activities are authorized, the highest of the following amounts:

(a) 5% of the value of the part of the water property already occupied or that will be occupied by a work or a construction, and 2% of the value of the other parts of the water property covered by the lease; or

(b) $50.

Notwithstanding the first paragraph, where the lease is granted to a municipality or a body for non-profit-making use that facilitates public access to bodies of water, excluding a marina, the minimum annual rent is $50 per hectare, without being lower than $50.

24. Part of the water-related property may not be leased for marina purposes at an annual rent lower than the following:

(1) 5% of the value of the part of the water-related property where a work or construction is located or will be located there, and 2% of the value of the other parts of the water-related property in question; or

(2) $250.

For the purposes of subparagraph 1 of the first paragraph,

(1) the unit rate used to calculate the value of the water-related property may not exceed $15 per square metre; and

(2) a platform, whether on piles or a floating platform with a movable anchor, and a boathouse on piles are not considered as works or constructions.

25. Where a lease provides for more than one type of use, the annual rent is established in proportion to the areas of the water-related property allotted to each type of use.

26. In addition to the adjustment provided for in section 6, a lease must prescribe that the Minister is authorized to revise the annual rent to take into account the changes in the land value.

However, such revision may not be made more than once per three-year period with respect to the same lessee.

A written notice indicating the revised value of the land and the new rent shall be sent to the lessee within 90 days before the new rent becomes effective. The lessee may, within 30 days following receipt of the notice, cancel the lease by sending a notice to that effect to the Minister.

27. In addition to the amount of the rent, its adjustment and the terms and conditions for its payment, the lease indicates its term and, where applicable, the preliminary work and buildings or accessories that will be erected, as well as the terms and conditions for the construction and operation of the works and structures.

The lease also prescribes the rights of the Minister

(1) to cancel the lease at any time if the lessee does not abide by the conditions of use set in the lease, the provisions of the Environment Quality Act and the provisions of the regulations thereunder or if the lessee does not comply with the provisions of any authorization issued under that Act for the work or construction covered by the lease; and

(2) to accept or refuse an application for sublease or for assignment of the lease and to benefit from a 45-day period, after receiving an application to that effect, to forward his or her decision.

In addition, a lease granted for the maintenance of a private beach must contain a clause according to which the lessee commits not to restrict the right of any person to travel on lands in the domain of the State.

28. The Minister is authorized to grant the lease of a part of the water-related property for aquaculture purposes on the following conditions:

(1) the maximum term of the lease is 20 years;

(2) the lessee must, during all the term of the lease, hold the required licence, where applicable, under the Act respecting commercial fisheries and aquaculture (R.S.Q., c. P-9.01) to operate a fish-breeding plant or to cultivate or harvest aquatic plants; and

(3) the annual rent payable, without being less than $250, is

(a) $2.50 per hectare for the first five years, then $5 per hectare for the subsequent years, if infrastructures are erected on that part of the water property; or

(b) $0.50 per hectare for the first ten years, then $1 per hectare for the subsequent years, if no infrastructures are erected on that part of the property.

Sections 20 to 26 do not apply to that lease.

29. The Minister is authorized to lease part of the water-related property with a promise to sell, if the planned sale is authorized under section 34.

The term of a promise to sell contained in a lease may not exceed five years. The price of the sale is determined, in accordance with section 35, at the time the promise is included in the lease.

Notwithstanding section 23, the rent payable during the term of the promise to sell is 20% of the selling price.

30. The Minister is authorized to lease part of the water-related property required to operate a regional park under an agreement made with a regional county municipality in accordance with section 688 of the Municipal Code of Québec (R.S.Q., c. C-27.1).

§5. Alienation

31. The Minister is authorized to alienate free of charge or by onerous title a part of the water-related property only if the conditions established in this Subdivision are met.

32. The Minister may transfer free of charge a part of the water-related property that could or should have been included in the preceding sale of backfilled property, to take into account alterations to the limits of the water-related property.

33. In order to facilitate the delimitation of the water-related property on which a water retaining work was erected in 1849, the Minister is authorized to transfer the ownership of part of the area around Lac Saint-François in the St. Lawrence River to the owner of the adjacent land for $1.

34. The Minister is authorized to sell a part of the water property that has been subject to backfilling. However, if the backfilling started after 1993, the Minister is authorized to sell it only if the purchaser provides the Minister with the documents attesting that the backfilling work was authorized.

35. The sale price of part of the water-related property is 50% of its value.

However, if the land is not bounded by water, the sale price is 25% of the value of the transferred part.

The sale price is 100% of the value of the part of the water-related property transferred if the backfilling to which it was subject started after 1993.

Notwithstanding the preceding paragraphs, if the purchaser is a municipality, the Minister is authorized to sell part of the public domain for $1 to the municipality if the latter undertakes, by resolution, to preserve that part of the water-related property for public, non-profit-making purposes.

Subject to the provisions of this Subdivision that expressly authorizes the Minister to sell at a lower price, the sale price may not be lower than $350.

36. The rents that a purchaser has previously paid as lessee of the part of the water-related property in question shall be deducted from the selling price. However, the deduction of those amounts may not give rise to a refund by the Minister, nor increase the amount payable below the minimum selling price.

37. The Minister is authorized to agree on an instalment sale with the purchaser so that payment will be made in instalments. Moreover, the Minister is authorized to agree that a hypothec be granted in favour of the State to guarantee the payment of the selling price if the hypothec covers, in addition to the transferred lot, an adjacent lot belonging to the purchaser.

All the fees payable and costs of professional services required to set up such hypothec, to register it at the registry office or to cancel it shall be charged to the purchaser.

§6. Delimitation

38. The Minister is authorized to agree on the limits of the water-related property with the owner of adjacent riparian land.

DIVISION IV
TRANSITIONAL AND FINAL

39. Applications for the granting and transfer of rights still under examination on the date of coming into force of this Regulation shall continue to be governed by the provisions applicable at the time the applications are filed, unless the applicant chooses to have the application processed in accordance with the provisions of this Regulation by sending a written notice to that effect to the Minister.

Where, on that same date, the authorization of the Government has not yet given rise to the issue of a deed by the Minister to a person, the person may also take advantage of the application of the provisions of this Regulation by sending a written notice to that effect to the Minister.

40. For leases existing on the date of coming into force of this Regulation, the minimum tariffs of rents apply only on the date on which they are renewed in the year following the year of the coming into force.

41. This Regulation replaces the Public Water Regulation made by Order in Council 9-89 dated 11 January 1989.

42. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I
(s. 8)

ADMINISTRATION FEES

1. The fees payable for examining the applications for the granting or transfer of rights or for examining the applications related to the delimitation of the water-related property are

(1) $35 for an application for the assignment of a lease or sublease for profit-making, marina or aquaculture purposes;

(2) $35 for an application for a change to the leased area of a lease for profit-making, marina or aquaculture purposes;

(3) $250 for a servitude;

(4) $250 for an agreement on limits;

(5) $350 for a sale, subject to the following:

(a) the fee is $500, to which $1 per linear metre of bank in question is added, for a sale to a municipality for public non-profit use;

(b) no fee is payable for the sale of part of the water-related property around Lac Saint-François in the St. Lawrence River if fees have already been paid with a view to obtaining an agreement on limits according to paragraph 4; and

(c) a fee of $150 is added to the amount of the fees payable if the sale is made through the issue of letters patent or if the payment of the selling price is guaranteed by a hypothec.

2. The fee of $350 provided for in paragraph 5 of section 1 and the fee of $250 provided for in paragraph 3 of that section are deductible from the amount payable upon conclusion of the deed.

5172

Draft Decree

Act respecting collective agreement decrees
(R.S.Q., c. D-2)

**Solid waste removal – Montréal
— Amendment**

Notice is hereby given that the Minister of State for Human Resources and Labour and Minister of Labour has received an application to amend the Decree respecting solid waste removal in the Montréal region (R.R.Q., 1981, c. D-2, r.29) from the contracting parties to that decree and that, in accordance with section 5 of the Act respecting collective agreement decrees (R.S.Q., c. D-2) and sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Decree to amend the Decree respecting solid waste removal in the Montréal region, the text of which appears below, may be made by the Government upon the expiry of the 45 days following this publication.

The purpose of this draft regulation is to replace the name of one of the contracting union parties to the Decree respecting solid waste removal in the Montréal region.

To that end, it is necessary to substitute the name "Association des chauffeurs de camions, hommes d'entrepôts et autres ouvriers de R.C.I. Environnement Inc." for the name "United Steel Workers of America".

The consultation period will clarify the impact of the amendment being sought. According to the 2001 annual report of the Comité paritaire des boueurs de la région de Montréal, the Decree governs 300 employers, 12 artisans and 1 339 employees.

Further information may be obtained by contacting Mme Danièle Pion, Direction des politiques, de la construction et des décrets, ministère du Travail, 200, chemin Sainte-Foy, 6e étage, Québec (Québec) G1R 5S1, telephone: (418) 643-4198, Fax: (418) 644-6969, E-mail: daniele.pion@travail.gouv.qc.ca

Any interested person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6e étage, Québec (Québec) G1R 5S1.

ROGER LECOURT,
Deputy Minister of Labour

Decree to amend the Decree respecting solid waste removal in the Montréal region*

Act respecting collective agreement decrees
(R.S.Q., c. D-2, s. 2 and 6.1)

1. The first "Whereas" of the Decree respecting solid waste removal in the Montréal region is amended by substituting the name "Association des chauffeurs de camions, hommes d'entrepôts et autres ouvriers de R.C.I. Environnnement Inc." for the name "United Steelworkers of America".

2. This decree comes into force on the day of its publication in the *Gazette officielle du Québec*.

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* The last amendments to the Decree respecting solid waste removal in the Montréal region (R.R.Q., 1981, c. D-2, r.29) were approved by the regulation made by Order in Council No. 1293-99 dated 24 November 1999 (1999, *G.O.* 2, 4481). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2002, updated to 1 March 2002.

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Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified