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Summary

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Regulations and other acts

Gouvernement du Québec

O.C. 1136-2002, 25 September 2002

Professional Code
(R.S.Q., c. C-26)

Office des professions du Québec — Members of a professional order — Amount of the contribution for the 2003-2004 fiscal year

Amount of the contribution of each member of a professional order for the 2003-2004 fiscal year of the Office des professions du Québec

WHEREAS, under section 196.2 of the Professional Code (R.S.Q., c. C-26), the expenditures incurred by the Office des professions du Québec in a fiscal year shall be payable by the members of the professional orders;

WHEREAS, under section 196.3 of the Code, each member of a professional order is required to pay, for every fiscal year of the Office, a contribution equal to the total of the expenditures incurred by the Office for a year of reference, divided by the total number of members entered on the rolls of all orders on the last day of the year of reference;

WHEREAS, under section 196.4 of the Code, the Government shall fix, for each fiscal year of the Office, the amount of the contribution of each member of an order;

WHEREAS, under the first paragraph of section 196.5 of the Code, where, for a particular fiscal year, the total amount of the contributions paid under section 196.3 of the Code is less than or is more than the amount of the expenditures incurred by the Office, the contribution of each member, established in accordance with section 196.3, shall be increased or reduced, as the case may be;

WHEREAS, under the second paragraph of that section, the increase or reduction shall be determined by establishing the difference between the expenditures incurred by the Office for that fiscal year and the total amount of contributions paid for the year of reference and dividing that difference by the total number of members entered on the roll of every order on the last day of that fiscal year; the charge payable pursuant to section 196.8 shall be deducted when the increase or reduction is determined;

WHEREAS, for the purposes of section 196.5 of the Code, the year of reference used as the basis for computing the contribution begins on 1 April 2000 and ends on 31 March 2001;

WHEREAS it is expedient to fix the amount of the contribution of each member of an order;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT \$22.25 be fixed as the amount of the contribution of each member of a professional order for the 2003-2004 fiscal year of the Office des professions du Québec.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

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Gouvernement du Québec

O.C. 1151-2002, 25 September 2002

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1)

Supplemental Pension Plans — Plans exempted from the application of certain provisions of the Act — Amendments

IN THE MATTER OF the Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act

WHEREAS in accordance with section 2 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the Government may, by regulation and on the conditions it determines:

— exempt any pension plan or category of pension plan it designates from the application of all or part of the Act, particularly by reason of the special characteristics of the plan or category or by reason of the complexity of the Act in relation to the number of members in the plan;

— prescribe specific rules applicable to the plan or category;

WHEREAS pursuant to sections 10 and 11 of the Regulations Act (S.R.Q., c. R-18.1), the draft regulation attached hereto was published in Part 2 of the *Gazette officielle du Québec* on 3 April 2002 with a notice that it could be made by the Government upon expiry of a period of 45 days following that publication;

WHEREAS it is expedient to make the Regulation, with amendments to take into account comments made by interested parties;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Social Solidarity and for Child and Family Welfare and Minister of Social Solidarity:

THAT the Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act attached hereto be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act*

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 2)

1. Section 1 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act is amended:

(1) by replacing, the words “5 active members” with the words “25 members and beneficiaries” in the passage of the first paragraph that precedes paragraph 1;

(2) by adding the number “, 147.1” after the number “147”, in the passage of the first paragraph that precedes paragraph 1;

(3) by adding the words “or one beneficiary” after the words “plan member”, in paragraph (1) of the first paragraph;

(4) by replacing the words “active and inactive plan members” with the words “members and beneficiaries”, in paragraph 1 of the first paragraph;

(5) by replacing paragraph 2 of the first paragraph with the following paragraph:

“(2) a member who, designated under the conditions and within the time periods provided in the plan, is neither a party to the plan nor a third party to whom section 176 of the Act prohibits the granting of a loan.”;

(6) by replacing the second paragraph with the following paragraphs:

“The text of any plan administered by such committee shall state the number of members that the committee must have. It shall also provide for the conditions and time periods applicable to the designation and replacement of committee members. It may likewise provide that the members and beneficiaries may, during the meeting referred to in paragraph 1 of the first paragraph, designate by majority vote a member in addition to those referred to in the first paragraph. The second paragraph of section 147.1 of the Act applies to that additional member.

The text of any plan administered by the employer shall provide for the conditions and time periods applicable to the designation and replacement of the employer.”.

2. Section 2 of the Regulation is replaced with the following:

“**2.** The second paragraph of section 149 of the Act applies to the employer who administers a pension plan in conformity with section 1.”.

3. Section 4 of the Regulation is replaced with the following:

“**4.** If the majority of the members and beneficiaries decide at a meeting held pursuant to section 166 of the Act decide that the plan shall be administered by a pension committee, the employer may not continue to administer the plan at the expiry of the third month following that meeting.

* The last amendment to the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act, approved by Order in Council 1160-90, dated 8 August 1990 (1990, *G.O.* 2, 3246), was made by the regulation approved by Order in Council 1290-99, dated 24 November 1999 (1999, *G.O.* 2, 5925). For the preceding amendments, see *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2002, updated to 1 March 2002.

If, at a meeting held pursuant to section 166 of the Act, the majority of the members and beneficiaries consent to the administration of the plan by the employer who is a party to the plan, no member of a pension committee in office on the date of such meeting may continue to administer the plan on expiry of the third month following that meeting.”.

4. Section 5 of the Regulation is replaced with the following section:

“**5.** Any plan whose number of members and beneficiaries increases to more than 25 shall, no later than 180 days following such increase, be administered by a pension committee formed as provided for in chapter XI of the Act.”.

5. Division II of the Regulation is repealed.

6. Division III of the Regulation is replaced with the following division:

**“DIVISION III
ARBITRATION WITH RESPECT TO THE
ALLOCATION OF THE SURPLUS ASSETS
OF A TERMINATED PLAN**

7. A terminated pension plan is exempted from the application of the provisions of chapter XIV.1 of the Act where the following conditions are met:

(1) the employer party to the plan is deemed, pursuant to the second paragraph of section 230.7 of the Act, to have renounced any entitlement in the plan’s surplus assets;

(2) the plan’s members and beneficiaries have agreed in writing on the method to be used to allocate among themselves the plan’s entire surplus assets and to adjust the share of each of them in the event that there is any variation in such surplus or in the total value of their benefits between the date of termination and the date of payment.

In such case:

(1) the agreement reached by the members and beneficiaries has the same value and effect as an agreement reached in accordance with section 230.6 of the Act;

(2) the pension committee shall send to the Régie, no more than 30 days after receipt of the agreement referred to in paragraph 1:

(a) a copy of the agreement;

(b) a certificate confirming that all the members and beneficiaries of the plan, including those who conserve that status pursuant to sections 240.2, 308.3 and 310.1 of the Act, have consented to the agreement and that it can submit their consent to the Régie on demand;

(c) a supplement to the termination report in conformity with the provisions of section 207.5 of the Act.

7.1 In the case of a multi-employer plan, section 7 applies, with the necessary adaptations, with respect to the surplus assets determined in respect of each employer party to the plan and of the members and beneficiaries whose benefits are included in the group of benefits related to such employer.”.

7. Section 8 of the Regulation is amended:

(1) by striking out, under the heading “Amendment”, the words “the second paragraph of”;

(2) by replacing, under the heading “Registration”, the words “;notwithstanding the foregoing, section 26” with the words “;it being understood that section 26 does not apply with respect to an employer who joins the plan and that it”;

(3) by replacing, under the heading “Membership” the words “the second sentence of the second” with the words “the third”;

(4) by replacing, under the heading “Refunds and pension benefits”, the words “sections 91 and” with the word “section”;

(5) by adding, under the heading “Transfers of benefits and assets”, the words “, the fourth paragraph of section 99”, after the number 98;

(6) by replacing the number “110” with the number “110.1”, under the heading “Transfer of benefits between spouses”;

(7) by replacing, under the heading “Information to members”, the words “paragraph 1 of section 112” with the words “section 112, with the exception of paragraph 2 of the first paragraph and the second paragraph, it being understood that the first sentence of the first paragraph applies only to members in the service of the employer affected by the amended provisions”;

(8) by replacing the passage under the heading “Administration” with the following passage:

“— Administration — sections 150 to 154, the second paragraph of section 155, section 156.1, the first paragraph of section 158, section 159 with respect to the delegatee of the financial institution that administers the plan, sections 161, 161.1 and 163 to 165, section 171, sections 174 to 176, paragraphs 2 and 3 of section 177 and sections 178 to 193;”;

(9) by replacing the passage under the heading “Division and merger” with the following passage:

“— Division and merger — sections 194 and 197;”;

(10) by replacing “3, 5, 8 and 12.1” with “3 to 3.2, 5, 8, 8.5, 12.0.1 and 12.1”, under the heading “Regulations, functions and powers of the Régie”.

8. Section 10 of the Regulation is amended:

(1) by replacing “11 to 13 and 15 of the first paragraph” with “11, 13 and 15 of the second paragraph” in the passage preceding paragraph 1;

(2) by replacing the word “employees” with the word “accredited”, in paragraph 4;

(3) by replacing the words “an active member is entitled to the transfer of his account upon cessation of active participation and that his account” with “the account of a member whose active membership ceases”, in paragraph 6;

(4) by striking out the words “or to a life income fund”, in paragraph 6;

(5) by striking out paragraph 8;

(6) by replacing paragraphs 9 et 10 with the following paragraphs:

“(9) that the member’s account shall, upon his death, be paid to his spouse or, failing that, to his successors;”;

(10) that the member’s spouse may, by written notice to the financial institution, waive the right to receive the payment provided for in paragraph 9 and may revoke such waiver by written notice to the financial institution before the death of the member;”;

(7) by replacing the words “or to a life income fund, selected by the member, within 90 days following the member’s request” with the words “selected by the member”, in paragraph 12;

(8) by replacing the words “a lump-sum payment of the amount of the member and employer contributions entered in his account, together with the accrued interest, where such amount is less than 4%” with the words “the refund of the balance of his account with the accrued interest, after deduction of the sums referred to in paragraph 15, where such balance is less than 20%”, in paragraph 13;

(9) by replacing, in paragraph 14, the words “payment referred to in paragraphs” with the words “refund referred to in paragraphs 6, ”;

(10) by striking out the words “shall be treated as a voluntary contribution and”, in subparagraph *a* of paragraph 15;

(11) by striking out paragraph 16;

(12) by striking out the words “that the investment expenses, that is, brokerage fees, and the remuneration of the securities adviser and securities depository, are payable by the pension fund and”, in paragraph 21.

(13) by striking out, in subparagraph *c* of paragraph 23, the words, “at least 3 of which shall be offered by the financial institution as a money market fund, a fixed income fund and a stock fund”;

(14) by replacing the word “employees” with “accredited”, in paragraph 27;

(15) by replacing paragraph 28 with the following paragraph:

“(28) that an employer may withdraw from the plan and that the financial institution may withdraw an employer from the plan or terminate the plan;”;

(16) by adding the following paragraphs, after the first paragraph:

“Notwithstanding the second paragraph of section 5 of the Act, the plan may provide for the payment or refund of the member’s account only in accordance with paragraphs 9, 11 and 13 of the first paragraph.

The financial institution must offer at least investment choices that, in addition to being diversified and having different degrees of risk and different contemplated yields, allow the creation of portfolios generally adapted to the needs of the members.”.

9. Section 11 of the Regulation is amended:

(1) by striking out the words “for the purposes of section 33 of the Act,” in paragraph 2;

(2) by replacing, in paragraph 5, the words “related to the investments and operation of the retirement information committee referred to in paragraph 18 of section 10” with the words “referred to in paragraph 4”.

10. Section 12 of the Regulation is amended:

(1) by replacing the words “partially terminates the simplified pension plan for all members employed by that employer” with the words “withdraws from a simplified pension plan”;

(2) by replacing the word “employees” with the word “accredited”.

11. Section 13 of the Regulation is replaced with the following section:

“**13.** The financial institution that administers a simplified pension plan and that terminates it or withdraws an employer who is a party to it shall notify in writing the employers concerned as well as, where relevant, the accredited associations connected with such employers by the plan. It shall likewise, in such cases and in the case where it receives a notice of withdrawal from an employer, so inform the Régie as well as the affected members. The notice sent to each member shall be accompanied with a statement of the member’s benefits and indicate that those benefits will be transferred, within 90 days following the sending of the statement, to a pension plan within the meaning of the third paragraph of section 98 of the Act that has been chosen by the member or failing such choice, by the financial institution.”.

12. Section 14 of the Regulation is amended by striking out the word “total”.**13.** Section 15 of Regulation is amended:

(1) by replacing the words “a total or partial termination” with the words “the withdrawal of an employer or the termination”, in the passage that precedes paragraph 1;

(2) by replacing the words “a partial termination” with the words “the withdrawal of an employer” and the words “that termination” with the words “that withdrawal”, in paragraph 1;

(3) by striking out the word “total” and, in the French version, by replacing the words “rapport terminal” with the words “rapport de terminaison”, in paragraph 2.

14. Section 16 of the Regulation is amended by replacing the figure “6” with the figure “9”.

15. Section 17 of the Regulation is amended by replacing, in the first paragraph, the words “subparagraph 1, 6 and 7 of the second paragraph of section 24 and section 149” with the words “and subparagraph 1, 6 and 7 of the second paragraph of section 24”.

16. Section 20 of the Regulation is amended:

(1) by adding the words “and beneficiaries” in paragraph 3 of the first paragraph, after the word “members”;

(2) by replacing the words “present personally or through a representative” with the words “and beneficiaries” in the first sentence of the second paragraph;

(3) by adding the words “and beneficiaries” in the second sentence of the second paragraph, after the words “the members”.

17. Section 21 of the Regulation is amended by replacing the words “and 165.1, sections 198 to 201 as to the right to partially terminate the plan and as to the employer’s right to totally terminate the plan in the absence of any explicit provision of the plan authorizing the same, sections 214 to 218, the first paragraph of section 220, sections 223 to 233, chapter XIV.1 and section 317 of the Supplement Pension Plans Act” with the words “; section 200, subparagraphs 2 and 3 of section 201, the second and third paragraphs of section 202, subparagraph 1 of section 203, section 204 as to the employer’s right to terminate the plan in the absence of a express provision in the plan authorizing such termination, section 216, subparagraph 2 of section 218, sections 220 to 230.8, chapter XIV.1, section 317 and the first paragraph of section 317 of the Act”.

18. Section 23 the of the Regulation is amended:

(1) by striking out the word “total” in every occurrence of that word in paragraph 2 and in subparagraphs *b* and *d* of paragraph 3 of the first paragraph;

(2) by striking out subparagraph *c* of paragraph 3 of the first paragraph;

(3) by striking out the words “or where the date in question is 31 December 1998, 115%”, in the passage of paragraph 4 of the first paragraph that precedes subparagraph *a*.

19. Section 24 of the Regulation is amended:

(1) by striking out paragraph 1;

(2) by striking out the words “the report required by section 119 of the Act must be sent to the Régie during the same period as that for the report related to an actuarial valuation provided for in paragraph 3 of section 118;”, in paragraph 2;

(3) by striking out the words “and the report required under section 119 of the Act must be sent to the Régie within the period provided for in paragraph 2”, in paragraph 3;

(4) by replacing the words “totally terminate the plan by applying the second paragraph of section 199” with the words “terminate the plan by applying section 205”, in paragraph 9;

(5) by striking out the words “as well as sections 5 and 6 of the Regulation respecting supplemental pension plans”, in paragraph 10;

(6) by striking out the word “totally”, in paragraph 12;

(7) by striking out the word “total” and the words “or of section 76.1 of the Regulation respecting supplemental pension plans”, in paragraph 13;

(8) by striking out paragraph 14;

(9) by replacing paragraph 15 with the following paragraph:

“(15) any amount recovered after the date of the plan’s termination as contributions due and unpaid on that date shall be used to pay the benefits of the members and beneficiaries including, to the extent that the amount recovered constitutes surplus assets, those, if any, who conserve their status pursuant to one or the other of sections 240.2, 308.3 or 310.1 of the Act, proportionally to the value of the benefits of the said members and beneficiaries.”.

20. Section 28 of the Regulation is amended by replacing the words “the second” with the words “paragraph 1 of the second”, in paragraph 3.

21. Section 32 of the Regulation is amended:

(1) by replacing the mention “subparagraph 4” with the mention “paragraph 3”, in the English version of the first paragraph;

(2) by replacing the first sentence of the second paragraph with the following sentence: “The employer’s undertaking referred to in the first paragraph extends to

the member’s spouse insofar as, where excess optional ancillary contributions are included in the member’s benefits that may be partitioned or where there is a transfer under section 107 or 110 of the Act, the employer shall pay to the spouse, in completion of the sum owing to the spouse following a partition or transfer, a portion of those contributions pro rata to the value of the benefits allocated to the spouse with respect to the total value of the benefits that may be partitioned or transferred.”;

(3) by replacing the word “assigns” with the word “successors”, in the third paragraph;

(4) by adding the words “of the Act”, in the fourth paragraph, after the figure “45.1”;

(5) by replacing the words “its determination and its payment” with the words “their determination and their payment”, in the fourth paragraph;

(6) by replacing the words “the balance of the contribution is nil” with the words “he notifies the pension committee in writing thereof. The balance of the contributions then becomes nil”, in the fourth paragraph.

22. Section 33 of the Regulation is amended:

(1) by adding, at the end of the first paragraph, the following sentence: “With respect to the demographic assumptions, a sex-specific mortality table shall be used.”;

(2) by replacing the expression “subparagraph 4” with the expression “paragraph 3”, in the second paragraph.

23. The Regulation is amended by adding the following sections, after section 33:

“**33.1.** The summary of the pension plan provided for in section 111 of the Act shall contain, in addition to the information provided for in that section or required by the Regulation respecting supplemental pension plans, a description of each of the subjects mentioned in the first paragraph of section 29 of the Regulation, with the exception of the calculation method and the conditions applicable to the formation of the benefits that the member may choose.

33.2. For the purposes of the statements referred to in sections 35 to 36, the optional ancillary contributions are not considered to be additional voluntary contributions.”.

24. Section 34 of the Regulation is repealed.

25. Section 35 of the Regulation is amended:

(1) by replacing the words “The annual statement” and the words “provided for in subparagraphs 1 to 10 and 12 to 17 of section 57 of” with, respectively, the words “The first part of the annual statement” and the words “required by”, in the passage that precedes paragraph 1;

(2) by striking out the words “and the other additional voluntary contributions” in paragraph 1;

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

“(3) where the circumstances warrant and at least once every three years, the optional ancillary contributions at the ending date of the fiscal year, determined taking into account the options exercised with respect to the pension benefits referred to in paragraph (2) and, where the member did not exercise any option with respect to optional ancillary benefits, by supposing that the member ceased to be an active member, that he exercised his transfer right on that date and that the optional ancillary contributions were converted at the optimum value of the options available under the plan.”.

26. The Regulation is amended by adding the following sections, after section 35:

“**35.1.** The first part of the annual statement provided for in section 112 of the Act, which is sent to a non-active member who has already made optional ancillary contributions, shall contain, in addition to the information required by the Regulation respecting supplemental pension plans with respect to the statement sent to a non-active member, the following information:

(1) where a member has exercised options related to the optional ancillary benefits, the nature of the benefits chosen;

(2) where a member is entitled to a deferred pension, the total of the optional ancillary benefits entered separately to the member’s account, with interest accrued to the end of the fiscal year;

(3) where the circumstances warrant and at least once every three years, the optional ancillary contributions at the ending date of the fiscal year, determined by taking into account the options exercised with respect to the benefits referred to in paragraph 1 and, where the member did not exercise any option related to the optional ancillary contributions, by supposing that such contributions were converted at the optimal value of the options available under the plan.

35.2. The first part of the annual statement provided for in section 112 of the Act, which is sent to a beneficiary whose benefits are derived from those of a member who has made optional ancillary contributions, must contain, in addition to the information required by the Regulation respecting supplemental pension plans with respect to the statement sent to a beneficiary, the information provided for in paragraph 3 of section 35.1.”.

27. Section 36 of the Regulation is replaced with the following section:

“**36.** The statement provided for in the first paragraph of section 113 of the Act that is sent to a member who has already made optional ancillary contributions shall contain, in addition to the information required under the Regulation respecting supplemental pensions plans, the following information:

(1) the information provided for in paragraph 1 and 2 of section 35 that is related to the period from the end of the fiscal year covered by the last statement sent to the affected member to the date on which he ceased to be an active member;

(2) the excess optional ancillary contributions, if any, at the date on which a member ceases to be an active member, determined by taking into account the options exercised by him with respect to the optional ancillary contributions, by supposing that he exercised his transfer right at the date on which he ceased to be an active member and that such contributions were converted at the optimal value of the options available under the plan, with a mention that a sum equal to the said excess optional ancillary contributions must be paid by the employer pursuant to the written undertaking provided for in section 32.”.

28. Section 37 of the Regulation is replaced with the following section:

“**37.** For the purposes of section 36 of the Regulation respecting supplemental pension plans, a member’s aggregate benefits shall include excess optional ancillary contributions accrued during the period of a member’s membership, such benefits to be treated as capital benefits, reduced by any sum paid by the employer pursuant to the second paragraph of section 32 and determined by supposing that the member exercised his transfer right at the end of that period and that the contributions were converted at the optimal value of the available options under the plan are included in the aggregate benefits of a member.”.

29. The Regulation is amended by adding the following division after section 38:

“DIVISION VIII CONNECTED PENSION PLANS

39. This division applies only to connected pension plans, that is, pension plans to which the same employer is party and which contain the stipulation provided for in section 41.

A defined contribution plan may be considered to be a connected pension plan only where the employer party to it is also party to a defined benefit or defined benefit-defined contribution plan that contains the stipulation provided for in section 41.

40. In this division, “period of continuous membership” means the period included between the date on which a member joins a connected pension plan to which the employer is party, unless such membership immediately follows the member’s cessation of active membership in another connected plan to which the same employer is party, provided the member does not immediately join another, similar plan. The member’s period of continuous membership ends, however, when he changes employer, except in the event of a substitution authorized by the Régie.

41. A connected pension plan shall clearly state, under an appropriate heading, that a member is entitled, at the date on which his period of continuous membership ends, to the pension benefit to which he would have been entitled if his active membership had ended at that date, determined in accordance with the following rules:

(1) also taken into consideration for the determination of a member’s entitlement to pension benefits and ancillary benefits provided for under the plan is recognized service or the period of active membership determined under the terms of any other connected pension plan that the member joined during his period of continuous membership;

(2) the member shall benefit from amendments to the plan introduced between the date on which his active membership ended and the date on which his continuous membership ended that increase pension benefits or ancillary benefits offered to active members belonging to the category of workers to which he belonged immediately prior to the first of those dates;

(3) where a pension plan provides that the normal pension is determined according to the progression of a member’s remuneration up to the end of his active membership, the pension benefit to which the member is entitled at the date on which his period of continuous membership ends is determined according to the progress of his remuneration up to that date.

The plan shall also state under that same heading the name of any pension plan to which it is connected.

42. The following provisions of the Act apply to a connected pension plan, subject to the following changes:

(1) section 60, by adding the words “on the date on which his period of continuous membership ends” after the word “benefit”, in the first paragraph and replacing the words “where the member dies before becoming entitled to a pension benefit” with the words “where the member’s death ends his period of continuous membership”, in paragraph 2 of the first paragraph;

(2) section 60.1, by replacing the words “who ceases to be an active member” with the words “whose period of active membership ends”, in the first paragraph, the words “the date the member ceases to be an active member” with the words “the date the member’s period of continuous membership ends”, in the first sentence of the second paragraph, the words “the month the member ceases to be an active member” with the words “the month the member’s period of continuous membership ends”, in the second sentence of the first paragraph and by replacing the third paragraph with the following paragraph:

Where the member’s death ends his period of continuous membership, the value of the additional pension benefit shall be determined by supposing that the said period ended on the day of death for a reason other than death.

(3) section 61, by replacing the word “vesting” with the words “the period of the member’s continuous membership ends”;

(4) section 66, by replacing the words “who ceases to be an active member” with the words “whose period of continuous membership ends”, and the words “in which the member ceases to be an active member” and “the date on which the member ceased to be an active member” with the words “the date on which his period of continuous membership ended”;

(5) section 66.1, by replacing the words “who has ceased to be an active member and whose period of continuous employment has” with the words “whose period of continuous membership and period of continuous employment have”;

(6) section 67, by replacing the words “who ceases to be an active member” with the words “whose period of continuous membership has ended”;

(7) the second paragraph of section 71, by adding, after the words “continuous employment,” the words “provided his period of continuous membership has ended”;

(8) section 86, by replacing paragraphs 1 and 2 of the first paragraph with the following paragraphs:

“(1) where the member's death is subsequent to the date his period of continuous membership ends, to the value of any pension to which he was entitled prior to his death;

(2) where the member's death ends his period of continuous membership, to the value of the deferred pension to which he would have been entitled if his period of continuous membership had ended on the day of death for a reason other than death.”.

(9) paragraph 2 of the second paragraph of section 99, by replacing the words “the member ceased to be an active member” by the words “the member's period of continuous membership has ended”;

(10) paragraph 3 of the second paragraph of section 99, by replacing the words “who ceased to be an active member,” with the words “whose period of continuous membership has ended”;

(11) section 102, by replacing the words “who ceases to be an active member” with the words “whose period of continuous membership has ended”;

(12) section 113, by replacing the words “that a member ceased to be an active member,” with the words “that a member's period of continuous membership has ended.”.

43. A member of a connected pension plan who, before his period of continuous membership ends, is affected by the withdrawal of an employer party to the plan or by termination of the plan is entitled to the pension benefit to which he would have been entitled if his period of continuous membership had ended on the date of that withdrawal or termination.

44. With respect to a member of a connected pension plan, sections 15.0.2 and 15.0.3 of the Regulation respecting supplemental pension plans shall be applied by taking into account the date on which the member's period of continuous employment ends, instead of the date on which he ceases to be an active member.

45. In applying sections 36 and 37 of the Regulation respecting supplemental pension plans, the aggregate benefits of a member of a connected pension plan correspond to the benefits accrued to him during his period of

continuous membership and are determined, if that period has not ended, as the case may be, at the date of the introduction of proceedings or at the date on which the conjugal relationship ended, by supposing that it ended on such date.

46. The annual statement provided for in section 112 of the Act, which is sent to a member whose active membership in a connected pension plan has ceased but whose period of continuous membership has not ended shall contain all the information that the statement sent to an active member must contain, provided, where the statement must indicate the value of the member's benefits, the value indicated shall be the value that the member could have transferred at the end of the last fiscal year if his period of continuous membership had ended on that date.

From the end of the member's period of continuous membership, the first part of the annual statement that is sent to him shall be in conformity with section 59 of the Regulation respecting supplemental pension plans.

47. The statement referred to in the first paragraph of section 113 of the Act, which the pension committee must provide when it is informed that a member's period of continuous membership has ended shall contain the information provided for in section 58 of the Regulation respecting supplemental pension plans and, where the circumstances warrant, in section 36 of this Regulation, it being understood that for the application of the said provisions, the date to be taken into account shall be the date on which the member's period of continuous membership ended, instead of the date on which he ceased to be an active member.”.

30. Whoever, on the day preceding the day on which this Regulation comes into force, administers a pension plan pursuant to section 1 of the Regulation respecting plans exempted from the application of certain provisions of the Supplemental Pension Plans Act as it read prior to the coming into force of this Regulation, may, even where such plan has more than 25 members and beneficiaries, continue to administer the plan for a period ending, at the latest, 180 days after the date of the coming into force of this Regulation.

31. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*, except for sections 25 to 27, for the second paragraph of section 46 and for the words “and, where the circumstances warrant, in section 36 of this Regulation” in section 47 introduced by section 29, which come into force on 31 December 2002.

Gouvernement du Québec

Agreement

An Act respecting elections and referendums
in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING USING “PERFAS-MV” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF SAINT-OURS town, a legal person established in the public interest, having its head office at 2540, Immaculée-Conception, Saint-Ours, province of Québec, represented by the mayor, Marie Bouchard and the clerk or secretary-treasurer, Diane G. Bélanger under a resolution bearing number 175-09-2002, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL, having his main office at 10, rue Pierre-Olivier-Chauveau, in Québec, province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 129-06-2002, passed at its meeting of June 17th 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 3rd 2002 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.”;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November 3rd 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of September 3rd 2002, resolution No. 175-09-2002 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “electronic voting system” means an apparatus consisting of the following devices:

— a computer containing in its memory the list of electors, used for the preparation of electronic voting cards;

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

— electronic cards used to place the terminals in “election” mode, to vote (electronic voting cards), to place the terminals in “end of election” mode, and to record the results from each autonomous voting terminal;

2.2 “voting terminal” means an independent device containing a display with a graphical representation of a ballot paper, buttons used by electors to vote, and a memory card to record and compile the votes cast by electors;

2.3 “electronic card reader” means a device allowing the information required for an elector to vote to be transferred onto an electronic card;

2.4 “rejected ballot paper” means a ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” has been pushed by an elector on the voting terminal;

2.5 “operations trail” means a print-out of the operations (audit) of a voting terminal.

3. ELECTION

3.1 For the purposes of the general election of November 3rd 2002 in the municipality, a sufficient number of “PERFAS-MV” model electronic voting systems will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

(1) a report displaying a total of “zero” must be automatically produced by the electronic ballot box when a voting terminal is turned on on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card of the voting terminal, and must record each procedural operation;

(3) a mechanism which prevents a voting terminal from being placed in “end of election” mode while polling is still under way, because the terminal can only be placed in “end of election” mode by the insertion of an “end of election” card;

(4) a mechanism to ensure that the compilation of results is not affected by any type of interference once the electronic ballot box has been placed in “election” mode;

(5) each voting terminal must be equipped with seals, two to prevent the opening of the box and one covering the screws of the voting terminal;

(6) each voting terminal must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the terminals are connected to a generator;

(7) if a voting terminal is defective, its internal memory card may be removed and transferred immediately into another voting terminal in order to allow the procedure to continue.

5. PROGRAMMING

Each electronic voting system used is specially programmed by the firm PG Elections inc. for the municipality in order to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant.”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.”.

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic voting systems (voting terminal and electronic card reader);

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the voting terminals in the polling place;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic voting systems function correctly;

(5) print out the results compiled by the voting terminals at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by each voting terminal;

(7) give the returning officer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of electors at each polling station who were given an electronic voting card;

(8) give the returning officer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in “end of election” mode, and the voting terminals in sealed cases.

80.1. The assistant to the deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter’s duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) see that the polling is properly conducted and maintain order at the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give electors an electronic voting card to exercise their right to vote;

(6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that an elector has failed to exercise the right to vote;

(7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of electors given an electronic voting card by the deputy returning officer at the polling station.”.

6.4 Discretion of the Chief Electoral Officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the Chief Electoral Officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.”.

6.5 Notice of election

The following is added after paragraph 7 of section 99:

“(8) the fact that the method of voting is by means of an electronic voting system.”

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

“**104.** The returning officer shall divide the list of electors into polling subdivisions, each comprising not more than 750 electors.

The returning officer shall provide a sufficient number of polling stations at each polling place to receive electors, establish their identity and give them an electronic voting card.

In the polling place, the electors may report to any polling station. They shall be directed to the first available voting terminal to exercise their right to vote.”.

6.7 Verification of electronic voting systems

The Act is amended by inserting the following subdivision after subdivision 1 of Division IV of Chapter VI of Title I:

“§1.1 Verification of electronic voting systems

173.1. The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

173.2. During the testing of the electronic voting system, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the system, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.3. The returning officer shall conduct the test by performing the following operations:

(1) he shall prepare a pre-determined number of electronic voting cards and transfer onto them the information relating to one of the positions to be filled;

(2) he shall record on the voting terminal a pre-determined number of votes that have been manually tallied. The votes shall include:

(a) a pre-determined number of votes in favour of one of the candidates for the office of mayor and councillor;

(b) a pre-determined number of votes corresponding to the statement “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor”;

(c) a pre-determined number of votes for a candidate for the office of mayor and the same pre-determined number of votes for a candidate for a position as a councillor;

(3) he shall ensure that it is not possible to record more than one vote for the same position;

(4) he shall ensure that the button used to record a vote can be pushed only after the button used to vote for the mayor or corresponding to the statement “I do not wish to vote for the office of mayor”, and the button used to vote for a councillor or corresponding to the statement “I do not wish to vote for the office of councillor”, have been pushed;

(5) he shall ensure that the information relating to the positions to be filled contained on the electronic voting cards is consistent with the information transferred to the cards by the returning officer;

(6) he shall place the system in “end of election” mode and ensure that the results compiled by the voting terminal are consistent with the results compiled manually;

(7) once the test has been successfully completed, he shall reset the voting terminal to zero and replace it in a sealed case; the candidates or their representatives may affix their signature if they so wish;

(8) where an error in the compilation of the results compiled by the terminals is detected, the returning officer shall determine with certitude the cause of error, proceed with a further test, and repeat the operation until a perfect compilation of results is obtained; any error or discrepancy shall be noted in the test report;

(9) he may not change the programming established by the firm PG Elections inc.”.

6.8 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act:

“**182.** At the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of electors who were given an electronic voting card;

(2) the total number of votes recorded on each terminal, as transmitted by the senior deputy returning officer;

(3) the names of the persons who performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the forms, the verification reports printed out at each terminal, the poll book and the list of electors, and shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in a large envelope. The large envelope shall be sealed. The persons present may affix their initials to the seal.

182.1. At the close of the advance polling station, the senior deputy returning officer shall:

(1) place the voting terminals in “end of election” mode;

(2) transfer the data contained in the memory of the electronic ballot box onto a memory card;

(3) print the operations trail (audit);

(4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes;

(5) forward the envelopes to the returning officer, who shall keep them safely in separated locations;

(6) set each voting terminal to zero, seal it and place it in its plastic case;

(7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

182.2. The senior deputy returning officer shall place the card used to place the terminals in “election” mode and “end of election” mode in the large envelope.

The senior deputy returning officer shall seal the large envelope and each terminal. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.

The senior deputy returning officer shall then give the large envelope, the envelopes containing the list of electors, the memory card and the operations trail, as well as the voting terminals, to the returning officer or the person designated by the returning officer.

The returning officer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The returning officer shall, using the various lists of electors used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The returning officer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

The senior deputy returning officer shall take possession of the verification reports indicating the total number of votes recorded on each terminal, the card used to place the terminals in “election” mode and the card used to place the terminals in “end of election” mode.

The senior deputy returning officer shall verify for each terminal, using the memory card, that the number of votes recorded matches the number entered the previous day in the poll book by the poll clerk for that polling station.

The returning officer, or the person designated by the returning officer, shall return the list of electors to each deputy returning officer.

At the close of the advance poll on the second day, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the advance poll on the first day.

185. From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall, using the memory card or cards on which the results are recorded, print out the results compiled by each voting terminal used in the advance poll in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.”

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.”.

6.9 Revocation

Sections 186 and 187 of the Act are revoked.

6.10 Polling place

The following is substituted for the first paragraph of section 188 of the Act:

“**188.** The polling place must be in premises that are spacious and easily accessible to the public.”.

6.11 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic voting systems are used in an election, each polling station shall have the number of polling booths determined by the returning officer.”.

6.12 Ballot papers and electronic voting cards

The following is substituted for section 192 of the Act:

“**192.** The returning officer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the electors’ right to vote.”

The following is substituted for sections 193 to 195 of the Act:

“**193.** The graphical representation of a ballot paper that appears on the voting terminal shall be consistent with the model set out in Schedule 1 to the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities.”.

6.13 Identification of the candidates

The following is substituted for section 196 of the Act:

“**196.** The graphical representation of a ballot paper that appears on the voting terminal must allow each candidate to be identified.

Depending on the number of positions to be filled, the representation shall have one or more columns on one or more pages, showing:

- (1) the name of each candidate, the given name preceding the surname;
- (2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;
- (3) a rectangle for the elector’s mark opposite the particulars pertaining to each candidate.

All rectangles, as the space between consecutive rectangles, must be of the same size.

Where several independent candidates for the same office have the same name, the graphical representation of the ballot paper used in the polling for that office shall indicate the address of each candidate under the candidate’s name and, where such is the case, above the indication of the candidate’s political affiliation.

The particulars must appear in alphabetical order of the candidates’ surnames and, as the case may be, of the candidates’ given names. Where two or more candidates for the same office have the same name, the order in which the particulars relating to each of them appear shall be determined by a drawing of lots carried out by the returning officer.

The particulars pertaining to the candidates must correspond to those contained in the nomination papers, unless, in the meantime, the authorization of the party or the recognition of the ticket has been withdrawn, or the name of the party or ticket appearing on the nomination papers is inaccurate.”.

6.14 Reverse of ballot paper

Section 197 is revoked.

6.15 Withdrawal of a candidate

The following is substituted for section 198 of the Act:

“**198.** Where an electronic voting system is used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.”.

6.16 Withdrawal of authorization or recognition

The following is substituted for section 199 of the Act:

“**199.** Where electronic voting systems are used in an election, the returning officer shall ensure that they are adjusted so that they do not take into account the party or ticket from which authorization or recognition has been withdrawn.”.

6.17 Number of voting terminals

The following is substituted for sections 200 and 201 of the Act:

“**200.** The returning officer shall ensure that a sufficient number of electronic voting systems are available for the election.

201. The upper surface of the voting terminal must be in conformity with the model described in Schedule 2 to this Agreement.

The voting terminal must be designed so that the button used to vote for a candidate is placed opposite the particulars relating to that candidate.

The instructions to the electors on how to vote must be clearly indicated on the upper surface of the voting terminal.”.

6.18 Provision of polling materials

The following is substituted for section 204 of the Act:

“**204.** Not later than one hour before the time fixed for the opening of the polling station, the returning officer shall give or make available to the deputy returning officer, in a sealed envelope, after affixing his initials to the seals,

(1) the copy of the list of electors for the polling subdivision used for the advance poll and comprising the electors who are entitled to vote at that polling station;

(2) a poll book;

(3) electronic voting cards;

(4) the forms and other documents necessary for the poll and the closing of the polling station.

The returning officer shall give or make available to the deputy returning officer, as well as to the senior deputy returning officer, any other materials required for the poll, the closing of the polling office, and the tallying and recording of votes.”.

6.19 Examination of polling materials and documents

The following is substituted for section 207 of the Act:

“**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic voting system for the polling place. The senior deputy returning officer shall ensure that the system computer displays a total of zero electors having voted, and that each voting terminal displays a total of zero recorded votes, by verifying the printed reports from those devices.

The senior deputy returning officer shall ensure that as many small envelopes are available for the memory cards used to record results as there are voting terminals under his responsibility.

The senior deputy returning officer must inform the returning officer of any discrepancy observed upon activating a voting terminal or during the poll.

The senior deputy returning officer shall keep the reports and show them to any person present who wishes to examine them.

The senior deputy returning officer must, in addition, before the persons present, ensure that two seals are affixed to each terminal.

In the hour preceding the opening of the polling stations, each deputy returning officer and poll clerk shall examine the polling documents and materials provided by the returning officer.”

POLLING PROCEDURE

6.20 Presence at the polling station

The following is substituted for the third paragraph of section 214 of the Act :

“In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer, may be present at the polling station. The officer in charge of information and order may be present, at the request of the deputy returning officer, for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.”

6.21 Electronic voting cards

The following is substituted for section 221 of the Act :

“**221.** The deputy returning officer shall give each elector admitted to vote an electronic voting card to which the information required to exercise the right to vote has been transferred.

In no case may the information transferred to the card allow a link to be established between the casting of a vote and the identity of an elector.”

6.22 Voting

The following is substituted for section 222 of the Act :

“**222.** The elector shall enter the polling booth and exercise the right to vote by :

(1) inserting the electronic voting card in the opening provided for that purpose and clearly identified on the upper surface of the voting terminal ;

(2) pressing the button placed opposite the particulars relating to the candidate in whose favour the elector wishes to vote as mayor and councillor or councillors, causing a mark to appear in the rectangle ;

(3) recording the vote by pressing the red button placed on the upper surface of the voting terminal, causing the red lights placed above the button to go out.”

6.23 Following the vote

The following is substituted for section 223 of the Act :

“**223.** After removing the electronic voting card from the voting terminal, the elector shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the returning officer.

If an elector indicates one or more votes but leaves the booth without recording them, the senior deputy returning officer or the latter’s assistant shall record the votes.

If an elector fails to indicate and record one or more votes and leaves the polling place, the senior deputy returning officer or the latter’s assistant shall press the button corresponding to the statement “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” or both, as the case may be, and shall then record the voter’s vote.

The electronic voting card shall then be removed from the voting terminal and given to the deputy returning officer. The occurrence shall be recorded in the poll book.”

6.24 Cancelled and spoiled ballot papers

Sections 224 and 225 of the Act are revoked.

6.25 Assistance for electors

The following is substituted for section 226 of the Act :

“**226.** An elector who declares under oath, before the senior deputy returning officer or the assistance to the senior deputy returning officer, that he is unable to use the electronic ballot box or to vote, may be assisted either :

(1) by a person who is the elector’s spouse or a relative within the meaning of section 131 ;

(2) by the senior deputy returning officer, in the presence of the assistant to the senior deputy returning officer.

A deaf or mute elector may be assisted, for the purposes of communicating with the election officers and representatives, by a person capable of interpreting the sign language of the deaf.

The senior deputy returning officer shall advise the deputy returning officer concerned that an elector has availed himself of this section, and the occurrence shall be entered in the poll book.”.

6.26 **Transfer of information to electronic voting cards**

The following is substituted for section 228 of the Act:

“**228.** The electronic voting system shall ensure that the information required for an elector to exercise the right to vote is transferred once only to the electronic voting card.”.

6.27 **Compilation of results and tallying of votes**

The following is substituted for section 229 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall compile the results by:

- (1) placing the election terminals of the polling place in “end of election” mode;
- (2) recording the results of each voting terminal;
- (3) printing out the results compiled by each voting terminal.

The reports on the compiled results shall indicate the total number of voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of votes for each candidate.

The senior deputy returning officer shall gather from each poll clerk the number of electors admitted to vote.

The senior deputy returning officer shall allow each person present to consult the results.”.

6.28 **Entries in poll book**

The following is substituted for section 230 of the Act:

“**230.** After the closing of the poll, the poll clerk of each polling station shall enter in the poll book:

- (1) the number of electors who have voted;
- (2) the names of the persons who have performed duties as election officers or as representatives assigned to that polling station.

230.1. The deputy returning officer shall place the poll book and the list of electors in separate envelopes.

The deputy returning officer shall seal the envelopes, and the representatives assigned to the polling station who wish to do so shall affix their initials to the seals.

The deputy returning officer shall then give the envelopes to the senior deputy returning officer.”.

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

“**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for the office of councillor” is pushed by the elector on the voting terminal is rejected.

For the purposes of the poll, the memory card shall be programmed in such a way that the electronic voting system processes and conserves all the votes cast, in other words both the valid ballot papers and the rejected ballot papers.”.

Sections 234 to 237 of the Act are revoked.

6.32 **Partial statement of votes and copy for representatives**

The following is substituted for sections 238 and 240 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out the total number of electors admitted to vote.

A separate statement shall be drawn up for each polling station.

The deputy returning officer shall draw up sufficient copies of the partial statement of votes for himself, the senior deputy returning officer, the returning officer and every representative assigned to the polling station.

238.1 Using the partial statements of votes and the results compiled by the electronic voting system, the senior deputy returning officer shall draw up an overall statement of votes.

240. The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.”

The senior deputy returning officer shall retain a copy of the statement and a second copy for the returning officer for the purposes of section 244.”.

6.33 Separate envelopes

The following is substituted for section 241 of the Act:

“**241.** After printing out the results compiled by each voting terminal in the polling place, the senior deputy returning officer shall:

(1) place the memory card used to record the results from each voting terminal in a small envelope bearing the serial number of the terminal concerned, seal the envelope and affix his initials, along with those of the representatives who wish to do so;

(2) place all the reports on the results compiled in an envelope, together with the partial statements and the overall statement of votes.”.

6.34 Seals

The following is substituted for section 242 of the Act:

“**242.** The senior deputy returning officer shall place in a large envelope:

(1) the small envelopes prepared pursuant to paragraph 1 of section 241;

(2) the envelopes provided for in section 230.1;

(3) the card used in the polling place to place the terminals in “election” mode and “end of election” mode;

(4) the electronic voting cards.

The senior deputy returning officer shall seal the large envelope. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal of the large envelope.”.

6.35 Placing in ballot box

Section 243 of the Act is revoked.

6.36 Delivery to returning officer

The following is substituted for section 244 of the Act:

“**244.** The senior deputy returning officer shall deliver to the returning officer or the person designated by the returning officer

(1) the envelope containing the reports of the results compiled by each voting terminal, the partial statements and the overall statement of votes;

(2) the large envelope provided for in section 242.”.

6.37 Addition of votes

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.”.

6.38 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results and a partial statement of votes, the returning officer shall, in the presence of the senior deputy returning officer and the candidates in question or of their representatives if they so wish, print out a new report using the appropriate memory card for recording results and the copy of the partial statements of votes taken from the large envelope, opened in the presence of the aforementioned persons.”.

6.39 Placing in envelope

The following is substituted for section 249 of the Act:

“**249.** After printing out the results, the returning officer shall place the memory card used to record results in an envelope, seal the envelope, and affix his initials and allow the candidates or their representatives to affix their initials if they so wish. He shall place the copy of the partial statements of votes in the large envelope, seal it, and allow the candidates or representatives present to affix their initials.”.

6.40 New counting of the votes

Section 250 of the Act is revoked.

6.41 Notice to the Minister

The following is substituted for section 251 of the Act:

“**251.** Where it is impossible to obtain the electronic cards used to record the results, where applicable, the returning officer shall advise the Minister of Municipal Affairs and Greater Montréal in accordance with Division III of Chapter XI.”.

6.42 Access to voting papers

Section 261 of the Act is revoked.

6.43 Application for a recount or re-addition

The following is substituted for the first paragraph of section 262 of the Act:

“**262.** Any person who has reasonable grounds to believe that a voting terminal has produced an inaccurate statement of the number of votes cast, or that a deputy returning officer has drawn up an inaccurate partial statement of votes, or that a senior deputy returning officer has drawn up an inaccurate overall statement of votes, may apply for a new compilation of the results. The applications may be limited to one or more voting terminals, but the judge is not bound by that limitation.”.

6.44 Notice to candidates

The following is substituted for section 267 of the Act:

“**267.** The judge shall give one clear day’s advance notice in writing to the candidates concerned of the date, time and place at which he will proceed with the new compilation of the results or re-addition of the votes.

The judge shall summon the returning officer and order him to bring the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of vote. Where the new compilation is limited to one or certain polling subdivisions, the judge shall order only the electronic cards on which the results of the votes are recorded, the reports of the compiled results, and the partial and overall statements of votes he will need.”.

6.45 Procedure for a new compilation of results or re-addition of votes

The following is substituted for section 268 of the Act:

“**268.** On the appointed day, the judge, in the presence of the returning officer shall, in the case of a new compilation of results, print out the results compiled by the voting terminal display or displays under inquiry.

In the case of a re-addition of votes, the judge shall examine the reports of the compiled results and the partial and overall statements of votes.

The candidates concerned or their mandataries and the returning officer may, at that time, examine all the documents and items examined by the judge.”.

6.46 Repeal

Section 269 is revoked.

6.47 Missing electronic card for recording results and partial statements of votes

The following is substituted for the first paragraph of section 270 of the Act:

“**270.** If an electronic card on which results are recorded or a required document is missing, the judge shall use appropriate means to ascertain the results of the vote.”.

6.48 Custody of items and documents, and verification

The following is substituted for sections 271, 272 and 273 of the Act:

“**271.** During a new compilation or a re-addition, the judge shall have custody of the voting system and of the items and documents entrusted to him.

272. As soon as the new compilation is completed, the judge shall confirm or rectify each report of compiled results and each report on a partial statement of votes and carry out a re-addition of the votes.

273. After completing the re-addition of the votes, the judge shall certify the results of the poll.

The judge shall give the returning officer the electronic cards used to record the results and all the other documents used to complete the new compilation or the re-addition.”.

7. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31st 2009.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general election to be held on November 3rd 2002 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the general election held on November 3rd 2002, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues :

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system :

– the cost of adapting election procedures ;

– non-recurrent costs likely to be amortized ;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the general election on November 3rd 2002 using traditional methods ;

— the number and duration of incidents during which voting was stopped, if any ;

— the advantages and disadvantages of using the new method of voting ;

— the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of electors admitted to vote.

10. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities shall apply to the general election held on November 3rd 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES :

In Saint-Ours, this 4th day of September 2002

MUNICIPALITY OF SAINT-OURS TOWN

By: _____
MARIE BOUCHARD, *Mayor*

DIANE G. BÉLANGER,
Clerk or secretary-treasurer

In Sainte-Foy, on this 5th day of September 2002

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 19th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS
AND GREATER MONTRÉAL

By: _____
JEAN PRONOVOST, *Deputy Minister*

5315

Agreement

An Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING FOR AN ELECTION USING COMPUTERIZED POLLING STATIONS AND “PERFAS-TAB” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF COWANSVILLE, a legal person established in the public interest, having its head office at 220, place Municipale, Cowansville, Province of Québec, represented by the mayor, Arthur Fauteux and the clerk or secretary-treasurer, Claude Deschênes, under a resolution bearing number 370-08-2002, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL, having his main office at 10, rue Pierre-Olivier-Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution no. 291-06-2002, passed at its meeting of June 17th 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 3rd 2002 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.”;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November 3rd 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of August 19h 2002, resolution No. 370-08-2002 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “Computerized polling station” means an apparatus consisting of the following devices:

— a computer with the list of electors for the polling place stored in its memory (the computers at the same polling place are linked together);

— a card reader for cards with bar codes;

— one or more printers per polling place for printing the list of electors who voted during the advance poll or on polling day.

2.2 “Electronic ballot box” means an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballot papers and a modem, where necessary.

2.3 “Vote tabulator” means a device that uses an optical scanner to detect a mark made by an elector in the space provided for that purpose on a ballot paper.

2.4 “Memory card” means a memory device that computes and records the marks made by an elector for each of the candidates whose names are printed on the ballot paper and the number of rejected ballot papers according to the subdivisions of the vote tabulator program.

2.5 “Recipient for ballot paper cards” means a box into which the ballot paper cards fall.

2.6 “Transfer box” means the box in which the ballot paper cards are placed once the results of the poll have been compiled.

2.7 “Ballot paper card” means the card on which the ballot papers are printed.

2.8 “Refused ballot paper card” means a ballot paper card the insertion of which in the tabulator is refused.

2.9 “Confidentiality sleeve” means a sleeve designed to receive the ballot paper card.

3. ELECTION

3.1 For the purposes of the general election of November 3rd 2002 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

4.1 Computerized polling stations

The list of electors for a polling place must correspond to the data provided by the returning officer. Access to the computers at a polling place must be secured by a password.

4.2 Electronic ballot boxes

The electronic ballot boxes used must include the following security mechanisms:

(1) a report displaying a total of “zero” must be automatically produced by an electronic ballot box upon being turned on by the senior deputy returning officer on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card, and must record each procedural operation;

(3) the electronic ballot box must not be placed in “end of election” mode while the poll is still under way;

(4) the compilation of results must not be affected by any type of interference once the electronic ballot box has been placed in “election” mode;

(5) each electronic ballot box must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the electronic ballot boxes are connected to a generator;

(6) if a ballot box is defective, the memory card may be removed and transferred immediately into another electronic ballot box in order to allow the procedure to continue.

5. PROGRAMMING

Each memory card used is specially programmed by the firm PG Elections inc. to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.”

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic ballot box;

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the electronic ballot box;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic ballot box functions correctly;

(5) print out the results compiled by the electronic ballot box at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by the electronic ballot box;

(7) give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box and the partial statements of votes;

(8) put the ballot paper cards from the electronic ballot box recipient into the transfer boxes, seal them and give them to the returning officer;

(9) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the spaces provided for the affixing of the elector’s mark, and go to the polling station in order to obtain another ballot paper card;

(10) advise the returning officer immediately of any defect in the memory card or the electronic ballot box.

80.1. The assistant to the senior deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter’s duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place;

(4) get the pencils and confidentiality sleeves back from the senior deputy returning officer and redistribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) ensure that the polling is properly conducted and maintain order in the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give the electors a ballot paper card, a confidentiality sleeve and a pencil to exercise their right to vote;

(6) receive from electors any ballot paper cards that are refused by the tabulator and give them another ballot paper card, and record the occurrence in the poll book;

(7) note on the screen “has voted” next to the names of electors to whom he has given a ballot paper card.”

6.4 Duties of the poll clerk

The following is substituted for section 81 of the Act :

“**81.** The poll clerk shall, in particular,

- (1) enter in the poll book the particulars relating to the conduct of the polling;
- (2) note on the paper list of electors “has voted” next to the names of electors to whom the deputy returning officer gives ballot paper cards;
- (3) assist the deputy returning officer.”.

6.5 Discretion of the chief electoral officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act :

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the chief electoral officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the chief electoral officer may adapt the provision in order to achieve its object.

The chief electoral officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the chief electoral officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.”.

6.6 Notice of election

The following is added after paragraph 7 of section 99 of the Act :

“(8) the fact that the method of voting is voting by means of electronic ballot boxes.”.

6.7 Polling subdivisions

The following is substituted for section 104 of the Act :

“**104.** The returning officer shall divide the list of electors into polling subdivisions.

The polling subdivisions shall have a number of electors determined by the returning officer. That number shall not be greater than 750 electors.”.

6.8 Verification of computerized polling stations and electronic ballot box

The Act is amended by inserting the following subdivisions after subdivision 1 of Division IV of Chapter VI of Title I :

“§1.1 Verification of computerized polling stations

173.1. The returning officer shall, at a time considered to be expedient but at the latest before the polling stations open on the first day of advance polling or before the polling stations open on polling day, in cooperation with the firm’s representative and, if necessary, the representatives of the candidates, for all polling places, ensure that all computers contain the list of electors for that place. In particular, the returning officer shall perform the following tests :

- (1) searching for an elector using the card with the bar code;
- (2) searching for an elector using the keyboard, typing either the elector’s name or address;
- (3) indicating to the computer that a certain number of electors have voted and ensuring that each computer in the polling place displays “has voted” for the electors concerned;
- (4) printing out the list of electors who have voted, in a non-cumulative way, by elector number and polling subdivision, and ensuring that the results are consistent with the data entered in the computer.

§1.2 Verification of electronic ballot boxes

173.2. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm PG Elections inc. and the representatives of the candidates.

173.3. During the testing of the electronic ballot boxes, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.4. The returning officer shall conduct the test by performing the following operations:

(1) he shall mark the memory card with the returning officer's initials and insert it into the electronic ballot box;

(2) he shall insert into the electronic ballot box a pre-determined number of ballot paper cards, previously marked and tallied manually. The ballot paper cards shall include

(a) a sufficient and pre-determined number of ballot papers correctly marked to indicate a vote for each of the candidates;

(b) a sufficient and pre-determined number of ballot papers that are not correctly marked;

(c) a sufficient and pre-determined number of ballot papers marked to indicate a vote for more than one candidate for the same office;

(d) a sufficient and pre-determined number of blank ballot papers;

(3) he shall place the electronic ballot box in "end of election mode" and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results;

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall initial the seal;

(5) he shall place the tabulator in the travel case and place a seal on it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(6) where an error is detected, the returning officer shall determine with certitude the cause of the error, make the necessary corrections and proceed with a further test, and shall repeat the operation until the optical

scanner of the vote tabulator accurately detects the mark made on a ballot paper and until a perfect compilation of results is obtained. Any error or discrepancy observed shall be noted in the test report;

(7) he may not change the programming for the scanning of the mark made by an elector in the space provided for that purpose without supervision from the firm PG Elections inc.

6.9 Mobile polling station

The said Act is amended by inserting the following sections after section 175:

"175.1. The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it."

175.2. The returning officer shall, before the opening of the advance polling station, give the senior deputy returning officer the ballot box containing the ballot papers from the mobile polling station.

The senior deputy returning officer shall, in the presence of the assistant to the senior deputy returning officer, remove from the ballot box the confidentiality sleeves containing the ballot papers and insert the ballot papers, one by one, in the electronic ballot box."

6.10 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act:

"182. After the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors who were given a ballot paper card;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the spoiled, refused or cancelled ballot paper cards, the unused ballot paper cards, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

182.1. The senior deputy returning officer, in the presence of the candidates or of their representatives who wish to be present, shall open the recipient of the electronic ballot box and place the ballot paper cards from the recipient in one or more transfer boxes, and seal the transfer boxes. The senior deputy returning officer shall then seal the opening of the electronic ballot box. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals. Next, the senior deputy returning officer shall place the electronic ballot box in its travel case and seal it. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

The senior deputy returning officer shall then give the transfer boxes and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the transfer box or boxes until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the transfer boxes and give each deputy returning officer the poll books, the envelopes containing unused ballot paper cards and the forms. Each deputy returning officer shall open the envelopes and take possession of their contents. The spoiled, refused or cancelled ballot paper cards from the first day shall remain in the transfer boxes, which the senior deputy returning officer shall seal.

The senior deputy returning officer, before the persons present, shall remove the seal from the travel case of the tabulator.

The returning officer, or the person designated by the returning officer, shall give each deputy returning officer the list of electors of grouped polling stations, where applicable.

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the electronic ballot box, place it in an envelope, seal the envelope, place the envelope in a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope. They shall also be placed in a sealed transfer box.

The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

185. From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required.”

6.11 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic ballot boxes are used in an election, the polling station shall have the number of polling booths determined by the returning officer.”

6.12 Ballot papers

The following is substituted for section 193 of the Act:

“**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed in accordance with the model shown in the Schedule, by reversing process so that, on the obverse, the indications appear in white on a dark-coloured background and each circle provided for the affixing of the elector’s mark appears in white inside and orange circle. Every ballot paper shall contain bar codes.”

Section 195 of the Act is revoked.

6.13 Identification of the candidates

Section 196 of the Act is amended

(1) by substituting the following for the first paragraph:

“**196.** The ballot paper cards shall contain a ballot paper for the office of mayor and the ballot papers for the office or offices of councillor. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse:”;

(2) by adding the following after subparagraph 3 of the first paragraph:

“(4) the offices in question and, where applicable, the number of the seat to be filled. The indications of the offices in question shall correspond to those contained in the nomination papers.”.

6.14 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** The ballot paper cards shall contain on the obverse, as shown in the Schedule,

- (1) the name of the municipality;
- (2) the indication “municipal election” and the date of the poll;
- (3) the ballot papers;
- (4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown in the Schedule,

- (1) a space intended to receive the initials of the deputy returning officer;
- (2) a space intended to receive the number of the polling subdivision;
- (3) the name and address of the printer;
- (4) the bar code.”.

6.15 Confidentiality sleeve

The Act is amended by inserting the following after section 197:

“**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through it.”.

6.16 Withdrawal of a candidate

Section 198 of the Act is amended by adding the following paragraphs at the end:

“Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.”.

6.17 Withdrawal of authorization or recognition

Section 199 of the Act is amended by adding the following paragraph at the end:

“Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the party or the ticket from which recognition has been withdrawn.”.

6.18 Number of electronic ballot boxes

The following is substituted for section 200 of the Act:

“**200.** The returning officer must ensure that there are as many electronic ballot boxes as polling places available and that a sufficient number of replacement electronic ballot boxes are available in the event of a breakdown or technical deficiency.

The returning officer shall ensure that a sufficient number of transfer boxes are available for each electronic ballot box.”.

6.19 Provision of polling materials

Section 204 of the Act is amended by substituting the word “recipient” for the words “ballot box” in the second line of the first paragraph.

6.20 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

“207. In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic ballot box for the polling place. The senior deputy returning officer shall ensure that the electronic ballot box displays a total of zero recorded ballot papers by verifying the printed report of the electronic ballot box.

The senior deputy returning officer shall keep the report and show it to any person present who wishes to examine it.

The senior deputy returning officer shall examine the documents and materials provided by the returning officer.

207.1. In the hour preceding the opening of the polling stations, the deputy returning officer and poll clerk shall examine the documents and polling materials provided by the returning officer.”.

The following is substituted for section 209 of the Act:

“209. Immediately before the hour fixed for the opening of the poll, the senior deputy returning officer, before the deputy returning officers, the poll clerks and the representatives of the candidates present, shall ensure that the recipient of the electronic ballot box is empty.

The recipient shall then be sealed by the senior deputy returning officer. The senior deputy returning officer and the representatives present who wish to do so shall affix their initials to the seal. The electronic ballot box shall be placed in such a way that it is in full view of the polling officers and the electors.”.

POLLING PROCEDURE

6.21 Presence at the polling station

The following is substituted for the third paragraph of section 214 of the Act:

“In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.”.

6.22 Initialling of ballot papers

The following is substituted for section 221 of the Act:

“221. The deputy returning officer shall give the ballot paper card to which the elector is entitled to each elector admitted to vote, after initialling the ballot paper card in the space reserved for that purpose and entering the number of the polling subdivision. The deputy returning officer shall also give the elector a confidentiality sleeve and a pencil.

The deputy returning officer shall instruct the elector how to insert the ballot paper card in the confidentiality sleeve after having voted.”.

6.23 Voting

The following is substituted for section 222 of the Act:

“222. The elector shall enter the polling booth and, using the pencil given by the deputy returning officer, mark the ballot paper or papers in the space provided for that purpose opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

The elector shall insert the ballot paper card, without folding it, into the confidentiality sleeve in such a way that the deputy returning officer’s initials can be seen.”.

6.24 Following the vote

The following is substituted for section 223 of the Act:

“223. After marking the ballot paper or papers and inserting the ballot paper card in the confidentiality sleeve, the elector shall leave the polling booth and go to the electronic ballot box.

The elector shall allow the senior deputy returning officer to examine the initials of the deputy returning officer.

The elector or, at the elector’s request, the senior deputy returning officer shall insert the ballot paper card into the electronic ballot box without removing it from the confidentiality sleeve.”.

6.25 Automatic acceptance

The Act is amended by inserting the following after section 223:

“**223.1.** The electronic ballot box shall be programmed to accept automatically every ballot paper card that is inserted and that has been given by the deputy returning officer to an elector.

223.2. If a ballot paper card becomes blocked in the recipient receiving ballot paper cards, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall open the recipient, restart the electronic ballot box, close it and seal the recipient again in their presence, before authorizing voting to resume. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal.

The senior deputy returning officer must report to the returning officer the time during which voting was stopped. Mention of that fact shall be made in the poll book.

If a ballot paper card becomes blocked in the tabulator, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall unblock the tabulator and restart the electronic ballot box.”.

6.26 Cancelled ballots

The following is substituted for section 224 of the Act:

“**224.** The senior deputy returning officer shall prevent the insertion into the electronic ballot box of any ballot paper card that is not initialled or that is initialled by a person other than the deputy returning officer of a polling station. The elector must return to the polling station.

The deputy returning officer of the polling station in question shall, if his initials are not on the ballot paper, initial it before the persons present, provided that the ballot paper card is *prima facie* a ballot paper card given to the elector by the deputy returning officer that was not initialled by oversight or inadvertence. The elector shall return to insert the ballot paper card into the electronic ballot box.

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall not give the elector a new ballot paper card.

The occurrence shall be recorded in the poll book.”.

6.27 Visually impaired person

Section 227 of the Act is amended:

(1) by substituting the following for the second and third paragraphs:

“The assistant to the senior deputy returning officer shall set up the template and the ballot paper card, give them to the elector, and indicate to the elector the order in which the candidates’ names appear on the ballot papers and the particulars entered under their names, where such is the case.

The senior deputy returning officer shall help the elector insert the ballot paper card into the electronic ballot box.”; and

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.28 Compilation of results

The following is substituted for sections 229 and 230 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall place the electronic ballot box in “end of election” mode and print the results compiled by the electronic ballot box. The representatives assigned to the polling stations at the polling place may be present.

The report on the compiled results shall indicate the total number of ballot paper cards, the number of ballot papers marked to indicate a vote for more than one candidate, the number of blank ballot papers and the number of valid votes for each office.

230. After the closing of the poll, the deputy returning officer of each polling station the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

The poll clerk of the polling station shall enter the following information in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors admitted to vote;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or representatives assigned to that station.”.

The Act is amended by inserting the following after section 230:

230.1. The senior deputy returning officer shall ensure, before the persons present, that the results entered on the printed report of the electronic ballot box and the total number of unused, spoiled, refused and cancelled ballot paper cards entered on the partial statement of votes of each deputy returning officer correspond to the total number of ballot paper cards issued by the returning officer.

230.2. Using the partial statement or statements of votes, the senior deputy returning officer shall complete an overall statement of votes in a sufficient number so that each representative assigned to a polling station or each candidate can have a copy of it.”.

6.29 Manual counting of the votes

Sections 231 to 244 of the Act, adapted as required, apply if a manual counting of the votes is necessary.

6.30 Compiling sheet

Section 231 of the Act is revoked.

6.31 Electronic counting of the votes

Section 232 of the Act is revoked.

6.32 Rejected ballot papers

The following is substituted for section 233 of the Act:

“**233.** The electronic ballot box shall be programmed in such a way as to reject any ballot paper that

- (1) has not been marked;
- (2) has been marked in favour of more than one candidate;
- (3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot

paper cards inserted, in other words those containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.”.

6.33 Rejected ballot papers, procedural omission, valid ballot papers

Sections 233 to 236 of the Act, adapted as required, shall apply only in the case of a judicial recount.

6.34 Contested validity

The following is substituted for section 237 of the Act:

“**237.** The poll clerk, at the request of the senior deputy returning officer, shall enter in the poll book every objection raised by a representative present at the poll in respect of the validity of the results following the printing of the results compiled by an electronic ballot box.”.

6.35 Partial statement of votes, overall statement of votes and copy given to representatives of candidates

The following is substituted for section 238 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out

- (1) the number of ballot paper cards received from the returning officer;
- (2) the number of spoiled, refused or cancelled ballot paper cards or those that were not inserted into the electronic ballot box;
- (3) the number of unused ballot paper cards.

The deputy returning officer shall make two copies of the partial statement of votes, including a copy that must be given to the senior deputy returning officer.

Using the partial statements of votes, and the results compiled by the electronic ballot box, the senior deputy returning officer shall draw up an overall statement of votes.

The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.”.

Section 240 of the Act is revoked.

6.36 **Separate, sealed and initialled envelopes given to the returning officer**

The following is substituted for sections 241, 242 and 243 of the Act:

“**241.** After the closing of the poll, each deputy returning officer shall place in separate envelopes the list of electors, the poll book, the forms, the spoiled, refused or cancelled ballot paper cards and those that were not inserted into the electronic ballot box, the unused ballot paper cards and the partial statement of votes. Each deputy returning officer shall seal the envelopes and place them in a large envelope, seal it and give it to the senior deputy returning officer. The deputy returning officer, the poll clerk and the representatives assigned to the polling station who wish to do so shall initial the seals.

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or their representatives who wish to be present, the senior deputy returning officer shall place the ballot paper cards from the electronic ballot box recipient in one or more envelopes, and then seal and initial the envelope or envelopes. Any representatives or candidates who wish to do so may initial the seal or seals.

The senior deputy returning officer shall place the envelope or envelopes in a transfer box. He shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. The senior deputy returning officer shall seal the envelope, initial it and place it in one of the transfer boxes.

The senior deputy returning officer shall place the large envelope received from the deputy returning officers in one of the transfer boxes.

The senior deputy returning officer shall then seal and initial the transfer boxes, allow the representatives who wish to do so to initial them, and give the boxes to the returning officer.

243. The senior deputy returning officer shall place in an envelope a copy of the overall statement of votes stating the results of the election and the partial statements of votes. The senior deputy returning officer shall then seal and initial the envelope and give it to the returning officer.

The representatives assigned to the polling stations may initial the seal.”.

Section 244 of the Act is revoked.

6.37 **Addition of votes**

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.”.

6.38 **Adjournment of the addition of votes**

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement has been obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results compiled by an electronic ballot box, the returning officer shall, in the presence of the senior deputy returning officer and the candidates concerned or their representatives if they so wish, print out the results using the memory card taken from the transfer box opened in the presence of the persons listed above.”.

6.39 **Placing in envelope**

The following is substituted for section 249 of the Act:

“**249.** After printing and examining the results, the returning officer shall place them in an envelope together with the memory card.

The returning officer shall seal the envelope, put the envelope in the transfer box and then seal the box.

The returning officer, the candidates and the representatives present may initial the seals.”.

6.40 **New counting of the votes**

The following is substituted for section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices con-

cerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.”.

6.41 Notice to the Minister

Section 251 of the Act is amended by substituting the words “overall statement of votes, the report on the results compiled by the electronic ballot box and the ballot paper cards” for the words “statement of votes and the ballot papers” in the first line of the first paragraph.

6.42 Access to ballot papers

The following is substituted for section 261 of the Act:

“**261.** Except for the purposes of an examination of rejected ballot papers pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the municipality may not issue copies of the ballot papers used, or allow any person to examine the ballot papers, without being required to do so by an order issued by a court or magistrate.”.

6.43 Application for a recount

Section 262 of the Act is amended by substituting the words “an electronic ballot box” for the words “a deputy returning officer, a poll clerk or the returning officer” in the first and second lines of the first paragraph.

7. EXAMINATION OF REJECTED BALLOT PAPERS

Within 120 days from the date on which an election is declared or contested, the returning officer must, at the request of the chief electoral officer or the Minister, examine the rejected ballot papers to ascertain the grounds for rejection. The returning officer must verify the ballot paper cards contained in the transfer boxes.

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the examination to explain the operation of the mechanism for rejecting ballot papers and to answer questions from the participants.

The programming parameters for rejecting ballot papers must be disclosed to the participants.

The examination of the rejected ballot papers shall in no way change the results of the poll or be used in a court to attempt to change the results of the poll.

A report on the examination must be drawn up by the returning officer and include, in particular, the assessment sheet for the grounds for rejection and a copy of the related ballot paper. Any other relevant comment concerning the conduct of the poll must also be included.

Prior to the examination of the rejected ballot papers, the rejected ballot papers must be separated from the other ballot papers, using the electronic ballot box duly programmed by the representative of the firm, and a sufficient number of photocopies must be made for the participants present. The candidates or their representatives may be present during this operation.

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31st 2009.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general elections or subsequent by-elections provided for in the agreement.

Mention of that fact shall be made in the assessment report.

10. ASSESSMENT REPORT

Within 120 days following the general election held on November 3rd 2002, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the chief electoral officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points:

— the preparations for the election (choice of the new method of voting, communications plan, etc.);

- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system :
 - the cost of adapting election procedures ;
 - non-recurrent costs likely to be amortized ;
 - a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected costs of holding the general election on November 3rd 2002 using traditional methods ;
- the number and duration of incidents during which voting was stopped, if any ;
- the advantages and disadvantages of using the new method of voting ;
- the results obtained during the addition of the votes and the correspondence between the number of ballot papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused ;
- a survey of rejected ballot papers, if the survey has been completed.

11. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election held on November 3rd 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES :

In Cowansville, this August 23rd 2002

MUNICIPALITY OF COWANSVILLE

By : _____
ARTHUR FAUTEUX, *mayor*

M^c CLAUDE DESCHÊNES,
clerk or secretary-treasurer of the municipality

In Sainte-Foy, on this 3th day of September 2002

THE CHIEF ELECTORAL OFFICER

In Québec, on this 19th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS
AND GREATER MONTRÉAL

By : _____
JEAN PRONOVOST, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD

District 1
Georges Leduc

Mairie - Mayor

CANDIDAT, Mairie1
Appartenance politique

CANDIDAT, Mairie2
Appartenance politique

CANDIDAT, Mairie3
Appartenance politique

CANDIDAT, Mairie4
Appartenance politique

Conseiller - Council

CANDIDAT, Conseil1
Appartenance politique

CANDIDAT, Conseil2
Appartenance politique

CANDIDAT, Conseil3
Appartenance politique

CANDIDAT, Conseil4
Appartenance politique

CANDIDAT, Conseil5
Appartenance politique

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Initiales du scrutateur
Initials of the DRO

Ville de ...

Élections municipales / Municipal elections

3 novembre 2002 / November 3rd 2002



Gouvernement du Québec

Agreement

An Act respecting elections and referendums
in municipalities
(R.S.Q., c. E-2.2)

AGREEMENT CONCERNING NEW METHODS OF VOTING FOR AN ELECTION USING COMPUTERIZED POLLING STATIONS AND “PERFAS-TAB” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF SAINT-ANDRÉ-AVELLIN, a legal person established in the public interest, having its head office at 119, Principale Saint-André-Avellin, Province of Québec, represented by the mayor, Jean-Denis Lalonde and the clerk or assistant secretary-treasurer, Liette Lafrance under a resolution bearing number 0208-492, hereinafter called

THE MUNICIPALITY

AND

Mtre. Marcel Blanchet, in his capacity as CHIEF ELECTORAL OFFICER OF QUÉBEC, duly appointed to that office under the Election Act (R.S.Q., c. E-3.3), acting in that capacity and having his main office at 3460, rue de La Pérade, in Sainte-Foy, Province of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

the Honourable André Boisclair, in his capacity as MINISTER OF MUNICIPAL AFFAIRS AND GREATER MONTRÉAL, having his main office at 10, rue Pierre-Olivier Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution no. 0206-398, passed at its meeting of June 20th 2002, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 3rd 2002 in the MUNICIPALITY;

WHEREAS sections 659.2 and 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) provide the following:

“**659.2.** A municipality may, in accordance with an agreement made with the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer, test new methods of voting during a poll. The agreement may provide that it also applies to polling held after the poll for which the agreement was entered into; in such case, the agreement shall provide for its period of application.

The agreement must describe the new methods of voting and mention the provisions of this Act it amends or replaces.

The agreement has the effect of law.

659.3. After polling during which a test mentioned in section 659.2 is carried out, the municipality shall send a report assessing the test to the Minister of Municipal Affairs and Greater Montréal and the Chief Electoral Officer.”;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the general election held on November 3rd 2002 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that general election;

WHEREAS an agreement must be entered into between the MUNICIPALITY, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the MUNICIPALITY is solely responsible for the technological choice elected;

WHEREAS the council of the MUNICIPALITY passed, at its meeting of August 19 2002, resolution no. 0208-492 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

WHEREAS the returning officer of the MUNICIPALITY is responsible for the application of this agreement and the means necessary to carry it out;

THEREFORE, the parties agree to the following:

1. PREAMBLE

The preamble to this agreement is an integral part of the agreement.

2. INTERPRETATION

Unless stated otherwise, expressly or as a result of the context of a provision, the following expressions, terms and words have, for the purposes of this agreement, the meaning and application given in this section.

2.1 “Computerized polling station” means an apparatus consisting of the following devices:

— a computer with the list of electors for the polling place stored in its memory (the computers at the same polling place are linked together);

— a card reader for cards with bar codes;

— one or more printers per polling place for printing the list of electors who voted during the advance poll or on polling day.

2.2 “Electronic ballot box” means an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballot papers and a modem, where necessary.

2.3 “Vote tabulator” means a device that uses an optical scanner to detect a mark made by an elector in the space provided for that purpose on a ballot paper.

2.4 “Memory card” means a memory device that computes and records the marks made by an elector for each of the candidates whose names are printed on the ballot paper and the number of rejected ballot papers according to the subdivisions of the vote tabulator program.

2.5 “Recipient for ballot paper cards” means a box into which the ballot paper cards fall.

2.6 “Transfer box” means the box in which the ballot paper cards are placed once the results of the poll have been compiled.

2.7 “Ballot paper card” means the card on which the ballot papers are printed.

2.8 “Refused ballot paper card” means a ballot paper card the insertion of which in the tabulator is refused.

2.9 “Confidentiality sleeve” means a sleeve designed to receive the ballot paper card.

3. ELECTION

3.1 For the purposes of the general election of November 3rd 2002 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

3.2 Before the publication of the notice of election, the municipality must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting.

4. SECURITY MECHANISMS

4.1 Computerized polling stations

The list of electors for a polling place must correspond to the data provided by the returning officer. Access to the computers at a polling place must be secured by a password.

4.2 Electronic ballot boxes

The electronic ballot boxes used must include the following security mechanisms:

(1) a report displaying a total of “zero” must be automatically produced by an electronic ballot box upon being turned on by the senior deputy returning officer on the first day of advance polling and on polling day;

(2) a verification report must be generated on a continuous basis and automatically saved on the memory card, and must record each procedural operation;

(3) the electronic ballot box must not be placed in “end of election” mode while the poll is still under way;

(4) the compilation of results must not be affected by any type of interference once the electronic ballot box has been placed in “election” mode;

(5) each electronic ballot box must be equipped with a back-up power source (battery) able to operate for two to five hours, unless all the electronic ballot boxes are connected to a generator;

(6) if a ballot box is defective, the memory card may be removed and transferred immediately into another electronic ballot box in order to allow the procedure to continue.

5. PROGRAMMING

Each memory card used is specially programmed by the firm PG Elections inc. to recognize and tally ballot papers in accordance with this agreement.

6. AMENDMENTS TO THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

6.1 Election officers

Section 68 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) is amended by inserting the words “senior deputy returning officer, assistant to the senior deputy returning officer” after the word “assistant”.

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer

The following is substituted for section 76 of the Act:

“**76.** The returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he deems necessary for each polling place.

The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.”

6.3 Duties of the senior deputy returning officer, assistant to the senior deputy returning officer and deputy returning officer

The following is substituted for section 80 of the Act:

“**80.** The senior deputy returning officer shall, in particular,

(1) see to the installation and preparation of the electronic ballot box;

(2) ensure that the polling is properly conducted and maintain order in the vicinity of the electronic ballot box;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) ensure that the electronic ballot box functions correctly;

(5) print out the results compiled by the electronic ballot box at the closing of the poll;

(6) complete an overall statement of votes from the partial statements and the results compiled by the electronic ballot box;

(7) give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box and the partial statements of votes;

(8) put the ballot paper cards from the electronic ballot box recipient into the transfer boxes, seal them and give them to the returning officer;

(9) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the spaces provided for the affixing of the elector’s mark, and go to the polling station in order to obtain another ballot paper card;

(10) advise the returning officer immediately of any defect in the memory card or the electronic ballot box.

80.1. The assistant to the senior deputy returning officer shall, in particular,

(1) assist the senior deputy returning officer in the latter’s duties;

(2) receive any elector referred by the senior deputy returning officer;

(3) verify the polling booths in the polling place;

(4) get the pencils and confidentiality sleeves back from the senior deputy returning officer and redistribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular,

(1) see to the arrangement of the polling station;

(2) ensure that the polling is properly conducted and maintain order in the polling station;

(3) facilitate the exercise of the right to vote and ensure that voting is secret;

(4) receive proof of identity from electors;

(5) give the electors a ballot paper card, a confidentiality sleeve and a pencil to exercise their right to vote;

(6) receive from electors any ballot paper cards that are refused by the tabulator and give them another ballot paper card, and record the occurrence in the poll book;

(7) note on the screen “has voted” next to the names of electors to whom he has given a ballot paper card.”

6.4 Duties of the poll clerk

The following is substituted for section 81 of the Act:

“**81.** The poll clerk shall, in particular,

(1) enter in the poll book the particulars relating to the conduct of the polling;

(2) note on the paper list of electors “has voted” next to the names of electors to whom the deputy returning officer gives ballot paper cards;

(3) assist the deputy returning officer.”.

6.5 Discretion of the chief electoral officer upon observing an error, emergency or exceptional circumstance

The following is substituted for section 90.5 of the Act:

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the chief electoral officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the chief electoral officer may adapt the provision in order to achieve its object.

The chief electoral officer shall first inform the Minister of Municipal Affairs and Greater Montréal of the decision he intends to make.

Within 30 days following polling day, the chief electoral officer shall transmit to the President or the Secretary General of the National Assembly a report of the decisions made pursuant to the first paragraph. The President shall table the report in the National Assembly within 30 days of receiving it or, if the National Assembly is not sitting, within 30 days of resumption.”.

6.6 Notice of election

The following is added after paragraph 7 of section 99 of the Act:

“(8) the fact that the method of voting is voting by means of electronic ballot boxes.”.

6.7 Polling subdivisions

The following is substituted for section 104 of the Act:

“**104.** The returning officer shall divide the list of electors into polling subdivisions.

The polling subdivisions shall have a number of electors determined by the returning officer. That number shall not be greater than 750 electors.”.

6.8 Verification of computerized polling stations and electronic ballot box

The Act is amended by inserting the following subdivisions after subdivision 1 of Division IV of Chapter VI of Title I:

“§1.1 Verification of computerized polling stations

173.1. The returning officer shall, at a time considered to be expedient but at the latest before the polling stations open on the first day of advance polling or before the polling stations open on polling day, in cooperation with the firm’s representative and, if necessary, the representatives of the candidates, for all polling places, ensure that all computers contain the list of electors for that place. In particular, the returning officer shall perform the following tests:

(1) searching for an elector using the card with the bar code;

(2) searching for an elector using the keyboard, typing either the elector’s name or address;

(3) indicating to the computer that a certain number of electors have voted and ensuring that each computer in the polling place displays “has voted” for the electors concerned;

(4) printing out the list of electors who have voted, in a non-cumulative way, by elector number and polling subdivision, and ensuring that the results are consistent with the data entered in the computer.

§1.2 Verification of electronic ballot boxes

173.2. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm PG Elections inc. and the representatives of the candidates.

173.3. During the testing of the electronic ballot boxes, adequate security measures must be taken by the returning officer to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.4. The returning officer shall conduct the test by performing the following operations:

(1) he shall mark the memory card with the returning officer's initials and insert it into the electronic ballot box;

(2) he shall insert into the electronic ballot box a pre-determined number of ballot paper cards, previously marked and tallied manually. The ballot paper cards shall include

(a) a sufficient and pre-determined number of ballot papers correctly marked to indicate a vote for each of the candidates;

(b) a sufficient and pre-determined number of ballot papers that are not correctly marked;

(c) a sufficient and pre-determined number of ballot papers marked to indicate a vote for more than one candidate for the same office;

(d) a sufficient and pre-determined number of blank ballot papers;

(3) he shall place the electronic ballot box in "end of election mode" and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results;

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall initial the seal;

(5) he shall place the tabulator in the travel case and place a seal on it; the returning officer and the representatives who wish to do so shall note the number entered on the seal;

(6) where an error is detected, the returning officer shall determine with certitude the cause of the error, make the necessary corrections and proceed with a further test, and shall repeat the operation until the optical scanner of the vote tabulator accurately detects the mark made on a ballot paper and until a perfect compilation of results is obtained. Any error or discrepancy observed shall be noted in the test report;

(7) he may not change the programming for the scanning of the mark made by an elector in the space provided for that purpose without supervision from the firm PG Elections inc."

6.9 Mobile polling station

The said Act is amended by inserting the following sections after section 175:

"175.1. The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it."

175.2. The returning officer shall, before the opening of the advance polling station, give the senior deputy returning officer the ballot box containing the ballot papers from the mobile polling station.

The senior deputy returning officer shall, in the presence of the assistant to the senior deputy returning officer, remove from the ballot box the confidentiality sleeves containing the ballot papers and insert the ballot papers, one by one, in the electronic ballot box."

6.10 Advance polling

The following is substituted for sections 182, 183 and 185 of the Act:

"182. After the close of the advance polling station, the poll clerk shall enter the following particulars in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors who were given a ballot paper card;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place in separate envelopes the spoiled, refused or cancelled ballot paper cards, the unused ballot paper cards, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

182.1. The senior deputy returning officer, in the presence of the candidates or of their representatives who wish to be present, shall open the recipient of the electronic ballot box and place the ballot paper cards from the recipient in one or more transfer boxes, and seal the transfer boxes. The senior deputy returning officer shall then seal the opening of the electronic ballot box. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals. Next, the senior deputy returning officer shall place the electronic ballot box in its travel case and seal it. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

The senior deputy returning officer shall then give the transfer boxes and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the transfer box or boxes until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons present, shall open the transfer boxes and give each deputy returning officer the poll books, the envelopes containing unused ballot paper cards and the forms. Each deputy returning officer shall open the envelopes and take possession of their contents. The spoiled, refused or cancelled ballot paper cards from the first day shall remain in the transfer boxes, which the senior deputy returning officer shall seal.

The senior deputy returning officer, before the persons present, shall remove the seal from the travel case of the tabulator.

The returning officer, or the person designated by the returning officer, shall give each deputy returning officer the list of electors of grouped polling stations, where applicable.

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the electronic ballot box, place it in an envelope, seal the envelope, place the envelope in a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope. They shall also be placed in a sealed transfer box.

The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seals.

185. From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

The results shall be printed out at the location determined by the returning officer. The print-out shall be performed in accordance with the rules applicable to the printing-out of the results from polling day, adapted as required”.

6.11 Booths

The following is substituted for section 191 of the Act:

“**191.** Where electronic ballot boxes are used in an election, the polling station shall have the number of polling booths determined by the returning officer.”.

6.12 Ballot papers

The following is substituted for section 193 of the Act:

“**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed in accordance with the model shown in the Schedule, by reversing process so that, on the obverse, the indications appear in white on a dark-coloured background and each circle provided for the affixing of the elector’s mark appears in white inside an orange circle. Every ballot paper shall contain bar codes.”.

Section 195 of the Act is revoked.

6.13 Identification of the candidates

Section 196 of the Act is amended

(1) by substituting the following for the first paragraph:

“**196.** The ballot paper cards shall contain a ballot paper for the office of mayor and the ballot papers for the office or offices of councillor. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse:”;

(2) by adding the following after subparagraph 3 of the first paragraph:

“(4) the offices in question and, where applicable, the number of the seat to be filled. The indications of the offices in question shall correspond to those contained in the nomination papers.”.

6.14 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** The ballot paper cards shall contain on the obverse, as shown in the Schedule,

- (1) the name of the municipality;
- (2) the indication “municipal election” and the date of the poll;
- (3) the ballot papers;
- (4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown in the Schedule,

- (1) a space intended to receive the initials of the deputy returning officer;
- (2) a space intended to receive the number of the polling subdivision;
- (3) the name and address of the printer;
- (4) the bar code.”.

6.15 Confidentiality sleeve

The Act is amended by inserting the following after section 197:

“**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through it.”.

6.16 Withdrawal of a candidate

Section 198 of the Act is amended by adding the following paragraphs at the end:

“Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the candidates who have withdrawn.

Any vote in favour of those candidates before or after their withdrawal is null.”.

6.17 Withdrawal of authorization or recognition

Section 199 of the Act is amended by adding the following paragraph at the end:

“Where electronic ballot boxes are used in an election, the returning officer shall ensure that the memory card is adjusted so that it does not take into account the party or the ticket from which recognition has been withdrawn.”.

6.18 Number of electronic ballot boxes

The following is substituted for section 200 of the Act:

“**200.** The returning officer must ensure that there are as many electronic ballot boxes as polling places available and that a sufficient number of replacement electronic ballot boxes are available in the event of a breakdown or technical deficiency.

The returning officer shall ensure that a sufficient number of transfer boxes are available for each electronic ballot box.”.

6.19 Provision of polling materials

Section 204 of the Act is amended by substituting the word “recipient” for the words “ballot box” in the second line of the first paragraph.

6.20 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

“**207.** In the hour preceding the opening of the polling stations, the senior deputy returning officer, before the persons present, shall initialize the electronic ballot box for the polling place. The senior deputy returning officer shall ensure that the electronic ballot box displays a total of zero recorded ballot papers by verifying the printed report of the electronic ballot box.

The senior deputy returning officer shall keep the report and show it to any person present who wishes to examine it.

The senior deputy returning officer shall examine the documents and materials provided by the returning officer.

207.1. In the hour preceding the opening of the polling stations, the deputy returning officer and poll clerk shall examine the documents and polling materials provided by the returning officer.”.

The following is substituted for section 209 of the Act:

209. Immediately before the hour fixed for the opening of the poll, the senior deputy returning officer, before the deputy returning officers, the poll clerks and the representatives of the candidates present, shall ensure that the recipient of the electronic ballot box is empty.

The recipient shall then be sealed by the senior deputy returning officer. The senior deputy returning officer and the representatives present who wish to do so shall affix their initials to the seal. The electronic ballot box shall be placed in such a way that it is in full view of the polling officers and the electors.”.

POLLING PROCEDURE

6.21 Presence at the polling station

The following is substituted for the third paragraph of section 214 of the Act:

“In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the senior deputy returning officer and the assistant to the senior deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.”.

6.22 Initialling of ballot papers

The following is substituted for section 221 of the Act:

“**221.** The deputy returning officer shall give the ballot paper card to which the elector is entitled to each elector admitted to vote, after initialling the ballot paper card in the space reserved for that purpose and entering the number of the polling subdivision. The deputy returning officer shall also give the elector a confidentiality sleeve and a pencil.

The deputy returning officer shall instruct the elector how to insert the ballot paper card in the confidentiality sleeve after having voted.”.

6.23 Voting

The following is substituted for section 222 of the Act:

“**222.** The elector shall enter the polling booth and, using the pencil given by the deputy returning officer, mark the ballot paper or papers in the space provided for that purpose opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

The elector shall insert the ballot paper card, without folding it, into the confidentiality sleeve in such a way that the deputy returning officer’s initials can be seen.”.

6.24 Following the vote

The following is substituted for section 223 of the Act:

“**223.** After marking the ballot paper or papers and inserting the ballot paper card in the confidentiality sleeve, the elector shall leave the polling booth and go to the electronic ballot box.

The elector shall allow the senior deputy returning officer to examine the initials of the deputy returning officer.

The elector or, at the elector’s request, the senior deputy returning officer shall insert the ballot paper card into the electronic ballot box without removing it from the confidentiality sleeve.”.

6.25 Automatic acceptance

The Act is amended by inserting the following after section 223:

“**223.1.** The electronic ballot box shall be programmed to accept automatically every ballot paper card that is inserted and that has been given by the deputy returning officer to an elector.

223.2. If a ballot paper card becomes blocked in the recipient receiving ballot paper cards, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall open the recipient, restart the electronic ballot box, close it and seal the recipient again in their presence, before authorizing voting to resume. The senior deputy returning officer and the representatives who wish to do so shall affix their initials to the seal.

The senior deputy returning officer must report to the returning officer the time during which voting was stopped. Mention of that fact shall be made in the poll book.

If a ballot paper card becomes blocked in the tabulator, the senior deputy returning officer, in the presence of the representatives of the candidates who wish to be present, shall unblock the tabulator and restart the electronic ballot box.”.

6.26 Cancelled ballots

The following is substituted for section 224 of the Act:

“**224.** The senior deputy returning officer shall prevent the insertion into the electronic ballot box of any ballot paper card that is not initialled or that is initialled by a person other than the deputy returning officer of a polling station. The elector must return to the polling station.

The deputy returning officer of the polling station in question shall, if his initials are not on the ballot paper, initial it before the persons present, provided that the ballot paper card is *prima facie* a ballot paper card given to the elector by the deputy returning officer that was not initialled by oversight or inadvertence. The elector shall return to insert the ballot paper card into the electronic ballot box.

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall not give the elector a new ballot paper card.

The occurrence shall be recorded in the poll book.”.

6.27 Visually impaired person

Section 227 of the Act is amended:

(1) by substituting the following for the second and third paragraphs:

“The assistant to the senior deputy returning officer shall set up the template and the ballot paper card, give them to the elector, and indicate to the elector the order in which the candidates’ names appear on the ballot papers and the particulars entered under their names, where such is the case.

The senior deputy returning officer shall help the elector insert the ballot paper card into the electronic ballot box.”; and

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.28 Compilation of results

The following is substituted for sections 229 and 230 of the Act:

“**229.** After the closing of the poll, the senior deputy returning officer shall place the electronic ballot box in “end of election” mode and print the results compiled by the electronic ballot box. The representatives assigned to the polling stations at the polling place may be present.

The report on the compiled results shall indicate the total number of ballot paper cards, the number of ballot papers marked to indicate a vote for more than one candidate, the number of blank ballot papers and the number of valid votes for each office.

230. After the closing of the poll, the deputy returning officer of each polling station the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

The poll clerk of the polling station shall enter the following information in the poll book:

(1) the number of ballot paper cards received from the returning officer;

(2) the number of electors admitted to vote;

(3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;

(4) the names of the persons who have performed duties as election officers or representatives assigned to that station.”.

The Act is amended by inserting the following after section 230:

“**230.1.** The senior deputy returning officer shall ensure, before the persons present, that the results entered on the printed report of the electronic ballot box and the total number of unused, spoiled, refused and cancelled ballot paper cards entered on the partial statement of votes of each deputy returning officer correspond to the total number of ballot paper cards issued by the returning officer.

230.2. Using the partial statement or statements of votes, the senior deputy returning officer shall complete an overall statement of votes in a sufficient number so that each representative assigned to a polling station or each candidate can have a copy of it.”.

6.29 Manual counting of the votes

Sections 231 to 244 of the Act, adapted as required, apply if a manual counting of the votes is necessary.

6.30 Compiling sheet

Section 231 of the Act is revoked.

6.31 Electronic counting of the votes

Section 232 of the Act is revoked.

6.32 Rejected ballot papers

The following is substituted for section 233 of the Act:

“**233.** The electronic ballot box shall be programmed in such a way as to reject any ballot paper that

- (1) has not been marked;
- (2) has been marked in favour of more than one candidate;
- (3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words those containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.”.

6.33 Rejected ballot papers, procedural omission, valid ballot papers

Sections 233 to 236 of the Act, adapted as required, shall apply only in the case of a judicial recount.

6.34 Contested validity

The following is substituted for section 237 of the Act:

“**237.** The poll clerk, at the request of the senior deputy returning officer, shall enter in the poll book every objection raised by a representative present at the poll in respect of the validity of the results following the printing of the results compiled by an electronic ballot box.”.

6.35 Partial statement of votes, overall statement of votes and copy given to representatives of candidates

The following is substituted for section 238 of the Act:

“**238.** The deputy returning officer shall draw up the partial statement of votes, setting out

- (1) the number of ballot paper cards received from the returning officer;
- (2) the number of spoiled, refused or cancelled ballot paper cards or those that were not inserted into the electronic ballot box;
- (3) the number of unused ballot paper cards.

The deputy returning officer shall make two copies of the partial statement of votes, including a copy that must be given to the senior deputy returning officer.

Using the partial statements of votes, and the results compiled by the electronic ballot box, the senior deputy returning officer shall draw up an overall statement of votes.

The senior deputy returning officer shall immediately give a copy of the overall statement of votes to the representatives.”.

Section 240 of the Act is revoked.

6.36 Separate, sealed and initialled envelopes given to the returning officer

The following is substituted for sections 241, 242 and 243 of the Act:

“**241.** After the closing of the poll, each deputy returning officer shall place in separate envelopes the list of electors, the poll book, the forms, the spoiled, refused or cancelled ballot paper cards and those that were not inserted into the electronic ballot box, the unused ballot paper cards and the partial statement of votes. Each deputy returning officer shall seal the envelopes and place them in a large envelope, seal it and give it to the senior deputy returning officer. The deputy returning officer, the poll clerk and the representatives assigned to the polling station who wish to do so shall initial the seals.

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or their representatives who wish to be present, the senior deputy returning officer shall place the ballot paper cards from the electronic ballot box recipient in one or more envelopes, and then seal and initial the envelope or envelopes. Any representatives or candidates who wish to do so may initial the seal or seals.

The senior deputy returning officer shall place the envelope or envelopes in a transfer box. He shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. The senior deputy returning officer shall seal the envelope, initial it and place it in one of the transfer boxes.

The senior deputy returning officer shall place the large envelope received from the deputy returning officers in one of the transfer boxes.

The senior deputy returning officer shall then seal and initial the transfer boxes, allow the representatives who wish to do so to initial them, and give the boxes to the returning officer.

243. The senior deputy returning officer shall place in an envelope a copy of the overall statement of votes stating the results of the election and the partial statements of votes. The senior deputy returning officer shall then seal and initial the envelope and give it to the returning officer.

The representatives assigned to the polling stations may initial the seal.”

Section 244 of the Act is revoked.

6.37 Addition of votes

The following is substituted for section 247 of the Act:

“**247.** The returning officer shall proceed with the addition of the votes using the overall statement of votes drawn up by each senior deputy returning officer.”

6.38 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The returning officer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement has been obtained.

Where it is not possible to obtain an overall statement of votes, or the printed report on the results compiled by an electronic ballot box, the returning officer shall, in the presence of the senior deputy returning officer and the candidates concerned or their representatives if they so wish, print out the results using the memory card taken from the transfer box opened in the presence of the persons listed above.”

6.39 Placing in envelope

The following is substituted for section 249 of the Act:

“**249.** After printing and examining the results, the returning officer shall place them in an envelope together with the memory card.

The returning officer shall seal the envelope, put the envelope in the transfer box and then seal the box.

The returning officer, the candidates and the representatives present may initial the seals.”

6.40 New counting of the votes

The following is substituted for section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.”

6.41 Notice to the Minister

Section 251 of the Act is amended by substituting the words “overall statement of votes, the report on the results compiled by the electronic ballot box and the ballot paper cards” for the words “statement of votes and the ballot papers” in the first line of the first paragraph.

6.42 Access to ballot papers

The following is substituted for section 261 of the Act:

“**261.** Except for the purposes of an examination of rejected ballot papers pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the municipality may not issue copies of the ballot papers used, or allow any person to examine the ballot papers, without being required to do so by an order issued by a court or magistrate.”.

6.43 Application for a recount

Section 262 of the Act is amended by substituting the words “an electronic ballot box” for the words “a deputy returning officer, a poll clerk or the returning officer” in the first and second lines of the first paragraph.

7. EXAMINATION OF REJECTED BALLOT PAPERS

Within 120 days from the date on which an election is declared or contested, the returning officer must, at the request of the chief electoral officer or the Minister, examine the rejected ballot papers to ascertain the grounds for rejection. The returning officer must verify the ballot paper cards contained in the transfer boxes.

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the examination to explain the operation of the mechanism for rejecting ballot papers and to answer questions from the participants.

The programming parameters for rejecting ballot papers must be disclosed to the participants.

The examination of the rejected ballot papers shall in no way change the results of the poll or be used in a court to attempt to change the results of the poll.

A report on the examination must be drawn up by the returning officer and include, in particular, the assessment sheet for the grounds for rejection and a copy of the related ballot paper. Any other relevant comment concerning the conduct of the poll must also be included.

Prior to the examination of the rejected ballot papers, the rejected ballot papers must be separated from the other ballot papers, using the electronic ballot box duly programmed by the representative of the firm, and a sufficient number of photocopies must be made for the participants present. The candidates or their representatives may be present during this operation.

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before November 8, 2010.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general elections or subsequent by-elections provided for in the agreement.

Mention of that fact shall be made in the assessment report.

10. ASSESSMENT REPORT

Within 120 days following the general election held on 3 November 2002, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the chief electoral officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points:

- the preparations for the election (choice of the new method of voting, communications plan, etc.);
- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system:
- the cost of adapting election procedures;
- non-recurrent costs likely to be amortized;

— a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected costs of holding the general election on November 3rd 2002 using traditional methods;

— the number and duration of incidents during which voting was stopped, if any;

— the advantages and disadvantages of using the new method of voting;

— the results obtained during the addition of the votes and the correspondence between the number of ballot papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused;

— a survey of rejected ballot papers, if the survey has been completed.

11. APPLICATION OF THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election held on November 3rd 2002 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

This agreement has effect from the time when the returning officer performs the first act for the purposes of an election to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES :

In Saint-André-Avellin, this 29th day of August 2002

MUNICIPALITY OF SAINT-ANDRÉ-AVELLIN

By : _____
JEAN-DENIS LALONDE, *Mayor*

LIETTE LAFRANCE,
*Clerk or assistant secretary-treasurer
of the municipality*

In Sainte-Foy, on this 3th day of September 2002

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 19th day of September 2002

THE MINISTER OF MUNICIPAL AFFAIRS
AND GREATER MONTRÉAL

By : _____
JEAN PRONOVOST, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD

The ballot card features an orange header bar at the top with two black rectangular marks. Below this is a dark grey rounded rectangle containing two sections. The first section, titled 'Mairie', lists four candidates: 'CANDIDAT, Mairie1', 'CANDIDAT, Mairie2', 'CANDIDAT, Mairie3', and 'CANDIDAT, Mairie4'. Each candidate name is followed by 'Appartenance politique' and a circular orange bubble with a white center. The second section, titled 'Conseiller', lists five candidates: 'CANDIDAT, Conseil1', 'CANDIDAT, Conseil2', 'CANDIDAT, Conseil3', 'CANDIDAT, Conseil4', and 'CANDIDAT, Conseil5'. Each candidate name is followed by 'Appartenance politique' and a circular orange bubble with a white center. On the left side of the card, there are several black rectangular marks. On the right side, there is a vertical orange line with the text 'Droits d'auteur Solutions Nixsoft Inc. 2002' written vertically.

Mairie

CANDIDAT, Mairie1
Appartenance politique

CANDIDAT, Mairie2
Appartenance politique

CANDIDAT, Mairie3
Appartenance politique

CANDIDAT, Mairie4
Appartenance politique

Conseiller

CANDIDAT, Conseil1
Appartenance politique

CANDIDAT, Conseil2
Appartenance politique

CANDIDAT, Conseil3
Appartenance politique

CANDIDAT, Conseil4
Appartenance politique

CANDIDAT, Conseil5
Appartenance politique

Droits d'auteur Solutions Nixsoft Inc. 2002



Initiales du scrutateur

Ville de ...

Élections municipales

3 novembre 2002



Draft Regulations

Draft Regulation

An Act respecting collective agreement decrees
(R.S.Q., c. D-2)

Cartage industry – Montréal — Amendments

Notice is hereby given in accordance with section 5 of the Act respecting collective agreement decrees (R.S.Q., c. D-2), that the Minister of State for Human Resources and Labour and Minister of Labour has received an application from the contracting parties to amend the Decree respecting the cartage industry in the Montréal region (R.R.Q., 1981, c. D-2, r.6) and that, in accordance with sections 10 and 13 of the Regulations Act (R.S.Q., c. R-18.1), the Decree to amend the Decree respecting the cartage industry in the Montréal region, a copy of which is attached hereto, may be made by the Government at the expiry of the 10 days following this publication.

Under section 12 of the Regulations Act, this draft regulation may be made at the expiry of a period shorter than the 45-day period applicable under section 11 of that Act by reason of the urgency due to the following circumstances:

— the draft Regulation must come into force no later than 1 January 2003, date of the expiry of the Decree respecting the cartage industry in the Montréal region; that date will not be met if the 45-day publication period is applied.

The purpose of the requested amendments is to update certain working conditions unchanged since 5 September 2001. To that end, the draft Regulation proposes primarily to amend the hourly wage rates and replace the sections respecting the group insurance plan and the complementary pension plan. The draft Regulation also proposes to amend the term of the Decree in order for the Decree to remain in force until 30 September 2006 and for it to be automatically renewed from year to year thereafter, unless the union party or employer party opposes the renewal.

The consultation period shall serve to clarify the impact of the amendments proposed. According to the 2001 Annual report of the Comité paritaire de l'industrie du camionnage de la région de Montréal, the Decree governs 175 employers, 88 artisans and 585 employees.

Further information may be obtained from Ms. Danièle Pion, Direction des politiques, de la construction et des décrets, ministère du Travail, 200 chemin Sainte-Foy, 5^e étage, Québec (Québec) G1R 5S1, telephone: (418) 643-4198, Fax: (418) 644-6969, E-mail: danièle.pion@travail.gouv.qc.ca

Any interested person having comments to make concerning this matter is asked to send them in writing, before the expiry of that period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec) G1R 5S1.

ROGER LECOURT,
Deputy Minister of Labour

Decree to amend the Decree respecting the cartage industry in the Montréal region*

An Act respecting collective agreement decrees
(R.S.Q., c. D-2, s. 2 and 6.1)

1. The following is substituted for section 5.01 of the Decree respecting the cartage industry in the Montréal region:

“**5.01.** Minimum hourly rates are the following for each job classification listed below:

* The last amendments to the Decree respecting the cartage industry in the Montréal region (R.R.Q., 1981, c. D-2, r.6) were approved by the regulation made by Order in Council No. 983-2001 dated 23 August 2001 (2001, G.O. 2, 4892). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2002, updated to 1 March 2002.

Job classification**as of***(insert the date of the coming into force of the Decree)*

| | | as of 2003-10-01 | Hourly rates as of 2004-10-01 | as of 2005-10-01 |
|-----------------------|---------|-----------------------------|--|-----------------------------|
| (a) helper | \$9.55 | \$9.95 | \$10.35 | \$10.75; |
| (b) driver | \$11.85 | \$12.40 | \$12.95 | \$13.50; |
| (c) truck driver | \$12.85 | \$13.40 | \$13.95 | \$14.50; |
| (d) tractor driver | \$13.35 | \$13.90 | \$14.45 | \$15.00; |
| (e) towmotor operator | \$12.85 | \$13.40 | \$13.95 | \$14.50; |
| (f) dockman | \$11.35 | \$12.35 | \$12.35 | \$12.85.”. |

2. The following is substituted for section 9.01 :

“**9.01.** The group insurance plan adopted by the contracting parties is administered by the Comité paritaire du camionnage de la région de Montréal.

The monthly premium is paid in part by the employer and in part by the employees.

The monthly premium payable by the employer for each insurable employee in the plan is \$140 as of *(insert here the date of the coming into force of the Decree)*, \$145 as of 1 February 2003, \$150 as of 1 February 2004 and \$155 as of 1 February 2005.

The monthly premium payable by each insurable employee is the difference between the premium payable by the employer and the premium required by the insurer and the maximum is \$40.07 as of *(insert here the date of the coming into force of the Decree)*, \$54,51 as of 1 February 2003, \$71.74 as of 1 February 2004, \$92,23 as of 1 February 2005 and \$121.49 as of 1 February 2006.

For the employee who works less than 40 hours during the month, where he receives less than \$500 in the month, the monthly premium is \$110,44 as of *(insert here the date of the coming into force of the Decree)*, \$126.85 as of 1 February 2003, \$145.93 as of 1 February 2004 and must be entirely paid by the employer. As of 1 February 2005, the difference between the premium payable by the employer mentioned in the third paragraph and the premium required by the insurer is payable by each insurable employee and the maximum is \$18.12, and as of 1 February 2006, the maximum is \$38.94.”.

3. The following is substituted for sections 10.02 and 10.03 :

“**10.02.** The obligatory contribution of employees for each hour worked is \$0.60 as of *(insert here the date of the coming into force of the Decree)*, \$0.65 as of 1 October 2003, \$0.70 as of 1 October 2004 and \$0.75 as of 1 October 2005.

10.03. The obligatory contribution of employers for each hour worked is \$0.70 as of *(insert here the date of the coming into force of the Decree)*, \$0.75 as of 1 October 2003, \$0.80 as of 1 October 2004 and \$0.85 as of 1 October 2005.”.

4. The following is substituted for section 12.01 :

“**12.01.** The Decree remains in force until 30 September 2006. It is automatically renewed from year to year thereafter, unless one of the contracting parties opposes it by sending a written notice to the Minister of Labour and to the other contracting party during the month of June 2006 or during the month of June of any subsequent year.”.

5. This Decree comes into force on the day of its publication in the *Gazette officielle du Québec*.

5316

Draft Regulation

Highway Safety Code
(R.S.Q., c. C-24.2)

Fees exigible and return of confiscated objects — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the “Regulation to amend the Regulation respecting fees exigible under the Highway Safety Code and the return of confiscated objects” made by the Société de l’assurance automobile du Québec, the text of which appears below, may be submitted to the Government for approval after forty-five days have elapsed from the date of this publication.

The draft regulation sets the fee at \$100 for a review based on a driving record of a decision by the Société de l’assurance automobile du Québec to suspend a licence to drive a road vehicle or the right to obtain a licence or the decision to prohibit driving for 90 days, in the case of a person who drove while impaired by alcohol. The review fee is \$200 when a hearing is requested.

The draft regulation sets the fee for obtaining a learner’s licence at \$6 and \$4 for learner’s licence renewal.

Additional information may be obtained from Mr. Marcel Lesieur, Société de l’assurance automobile du Québec, 333, boulevard Jean-Lesage, C-4-1, P.O. Box 19600, QUÉBEC QC G1K 8J6; by telephone at (418) 528-4417.

Any person wishing to make comments on the matter must forward them in written form, before expiry of the 45-day period, to the Chairman and CEO of the Société de l’assurance automobile du Québec, 333, boulevard Jean-Lesage, N-6-2, P.O. Box 19600, QUÉBEC QC G1K 8J6.

JACQUES BRIND’AMOUR,
*Chairman and CEO of the
Société d’assurance automobile du Québec*

Regulation to amend the Regulation respecting fees exigible under the Highway Safety Code and the return of confiscated objects*

Highway Safety Code
(R.S.Q., c. C-24.2, s. 624, 1st par., subpar. 3;
2001, c. 29, s. 17)

1. Section 4 of the Regulation respecting fees exigible under the Highway Safety Code and the return of confiscated objects is amended:

(1) by inserting “a learner’s licence,” after “Highway Safety Code” in subparagraph 1 of the first paragraph;

(2) by deleting subparagraph 2;

(3) by inserting the following after subparagraph 4.10:

“4.11 \$4 for the renewal of a learner’s licence.”.

2. The Regulation is amended by inserting the following Division after section 12.2:

“DIVISION 10.3 REVIEW FEE

12.3 The fee for the review of a decision taken under section 202.4 of the Highway Safety Code to suspend a licence or the right to obtain a licence for 90 days, or to prohibit driving for that length of time is \$100.

The review fee is \$200 when a hearing is requested.”.

3. This regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5311

* The latest amendments to the Regulation respecting fees exigible under the Highway Safety Code and the return of confiscated objects, approved by Order in Council 646-91 dated 8 May 1991 (1991, *G.O.* 2, 1695), were made by the regulations approved by O.C. 1498-2000 dated 20 December 2000 (2001, *G.O.* 2, 11) and 947-2002 dated 21 August 2002 (2002, *G.O.* 2, 4506). For prior amendments, see the Tableau des modifications et Index sommaire, Éditeur officiel du Québec, 2002, updated to 1 March 2002.

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Dental technicians — Code of ethics — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R- 18.1), that the Regulation to amend the Code of ethics of the members of the Ordre des techniciennes et techniciens dentaires du Québec, adopted by the Bureau of the Ordre des techniciennes et techniciens dentaires du Québec, may be submitted to the Government which could approve it, with or without amendment, upon the expiry of 45 days following this publication.

The purpose of the Regulation is to update the Code of ethics of the members of the Ordre des techniciennes et techniciens dentaires du Québec as regards the duties and obligations of dental technicians towards clients.

The Regulation specifies the rules applicable to dental technicians respecting the terms and conditions governing the exercise of the right of access and correction to the information filed in their clients' records, as well as the obligation to release documents to their clients.

According to the Ordre des techniciennes et techniciens dentaires du Québec:

(1) As regards the protection of the public, the Regulation specifies the rights of clients in respect of access to records, of the possibility to make corrections in respect of records concerning them and of the release of documents in accordance with sections 60.5 and 60.6 of the Professional Code; and

(2) The Regulation does not have any impact on any business, small or medium-sized.

Further information concerning the draft Regulation may be obtained by contacting Linda Carbone, Director General and Secretary of the Order, Ordre des techniciennes et techniciens dentaires du Québec, 500, rue Sherbrooke Ouest, bureau 900, Montréal (Québec) H3A 3C6, tel.: (514) 282-3837; fax: (514) 844-7556.

Any person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. These comments will be sent by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that adopted the Regulation as well as to interested persons, departments and bodies.

JEAN-K. SAMSON,
*Chair of the Office
des professions du Québec*

Regulation to amend the Code of ethics of the members of the Ordre des techniciennes et techniciens dentaires du Québec¹

Professional Code
(R.S.Q., c. C-26, s. 87)

1. The Code of ethics of the members of the Ordre des techniciennes et techniciens dentaires du Québec is amended by substituting the following for subdivision 7 of Division III:

“§7. *Terms and conditions governing the exercise of the rights of access and correction provided for in sections 60.5 and 60.6 of the Professional Code as well as the obligation for dental technicians to transmit documents to a client*

3.07.01. A dental technician may require that a request contemplated in section 3.07.02, 3.07.05 or 3.07.08 be made at the workplace of the technician during regular business hours.

3.07.02. In addition to the special rules prescribed by law, a dental technician shall respond promptly, and no later than within 30 days of its receipt, to any request made by a client:

(1) to examine documents concerning the client in any record established in the client's respect; and

(2) to obtain a copy of documents concerning the client in any record established in the client's respect.

¹ The Code of ethics of the members of the Ordre des techniciennes et techniciens dentaires du Québec (R.R.Q., 1981, c. C-26, r.157) was amended once by the Regulation made by Order in Council 991-97 dated 6 August 1997 (1997, G.O. 2, 4327).

3.07.03. A dental technician who grants a request referred to in section 3.07.02 shall give the client access to the documents, free of charge. However, the dental technician may, with respect to a request referred to in paragraph 2 of section 3.07.02, charge from the client reasonable fees not exceeding the cost for reproducing or transcribing the documents or the cost for transmitting a copy.

The dental technician who charges such fees shall, before proceeding with the copying, transcribing or sending of the documents, inform the client of the approximate amount that must be paid.

3.07.04. A dental technician who, pursuant to the second paragraph of section 60.5 of the Professional Code, denies a client access to the information concerning such client contained in any record established in the client's respect, shall notify the client in writing of the reasons for the refusal.

3.07.05. In addition to the special rules prescribed by law, a dental technician shall respond promptly, and no later than within 30 days of its receipt, to any request made by a client:

(1) to cause to be corrected, in any document concerning the client and included in a record established in the client's respect, any information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected;

(2) to cause to be deleted any information that is outdated or not justified by the object of the record established in the client's respect; or

(3) to file in the record established in the client's respect the written comments made by the client.

3.07.06. A dental technician who grants a request referred to in section 3.07.05 shall issue to the client, free of charge, a copy of the document or part of the document to allow the client to see for himself or herself that the information was corrected or deleted or, as the case may be, an attestation that the written comments of the client were filed in the record.

3.07.07. Upon request by a client, a dental technician shall send a copy free of charge of the corrected information or an attestation that the information was deleted or, as the case may be, that the written comments were filed in the record to any person from whom the dental technician received the information that was subject to the correction, deletion or comments and to any person to whom the information was provided.

3.07.08. A dental technician shall respond promptly to any written request made by a client to retrieve a document given by the client.

The dental technician shall indicate in the client's record, where applicable, the reasons supporting the client's request."

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5309

Draft Regulation

An Act respecting the Régie de l'énergie
(R.S.Q., c. R-6.01)

Régie de l'énergie

— Conditions under which and cases in which a supply contract entered into by the electric power distributor must be approved

Regulation respecting the conditions under which and the cases in which a supply contract entered into by the electric power distributor must be approved by the Régie de l'énergie

Notice is hereby given, in accordance with sections 10 and 12 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the conditions under which and the cases in which a supply contract entered into by the electric power distributor must be approved by the Régie de l'énergie, the text of which appears below, may be approved by the Government upon the expiry of 15 days following this publication.

The Regulation establishes the cases in which Hydro-Québec, when carrying on its electric power distribution activities, may not enter into an electric power supply contract without obtaining the approval of the Régie de l'énergie, as well as the conditions for obtaining that approval.

Under section 13 of the Regulations Act, the Regulation may be approved in a shorter period than that provided for in section 11 of that Act because of the urgency due to the following circumstances:

— to ensure electric power supply to Québec markets from 2006, Hydro-Québec, carrying on its electric power distribution activities, solicited tenders for the purchase of 1 200 MW under which electric power supply contracts must be signed in December 2002;

— it is essential, considering the importance of those activities, to determine as soon as possible which cases require the approval of the Régie and the conditions for obtaining that approval.

Further information may be obtained by contacting the Secretary of the Régie de l'énergie, tour de la Bourse, 800, place Victoria, bureau 255, C.P. 001, Montréal (Québec) H4Z 1A2 or by fax at (514) 873-2070.

Any person having comments to make on the Regulation is asked to send them in writing, before the expiry of the 15-day period, to the Secretary of the Régie de l'énergie, tour de la Bourse, 800, place Victoria, bureau 255, C.P. 001, Montréal (Québec) H4Z 1A2 or by fax at (514) 873-2070.

VÉRONIQUE DUBOIS, *advocate*
Secretary of the
Régie de l'énergie

Regulation respecting the conditions under which and the cases in which a supply contract entered into by the electric power distributor must be approved by the Régie de l'énergie

An Act respecting the Régie de l'énergie
(R.S.Q., c. R-6.01, s. 114, 1st par., subpar. 8)

1. The electric power distributor shall obtain the approval of the Régie de l'énergie before entering into an electric power supply contract where the term is over one year, from the scheduled start of deliveries to the end.

An application for approval must be submitted to the Régie at least 90 days before the date of coming into force of the contract, unless the electric power distributor shows to the Régie that special circumstances prevented it. That period is 60 days for contracts to be awarded following the electric power distributor's first tender solicitation.

The contract must be attached to the application and it must contain the following information:

(1) a description of the contribution of the contract to the supply plan and, where the tender solicitation is filled by several contracts, a description of the contribution of the contract to the tender solicitation;

(2) where the tender specifications provide that all or part of the needs of Québec markets met by a particular source of supply must be supplied out of an energy block determined by regulation of the Government, a description of the contribution of the contract to the energy block determined by regulation of the Government, to the supply plan and to the tender solicitation where it is filled by several contracts;

(3) a description of the guarantees provided for in the contract to cover financial risks and risks related to sufficient supplies as well as an analysis of the residual risks;

(4) the demonstration that the contract carries the lowest price, for the quantity of electric power and the conditions stipulated, taking into account the applicable transmission cost and, where the tender specifications provide that all or part of the needs of Québec markets met by a particular source of supply must be supplied out of an energy block determined by regulation of the Government, the demonstration that the lowest price does not exceed the maximum price established by regulation of the Government;

(5) a report comparing the prices of the electric power supply contract with the prices of the main products available on America's northeastern markets and the applicable transmission costs;

(6) the demonstration that the characteristics of the contracts approved in the supply plan are met; and

(7) where applicable, the actions taken by the electric power distributor following the report prepared by the Régie for the purpose of exercising its power of monitoring of the tender solicitation and contract awarding procedure and code of ethics.

2. The electric power distributor must obtain the approval of the Régie before entering into an electric power supply contract where the term is between three months and one year, from the scheduled start of deliveries to the end, and for which the tenderer is the only one that has taken part in the tender solicitation, when all the tenderers are associated or affiliated with one another or with the electric power distributor or where the lowest tenderer is associated or affiliated with the electric power distributor.

An application for approval must be submitted to the Régie at least 5 days, other than those listed in section 6 of the Code of Civil Procedure (R.S.Q., c. C-25), Saturdays and 24 and 31 December, before the date of coming into force of the contract, unless the electric power distributor proves to the Régie that special circumstances prevented it.

The contract must be attached to the application and it must contain the following information:

(1) the demonstration that the contract carries the lowest price, for the quantity of electric power and the conditions stipulated, taking into account the applicable transmission cost;

(2) a report comparing the prices of the electric power supply contract with the prices of the main products available on America's northeastern markets and the applicable transmission costs; and

(3) where applicable, the actions taken by the electric power distributor following the report prepared by the Régie for the purpose of exercising its power of monitoring of the tender solicitation and contract awarding procedure and code of ethics.

For the purposes of the first paragraph, the tenderer of a supply contract referred to in the last paragraph of section 2 of the Act respecting the Régie de l'énergie (R.S.Q., c. R-6.01) is deemed to be affiliated with the electric power distributor.

3. The electric power distributor must obtain the approval of the Régie before entering into a comprehensive general agreement with a supplier for multiple electric power supplies exempted from soliciting tenders by the Régie under the Act respecting the Régie de l'énergie.

An application for approval must be submitted to the Régie at least 90 days before the date of coming into force of the agreement, unless the electric power distributor proves to the Régie that special circumstances prevented it.

The application must be accompanied with the agreement and the following information:

(1) a description and forecast of the specific needs referred to in the agreement;

(2) the demonstration that the characteristics of the agreement approved in the supply plan are met;

(3) a description of the method used to determine the prices of the transactions; and

(4) the demonstration that the agreement meets the conditions of the exemption granted by the Régie.

4. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

Municipal Affairs

Gouvernement du Québec

O.C. 1156-2002, 2 October 2002

An Act respecting municipal territorial organization
(R.S.Q., c. O-9)

Amalgamation of Ville de Magog, Canton de Magog
and Village d'Omerville

WHEREAS, on 4 July 2001, the Minister of Municipal Affairs and Greater Montréal requested the Commission municipale du Québec to carry out a study into the advantages and disadvantages of amalgamation of Ville de Magog and Village d'Omerville, in accordance with section 125.5 of the Act respecting municipal territorial organization (R.S.Q., c. O-9);

WHEREAS the Commission municipale du Québec availed itself of section 125.9 of the Act respecting municipal territorial organization to extend its mandate and include in its study Canton de Magog;

WHEREAS the Commission municipale du Québec held a public hearing on 20 August 2002 and submitted a report to the Government in which it made a justified positive recommendation on the amalgamation;

WHEREAS the Commission municipale du Québec has forwarded its report to the Minister of Municipal Affairs and Greater Montréal;

WHEREAS the Government may order the constitution of a local municipality under section 125.11 of the Act respecting municipal territorial organization;

WHEREAS it is expedient, under sections 125.11 and 125.27 of the Act respecting municipal territorial organization, to order the constitution of a local municipality resulting from the amalgamation of the municipalities referred to in the report of the Commission municipale du Québec;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal:

THAT a local municipality be constituted through the amalgamation of Ville de Magog, Canton de Magog and Village d'Omerville on the following conditions:

1. The name of the new municipality shall be "Ville de Magog".

2. The description of the territory of the new town shall be the description drawn up by the Minister of Natural Resources on 26 September 2002; that description appears as Schedule A.

3. The new town shall be governed by the Cities and Towns Act (R.S.Q., c. C-19).

4. The territory of Municipalité régionale de comté de Memphrémagog includes the territory of the new town.

5. Until a majority of the candidates elected in the first general election begin their terms, a nine-member provisional council shall administer the new town.

The mayor and four councillors of the former Ville de Magog, the mayor and one councillor of the former Canton de Magog and the mayor and one councillor of the former Village d'Omerville shall be the members of the provisional council.

Every member of the provisional council shall be chosen by and from among the council members of the former municipality that member represents.

If the mayor's seat or a councillor's seat becomes vacant during the term of the provisional council of the former Ville de Magog, a vote that is not cast shall devolve upon a councillor chosen by and from among the members of the provisional council who were council members of that former municipality.

If a seat held by the mayor representing the other municipalities becomes vacant on the council, that person may be replaced by a council member of the former municipality from which the seat has become vacant. If the seat is not filled, the vote that is not cast shall devolve upon one of the mayors of one of the former municipalities by secret ballot from the mayors.

If a seat is vacant on the provisional council or is not filled, the Minister of Municipal Affairs and Greater Montréal may appoint a person to sit on the council.

6. The mayor of the former Ville de Magog shall act as mayor of the new town until the mayor elected in the first general election begins his or her term.

The mayor of the former Canton de Magog and the mayor of the former Village d'Omerville shall each act as acting mayor of the new town. The mayor of the former Canton de Magog shall first perform that duty from the coming into force of this Order in Council to the last day of the month of that coming into force, date from which the mayor of the former Village d'Omerville will perform that duty for one month, and so on alternately each month, until the date on which the term of the majority of the candidates elected in the first general election begins.

Until then, the mayors of the former municipalities shall continue to sit on the council of Municipalité régionale de comté de Memphrémagog and they shall have the same number of votes as they had before the coming into force of this Order in Council. In addition, they shall continue to be qualified to act and participate in any committee and fulfill any other duty within the regional county municipality.

7. Throughout the term of the provisional council, the council members shall receive the salary that was paid to them before the coming into force of this Order in Council.

8. A majority of the members of the provisional council in office at any time shall constitute a quorum.

9. The first sitting of the provisional council shall be held at the town hall of the former Ville de Magog.

10. The clerk of the former Ville de Magog shall act as clerk of the new town and shall be the returning officer during the first general election.

11. The polling for the first general election shall be held on 1 December 2002. The second general election shall be held in 2005.

12. For the purposes of the first general election, the new town shall be divided into ten electoral districts, which are described in Schedule B. The sector made up of the territory of the former Village d'Omerville makes a district.

13. If a budget was adopted by a former municipality for the fiscal year during which this Order in Council comes into force

(1) that budget remains applicable;

(2) the expenditures and revenues of the new town, for the remainder of the fiscal year during which this Order in Council comes into force, shall continue to be accounted for separately on behalf of each of the former municipalities as if the amalgamation had not taken place;

(3) for the remainder of the fiscal year during which this Order in Council comes into force, an expenditure recognized by the council of the new town as resulting from the amalgamation shall be charged to each of the former municipalities, based on the proportion of their standardized property values to the total values of the former municipalities, as they appear on the financial statements of the former municipalities for the fiscal year preceding the year in which this Order in Council comes into force; and

(4) the subsidy paid for the first year of the amalgamation under the Programme d'aide financière au regroupement municipal (PAFREM), after deducting the expenditures recognized by the council under paragraph 3 and financed by the subsidy, shall constitute a reserve to be paid into the general working fund of the new town for the first fiscal year for which it adopts a budget for the entire territory it covers.

14. Any surplus accumulated on behalf of a former municipality at the end of the last fiscal year for which the former municipalities adopted separate budgets shall be used for the benefit of the ratepayers in the sector made up of the territory of the former municipality to carry out public works in that sector, to reduce taxes applicable to all the taxable immovables in that sector or to repay any debt charged to the sector.

15. Any deficit accumulated on behalf of a former municipality at the end of the last fiscal year for which separate budgets were adopted shall continue to be charged to all the taxable immovables in the sector made up of the territory of the former municipality.

16. A working fund of \$2 000 000 shall be constituted of the following sums for the new town:

(1) an amount of \$1 020 000 from the sums borrowed by the former Ville de Magog to its working fund dated 31 December 2002. Those sums shall continue to be repaid in accordance with the law up to \$1 020 000. If the borrowed sums are less than that amount, the difference shall be made up by the accumulated surplus of that former municipality. If they are greater than that amount, the balance shall be added to the surplus accumulated on behalf of the former municipality, as shall be the part not borrowed from the working fund;

(2) an amount of \$860 000 from the sums borrowed by the former Canton de Magog to its working fund dated 31 December 2002. Those sums shall continue to be repaid in accordance with the law up to \$860 000. If the borrowed sums are less than that amount, the difference shall be made up by the accumulated surplus of that former municipality. If the surplus is not sufficient to reach the amount of \$860 000, the council shall levy an

annual property tax of \$0.01 (or less, in the last year) per \$100 of the value of the taxable immovables located in the sector made up of the territory of that former municipality, until it has obtained the required amount. If the borrowed sums are greater than \$860 000, the balance shall be added to the surplus accumulated on behalf of the former municipality, as shall be the part not borrowed from the working fund; and

(3) an amount of \$120 000 from the sums borrowed by the former Village d'Omerville to its working fund dated 31 December 2002. Those sums shall continue to be repaid in accordance with the law up to \$120 000. If the borrowed sums are less than that amount, the difference shall be made up by the accumulated surplus of that former municipality. If they are greater than that amount, the balance shall be added to the surplus accumulated on behalf of the former municipality, as shall be the part not borrowed from the working fund.

17. The new town shall succeed the rights and obligations of the former Ville de Magog with respect to Hydro-Magog.

The debts of the former Ville de Magog with respect to Hydro-Magog shall be charged to the entire new town on 1 January 2003.

The value of Hydro-Magog at 31 December 2002 shall be determined by an experts committee selected by the provisional council or by the council of the new town and the value of the long-term debt shall be confirmed by a certified accountant selected by that council.

Should Hydro-Magog be sold, the amount corresponding to the value determined in the third paragraph shall be used for the benefit of the taxable immovables in the sector made up of the territory of the former Ville de Magog as it existed on the eve of the coming into force of this Order in Council.

From 1 January 2003, any investment in the distribution system or production of electrical power shall be charged to the new town and the revenue in excess of the operating expenses for the new investments shall continue to be used for the benefit of the new town.

18. Subject to the apportionments made between the former municipalities under the existing intermunicipal agreements, the annual repayment of the instalments in principal and interest of the loans made under by-laws adopted by a former municipality before the coming into force of this Order in Council shall be charged to the sector made up of the territory of the former municipality that made the loans, in accordance with the tax clauses provided for in those by-laws.

The council of the new town may decide to charge infrastructures that are for the benefit of all the ratepayers of the new town to all the taxable immovables located in the territory of the new town and may amend the tax clauses of the by-laws referred to in the first paragraph.

19. Subject to section 18, the terms and conditions for apportioning the cost of shared services provided for in intermunicipal agreements in effect before the coming into force of this Order in Council shall apply until the end of the last fiscal year for which separate budgets were adopted.

20. The library of the former Ville de Magog shall become the main entity from which the library of the former Village d'Omerville comes under, which shall continue to exist for at least five years from the coming into force of this Order in Council.

21. For at least five years from the coming into force of this Order in Council, the new town shall maintain for the purposes of the current uses a community centre in the sector made up of the territory of the former Village d'Omerville and a community centre in the sectors of the territory of the former Canton de Magog where one exists before the coming into force of this Order in Council.

22. The aggregate of the property assessment rolls of the former Village d'Omerville and the former Canton de Magog, drawn up for the 2001, 2002 and 2003 fiscal years and the property assessment roll of the former Ville de Magog, drawn up for the 2002, 2003 and 2004 fiscal years, shall constitute the property assessment roll of the new town from the date of coming into force of this Order in Council to 31 December 2002.

Despite section 119 of the Act respecting municipal territorial organization, no adjustment to the values in the property assessment rolls shall be made for the 2002 fiscal year.

With respect to an entry on the assessment roll of the new town, for the 2002 fiscal year, it is considered that, for the purposes of establishing the actual value entered on that roll, the conditions in the property market respective to each of the property assessment rolls referred to in the first paragraph have been taken into account, as they existed on 1 July of the second fiscal year that preceded the coming into force of those rolls.

For the purposes of determining the market conditions on the date referred to in the third paragraph, the information related to transfers of ownership that occurred before and after that date may be taken into account.

The date of reference to the property market of each of the rolls referred to in the first paragraph, determined under the third paragraph, shall appear, where applicable, on any notice of assessment, tax account, notice of amendment to the roll or any assessor's certificate issued within the scope of the update of the roll.

The median proportions and comparative factors of the property assessment roll of the new town for the 2002 fiscal year that must appear, where applicable, on any notice of assessment, tax account, notice of amendment to the roll or any assessor's certificate issued within the scope of the update of the roll are respectively those of the property assessment rolls referred to in the first paragraph.

23. The aggregate of the property assessment rolls amended, in accordance with the second paragraph, of the former Village d'Omerville and the former Canton de Magog, drawn up for the 2001, 2002 and 2003 fiscal years and the property assessment roll of the former Ville de Magog, drawn up for the 2002, 2003 and 2004 fiscal years, shall constitute the property assessment roll of the new town for the 2003 and 2004 fiscal years.

An adjustment to the values entered on the assessment roll of the new town shall be made, for the units of assessment of the former Village d'Omerville and the former Canton de Magog, by dividing those values by the median proportion of their respective assessment roll established for the 2002 fiscal year and by multiplying them by the median proportion of the assessment roll of the former Ville de Magog established for the 2002 fiscal year.

With respect to an entry on the property assessment roll of the new town for the 2003 and 2004 fiscal years, it is considered that, for the purposes of establishing the actual value entered on that roll, the conditions in the property market have been taken into account, as they existed on 1 July 2000.

For the purposes of determining the market conditions on the date referred to in the third paragraph, the information related to transfers of ownership that occurred before and after that date may be taken into account.

The date referred to in the third paragraph shall appear, where applicable, on any notice of assessment, tax account, notice of amendment to the roll or any assessor's certificate issued within the scope of the update of the roll.

The median proportion and the comparative factor of the property assessment roll of the new town for the 2003 and 2004 fiscal years that must appear, where applicable, on any notice of assessment, tax account,

notice of amendment to the roll or any assessor's certificate issued within the scope of the update of the roll shall be those established respectively at 100 and 1.

24. The new town shall have the first three-year property assessment roll drawn up, in accordance with section 14 of the Act respecting municipal taxation (R.S.Q., c. F-2.1), for the 2005, 2006 and 2007 fiscal years.

25. The assessor of the former Ville de Magog is qualified, on the date of coming into force of this Order in Council, to perform all the acts required by the Act respecting municipal taxation and the regulations and by-laws made thereunder with respect to the property assessment roll of the new town.

26. Any council member of a former municipality whose term ends for the sole reason that the municipality ceased to exist on the coming into force of this Order in Council may receive compensation and maintain participation in the pension plan for elected municipal officers in accordance with sections 27 to 32.

Any entitlement referred to in the first paragraph shall cease to apply to a person in a period in which, from the coming into force of this Order in Council, that person held the office of member of the council of a municipality on the territory of Québec.

27. The amount of the compensation referred to in section 26 shall be based on the remuneration fixed on the date of coming into force of this Order in Council in respect of the office that the person referred to in the first paragraph of section 26 held on the day of coming into force of this Order in Council to which applies, any indexing of the remuneration provided for by a by-law of the council of one of the former municipalities that came into force on or before the date of coming into force of this Order in Council.

The amount of the compensation shall also be based on the remuneration that the person referred to in the first paragraph of section 26 was receiving, on the date of coming into force of this Order in Council, directly from a mandatory body of the municipality or a supramunicipal body within the meaning of sections 18 and 19 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., c. R-9.3).

The compensation established in accordance with the first and second paragraphs, except for the part referred to in the fourth paragraph, may not exceed annually the maximum referred to in section 21 of the Act respecting the remuneration of elected municipal officers (R.S.Q., c. T-11.001).

The compensation shall, if applicable, also include any amount corresponding to the provisional contribution provided for in section 26 of the Act respecting the Pension Plan of Elected Municipal Officers that the local municipality, mandatory body or supramunicipal body should have paid with respect to the remuneration provided for in the first and second paragraphs for the person referred to in the first paragraph of section 26.

28. The compensation shall be paid by the new town by bi-monthly instalments during the period commencing on the date of coming into force of this Order in Council and ending on the date on which would have been held the first general election following the expiry of the term under way on the date of coming into force of this Order in Council.

A person who is eligible for compensation may enter into an agreement with the new town on any other mode of payment of the compensation.

29. The Government shall participate in the financing of one-half of the expenses that the payment of the portion of the compensation referred to in section 27 represents, based on the basic remuneration, or as the case may be, on the minimum annual remuneration, provided for by the Act respecting the remuneration of elected municipal officers, of the person eligible for the program and on the amount of the provisional contribution payable with respect to that part of the compensation.

The Government shall send the new town, whose territory includes that of the former municipality of which the eligible person was a council member, any amount corresponding to the portion of the expenses to which it must contribute.

30. The expenses that the payment of compensation represents, including, if applicable, the provisional contribution, constitutes a debt charged to the taxable immovables in the sector made up of the territory of the former municipality referred to in the first paragraph of section 26 of which the eligible person was a council member. The same applies to any severance allowance paid under section 30.1 of the Act respecting the remuneration of elected municipal officers.

31. Any person referred to in section 26 who, on the date of coming into force of this Order in Council, was a member of the pension plan for elected officers established under the Act respecting the Pension Plan of Elected Municipal Officers shall continue to participate in the plan during the period referred to in the first paragraph of section 28. However, the participant may,

before 31 December 2002, give notice to the new town stating the decision to cease to participate in the plan. The participant must send, as soon as possible, to the Commission administrative des régimes de retraite et d'assurances a copy of that notice. The termination of membership in the plan shall take effect for that person on the date of coming into force of this Order in Council.

The eligible earnings for the person who continues to participate in the plan in accordance with section 26 shall correspond to the amount of the compensation paid during the period referred to in the first paragraph of section 28, less the amount of the compensation payable as a provisional contribution. In that case, the provisional contribution shall be paid by the new town to the Commission administrative des régimes de retraite et d'assurances at the same time as the member's contribution that the new town must withhold on each compensation payment.

A person who elects to terminate his or her participation in the pension plan referred to in the first paragraph shall be entitled to receive the portion of the compensation that concerns the provisional contribution.

32. Any person eligible for the compensation program provided for in section 26 is deemed, for the purposes of section 27 of the Act respecting the Pension Plan of Elected Municipal Officers, to cease to be a member of the council only at the end of the period referred to in the first paragraph of section 28.

33. From the first fiscal year for which the new town adopts a budget in respect of all its territory, to the fifth fiscal year of the new town, the difference between the rate specific to the category of non-residential immovables and the basic rate fixed under section 244.38 of the Act respecting municipal taxation for the former Canton de Magog as well as the difference between the rate specific to the category of non-residential immovables and the basic rate fixed under the same section for the former Village d'Omerville must correspond to the following proportions of the same difference calculated for the former Ville de Magog:

| | |
|-------------------|--------|
| 2003 fiscal year: | 20% ; |
| 2004 fiscal year: | 40% ; |
| 2005 fiscal year: | 60% ; |
| 2006 fiscal year: | 80% ; |
| 2007 fiscal year: | 100% . |

34. A tax credit calculated on the property value and financed from the revenues of the general property tax shall be granted annually in respect of the taxable immovables that are part of a sector where the combined increase of tax burdens that result from the amalgamation is greater than 5%. Such credit shall be established so as to reduce the increase to 5% annually for all the immovables in the sector in question.

The tax burdens referred to in the first paragraph include

(1) the tax that would result from the basic tax rate of the general property tax on all the taxable immovables located in the territory of the new town;

(2) any other property tax imposed on the entire territory, other than the property tax that results from the application of one of the general property tax rates; and

(3) any tariffing concerning a property tax under section 244.7 of the Act respecting municipal taxation and required on the entire territory of the new town.

For the purposes of the first two paragraphs, immovables that are not taxable in respect of which property taxes are paid under the first paragraph of section 208 of the Act respecting municipal taxation or in respect of which a sum must be paid in lieu of those taxes are considered taxable, in accordance with the second paragraph of section 210 or the first paragraph of sections 254 and 255 of that Act, or by the Crown in right of Canada or one of its mandataries.

The new town must prescribe the rules to determine if the increase referred to in the first paragraph results solely from the constitution of the town and to establish, where applicable, the part of the increase resulting therefrom.

In this section, “sector” means the territory of a former municipality.

This section has effect for a maximum five-year period following the constitution of the new town.

35. Any debt or gain that may result from legal proceedings for any act performed by a former municipality before the coming into force of this Order in Council shall continue to be charged or credited to all the taxable immovables in the sector made up of the territory of the former municipality.

36. The second sentence of the second paragraph and the third and fourth paragraphs of section 126, the second paragraph of section 127, sections 128 to 133, the second and third paragraphs of section 134 and sections 135 to 137 of the Act respecting land use planning and development (R.S.Q., c. A-19.1) do not apply to a by-law adopted by the new town in order to replace all the zoning and subdivision by-laws applicable to its territory by, respectively, a new zoning by-law and a new subdivision by-law applicable to the entire territory of the new town, provided that such a by-law comes into force within four years of the coming into force of this Order in Council.

Such a by-law shall be approved, in accordance with the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), by the qualified voters of the entire territory of the new town.

37. A municipal housing bureau shall be constituted under the name of “Office municipal d’habitation de la Ville de Magog”. The name of the bureau may be changed the first time by a simple resolution of the board of directors within one year of its constitution. Notice of the name change must be sent to the Société d’habitation du Québec and published in the *Gazette officielle du Québec*.

The municipal housing bureau shall succeed, on the date of coming into force of this Order in Council, the municipal housing bureaus of Ville de Magog and Village d’Omerville, which are dissolved. The third and fourth paragraphs of section 58 of the Act respecting the Société d’habitation du Québec (R.S.Q., c. S-8) shall apply to the municipal housing bureau of the new town as though it had been constituted by letters patent under section 57 of that Act.

The bureau shall be administered by a board of directors formed of seven members. Three members shall be appointed by the municipal council of the new town, two elected by all the lessees of the bureau, in accordance with section 57.1 of the Act respecting the Société d’habitation du Québec, and two shall be appointed by the Minister of Municipal Affairs and Greater Montréal, after consultation, from among the most representative socio-economic groups of the bureau’s territory.

Until all the members of the board of directors of the bureau have been appointed in accordance with the third paragraph, the board members shall be the members of the municipal bureaus of the former Ville de Magog and Village d’Omerville.

The directors shall elect from among themselves a chair, vice-chair and any other officer they deem necessary to appoint.

The term of the board of directors is three years and is renewable. If their term expires, the board members shall remain in office until reappointed or replaced.

A quorum for the meetings shall be a majority of the members in office.

The directors may, from the coming into force of this Order in Council,

- (1) secure loans on behalf of the bureau ;
- (2) issue debentures or other securities of the bureau and use them as a guarantee or dispose of them for the price and amount deemed appropriate ;
- (3) hypothecate or use as collateral the present or future immovables or movables of the bureau to ensure the payment of such debentures or other securities, or give only part of the guarantees for those purposes ;
- (4) hypothecate the immovables and movables of the bureau or otherwise affect them, or give various types of surety, to ensure the payment of loans secured other than by the issue of debentures, as well as the payment or execution of other debts, contracts and commitments of the bureau ; and
- (5) subject to the Act respecting the Société d'habitation du Québec, the by-laws made under that Act and the directives issued by the Société, adopt any by-law deemed necessary or useful for the internal management of the bureau.

The employees of the bureaus that have been dissolved shall become, without reduction in salary, employees of the bureau, and shall retain their seniority and fringe benefits.

38. This Order in Council comes into force on the date of its publication in the *Gazette officielle du Québec*.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

SCHEDULE A

OFFICIAL DESCRIPTION OF THE TERRITORIAL BOUNDARIES OF THE NEW VILLE DE MAGOG, IN MUNICIPALITÉ RÉGIONALE DE COMTÉ DE MEMPHRÉMAGOG

The territory of the new Ville de Magog, in Municipalité régionale de comté de Memphrémagog, following the amalgamation of Canton de Magog, Village d'Omerville and Ville de Magog, includes all the lots of the cadastres of Canton and Ville de Magog, travelways, bodies of water and topographic features, built-up places and parts thereof included in the perimeter starting at the meeting point of the extension of the northern line of Lot 1 of Rang 22 of Canton de Bolton of the cadastre of Canton de Magog with the centre line of Lac Magog, along the following lines and demarcations: in a general south-westerly direction, the centre line of the said lake to its meeting with the extension of the centre line of Rivière Magog; in a general westerly direction, the said extension and the centre line of the said river upstream to its meeting with the extension of the dividing line between the cadastres of the townships of Magog and Hatley; southerly, the said extension and the dividing line between the cadastres of the said townships, that line crossing roads 108 and 141 and Tremblay, Benoît and de la Colline-Bunker roads that it meets; westerly, the dividing line between the cadastres of the townships of Magog and Stanstead and its extension to the centre line of Lac Memphrémagog, that first line crossing de la Colline-Bunker and Fitch Bay roads, Lac Lovering, Chemin d'Olivier and Route 247 that it meets; in a general northeasterly direction, the centre line of the said lake to its meeting with the extension of the southern line of Lot 14D of Rang 15 of Canton de Bolton of the cadastre of Canton de Magog; successively westerly and northerly, the said extension and the broken dividing line between the cadastres of the townships of Magog and Bolton, crossing Chemin Bolton-Est that it meets in its first section and Giguère and Hopps roads as well as Autoroute des Cantons-de-l'Est and Route 112 that it meets in its second section; finally, easterly, the northern line of the cadastre of Canton de Magog, crossing du Parc and Ray roads, Rivière aux Cerises, Route 141, Chemin du 18^e Rang, Autoroute des Cantons de l'Est, Route 112 and Chemin de la Rivière that it meets, then the extension of that last line in Lac Magog to the starting point.

Ministère des Ressources naturelles
Bureau de l'arpenteur général
Division de l'arpentage foncier

Québec, 26 September 2002

Prepared by: JEAN-FRANÇOIS BOUCHER,
Land Surveyor

SCHEDULE B

CANADA
PROVINCE OF QUÉBEC
MUNICIPALITÉ RÉGIONALE DE COMTÉ
DE MEMPHRÉMAGOG
VILLE DE MAGOG

TECHNICAL DESCRIPTION BOUNDARIES OF THE
ELECTORAL DISTRICTS OF THE TERRITORY OF
VILLE DE MAGOG, IN MUNICIPALITÉ RÉGIONALE
DE COMTÉ DE MEMPHRÉMAGOG

The electoral districts are described in reference to the municipal boundaries, to the main lines of the cadastres of Canton de Magog and Ville de Magog, to the streets and roads included within the municipal boundaries, the whole as described hereunder, namely :

1) DESCRIPTION**District 1**

Starting from the northeastern corner of the municipal boundary, thence, successively, along the following boundaries, lines and demarcations: the centre line of Lac Magog and the centre line of Rivière Magog in a general southerly and westerly direction to the mouth of a brook in the neighbourhood of Rue Élie, the said brook northerly to Rue St-Patrice-Est, the said Rue St-Patrice-Est westerly to Rue St-Pierre, the said Rue St-Pierre and its extension, northerly to Rue Edouard-Est, the said Rue Edouard-Est westerly to Rue Mgr-Racine, the said Rue Mgr-Racine northerly to Rue St-Jean-Bosco, the said Rue St-Jean-Bosco easterly to Rue Mgr-Larocque, the said Rue Mgr-Larocque northerly to Boulevard Industriel, the said Boulevard Industriel westerly to Rue Sherbrooke, the said Rue Sherbrooke northeasterly to the northern line of the lots along the northern side of Rue Jeanne-Mance, the said northern line of the lots along the northern side of Rue Jeanne-Mance easterly to the dividing line between ranges 20 and 21, the said dividing line between ranges 20 and 21 northerly to the northern municipal boundary, the said northern municipal boundary easterly to the starting point.

District 2

Starting at the intersection of the northern municipal boundary with the dividing line between ranges 20 and 21, thence, successively, along the following boundaries, lines and demarcations: the said dividing line between ranges 20 and 21 southerly to the northern line of Lot 4-11, the said northern line of Lot 4-11 westerly to the dividing line between ranges 18 and 19, the said dividing line between ranges 18 and 19 northerly to the municipal boundary, the said municipal boundary easterly to the starting point.

District 3

Starting at the intersection of the northern municipal boundary with the dividing line between ranges 18 and 19, thence, successively, along the following boundaries, lines and demarcations: the said dividing line between ranges 18 and 19 southerly to the rear line of the lots along the northern side of Rue Beaudoin, the said rear line of the lots along the northern side of Rue Beaudoin easterly to Rue Sherbrooke, the said Rue Sherbrooke southwesterly to Rue Calixa-Lavallée, the said Rue Calixa-Lavallée northwesterly to Rue Champlain, the said Rue Champlain southwesterly to Boulevard Pie XII, the said Boulevard Pie XII northwesterly to Rue Des Pins, the said Rue Des Pins southwesterly to Rue Doyon, the said Rue Doyon successively northwesterly and southwesterly to Rue Général-Vanier, the said Rue Général-Vanier westerly to Rue du Sergent-Arthur-Boucher, the said Rue du Sergent-Arthur-Boucher northerly to Rue Hamel, the said Rue Hamel westerly to Rue Merry-Nord, the said Rue Merry-Nord southerly to Rue Degré, the said Rue Degré westerly to Rue Du Moulin, the said Rue Du Moulin northerly to the northern line of Lot 34-64, the said northern line of Lot 34-64 easterly to Route 141, the said Route 141 in a general northerly direction to the northern municipal boundary, the said northern municipal boundary easterly to the starting point.

District 4

Starting at the intersection of the northern municipal boundary with Route 141, thence, successively, along the following boundaries, lines and demarcations: the said Route 141 in a general southerly direction to the northern line of Lot 34-64, the said northern line of Lot 34-64 westerly to the northerly extension of Rue Du Moulin, the said extension of Rue Du Moulin and Rue Du Moulin southerly to Rue Olive, the said Rue Olive and Rue Mc-Donald easterly to Rue des Pins, the said Rue Des Pins southerly to Rue St-Patrice-Ouest, the said Rue St-Patrice-Ouest easterly to Rue Sherbrooke, the said Rue Sherbrooke and its extension southerly to the centre line of Rivière Magog, the said centre line of Rivière Magog westerly to the southeastern line of Lot 3052, the said southeastern line of Lot 3052 southwesterly to Rue Hatley-Ouest, the said Rue Hatley-Ouest easterly to Rue Bullard, the said Rue Bullard southwesterly to Rue Wilcox, the said Rue Wilcox northwesterly to Rue Merry-Sud, the said Rue Merry-Sud southwesterly to Rue Thérroux, the said Rue Thérroux westerly to the centre line of Lac Memphrémagog, the said centre line of Lac Memphrémagog northerly to the western line of the municipal beach (Plage des Cantons), the said western line of the municipal beach (Plage des Cantons) northerly to Rue Fiset, the said Rue Fiset westerly to the

southerly extension of Rue Desjardins, the said extension of Rue Desjardins and Rue Desjardins in a general northerly direction to Rue François-Hertel, the said Rue François-Hertel and its westerly extension to Chemin Roy, the said Chemin Roy northerly to the northern municipal boundary, the said municipal boundary easterly to the starting point.

District 5

Starting at the intersection of the northern municipal boundary with Chemin Roy, thence, successively, along the following boundaries, lines and demarcations: the said Chemin Roy southerly to the westerly extension of Rue François-Hertel, the said extension of Rue François-Hertel and Rue François-Hertel easterly to Rue Desjardins, the said Rue Desjardins and its southerly extension, in a general southerly direction to Rue Fiset, the said Rue Fiset easterly to the western line of the municipal beach (Plage des Cantons), the said western line of the municipal beach (Plage des Cantons) and its southerly extension, southerly to the centre line of Lac Memphrémagog, the said centre line of Lac Memphrémagog in a general southerly direction to the southern municipal boundary, the said southern municipal boundary westerly to the western municipal boundary, the said western municipal boundary northerly to the northern municipal boundary, the said northern municipal boundary easterly to the starting point.

District 6

Starting at the intersection of Boulevard Pie XII with Rue Champlain, thence, successively, along the following boundaries, lines and demarcations: the said Rue Champlain southwesterly to Rue Tupper, the said Rue Tupper northwesterly to Rue Ste-Catherine, the said Rue Ste-Catherine in a general southwesterly direction to Rue St-Patrice Ouest, the said Rue St-Patrice-Ouest northwesterly to Rue Des Pins, the said Rue Des Pins northerly to Rue Mc-Donald, the said Rue Mc-Donald and Rue Olive westerly to Rue Du Moulin, the said Rue Du Moulin northerly to Rue Degré, the said Rue Degré easterly to Rue Merry-Nord, the said Rue Merry-Nord northerly to Rue Hamel, the said Rue Hamel easterly to Rue du Sergent-Arthur-Boucher, the said Rue du Sergent-Arthur-Boucher southerly to Rue Général-Vanier, the said Rue Général-Vanier easterly to Rue Doyon, the said Rue Doyon successively northerly and easterly to Rue Des Pins, the said Rue Des Pins northerly to Boulevard Pie XII, the said Boulevard Pie XII southeasterly to the starting point.

District 7

Starting at the intersection of Boulevard Industriel with Rue Mgr-Larocque, thence, successively, along the following boundaries, lines and demarcations: the said Rue Mgr-Larocque southerly to Rue St-Jean-Bosco, the said Rue St-Jean-Bosco westerly to Rue Mgr-Racine, the said Rue Mgr-Racine southerly to Rue Edouard-Est, the said Rue Edouard-Est easterly to the northerly extension of Rue St-Pierre, the said extension of Rue St-Pierre and Rue St-Pierre southerly to Rue St-Jacques, the said Rue St-Jacques westerly to the railroad, the said railroad and its southwesterly extension, southwesterly to the centre line of Rivière Magog, the said centre line of Rivière Magog westerly to the southwesterly extension of Rue Sherbrooke, the said extension of Rue Sherbrooke and Rue Sherbrooke northeasterly to Rue St-Patrice-Ouest, the said Rue St-Patrice-Ouest westerly to Rue Ste-Catherine, the said Rue Ste-Catherine in a general northeasterly direction to Rue Tupper, the said Rue Tupper southeasterly to Rue Champlain, the said Rue Champlain northeasterly to Rue Calixa-Lavallée, the said Rue Calixa-Lavallée southeasterly to Rue Sherbrooke, the said Rue Sherbrooke southwesterly to Boulevard Industriel, the said Boulevard Industriel easterly to the starting point.

District 8

Starting at the intersection of the eastern line of the cadastre of Ville de Magog with the centre line of Rivière Magog, thence, successively, along the following boundaries, lines and demarcations: the said eastern line of the cadastre of Ville de Magog southerly to the southern line of the cadastre of Ville de Magog, the said southern line of the cadastre of Ville de Magog westerly to Boily stream, the said Boily stream northerly to the centre line of Rivière Magog, the said centre line of Rivière Magog in a general northwesterly direction to the southwesterly extension of the railroad, the said extension of the railroad and the railroad in a general northeasterly direction to Rue St-Jacques, the said Rue St-Jacques easterly to Rue St-Pierre, the said Rue St-Pierre southerly to Rue St-Patrice-Est, the said Rue St-Patrice-Est easterly to the centre line of the brook in the neighbourhood of Rue Élie, the said centre line of the brook southerly to the centre line of Rivière Magog, the said centre line of Rivière Magog northeasterly to the starting point.

District 9

Starting at the intersection of the centre line of Rivière Magog with Boily stream, thence, successively, along the following boundaries, lines and demarcations: the said Boily stream southerly to the southern line of the cadastre of Ville de Magog, the said southern line of the cadastre of Ville de Magog westerly to an eastern line of the cadastre of Ville de Magog, the said eastern line of the cadastre of Ville de Magog and its extension southerly to the southern line of Lot 17A, the said southern line of Lot 17A easterly to the dividing line between ranges 12 and 13, the said dividing line between ranges 12 and 13 southerly to the northern line of Lot 7, the said northern line of Lot 7 westerly to the dividing line between ranges 14 and 15, the said dividing line between ranges 14 and 15 southerly to the southern municipal boundary, the said southern municipal boundary westerly to the centre line of Lac Memphrémagog, the said centre line of Lac Memphrémagog in a general northeasterly direction to the intersection with the westerly extension of Rue Thérout, the said extension of Rue Thérout easterly to Rue Merry-Sud, the said Rue Merry-Sud southwesterly to Rue Wilcox, the said Rue Wilcox southeasterly to Rue Bullard, the said Rue Bullard northeasterly to Rue Hatley-Ouest, the said Rue Hatley-Ouest easterly to the southeastern line of Lot 3052, the said southeastern line of Lot 3052 northeasterly to the centre line of Rivière Magog, the said centre line of Rivière Magog in a general southeasterly direction to the starting point.

District 10

Starting at the intersection of the centre line of Rivière Magog with the eastern municipal boundary, thence, successively, along the following boundaries, lines and demarcations: the said eastern municipal boundary southerly to the southern municipal boundary, the said southern municipal boundary westerly to the dividing line between ranges 14 and 15, the said dividing line between ranges 14 and 15 northerly to the northern line of Lot 7, the said northern line of Lot 7 easterly to the dividing line between ranges 12 and 13, the said dividing line between ranges 12 and 13 northerly to the southern line of Lot 17A, the said southern line of Lot 17A westerly to the western line of Lot 17A, the said western line of Lot 17A and an eastern line of the cadastre of Ville de Magog northerly to the southern line of the cadastre of Ville de Magog, the said southern line of the cadastre of Ville de Magog easterly to the eastern line of the cadastre of Ville de Magog, the said eastern line of the cadastre of Ville de Magog northerly to the centre line of Rivière Magog, the said centre line of Rivière Magog in a general easterly direction to the starting point.

2) MINUTE

Done at Magog, Québec, 30 September 2002 under number twelve thousand four hundred and eighteen A (12418A) of my minutes.

DANIEL BOISCLAIR,
Land Surveyor

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Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

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