

**Gazette**  
officielle  
<sup>DU</sup> Québec

Part

2

No. 2

8 January 2003

**Laws and Regulations**

Volume 135

**Summary**

Table of Contents  
Acts 2002  
Regulations and other acts  
Draft Regulations  
Municipal Affairs  
Parliamentary Committees  
Index

Legal deposit – 1st Quarter 1968  
Bibliothèque nationale du Québec  
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## Table of Contents

Page

---

### Acts 2002

150	Appropriation Act No. 3, 2002-2003 .....	45
-----	--	----

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### Regulations and other acts

1485-2002	Appeals procedure for public servants not governed by a collective agreement (Amend.) ....	51
1489-2002	Sûreté du Québec — Partition and assignment of benefits accrued under the Régime de retraite des membres .....	52
1498-2002	Cinema Act — Fees for examination and duties payable (Amend.) .....	59
1506-2002	Fishing activities (Amend.) .....	60
1513-2002	Professional Code — Nurses — Code of ethics .....	64
1515-2002	Program for the delegation of the land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides .....	70
Rivière-Sainte-Anne	Wildlife Sanctuary .....	78

---

### Draft Regulations

	Comité de déontologie policière — Rules to amend the rules of evidence, procedure and practice .....	81
	Professional Code — Chartered accountants — Trust accounting by chartered accountants and the indemnity Fund of the Ordre .....	82
	Professional Code — Guidance counsellors and psychoeducators — Code of ethics .....	88

---

### Municipal Affairs

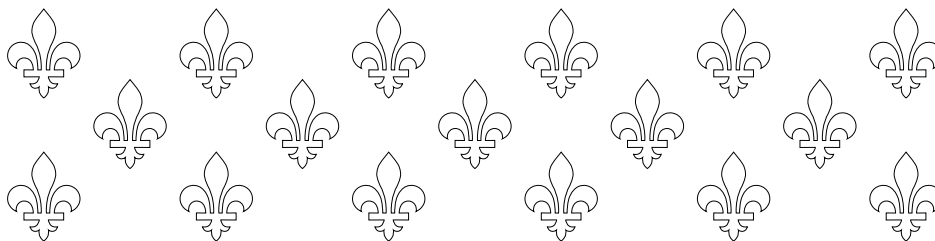
1492-2002	Amalgamation of Ville de Mont-Laurier, Municipalité de Des Ruisseaux and Municipalité de Saint-Aimé-du-Lac-des-Îles .....	91
1494-2002	Corrections to Order in Council 1013-2002 dated 4 September 2002 respecting the amalgamation of Village de Saint-Sauveur-des-Monts and Paroisse de Saint-Sauveur .....	99

---

### Parliamentary Committees

	Committee on Public Finance — General Consultation — Act respecting the Caisse de dépôt et placement du Québec .....	101
--	--	-----





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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 150  
(2002, chapter 48)

## **Appropriation Act No. 3, 2002-2003**

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**Introduced 11 December 2002**  
**Passage in principle 11 December 2002**  
**Passage 11 December 2002**  
**Assented to 11 December 2002**

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**Québec Official Publisher**  
**2002**

**EXPLANATORY NOTES**

*The object of this bill is to authorize the Government to pay out of the consolidated revenue fund the sum of \$183,000,000.00 being the appropriations to be voted for each of the programs of the portfolios listed in the Schedule and representing the 2002-2003 Supplementary Estimates No. 1.*

*Moreover, the bill establishes to what extent the Conseil du trésor may authorize the transfer of appropriations between programs or portfolios.*

## **Bill 150**

### **APPROPRIATION ACT NO. 3, 2002-2003**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

- 1.** The Government may draw out of the consolidated revenue fund a sum not exceeding \$183,000,000.00 to defray a part of the Expenditure Budget of Québec proposed in the Supplementary Estimates for the fiscal year 2002-2003 as laid before the National Assembly, not otherwise provided for, being the amount of each of the estimates to be voted for various programs set forth in the Schedule to this Act.
- 2.** In the case of programs in respect of which a provision has been made to this effect, the Conseil du trésor may authorize the transfer of a portion of an appropriation between programs or portfolios, for the reasons and, if need be, under the conditions described in the Expenditure Budget.
- 3.** Except for the programs covered by section 2, the Conseil du trésor may authorize the transfer of a portion of an appropriation between programs in a given portfolio, provided that such a transfer does not increase or reduce by more than 10% the amount of the appropriation authorized by statute.
- 4.** This Act comes into force on 11 December 2002.

## SCHEDULE

## EMPLOI, SOLIDARITÉ SOCIALE

## PROGRAM 2

Financial Assistance Measures	108,000,000.00
	<u>108,000,000.00</u>



## SANTÉ ET SERVICES SOCIAUX

## PROGRAM 1

National Operations	6,000,000.00
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## PROGRAM 2

Regional Operations	69,000,000.00
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	<u>75,000,000.00</u>
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		<u>183,000,000.00</u>
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## Regulations and other acts

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Gouvernement du Québec

### **O.C. 1485-2002**, 18 December 2002

Public Service Act  
(R.S.Q., c. F-3.1.1)

#### **Public servants not governed by a collective agreement**

##### **— Appeals procedure**

Regulation to amend the Regulation respecting an appeals procedure for public servants not governed by a collective agreement

WHEREAS, under the first paragraph of section 127 of the Public Service Act (R.S.Q., c. F-3.1.1), the Government, by regulation, shall make provision for an appeal in the matters it determines, for public servants who are not governed by a collective agreement and for whom no appeal is provided in those matters under the Act;

WHEREAS, by Order in Council 1042-2001 dated 12 September 2001, the Government made the Regulation respecting an appeals procedure for public servants not governed by a collective agreement;

WHEREAS the Regulation provides for an appeals procedure for public servants not governed by a collective agreement against decisions made under certain directives governing all their working conditions, except the provisions respecting classification, staffing and certain aspects of performance evaluation;

WHEREAS it is expedient to amend the Regulation respecting an appeals procedure for public servants not governed by a collective agreement in order to update the list of directives governing all the working conditions of those public servants and giving them the right to appeal;

WHEREAS, in accordance with section 128 of the Public Service Act, a draft Regulation to amend the Regulation respecting an appeals procedure for public servants not governed by a collective agreement was published in Part 2 of the *Gazette officielle du Québec* of 6 November 2002, with a notice that it could be made by the Government, with or without amendment, upon the expiry of 30 days following that publication;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Administration and the Public Service, Minister responsible for Administration and the Public Service and Chair of the Conseil du trésor:

THAT the Regulation to amend the Regulation respecting an appeals procedure for public servants not governed by a collective agreement, attached to this Order in Council, be made.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

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### **Regulation to amend the Regulation respecting an appeals procedure for public servants not governed by a collective agreement\***

Public Service Act  
(R.S.Q., c. F-3.1.1, s. 127, 1st and 2nd pars.)

**1.** The Regulation respecting an appeals procedure for public servants not governed by a collective agreement is amended by substituting the following for section 2:

“**2.** An appeal is available to any public servant who considers himself or herself aggrieved by a decision rendered in his or her respect under the following directives of the Conseil du trésor, except for the provisions in those directives respecting classification, staffing and performance evaluation excluding, in the latter case, the procedure for performance evaluation:

(1) the Directive concernant l'ensemble des conditions de travail des cadres;

(2) the Directive concernant l'ensemble des conditions de travail des cadres juridiques;

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\* The Regulation respecting an appeals procedure for public servants not governed by a collective agreement, made by Order in Council 1042-2001 dated 12 September 2001 (2001, *G. O.* 2, 5045), has not been amended since.

(3) the Directive concernant l'ensemble des conditions de travail des cadres œuvrant en établissement de détention à titre d'agents de la paix à l'exclusion des directeurs des établissements de détention;

(4) the Directive concernant l'ensemble des conditions de travail des cadres œuvrant en établissement de détention à titre de directeurs des établissements de détention;

(5) the Directive concernant la rémunération et les conditions de travail des commissaires du travail;

(6) the Directive concernant la rémunération et les conditions de travail des médiateurs et conciliateurs;

(7) the Directive concernant l'ensemble des conditions de travail des conseillères et conseillers en gestion des ressources humaines;

(8) the Directive concernant les conditions de travail des fonctionnaires;

(9) the Directive concernant l'attribution des taux de traitement ou taux de salaire et des bonis à certains fonctionnaires;

(10) the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents;

(11) the Directive sur le remboursement des frais de déplacement des cadres;

(12) the Directive sur les frais remboursables lors d'un déplacement à l'extérieur du Québec;

(13) the Directive sur les déménagements des fonctionnaires; and

(14) the Directive concernant les indemnités et les allocations versées aux fonctionnaires affectés à l'extérieur du Québec.”

**2.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5493

Gouvernement du Québec

## O.C. 1489-2002, 18 December 2002

An Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan (1990, c. 5)

### Régime de retraite des membres de la Sûreté du Québec

#### — Partition and assignment of benefits accrued

Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des membres de la Sûreté du Québec

WHEREAS, under the first paragraph of section 52 of the Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan (1990, c. 5), notwithstanding any provision of any Act, regulation or order inconsistent therewith, the Government may, by order, render the special measures provided in Chapter VII.1 of Title I of the Act respecting Government and Public Employees Retirement Plan (R.S.Q., c. R-10) and in the regulations thereunder applicable, in whole or in part and adapted as required to the Régime de retraite pour les membres de la Sûreté du Québec for the purposes of partition and assignment of benefits between spouses;

WHEREAS, under the second paragraph of that section, the Government may also, by the same order, prescribe special provisions for the establishment and assessment of benefits accrued under the Régime de retraite pour les membres de la Sûreté du Québec and for the reduction of the sums payable under such plan by reason of payment of the sums awarded to the spouse;

WHEREAS, in accordance with section 52 of the Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan, the Government made Order in Council 756-91 dated 5 June 1991 respecting the partition and assignment of benefits accrued under the Régime de retraite pour les membres de la Sûreté du Québec, which refers to the Regulation respecting the partition and assignment of benefits accrued under the Government and Public Employees Retirement Plan made by Order in Council 351-91 dated 20 March 1991;

WHEREAS it is expedient to consolidate into one regulation the rules respecting the establishment, assessment and reduction of benefits accrued for the purposes of partition and assignment of benefits accrued under the Régime de retraite pour les membres de la Sûreté du Québec, for purposes of simplification and future amendments;

WHEREAS it is also expedient to make certain amendments to the provisions respecting the partition and assignment of benefits accrued under that pension plan in order to take into account the amendments made to that pension plan since 1997;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des membres de la Sûreté du Québec, attached hereto, was published in Part 2 of the *Gazette officielle du Québec* of 18 September 2002, with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS comments were received with respect to the draft Regulation;

WHEREAS it is expedient to make the Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des membres de la Sûreté du Québec without amendment, despite the comments received;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Administration and the Public Service, Minister responsible for Administration and Public Service and Chair of the Conseil du trésor:

THAT the special measures provided in Chapter VII.1 of Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), rendered applicable to the Régime de retraite pour les membres de la Sûreté du Québec, adapted as required, by Order in Council 756-91 dated 5 June 1991, continue to apply thereto;

THAT the Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des membres de la Sûreté du Québec be made.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

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## **Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des membres de la Sûreté du Québec**

An Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan  
(1990, c. 5, s. 52)

### **DIVISION I STATEMENT OF THE MEMBER'S OR FORMER MEMBER'S BENEFITS**

**1.** Any application to obtain a statement referred to in section 122.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10) must contain the following information and be accompanied by the following documents:

(1) the name, address, social insurance number and date of birth of the member or former member and of his or her spouse;

(2) a marriage certificate and, where applicable, the date on which the spouses resumed living together;

(3) a written confirmation from a certified mediator to the effect that he or she has obtained a mandate of family mediation or a copy of the application for separation from bed and board, divorce, annulment of marriage or payment of a compensatory allowance or, where applicable, a copy of the judgment ruling on such an application; and

(4) the information that must be provided by the employer in its annual report, in accordance with the provisions of the Régime de retraite des membres de la Sûreté du Québec, for the year during which the assessment is determined up to the date set for that assessment, as well as for the previous year; that information shall be certified by an authorized representative of the employer.

Any application made under this section is also valid for the other pension plans administered by the Commission administrative des régimes de retraite et d'assurances or for which the Commission is responsible for paying benefits.

**2.** Within 90 days of the date of receipt of a duly completed application, the Commission shall provide the member or former member and his or her spouse with a statement containing the following information:

(1) the date on which the member or former member became a member of the Régime de retraite des membres de la Sûreté du Québec and, where applicable, the date on which he or she ceased to be a member thereof;

(2) the benefits accrued to the member or former member, without taking into account any reduction resulting from a prior partition or assignment of benefits, from the time when he or she became a member of the plan to the date of assessment provided for in the second paragraph of section 122.2 of the Act respecting the Government and Public Employees Retirement Plan, as well as the value of those benefits;

(3) the benefits accrued for the period of the marriage as well as their value;

(4) where applicable, the value of the reduction of the accrued benefits as a result of any prior partition or assignment of benefits and that would be applicable at the date of the assessment; and

(5) the terms and conditions for payment of the sums awarded to the spouse in accordance with Division III.

The statement of benefits and values shall be established at the date of assessment on the basis of information known to the Commission, not later than the date of that statement.

## **DIVISION II** **ESTABLISHMENT AND ASSESSMENT** **OF ACCRUED BENEFITS**

### *§1. Establishment of benefits*

**3.** The benefits accrued under the Régime de retraite des membres de la Sûreté du Québec, including benefits accrued in the form of pension credit by members who took part in the Régime de retraite des employés de la Ville de Gatineau and who were integrated into the Sûreté du Québec on 1 January 1999, shall be established in accordance with the provisions of this plan, taking into account the following provisions:

(1) where the plan provides for the option between a refund of contributions and a deferred retirement pension and where that option has not been exercised at the date of assessment, the benefits accrued are those whose value is the higher between such a refund and a deferred retirement pension payable from age 60;

(2) where the plan provides that the member would be entitled to a deferred retirement pension if he or she ceased to hold employment while having at least 10 years of service for eligibility purposes and having reached age

45 but without having 20 years of service for eligibility purposes or having reached age 60, his or her benefits are deemed to correspond to a deferred retirement pension payable from age 60; and

(3) where the plan provides that the member would be entitled to a retirement pension if he or she ceased to hold employment while having at least 20 years of service for eligibility purposes but without having reached age 60, his or her benefits are deemed to correspond to a deferred retirement pension payable at the age corresponding to the lower of:

(a) 60; or

(b) the number "N" obtained from the following formula:

$H + (35 - I) = N$ , in which:

"H" represents the number corresponding to the member's age at the date of assessment; and

"I" represents the number of years of service credited to the member at the date of assessment, excluding years recognized as pension credit for members who took part in the Régime de retraite des membres de la Sûreté du Québec and who were integrated into the Sûreté du Québec on 1 January 1999.

The benefits accrued for the period of the marriage shall be established in accordance with the first paragraph on the basis of the years or parts of a year of service credited during that period, on the assumption that the member or former member acquired for that period benefits of the same type as those accrued to him or her from the beginning of membership to the date of assessment.

For the purposes of establishing and assessing the accrued benefits, those benefits shall correspond to the benefits acquired under the plan at the date of assessment on the basis of the years or parts of a year of service credited at that date. For those purposes, the member is deemed to have ceased to be covered by the plan at the date of assessment.

**4.** The years or parts of a year of service redeemed, other than those credited by sections 6 and 7, if any, shall be credited proportionately to the amounts paid in capital for their payment out of the total capital amount. Those years or parts of a year are deemed to be credited for the period of the marriage to the extent that they were paid during that period.

**5.** In the case of autoroute police officers, where the number of years or parts of a year of service credited to the Régime de retraite des membres de la Sûreté du Québec is less than the number of years or parts of a year of service recognized under the Civil Service Superannuation Plan or the Government and Public Employees Retirement Plan and where a fraction of the number of those years is comprised in the period of the marriage, the number of years or parts of a year of service credited and comprised in the period of the marriage is equal to the number “A” in the following formula:

$$B \times \frac{C}{D} = A, \text{ in which:}$$

“B” represents the number of years or parts of a year of service credited under the Régime de retraite des membres de la Sûreté du Québec with respect to years served as an autoroute police officer;

“C” represents the number of years or parts of a year of service recognized under the initial pension plan for the period of the marriage; and

“D” represents the number of years or parts of a year of service recognized under the initial pension plan.

**6.** In the case of a former municipal police officer who participates in the Régime de retraite des membres de la Sûreté du Québec following the abolition of the municipal police force that was employing the officer immediately before the date of his or her integration into the Sûreté du Québec, where the number of years of service or parts thereof credited to the Régime de retraite des membres de la Sûreté du Québec is less than the number of years of service or parts thereof recognized under the initial pension plan and where a fraction of the number of years is included in the period of the marriage, the number of years of service or parts thereof credited under the Régime de retraite des membres de la Sûreté du Québec and that are included in the period of the marriage shall be equal to the number “A” in the following formula:

$$B \times \frac{E}{F} = A, \text{ in which:}$$

“B” represents the number of years or parts of a year of service credited, using moneys directly taken from the initial pension plan, to the Régime de retraite des membres de la Sûreté du Québec with respect to years served as a municipal police officer in the abolished police force;

“E” represents the number of calendar days elapsed under the initial pension plan for the period of the marriage; and

“F” represents the number of calendar days elapsed while participating in the initial pension plan.

For the purposes of this section, the initial pension plan is a supplemental pension plan with fixed contributions within the meaning of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), in which the former municipal police officer was participating immediately before the date of his or her integration into the Sûreté du Québec and from which the moneys are directly transferred into the Régime de retraite des membres de la Sûreté du Québec.

**7.** Where the number of years of service or parts thereof credited to the Régime de retraite des membres de la Sûreté du Québec in respect of a member of the Sûreté du Québec, in accordance with a transfer agreement approved by the Government in compliance with the Entente concernant la conclusion d’ententes de transfert dated 22 January 2002 between the Government and the Association des policiers provinciaux du Québec, is less than the number of years of service or parts thereof recognized under the initial pension plan and where a fraction of the number of those years is comprised in the period of the marriage, the number of years or parts of a year of service credited in accordance with the agreement and comprised in the period of the marriage is equal to the number represented by the letter “A” in the following formula:

$$B \times \frac{C}{D} = A, \text{ in which:}$$

“B” represents the number of years or parts of a year of service credited under the Régime de retraite des membres de la Sûreté du Québec in accordance with the transfer agreement;

“C” represents the number of years or parts of a year of service recognized under the initial pension plan for the period of the marriage; and

“D” represents the number of years or parts of a year of service recognized under the initial pension plan.

Notwithstanding the foregoing, if the number of years of service or parts thereof recognized under the initial pension plan for the period of the marriage is unknown by the Commission, the number of years of service or parts thereof credited in accordance with the transfer agreement and included in the period of the marriage shall be equal to the number represented by the letter “A” in the following formula:

$$\frac{B \times E}{F} = A, \text{ in which:}$$

“B” represents the number of years or parts of a year of service credited to the Régime de retraite des membres de la Sûreté du Québec in accordance with the transfer agreement;

“E” represents the number of calendar days elapsed under the initial pension plan for the period of the marriage; and

“F” represents the number of calendar days elapsed while participating in the initial pension plan.

## §2. *Assessment of benefits*

**8.** Where the accrued benefits consist in a refund of contributions, the value of those benefits corresponds to the contributions paid with interest calculated in accordance with the Act respecting the Government and Public Employees Retirement Plan and accrued to the date of assessment, as though the refund was made at that date. The same applies in respect of the value of the benefits accrued for the period of the marriage.

**9.** The actuarial value of the benefits shall be established according to the following actuarial method and assumptions:

(1) actuarial method:

the actuarial method is the “distribution of benefits” method;

(2) actuarial assumptions:

those provided for in Schedule I to the Régime de retraite des membres de la Sûreté du Québec in respect of the mortality rate, the spouse’s age, the rate of interest and the rate of increase in the Pension Plan Index within the meaning of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9). The proportion of the members having a spouse on the date of assessment is 100%.

**10.** Where the accrued benefits correspond to a retirement pension, a deferred retirement pension or a pension credit, the value of those benefits is equal to amount “D” in the following formula:

$$d_1 + d_2 + d_3 + d_4 = D, \text{ in which:}$$

“d<sub>1</sub>” represents the actuarial value of the portion of any retirement pension that, from the date on which it is paid, is indexed in accordance with the rate of increase in the Pension Index within the meaning of the Act respecting the Québec Pension Plan;

“d<sub>2</sub>” represents the actuarial value of the portion of any retirement pension that, from the date on which it is paid, is indexed by the amount by which that rate exceeds 3%;

“d<sub>3</sub>” represents the actuarial value of the part of any retirement pension which, from the date on which it is paid, is indexed at the highest rate between:

(a) 50% of the rate of increase in the Pension Index determined under the Act respecting the Québec Pension Plan; or

(b) the amount by which the rate of increase in the Pension Index determined under the Act respecting the Québec Pension Plan exceeds 3%; and

“d<sub>4</sub>” represents the actuarial value of each pension credit that, from the date on which it is paid, is indexed at 75% of the rate of increase in the Pension Index determined under the Act respecting the Québec Pension Plan.

The value of the benefits accrued for the period of the marriage shall be established in accordance with the first paragraph.

**11.** Where the accrued benefits consist in a benefit that is being paid at the date of assessment or that would be if the former member had made an application to that effect or that would otherwise be paid at that date, the value of those benefits shall be obtained by calculating the actuarial value of such a benefit.

The value of the benefits accrued for the period of the marriage shall be established in accordance with the first paragraph.

## **DIVISION III**

### **PAYMENT OF THE SUMS AWARDED TO THE SPOUSE AS A RESULT OF THE PARTITION OR ASSIGNMENT OF BENEFITS**

**12.** In this Division, the expression “life income fund” has the meaning given to it by sections 18 to 19.2 of the Regulation respecting supplemental pension plans, approved by Order in Council 1158-90 dated 8 August 1990, as amended, and the expressions “locked-in retirement account” and “annuity contract” have the meanings given to them by sections 29 and 30, respectively, of that Regulation.

**13.** An application for payment of the sums awarded to the spouse shall be preceded by an application for assessment made in accordance with Division I and shall contain the name and address of the member or former member and of his or her spouse, their social insurance numbers and their dates of birth.



That application is also valid for all pension plans for which the Commission has provided a statement.

**14.** An application for payment of the sums awarded to the spouse shall be accompanied by the following documents:

(1) the judgment ruling on separation from bed and board, divorce, annulment of marriage or payment of a compensatory allowance;

(2) where applicable, any other judgment relating to the partition or assignment of the member's or former member's benefits;

(3) where applicable, the agreement entered into between the spouses regarding the terms for payment out of the benefits accrued under the Régime de retraite des membres de la Sûreté du Québec; and

(4) the certificate of non-appeal or, as the case may be, the divorce certificate.

**15.** Upon receipt of a duly completed application for payment, the Commission shall send the member or former member a statement showing the sums awarded to the spouse as well as the amount of the reduction calculated pursuant to Division IV. The Commission shall also send the spouse a statement showing the sums awarded to him or her. Those statements shall be accompanied by a statement of the administrative expenses established in accordance with the Regulation respecting the recovery of certain administrative expenses and of certain other expenses within the framework of the partition and assignment between spouses of benefits accrued under a pension plan, made by Order in Council 352-91 dated 20 March 1991, as amended.

The spouse shall, within 60 days of the date on which the statement addressed to him or her was mailed, provide the Commission with the name and address of the financial institution and with an identification of the annuity contract, locked-in retirement account or life income fund or, where applicable, the registered retirement savings plan or registered retirement income fund into which the sums awarded to him or her must be transferred.

Unless the spouse was paid otherwise, the Commission shall, within 120 days following the expiry of the period provided for in the second paragraph, transfer the sums awarded to the spouse into an annuity contract, locked-in retirement account or life income fund or, where applicable, into a registered retirement savings plan or registered retirement income fund with a finan-

cial institution chosen by the spouse, provided that the steps necessary for the transfer of those sums were taken beforehand.

Should the spouse fail to indicate his or her choice and to take the necessary steps within the prescribed period, the Commission shall transfer those sums into a locked-in retirement account or, where applicable, into a registered retirement savings plan in the spouse's name with the financial institution with which the Commission reached an agreement to that effect.

Where the spouse proceeds by way of compulsory execution, the judgment authorizing a seizure by garnishment shall serve as an application for payment and this section applies.

**16.** The Commission shall transfer the sums awarded to the spouse into an annuity contract, locked-in retirement account or life income fund where those sums come from an entitlement to a retirement pension, a deferred retirement pension or a pension credit.

Notwithstanding the foregoing, the Commission shall transfer those sums into a registered retirement savings plan or registered retirement income fund where those sums come from an entitlement to a refund of contributions or, upon application by the spouse, shall transfer those sums into an annuity contract, locked-in retirement account or life income fund.

Notwithstanding the first and second paragraphs, those sums shall be paid to the spouse's successors in case of the spouse's death.

**17.** The sums awarded to the spouse shall be apportioned among each of the values calculated pursuant to the first paragraph of section 10, proportionately to the value of those sums divided by the total value of the benefits accrued under the plan at the date of assessment.

**18.** Interest compounded annually and accrued from the date of assessment to the date of payment shall be added to the sums awarded to the spouse at the rate determined for each period under Schedule VI to the Act respecting the Government and Public Employees Retirement Plan.

#### **DIVISION IV** **REDUCTION OF ACCRUED BENEFITS**

**19.** If the amount paid to the spouse comes from an entitlement to a refund of contributions, to a deferred retirement pension or a pension credit, the member's or

former member's benefits shall be established in accordance with the plan and shall be recalculated as follows:

(1) where the member or former member is entitled to a refund of contributions, to a payment of actuarial value or is entitled to transfer an amount under a transfer agreement approved by the Government, the amount of the refund, payment or transfer shall be reduced by the sums awarded to the spouse at the date of assessment with interest compounded annually at the rate determined for each period under Schedule VI to the Act respecting the Government and Public Employees Retirement Plan and accrued from the date of assessment to the date on which the refund, payment or transfer is made; or

(2) where the member or former member is entitled to a deferred retirement pension, to a retirement pension or to a pension credit, his or her pension or credit shall be reduced from the date on which it becomes payable or from the date of payment, as the case may be, by the amount of pension or credit that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

**20.** If the amount paid to the spouse comes from an entitlement to a retirement pension, to a pension credit or to any benefit that would otherwise be paid at the date of assessment, that pension or credit shall be reduced, from the date on which it becomes payable or from the date of payment, by the amount of pension or credit that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

**21.** Each part of any retirement pension corresponding to each of the indexing formulas applicable to it and each pension credit shall be respectively reduced by the amount of any pension corresponding to each of the indexing formulas applicable to it and by the amount of each pension credit that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

**22.** For the purposes of sections 19 and 21, the amount of pension or pension credit that would be obtained on the basis of the sums awarded to the spouse at the date of assessment shall be established at that date according to the actuarial method and assumptions provided for in section 9. That amount is presumed applicable on the same date as the date determined at the date of assessment for the deferred retirement pension or is presumed applicable on the date of the member's or former member's 60th birthday if the member was entitled, at the date of assessment, to a refund of contributions.

If the date on which the annual retirement pension becomes payable occurs before the date on which the amount of pension obtained pursuant to the first paragraph is presumed applicable or if the retirement pension is being paid on the date of payment and the latter date occurs before the date on which that amount of pension is presumed applicable, that amount of pension shall be reduced by 0.50% per month, calculated for each month between the date on which it begins to apply and the date on which it is presumed applicable, without exceeding 65%. The foregoing also applies to the amount of pension credit.

If the retired member retired before the date of payment and if that date occurs after the date on which the amount of pension obtained pursuant to the first paragraph is presumed applicable, that amount of pension shall be increased by 0.50% per month, calculated for each month between the date on which it is presumed applicable and the date on which it begins to apply if the retired member retired before the date on which that amount of pension is presumed to apply, or for each month between the date on which the retired member retired and the date on which that amount of pension begins to apply, if the retired member retired on the date on which that amount of pension is presumed applicable or thereafter.

**23.** For the purposes of sections 20 and 21, the amount of pension or pension credit that would be obtained on the basis of the sums awarded to the spouse at the date of assessment shall be established at that date in accordance with the actuarial method and assumptions provided for in section 9. That amount of pension is presumed applicable on the date of assessment.

The amount of pension obtained pursuant to the first paragraph shall be indexed in the same manner as the annual retirement pension or in the same manner as though it were being paid at the date of assessment, from 1 January following that date to 1 January of the year during which that amount begins to apply. The foregoing also applies to the amount of pension credit.

The amount of pension obtained pursuant to the first and second paragraphs shall be increased by 0.50% per month, calculated for each month between the date of assessment and the date on which that amount of pension begins to apply, if the annual retirement pension was being paid on the date of assessment or would have been if the former member had made an application to that effect, or for each month between the date of retirement and the date on which that amount of pension begins to apply, if the retired member retired between the date of assessment and the date of payment. The foregoing also applies to the amount of pension credit.

**24.** Any refund of contributions to be made following a death shall be reduced by the sums awarded to the spouse with interest compounded annually at the rate determined for each period under Schedule VI to the Act respecting the Government and Public Employees Retirement Plan and accrued from the date of assessment to the date on which the refund is made, except for the period during which a retirement pension is paid.

#### **DIVISION V MISCELLANEOUS**

**25.** This Regulation replaces Order in Council 756-91 dated 5 June 1991 respecting the partition and assignment of benefits accrued under the Régime de retraite pour les membres de la Sûreté du Québec, except the first paragraph of the operative part of that Order in Council. That Order in Council remains applicable to applications for a statement of benefits received by the Commission before the date of coming into force of this Regulation, following the introduction of an application for separation from bed and board, divorce, annulment of marriage or payment of a compensatory allowance, provided that there has been no discontinuance of suit.

**26.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5494

Gouvernement du Québec

#### **O.C. 1498-2002, 18 December 2002**

Cinema Act  
(R.S.Q., c. C-18.1)

#### **Fees for examination and duties payable under the Act**

##### **— Amendments**

Regulation to amend the Regulation respecting the fees for examination and duties payable under the Cinema Act

WHEREAS, under section 76 of the Cinema Act, no person may exhibit a film to the public, or possess, on premises where films are exhibited to the public, a print of a film unless a stamp showing the class of the film has been issued by the Régie du cinéma and affixed to the print;

WHEREAS, under section 76.1 of that Act, no person may sell, lease, lend or exchange on a commercial basis, or possess, in a video material retail outlet, a print of a film unless a stamp showing the class of the film has been issued by the Régie and affixed to the print;

WHEREAS, under section 87 of that Act, a trailer is considered to be a film for the application of the provisions of chapter III of that Act, except those of section 83 of that Act;

WHEREAS, under section 118 of that Act, the holder of a distributor's licence shall, before selling, leasing, lending or exchanging video material on a commercial basis, demonstrate before the Régie that the holder has the rights to distribute the film for the retailing of video material in accordance with section 79 of that Act;

WHEREAS, under section 119 of that Act, the Régie shall issue to the holder of a distributor's licence who meets the requirements set out in section 118 of that Act, on payment of the duties prescribed by regulation of the Government, a filing certificate for each film title and an attestation of the certificate for each print of video material intended to be sold, lent, leased or exchanged;

WHEREAS, under paragraph 6.1 of section 167 of that Act, the Régie may prescribe the duties payable to obtain a stamp;

WHEREAS, under paragraph 6.2 of section 167 of that Act, the Régie may prescribe the duties payable for the issue of a filing certificate and attestation and provide for an exemption with respect to the video material it determines;

WHEREAS section 169 of that Act provides that a regulation made by the Régie must be submitted for approval to the Government, which may amend it;

WHEREAS, pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 170 of the Cinema Act, the Régie made the Regulation to amend the Regulation respecting the fees for examination and duties payable under the Cinema Act and published it in Part 2 of the *Gazette officielle du Québec* of 25 September 2002, page 4876, with a notice that it would be submitted for approval to the Government on the expiry of 60 days from publication;

WHEREAS it is expedient to approve the Regulation with amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Culture and Communications and Minister of Culture and Communications:

THAT the Regulation to amend the Regulation respecting the fees for examination and duties payable under the Cinema Act, attached to this Order in Council, be approved.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting the fees for examination and duties payable under the Cinema Act\*

Cinema Act  
(R.S.Q., c. C-18.1, s. 167, pars. 6.1 and 6.2)

**1.** The following is substituted for sections 7 to 10 of the Regulation respecting the fees for examination and duties payable under the Cinema Act:

“7. The duties payable to obtain an attestation of a filing certificate under section 119 of the Act are as follows:

(1) \$0.30 for each attestation in the case of a Québec film, an original French-language film, or a film dubbed in Québec when the version dubbed in Québec is available on all prints of a film marketed in Québec for domestic use in the language into which it was dubbed; and

(2) \$0.40 for each attestation in all other cases.

**8.** The duties payable to obtain a stamp for the exhibition of a trailer to the public are as follows:

(1) \$5 for each of the first 25 stamps; and

(2) \$5 for each additional stamp in the case of a trailer for a Québec film, for an original French-language film, or for a film dubbed in Québec; and, in all other cases, \$40 for each stamp.

**9.** The duties payable to obtain a stamp for the exhibition of a film to the public classified by the Régie du cinéma in a category other than “18 years of age or over” and characterized by “explicit sex” on 16mm film or videotape are as follows:

(1) \$10 for each stamp in the case of a Québec film, an original French-language film, or a film dubbed in Québec; and

(2) \$20 for each stamp in all other cases.

**10.** The duties payable to obtain a stamp for the exhibition of a film to the public, other than a film referred to in section 9, are as follows:

(1) \$10 for each of the first ten stamps; and

(2) \$10 for each additional stamp in the case of a Québec film, an original French-language film, or a film dubbed in Québec; and, in all other cases, \$200 for each additional stamp.”

**2.** Section 11 is amended by substituting “this Regulation” for “section 8 and of paragraph 1 of sections 9 and 10”.

**3.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5498

Gouvernement du Québec

## O.C. 1506-2002, 18 December 2002

An Act respecting the conservation and development of wildlife  
(R.S.Q., c. C-61.1)

### Fishing activities — Amendments

Regulation to amend the Fishing Activities Regulation

WHEREAS, under paragraph 9 of section 162 of the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), the Government may make regulations on the matters mentioned therein;

WHEREAS, by Order in Council 952-2001 dated 23 August 2001, the Government made the Fishing Activities Regulation;

WHEREAS it is expedient to amend the Regulation;

\* The Regulation respecting the fees for examination and duties payable under the Cinema Act, approved by Order in Council 744-92 dated 20 May 1992 (1992, G.O. 2, 2750), was last amended by the Regulation approved by Order in Council 9-95 dated 11 January 1995 (1995, G.O. 2, 151). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2002, updated to 1 September 2002.

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation to amend the Fishing Activities Regulation was published in Part 2 of the *Gazette officielle du Québec* of 11 September 2002 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS no comments were received following that publication;

WHEREAS it is expedient to make the Regulation to amend the Fishing Activities Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for Wildlife and Parks:

THAT the Regulation to amend the Fishing Activities Regulation, attached to this Order in Council, be made.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

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## **Regulation to amend the Fishing Activities Regulation \***

An Act respecting the conservation and development of wildlife  
(R.S.Q., c. C-61.1, s. 162, par. 9)

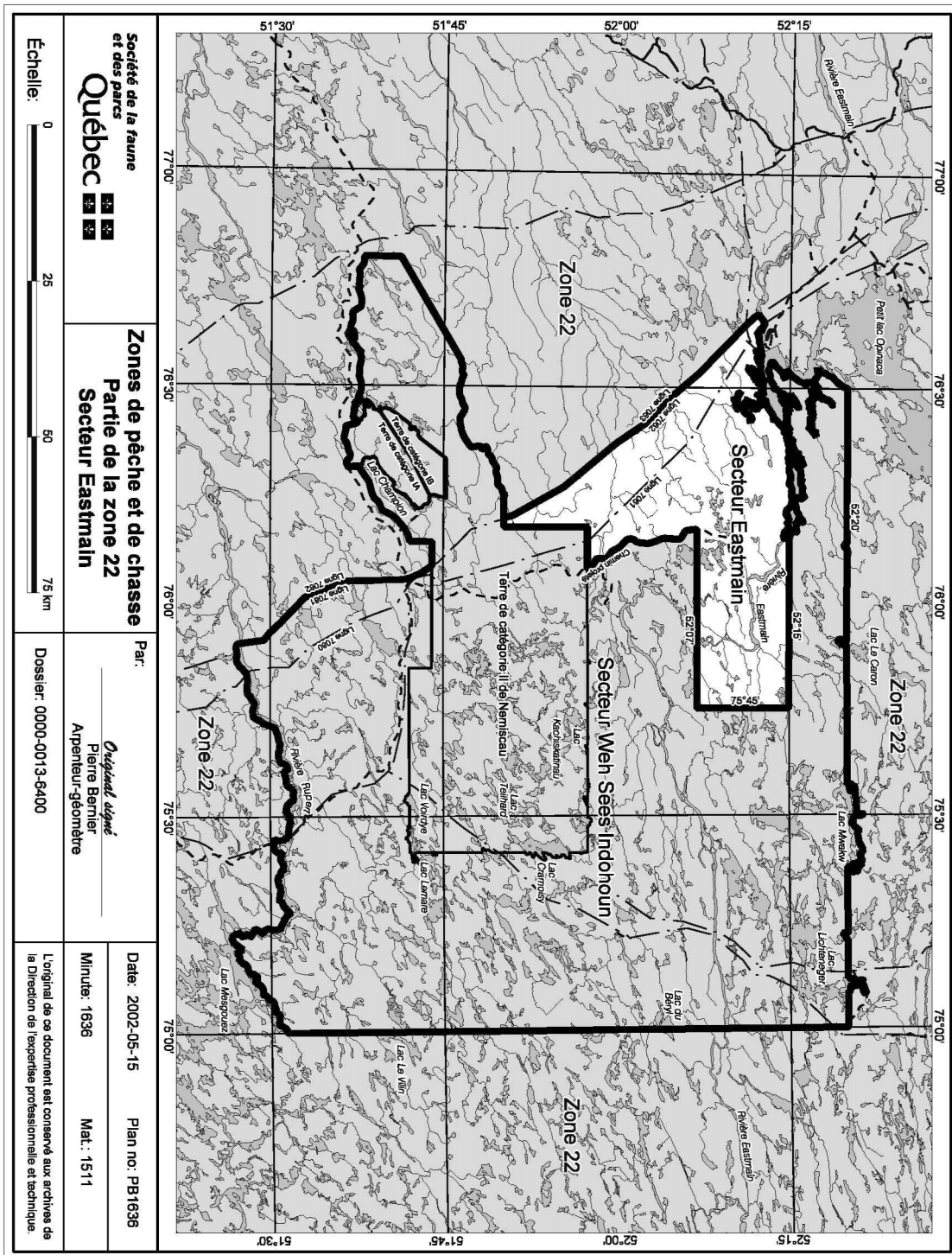
**1.** The Fishing Activities Regulation is amended by inserting the following after section 2:

“**2.1.** To fish in the parts of Area 22, the plans of which appear in Schedules I and II, all fishing permit holders must obtain a right of access pass at the place designated for that purpose; they must also report on such activity at that place by stating their daily catches, if any.”.

**2.** The Regulation is amended by adding Schedules I and II attached to this Regulation.

**3.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

## SCHEDULE I





Gouvernement du Québec

**O.C. 1513-2002, 18 December 2002**

Professional Code  
(R.S.Q., c. C-26; 2001, c. 78)

**Nurses**  
— **Code of ethics**

Regulation respecting the Code of ethics of nurses

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), amended by section 6 of chapter 78 of the Statutes of 2001, the Bureau of a professional order must make, by regulation, a code of ethics governing the general and special duties of the members of the order towards the public, the clients and the profession;

WHEREAS the Bureau of the Ordre des infirmières et infirmiers du Québec adopted the Code of ethics of nurses (R.R.Q., 1981, c. I-8, r.4);

WHEREAS, under section 95.3 of the Professional Code, amended by section 8 of chapter 34 of the Statutes of 2001, a draft Regulation was sent to every member of the order at least 30 days before its adoption by the Bureau;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 16 January 2002 with a notice that it could be submitted to the Government for approval upon the expiry of a 45-day period following the publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office des professions du Québec made its recommendations;

WHEREAS it is expedient to approve the Regulation, with amendments;

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

THAT the Code of ethics of nurses, attached to this Order in Council, be approved.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

**Code of ethics of nurses**

Professional Code  
(R.S.Q., c. C-26, s. 87; 2001, c. 78, s. 6)

**CHAPTER I**  
**DUTIES TOWARD THE PUBLIC, CLIENTS**  
**AND THE PROFESSION**

**DIVISION I**  
**DUTIES INHERENT TO THE PRACTICE**  
**OF THE PROFESSION**

*§1. General provisions*

**1.** A nurse shall come to the aid of anyone whose life is in peril, either personally or by calling for aid, by giving necessary and immediate assistance to that person, except in the event of danger to the nurse or a third party, or unless the nurse has another valid reason.

**2.** A nurse may not refuse to provide professional services to a person on the basis of race, colour, sex, pregnancy, sexual orientation, civil status, age, religion, political convictions, language, ethnic or national extraction, social origin or condition, a handicap or the use of any means to palliate a handicap.

However, a nurse may, in the interest of the client, refer the client to another nurse.

In this code, unless the context indicates otherwise, client means a person who receives professional services from a nurse.

**3.** A nurse shall not perform any act or behave in any manner that is contrary to what is generally admissible in the practice of the profession.

**4.** In connection with the care and treatment provided to a client, a nurse may not use or dispense products or methods that could be harmful to health or miracle treatments, nor may a nurse consult, collaborate with or refer a client to a person who uses or dispenses such products, methods or miracle treatments.

**5.** A nurse shall respect the right of the client to consult another nurse, another health professional or any other person of the client's choice.

**6.** A nurse who is informed of the holding of an inquiry or who has been served with a complaint concerning her or his professional conduct or competence shall not harass, intimidate or threaten the person who requested the holding of the inquiry or any other person implicated in the events related to the inquiry or complaint.



**7.** A nurse shall take into account all of the foreseeable consequences that her or his research and work will have for society and for human life, safety and health.

**8.** A nurse shall, to the extent that she or he is able, exchange knowledge with other nurses, nursing students and candidates for the profession.

**9.** A nurse may not be released from personal civil liability in the practice of her or his profession.

In particular, a nurse is prohibited from inserting any clause directly or indirectly excluding such liability, in whole or in part, or from being a party to a contract for professional services containing any such clause.

#### *§2. Integrity*

**10.** A nurse shall fulfill her or his professional duties with integrity.

**11.** A nurse shall not abuse the trust of her or his client.

**12.** A nurse shall report any incident or accident that results from her or his intervention or omission.

The nurse shall not attempt to conceal such incident or accident.

When such an incident or accident has or could have consequences for the client's health, the nurse shall promptly take the necessary measures to remedy, minimize or offset the consequences of the incident or accident.

**13.** A nurse shall not appropriate medications or other substances, including drugs, narcotic or anesthetic preparations or any other property belonging to a person with whom she or he interacts in the practice of the profession.

**14.** A nurse shall not, in respect of a client's record or any report, file or document related to the profession:

(1) falsify same, in particular by altering any notes already entered therein or by inserting any notes under a false signature;

(2) fabricate any records, reports, files or documents;

(3) enter therein any false information;

(4) fail to enter therein any necessary information.

**15.** A nurse shall refrain from expressing or giving conflicting, incomplete or groundless opinions or advice. To that end, the nurse shall attempt to acquire thorough knowledge of the facts before giving an opinion or advice.

#### *§3. Condition liable to impair the quality of care and services*

**16.** In addition to the circumstances contemplated by section 54 of the Professional Code (R.S.Q., c. C-26), a nurse shall refrain from practising her or his profession when she or he is in a state that is liable to impair the quality of care and services.

In particular, a nurse is in a state that is liable to impair the quality of care and services if she or he is under the influence of alcoholic beverages, drugs, hallucinogens, narcotic or anesthetic preparations or any other substance which may cause intoxication, a diminution or disruption of the faculties or unconsciousness.

#### *§4. Competence*

**17.** A nurse shall act competently in fulfilling her or his professional duties. To that end, the nurse shall take into consideration the limits of her or his knowledge and skills.

**18.** A nurse shall keep her or his professional knowledge and skills up to date in order to provide care and treatment in accordance with generally accepted standards of practice.

**19.** If the client's condition so requires, a nurse shall consult another nurse, another health professional or another competent person or refer the client to one of such persons.

#### *§5. Professional independence and conflict of interest*

**20.** A nurse shall subordinate her or his personal interest to that of her or his client.

**21.** A nurse shall safeguard her or his professional independence at all times. In particular, a nurse shall practise her or his profession with objectivity and disregard any intervention by a third party that could affect the performance of her or his professional duties to the detriment of the client.

**22.** A nurse shall not induce any person in pressing terms to make use of her or his professional services.

**23.** A nurse shall avoid any situation in which she or he would be in conflict of interest. In particular, a nurse is in a conflict of interest situation:

(1) when the interests concerned are such that the nurse may be influenced to favour certain of them over those of her or his client or the nurse's judgment and loyalty toward her or his client may be unfavourably affected;

(2) when the nurse receives, in addition to the remuneration to which she or he is entitled, any rebate, commission or benefit related to her or his professional activities;

(3) when the nurse pays, offers to pay or undertakes to pay any rebate, commission or benefit related to her or his professional activities.

**24.** In the event of conflict of interest or the appearance of conflict of interest, a nurse shall take reasonable measures to ensure that care and treatment are provided by another nurse, unless the situation requires that the nurse administer or continue to administer care or treatment. In such circumstances, the client shall be notified of the situation, to the extent permitted by the circumstances.

#### *§6. Availability and diligence*

**25.** In the practice of her or his profession, a nurse shall display due diligence and availability.

**26.** Where her or his specific knowledge and skill in a given area is needed in order to provide safe care and treatment to a client, a nurse who is consulted by another nurse shall provide the latter with her or his opinion and recommendations within a reasonable time.

**27.** Before ceasing to perform her or his duties for the account of a client, a nurse shall ensure that such termination of service is not detrimental to the client.

### **DIVISION II RELATIONSHIP BETWEEN THE NURSE AND THE CLIENT**

#### *§1. Relationship of trust*

**28.** A nurse shall seek to establish and maintain a relationship of trust with her or his client.

**29.** A nurse shall act respectfully toward the client and the client's spouse, family and significant others.

**30.** A nurse shall respect, within the limits of what is generally admissible in the practice of the profession, the client's values and personal convictions.

#### *§2. Provisions to preserve the secrecy of confidential information*

**31.** A nurse shall abide by the rules set forth in the Professional Code in regard to the obligation to preserve the secrecy of confidential information that becomes known to her or him in the practice of her or his profession and the cases where she or he may be released from the obligation of secrecy.

**32.** A nurse shall not disclose the fact that a person had recourse to her or his services, except if such disclosure is necessary in the interest of the client.

**33.** A nurse shall take reasonable measures to ensure that persons under her or his authority or supervision or in her or his employ do not disclose any confidential information concerning the client.

**34.** A nurse shall not make use of confidential information to the detriment of a client or with a view to obtaining, directly or indirectly, a benefit for herself or himself or for another person.

**35.** Whenever a nurse asks a client to disclose confidential information or whenever she or he permits such information to be disclosed to her or him, she or he shall ensure that the client knows the reasons therefor and the purpose for which the information will be used.

**36.** A nurse shall refrain from holding or participating in indiscreet conversations concerning a client and the services rendered to such client.

#### *§3. Prohibited behaviour*

**37.** A nurse shall not use physical, verbal or psychological abuse against the client.

**38.** For the duration of the professional relationship, a nurse may not establish a personal friendship or an intimate, amorous or sexual relationship with the client.

For the purpose of determining the duration of the professional relationship, the nurse shall take into consideration, in particular, the client's vulnerability, the nature of the client's health problem, the duration of the course of treatment and the likelihood of the nurse having to provide care to the client again.

**39.** A nurse shall refrain from intervening in the personal affairs of her or his client on subjects not falling within her or his areas of professional expertise.

### DIVISION III QUALITY OF CARE AND SERVICES

#### §1. *Information and consent*

**40.** A nurse shall provide her or his client with all the explanations necessary for the client's comprehension of the care and services being provided to him or her by the nurse.

**41.** When a nurse is obliged to obtain a free and enlightened consent, she or he shall provide the client with all the information required for that purpose.

#### §2. *The therapeutic process*

**42.** In the course of performing her or his duties, a nurse shall take reasonable measures to ensure the safety of clients, in particular by notifying the appropriate authorities.

**43.** A nurse who is providing care and treatment to a client may not abandon him or her without a serious reason.

**44.** A nurse shall not be negligent in the care and treatment provided to the client. In particular, a nurse shall:

(1) intervene promptly when the client's state of health so requires;

(2) ensure the supervision required by the client's state of health;

(3) take reasonable measures to ensure the continuity of care and treatment.

**45.** A nurse shall not be negligent when administering medication. In particular, when administering medication, a nurse shall have sufficient knowledge of the medication and abide by the principles and methods applicable to its administration.

**46.** A nurse may not refuse to collaborate with health professionals engaged in providing care, treatment or services necessary for the client's welfare.

### DIVISION IV RELATIONS WITH PERSONS WITH WHOM THE NURSE INTERACTS IN THE PRACTICE OF THE PROFESSION

**47.** A nurse shall not intentionally mislead, betray the good faith of or engage in unfair practices toward a person with whom she or he interacts in the practice of the profession.

**48.** A nurse shall not harass, intimidate or threaten a person with whom she or he interacts in the practice of the profession.

### DIVISION V RELATIONS WITH THE ORDER

**49.** Unless she or he has serious grounds for refusing, a nurse shall participate or permit participation in a committee on discipline, a review committee, a professional inspection committee, an arbitration of accounts or any other committee provided for by law, upon request of the Ordre des infirmières et infirmiers du Québec.

**50.** A nurse shall cooperate and respond as soon as possible to any request received from the secretary of the Order, a syndic of the Order or an investigator, inspector or member of the professional inspection committee.

**51.** Subject to any law or regulation to the contrary, a nurse may not permit, assist or encourage any person who is not entered on the roll of the Order to practise the profession.

### DIVISION VI DETERMINATION AND PAYMENT OF FEES

**52.** A nurse shall require and accept fair and reasonable fees.

Fees are considered fair and reasonable if they are justified by the circumstances, in proportion to the professional services rendered and take into account, in particular,

(1) the nurse's experience;

(2) the time spent in performing the professional service;

(3) the difficulty and extent of the service; and

(4) the performance of unusual services or services requiring exceptional competence or speed.

**53.** A nurse may not claim fees that are unwarranted, in particular for performing services that she or he knew or should have known were unnecessary or disproportionate to the client's needs.

**54.** A nurse may not share her or his fees except with another nurse and then only to the extent that such division corresponds to a division of responsibilities and services.

**55.** A nurse shall provide her or his client with all the explanations required for the comprehension of the nurse's statement of fees and of the terms and conditions of payment.

**56.** A nurse may require payment only for services rendered or products delivered, but shall inform her or his client in advance of the approximate cost of her or his professional services.

**57.** A nurse may collect interest on outstanding accounts only after having duly notified her or his client. The interest so charged shall be at a reasonable rate.

**58.** A nurse shall refrain from selling her or his accounts, except to another nurse or unless the client consents thereto.

**DIVISION VII**  
**CONDITIONS AND PROCEDURES FOR**  
**THE EXERCISE OF THE CLIENT'S RIGHTS OF**  
**ACCESS AND CORRECTION OF INFORMATION**  
**CONTAINED IN RECORDS ESTABLISHED**  
**IN RESPECT OF HIM OR HER**

*§1. Provision applicable to nurses practising in the public sector*

**59.** A nurse who practises her or his profession in a public organization covered by the Act respecting access to documents held by public bodies and the protection of personal information (R.S.Q., c. A-2.1) or in a centre operated by an establishment within the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5) shall abide by the rules relating to accessibility and correction of records set out in the said acts and facilitate their application.

*§2. Provisions applicable to nurses practising in a sector other than the public sector in regard to the conditions and procedures for the exercise of the client's right of access to information contained in records established in respect of him or her*

**60.** A nurse may require that a request covered by sections 61, 64 or 67 be made in writing and that the right be exercised at her or his professional domicile during her or his ordinary working hours.

**61.** A nurse shall respond, with diligence and no later than 20 days following receipt thereof, to any request made by her or his client to examine or obtain a copy of the information concerning the client in any record established in respect of the client.

**62.** Access to the information contained in a record shall be free of charge. However, a nurse may charge her or his client a reasonable fee for the reproduction, transcription or transmission of such information.

A nurse who intends to charge such fee shall, prior to reproducing, transcribing or transmitting the information, inform the client of the approximate amount that the client will be called upon to pay.

**63.** A nurse may refuse to allow the client access to information contained in a record established in respect of the client where the disclosure of such information would be likely to cause serious harm to the client or a third party. In such event, the nurse shall notify the client accordingly in writing.

*§3. Provisions applicable to nurses practising in a sector other than the public sector in regard to the conditions and procedures for the exercise of the client's right of correction of information contained in records established in respect of him or her*

**64.** A nurse shall respond, with diligence and no later than 20 days following receipt thereof, to any request made by her or his client to :

(1) cause to be corrected any information that is inaccurate, incomplete or ambiguous having regard for the purpose for which it was collected, contained in a document concerning the client included in any record established in respect of the client ;

(2) cause to be deleted any information that is outdated or not justified by the object of the record established in respect of the client ;

(3) file in the record established in respect of the client the written comments prepared by the client.

**65.** A nurse who grants a request covered by section 64 shall issue to the client, free of charge, as the case may be :

(1) a copy of the document or portion thereof allowing the client to determine that the information has been corrected;

(2) an attestation that information has been deleted;

(3) an attestation that written comments have been filed in the record.

**66.** Upon written request of the client, a nurse shall transmit, free of charge, to any person who had transmitted to the nurse the information contemplated by section 64 as well as any person to whom such information was communicated, as the case may be:

(1) a copy of the corrected information;

(2) an attestation that information has been deleted;

(3) an attestation that written comments have been filed in the record.

*§4. Obligation of a nurse practising in a sector other than the public sector to release documents to the client*

**67.** A nurse shall, with diligence, release to a client who so requests any document entrusted by the client to the nurse and shall indicate in the client's file, as appropriate, the reasons for the request.

#### **DIVISION VIII** CONDITIONS, OBLIGATIONS AND PROHIBITIONS RELATING TO ADVERTISING

**68.** A nurse shall avoid all advertising likely to tarnish the image of the profession.

**69.** A nurse may not associate or permit the association of her or his name with her or his professional title in an advertisement directed at the public for the purpose of promoting the sale of any medication, medical product, product or method that could be harmful to health or miracle treatment.

**70.** In addition to the obligations set forth in section 60.2 of the Professional Code, a nurse who, in her or his advertising, claims to possess specific qualities or skills must be able to demonstrate them.

**71.** In her or his advertising, a nurse may not compare the quality of her or his services with the quality of the services provided or that may be provided by other nurses, and may not discredit or denigrate such services.

**72.** In her or his advertising, a nurse may not use or permit the use of an endorsement or statement of gratitude concerning her or him.

The preceding paragraph does not prevent a nurse from mentioning in her or his advertising an award for excellence or any other prize in recognition of a specific contribution or achievement related to the profession.

**73.** A nurse may not engage in or permit advertising that is likely to unduly influence persons who may be physically or emotionally vulnerable because of their age or state of health or the occurrence of a specific event.

**74.** A nurse who advertises prices or fees for her or his professional services shall:

(1) establish fixed amounts;

(2) specify the services covered by these amounts;

(3) indicate whether or not disbursements are included in the amounts;

(4) indicate whether additional services may be required and specify the cost thereof.

The fixed amounts shall remain in effect for a minimum period of 90 days after the last broadcast or publication of the advertisement.

A nurse may nevertheless agree with a client on a price lower than the one broadcast or published.

**75.** Any advertisement by a nurse must be of such a nature as to adequately inform persons who have no particular knowledge of the area of expertise referred to in the advertisement.

**76.** A nurse shall keep a copy of every advertisement put out by her or him for a period of at least 5 years following the date on which the advertisement was last published or broadcast. The copy shall be given to a syndic of the Order or any investigator, inspector or member of the professional inspection committee who requests it.

**77.** A nurse who practises in partnership is solidarily responsible with the other nurses for complying with the rules respecting advertising, unless the advertisement clearly indicates the names of those responsible therefor or unless the nurse demonstrates that the advertisement was published or broadcast without her or his knowledge or consent or in spite of the measures taken to ensure compliance with those rules.

**DIVISION IX**  
**PROFESSIONS, TRADES, INDUSTRIES,**  
**BUSINESSES, OFFICES OR DUTIES INCOMPATIBLE**  
**WITH THE DIGNITY OR PRACTICE OF**  
**THE PROFESSION**

**78.** A nurse may not sell, engage or participate for profit in any distribution of medications, equipment or products related to her or his professional activities, except in the following cases:

(1) where a sale of products or equipment is made in response to an immediate need of the client and is required for the care and treatment to be provided. In such case, the client shall be notified of any profit realized by the nurse upon the sale;

(2) where the nurse clearly distinguishes the place where care is provided from the place where the sale of products or equipment takes place and where her or his professional title is not associated with the commercial activities.

**79.** A nurse may not trade in products or methods that could be harmful to health or miracle treatments.

**DIVISION X**  
**GRAPHIC SYMBOL OF THE ORDER**

**80.** Where a nurse reproduces the graphic symbol of the Order for advertising purposes, she or he shall ensure that such reproduction is in conformity with the original held by the secretary of the Order.

**81.** Where a nurse uses the graphic symbol of the Order for advertising purposes elsewhere than on a business card, she or he shall include the following warning in the advertisement:

“This advertisement does not originate with the Ordre des infirmières et infirmiers du Québec and is binding on the author only.”

Where a nurse uses the graphic symbol of the Order for advertising purposes, including on a business card, she or he may not juxtapose thereto or otherwise use the name of the Order, except to indicate that she or he is a member thereof.

**CHAPTER II**  
**FINAL PROVISIONS**

**82.** This code replaces the Code of ethics of nurses (R.R.Q., 1981, c. I-8, r.4).

**83.** This code comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

Gouvernement du Québec

**O.C. 1515-2002, 18 December 2002**

An Act respecting the Ministère des Ressources naturelles (R.S.Q., c. M-25.2)

**Regional county municipalities in the administrative region of Laurentides**  
**— Program for the delegation of the land and forest management of intramunicipal lands in the domain of the State**

Program for the delegation of the land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides

WHEREAS the Government and the regional county municipalities in the administrative region of Laurentides have agreed, within the government policy on regional development, to increase the contribution of the intramunicipal lands in the domain of the State to the revitalizing, consolidation and economic development of the region and local municipalities;

WHEREAS one of the main measures put forward consists in the delegation of the management of intramunicipal lands in the domain of the State and some of their forest resources to the RCM in the region of Laurentides;

WHEREAS, as regards land management, the Government has already approved, by Order in Council 416-2000 dated 29 March 2000, a program developed by the Minister of Natural Resources under sections 17.13 to 17.16 of the Act respecting the Ministère des ressources naturelles (R.S.Q., c. M-25.2), amended respectively by sections 150 to 153 of chapter 6 of the Statutes of 2001, concerning a delegation of the management of intramunicipal lands in the domain of the State to regional county municipalities in the administrative region of Laurentides;

WHEREAS, as regards forest management, the Government also approved, by Order in Council 424-2000 dated 29 March 2000, under sections 10.5 to 10.8 of the Municipal Code of Québec (R.S.Q., c. C-27.1), the signing of an agreement by the Minister of Natural Resources respecting the transfer, on an experimental basis, of responsibilities in the field of forest management in the domain of the State to Municipalité régionale de comté d'Antoine-Labelle;

WHEREAS only Municipalité régionale de comté d'Antoine-Labelle signed an agreement respecting territorial management on 26 May 2000 with the Minister of

Natural Resources and the Minister of the Environment, in accordance with Orders in Council 416-2000 and 424-2000 and such management agreement must end five years after the date it is signed;

WHEREAS sections 17.13 to 17.16 of the Act respecting the Ministère des Ressources naturelles allow, in particular, the Minister of Natural Resources to develop, with the approval of the Government, programs for the development not only of the lands in the domain of the State under its authority but also the forest resources in the domain of the State, in order to promote regional development;

WHEREAS the third paragraph of section 17.14 of that Act allows the Minister, for the purposes of such programs, to the extent of and in accordance with their terms and conditions, to entrust the management of any land in the domain of the State that is under the Minister's authority and the property situated thereon or, in a forest reserve, the management of forest resources in the domain of the State, to a legal person, or entrust the management of the management permits for the harvest of firewood for domestic or commercial purposes, in a management unit, to a municipality; such legal person may in that case exercise the powers and responsibilities entrusted to it by the Minister that are defined in the program;

WHEREAS, under the same paragraph, the program shall identify, among the provisions of the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) or among those of Divisions I and II of Chapter II of Title 1 of the Forest Act (R.S.Q., c. F-4.1), as concerns the management permits referred to in paragraphs 1, 2 and 5 of section 10 and those referred to in paragraph 5 of section 24 or in section 24.0.1 of that Act, of Divisions III and IV of that Chapter or of Division II of Chapter IV of Title I of that Act or of Title VI of the latter Act, the provisions whose application may be delegated to the legal person, as well as the powers and responsibility vested in the Minister that may be exercised by the legal person;

WHEREAS, under the fourth paragraph of section 17.14 of the Act respecting the Ministère des Ressources naturelles, where the management of land or forest resources in the domain of the State is entrusted to a municipality by the Minister in accordance with the third paragraph of section 17.14 of that Act, the Minister may, to the extent necessary to implement a program and according to the terms and conditions specified in the program, determine among the powers provided for in section 71 of the Act respecting the lands in the domain of the State or in section 171 of the Forest Act and in sections 171.1 and 172 of that Act, amended

respectively by sections 118 and 119 of chapter 6 of the Statutes of 2001, those that may be exercised by the municipality by by-law;

WHEREAS sections 14.12 and 14.12.2 of the Municipal Code of Québec, amended respectively by sections 136 and 137 of chapter 6 of the Statutes of 2001 allow any municipality that participates in a program developed by the Minister of Natural Resources to exercise the responsibility provided for in the program not only for any intramunicipal land in the domain of the State but also for certain forest resources in the domain of the State;

WHEREAS it is expedient to approve the program for the delegation of the land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides;

WHEREAS it is expedient to entrust the administration of the program to the Minister of Natural Resources and that the planning aspect of the program be managed by the Minister in cooperation with the other departments and agencies involved;

WHEREAS it is expedient that the program applies to the whole territory of the administrative region of Laurentides, except to the territory of Municipalité régionale de comté d'Antoine-Labelle where the program approved by Order in Council 416-2000 and the experimental project approved by Order in Council 424-2000 will continue to apply until the term of the land management agreement signed with that RCM;

WHEREAS it is expedient that the program applies on the territory of Municipalité régionale de comté d'Antoine-Labelle only from the term of the land management agreement with Municipalité régionale de comté d'Antoine-Labelle or from the signing of a new land management agreement in accordance with the program;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Natural Resources:

THAT the Program for the delegation of land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides, attached to this Order in Council, be approved;

THAT the management of the program be entrusted to the Minister of Natural Resources, where it is understood that the planning aspect be managed by the Minister in cooperation with the other departments and agencies involved;

THAT the program applies to the whole intramunicipal territory of the administrative region of Laurentides, except to the territory of Municipalité régionale de comté d'Antoine-Labelle where the program, approved by Order in Council 416-2000 dated 29 March 2000 and the experimental project, approved by Order in Council 424-2000 dated 29 March 2000, will continue to apply until the term of the land management agreement or until the signing of a new land management agreement in accordance with the program governed by this Order in Council.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

### **Program for the delegation of the land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides**

An Act respecting the Ministère des Ressources naturelles (R.S.Q., c. M-25.2, ss. 17.13 to 17.16; 2001, c. 6, ss. 150 to 153)

#### 1. OBJECTIVE OF THE PROGRAM

To promote regional development by developing intramunicipal lands in the domain of the State in the administrative region of Laurentides by entrusting their management and the management of some of their forest resources to the regional county municipalities in that region.

#### 2. DEFINITIONS

For the purposes of this Program, unless the context indicates otherwise,

2.1. “territorial management agreement” means a multisectoral act of delegation whereby the Government transfers management powers and responsibilities provided for in the agreement to a regional county municipality (RCM) on certain conditions;

2.2. “Minister” means the Minister of Natural Resources; and

2.3. “Program” means this program, prepared under Division II.2 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., c. M-25.2).

#### 3. CONDITIONS OF ELIGIBILITY

To be eligible for the Program, a regional county municipality in the administrative region of Laurentides shall have

3.1. obtained a resolution of the Conseil régional de développement des Laurentides that recognizes that the delegation of certain management powers and responsibilities for certain parts of the intramunicipal land in the domain of the State located within the limits of the RCM constitutes, in the collective interest, a new management model which may increase the contribution of the territory in question to the regional and local development and that the proposed delegation complies with the regional strategic plan of the Conseil régional de développement des Laurentides;

3.2. adopted a resolution whereby the municipality states its acceptance of all the terms and conditions, commitments and obligations under the Program;

3.3. established, by by-law, a development fund under sections 688.7 to 688.9 of the Municipal Code of Québec (R.S.Q., c. C-27.1); and

3.4. created, by by-law, a multiresource committee in charge of advising the RCM and representing all interests related to the preservation of natural environment and to the development and use of the territory covered by the delegation. Furthermore, the voting powers of the committee should be apportioned fairly to prevent the committee’s decision from being directed by particular interests or groups.

#### 4. TERRITORIAL JURISDICTION

4.1. The intramunicipal lands in the domain of the State on which the powers and responsibilities delegated under the Program shall be exercised are all the lots, parts of lots and any other part of the domain of the State including the buildings, improvements and movable property therein, as well as some of their forest resources, which are located in the administrative region of Laurentides, within the limits of the municipal territory of the region and are under the Minister’s jurisdiction. The lands are shown on the “Terres publiques intramunicipales déléguées” map for the Laurentides region dated March 2000.

4.2. The following are expressly excluded from the territory covered:

(1) the water domain, that is, the beds of lakes and watercourses up to the normal high water mark, including the water powers;



(2) flooded lands in the domain of the State, following the construction and maintenance of a dam or any work related to the dam or required for its operation;

(3) any right-of-way of a route or highway under the management of the Minister of Transport, including in particular its infrastructure and all the works useful for its development or management;

(4) any other land identified by the Minister;

(5) lands within common areas under supply and forest management contracts or forest development contracts at the time of the signing of this territorial management agreement, including those located within those areas and that may be the subject of sugar bush permits, vacation resort leases or any other right;

(6) lands on which public utility projects of an exclusive nature are planned in the short-term by the Gouvernement du Québec; and

(7) lands on which the Minister or the Gouvernement du Québec has granted rights in favour of the Government of Canada, or one of its departments or bodies.

The Jackrabbit Ecological Reserve in the MRC des Laurentides and threatened or vulnerable flower habitats under the authority of the Minister of the Environment are included in computing the area of territory covered, even if no other power or responsibility is delegated to the RCM. Powers to monitor, to put up signals and to educate respecting such ecological reserve might be delegated to that RCM through an addendum to the territorial management agreement.

Exceptional forest ecosystems, classified or whose classification is planned, under the authority of the Minister and located in the RCMs of the administrative region of Laurentides, shall be included in computing the area of the territory covered, even if no power or responsibility is delegated to the RCM.

4.3. Where land under the responsibility of an RCM is required for public use or interest or for any other purpose by order of the Government, or where land was incorrectly identified as included in intramunicipal lands in the domain of the State, the Minister may, after notification, exclude that land from the Program.

Such exclusion by the Minister could eventually lead to a fair compensation for any improvement made on that land by the RCM, at its own expense, without assistance from development funds or any government financial assistance program since the signing of the territo-

rial management agreement, as well as for any actual damage, without further compensation or indemnity for any loss of expected profits or revenues.

The lots currently under lease with Université de Montréal and located on the territory of the MRC des Pays-d'en-Haut shall be included in the territory covered, even if no power or responsibility is delegated to the RCM.

## 5. DELEGATED POWERS AND RESPONSIBILITIES

For the purposes of the Program, the Minister may delegate to an RCM the powers and responsibilities with respect to land planning and management and forest management referred to in sections 5.1, 5.2 and 5.3. That delegation is subject to the terms and conditions provided for in section 7.

The powers and responsibilities so delegated shall be exercised on all the lands identified by the Minister in a list attached to the territorial management agreement.

In addition to those lands, the Minister may, after notification, delegate the management of any other intramunicipal land in the domain of the State under the Minister's jurisdiction.

### 5.1. Planning

With respect to planning, the Minister shall delegate to the RCM the responsibility for planning the development and use of the public territory (intramunicipal lands in the domain of the State and its natural resources) covered by the territorial management agreement signed by the RCM for at least five years. To that end, the RCM shall comply with the deadline fixed by the Minister and take into account the concerns of the population and users of the territory and resources. The RCM shall forward its planning to the Minister for approval before any other consultation. The RCM shall review the planning, make any necessary changes, ensure follow-up and include it in its development plan.

The Minister may intervene to help find a concerted solution that would lead to the adoption of the planning should the RCM be unable to reach a consensus on the carrying out of the planning. If need be, the Minister may impose an arbitration procedure.

#### 5.1.1. The planning must

(1) define the territory's vocation without changing that of the special interest lands identified by the Government in the public land use plan;

(2) indicate the general rules, terms and conditions for harmonizing and integrating the uses of the territory;

(3) take into account the Government's territory development guidelines and its special concerns communicated during the preparation of the said planning; and

(4) take into account the regional strategic plan of the Conseil régional de développement des Laurentides.

## 5.2. Land management

For the purposes of the Program, the Minister shall entrust the management of intramunicipal lands in the domain of the State to an RCM that exercises the following powers and responsibilities under the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) and the regulations thereunder:

(1) manage the land rights already granted other than leases for the utilization of water powers. To that end, the RCM shall manage and respect the rights granted until they expire, renew them and cancel them if the beneficiary fails to meet his or her obligations;

(2) grant and manage new land rights other than leases for the utilization of water powers, renew them, ensure the follow-up, amend them with the consent of the parties involved and cancel them if the beneficiary fails to meet his or her obligations;

(3) manage the buildings, improvements and movable property located on the lands covered by the delegation and, if need be, dispose of them according to the regulatory provisions;

(4) sell land, grant rights under emphyteutic contracts, transfer land gratuitously for public use in accordance with the regulations. However, the RCM shall first obtain the Minister's consent before granting those rights;

(5) grant servitudes and any other right;

(6) grant temporary occupation and visitor's licences;

(7) collect and keep all income, including expenses arising from the management of lands covered by the delegation;

(8) renounce the right of ownership of the Minister in favour of the occupant of the land in the course of a cadastral renovation in accordance with section 40.1 of the Act respecting the lands in the domain of the State and according to the criteria established by the Minister for such a renunciation;

(9) rectify any deed of alienation granted by the RCM and waive or amend the restrictive clauses in a deed of alienation granted by the RCM, in accordance with sections 35.1 and 40 of the Act respecting the lands in the domain of the State, or change the purposes therein;

(10) acquire by mutual agreement (gift, purchase, trade), to the benefit of the domain of the State, private lands, buildings, improvements and movable property. However, the RCM shall obtain the Minister's consent prior to such a transaction;

(11) publish a declaration stating that the land forms part of the domain of the State in accordance with section 19 of the Act respecting the lands in the domain of the State;

(12) authorize the construction of roads other than forest and mining roads in accordance with section 55 of the Act respecting the lands in domain of the State;

(13) control the use and occupation of the territory

— by treating situations of illegal occupation and use, including in particular illegal dumping sites and gates within the meaning of the Act respecting the lands in the domain of the State, according to strict rules and methods in keeping with the Government's position that no privilege may be granted to anyone who illegally occupies or uses land in the domain of the State;

— by treating situations of precarious occupation according to the Regulation respecting the regularization of certain kinds of occupation of lands in the domain of the State, made under the Act respecting the lands in the domain of the State by Order in Council 233-89 dated 22 February 1989;

(14) institute penal proceedings in its own name for an offence committed on the territory covered by the management delegation, provided for in the Act respecting the lands in the domain of the State and its regulations, or in the by-laws adopted by the RCM in accordance with section 6;

(15) exercise all the recourses and powers conferred upon the Minister under sections 60 to 66 of the Act respecting the lands in the domain of the State; and

(16) cause the limit between the domain of the State and private property to be determined and the signature of the owner to be affixed to the documents pertaining to cadastral operations, boundary marking or any motion for the judicial recognition of the right over property concerning the lands in the domain of the State covered by the management delegation. The RCM must follow

the land survey instructions issued by the Minister, as provided for in section 17 of the Act respecting the lands in the domain of the State to carry out those activities.

### 5.3. Forest management

For the purposes of the Program, the Minister shall entrust the forest management of the intramunicipal public territory to a RCM which must carry out the forest management powers and responsibilities defined in Divisions I, II, III and IV of Chapter II and Division II of Chapter IV of Title I and in Title VI of the Forest Act (R.S.Q., c. F-4.1), relating to forests in the domain of the State and applicable to the forest reserves described below, to the extent provided by law :

(1) the granting of forest management permits of the following classes :

— for the harvest of firewood for domestic or commercial purposes ;

— for the harvest and operation of a sugar bush for acericultural purposes ;

— for wildlife, recreational or agricultural development ; and

— for the supply of a wood processing plant to the holder of a forest management agreement that is entitled thereto under Division II of Chapter IV of Title I of the Forest Act ;

(2) the development of forest reserves, by respecting the annual allowable for sustained yield, and the marketing of all timber harvested on the territory covered by this Agreement ;

(3) the signature of forest management agreements. The RCM shall require from the holders of the forest management agreements that they prepare forest development plans that comply with the form and content provided for in sections 52, 53 and 59.1 of the Forest Act, adapted as required ;

(4) the supervision of the preparation of the general forest development plans required from the beneficiary of a forest management agreement, in particular :

— the determination of the annual allowable cut of the territory of any forest management agreement granted by the delegating authority, and the annual yield of the areas intended for forest production, according to the method and assumptions provided for in the forest development manual published by the Minister ;

— the assignment, to the territory of any forest management agreement, of protection and development objectives for the forest, having consulted the departments involved and the regional authorities ;

The annual allowable cut, the forest yields and the protection and development objectives shall be assigned to the territory of a forest management agreement to be included in the related general plan and taken into consideration in preparing the forest development strategies ;

(5) approval of the general forest development plans and annual development plans prepared by the holders of the forest development holders ;

(6) the granting of development permits for the construction of or repairs to forest roads and the issuing of authorizations on the width of the right-of-way and the destination of the harvested timber following construction work or repairs made to other roads than forest roads ;

(7) the possibility to restrict or prohibit access to forest roads in the interest of the public, particularly in case of fire, thaw periods or for safety reasons ;

(8) the application of forest management standards, in accordance with the Regulation respecting standards of forest management for forests in the public domain made by Order in Council 498-96 dated 24 April 1996, or the prescription of standards differing from those prescribed by regulation of the Government, or departing from such standards, in accordance with the provisions of sections 25.2 to 25.3.1 of the Forest Act ;

(9) the collection of dues from holders of authorizations, permits or rights issued by the RCM ;

(10) the surveillance and supervision of forest management, in accordance with the Forest Act and the regulations thereunder. The RCM shall notify the Minister of any offence against the Act or the regulations thereunder and forward to the Minister the file it has prepared on the matter, including technical exhibits used to describe the offence (maps, area measurements, number of trees) ;

(11) the supervision of the scaling of harvested timber, in accordance with the standards determined by regulation of the Government. The RCM shall use the computerized scaling method to forward the data to the Minister of Natural Resources ;

(12) the verification of the data and information appearing on the annual reports produced by holders of forest management agreements, in accordance with sections 70.1 to 70.4 of the Forest Act ; and

(13) the holding of the public consultations required by the consultation policy provided for in section 211 of the Forest Act and applicable to the territory of this territorial management agreement or to the territory of any forest management agreement on issues covered by delegated responsibilities.

The Minister shall continue to assume the powers and responsibilities which are not delegated by this agreement.

In the exercise of its powers and responsibilities, the RCM shall

(1) not adopt restrictive provisions to favour local use of the resource over projects that have greater potential for employment and development;

(2) become a member of the forest protection organizations recognized by the Minister and assume their share of the protection costs. Assessments paid by the RCM to those organizations are applicable to territory where the RCM has entered into a forest management agreement. When entering into such an agreement, it shall require that the agreement holder become a member of the organizations and to pay its share of the protection costs;

(3) draw up, for approval by the Minister and for any territory or part thereof laid out as a board under the RCM, a forest management plan that includes a computation of production and a program of forest management activities;

(4) consult with the Société de la faune et des parcs du Québec, the Ministère de l'Environnement and the Ministère des Ressources naturelles on the forest protection and development objectives assignable on the territories covered by the forest management agreement and on the forest development plans prepared by the holders of forest management agreements in accordance with the terms and conditions agreed to by the parties; and

(5) where the RCM enters into a forest management agreement with a beneficiary, the agreement holder shall pay its contribution directly to the forestry fund on the basis of the volume authorized by the annual management permit. The RCM then undertakes to send the Ministère des Ressources naturelles the forest management agreements, for registration purposes, as soon as they are signed and upon any later modification. The RCM also undertakes to inform the department of the volume authorized by the management permit of each holder of a forest management agreement on 1 April, 1 July, 1 October and 1 January.

The RCM agrees that the Minister may, if need be, specify the scope of the delegated powers and duties with regard to forest management.

## 6. REGULATORY POWERS

For the purposes of the Program, the Minister shall determine that an RCM may exercise, by means of by-laws made under subparagraph 5 of the second paragraph of section 14.12 of the Municipal Code of Québec and according to the conditions set out in section 6.1 of the Program, the powers referred to in subparagraphs 3 and 7 to 11 of the first paragraph and the second paragraph of section 71 of the Act respecting the lands in the domain of the State, as well as the powers referred to in sections 171, 171.1 and 172 of the Forest Act, according to the conditions set out in section 6.2 of the Program.

### 6.1. Conditions applicable to regulatory powers in land matters

The by-laws of the RCM, whose coming into force is subject to the rules prescribed by the Municipal Code of Québec, shall be first submitted to the Minister who may approve them, having ascertained that they are in keeping with the Government's principles and objectives and their regional consistency. More specifically, the RCM shall comply with the following principles:

(1) it shall keep the intramunicipal lands in the domain of the State open to the public, in particular by allowing the free movement of persons;

(2) it shall preserve public access to the State water domain;

(3) it shall impose a tariff based on the market value; and

(4) it shall grant no privilege to a person who illegally occupies or uses land in the domain of the State, except to regularize a precarious situation eligible for a title under the Regulation respecting the regularization of certain kinds of occupation of lands in the domain of the State, made under the Act respecting the lands in the domain of the State.

By-laws respecting administration expenses shall pertain only to the cases already provided for in the regulations made under the Act respecting the lands in the domain of the State.

6.2. Conditions applicable to regulatory powers in forest matters

The by-laws of the RCM, whose coming into force is subject to the rules prescribed by the Municipal Code of Québec, shall be first submitted to the Minister who may approve them, having ascertained that they are in keeping with the Government's principles and objectives and their regional consistency. More specifically, the RCM's by-laws shall pursue the same objectives as government regulations and shall contain standards that are equivalent or more severe.

## 7. GENERAL

7.1. An RCM entrusted with the management of intramunicipal lands in the domain of the State by the Minister under the Program, shall, in respect of all the following items, comply with the corresponding terms and conditions:

Access to the domain of the State: the RCM shall maintain public access to the domain of the State and to the State water domain;

Alienation of land: the Minister's agreement to a land alienation may be transmitted either in the course of the development and use planning referred to in section 5.1, or by a specific notice for projects not referred to in that planning;

Land surveying: any land surveying on lands in the domain of the State or affecting their limits, including boundary marking, and in particular the one required for an alienation, shall be carried out in accordance with section 17 of the Act respecting the lands in the domain of the State and with the instructions of the Minister;

Native peoples: the rights granted by the RCM shall comply with government policy concerning Native peoples and the Minister shall be consulted when dealing with Native matters;

Multiresource committee: the RCM shall see that the representation referred to in section 3.4 is preserved. It shall request the committee's written advice on the following matters, that is, the development and use planning for the territory for which the RCM is responsible, the use of the development fund and, if need be, the taking into account of that planning in every development plan;

Costs and expenses related to land management: all the costs and expenses related to the land management shall be charged, as the case may be, to the RCM, the

acquirer, the applicant or the beneficiary of the right. Those costs and expenses include land surveying on land in the domain of the State, cadastral registration, boundary marking and the publication of rights for any transaction carried out by the RCM;

Land rights granted by the State: the RCM shall respect the rights granted by the State in accordance with the titles issued until they expire, renew them unless the beneficiary of the right is at fault and make sure, in exercising the powers and responsibilities delegated under the Program, not to restrict in any way the exercise of a right granted or to be granted by the State;

Land rights related to recreation: land rights related to recreation shall respect the recreation development objectives set out in the Guide de développement de la villégiature sur les terres du domaine public prepared in April 1994 and in the Plan régional de développement de la villégiature des Laurentides prepared in September 1993 or any other document replacing them;

State and area of intramunicipal lands in the domain of the State: in exercising delegated powers and responsibilities, the RCM shall accept the lands as they are delimited, designated or surveyed at the time the territorial management agreement is signed, without any guarantee by the Minister as to their state or area; and

Rules and procedures: the operating rules and administrative procedures adopted by the RCM shall provide fair granting of rights and alienation of land on the territory covered for all those involved and recognize the special principles and objectives defined in the territorial management agreement.

7.2. The RCM shall file the following reports:

(1) an annual report at 31 March of each year to the Minister on its activities and the use of the income from start-up assistance, duties or similar income from the management of the applicable territory and certain forest resources, and income from the development carried out in that territory;

(2) every five years, an activity report to the Minister on the results obtained versus the objectives set forth in the agreement and the objectives defined in the territorial management agreement, and on the assessment of the RCM's management of the powers and responsibilities delegated to it in the field of land and forest management. In addition, the RCM shall make public the highlights of the report.

The Minister and the RCM shall agree within 12 months of the signing of the territorial management agreement on the objectives to be attained and on assessment criteria; and

(3) a report on the management of the fund including detailed statements of account and a detailed report on the expenditure of the amounts paid into the fund, according to a grid provided by the Ministère des Ressources naturelles.

7.3. The intramunicipal lands in the domain of the State and the forest resources covered by the delegation shall be administered and managed by the RCM without financial compensation from the Government.

7.4. The RCM shall collect and keep the income from the management of the intramunicipal lands in the domain of the State and certain forest resources covered by the delegation, including administration expenses, from the date the territorial management agreement is signed. However, any amount collected by the Government or owed to it on the date of the signing remains its property without adjustment.

7.5. The Minister shall register in the Terrier or in any other register designated by him or her all alienations and rights granted by the RCM on the lands in question and shall issue attestations in writing of the information entered therein; the RCM shall collect all exigible expenses, including interest income, and shall remit them entirely to the Minister, according to the terms and conditions defined in the territorial management agreement. When the Minister will have implemented a formal procedure to make it possible for the RCM to directly enter rights in the official land register, the Minister will contact the RCM to adapt the relevant terms and conditions in the territorial management agreement.

7.6. The Minister shall register the forest management agreements granted by the RCM with the land register.

7.7. An RCM that exercises the powers and responsibilities provided for in the Program acts in its own name.

Subject to the special provisions of section 6, the RCM shall comply with the Act respecting the lands in the domain of the State and the Forest Act and their regulations thereunder.

## 8. FINAL

8.1. The territorial management agreement respecting land planning and forest management has a five-year term. It may be renewed.

When the land and forest management delegation expires, the Minister shall again become solely responsible for the management of the intramunicipal lands in the domain of the State and forest resources that he or she had delegated.

The Minister may also terminate the delegation if the RCM fails to comply with the terms and conditions applicable to the delegation.

8.2. Where the Minister is again responsible for the management of intramunicipal lands in the domain of the State and the forest resources he or she had delegated, the RCM shall send the Minister all the information required, including, in particular, the up-to-date books and records kept by the RCM for managing the lands and the forest resources. The RCM shall also give the Minister all the records that the Minister entrusted to it.

8.3. Any contestation by the holder of a right that was granted by the RCM and that results from differences in the management methods applied by the RCM and the Minister shall be submitted to the Minister.

5499

## M.O., 2002-023

### Order of the Minister for Wildlife and Parks dated 18 December 2002

An Act respecting the conservation and development of wildlife  
(R.S.Q., c. C-61.1)

Concerning the Rivière-Sainte-Anne Wildlife Sanctuary

THE MINISTER FOR WILDLIFE AND PARKS,

CONSIDERING the establishment of the Rivière-Sainte-Anne Wildlife Reserve under section 81.2 of the Wildlife Conservation Act (R.S.Q., c. C-61) made by the Regulation respecting the salmon river wildlife sanctuaries of Matapédia-et-Patapédia, Sainte-Anne and Saint-Jean (R.R.Q., 1981, c. C-61, r. 79), modified by Order 736-83 dated april 13 1983, 1382-83 dated june 22 1983, 849-84 dated april 4 1984, 1208-84 dated may 23 1984, 821-86 dated june 11 1986, 570-87 dated april 8 1987, 140-92 dated february 5 1992, 283-92 dated february 26 1992, 719-92 dated may 12 1992, 1282-93 dated september 8 1993, 1441-97 dated november 5 1997 and 859-99 dated july 28 1999 and by Order of the Minister 98023 dated february 25 1999;

CONSIDERING that the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1) was substituted for the Wildlife Conservation Act;

CONSIDERING that under section 184 of this Act, the provisions of the Wildlife Conservation Act are replaced by the corresponding provisions of the Act respecting the conservation and development of wildlife;

CONSIDERING that under section 186 of the Act respecting the conservation and development of wildlife, every provision of a regulation, order in council or order made by the Government under the Wildlife Conservation Act continues to be in force to the extent that it is consistent with the Act;

CONSIDERING that under section 191.1 of this Act, regulations made by the Government under section 111 of the Act before January 1, 1987 continue to be in force until, as of June 17, 1998, they are replaced or repealed by an order of the Minister;

CONSIDERING that under section 111 of the Act respecting the conservation and development of wildlife, the Minister responsible for Wildlife and Parks may, after consultation with the Minister of Natural Resources, establish wildlife sanctuaries on lands in the domain of the State and dedicate them to the conservation, development and utilization of wildlife and to the carrying on of recreational activities incidental thereto;

CONSIDERING that it is expedient to modify the territorial limits of the the Rivière-Sainte-Anne Wildlife Sanctuary;

ORDERS THE FOLOWING :

The first part of the section 1 of the Regulation respecting the salmon river wildlife sanctuaries of Matapédia-et-Patapédia, Sainte-Anne and Saint-Jean, preceding subsection *d* is repealed by the following text:

“1. The following territories for which the plans are shown in Schedules D and L, and which are described in this section are established as wildlife sanctuaries under the names of “Rivières-Matapédia-et-Patapédia wildlife sanctuary” and “Rivière Saint-Jean wildlife sanctuary” ;”;

Subsection 1 *k* of this regulation be repealed;

The plan attached to this Order replaces the plan of Schedule K of this regulation;

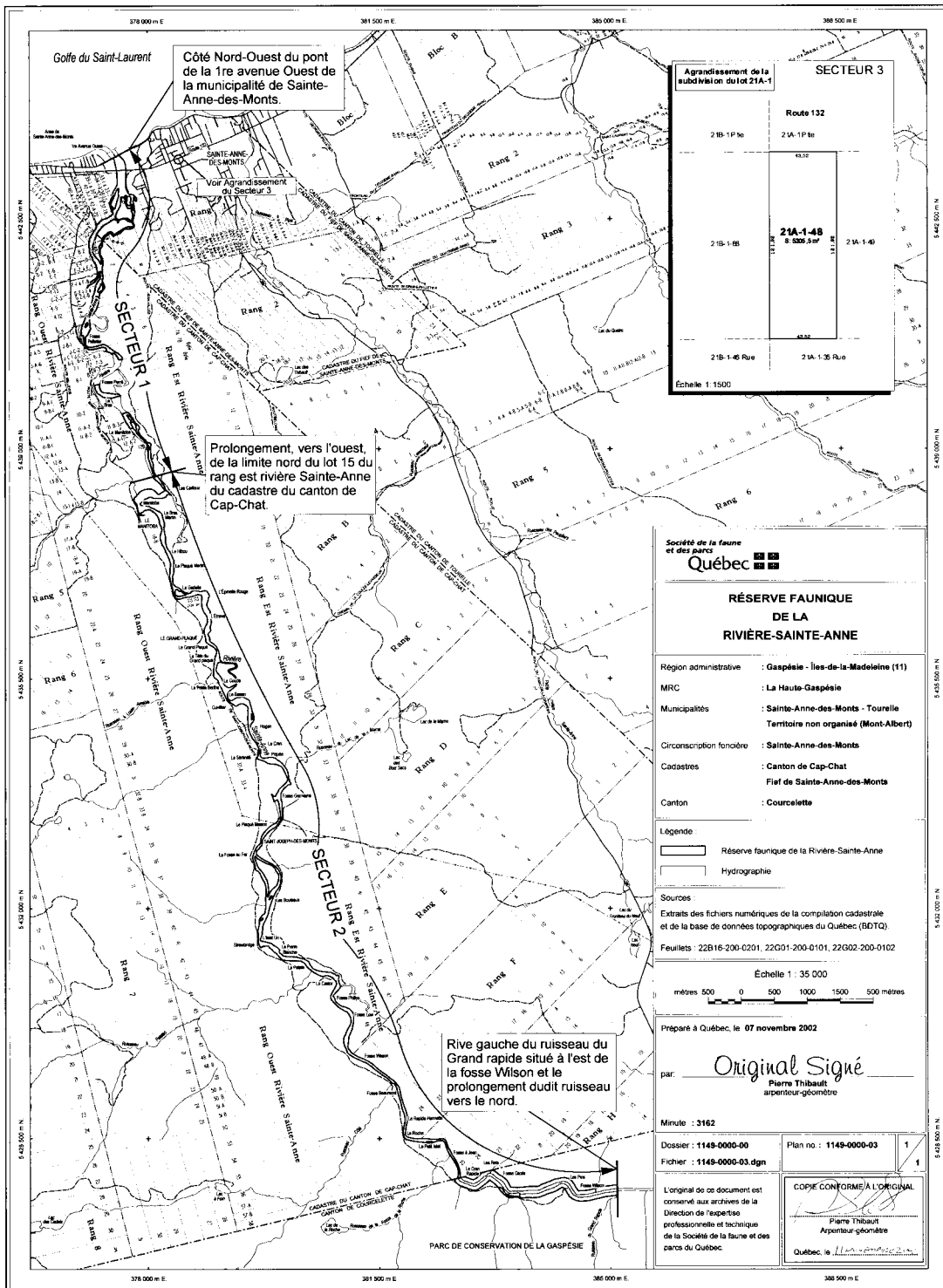
The establishment of the Rivière-Sainte-Anne Wildlife Sanctuary, whose territory is described on the plan attached hereto;

This Order comes into force on the date of its publication in the *Gazette officielle du Québec*.

Québec, 18 December 2002

RICHARD LEGENDRE,  
*Minister responsible for Wildlife and Parks*

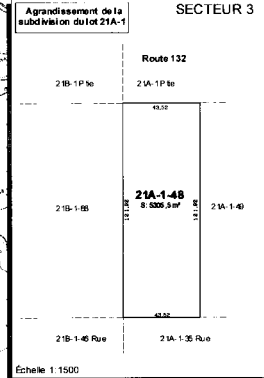
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Côté Nord-Ouest du pont de la 1<sup>re</sup> avenue Ouest de la municipalité de Sainte-Anne-des-Monts.

Prolongement, vers l'ouest, de la limite nord du lot 15 du rang est rivière Sainte-Anne du cadastre du canton de Cap-Chat.

Rive gauche du ruisseau du Grand rapide situé à l'est de la fosse Wilson et le prolongement dudit ruisseau vers le nord.



Société de la faune et des parcs Québec

**RÉSERVE FAUNIQUE DE LA RIVIÈRE-SAINTE-ANNE**

Région administrative : Gaspésie - Îles-de-la-Madeleine (11)  
 MRC : La Haute-Gaspésie  
 Municipalités : Sainte-Anne-des-Monts - Tourelle  
 Territoire non organisé (Mont-Albert)  
 Circonscription foncière : Sainte-Anne-des-Monts  
 Cadastres : Canton de Cap-Chat  
 Fief de Sainte-Anne-des-Monts  
 Canton : Courcellette

**Légende**

Reserve faunique de la Rivière-Sainte-Anne  
 Hydrographie

Sources  
 Extraits des fichiers numériques de la compilation cadastrale et de la base de données topographiques du Québec (BDTQ)  
 Feuilles : 22B16-200-0201, 22G01-200-0101, 22G02-200-0102

Échelle 1 : 35 000  
 mètres 500 0 500 1000 1500 500 mètres

Préparé à Québec, le 07 novembre 2002

par: *Original Signé*  
 Pierre Thibault  
 arpenteur-géomètre

Minute : 3162

Dossier : 1149-0000-00      Plan no. : 1149-0000-03      1  
 Fichier : 1149-0000-03.dgn      1

L'original de ce document est conservé aux archives de la Direction de l'expertise professionnelle et technique de la Société de la faune et des parcs du Québec.

**COPIE CONFORME À L'ORIGINAL**

Pierre Thibault  
 Arpenteur-géomètre  
 Québec, le 11/11/2002



## Draft Regulations

### Draft Regulation

Police Act  
(R.S.Q., c. P-13.1)

#### Comité de déontologie policière — Evidence, procedure and practice — 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 Rules to amend the Rules of evidence, procedure and practice of the Comité de déontologie policière, the text of which appears below, may be made by the Comité de déontologie policière and approved by the Government upon the expiry of 45 days following this publication.

Since the amendments of 1997, the Comité de déontologie policière no longer has jurisdiction to dispose in review of the decisions made by the police ethics commissioner under section 168 of the Police Act (R.S.Q., c. P-13.1).

In addition, two out of the three categories of members of the ethics committee have been abolished and the ethics committee henceforth sits with only one member, who must be an advocate. Moreover, the ethics committee no longer subpoenas the witnesses requested by the parties.

Therefore, it is expedient to amend the Rules of evidence, procedure and practice of the Comité de déontologie policière to bring them into conformity with those legislative provisions.

Finally, three sections of the Rules refer to sections of the Act respecting police organization, which was replaced by the Police Act; it is therefore expedient to amend those sections to have them refer to the relevant sections of the Police Act.

Moreover, to avoid any confusion, it is expedient to state that three of the provisions do not apply when the ethics committee sits in review.

Further information may be obtained by contacting M<sup>re</sup> Nicole Dussault, Comité de déontologie policière, 2525, boulevard Laurier, bureau A-200, 2<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4Z6; telephone: (418) 528-2577; fax: (418) 528-0987.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the chair of the Comité de déontologie policière, 2525, boulevard Laurier, bureau A-200, 2<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4Z6.

SUZANNE LEVESQUE, *advocate*  
*Chair of the Comité de déontologie policière*

### Rules to amend the Rules of evidence, procedure and practice of the Comité de déontologie policière \*

Police Act  
(R.S.Q., c. P-13.1, s. 237)

**1.** Section 1 of the Rules of evidence, procedure and practice of the Comité de déontologie policière is amended by substituting the following for the first paragraph:

“These Rules apply to any review of a decision rendered by the Police Ethics Commissioner made pursuant to paragraph 1 of section 178 of the Police Act (R.S.Q., c. P-13.1) as well as any citation referred to in section 195 of the Act.”.

**2.** Section 19 is amended by substituting “222” for “117”.

**3.** Section 22 is amended by adding the following paragraph after subparagraph 5 of the first paragraph:

“This section does not apply when the ethics committee sits in review.”.

**4.** The first paragraph of section 23 is amended by substituting the words “signed by the member who presides at the pre-hearing conference” for the words “approved by the member who is an advocate and signed by the parties”.

\* The only amendment to the Rules of evidence, procedure and practice of the Comité de déontologie policière, approved by Order in Council 908-92 dated 17 June 1992 (1992, *G.O.* 2, 3189) was made by the By-law approved by Order in Council 1380-95 dated 18 October 1995 (1995, *G.O.* 2, 3111).

**5.** The following is substituted for section 24:

“**24.** A subpoena must be served by the party requesting it, at its own expense, and the party is responsible for proving the date of receipt.

This section does not apply when the ethics committee sits in review.”

**6.** Section 27 is amended by adding the following after the first paragraph:

“This section does not apply when the ethics committee sits in review.”

**7.** Section 29 is amended by substituting the words “name of the committee member who presides at the hearing” for the words “names of the committee members” in paragraph 1.

**8.** Section 33 is amended by substituting “225” for “120”.

**9.** Section 35 is amended by substituting the words “to the ethics committee member who presides at the hearing” for the words “to each of the ethics committee members.”

**10.** The following is substituted for section 41:

“**41.** Only the member of the ethics committee who has presided at the hearing may render the decision and sign it.”

**11.** These Rules come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.

5492

## Draft Regulation

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

### Chartered accountants — Trust accounting by chartered accountants and the Indemnity Fund of the Ordre

Notice is hereby given in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des comptables agréés du Québec has adopted the Regulation respecting trust accounting by chartered accountants and the Indemnity Fund of the Ordre des comptables agréés du Québec.

This Regulation, the text of which appears below, will be reviewed by the Office des professions du Québec in accordance with section 95 of the Professional Code. The Regulation will then be submitted, with the recommendation of the Office, to the government, which may approve it with or without amendment upon the expiry of 45 days following this publication.

This Regulation replaces the Regulation respecting the Indemnity Fund of the Ordre des comptables agréés du Québec, adopted by Decree No. 646-86 of May 14, 1986. The main purpose of this regulation is to implement measures to reduce the risk to the public and the profession when chartered accountants are called upon to hold funds or property in trust, and to propose changes to the maximum indemnity payable for all claims in respect of a chartered accountant.

The new Regulation provides that chartered accountants who hold funds entrusted to them by a third party in the practice of their profession shall immediately deposit such funds in a trust account opened in accordance with the Regulation.

Under the new Regulation, chartered accountants entrusted with funds or property and who administer property for third parties must keep accounting records in accordance with certain standards. They must also provide certain information to the Ordre each year.

Under exceptional circumstances, and where the interest of the public or the profession so requires, the Ordre may request information from the financial institution in which these funds are deposited and take the necessary steps to take possession and dispose of such funds.

The new Regulation provides for a maximum indemnity payable by the Ordre for all claims in respect of a chartered accountant; this maximum is set at \$300,000.

Updating changes were made concerning the composition of the indemnity fund and the process for filing a claim with the Ordre des comptables agréés du Québec.

This Regulation will have no impact on enterprises.

Further information may be obtained by contacting M<sup>e</sup> Christiane Brizard, lawyer, Director of Legal Affairs, Ordre des comptables agréés du Québec, 680, rue Sherbrooke Street Ouest, 18<sup>e</sup> étage, Montréal, Québec, H3A 2S3.

Any person having comments to make is requested to send them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800 place D’Youville, 10<sup>e</sup> étage, Québec (Québec),

G1R 5Z3. These comments will be forwarded by the Office to the minister responsible for the administration of legislation respecting the professions. They may also be forwarded to the professional order that has adopted the regulation, as well as to the persons, departments and agencies concerned.

JEAN-K. SAMSON,  
*Chairman of the Office des  
professions du Québec*

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## **Regulation respecting trust accounting by chartered accountants and the indemnity fund of the Ordre des comptables agréés du Québec**

Professional Code  
(R.S.Q., c. C-26, s. 89)

### **DIVISION I GENERAL PROVISIONS**

**1.** This Regulation applies to a chartered accountant who, in the practice of his profession :

(1) administers, for a remuneration, a property, group of properties or patrimony belonging to a third party, including the administration of a not-for-profit organization, without charge ;

(2) holds, even temporarily, property entrusted to him by a third party.

**2.** The property entrusted to a chartered accountant to be administered or held may be movable or immovable. Property may include funds such as cash, negotiable bills payable to the chartered accountant or to the chartered accountant in trust, endorsed to his order or to his order in trust or to the bearer, and all bills and valuables payable to the bearer or registered in the name of the chartered accountant or in the name of the chartered accountant in trust and entrusted as such to the chartered accountant.

**3.** A chartered accountant may not be entrusted with property that is not tied to the performance of a written service contract or mandate, and related to a clearly defined transaction. He shall take the necessary measures to ascertain that such transaction is also legal.

**4.** A chartered accountant shall not combine the property he holds or administers with his personal property.

He shall take the necessary steps and exercise strict control at all times in order to identify property he administers or holds.

All funds held by a chartered accountant in the practice of his profession shall, immediately after receipt thereof, be deposited in a trust account.

**5.** A chartered accountant who holds property shall use such property for the purposes for which it was entrusted to him.

A chartered accountant who administers property for a third party shall comply with the contract he has entered into and satisfy the requirements of the law.

When a chartered accountant is entrusted with property other than funds, he shall take appropriate steps to preserve it.

**6.** This Regulation does not exempt a chartered accountant from a more compelling obligation imposed by provincial or federal legislation or by regulation adopted under such legislation.

### **DIVISION II GENERAL TRUST ACCOUNT AND SPECIAL TRUST ACCOUNT**

**7.** A chartered accountant may not deposit or leave his personal funds in a trust account.

All funds held by a chartered accountant in the practice of his profession shall, immediately after receipt thereof, be deposited in a general trust account.

All general trust accounts shall be opened in the name of the chartered accountant entrusted with the funds. They may also be opened in the name of the partnership or company in which the chartered accountant practices his profession, provided a chartered accountant in that partnership or company assumes direct control over the account.

Neither these funds nor the interest earned thereon belong to the chartered accountant.

**8.** A general trust account includes all accounts opened in the name of a chartered accountant, made up of deposits covered by deposit insurance pursuant to the Canada Deposit Insurance Corporation Act (R.S., 1985, c. C-3) or guaranteed pursuant to the Deposit Insurance Act (R.S.Q., c. A-26) in which such chartered accountant deposits funds in Canadian or foreign currencies entrusted to him and which he alone is able to withdraw, subject to sections 7 and 24. The trust account shall be opened in Quebec in a financial institution governed by the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01), the Bank Act (1991, c. 46), the Savings and Credit Unions Act (R.S.Q., c. C-4.1) or by the Trust and Loan Companies Act (1991, c. 45).

**9.** Where provincial or federal legislation or the client's interest so requires, or where the client expressly demands that the income of the funds entrusted to the chartered accountant be remitted to him, the chartered accountant shall deposit such funds in a special trust account separate from his general account and have the name of the client for whom such account is thus opened indicated therein.

**10.** A chartered accountant may deposit the funds contemplated in the section above in a special consolidated trust account. For this purpose, the chartered accountant shall:

(1) maintain in good order, a bank account and an accounting system allocating fairly for each client on a monthly basis all interest and expenses generated by the consolidated trust account;

(2) make accessible to such clients and to the persons and committees contemplated in section 24, the computation method and the amount of any attribution of expenses to the consolidated account and its allocation, if any, to each client;

(3) make accessible to such clients and to the persons and committees contemplated in section 12(3), the computation method and the amount of any attribution of interest to each client.

**11.** A special trust account includes all accounts that meet the conditions set out in section 8 of this Regulation or any investment that is presumed sound under article 1339, paragraphs 2 and 3 of the Civil Code.

In the case of an investment, the account may also be opened with an unrestricted practice securities broker, member of the Investment Dealers Association of Canada.

**12.** Upon opening a general trust account, a chartered accountant shall immediately complete the form prescribed by the Ordre. Such form shall contain a sworn statement attesting to the truth of the facts documented by the chartered accountant, and shall include, in particular,

(1) the name, address, postal code and transit number of the depository financial institution, as well as the account number and the date of its opening;

(2) an irrevocable waiver in favour of the Ordre des comptables agréés du Québec of the interest or other income from such account and authorization for the financial institution to directly transfer to the Ordre des comptables agréés du Québec the interest and other income from such account, less administration costs, if any, which are paid into the indemnity fund;

(3) an irrevocable authorization entitling the Bureau, the Administrative Committee, the chair of the Ordre, the secretary general, the Professional Inspection Committee or an inspector, the syndic or an assistant syndic, to take any action contemplated in section 24;

(4) an irrevocable authorization entitling the Bureau, the Administrative Committee or the chair of the Ordre, upon recommendation by the syndic, an assistant syndic or the Professional Inspection Committee, or a person in charge of professional inspection appointed in accordance with section 90 of the Professional Code, to require that the chartered accountant obtain, at his expense, the cosignature of another chartered accountant designated by the inspection committee, the syndic or assistant syndic, to draw cheques and other payment authorizations on the account.

**13.** Upon opening a special trust account, the chartered accountant shall immediately complete the form prescribed by the Ordre. In addition to the information required under section 12, the form shall contain a sworn statement by the chartered accountant that the interest and other income derived from the account are the property of the client. In the case of an investment, the chartered accountant shall, unless he holds a general power of attorney, also obtain written authorization from the client specifying the type of investment, its maturity and the terms and conditions.

**14.** The chartered accountant shall immediately forward a duly completed copy of the form contemplated in sections 12 and 13 to the financial institution where the general trust account or the special trust account was opened as well as to the person in charge of professional inspection at the Ordre; the chartered accountant shall retain a copy thereof.

Upon closing a trust account, the chartered accountant shall immediately notify the person in charge of professional inspection of such closing by means of the form approved for such purpose by the Ordre, indicating the name, address, postal code and transit number of the financial institution, as well as the account number, the date of its opening and the date on which the closing became effective.

### **DIVISION III** **KEEPING OF TRUST ACCOUNTS**

**15.** Trust accounting records shall be kept up-to-date and a reconciliation of accounts shall be made each month and shall comply with the standards adopted by the Ordre whether such accounting is on paper or in electronic format.

Trust accounting shall comply with the following standards; it shall, among others:

- (1) ensure data confidentiality;
- (2) ensure data security;
- (3) ensure data integrity;
- (4) allow the chartered accountant and the Ordre access at all times to readable data;
- (5) include all information relevant for control and for the administration of the funds received.

**16.** In all cases, the chartered accountant shall comply with the generally accepted standards and principles respecting bookkeeping and trust accounting, with current scientific knowledge and, if applicable, with standards established by the Ordre.

**17.** All trust account inflows and outflows, including electronic transfers, are subject to this Regulation.

**18.** The chartered accountant shall transfer to the Public Curator any property that, in the three years following its becoming payable or claimable, was not the subject, on the part of any successor, of a claim, transaction or written instruction as to its use, unless another provincial or federal act provides otherwise.

#### **DIVISION IV** ADMINISTRATION OF THE PROPERTY OF THIRD PARTIES

**19.** For each mandate entrusting him with the administration of property of third parties, the chartered accountant shall keep up-to-date accounting records in accordance with generally accepted accounting standards and principles, with current scientific knowledge and, if applicable, with standards established by the Ordre.

**20.** Each year, on or before March 31, a chartered accountant shall forward to the person in charge of professional inspection, using the form prescribed by the Ordre, a sworn statement attesting that all property entrusted to him in the year ending December 31 has been deposited, accounted for and used in accordance with the Professional Code and its Regulation.

#### **DIVISION V** REPORT TO THE ORDRE

**21.** A single report is sufficient for chartered accountants who have a joint trust account or who administer jointly property belonging to third parties, provided they

practice in a partnership or company and that one chartered accountant in the partnership, or a director and shareholder with voting rights in the company, was designated as the representative for the chartered accountants in that partnership or company and that the Ordre was informed in advance.

**22.** A chartered accountant who has not been entrusted with any property shall forward to the person in charge of professional inspection, on or before March 31 and on the form described in section 20, a sworn statement to that effect.

**23.** A chartered accountant shall keep up-to-date and provide upon request to the person in charge of professional inspection the following information in a readable format:

— With respect to trust accounting:

(1) the list of the sums owing to the clients;

(2) the list of the general and special trust accounts kept during the year, disclosing for each the name of the depository financial institution, the number of the account and the balance at the end of the year.

— With respect to the administration of property belonging to third parties:

(1) the nature of the administration mandate;

(2) the date on which the mandate was awarded and, if applicable, the date on which it ended;

(3) a brief description of the property administered, its value, the location of such property and the responsibility of the chartered accountant.

A chartered accountant shall keep the accounting books, records and statements of account of the financial institution or securities broker, or any other document required, in accordance with the Regulation adopted under section 91 of the Professional Code.

#### **DIVISION** POWERS OF THE ORDRE

**24.** The Bureau, the Administrative Committee, the chair of the Ordre, the secretary general, the Professional Inspection Committee, an inspector, the syndic or assistant syndic may:

(1) request and obtain at any time from the depository financial institution of any general or special trust account all the information and explanations deemed necessary or useful for the purposes of this Regulation;

(2) require and obtain from the financial institution in which are deposited funds belonging to the client that should have been deposited in a trust account, all the information and explanations deemed necessary for the purposes of this Regulation;

(3) block the funds deposited;

(4) take possession of any funds or property entrusted to the chartered accountant, revoke the signature of the chartered accountant or close the account;

(5) dispose of the property, for the purposes for which the chartered accountant had received it, in cases of permit revocation, provisional, temporary or permanent striking off the roll, limitation of the right to practise, or any other reason why the chartered accountant is no longer entered on the Roll of the Ordre, or in any situation where a provisional guardian or an assignee may be appointed, or when the public interest so requires.

**25.** Should a chartered accountant fail to comply with any of the obligations imposed by this Regulation, the Bureau, the Administrative Committee, the chair of the Ordre, the secretary general, the Professional Inspection Committee, an inspector, the syndic or assistant syndic may, at any time in the year, appoint a chartered accountant of its or his choice to conduct an audit of the trust accounting records of the chartered accountant, at his expense, and, in particular, of the information described in second paragraph of section 23 or, in the case of the administration of third-party property, to provide the information contemplated in third paragraph of section 23, if the chartered accountant is no longer entered on the roll of the Ordre.

#### **DIVISION VII**

##### **ESTABLISHMENT OF THE INDEMNITY FUND**

**26.** The Bureau shall establish an indemnity fund for the purpose of reimbursing funds or other property used by a chartered accountant for purposes other than those for which they were entrusted to him in the practice of his profession.

#### **DIVISION VIII**

##### **COMPOSITION OF FUND**

**27.** The fund shall be maintained at an amount of \$300,000. The fund may consist of the following, less any administrative expenses relating to it:

(1) the sums of money already allocated for this purpose on June 14, 1986;

(2) the sums of money allocated therefor by the Bureau;

(3) The assessments fixed for that purpose;

(4) the sums of money recovered from the offending chartered accountant under a subrogation or pursuant to section 159 of the Professional Code (R.S.Q., c. C-26);

(5) the revenue and the growth of the assets of the fund;

(6) the sums of money that may be paid by an insurance company under an insurance policy taken out by the Ordre;

(7) any sum of money received by the Ordre for the fund; and

(8) the interest or other income generated by the chartered accountants' general trust accounts.

#### **DIVISION IX**

##### **ADMINISTRATION OF THE FUND**

**28.** The Bureau manages the fund and is authorized to enter into an insurance or reinsurance contract for the purposes of the fund and to pay the premiums thereof out of the fund.

**29.** The Ordre shall keep a separate accounting in respect of the fund.

**30.** The sums of money constituting the fund shall be invested in accordance with the investment policy adopted by the Bureau.

#### **DIVISION X**

##### **CLAIMS**

**31.** A claim shall be addressed to the president and chief executive officer at the Ordre's corporate seat.

**32.** The president and chief executive officer shall enter the claim on the agenda for the first meeting of the Bureau following its receipt.

**33.** A claim must:

(1) be submitted in writing;

(2) state all supporting facts and be accompanied by all relevant documents;

(3) indicate the amount claimed;

(4) be made under oath.

**34.** A claim in respect of a chartered accountant may be filed whether or not a decision of the Committee on Discipline, of the Professions Tribunal or of any other competent tribunal has been rendered.

**35.** A claim shall be filed within 12 months from the time the claimant becomes aware that property has been used for purposes other than those for which it was entrusted to the chartered accountant in the practice of his profession.

**36.** Subject to section 37, a claim which is not filed within the time period prescribed is not receivable.

**37.** The Bureau may extend the time period contemplated in section 35 if the claimant demonstrates that he was unable to file the claim within the required time due to reasons beyond his control.

**38.** A request made to the Ordre by any person for an inquiry with regard to facts likely to give rise to a claim against the fund is deemed to be a claim within the meaning of section 32, insofar as the request for an inquiry is filed within the time period contemplated in section 35.

#### DIVISION XI INDEMNITY

**39.** The Bureau may designate a person or a committee to hold an inquiry and submit a report to it in respect of a claim.

**40.** Upon the request of the person or of the committee designated to hold an inquiry in accordance with section 192 of the Professional Code, the claimant or the chartered accountant concerned shall:

(1) furnish all details and documents relative to the claim;

(2) produce any relevant proof.

**41.** The syndic, assistant syndic, Professional Inspection Committee or person in charge of professional inspection shall also provide all information and all evidence deemed relevant by the Bureau, the Committee or the person appointed to conduct the inquiry.

**42.** The Bureau shall decide at its discretion whether it is expedient to accept a claim in whole or in part and, where applicable, shall fix the indemnity. Its decision is final.

**43.** The maximum indemnity payable from the fund shall be \$300,000 for all claims in respect of a chartered accountant and \$50,000 per claimant.

**44.** The balance of a chartered accountant's general trust account, the funds of which have been blocked or otherwise disposed of in accordance with section 24, shall be distributed at the expiry of 60 days following the publication of a notice to that effect in a newspaper circulating in the place where the chartered accountant has or had his professional domicile, among the claimants against the fund in respect of that chartered accountant on a prorata basis according to the amounts of their claims allowed, up to the amount of the claim for each claimant, less the sum paid under section 42. The secretary general shall cause the notice to be published after one year has elapsed with no new claim having been filed against the fund in respect of the chartered accountant.

**45.** Before receiving the indemnity fixed by the Bureau, the claimant shall sign an acquittance in favour of the Ordre with subrogation to all his rights in respect of his claim up to the amount of the indemnity, against the offending chartered accountant, his successors and any individual, partnership, company or legal person that is or might be held liable for such payment.

**46.** Nothing in this Regulation shall be interpreted as creating, in respect of the Ordre, in favour of any person whatsoever, a right to any sum whatsoever.

#### DIVISION XII TRANSITIONAL AND FINAL PROVISIONS

**47.** This Regulation replaces the Regulation respecting the Indemnity Fund of the Ordre des comptables agréés du Québec (R.S.Q., 1981, c. C-48, r.6).

**48.** However, the aforementioned Regulation shall continue to govern claims filed against the fund before the effective date of this Regulation, as well as claims filed against the fund after that date but which relate to events that took place prior to the coming into force of this Regulation and concerning a chartered accountant in respect of whom one or more other claims have already been filed against the fund.

**49.** This Regulation shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

## Draft Regulation

Professional Code  
(R.S.Q., c. C-26; 2001, c. 78)

### Guidance counsellors and psychoeducators

#### — Code of ethics

#### — Amendment

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 conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, adopted by the Bureau of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

The purpose of this Regulation is to amend the Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec to introduce provisions stating the terms and conditions according to which a professional may communicate information that is protected by professional secrecy to prevent an act of violence.

These provisions are required by the Act to amend various legislative provisions as regards the disclosure of confidential information to protect individuals (2001, c. 78). That Act permits the lifting of professional secrecy to prevent an act of violence, including a suicide, when the professional has grounds to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons. However, the communication must be limited to such information as is necessary to achieve the purposes for which the information is communicated, and the information may only be communicated to a person exposed to the danger, to that person's representative, or to the persons who can come to that person's aid.

The Order expects the proposed amendments to have no impact on businesses, in particular on small and medium-sized businesses.

Further information may be obtained by contacting Renée Verville, Secretary and Executive Director of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, 1600, boulevard Henri-Bourassa Ouest, bureau 520, Montréal (Québec) H3M 3E2; telephone: (514) 737-4717 or 1 800 363 2643; fax: (514) 737-2172.

Any interested person having comments to make is asked to submit them, before the expiry of the 45-day period, to the Chair of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be communicated to the professional order that adopted the Regulation as well as to any interested persons, departments, bodies or agencies.

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 conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec\*

Professional Code  
(R.S.Q., c. C-26, s. 87; 2001, c. 78, s. 6)

**1.** The Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec is amended by inserting the following subdivision after subdivision 6 of Division III:

*“§6.1. Lifting of professional secrecy to protect individuals*

**3.06.01.01.** In addition to the cases provided for in section 3.06.02, any member may communicate information that is protected by professional secrecy to prevent an act of violence, including a suicide, where the member has reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

However, the member may only communicate the information to a person exposed to the danger, or that person's representative, or to the persons who can come to that person's aid.

The member may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

\* The Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec (R.R.Q., 1981, c. C-26, r.41) was amended only once, by the Regulation approved by Order in Council 818-95 dated 14 June 1995 (1995, G.O. 2, 1885.)



**3.06.01.02.** A member who, pursuant to section 3.06.01.01, communicates information protected by professional secrecy to prevent an act of violence must

- (1) communicate the information without delay; and
- (2) record the following particulars in the client's file as soon as possible:
  - (a) the reasons supporting the decision to communicate the information; and
  - (b) the subject of the communication, the mode of communication, and the name of the person to whom the information was given.”.

**2.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.



## Index Statutory Instruments

Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

Regulations — Statutes	Page	Comments
Amalgamation of Ville de Mont-Laurier, Municipalité de Des Ruisseaux and Municipalité de Saint-Aimé-du-Lac-des-Îles . . . . . (An Act respecting municipal territorial organization, R.S.Q., c. O-9)	91	
Appeals procedure for public servants not governed by a collective agreement . . . (Public Service Act, R.S.Q., c. F-3.1.1)	51	M
Appropriation Act No. 3, 2002-2003 . . . . . (2002, Bill 150)	45	
Chartered accountants — Trust accounting by chartered accountants and the indemnity fund of the Ordre . . . . . (Professional Code, R.S.Q., c. C-26)	82	Draft
Cinema Act — Fees for examination and duties payable . . . . . (R.S.Q., c. C-18.1)	59	M
Comité de déontologie policière — Evidence, procedure and practice . . . . . (Police Act, R.S.Q., c. P-13.1)	81	Draft
Committee on Public Finance — General Consultation — Act respecting the Caisse de dépôt et placement du Québec . . . . .	101	Parliamentary Committees
Conservation and development of wildlife, An Act respecting the... — Fishing activities . . . . . (R.S.Q., c. C-61.1)	60	M
Conservation and development of wildlife, An Act respecting the... — Rivière-Sainte-Anne Wildlife Sanctuary . . . . .	78	
Corrections to Order in Council 1013-2002 dated 4 September 2002 respecting the amalgamation of Village de Saint-Sauveur-des-Monts and Paroisse de Saint-Sauveur . . . . . (An Act respecting municipal territorial organization, R.S.Q., c. O-9)	99	
Fees for examination and duties payable . . . . . (Cinema Act, R.S.Q., c. C-18.1)	59	M
Fishing activities . . . . . (An Act respecting the conservation and development of wildlife, R.S.Q., c. C-61.1)	60	M
Guidance counsellors and psychoeducators — Code of ethics . . . . . (Professional Code, R.S.Q., c. C-26; 2001, c. 78)	88	Draft
Ministère des Ressources naturelles, An Act respecting the... — Program for the delegation of the land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides . . . . . (R.S.Q., c. M-25.2)	70	N
Municipal territorial organization, An Act respecting... — Amalgamation of Ville de Mont-Laurier, Municipalité de Des Ruisseaux and Municipalité de Saint-Aimé-du-Lac-des-Îles . . . . . (R.S.Q., c. O-9)	91	

Municipal territorial organization, An Act respecting... — Corrections to Order in Council 1013-2002 dated 4 September 2002 respecting the amalgamation of Village de Saint-Sauveur-des-Monts and Paroisse de Saint-Sauveur (R.S.Q., c. O-9)	99	
Nurses — Code of ethics (Professional Code, R.S.Q., c. C-26)	64	N
Police Act — Comité de déontologie policière — Evidence, procedure and practice (R.S.Q., c. P-13.1)	81	Draft
Professional Code — Chartered accountants — Trust accounting by chartered accountants and the indemnity fund of the Ordre (R.S.Q., c. C-26)	82	Draft
Professional Code — Guidance counsellors and psychoeducators — Code of ethics (R.S.Q., c. C-26; 2001, c. 78)	88	Draft
Professional Code — Nurses — Code of ethics (R.S.Q., c. C-26)	64	N
Program for the delegation of the land and forest management of intramunicipal lands in the domain of the State to the regional county municipalities in the administrative region of Laurentides (An Act respecting the Ministère des Ressources naturelles, R.S.Q., c. M-25.2)	70	N
Public Service Act — Appeals procedure for public servants not governed by a collective agreement (R.S.Q., c. F-3.1.1)	51	M
Rivière-Sainte-Anne Wildlife Sanctuary (An Act respecting the conservation and development of wildlife, R.S.Q., c. C-61.1)	78	
Sûreté du Québec — Partition and assignment of benefits accrued under the Régime de retraite des membres (An Act to amend Various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan, 1990, c. 5)	52	N
Various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan, An Act to amend ... — Sûreté du Québec — Partition and assignment of benefits accrued under the Régime de retraite des membres (1990, c. 5)	52	N