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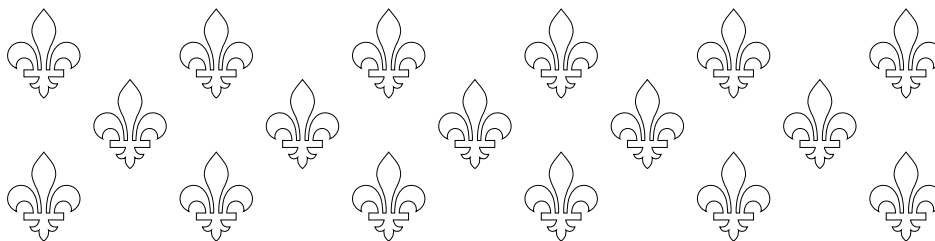
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NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 2

(2005, chapter 12)

An Act respecting the reciprocal issue and enforcement of support orders

Introduced 13 June 2003

Passage in principle 20 June 2003

Passage 10 June 2005

Assented to 17 June 2005

**Québec Official Publisher
2005**

EXPLANATORY NOTES

The object of the bill is to facilitate the reciprocal issue and enforcement of orders providing for the payment of support, if one of the parties does not reside in Québec. The bill provides that the jurisdictions in respect of which the new legislation will apply are to be designated by order of the Government.

The bill establishes the procedure to be followed according to whether an application is for the issue or enforcement of a support order and makes a distinction between applications that originate in Québec and applications that originate in a designated jurisdiction.

Lastly, the bill allows the court, in connection with an application made under the new legislation, to rule upon the biological filiation of a child for whom support is claimed.

LEGISLATION REPLACED BY THIS BILL :

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

LEGISLATION AMENDED BY THIS BILL :

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

Bill 2

AN ACT RESPECTING THE RECIPROCAL ISSUE AND ENFORCEMENT OF SUPPORT ORDERS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

OBJECT AND SCOPE

1. The object of this Act is to facilitate the reciprocal issue and enforcement of judgments providing for the payment of support, if one of the parties does not reside in Québec.

This Act also applies to orders and agreements providing for the payment of support, that are enforceable in the place of origin.

2. The Government, on the recommendation of the Minister of Justice and the Minister of International Relations, shall designate by order the jurisdictions in respect of which this Act applies.

Jurisdictions which the Government considers to have legislation substantially similar to Québec legislation concerning the issue and enforcement of support orders may be so designated.

The order shall indicate, in respect of each designated jurisdiction, the date from which this Act applies and specify any applicable conditions. This Act shall apply in respect of a designated jurisdiction, subject to the rules on prescription, even if the support order preceded the date on which this Act became applicable in its respect.

The order shall be published in the *Gazette officielle du Québec*.

3. A minister or a public body authorized by law to act or to collect support payments on behalf of a creditor of support may make use of the provisions of this Act.

CHAPTER II

ISSUING OF A SUPPORT ORDER

DIVISION I

APPLICATIONS ORIGINATING IN QUÉBEC

4. A person who resides in Québec may submit an application to the Minister of Justice requesting the issue in a designated jurisdiction of a support order or of an order reviewing a support order if the other party resides in that jurisdiction.

If the filiation of a child for whom support is claimed is not established, the claimant may request that the court rule on the child's biological filiation for the purposes of the issue and enforcement of a support order.

5. The application must include

- (1) the claimant's name and address ;
- (2) the defendant's name and any other information known to the claimant that can be used to locate or identify the defendant ;
- (3) the defendant's financial circumstances, to the extent known by the claimant ;
- (4) the name of the person for whom support is or was claimed, the person's date of birth and details of the person's relationship with the claimant and the defendant ;
- (5) the amount and nature of the support at issue, and the date on which it becomes due ;
- (6) the juridical basis for the application ;
- (7) the grounds on which the application is based, including the needs of the person for whom support is claimed and the person's financial and other circumstances, and the evidence available to the claimant to establish filiation, where applicable ;
- (8) any other information or document required by the designated jurisdiction ; and
- (9) any other information or document required by the Minister of Justice.

6. The application must be made under oath and be accompanied by supporting documents. A certified translation of the application and accompanying documents must be attached if required by the competent authority of the designated jurisdiction.

7. On receiving the application, the Minister of Justice shall verify that the file is complete and transmit the application and accompanying documents to the competent authority of the designated jurisdiction in which the defendant resides.

8. If the competent authority of a designated jurisdiction requires additional information or documents, the claimant must provide them within the time specified by the authority.

9. On receiving a certified copy of an order issued in a designated jurisdiction, the Minister of Justice shall file it in the court records of the Superior Court in the district in which the claimant resides, if the order provides for the payment of support or revises a support order that was enforceable in Québec.

From the date it is filed in the court records, the order is equivalent to a judgment rendered by a court in Québec and has the effects thereof.

In all cases, the Minister of Justice shall transmit a copy of the order to the claimant by registered or certified mail.

DIVISION II

APPLICATIONS ORIGINATING IN A DESIGNATED JURISDICTION

10. The competent authority of a designated jurisdiction may send an application to the Minister of Justice requesting the issue in Québec of a support order or of an order reviewing a support order if either party resides in Québec.

If the filiation of a child for whom support is claimed has not been established, the claimant may request the court to rule on the child's biological filiation.

11. The application must include

- (1) the claimant's name and address;
- (2) the defendant's name and any other information known to the claimant that can be used to locate or identify the defendant;
- (3) the defendant's financial circumstances, to the extent known by the claimant;
- (4) the name of the person for whom support is or was claimed, the person's date of birth and details of the person's relationship with the claimant and the defendant;
- (5) the amount and nature of the support at issue, and the date on which it becomes due;

(6) the juridical basis for the application;

(7) the grounds on which the application is based, including the needs of the person for whom support is claimed and the person's financial and other circumstances, and the evidence available to the claimant to establish filiation, where applicable; and

(8) any other information or document required by the Minister of Justice.

12. The application must be made under oath and be accompanied by supporting documents. A certified French translation of the application and accompanying documents must be attached if the original language is neither French nor English.

The application shall stand in lieu of the claimant's sworn statement required under article 827.5 of the Code of Civil Procedure (R.S.Q., chapter C-25).

13. Where support is claimed for a child, the application must also contain the information required pursuant to the rules for the determination of child support payments adopted under the Code of Civil Procedure and, in particular, information concerning the claimant's income, the custody arrangements and the expenses relating to the child.

The application shall stand in lieu of the form prescribed under article 825.9 of that Code in respect of the claimant.

14. On receiving the application, the Minister of Justice shall file it and the accompanying documents in the court records of the Superior Court in the district in which the defendant resides.

The Minister of Justice shall serve a copy on the defendant, together with a notice indicating the date of presentation of the application to the Superior Court and requiring the defendant to provide the information and documents required by law.

15. If the defendant does not reside in Québec, but resides elsewhere in Canada, the Minister of Justice may, rather than returning the application to the originating jurisdiction, send it to the competent authority of the designated jurisdiction in which the defendant resides. In that case, the Minister of Justice shall so notify the competent authority of the originating jurisdiction.

16. At any stage of the proceeding, the court may require additional information or documents from the claimant. The Minister of Justice shall send the request to the competent authority of the originating designated jurisdiction and the proceeding shall be suspended.

17. If the court does not receive the information or documents within six months after requesting them, it may dismiss the application.

18. If the filiation of a child for whom support is claimed has not been established, the court may rule on the child's biological filiation and may, to that end, order the analysis of a sample of a bodily substance so that the genetic profile of a person involved in the application may be established, in accordance with article 535.1 of the Civil Code. In that case, the defence is presented orally.

The decision of the court produces effects only for the purposes of the issue and enforcement of support orders and ceases to have effect if the filiation of the child is subsequently established in respect of a person other than the defendant.

19. The court may grant the application for support, in whole or in part, or dismiss it. The decision must, in all cases, contain reasons.

20. The clerk shall send a certified copy of the decision to the defendant and the Minister of Justice. The Minister of Justice shall also send a certified copy by registered or certified mail to the competent authority of the originating designated jurisdiction.

21. The time limit for appealing an order issued pursuant to this division is 90 days from the date of the order.

The court may extend that time limit if special circumstances so warrant.

22. The claimant is not required to give security for the costs which may be incurred in consequence of an application made under this division.

CHAPTER III

ENFORCEMENT OF A SUPPORT ORDER

DIVISION I

APPLICATIONS ORIGINATING IN QUÉBEC

23. An application requesting the enforcement in a designated jurisdiction of a support order that is enforceable in Québec shall be submitted to the Minister of Justice by the Minister of Revenue or, if the latter fails to do so, by the creditor.

In the case of a support order that is not enforceable in Québec, the application requesting its enforcement in a designated jurisdiction shall be submitted to the Minister of Justice by the creditor, if the creditor resides in Québec, or pursuant to the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001), by the Minister of Employment and Social Solidarity.

24. The application must be accompanied by a certified copy of the support order and include

- (1) the creditor's name ;
- (2) the debtor's name and, if known, the debtor's address, the name and address of the debtor's employer and a description of the debtor's movable and immovable property ;
- (3) the amount of the support payments, the description of payments to become due and the applicable basis of indexation and, where applicable, the date of default and the amount of arrears ;
- (4) any other information or document required by the designated jurisdiction ; and
- (5) any other information or document required by the Minister of Justice.

A certified translation of the application and accompanying documents must be attached if required by the competent authority of the designated jurisdiction.

25. The Minister of Justice shall send the application and accompanying documents to the competent authority of the designated jurisdiction so that the order referred to in the application may be enforced according to the laws in effect in that jurisdiction.

DIVISION II

APPLICATIONS ORIGINATING IN A DESIGNATED JURISDICTION

26. The competent authority of a designated jurisdiction may send an application requesting the enforcement of a support order to the Minister of Justice.

27. The application must be accompanied by a certified copy of the support order and include

- (1) the creditor's name ;
- (2) the debtor's name and, if known, the debtor's address, the name and address of the debtor's employer and a description of the debtor's movable and immovable property ;
- (3) the amount of the support payments, the description of payments to become due and the applicable basis of indexation and, where applicable, the date of default and the amount of arrears ; and
- (4) any other information or document required by the Minister of Justice.

28. A certified French translation of the application and accompanying documents must be attached if the original language is neither French nor English.

29. On receiving the application, the Minister of Justice shall file the certified copy of the support order and accompanying documents in the court records of the Superior Court in the district in which the debtor resides.

From the date it is filed in the court records, the support order is equivalent to a judgment rendered by a court in Québec and has the effects thereof.

The clerk shall notify the debtor, by registered or certified mail, that the support order was filed in the court records and send the debtor a copy of the application and accompanying documents.

30. Within 30 days after receiving the clerk's notice, the debtor may, by motion, oppose the enforcement of the support order on any of the grounds provided in Book Ten of the Civil Code.

The motion to oppose shall be served on any person whose presence is necessary for the complete resolution of the matter, and on the competent authority of the designated jurisdiction, together with a request that the authority notify the support creditor. The motion shall be heard and decided by preference.

The filing of the motion in the court records does not suspend the enforcement of the support order, unless a judge orders otherwise.

31. The court may grant the motion and terminate the enforcement of the support order, or dismiss the motion. The decision must, in all cases, contain reasons.

32. If, pursuant to section 4, the debtor has submitted an application to the Minister of Justice for the issue of an order reviewing the support order filed in the court records, a judge may, at the debtor's request, suspend the enforcement of the support order, for the time and on the conditions determined by the judge, if it is shown that serious harm to the debtor would likely result.

33. The clerk shall transmit a certified copy of the decision to the debtor, the Minister of Revenue and the Minister of Justice. The Minister of Justice shall also send a certified copy by registered or certified mail to the competent authority of the originating designated jurisdiction.

CHAPTER IV**MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS**

34. The Government may, by regulation, prescribe any measure necessary for the carrying out of this Act, and such measures may vary according to the designated jurisdiction.

35. The Minister of Justice may, in accordance with the applicable legislative provisions, enter into agreements with the government of a jurisdiction or any of its departments or organizations

(1) for the carrying out of this Act ;

(2) to facilitate the issue and enforcement of support orders in respect of a party who resides in a non-designated jurisdiction.

36. This Act replaces the Act respecting reciprocal enforcement of maintenance orders (R.S.Q., chapter E-19).

37. The provisions of this Act apply to applications made under the Act respecting reciprocal enforcement of maintenance orders, with the necessary modifications.

38. Designations made under section 10 of the Act respecting reciprocal enforcement of maintenance orders remain valid and are deemed to have been made under this Act.

39. The list of jurisdictions designated under this Act is provided in a schedule to this Act, indicating in respect of each designated jurisdiction the date from which this Act applies.

The schedule shall be updated on the basis of the orders made by the Government under section 2.

40. Section 43 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is amended by inserting the following sentence at the end of the first paragraph : “The recipient must also inform the Minister of the submission or receipt of an application regarding support under the Act respecting the reciprocal issue and enforcement of support orders (2005, chapter 12), at least five days before the submission or not later than five days after the receipt of such an application, as the case may be.”

41. The Minister of Justice is responsible for the administration of this Act.

42. This Act comes into force on the date to be fixed by the Government.

SCHEDULE

DESIGNATED JURISDICTIONS FOR THE PURPOSES OF THIS ACT
(*section 39*)**CANADA****Date from which this Act applies**

Alberta	<i>(insert the date of coming into force of this Act)</i>
British Columbia	<i>(insert the date of coming into force of this Act)</i>
Manitoba	<i>(insert the date of coming into force of this Act)</i>
New Brunswick	<i>(insert the date of coming into force of this Act)</i>
Newfoundland	<i>(insert the date of coming into force of this Act)</i>
Northwest Territories	<i>(insert the date of coming into force of this Act)</i>
Nova Scotia	<i>(insert the date of coming into force of this Act)</i>
Nunavut	<i>(insert the date of coming into force of this Act)</i>
Ontario	<i>(insert the date of coming into force of this Act)</i>
Prince Edward Island	<i>(insert the date of coming into force of this Act)</i>
Saskatchewan	<i>(insert the date of coming into force of this Act)</i>
Yukon	<i>(insert the date of coming into force of this Act)</i>

UNITED STATES

California	<i>(insert the date of coming into force of this Act)</i>
Florida	<i>(insert the date of coming into force of this Act)</i>
Maine	<i>(insert the date of coming into force of this Act)</i>
Massachusetts	<i>(insert the date of coming into force of this Act)</i>
New Jersey	<i>(insert the date of coming into force of this Act)</i>
New York	<i>(insert the date of coming into force of this Act)</i>
Pennsylvania	<i>(insert the date of coming into force of this Act)</i>



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 38
(2005, chapter 18)

An Act respecting the Health and Welfare Commissioner

Introduced 18 December 2003
Passage in principle 7 April 2005
Passage 16 June 2005
Assented to 17 June 2005

Québec Official Publisher
2005

EXPLANATORY NOTES

This bill provides for the appointment of a Health and Welfare Commissioner by the Government for a five-year term, which may be renewed once, and establishes the appointment process to be followed.

The bill provides that, with a view to improving the health and welfare of the population, the Commissioner is responsible for assessing the results achieved by the health and social services system and providing the public with the necessary background for a general understanding of the actions undertaken by the Government to address the major issues in the health and social services arena.

To this end, the Commissioner must, among other functions, evaluate all components of the health and social services system, disseminate information to enable public debate, propose changes, and submit advisory opinions to the Minister of Health and Social Services on the state of health and welfare of the population.

The bill establishes a consultation forum which the Commissioner is required to consult in exercising the functions of office.

The bill gives the Commissioner certain powers, including the power to call on outside experts, the power to hold public hearings and the power to secure access to certain documents or information.

Lastly, the bill provides that the Commissioner is substituted for the Conseil de la santé et du bien-être and the Conseil médical du Québec.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001).

LEGISLATION REPEALED BY THIS BILL:

- Act respecting the Conseil de la santé et du bien-être (R.S.Q., chapter C-56.3);
- Act respecting the Conseil médical du Québec (R.S.Q., chapter C-59.0001).

Bill 38

AN ACT RESPECTING THE HEALTH AND WELFARE COMMISSIONER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPOINTMENT, RESPONSIBILITIES AND ORGANIZATION

1. The Government appoints the Health and Welfare Commissioner in accordance with section 7.

2. With a view to improving the health and welfare of the population, the Commissioner is responsible for assessing the results achieved by the health and social services system taking into account the range of systemic factors that interplay within the system, and for providing the public with the necessary background for a general understanding of the actions undertaken by the Government to address the major issues in the health and social services arena.

The Commissioner exercises these responsibilities with regard to such matters as the quality, accessibility, integration, insurability and funding of services, the determinants of health and welfare, the ethical aspects of health and welfare, medications and technology.

3. The Commissioner is appointed for a five-year term, which may be renewed once. At the end of the term, the Commissioner remains in office until replaced or reappointed.

The Government determines the Commissioner's remuneration, employment benefits and other conditions of employment.

The Commissioner exercises the functions of office on a full-time, exclusive basis.

4. A nominating committee must be formed for the purposes of the Commissioner's appointment by the Government. The nominating committee is composed of 14 members chosen or appointed as follows:

(1) seven Members of the National Assembly chosen by the members of the Parliamentary Committee on Social Affairs from among their number; four of the seven must be from the Government party and the remaining three,

from the Opposition, including one not from the Official Opposition party, if any; and

(2) seven persons appointed by the Government, namely,

(a) a physician appointed after consultation with the Collège des médecins du Québec;

(b) a nurse appointed after consultation with the Ordre des infirmières et infirmiers du Québec;

(c) a social worker appointed after consultation with the Ordre professionnel des travailleurs sociaux du Québec;

(d) a person appointed from among the members of boards of directors of institutions who are elected by the population under paragraph 1 of any of sections 129 to 132.1 and 133 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), after consultation with associations representing these institutions;

(e) a person appointed from among the members of boards of directors of institutions operating a hospital centre who are designated by the users' committee of the institutions under paragraph 2 of any of sections 129, 131 to 132.1 and 133 of the Act respecting health services and social services, after consultation with groups of users' committees;

(f) a person with expertise in the evaluation of health care technologies and medications, appointed after consultation with the Agence d'évaluation des technologies et des modes d'intervention en santé created by Order in Council 855-2000 dated 28 June 2000 and with the Conseil du médicament; and

(g) a person with ethics expertise, appointed after consultation with universities offering philosophy or ethics programs and with associations of institutions whose membership includes one or more institutions that have a research ethics committee or a clinical ethics committee.

5. The members of the nominating committee appointed under paragraph 2 of section 4 are not remunerated; they are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

6. The members of the nominating committee determine the operating rules applicable to the committee.

Their term ends on the Commissioner's appointment.

7. Within six months after a request by the Minister, the nominating committee must propose to the Minister a list of persons it considers qualified for appointment as Commissioner.

For that purpose, the Minister may submit the name of one or more persons whose qualification for appointment the Minister wishes the committee to examine.

If the nominating committee fails to propose a list in accordance with the first paragraph, the Government may appoint the Commissioner without further formality.

8. The Commissioner appoints one or more Deputy Commissioners from among the Commissioner's personnel. One of the Deputy Commissioners must be specifically responsible for the ethical aspects of health and welfare.

9. If the Commissioner is absent or unable to act, the Government may designate one of the Deputy Commissioners or, if none were appointed, any other person to exercise the Commissioner's responsibilities, functions and powers for as long as the Commissioner is absent or unable to act. The Government determines the person's salary or fees and other conditions of employment.

10. Before entering into office, the Commissioner must take the following oath:

"I declare under oath that I will fulfill my duties with honesty, impartiality and justice. I further declare under oath that I will not reveal or disclose, unless authorized by law, any confidential information that may come to my knowledge in the exercise of my functions."

The Commissioner takes the oath before the Minister of Health and Social Services.

11. The Commissioner's personnel is appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

The Commissioner defines the powers and duties of the Commissioner's personnel and directs their work. The Commissioner may delegate in writing the exercise of any of the powers of office.

12. The Commissioner's secretariat is situated within the territory of Ville de Québec, at the place determined by the Government.

Notice of the location or of any change of location is published in the *Gazette officielle du Québec*.

13. The Commissioner must establish a code of ethics and professional conduct applicable to any outside experts called upon in the exercise of the Commissioner's functions.

CHAPTER II

FUNCTIONS OF THE HEALTH AND WELFARE COMMISSIONER

14. To fully exercise the responsibilities of office, the Health and Welfare Commissioner, among other functions,

(1) evaluates all components of the health and social services system to determine their relevance;

(2) periodically assesses the results achieved by the health and social services system in light of the resources allocated to it and of reasonable expectations given these resources;

(3) informs the Minister and the public of the overall performance of the health and social services system, the changes proposed by the Commissioner to improve such aspects of the system as its effectiveness and efficiency, and the issues and implications associated with the proposed changes;

(4) releases information to enable public debate on and a general understanding of the issues to be addressed and the choices to be made to ensure the sustainability of the health and social services system; and

(5) submits advisory opinions to the Minister on the state of health and welfare of the population in light particularly of retrospective analysis of the impact of government policy on that state.

15. The Government or the Minister may entrust the Commissioner with any special mandate on a matter within the Commissioner's competence. In no case may such a special mandate take precedence over the other functions assigned to the Commissioner under this Act.

16. Within one year from (*insert the date of coming into force of this section*), the Commissioner issues an advisory opinion on the most appropriate way for the Minister and health and social services institutions to inform the public of their rights under the law with respect to health and social services and to sensitize the public to their attendant responsibilities as regards their health and their use of the services offered.

17. The Commissioner exercises the functions of office with due regard for the functions and responsibilities otherwise assigned by law to the Auditor General or another person or body.

CHAPTER III

POWERS OF THE HEALTH AND WELFARE COMMISSIONER

18. In exercising the functions assigned to the Commissioner under sections 14, 15 and 16, the Commissioner must consult the forum established under Chapter IV.

The Commissioner may also, whenever necessary,

(1) call on outside experts to report on one or more specific points determined by the Commissioner;

(2) conduct or commission studies, research or surveys to obtain background on a matter on which the Commissioner must issue an advisory opinion;

(3) request the collaboration of the Minister or the bodies or councils under the Minister's authority by asking them to furnish any expertise they have that is necessary to the Commissioner or to produce an analysis, advisory report or opinion on a matter on which the Commissioner must issue an advisory opinion; and

(4) establish working committees, hold consultations, seek opinions, and receive and hear applications.

19. The Commissioner may hold public hearings anywhere in Québec.

The Commissioner may hold several public hearings simultaneously and determine how they are conducted.

20. Public bodies within the meaning of the first paragraph of section 3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) must provide the Commissioner with any information or documents that the Commissioner requests and that are necessary for the exercise of the functions of office.

They must allow the Commissioner to have access to and make copies of the information or documents they have, whatever their form.

21. The Commissioner may hold an inquiry if expedient for the exercise of the functions of office.

For the purposes of an inquiry, the Commissioner or any other person appointed by the Commissioner to conduct the inquiry is vested with the powers and immunity provided for in the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

22. Not later than 31 October each year, the Commissioner sends the Minister a report on the exercise of the function assigned to the Commissioner under paragraph 3 of section 14.

The report must give an account of the consultation of the forum required under section 18 and set out the conclusions and recommendations of the forum on each of the matters or issues submitted to it.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption.

The report is referred to the appropriate committee of the National Assembly for consideration.

23. As soon as the Commissioner is ready to submit findings or an advisory opinion on a matter that falls within the Commissioner's purview, the Commissioner may send a special report to the Minister or choose to include the findings or advisory opinion in the report referred to in section 22. The second paragraph of that section applies to a special report.

The Minister lays a special report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption.

CHAPTER IV CONSULTATION FORUM

24. A consultation forum is established. It is composed of 27 members, including 18 citizens from each of the regions of Québec who do not represent a special interest group and nine other persons with special expertise in the field of health and social services.

These persons are appointed by the Commissioner for a three-year term.

They may be remunerated as determined by the Government and are entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

25. Except for the nine persons with special expertise, a person may not be appointed to the forum if

(1) the person is an employee of the Ministère de la Santé et des Services sociaux, a local health and social services network development agency, the James Bay Cree health and social services council, a health and social services institution or any other organization providing services in the field of health and social services and receiving subsidies from an agency or the Minister of Health and Social Services, the Corporation d'hébergement du Québec or a professional order in the field of health and social services;

(2) the person is an employee of the Régie de l'assurance maladie du Québec, receives remuneration from the Régie or has entered into a service contract under section 259.2 of the Act respecting health services and social services (R.S.Q., chapter S-4.2);

(3) the person is a member of the board of directors of an organization referred to in paragraph 1 or 2 or of the bureau of a professional order in the field of health and social services; or

(4) the person is registered in the registry of lobbyists maintained under the Lobbying Transparency and Ethics Act (R.S.Q., chapter T-11.011).

26. The nine persons with special expertise must be appointed by the Commissioner as follows:

(1) one from each of the fields of expertise of the persons referred to in subparagraphs *a* to *c*, *f* and *g* of paragraph 2 of section 4, for a total of five;

(2) two from sectors of activity related to health or welfare, such as the education, economic, environment and labour sectors;

(3) one from a university health research background; and

(4) one having recognized experience and skills in health and social services management.

27. In appointing the 18 citizens to the forum, the Commissioner must see that all age groups and the sociocultural, ethnocultural and linguistic characteristics of the population of Québec are represented to the greatest extent possible. The appointments must also tend towards gender parity.

In appointing the nine persons with special expertise, the Commissioner must see that the health field and the social services field are represented as equitably as possible.

28. The mandate of the forum is to provide the Commissioner with its point of view on the matters or issues the Commissioner submits to it as part of a consultation.

29. The Government determines, by regulation, the procedure for choosing persons qualified for appointment to the forum.

The procedure must provide that a list of citizens qualified for appointment to the forum be drawn up for each region of Québec and that a list of persons with special expertise qualified for appointment to the forum be drawn up for all of Québec.

Every three years, the Commissioner must publish the procedure with the date the Commissioner has set for making appointments to the forum.

The procedure and date are published twice for each region of Québec in a newspaper circulated in that region.

30. The Commissioner determines the forum's mode of operation and sees that each person appointed to the forum receives a copy of a document describing it.

31. The Commissioner must fill a vacancy on the forum within 60 days after being informed of it, using the appropriate list drawn up under section 29. The person appointed must have the same qualifications for appointment to the forum as the person being replaced.

CHAPTER V

MISCELLANEOUS PROVISIONS

32. The Health and Welfare Commissioner adopts internal management by-laws.

33. No civil action may be instituted by reason of the publication of any report or advisory opinion of the Commissioner or the publication in good faith of an extract from or a summary of any such report or advisory opinion.

34. Except on a question of jurisdiction, no remedy under article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) or extraordinary recourse within the meaning of that Code may be pursued and no injunction may be granted against the Commissioner, a Deputy Commissioner or the Commissioner's personnel in the exercise of their functions.

A judge of the Court of Appeal, on a motion, may summarily annul any decision rendered or any order or injunction granted contrary to the first paragraph.

35. The fiscal year of the Commissioner ends on 31 March.

36. Not later than 30 June each year, the Commissioner sends the Minister a report on the Commissioner's activities for the preceding fiscal year.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption.

37. The Commissioner is deemed to be an agency for the purposes of the law.

CHAPTER VI

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

38. Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by section 61 of chapter 11 of the statutes of 2004, is again amended

(1) by striking out "Conseil de la santé et du bien-être" and "Conseil médical du Québec";

(2) by inserting "Health and Welfare Commissioner" in the appropriate position in the list, according to alphabetical order.

39. The Act respecting the Conseil de la santé et du bien-être (R.S.Q., chapter C-56.3) is repealed.

40. The Act respecting the Conseil médical du Québec (R.S.Q., chapter C-59.0001) is repealed.

41. The Health and Welfare Commissioner is substituted for the Conseil de la santé et du bien-être and the Conseil médical du Québec. The Commissioner acquires their rights and property and assumes their obligations, and any proceedings to which they were a party may be continued by the Commissioner without continuance of suit.

42. The term of office of the members of the Conseil de la santé et du bien-être and the Conseil médical du Québec ends on (*insert the date of coming into force of this section*).

Members of those councils are entitled only to the transition allowance applicable to them, if any.

43. Employees of the Conseil de la santé et du bien-être and the Conseil médical du Québec appointed in accordance with the Public Service Act who are in office on (*insert the date of coming into force of this section*) become employees of the Commissioner.

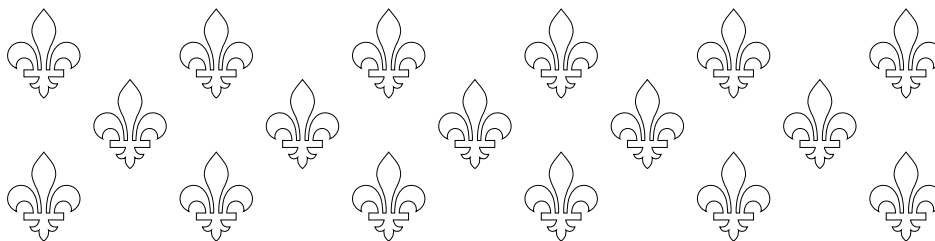
44. The records and documents of the Conseil de la santé et du bien-être and the Conseil médical du Québec become the records and documents of the Commissioner, without further formality.

45. Not later than (*insert the date occurring five years after the date of coming into force of this section*), the Commissioner reports to the Minister on the implementation of this Act.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is referred to the appropriate committee of the National Assembly for consideration.

46. The Minister of Health and Social Services is responsible for the administration of this Act.

47. This Act comes into force on 17 June 2005, except sections 2, 14 to 23, 28, 33, 34, 36 and 38 to 45, which come into force on the date or dates to be fixed by the Government.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 57
(2005, chapter 15)

Individual and Family Assistance Act

Introduced 11 June 2004
Passage in principle 8 December 2004
Passage 15 June 2005
Assented to 17 June 2005

Québec Official Publisher
2005

EXPLANATORY NOTES

The purpose of this bill is to implement measures, programs and services designed to foster the economic and social self-sufficiency of persons and families, within the framework of the principles and policy directions set out in the Act to combat poverty and social exclusion. A further purpose of this bill is to encourage persons to engage in activities that promote their social integration, their entry on the labour market and their active participation in society.

To those ends, the bill provides that the Minister of Employment and Social Solidarity may establish employment-assistance and social assistance and support measures, programs and services. The bill authorizes the Minister to establish a Social Assistance and Support Program for recipients of last resort financial assistance who require special help and support in view of their socio-professional profile. The bill also allows the Minister to grant a person an employment-assistance allowance or a support allowance, to foster that person's active participation in society or entry on the labour market.

The bill also establishes various financial assistance programs to which certain common provisions pertaining in particular to eligibility and to mutual rights and obligations apply.

The bill first establishes the Social Assistance Program, the purpose of which is to grant last resort financial assistance to persons whose capacity for employment is not severely limited and to encourage such persons to engage in activities promoting their entry on the labour market and their social and community participation. The program established by the bill contains the principle of a minimum benefit. In other words, a benefit granted within the framework of this program may not be reduced for failure to take steps with a view to entering the labour market, in particular for refusing to take a job or leaving or losing a job. Furthermore, the program contains a provision allowing a person or a family to own certain property or liquid assets in order to facilitate actions enabling them to regain economic self-sufficiency.

The bill also establishes the Social Solidarity Program, the purpose of which is to grant last resort financial assistance to persons whose capacity for employment is severely limited and to foster the inclusion and social participation of such persons and their active contribution to society. In addition, the bill establishes

the Youth Alternative Program, the purpose of which is to support young adults who require financial assistance to meet their basic needs, in order to encourage them to engage in activities enabling them to acquire or regain personal, social and vocational self-sufficiency. The bill gives the Minister the power to create specific programs in order to give financial assistance to persons and families with particular difficulties.

The bill also contains provisions regarding the exchange of information required for its administration and establishes the cases and conditions for recovering amounts paid without entitlement within the framework of the measures and programs provided for. The bill sets out the remedies a person may exercise against certain decisions rendered by the Minister and contains provisions concerning inspection and investigation, as well as penal provisions. Lastly, the bill contains amending, transitional and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Legal Aid Act (R.S.Q., chapter A-14);
- Automobile Insurance Act (R.S.Q., chapter A-25);
- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting prescription drug insurance (R.S.Q., chapter A-29.01);
- Act respecting the Barreau du Québec (R.S.Q., chapter B-1);
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Act respecting collective agreement decrees (R.S.Q., chapter D-2);
- Pay Equity Act (R.S.Q., chapter E-12.001);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting labour standards (R.S.Q., chapter N-1.1);

- Act to facilitate the payment of support (R.S.Q., chapter P-2.2);
- Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1);
- Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2);
- Act respecting assistance and compensation for victims of crime (1993, chapter 54).

LEGISLATION REPLACED BY THIS BILL:

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

Bill 57

INDIVIDUAL AND FAMILY ASSISTANCE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

PURPOSE, MEASURES, PROGRAMS AND SERVICES

CHAPTER I

GENERAL PRINCIPLES AND POWERS

1. Within the framework of the principles and policy directions set out in the Act to combat poverty and social exclusion (R.S.Q., chapter L-7), the purpose of this Act is to implement measures, programs and services designed to foster the economic and social self-sufficiency of persons and families.

A further purpose of this Act is to encourage persons to engage in activities that promote their social integration, their entry on the labour market and their active participation in society.

2. The measures, programs and services implemented under this Act are established to support persons in their efforts to achieve and maintain economic and social self-sufficiency, as they are the first to act to improve their situation and that of their families.

3. To those ends, the Minister of Employment and Social Solidarity offers reception, assessment and referral services. The Minister may also offer employment-assistance and social assistance and support measures, programs and services, and administer the financial assistance programs established under Title II.

4. These employment-assistance measures, programs and services focus on the components of an active labour market policy, that is, job preparation, integration and retention as well as job stabilization and job creation.

5. Within the scope of the employment-assistance measures, programs and services, the Minister may, among other things,

- (1) collect and disseminate labour market information;
- (2) offer placement services;

- (3) provide funding for courses, training programs or professional services;
- (4) support bodies that provide employment-assistance services;
- (5) offer means to facilitate the participation of handicapped persons in employment-assistance measures, programs and services, in order to foster their entry on the labour market and their job retention, whether in a regular work environment or in an adapted enterprise;
- (6) assist employers, employee or employer associations, community bodies and regional or local communities in developing and implementing strategies for dealing with changes in the labour force and meeting manpower requirements;
- (7) help improve labour market efficiency and minimize the impact of labour market restructuring;
- (8) promote the development of labour market policy instruments and management tools; and
- (9) support research and innovation in order to identify better ways of helping persons obtain or keep employment.

6. The Minister may also assist persons in their efforts to enter, re-enter or remain on the labour market, in particular by helping them obtain skills for employment, ranging from basic to specific skills, by encouraging them to accept employment and by providing them with employment opportunities.

7. Within the scope of the social assistance and support measures, programs and services, the Minister may, in particular,

- (1) offer personalized support to help persons in their efforts to achieve social and professional integration and self-sufficiency;
- (2) refer persons to specialized external resources for interventions adapted to their needs; and
- (3) favour local and regional initiatives designed for groups of persons facing common or special difficulties.

8. The Minister may enter into agreements, in particular within the scope of pilot projects, with any person, association, partnership or body to promote specific projects fostering the social and community integration of persons and families.

After analysis, the Minister determines the standards applicable to the pilot projects. The Minister may at any time modify a pilot project or terminate it after advising the person, association, partnership or body concerned.

9. The Minister may assess a person's circumstances and offer measures, programs and services appropriate to the person's needs.

The Minister may also propose that a person engage in certain activities, in particular as part of an "Individualized Integration, Training and Employment Plan".

10. As regards certain employment activities a person engages in within the framework of a measure or a program, the Minister may sign a written agreement with the person and, where applicable, with the person for whom the work is performed. The Minister may include conditions of employment in the agreement. The agreement may also, for the purposes determined by the Minister, require the person for whom the work is performed to consult, before the work begins, the association of employees legally recognized to represent the members of the bargaining unit concerned.

In this agreement, the Minister may also provide for the payment of financial assistance to the employer, in the form of wage subsidies, for instance.

11. Except in the cases and to the extent determined by regulation, the provisions of Chapter III of the Public Administration Act (R.S.Q., chapter A-6.01), the Labour Code (R.S.Q., chapter C-27), the Act respecting collective agreement decrees (R.S.Q., chapter D-2), the Public Service Act (R.S.Q., chapter F-3.1.1) and the Act respecting labour standards (R.S.Q., chapter N-1.1) apply to an employment activity engaged in within the framework of a measure or a program established by the Minister.

12. Within the framework of employment-assistance and social assistance and support measures, programs and services, the Minister may grant financial assistance, subject to the conditions set out in this Act or, if there are no such conditions, subject to those determined by the Minister.

13. Within the framework of employment-assistance measures, programs and services, the Minister may offer a person financial assistance, in particular to

- (1) allow the person to complete training or acquire vocational qualifications;
- (2) allow the person to acquire work skills and experience, thereby improving the person's employment prospects; and
- (3) assist the person in efforts to enter, re-enter or remain on the labour market.

14. Financial assistance granted to a person participating in an employment-assistance measure or program may be paid, for instance, in the form of an employment-assistance allowance or the reimbursement of additional expenses.

If the person is a recipient under a financial assistance program provided for in Title II, the amount granted as an employment-assistance allowance may not be less than the amount prescribed by regulation.

15. In the cases and under the conditions determined by the Minister, the Minister may establish a Social Assistance and Support Program for recipients under the Social Assistance Program or the Social Solidarity Program who require special help and support in view of their socio-professional profile.

To that end, the Minister may enter into an agreement with a body under which the body offers that help and support in order to assist those persons in taking steps toward an active participation in society and to provide them with adequate preparation to participate in an employment-assistance measure or program and improve their prospects of entering the labour market.

That assistance may in particular contribute to

- (1) reinforcing their interest in moving forward;
- (2) identifying their needs;
- (3) developing or maintaining certain skills, attitudes or behaviours; and
- (4) finding ways to remove the obstacles to their socio-professional development.

16. In the cases and under the conditions determined by the Minister, the Minister may grant financial assistance, in particular in the form of a support allowance, to a person participating in a Social Assistance and Support Program or measure.

If the person is a recipient under the Social Assistance Program or the Social Solidarity Program, the support allowance is determined by regulation and added to the basic benefit amount applicable to the person. As part of an agreement entered into with a body to implement the program, the Minister may also provide for the payment of financial assistance to that body.

17. Subject to the conditions the Minister determines, the Minister may recognize as an employment-assistance allowance or a support allowance financial assistance paid to a recipient under the Social Assistance Program or the Social Solidarity Program by a person, an association, a partnership or a body with which that recipient engages in activities of the same nature as those for which such allowances are granted.

For the purposes of this Act, financial assistance granted as an employment-assistance allowance to a Native person under a manpower and employment agreement entered into with the Government of Canada and determined by regulation is financial assistance recognized by the Minister as an employment-assistance allowance.

18. In the cases and under the conditions prescribed by regulation, financial assistance granted by the Minister as an employment-assistance allowance, or financial assistance recognized as an employment-assistance allowance or a support allowance, is excluded from the calculation of the benefit granted under the Social Assistance Program or the Social Solidarity Program, up to the amount prescribed by regulation for each allowance.

19. Except in the cases and under the conditions prescribed by regulation, a person may not concurrently receive

(1) an employment-assistance allowance and a support allowance, whether granted by the Minister or paid by a third person and recognized by the Minister;

(2) an employment-assistance allowance granted by the Minister and financial assistance the Minister recognizes as an employment-assistance allowance; or

(3) a support allowance granted by the Minister and financial assistance the Minister recognizes as a support allowance.

20. Financial assistance granted under this Act to a natural person who is not an employer is unassignable and unseizable, with the exception of the part of an employment-assistance allowance exceeding an amount determined by regulation, up to 50% of which may be seized for non-payment of support.

21. The powers of the Minister in matters of manpower and employment under this Title are exercised in agreement with the provisions of the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001), particularly as concerns the functions and powers of the Commission des partenaires du marché du travail and of the regional councils of labour market partners.

As provided in that Act, the provincial, regional and local implementation and management of the manpower and employment measures and programs under the responsibility of the Minister and the provision of public employment services are entrusted to Emploi-Québec.

CHAPTER II

COMMON PROVISIONS

DIVISION I

DEFINITIONS

22. The word “spouses” means

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

(2) persons of opposite sex or the same sex who cohabit and who are the parents of a child, unless they establish that their cohabitation is temporary and results from exceptional circumstances related to a serious health problem of one of them or of one of their children;

(3) persons of full age of the opposite or the same sex who live together in a de facto union and who, at any one time, cohabited for a period of not less than one year.

Such persons remain spouses or, for the purposes of subparagraph 3 of the first paragraph, are presumed to have continued to cohabit despite the temporary absence of one of them.

23. Subject to the cases and conditions determined by regulation, the following persons are considered to be dependants of their father or their mother or of another adult designated by regulation if they are dependent on one of those persons for their basic needs:

(1) minor children who are neither fully emancipated nor the father or mother of a child who is their dependant; and

(2) children of full age who attend an educational institution and who are neither the spouse of another person nor married nor in a civil union nor the father or mother of a child who is their dependant.

24. An adult is a person other than a dependent child.

25. A family is composed of

(1) an adult and the adult's dependent children;

(2) spouses and their dependent children or the dependent children of either spouse; or

(3) spouses who have no dependent children.

Despite the first paragraph, a person remains, ceases to be or becomes a member of a family in the circumstances determined by regulation, and an adult who does not meet the eligibility requirements set out in section 26 or to whom paragraph 2 of section 27 applies is not considered a member of a family.

DIVISION II**GENERAL ELIGIBILITY REQUIREMENTS**

26. To be eligible for financial assistance, an adult must reside in Québec within the meaning of the regulation and in the cases and under the conditions determined by that regulation, and be

(1) a Canadian citizen within the meaning of the Citizenship Act (Revised Statutes of Canada, 1985, chapter C-29);

(2) an Indian registered as an Indian under the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

(3) a permanent resident within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27); or

(4) a person to whom asylum has been granted in Canada by the competent Canadian authorities in accordance with the Immigration and Refugee Protection Act.

However, an adult in any class of persons other than those referred to in subparagraphs 1 to 4 of the first paragraph may be eligible in the cases and under the conditions determined by regulation. Eligibility may be limited by regulation, however, to certain programs, benefits or allowances.

27. The following are not eligible for financial assistance, except in the cases and under the conditions determined by this Act or by regulation:

(1) adults attending, within the meaning of the regulation, a secondary-level educational institution in a vocational program or a postsecondary educational institution, and families that include such an adult;

(2) adults who are members of a religious community that has the means to provide for its members;

(3) independent adults who are minors who are not fully emancipated;

(4) adults incarcerated in a penitentiary or detained in a house of detention or any other prison, or required to reside in a half-way house.

28. Subject to the conditions the Minister determines, the Minister may, however, offer an employment-assistance or social assistance and support measure, program or service to a person who does not meet the eligibility requirements set out in sections 26 and 27.

DIVISION III

RECIPROCAL RIGHTS AND OBLIGATIONS

29. The Minister must assist any person who requests it to facilitate the person's understanding of and access to a measure, a program or a service. Among other things, the Minister must assist the person in making an application for financial assistance.

30. A person wishing to obtain financial assistance must apply to the Minister according to the procedure the Minister prescribes and provide the Minister with any document or information necessary to ascertain the person's eligibility or the eligibility of the person's family, and to determine the amount of the assistance to be granted.

An application for last resort financial assistance, however, must be submitted according to the procedure prescribed by regulation.

The Minister must record in the person's file any application the person makes within the framework of a program or measure.

31. A person required to produce a medical report must produce it according to the procedure prescribed by the Minister.

Moreover, when the Minister considers it appropriate, the person must undergo another medical examination, carried out by the physician designated by the Minister, to verify whether the person's capacity for employment is severely limited or whether the person is unable, owing to the person's physical or mental condition, to engage in a job preparation, integration or retention activity. An unfavourable decision of the Minister must be accompanied by the report of the physician so designated by the Minister.

32. The Minister must examine applications for financial assistance made in accordance with section 30 and make a decision promptly. An unfavourable decision must be made in writing.

33. The Minister must provide a person to whom financial assistance is granted with information that is as comprehensive as possible and that takes into consideration the circumstances declared by the person, on

(1) rights and obligations under this Act; and

(2) the measures, programs and services available under this Act as well as the credit for child assistance and the credit granting a work premium under the Taxation Act (R.S.Q., chapter I-3), the national child benefit supplement granted by the Government of Canada, the Housing Allowance Program administered by the Société d'habitation du Québec and the special health insurance services offered by the Régie de l'assurance maladie du Québec to persons eligible under a last resort financial assistance program, and the manner of gaining access to them.

34. When, due to particular circumstances or in view of their past conduct in the administration of property, an independent adult or the adult members of a family are unable to administer the financial assistance granted to them, the Minister may, subject to the conditions determined by regulation, pay the financial assistance to a person or body designated by the Minister.

The person or body must administer the financial assistance according to the standards prescribed by regulation and report to the Minister on the requisite form.

35. In particular within the framework of pilot projects, the Minister may enter into an agreement with a body under which the body offers information, conciliation and support services to persons who are eligible under a financial assistance program provided for in Title II and whose housing situation is precarious or who have difficulty paying their rent.

Such an agreement may not, however, provide for a benefit to be administered by the body or by a third person.

36. Except in the cases prescribed by regulation, persons receiving financial assistance must give prompt notice to the Minister of any change in their circumstances or the circumstances of their family that may affect their eligibility or continued eligibility for the measure, program or service, or the financial assistance granted.

Such persons must also file a short form statement in the cases prescribed by regulation, and a complete statement whenever the Minister considers it necessary, but not more often than once per 12-month period, to ascertain the persons' eligibility or the eligibility of their family under a financial assistance program provided for in Title II or to determine the amount of the assistance to be granted. The statements must be filed in the manner determined by the Minister.

The Minister may cease to pay financial assistance if a statement is not filed within the prescribed time limit, unless the recipient proves that timely filing was impossible.

37. At least 10 days before reducing or ceasing to pay an amount granted under this Act on the ground that a person did not declare his or her real circumstances, the Minister must give the person a written notice, with reasons.

The person may submit observations before the effective date of the Minister's decision and, if need be, produce documents to complete the file.

38. The Minister must take the necessary measures to ensure the quality of the services offered and establish a complaint processing procedure for matters governed by this Act.

A person may apply to the Minister for information on any matter within the scope of this Act, or for assistance in safeguarding that person's rights.

39. The Minister must also

(1) monitor the level of satisfaction of persons and families having taken advantage of the measures, programs or services offered;

(2) take the appropriate measures to remedy or prevent the re-occurrence of prejudicial situations and prevent the occurrence of similar situations; and

(3) give due consideration to the opinions and observations expressed by persons and families having taken advantage of measures, programs or services.

40. An administrative unit separate from the units responsible for providing the services or implementing the measures or programs provided for in this Act must be designated by the Minister to provide information on any matter governed by this Act and to process complaints.

41. Requests received by the administrative unit must be processed promptly and complaints must be examined and analyzed, unless they are clearly unfounded, for instance, if they do not pertain to one of the matters governed by this Act.

42. The complainant must be informed of the results of the examination of the complaint, as well as of any applicable remedy procedures.

Confidential information may not be disclosed under the first paragraph.

43. The administrative unit designated by the Minister under section 40 must prepare an annual activity report.

The report must contain the information required by the Minister and indicate the number of complaints received, the follow-up given to the complaints, and the level of satisfaction of persons having applied to the unit as well as any recommendation concerning the services it provides.

The report is submitted to the Minister. It is included in the annual management report of the Ministère de l'Emploi et de la Solidarité sociale.

TITLE II**FINANCIAL ASSISTANCE PROGRAMS****CHAPTER I****SOCIAL ASSISTANCE PROGRAM****DIVISION I****PURPOSE AND ELIGIBILITY**

44. The purpose of the Social Assistance Program is to grant last resort financial assistance to persons whose capacity for employment is not severely limited. A further purpose is to encourage such persons to engage in activities promoting their entry on the labour market or their social and community participation.

45. To foster the objectives of the Social Assistance Program, the Minister may, in accordance with Title I, offer employment-assistance and social assistance and support measures, programs and services to persons eligible under the program and, where applicable, adapt those measures, programs and services to meet the needs of persons with particular difficulties.

46. The Minister implements mechanisms facilitating coordinated action with the other departments and bodies concerned, in order to offer continuous, integrated services to persons and families eligible under the program.

47. An independent adult or a family may not receive a benefit under the Social Assistance Program if the adult or an adult member of the family is eligible under the Social Solidarity Program.

48. To receive a benefit under the program, independent adults or families must establish that, according to the rules set out in Division II of this chapter, their resources fall short of the amount that is necessary to provide for their needs, given the basic benefit amount applicable to them combined with the amount of any applicable allowances or adjustments for adults, any support allowance granted by the Minister under Chapter I of Title I, any adjustments for dependent children and any applicable special benefits.

However, adults or families who, at the time of the application, own liquid assets in excess of the amount determined by regulation are not eligible under the program. Such adults or families are ineligible from the date of application to the last day of the month.

49. The Minister may grant a benefit to an independent adult or a family that is not eligible under the program for a reason other than the reason set out in paragraph 1 of section 27, or not entitled to a benefit although eligible under the program, if, in the Minister's opinion, the adult or the members of the family would, without that benefit, be in circumstances that could endanger their health or safety or lead to complete destitution.

50. In the cases and under the conditions determined by regulation, the Minister may grant a benefit to an independent adult or a family that is no longer eligible under the program.

51. The Minister includes a statement of the benefits granted under section 49 and the reasons for which they were granted in the annual report required under section 15 of the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001).

Despite subparagraph 4 of the first paragraph of section 57 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the names and addresses of recipients of such a benefit are not public information.

DIVISION II

ESTABLISHMENT AND PAYMENT OF BENEFIT

52. The benefit granted to an independent adult or a family under the Social Assistance Program takes the form of a social assistance benefit.

It is established using the basic benefit applicable to that adult or family and taking into consideration the amount, the cases and the conditions provided for by regulation.

53. A temporarily limited capacity allowance is added to the basic benefit when an independent adult or an adult member of a family

(1) produces a medical report establishing that, due to the adult's physical or mental condition, the adult will be unable, for a period of at least one month, to engage in a job preparation, integration or retention activity;

(2) is at least 20 weeks pregnant or gave birth less than five weeks previously, and applies for the allowance; the application must be filed together with a medical certificate that may be replaced by a written report attesting the pregnancy, signed by a midwife and indicating the adult's name and date of birth, the number of weeks of pregnancy, if applicable, and the expected or actual date of delivery;

(3) provides childcare to a dependent child of the adult in the cases and under the conditions determined by regulation or to such a child who is handicapped within the meaning of subparagraph *b* of the second paragraph of section 1029.8.61.18 of the Taxation Act (R.S.Q., chapter I-3);

(4) reaches the age determined by regulation and applies for the allowance;

(5) provides constant care to an adult whose autonomy is significantly reduced because of a physical or mental condition;

(6) is responsible for a family-type resource recognized under the Act respecting health services and social services (R.S.Q., chapter S-4.2);

(7) is placed in a foster home within the meaning of the Act respecting health services and social services, or is taken in charge by an intermediate resource within the meaning of that Act;

(8) is responsible for a foster home under a service contract with the Minister of Public Security and must act in consequence with respect to a person required to live there; or

(9) is a victim of violence who takes refuge in a shelter or other similar place for a maximum of three consecutive months from the date of admission.

A temporarily limited capacity allowance is added to the basic benefit in the other cases and under the other conditions provided for by regulation.

54. An adult may not receive a temporarily limited capacity allowance concurrently with an employment-assistance allowance or a support allowance, even if they are granted or recognized as an employment-assistance allowance or a support allowance by the Minister.

55. The benefit granted an independent adult or a family is established, for each month, on the basis of the circumstances of the adult or family on the last day of the preceding month. The benefit is equal to the deficit in resources to meet needs, calculated by

(1) determining the amount of the applicable basic benefit and, in keeping with the regulation, adding to it any temporarily limited capacity allowance, any adjustments for adults, any support allowance granted under Chapter I of Title I, any adjustments for dependent children and any special benefits; and

(2) subtracting the following amounts, except insofar as they are excluded by regulation, from the amount obtained under paragraph 1:

(a) the income from employment and from property earned, in the preceding month, by the independent adult or by members of the family, and any earnings or other benefits received by them;

(b) the benefits not yet received for the period prescribed by regulation, to which the independent adult or adult members of the family are entitled under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) because of an interruption of work, or that they have chosen to receive under the Act respecting parental insurance (2001, chapter 9);

(c) if the independent adult or adult members of the family lost an employment because of a work stoppage attributable to a labour dispute and, for that reason, could not or did not qualify for unemployment benefits, any

work income that could otherwise have been earned by them in the preceding month, until such time as they could qualify for benefits under the Employment Insurance Act;

(d) the liquid assets, within the meaning of the regulation, that the independent adult or members of the family owned on the last day of the preceding month;

(e) the amount obtained by applying the percentage prescribed by regulation to the value, determined according to the method prescribed by regulation, of the property owned by the independent adult or the members of the family on the last day of the preceding month, excluding any property that cannot be alienated due to a legal impediment beyond their control;

(f) the parental contribution determined according to the method prescribed by regulation, for the three years following the first of the following dates:

i. the date on which the adult who is deemed to receive a parental contribution received a first benefit under a last resort financial assistance program or the Youth Alternative Program; and

ii. the date on which the adult would have been declared eligible but for the net incomes of the adult's father and mother taken into account in determining the contribution.

56. For the purposes of subparagraph *a* of paragraph 2 of section 55, an independent adult or an adult member of the family is deemed to earn the income from employment that would have been received had the adult not taken advantage of the work time reduction measures or leave without pay available under the conditions of employment applicable to the adult.

The first paragraph does not apply if the decision to reduce work time or take leave without pay was made for a serious reason, in particular because of the state of health of that adult or a member of the family, or if the adult is receiving benefits granted under the Act respecting parental insurance (2001, chapter 9) or of section 22 or 23 of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).

57. An adult is deemed to receive a parental contribution unless

(1) the adult has provided for his or her own needs and resided elsewhere than at the place of residence of his or her father or mother for at least two years, excluding any period during which the adult attended an educational institution on a full-time basis;

(2) the adult has, for at least two years, held remunerated full-time employment, received benefits under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) for such employment, or received benefits under the Act respecting parental insurance (2001, chapter 9);

(3) the adult is or was married or in a civil union;

(4) the adult has been living with another person of the opposite or the same sex in a de facto union and has, at one time, cohabited with that person for a period of not less than one year;

(5) the adult has or has had a dependent child;

(6) the adult holds a bachelor's degree;

(7) the adult is at least 20 weeks' pregnant, and her condition has been attested by a medical report; the medical report may be replaced by a written report attesting the pregnancy, signed by a midwife and indicating the name and date of birth of the adult, the number of weeks of pregnancy and the expected date of delivery; or

(8) the adult has not been a full-time student for at least seven years since ceasing to be subject to compulsory school attendance.

However, an adult who establishes that his or her father and mother are untraceable, that they have refused to help provide for his or her needs or that they have committed acts of violence against him or her is not deemed to be receiving a parental contribution.

58. For certain special benefits, the Minister may set particular eligibility requirements other than those provided for in the regulation.

If the Minister has entered into an agreement with a person, an association, a partnership or a body to have the need for which a special benefit is required filled in another manner, the Minister may decide not to pay the amount of that benefit.

The conditions for applying this section may vary according to the person's situation and the availability in the person's locality or region of the goods or services required.

59. The benefit granted an independent adult or a family may not be reduced for failure to take steps with a view to entering the labour market, in particular for refusing to take a job or leaving or losing a job.

60. In the cases and under the conditions determined by regulation, an independent adult or a family may own certain property or liquid assets in order to facilitate actions enabling them to regain economic self-sufficiency.

61. A benefit is granted from the month following the month of the application. However, a benefit may be granted for the month in which the application is made. In that case, it is established according to the method prescribed by regulation, which may take into account such factors as the liquid assets the adult or family owns on the date of the application.

62. A benefit is paid on a monthly basis subject to the conditions determined by regulation. The benefit is paid to the spouses jointly or, at their request, to one of them.

63. An independent adult or the members of a family must exercise their rights or take advantage of other statutory benefits when the exercise of such rights or the receipt of such benefits would affect the adult's or the family's eligibility for a financial assistance program, or reduce the amount of assistance.

In the case of an adult who is not deemed to receive a parental contribution under the second paragraph of section 57, the Minister is subrogated by operation of law in the rights of the adult to have support payments fixed or varied, unless the adult has elected to exercise his or her remedy for support. The Minister may also exercise the rights of any other creditor of support to have support payments fixed or varied if the Minister is of the opinion that the creditor's circumstances place the exercise of such rights in jeopardy.

The fact that an adult or a member of the adult's family engages in activities as a volunteer with a non-profit organization does not constitute failure to fulfil the obligations imposed by the first paragraph.

64. When an adult, or a member of the adult's family, is a creditor of support, the adult must inform the Minister, in the manner prescribed by regulation, of any judicial proceeding concerning the obligation of support at least five days before the date the application is presented to the court. The adult must also inform the Minister of the submission or receipt of an application regarding support under the Act respecting the reciprocal issue and enforcement of support orders (2005, chapter 12), at least five days before the submission or not later than five days after the receipt of such an application, as the case may be.

The adult must, however, inform the Minister of the content of an agreement concerning the obligation of support at least 10 days before it is presented to the court, or, in the case of a joint procedure for the dissolution of a civil union, at least 10 days before the date on which the agreement is to be executed before a notary.

An agreement between the parties concerning the fixing or variation of support payments has no effect against the Minister.

In any proceeding for the fixation or variation of support payments, the court may, of its own motion, implead the Minister, or the Minister may, *ex officio* and without notice, intervene at any time and take part in the proof and hearing.

65. In the two years preceding an application for or the payment of financial assistance, an independent adult or the members of a family must not have waived their rights, disposed of property or liquid assets without adequate

consideration or squandered them in order to become eligible or render their family eligible under the program or to be granted a greater amount than would otherwise have been the case.

66. When there is failure to fulfil any of the obligations imposed by sections 30, 31, 36, 63 and 64, the Minister may refuse or cease to pay financial assistance or reduce it.

The Minister may also refuse or cease to pay financial assistance or reduce it when there is failure to fulfil the obligation under section 65, in the cases and under the conditions prescribed by regulation.

Decisions made by the Minister under this section must include reasons and be communicated in writing to the person concerned.

CHAPTER II

SOCIAL SOLIDARITY PROGRAM

67. The purpose of the Social Solidarity Program is to grant last resort financial assistance to persons whose capacity for employment is severely limited.

A further purpose of the program is to foster the inclusion and social participation of such persons and their active contribution to society, by providing all the help and support they require.

68. In order to foster the achievement of the objectives of the Social Solidarity Program, the Minister may, in accordance with Title I, offer employment-assistance and social assistance and support measures, programs and services to persons eligible under the program and, where applicable, adapt them to meet the particular needs of the persons concerned. The Minister may, in particular, contribute to the adaptation of jobs or foster social and community participation activities developed within the framework of local social integration strategies.

69. The Minister implements mechanisms facilitating coordinated action with the other departments and bodies concerned, in order to offer continuous, integrated services to persons requiring psychosocial support services.

70. An independent adult or a family is eligible under the program if the adult or an adult member of the family produces a medical report establishing that the adult's physical or mental condition is significantly and in all likelihood permanently or indefinitely deficient or impaired and that, for that reason and in view of the adult's socio-professional profile, the adult's capacity for employment is severely limited.

In exceptional circumstances, however, the Minister may exempt a person from the obligation to produce a medical report.

71. The amount of the basic benefit granted under the program is determined by regulation. It takes the form of a social solidarity allowance.

72. The Government may make regulations prescribing more flexible rules applicable to recipients under the program as regards

(1) ownership of property, amounts paid into a pension plan or assets received by succession;

(2) the eligibility requirements for certain special benefits.

73. The provisions of this Act and of the regulations regarding the Social Assistance Program apply to this program, with the necessary modifications, except the provisions relating to the parental contribution and the temporarily limited capacity allowance.

CHAPTER III

YOUTH ALTERNATIVE PROGRAM

74. The purpose of the Youth Alternative Program is to provide young adults who require financial assistance to meet their basic needs with support, on a voluntary basis, in order to encourage them to engage in activities enabling them to acquire or regain personal, social and vocational self-sufficiency.

The Minister determines the standards for implementing this program, if they are not otherwise provided for in this Act.

75. In order to foster the achievement of the objectives of the Youth Alternative Program, the Minister may, in accordance with Title I, offer employment-assistance and social assistance and support measures, programs and services to persons eligible under the program and, where applicable, adapt them to their needs.

Such measures, programs and services may, for instance,

(1) allow young people to complete their studies or go back to school;

(2) foster the job integration and retention of young people; and

(3) encourage their social and community participation.

76. The Minister implements mechanisms for coordinated action with the other departments and bodies concerned, to foster the continuity and integration of youth services.

Such action must be undertaken, in particular, to facilitate the transition from one program, measure or governmental service to another, improve their complementarity and make them more accessible.

77. The Minister may propose the Youth Alternative Program to an adult under 25 years of age who is eligible for the Social Assistance Program or the Social Solidarity Program.

The Minister may, however, owing to exceptional circumstances, offer the Youth Alternative Program to a person under 25 years of age who does not meet the other requirements.

78. Financial assistance within the framework of the program is determined by the Minister in the cases and under the conditions determined by the Minister. It takes the form, in particular, of a youth allowance.

The financial assistance may vary according to the circumstances of the adult or the adult's family and according to the nature and duration of the activity engaged in. However, the adult and, if applicable, the members of the adult's family may take advantage of the Social Assistance Program or the Social Solidarity Program if that financial assistance is less than the assistance that would be granted under either of those programs, to the extent that they are also eligible under those programs.

CHAPTER IV

SPECIFIC PROGRAMS

79. The Minister may establish specific financial assistance programs to help persons and families with particular difficulties, and determine the standards for implementing them.

In exceptional circumstances, the Minister may set eligibility requirements for a specific program that are different from those set out in sections 26 and 27.

80. The purpose of specific programs may be, for instance, to foster the development of potential, to improve a person's economic and social situation, to preserve self-sufficiency and to take account of temporary economic difficulties.

81. Within the framework of specific programs and in the cases and under the conditions the Minister determines, the Minister may grant financial assistance to a person who decides, on a voluntary basis, to take advantage of one of those programs. However, persons eligible under those programs may take advantage of the Social Assistance Program or the Social Solidarity Program if the financial assistance granted under a specific program is less than the assistance they would be granted under either of those last resort financial assistance programs, to the extent that they are also eligible under those last resort programs.

82. The Minister provides information on the existence of the specific programs and, on their coming into force, makes available the standards for implementing those programs and the manner of gaining access to them.

83. The Minister must prepare an annual report on the implementation of specific programs. The report is included in the annual management report of the Ministère de l'Emploi et de la Solidarité sociale.

In the month of April each year, the Minister must also publish in the *Gazette officielle du Québec* a list of the specific programs established during the preceding fiscal year.

TITLE III

ADMINISTRATIVE PROVISIONS

CHAPTER I

AGREEMENTS

84. Subject to the second paragraph, the Minister may enter into an agreement with a department or body of the Government of Québec or of another government, a person or an enterprise whose name appears on the list drawn up by the Government and published in the *Gazette officielle du Québec*, in order to collect or communicate nominative information that is necessary for the application of this Act and the regulations, in particular in order to

(1) verify the eligibility of a person or a person's family for an amount granted under this Act and establish that amount;

(2) identify, by cross-matching or other means, circumstances not declared by a person that may affect the amount that is or was granted to the person under this Act;

(3) verify the solvency of a person who is required to repay an amount under Chapter II of this Title or identify the person's place of residence; and

(4) verify the occurrence of an event or the existence of a right referred to in section 90, as well as the date and particulars of the realization of the right.

The Minister may also enter into such an agreement with the Department of Human Resources and Skills Development of Canada as well as with the following departments and bodies of the Government of Québec: the Ministère de l'Éducation, du Loisir et du Sport, the Ministère de la Justice, the Ministère de l'Immigration et des Communautés culturelles, the Ministère du Revenu, the Ministère de la Sécurité publique, the Commission de la santé et de la sécurité du travail, the Régie de l'assurance maladie du Québec, the Régie des rentes du Québec and the Société de l'assurance automobile du Québec.

To identify a person for the purposes of an agreement made under this section, the Minister may communicate the person's name, date of birth, sex, address, health insurance number, social insurance number and file number. A department, body, person or enterprise that receives such information must, unless legally entitled to the information, destroy it once the purpose for which it was communicated has been fulfilled.

Such information must be exchanged in accordance with the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

85. Any nominative information, within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), obtained in the administration of this Act is confidential. Public servants of the Ministère de l'Emploi et de la Solidarité sociale are prohibited from using any such information for purposes other than the administration of this Act.

Public servants of the department are also prohibited from communicating or allowing the communication of information obtained in the administration of this Act to a person not legally entitled to it under the Act respecting Access to documents held by public bodies and the Protection of personal information or from allowing such a person to examine a document containing such information or to have access to it.

CHAPTER II

RECOVERY

86. A person must repay to the Minister any amount granted under this Act that should not have been granted to the person or the person's family, except an amount prescribed by regulation or an amount granted following an administrative error that the person could not reasonably have noticed.

A person, association, partnership or body must also repay any amount granted under an agreement entered into with the Minister under this Act, in the cases and under the conditions determined in the agreement.

A person to whom section 57 applies is not required to repay an amount granted following an erroneous declaration by the person's mother or father. The amount is recoverable by the Minister from the parent who made the declaration, in accordance with the provisions of this chapter.

87. A person must also repay to the Minister the amounts granted under a last resort financial assistance program, except those prescribed by regulation upon the cessation of a legal impediment to the alienation of a property and up to the amount of the net profit from the proceeds of the disposition or, in the other cases and according to the conditions determined by regulation, the amount that would not have been granted to the person or the person's family

if the property had been considered in calculating the benefit, up to the amount of the value of the property.

88. Except in the cases determined by regulation and as soon as the reduction ceases, a person must also repay to the Minister, up to the amount of the reduction, the amounts received under a last resort financial assistance program while the allowances or benefits granted to that person or to that person's family under another Act in force in Québec or elsewhere were reduced to compensate an overpayment.

89. Spouses are solidarily liable for the repayment of an amount granted under a last resort financial assistance program and recoverable under section 86, 87 or 88, whether the amount was granted to an independent adult or to a family that included one or two adults.

However, the spouse of a person to whom a benefit was granted is not liable for the repayment if the spouse proves that the notice provided for in section 97 was not received or that the claim is based on an act or omission by the person that the spouse could not reasonably have been aware of.

A spouse is not liable for the repayment if the spouse proves that the spouse's real circumstances could not be declared because of the violent behaviour of the other spouse toward the spouse or the spouse's dependent child.

In the cases described in the second and third paragraphs, the other spouse is solely liable for the entire debt.

90. A person must repay to the Minister an amount granted under a last resort financial assistance program following an event giving rise to the exercise of a right by the person or the person's dependent child by judicial proceedings or any other means, whether or not the right is a personal right, and whether or not the amount had been granted to the person or the person's family at the time of the event.

The amount of the repayment is due from the realization and up to the value of the right; the amount is established by applying the rules for the calculation of resources set out in sections 55 and 61.

If a person did not declare the prospective realization of a right to the Minister and the amount the right represents should, according to the law, have been paid to the Minister, the amount can be seized by the Minister despite any provision of law to the contrary. The same applies to property acquired with the amount derived from the realization of the right.

91. A person having subscribed an undertaking under the Act respecting immigration to Québec (R.S.Q., chapter I-0.2) promising to help a foreign national, and any dependants who accompany the foreign national, to settle in Québec must repay the amount granted under a last resort financial assistance

program to the foreign national and those dependants during the period covered by the undertaking, when the undertaking so provides. The amount is determined under the conditions and calculation rules determined by regulation and is recoverable by the Minister in accordance with the provisions of this chapter.

92. When the debt owed to a person is for non-payment of support determined by judgment or by a transaction and a joint declaration of dissolution of a civil union executed before a notary, the Minister is subrogated by operation of law in the rights of the creditor for all support payments that are due at the time the person or the person's family becomes eligible for a benefit under a last resort financial assistance program and for all payments that become due during the period for which the benefit is granted.

The Minister must send a notice to the Minister of Revenue, together with the information required for the purposes of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2).

The Minister remits to the creditor the amount by which the sums collected exceed the amount recoverable under section 90.

93. When a court decision retroactively varies a support payment received by the creditor of support for a period in which the creditor received a benefit under a last resort financial assistance program, the Minister may, on an application by that creditor of support or on a request by the Minister of Revenue under the Act to facilitate the payment of support (R.S.Q., chapter P-2.2), recalculate the benefit granted for the months covered by such a variance.

If, as a result, a benefit is owed to the creditor of support and the amount exceeds the amount owed to the Minister under section 92, the Minister remits the excess amount to the creditor of support or the Minister of Revenue, as the case may be.

For the purposes of this section, the application or request must be submitted to the Minister within a reasonable time after the judgment is rendered. The Minister may require new statements for the months covered by such a variance, which must be filed within the next 30 days.

94. In the case of a debt to which section 90 applies, except non-payment of support determined by judgment or by a transaction and a joint declaration of dissolution of a civil union executed before a notary, the debtor of a person who or whose family has received or is receiving an amount under a last resort financial assistance program, and any person who is to become the debtor of such a person must, upon a written notice of the Minister, remit to the Minister the amount owed, up to the amount recoverable.

The remittance of the amount to the Minister is deemed to be a payment validly made to the creditor; if the debtor fails to so remit the amount, the debtor is bound to pay an equivalent amount to the Minister.

The amount is recoverable by the Minister in accordance with the provisions of this chapter.

95. A person is not required to repay an amount equivalent to the income tax the person must pay on the amount derived from the realization of a right referred to in section 90. Once the income tax to be paid has been determined, the Minister may, at the person's request, reduce the amount payable by an amount equivalent to that income tax or, if the amount payable has already been repaid to the Minister, return the excess repayment.

This section applies when the tax payable on the amount received by the person operates to reduce the amount below the amount repayable to the Minister.

96. An amount granted is not repayable to the Minister under section 90 if the realized right

(1) arises from a succession;

(2) is compensation under section 73 of the Automobile Insurance Act (R.S.Q., chapter A-25);

(3) is compensation under section 83 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001); or

(4) is compensation for non-pecuniary damage received following physical or mental impairment, other than compensation under the Acts referred to in paragraphs 2 and 3.

97. The Minister sends a formal notice to the debtor of an amount recoverable under this Act, indicating the amount of the debt, the reasons for which the debt is due and the debtor's right to apply for a review. The notice must also contain information on the recovery procedure, in particular on the issue and effects of the certificate.

A formal notice under this section interrupts prescription.

98. The debtor must repay any amount owed according to the conditions determined by regulation, unless otherwise agreed between the debtor and the Minister.

However, an amount owed under section 90 must be repaid in full to the Minister upon the realization of the right. The amount is exigible only from the creditor of the realized right or from the adult of whom the child who is the creditor of the realized right is a dependant.

The debtor of an amount owed is required to pay interest in the cases and under the conditions determined and at the rate prescribed by regulation.

99. The debtor is required to pay a recovery charge in the cases and under the conditions determined and in the amount prescribed by regulation.

100. At the expiry of the time for applying for a review of the decision requiring payment or for contesting the review decision before the Administrative Tribunal of Québec and, where applicable, at the expiry of 30 days after a decision of that Tribunal confirming all or part of the Minister's decision or on the date of the formal notice, if a debt is not paid and if, in the Minister's opinion, the debtor is attempting to elude payment, the Minister may issue a certificate setting out the debtor's name and address and the amount of the debt.

101. After issuing the certificate, the Minister may withhold part of any amount granted under this Act to the debtor and, where applicable, to the debtor's family, up to the amount prescribed by regulation, and apply the amount withheld to the repayment of the debt. A refund owed to the debtor by the Minister of Revenue under section 31 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) may also be withheld, for the same purpose, after the issue of the certificate.

A withholding under the first paragraph interrupts prescription.

102. An amount granted to the debtor or the debtor's family under a financial assistance program provided for in Title II may not be reduced below an amount established according to the calculation rules prescribed by regulation when the Minister withholds an amount under section 101.

103. Upon the filing of the certificate at the office of the competent court, together with a copy of the final decision establishing the debt, the decision becomes executory as if it were a final judgment of that court, not subject to appeal, and has all the effects of such a judgment.

104. In exceptional circumstances, subject to the conditions determined by the Minister, the Minister may suspend in whole or in part the recovery of an amount owed or grant a full or partial discharge to a debtor, even after the filing of the certificate.

105. The recovery of an amount owed under this Act is prescribed five years after the date it becomes due. If there has been misrepresentation, recovery is prescribed five years after the date on which the Minister became aware of the fact that the amount was due, but not more than 15 years after the date it became due.

106. There is misrepresentation if an amount is granted to a person following failure to file a statement or return, following the filing of a statement or return containing false information, or following the transmission of a document in which information is omitted or false information is given with a view to

rendering the person or the person's family eligible for financial assistance or to receiving or having the person's family receive a greater amount than would otherwise have been the case.

CHAPTER III

REMEDIES

107. A person to whom a decision of the Minister under this Act applies may apply in writing for a review of the decision within 90 days of the date on which the person was advised of the decision.

However, decisions under Title I, except a decision under Chapter II in relation to a last resort financial assistance program, are not subject to review. Nor are decisions under section 49, 58 or 104 subject to review.

The second paragraph does not limit the right to apply for a review of a decision pertaining to a refusal to grant a special benefit or a decision pertaining to a claim for an amount granted under this Act in accordance with Chapter II of Title III.

108. A decision under Chapter III or Chapter IV of Title II is not subject to review, but the person to whom such a decision applies may apply in writing, within 30 days, for a reconsideration of the decision by a competent authority. The decision rendered following reconsideration is final and may not be appealed.

109. Decisions are reviewed by a person designated by the Minister for the term specified in the instrument of designation. The reviewers form part of the same administrative unit within the Ministère de l'Emploi et de la Solidarité sociale.

110. Decisions concerning an application for a temporarily limited capacity allowance for the reason set out in subparagraph 1 of the first paragraph of section 53 must be reviewed by a physician.

Decisions concerning an application under the Social Solidarity Program must be reviewed by two members, one of whom must be a physician and the other a professional working in the social sector.

111. The Minister must assist any person who requests help in making an application for the review of a decision.

112. An application for review may not be refused on the ground that it was received after the deadline if the applicant establishes that it was impossible to act sooner.

If the application is refused on that ground, the decision may be contested before the Administrative Tribunal of Québec within 15 days after the date on

which the applicant is advised of the decision. If the Tribunal quashes the decision, the file is returned to the person or persons who made the decision.

113. A person who applies for the review of a decision must be given the opportunity to submit observations and, if need be, to produce documents to complete the file.

114. An application for review does not suspend execution of the decision.

However, a benefit, other than a special benefit, granted under a last resort financial assistance program that is reduced by more than half by a decision subject to review is reinstated until the date of the review decision if the decision is not made within 10 working days of

(1) the day the person is ready to submit observations in support of the application or, if need be, to produce documents to complete the file, when the person has asked for time to do so; or

(2) in other cases, the day of receipt of the application for review or the day the decision takes effect, whichever is later.

115. An application for review must be processed promptly and the review decision must be made within 30 days of receipt of the application or, in a case described in the second paragraph of section 112, within 30 days of the decision of the Administrative Tribunal of Québec returning the file for review. If a person has asked for time to submit observations or to produce documents, the review decision must be made within 30 days of the submission of observations or the production of the documents.

116. After the expiry of the 30-day period, interest on an amount owed by a debtor that is the subject of a review ceases to accrue until the date of the review decision.

117. The review decision must be in writing and drafted in clear and concise terms, contain reasons and be notified to the applicant. It must state that the decision may be contested before the Administrative Tribunal of Québec.

118. A person who feels wronged by a review decision may contest it before the Administrative Tribunal of Québec within 60 days of notification of the decision.

119. If a review decision or a decision of the Administrative Tribunal of Québec recognizes that an adult or a family is entitled to an amount initially refused, or increases the amount initially granted, the Minister is required to pay interest in the cases and according to the conditions and at the rate determined by regulation.

CHAPTER IV

INSPECTION AND INVESTIGATION

120. A person specially or generally authorized by the Minister to act as an inspector may, for the purposes of this Act, require, examine and make a copy of any information or document. Moreover, the inspector may require information or documents by fax or by electronic means when a person may be so contacted.

121. No proceedings may be brought against an inspector for acts performed in good faith in the exercise of the functions of office.

122. The Minister or a person designated as an investigator by the Minister may investigate any matter under the Minister's authority with respect to the administration of this Act.

123. For the purposes of an investigation, the Minister and an investigator have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

The investigator may send a subpoena by fax or by electronic means when the person to whom it is addressed may be so contacted.

124. On request, an inspector or an investigator produces proof of identity and a certificate of authorization signed by the Minister.

125. No person may hinder an inspector in the exercise of the functions of office, mislead or attempt to mislead an inspector by misrepresentation or deceptive statements, refuse to produce documents required by the inspector or omit or refuse, without good cause, to answer any question that may lawfully be asked.

CHAPTER V

PENAL PROVISIONS

126. A person is guilty of an offence and liable to a fine of not less than \$250 and not more than \$1,500 who knowingly makes an incomplete statement or a statement containing false or misleading information, transmits an incomplete document or a document containing false or misleading information or fails to make a statement in order to

(1) become eligible or render the person's family eligible under a program or maintain such eligibility;

(2) receive, or have the person's family receive, a benefit that can no longer be granted or that is greater than the benefit that may be granted;

(3) receive another amount under this Act; or

(4) have a person receive an amount under this Act.

127. A person who contravenes section 85 is guilty of an offence and liable to a fine of not more than \$5,000.

128. A person who contravenes a provision of section 125 is guilty of an offence and liable to a fine of not less than \$250 and not more than \$1,000.

129. A person who assists a person in committing an offence under this Act or, by encouragement, advice or consent, or by an authorization or order, induces a person to commit an offence under this Act is guilty of an offence.

A person found guilty under this section is liable to the same fine as that prescribed for the offence whose commission the person assisted in or induced.

130. Penal proceedings for an offence under section 126 are prescribed one year after the date on which the prosecutor became aware of the commission of the offence. However, no proceedings may be brought if more than five years have elapsed since the commission of the offence.

TITLE IV

REGULATIONS

131. For the purposes of Title I, the Government may make regulations

(1) determining, for the purposes of section 11, the cases in which and the extent to which the legislative provisions referred to in that section do not apply to an employment activity engaged within the framework of a measure or a program established by the Minister;

(2) prescribing, for the purposes of section 14, the minimum amount that may be paid as an employment-assistance allowance;

(3) determining, for the purposes of the second paragraph of section 16, the support allowance to be added to the basic benefit;

(4) determining, from among the manpower and employment agreements entered into with the Government of Canada, those referred to in section 17;

(5) setting, for the purposes of section 18, the amount of the employment-assistance allowance granted by the Minister or the financial assistance recognized as an employment-assistance allowance or a support allowance that is excluded from the calculation of the last resort financial assistance benefit, and determining the cases in which and the conditions under which that amount is excluded;

(6) determining, for the purposes of section 19, the cases in which and the conditions under which a person may receive an employment-assistance allowance concurrently with a support allowance, where both are granted or recognized by the Minister;

(7) prescribing, for the purposes of section 20, the amount that may not be seized for non-payment of support;

(8) determining the cases in which and the conditions under which a child is not a person's dependant or is a dependant of another adult than the child's father or mother and designating that adult;

(9) determining the circumstances in which a person remains, ceases to be or becomes a member of a family;

(10) determining the cases in which and the conditions under which an adult resides in Québec;

(11) determining, for the purposes of the second paragraph of section 26, the cases in which and the conditions under which other classes of persons may be eligible for financial assistance and determining, where necessary, the applications for programs, benefits or allowances that are to be granted;

(12) determining, for the purposes of section 27, the cases in which and the conditions under which an adult referred to in that section is eligible for financial assistance, and defining what constitutes attending a secondary-level educational institution in a vocational program or a postsecondary educational institution;

(13) prescribing, for the purposes of the second paragraph of section 30, the procedure for applying for financial assistance;

(14) determining, for the purposes of section 34, the conditions under which financial assistance is to be paid to another person or to a body and, in that case, prescribing standards to be complied with;

(15) determining, for the purposes of the first paragraph of section 36, the cases in which a person is not required to notify the Minister of a change in the circumstances of that person or that person's family;

(16) determining, for the purposes of the second paragraph of section 36, the cases in which a short form statement must be filed with the Minister; and

(17) prescribing administrative standards.

132. For the purposes of the Social Assistance Program, the Government may make regulations

(1) determining basic benefit amounts and the cases in which and the conditions under which those amounts are to be granted;

- (2) determining the maximum amount of liquid assets referred to in the second paragraph of section 48;
- (3) determining the cases in which and the conditions under which an independent adult or a family that is no longer eligible may continue to receive benefits;
- (4) determining the cases in which and the conditions under which providing childcare to a dependent child renders an independent adult or an adult member of a family eligible for a temporarily limited capacity allowance;
- (5) setting the age as of which a temporarily limited capacity allowance may be granted;
- (6) determining the other cases in which and the conditions under which temporarily limited capacity allowances may be added to basic benefits;
- (7) determining the amount of the temporarily limited capacity allowance and the adjustments for adults and for dependent children, and determining the cases in which and the conditions under which those amounts are to be granted;
- (8) prescribing special benefit amounts to provide for certain particular needs, and determining the cases in which and the conditions under which they are to be granted;
- (9) determining what constitutes liquid assets and property;
- (10) excluding, for the purpose of calculating a benefit, any or all of the income, earnings, benefits, liquid assets and property of a person eligible under the program;
- (11) prescribing a method for calculating income, earnings, the value of benefits, liquid assets and the value of property, determining the cases in which those amounts may be averaged and the time from which they are deemed received, and prescribing standards for the allocation of arrears in support payments;
- (12) determining the period for which employment-insurance or parental insurance benefits yet to be received are to be considered for the purpose of calculating a benefit;
- (13) prescribing standards applicable to the income, earnings, benefits, liquid assets and property of a self-employed worker and the cases in which and the conditions under which the standards are to be applied;
- (14) prescribing a method for determining the value of property, and determining the percentage applicable to that value;

(15) prescribing a method for calculating the parental contribution, and specifying the net incomes of an adult's father and mother required to be considered for that purpose;

(16) determining, for the purposes of section 60, the cases in which and the conditions under which an adult may own liquid assets and property;

(17) prescribing a method for calculating a benefit for the month of application, and determining the maximum amount of liquid assets at the time of the application;

(18) determining the conditions of payment of benefits;

(19) prescribing, for the purposes of section 64, the manner of informing the Minister; and

(20) determining, for the purposes of the second paragraph of section 66, the cases in which and the conditions under which the measures provided for in that paragraph are to be applied.

133. For the purposes of the Social Solidarity Program, the Government may make regulations

(1) prescribing social solidarity allowance amounts; and

(2) prescribing, for the purposes of section 72, more flexible rules concerning liquid assets, property and eligibility for certain special benefits.

134. For the purposes of Chapter II of Title III, the Government may make regulations

(1) determining that all or part of a recoverable amount need not be repaid by the debtor;

(2) determining, for the purposes of section 87, the other cases in which and the conditions under which an amount granted is recoverable;

(3) determining, for the purposes of section 88, the cases in which the amounts are not repayable;

(4) determining the conditions under which an amount under section 91 is recoverable and the rules of calculation;

(5) prescribing the conditions of repayment of an amount owed to the Minister;

(6) determining the cases in which and the conditions under which the debtor is required to pay interest, and prescribing the rate of interest;

(7) determining the cases in which and the conditions under which the debtor is required to pay a recovery charge, and prescribing the amount of the charge;

(8) prescribing the maximum amount the Minister may withhold for application to the repayment of a debt, and determining the cases in which and the conditions under which the withholding is to be suspended; and

(9) setting, for the purposes of section 102, the calculation rules for establishing the amount below which an amount granted may not be reduced when an amount is withheld.

135. For the purposes of section 119, the Government may make regulations determining the cases in which and the conditions under which the Minister is required to pay interest and prescribing the interest rate.

136. Regulations under sections 131 to 135 may vary according to the nature of the program, according to whether they apply to an independent adult or a family, according to the composition of the family, according to the circumstances of an independent adult or a member of a family, including, in the case of a child, the child's age, rank in the family, occupation, whether the child is handicapped within the meaning of subparagraph *b* of the second paragraph of section 1029.8.61.18 of the Taxation Act (R.S.Q., chapter I-3), the child's place of residence and the custody arrangements for the child, according to whether an independent adult or a member of a family is living or incarcerated in an institution or is residing in a subsidized dwelling, according to whether a debt is due following a false declaration by the debtor and according to whether the provisions apply to an independent adult who would be a member of a family if the adult's spouse or their dependent children had not ceased to be members of the family in keeping with a regulation under paragraph 9 of section 131.

TITLE V

AMENDING PROVISIONS

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

137. Section 11 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by replacing “as part of an Individualized Integration, Training and Employment Plan under section 5 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in paragraph 4 by “as part of a measure or program established under Title I of the Individual and Family Assistance Act (2005, chapter 15) or as part of the Youth Alternative Program or a specific program established under Chapter III or Chapter IV of Title II of that Act”.

138. Section 144 of the Act is amended by replacing “the amount repayable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “the amount repayable under section 81 of the Individual and Family Assistance Act (2005, chapter 15)”.

LEGAL AID ACT

139. Section 4.1 of the Legal Aid Act (R.S.Q., chapter A-14) is amended by replacing “provided for by the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “provided for by the Individual and Family Assistance Act (2005, chapter 15)”.

140. Section 62 of the Act is amended by replacing “provided for by the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “provided for by the Individual and Family Assistance Act (2005, chapter 15)”.

AUTOMOBILE INSURANCE ACT

141. Section 83.28 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing “the amount repayable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” at the end of the third paragraph by “the amount repayable under section 90 of the Individual and Family Assistance Act (2005, chapter 15)”.

142. Section 83.62 of the Act is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” at the end of paragraph 4 by “Individual and Family Assistance Act (2005, chapter 15)”.

HEALTH INSURANCE ACT

143. Section 67 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the fourth paragraph by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

144. Section 70 of the Act is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

145. Section 71 of the Act is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in paragraph *b* by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

146. Section 71.1 of the Act is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

147. Section 71.2 of the Act is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” at the end by “Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING PRESCRIPTION DRUG INSURANCE

148. Section 15 of the Act respecting prescription drug insurance (R.S.Q., chapter A-29.01) is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in paragraph 2 by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

149. Section 17 of the Act is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the definition of “person suffering from a functional impairment” by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

150. Section 29 of the Act is amended

(1) by replacing “within the meaning of section 25 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in subparagraph 1 of the second paragraph by “within the meaning of section 70 of the Individual and Family Assistance Act (2005, chapter 15)”;

(2) by replacing “within the meaning of section 25 of the Act respecting income support, employment assistance and social solidarity” at the end of subparagraph 2 of the second paragraph by “within the meaning of section 70 of the Individual and Family Assistance Act”.

ACT RESPECTING THE BARREAU DU QUÉBEC

151. Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in subparagraph 5 of paragraph *a* of subsection 2 by “Individual and Family Assistance Act (2005, chapter 15)”.

CODE OF CIVIL PROCEDURE

152. Article 996 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the third sentence of the first paragraph by the following sentence: “However, a person who provides proof of being a recipient under a

last resort financial assistance program established under the Individual and Family Assistance Act (2005, chapter 15) is exempted from the payment of such fees.”

ACT RESPECTING COLLECTIVE AGREEMENT DECREES

153. Section 46 of the Act respecting collective agreement decrees (R.S.Q., chapter D-2) is amended by replacing “the amount repayable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “the amount repayable under section 90 of the Individual and Family Assistance Act (2005, chapter 15)”.

PAY EQUITY ACT

154. Section 8 of the Pay Equity Act (R.S.Q., chapter E-12.001), amended by section 64 of chapter 31 of the statutes of 2004, is again amended by replacing “referred to in section 5 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in paragraph 5 by “within the framework of an employment-assistance measure or program established under Title I of the Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING ADMINISTRATIVE JUSTICE

155. Section 21 of the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 305 of chapter 1 of the statutes of 2005, is again amended by replacing subparagraph 2 of the second paragraph by the following subparagraph:

“(2) under section 118 of the Individual and Family Assistance Act (2005, chapter 15), to contest a decision concerning the assessment of a temporarily limited capacity for the reason set out in subparagraph 1 of the first paragraph of section 53 of that Act or the assessment of a severely limited capacity for employment referred to in section 70 of that Act;”.

156. Section 97 of the Act is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in subparagraph 2 of the second paragraph by “Individual and Family Assistance Act (2005, chapter 15)”.

157. Section 102 of the Act is amended

(1) by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “Individual and Family Assistance Act (2005, chapter 15)”;

(2) by adding “or this Act in a matter of income security or support or social aid and allowances” at the end of the second paragraph.

158. Section 1 of Schedule I to the Act is amended by replacing “132 or 139 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in paragraph 3 by “112 or 118 of the Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING THE MINISTÈRE DE L'EMPLOI ET DE LA
SOLIDARITÉ SOCIALE AND ESTABLISHING THE COMMISSION
DES PARTENAIRES DU MARCHÉ DU TRAVAIL

159. Section 5.1 of the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001) is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” by “Individual and Family Assistance Act (2005, chapter 15)”.

160. Section 14.1 of the Act is repealed.

161. Section 53.1 of the Act is replaced by the following section:

“53.1. The Minister may delegate to a member of the personnel of the department or to an office holder, specially or generally, in writing, the power to designate a reviewer under section 109 of the Individual and Family Assistance Act (2005, chapter 15), the power to authorize a person to act as an inspector under section 120 of that Act or section 88.1 of the Act respecting parental insurance (2001, chapter 9), and the power to designate an investigator under section 122 of the Individual and Family Assistance Act, section 88.3 of the Act respecting parental insurance or section 14 of this Act.”

ACT RESPECTING THE MINISTÈRE DU REVENU

162. Section 69.0.0.7 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by striking out subparagraph ii of subparagraph *b* of the first paragraph.

163. Section 69.1 of the Act, amended by section 1 of chapter 10 of the statutes of 2004 and section 6 of chapter 2 of the statutes of 2005, is again amended

(1) by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in subparagraph *j* of the second paragraph by “Individual and Family Assistance Act (2005, chapter 15)”;

(2) by replacing “of benefits or advance payments” in subparagraph *j* of the second paragraph by “that may be granted to that person or that person’s family under that Act”;

(3) by replacing “a recipient under a program established under that Act” in subparagraph *j* of the second paragraph by “that person or a member of that person’s family”.

164. Section 94.0.1 of the Act is repealed.

ACT RESPECTING LABOUR STANDARDS

165. Section 121 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing “under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “under section 90 of the Individual and Family Assistance Act (2005, chapter 15)”.

ACT TO FACILITATE THE PAYMENT OF SUPPORT

166. Section 76 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the first paragraph by “Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

167. Section 37.7 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5) is amended by replacing “provided for by the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in paragraph *e* by “provided for by the Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING THE QUÉBEC PENSION PLAN

168. Section 145 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing “amount payable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph by “amount payable under section 90 of the Individual and Family Assistance Act (2005, chapter 15)”.

169. Section 229 of the Act is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity” in the third and fourth lines of the first paragraph by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

170. Section 231 of the Act is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity” in the third and fourth lines by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING AND MANPOWER MANAGEMENT IN THE CONSTRUCTION INDUSTRY

171. Section 122 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) is amended by replacing “amount payable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” in the second paragraph of subsection 8 by “amount payable under section 90 of the Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

172. Section 174 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by replacing “Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” at the end of the second paragraph by “Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING PRE-HOSPITAL EMERGENCY SERVICES

173. Section 118 of the Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2) is amended by replacing “provided for in the Act respecting income support, employment assistance and social solidarity (chapter S-32.001)” at the end of the first paragraph by “provided for in the Individual and Family Assistance Act (2005, chapter 15)”.

ACT RESPECTING ASSISTANCE AND COMPENSATION FOR VICTIMS OF CRIME

174. Section 146 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54), amended by section 195 of chapter 36 of the statutes of 1998, is again amended by replacing “amount payable under section 102 of the Act respecting income support, employment assistance and social solidarity (1998, chapter 36)” at the end of the first paragraph by “amount payable under section 90 of the Individual and Family Assistance Act (2005, chapter 15)”.

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

175. This Act replaces the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001).

176. Until section 175 comes into force, the following provisions of the Act respecting income support, employment assistance and social solidarity are amended as follows:

(1) section 3 of the Act is amended by adding the following paragraph at the end:

“(6) offer means to facilitate the participation of handicapped persons in employment-assistance measures, programs and services, in order to foster their entry on the labour market and their job retention, whether in a regular work environment or in an adapted enterprise.”;

(2) the Act is amended by inserting the following section after section 6:

“6.1. Subject to the conditions the Minister determines, the Minister may recognize as an employment-assistance allowance financial assistance paid to a recipient under the Employment-Assistance Program by a person, an association, a partnership or a body with which that recipient engages in activities of the same nature as those for which such an allowance is granted.

For the purposes of this Act, financial assistance granted as an employment-assistance allowance to a Native person under a manpower and employment agreement entered into with the Government of Canada and determined by regulation is financial assistance recognized by the Minister as an employment-assistance allowance.”;

(3) section 7 of the Act is replaced by the following section:

“7. Financial assistance granted under this Act to a natural person who is not an employer is unassignable and unseizable, with the exception of the part of an employment-assistance allowance exceeding an amount determined by regulation, up to 50% of which may be seized for non-payment of support.”;

(4) section 14 of the Act is amended by replacing “or dependent children allowances or adjustments and of” in the fourth and fifth lines of the first paragraph by “allowances or adjustments, any support allowances granted under section 25.1, any dependent children adjustments, and”;

(5) the Act is amended by inserting the following section after section 18:

“18.1. In the cases and subject to the conditions determined by the Minister, the Minister may establish a Social Assistance and Support Program for recipients under the program who require special help and support in view of their socio-professional profile.

To that end, the Minister may enter into an agreement with a body under which the body offers that help and support in order to assist those persons in taking steps toward an active participation in society and to provide them with adequate preparation to participate in an employment-assistance measure or program and improve their prospects of entering the labour market.

That assistance may in particular contribute to

- (1) reinforcing their interest in moving forward;
 - (2) identifying their needs;
 - (3) developing or maintaining certain skills, attitudes or behaviours; and
 - (4) finding ways to remove the obstacles to their socio-professional development.”;
- (6) section 24 of the Act is amended

(a) by replacing “with a medical report; the medical report may be replaced” in the third line of subparagraph 2 of the first paragraph by “with a medical certificate that may be replaced”;

(b) by replacing “who does not attend school by reason of a physical or mental handicap” in the second and third lines of subparagraph 3 of the first paragraph by “who is handicapped within the meaning of subparagraph *b* of the second paragraph of section 1029.8.61.18 of the Taxation Act (chapter I-3)”;

(7) section 25 of the Act is amended by adding the following paragraph at the end:

“In exceptional circumstances, however, the Minister may exempt a person from the obligation to produce a medical report.”;

(8) the Act is amended by inserting the following sections after section 25:

“25.1. In the cases and subject to the conditions determined by the Minister, the Minister may grant financial assistance, in particular in the form of a support allowance, to a recipient participating in the Social Assistance and Support Program provided for in section 18.1. That support allowance, in the amount prescribed by regulation, is added to the basic benefit applicable to the recipient in accordance with section 27. As part of an agreement entered into with a body to implement the program, the Minister may also provide for the payment of financial assistance to that body.

“25.2. Subject to the conditions the Minister determines, the Minister may recognize as a support allowance financial assistance paid to a recipient under the Employment-Assistance Program by a person, an association, a partnership or a body with which that recipient engages in activities of the same nature as those provided for in section 18.1.

“25.3. In the cases and subject to the conditions prescribed by regulation, financial assistance granted by the Minister as an employment-assistance allowance, or financial assistance recognized as an employment-assistance

allowance or a support allowance, is excluded from the calculation of the benefit granted under the Employment-Assistance Program, up to the amount prescribed by regulation for each allowance.

“25.4. Except in the cases and subject to the conditions prescribed by regulation, a person may not concurrently receive

(1) an employment-assistance allowance and a support allowance, whether they are granted by the Minister or paid by a third person and recognized by the Minister;

(2) an employment-assistance allowance granted by the Minister and financial assistance the Minister recognizes as an employment-assistance allowance; or

(3) a support allowance granted by the Minister and financial assistance the Minister recognizes as a support allowance.”;

(9) section 26 of the Act is amended by replacing “with financial assistance granted under Title I in the form of an employment-assistance allowance or granted in such form to a Native person under a manpower and employment agreement entered into with the Government of Canada and determined by regulation” in the first paragraph by “with an employment-assistance allowance or a support allowance, even if they are granted or recognized by the Minister”;

(10) section 27 of the Act is amended

(a) by replacing “or dependent children allowances or adjustments and of” in the second and third lines of subparagraph 1 of the first paragraph by “allowances or adjustments, any applicable support allowance granted under section 25.1, any applicable dependent children adjustments and”;

(b) by striking out subparagraph 2 of the first paragraph;

(c) by replacing “subparagraphs 1 and 2” in subparagraph 3 of the first paragraph by “subparagraph 1”;

(11) the Act is amended by inserting the following sections after section 27:

“27.1. For the purposes of subparagraph *b* of subparagraph 3 of the first paragraph of section 27, an independent adult or an adult member of the family is deemed to earn the income from employment that would have been received had the adult not taken advantage of the work time reduction measures or leave without pay available under the conditions of employment applicable to the adult.

The first paragraph does not apply if the decision to reduce work time or take leave without pay was made for a serious reason, in particular because of the state of health of that adult or a member of the family or if the adult is

receiving benefits granted under the Act respecting parental insurance (2001, chapter 9) or under section 22 or 23 of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).

“27.2. For certain special benefits, the Minister may set particular eligibility requirements other than those provided for in the regulation.

If the Minister has entered into an agreement with a person, an association, a partnership or a body to have the need for which a special benefit is required filled in another manner, the Minister may decide not to pay the amount of that benefit.

The conditions for applying this section may vary according to the person’s situation and the availability in the person’s locality or region of the goods or services required.

“27.3. The benefit granted an independent adult or a family may not be reduced for failure to take steps with a view to entering the labour market, in particular for refusing to take a job or leaving or losing a job.”;

(12) section 35 of the Act is amended by replacing “on the form supplied” in the second line of the first paragraph by “according to the procedure prescribed”;

(13) section 38 of the Act is amended by replacing “the family allowances granted by the Régie des rentes du Québec” in the second line of paragraph 2 by “the credit for child assistance and the credit granting a work premium under the Taxation Act (chapter I-3)”;

(14) section 39 of the Act is replaced by the following section:

“39. Except in the cases prescribed by regulation, persons receiving financial assistance must give prompt notice to the Minister of any change in their circumstances or the circumstances of their family that may affect the benefit granted.

Such persons must also file a short form statement in the cases prescribed by regulation, and a complete statement whenever the Minister considers it necessary, but not more often than once per 12-month period, to ascertain the persons’ eligibility for a benefit or the eligibility of their family, or to determine the amount of the assistance to be granted. The statements must be filed in the manner determined by the Minister.

The Minister may cease to pay financial assistance if a statement is not filed within the prescribed time limit, unless the recipient proves that timely filing was impossible.”;

(15) sections 45 to 53 of the Act are repealed;

(16) section 54 of the Act is amended by replacing “43, 44 and 53” in the second line by “43 and 44”;

(17) sections 55 to 57 of the Act are repealed;

(18) section 58 of the Act is amended by striking out “, 55 or 57” in the first line;

(19) Chapter III of Title II of the Act, comprising sections 67 to 97, is repealed;

(20) section 101 of the Act is amended

(a) by replacing “those” in the second line by “in the cases”;

(b) by adding “, up to the amount of the value of the property” at the end of paragraph 1;

(c) by striking out paragraph 2;

(d) by striking out “or as a penalty” in the third line of paragraph 3;

(21) section 105 of the Act is amended by replacing the first paragraph by the following paragraph:

“**105.** A person is not required to repay an amount equivalent to the income tax the person must pay on the amount derived from the realization of a right referred to in section 102. Once the income tax to be paid has been determined, the Minister may, at the person’s request, reduce the amount payable by an amount equivalent to that income tax or, if the amount payable has already been repaid to the Minister, return the excess repayment.”;

(22) the Act is amended by inserting the following section after section 111:

“**111.1.** When a court decision retroactively varies a support payment received by the creditor of support for a period in which the creditor received a benefit under a last resort financial assistance program, the Minister may, on an application by that creditor of support or on a request by the Minister of Revenue under the Act to facilitate the payment of support (chapter P-2.2), recalculate the benefit granted for the months covered by such a variance.

If, as a result, a benefit is owed to the creditor of support and the amount exceeds the amount owed to the Minister under section 83, the Minister remits the excess amount to the creditor of support or the Minister of Revenue, as the case may be.

For the purposes of this section, the application or request must be submitted to the Minister within a reasonable time after the judgment is rendered. The Minister may require new statements for the months covered by such a variance, which must be filed within the next 30 days.”;

(23) the Act is amended by inserting the following section after section 117:

“117.1. An amount granted to the debtor or the debtor’s family under a last resort financial assistance program may not be reduced below an amount established according to the calculation rules prescribed by regulation when the Minister withholds an amount under section 117.”;

(24) section 128 of the Act is amended by replacing the second paragraph by the following paragraphs:

“However, decisions under Title I or section 16, 25.1, 27.2 or 115 are not subject to review.

The second paragraph does not limit the right to apply for a review of a decision pertaining to a refusal to grant a special benefit or a decision pertaining to a claim for an amount granted under this Act in accordance with Chapter II of Title III.”;

(25) section 141 of the Act is repealed;

(26) section 154 of the Act is amended by inserting the following paragraphs after paragraph 1:

“(1.1) determining, from among the manpower and employment agreements entered into with the Government of Canada, those referred to in the second paragraph of section 6.1;

“(1.2) prescribing, for the purposes of section 7, the amount that may not be seized for non-payment of support;”;

(27) section 156 of the Act is amended

(a) by replacing paragraph 11.1 by the following paragraphs:

“(11.1) determining, for the purposes of section 25.1, the support allowance to be added to the basic benefit;

“(11.2) setting, for the purposes of section 25.3, the amount of the employment-assistance allowance granted by the Minister or the financial assistance recognized as an employment-assistance allowance or a support allowance that is excluded from the last resort financial assistance benefit, and determining the cases in which and the conditions subject to which that amount is excluded;

“(11.3) determining, for the purposes of section 25.4, the cases in which and the conditions subject to which a person may receive an employment-assistance allowance concurrently with a support allowance, where both are granted or recognized by the Minister;”;

(b) by inserting the following paragraphs after paragraph 25:

“(25.1) determining, for the purposes of the first paragraph of section 39, the cases in which a person is not required to notify the Minister of a change in the circumstances of that person or that person’s family;

“(25.2) determining, for the purposes of the second paragraph of section 39, the cases in which a short form statement must be filed with the Minister;”;

(c) by striking out paragraphs 27, 28, 30 and 31;

(28) section 158 of the Act is repealed;

(29) section 159 of the Act is amended

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

“(1.1) determining, for the purposes of section 101, the cases in which the amounts are not repayable;”;

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

“(9) setting, for the purposes of section 117.1, the calculation rules for establishing the amount below which an amount granted may not be reduced when an amount is withheld.”

177. Despite sections 175 and 176 of this Act, the provisions of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) concerning the Parental Wage Assistance Program continue to have effect with respect to any application under that program and any benefit for a year prior to 2005.

In addition, when section 77 of the Act respecting income support, employment assistance and social solidarity applies to an amount established

(1) for a period subsequent to 31 December 2001 and prior to 1 January 2005, it must be read as follows:

“**77.** When an adult eligible under the program or the adult’s spouse is required to pay a contribution set under the Act respecting childcare centres and childcare services (chapter C-8.2) or the Education Act (chapter I-13.3), an amount determined according to the procedure provided for by regulation is also granted to that adult, in the cases and under the conditions determined by regulation. The amount thus obtained is deemed to be an increase in the annual benefit.”;

(2) for a period subsequent to 30 September 1999 and prior to 1 January 2002, it must be read as follows:

“77. When an adult eligible under the program or the adult’s spouse is required to pay a contribution set under the Act respecting childcare centres and childcare services (chapter C-8.2) or the Education Act (chapter I-13.3) to which section 74 does not apply, the amount of the benefit established under sections 73, 75 and 76 is increased according to the methods and conditions prescribed by regulation.”

Lastly, when the second paragraph of section 95 of the Act respecting income support, employment assistance and social solidarity applies with respect to a notice sent after 31 October 2004, “to the Minister of Revenue within 45 days after the date of” must be replaced by “without delay to the Minister of Revenue upon the”.

178. Section 48.5 of the Act respecting income security (R.S.Q., chapter S-3.1.1) is replaced by the following section for an amount established for a period subsequent to 30 August 1998 and prior to 1 October 1999:

“48.5. When an adult eligible under the program or the adult’s spouse is required to pay a contribution set under the Act respecting childcare centres and childcare services (chapter C-8.2) or the Education Act (chapter I-13.3) to which section 48.1 does not apply, the amount of the benefit established under the previous provisions is increased according to the methods and criteria determined by regulation.”

179. A regulation under the second paragraph of section 177 of this Act may have effect from 1 October 1999, and a regulation under section 178 of this Act may have effect from 1 September 1998.

A regulation referred to in the first paragraph is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1) or to the date of coming into force set out in section 17 of that Act.

180. Agreements entered into before (*insert the date on which section 175 of this Act comes into force*) under section 8 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) are deemed to be agreements entered into under section 10 of this Act.

181. An amount recoverable under the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is recoverable, without further formality, under this Act.

182. An amount recoverable under the Act respecting income security (R.S.Q., chapter S-3.1.1) is recoverable, without further formality, under this Act.

183. An amount recoverable under the Social Aid Act (1969, chapter 63) is recoverable under this Act and sections 91, 94 and 97 to 104 apply to that end.

184. Despite section 175 of this Act, section 218 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) continues to have effect with respect to an amount recoverable under the Social Aid Act (1969, chapter 63).

185. The third paragraph of section 89 of this Act applies to claims arising from (*insert the date on which section 89 of this Act comes into force*), even if the benefit was granted before 1 October 1999.

186. Section 104 of this Act applies to an amount owed to the Minister, even if the claim was established before 1 October 1999.

187. Despite section 175 of this Act, section 221 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) continues to have effect with respect to a recovery effected under section 44 of the Act respecting income security (R.S.Q, chapter S-3.1.1) before 1 October 1999.

188. A person designated by the Minister to hear an application for review under section 129 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is deemed to be a person designated under section 109 of this Act.

189. Despite sections 162 and 164 of this Act, subparagraph ii of subparagraph *b* of the first paragraph of section 69.0.0.7 and section 94.0.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) continue to have effect with regard to a year prior to the year 2005.

190. Before (*insert the date that is one year after the date on which this section comes into force*), the Government may make regulations containing transitional provisions or useful measures to allow the implementation of this Act.

A regulation under this section is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1). However, if the regulation so provides, it may apply from a date not prior to the coming into force of this section.

191. The first regulation required to implement the measures coming into force on 1 January 2005 or 1 October 2005 under section 200 is not subject to the publication requirement under section 8 of the Regulations Act (R.S.Q., chapter R-18.1) or to the date of coming into force set out in section 17 of that Act.

The regulation may have effect in whole or in part from 1 January 2005 if it so provides.

192. Persons referred to in the second paragraph of section 67 of the Social Aid Act (1969, chapter 63) continue to receive the allowances referred to in that paragraph.

193. The rules contained in this Act apply to any claim for an amount granted before 1 January 2003 under Title I, section 16 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) or section 25 of the Act respecting income security (R.S.Q., chapter S-3.1.1) if it is established on or after (*insert the date Chapter II of Title III of this Act comes into force*) for an amount granted to a person, association, partnership or body, or for an amount granted on condition of repayment.

194. The recovery rules provided for in the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) apply to the recovery of an amount granted under a measure or a program established by the Minister under the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001), if the claim for that amount is established on or after (*insert the date of coming into force of this section*).

195. The recovery rules provided for in this Act apply to the recovery of an amount granted under a measure or a program established by the Minister under the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001), if the claim for that amount is established on or after (*insert the date of coming into force of this section*).

196. The Social Assistance and Support Program established by the Minister under section 18.1 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is deemed established under section 15 of this Act.

197. Before 31 March 2008, the Minister must report to the Government on the results obtained following the implementation of the Social Assistance and Support Program.

198. In any other Act except the Taxation Act (R.S.Q., chapter I-3), in any regulation, except a regulation made under the Taxation Act, and in any other document, unless the context indicates otherwise and with the necessary modifications,

(1) a reference to a provision of the Act respecting income support, employment assistance and social solidarity is a reference to the corresponding provision of this Act;

(2) the term "Act respecting income support, employment assistance and social solidarity" is replaced by the term "Individual and Family Assistance Act"; and

(3) the term “Employment-Assistance Program” is replaced by the term “Social Assistance Program” when it concerns persons whose capacity for employment is not severely limited, and by the term “Social Solidarity Program” when it concerns persons whose capacity for employment is severely limited.

199. The Minister of Employment and Social Solidarity is responsible for the administration of this Act.

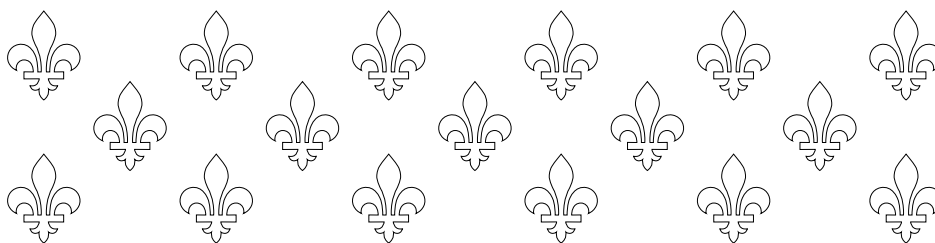
200. The provisions of this Act come into force on the date or dates to be set by the Government, except:

(1) paragraph 2 of section 157, paragraph 1, subparagraph *a* of paragraph 6, paragraph 7, paragraph 11 insofar as it enacts section 27.2 of the Act respecting income support, employment assistance and social solidarity, paragraph 12, paragraph 14, subparagraphs *a* and *b* of paragraph 20, paragraphs 21 and 22, paragraph 24, subparagraph *b* of paragraph 27, and subparagraph *a* of paragraph 29 of section 176, which come into force on 1 July 2005;

(2) paragraph 11 insofar as it enacts sections 27.1 and 27.3 of the Act respecting income support, employment assistance and social solidarity, paragraphs 15 to 18, subparagraphs *c* and *d* of paragraph 20, paragraph 23, subparagraph *c* of paragraph 27, and subparagraph *b* of paragraph 29 of section 176, which come into force on 1 October 2005;

(3) paragraphs 2 to 5, subparagraph *b* of paragraph 6, paragraph 8, paragraph 9, subparagraph *a* of paragraph 10, paragraph 26, subparagraph *a* of paragraph 27 of section 176 and sections 194, 196 and 197, which come into force on 1 January 2006.

However, subparagraphs *b* and *c* of paragraph 10, and paragraphs 13, 19, 25 and 28 of section 176 and sections 177 to 179 come into force on 17 June 2005 and have effect from 1 January 2005.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 103
(2005, chapter 17)

**An Act to amend the Act respecting
administrative justice and other
legislative provisions**

**Introduced 26 April 2005
Passage in principle 1 June 2005
Passage 16 June 2005
Assented to 17 June 2005**

**Québec Official Publisher
2005**

EXPLANATORY NOTES

This bill amends the Act respecting administrative justice to provide that the members of the Administrative Tribunal of Québec are appointed to hold office during good behaviour. It also introduces new rules concerning ethics and amends certain rules of procedure applicable before the Tribunal.

In matters of compensation and benefits, the bill establishes a new proceeding before the Tribunal that makes it possible to contest a decision for which an application for an administrative review has been submitted and that has not been reviewed upon expiry of the time limit. The bill also provides that the Tribunal offers conciliation upon receipt of a case record in such a matter.

LEGISLATION AMENDED BY THIS BILL:

- Workers' Compensation Act (R.S.Q., chapter A-3);
- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Automobile Insurance Act (R.S.Q., chapter A-25);
- Health Insurance Act (R.S.Q., chapter A-29);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001);
- Act respecting parental insurance (2001, chapter 9);
- Individual and Family Assistance Act (2005, chapter 15).

Bill 103

AN ACT TO AMEND THE ACT RESPECTING ADMINISTRATIVE JUSTICE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING ADMINISTRATIVE JUSTICE

1. Section 22.1 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by adding “or a psychologist” at the end.

2. Section 38 of the Act is replaced by the following section:

“38. The Tribunal shall be composed of independent and impartial members appointed by the Government, in a number determined according to the needs of the Tribunal, to hold office during good behaviour.”

3. The Act is amended by inserting the following section after section 39:

“39.1. The Government may determine the place of residence of a member.”

4. Section 40 of the Act is amended

(1) by replacing “, and at least two others” in the second line by “, at least two”;

(2) by adding “and at least two other members shall be psychologists” at the end.

5. Division III of Chapter III of Title II of the Act, comprising sections 46 to 50, is repealed.

6. The heading of Division IV of Chapter III of Title II of the Act is amended by replacing “PREMATURE TERMINATION OF TERM OF OFFICE” by “TERMINATION OF APPOINTMENT”.

7. Section 51 of the Act is amended by replacing “The term of office of a member may terminate prematurely only on his retirement or resignation” in the first line by “The appointment of a member may terminate only on the member’s retirement or resignation”.

8. Section 55 of the Act is amended

(1) by replacing “may, with the authorization of and for the time determined by the president of the Tribunal, continue to perform his duties after the expiry of his term of office” in the first, second and third lines of the first paragraph by “who has retired or resigned may, with the authorization of and for the time determined by the president of the Tribunal, continue to perform his duties”;

(2) by striking out the second paragraph.

9. Section 58 of the Act is amended by adding “, except to take into account a retirement pension from the Québec public sector that is paid to the member” at the end of the first paragraph.

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

“**60.** A public servant appointed as a member of the Tribunal ceases to be a public servant.”

11. Section 65 of the Act is amended by replacing “on the premature termination or non-renewal of his term of office as a member of the Tribunal,” in the second and third lines by “on the termination of his appointment”.

12. Section 75 of the Act is amended by adding the following subparagraphs after subparagraph 4 of the second paragraph:

“(5) periodically evaluating the knowledge and skills of the members in the performance of their duties and their contribution to the processing of the cases before the Tribunal and to the achievement of the objectives of this Act;

“(6) designating a member to coordinate the activities of the Tribunal in one or more regions and, if the volume of proceedings so requires, determining that the place of residence of that member is to be in one of those regions.”

13. Section 82 of the Act is amended

(1) by replacing “necessary in order to avoid delays in the hearing of proceedings by the Tribunal” in the first and second lines of the third paragraph by “expedient”;

(2) by striking out the fifth paragraph.

14. Section 102 of the Act, amended by section 157 of chapter 15 of the statutes of 2005, is again amended by adding “; however, a professional who has been removed from the roll or declared disqualified to practise, or whose right to engage in professional activities has been restricted or suspended in accordance with the Professional Code (chapter C-26) or any legislation governing a profession may not act as a representative.” at the end of the first paragraph.

15. Section 106 of the Act is amended

(1) by replacing “serious and valid” in the second and third lines of the first paragraph by “valid”;

(2) by striking out the second paragraph.

16. Section 109 of the Act is amended by replacing “made after consultation with the Conseil de la justice administrative and upon approval by” in the first and second lines of the third paragraph by “subject to the approval of”.

17. Section 110 of the Act is amended by adding the following sentence at the end of the first paragraph: “There is no time limit for bringing a proceeding arising out of the failure by the administrative authority to dispose of an application for an administrative review within the time prescribed by law.”

18. The Act is amended by inserting the following section after section 114:

“**114.1.** If an administrative authority fails to send a copy of the case record within the time prescribed in section 114, the applicant may request that the Tribunal fix an indemnity it considers fair and reasonable considering the circumstances of the case and the extent of the delay.”

19. The Act is amended by inserting the following section before section 120:

“**119.6.** Upon receipt by the Tribunal of a copy of a case record pertaining to indemnification or benefits, and if the matter and circumstances so permit, the president of the Tribunal, the vice-president in charge of the division concerned or the member designated by either of them must offer the parties a conciliation session conducted by a member or a personnel member chosen by the president of the Tribunal or a person designated by the president.”

20. The heading of Title III of the Act is amended by adding “AND ETHICS” at the end.

21. Section 177 of the Act is amended by striking out subparagraph 1 of the first paragraph.

22. The Act is amended by inserting the following section before section 180:

“**179.1.** The members of the Tribunal must perform their duties purposefully, maintain their competence and act diligently. They must avoid placing themselves in a position that undermines such performance of their duties and must conduct themselves in a manner fully compatible with the honour, dignity and integrity required by adjudicative functions.”

23. Section 181 of the Act is amended by inserting the following paragraph after the first paragraph:

“The code of ethics shall also set out rules concerning the maintenance of competence of members in the exercise of their functions.”

24. Section 184.2 of the Act is replaced by the following sections:

“184.2. Unless the complaint is lodged by the Minister, the council shall form a committee, composed of seven council members, to determine whether a complaint is admissible.

Three committee members shall be chosen from among the council members referred to in paragraph 9 of section 167; the other committee members shall be chosen from among the council members representing a body of the Administration whose president or chair is a council member.

“184.3. The committee may require of any person the information it considers necessary and examine the relevant record even if it is confidential under section 89.”

25. Section 185 of the Act is replaced by the following section:

“185. The committee may dismiss any clearly unfounded complaint.

The committee shall forward a copy of its decision, with reasons, to the complainant and to the council.”

26. Section 186 of the Act is amended by replacing “Where the council considers that the complaint is” in the first line of the first paragraph by “Where the complaint has been determined”.

27. Schedule I to the Act, amended by section 191 of chapter 20 of the statutes of 2004, sections 69 and 70 of chapter 31 of the statutes of 2004, section 158 of chapter 15 of the statutes of 2005 and section 14 of chapter 16 of the statutes of 2005, is again amended

(1) by inserting the following paragraph after paragraph 5.1 of section 3:

“(6) proceedings against decisions relating to permits under section 41 of the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (chapter L-0.2);”;

(2) by striking out “on a reconsideration” in the first line of paragraph 1 of section 4;

(3) by striking out “in review” in the first line of paragraph 6 of section 5.

28. Schedule II to the Act, amended by section 222 of chapter 6 of the statutes of 2005, is again amended

(1) by striking out paragraph 6;

(2) by striking out paragraph 7;

(3) by striking out paragraph 11;

(4) by adding the following paragraphs after paragraph 14:

“(15) proceedings under section 9 of the Act respecting Ville de Varennes (1997, chapter 106);

“(16) proceedings under section 9 of the Act respecting Ville de Saint-Basile-le-Grand (1999, chapter 97);

“(17) proceedings under section 9 of the Act respecting Ville de Contrecoeur (2002, chapter 95);

“(18) proceedings under section 10 of the Act respecting Ville de Brownsburg-Chatham, Ville de Lachute and Municipalité de Wentworth-Nord (2004, chapter 46).”

29. Schedule III to the Act is amended by adding the following paragraph at the end:

“(6) proceedings under section 27 of the Act respecting roads (chapter V-9);”.

30. Schedule IV to the Act, amended by section 82 of chapter 37 of the statutes of 2004 and section 68 of chapter 10 of the statutes of 2005, is again amended by replacing “26” in the first line of paragraph 29 by “38”.

WORKERS' COMPENSATION ACT

31. Section 65 of the Workers' Compensation Act (R.S.Q., chapter A-3) is amended by adding the following paragraph at the end:

“Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the review board does not make a decision within 90 days after the receipt of the application, subject to the following:

(1) if the person who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(2) if the board considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be

produced, the time limit is extended for 90 days; the person who applied for the review must be notified of the extension.”

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

32. Section 429.17 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by adding “except a professional who has been removed from the roll or declared disqualified to practise, or whose right to engage in professional activities has been restricted or suspended in accordance with the Professional Code (chapter C-26) or any legislation governing a profession” at the end.

AUTOMOBILE INSURANCE ACT

33. Section 83.43 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by adding the following sentence at the end of the second paragraph: “The officer shall also inform the person that he may contest the decision before the Administrative Tribunal of Québec, subject to the conditions set out in the second paragraph of section 83.49.”

34. Section 83.49 of the Act is amended by adding the following paragraph at the end:

“Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the Société does not make a decision within 90 days after the receipt of the application, subject to the following:

(1) if the person who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(2) if the Société considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be produced, the time limit is extended for 90 days; the person who applied for the review must be notified of the extension.”

HEALTH INSURANCE ACT

35. Section 18.4 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by adding the following paragraph at the end:

“Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the Board does not make a decision within 90 days after the receipt of the application, subject to the following:

(1) if the person who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(2) if the Board considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be produced, the time limit is extended for 90 days; the person who applied for the review must be notified of the extension.”

TAXATION ACT

36. Section 1029.8.61.34 of the Taxation Act (R.S.Q., chapter I-3), enacted by section 257 of chapter 1 of the statutes of 2005, is amended by replacing “and the right to apply for a review of the decision within the time limit provided for in section 1029.8.61.39” in the second paragraph by “, the right to apply for a review of the decision within the time limit provided for in section 1029.8.61.39 and, subject to the conditions set out in section 1029.8.61.41, the right to contest the review decision before the Administrative Tribunal of Québec”.

37. Section 1029.8.61.41 of the Act, enacted by section 257 of chapter 1 of the statutes of 2005, is amended by adding the following paragraph at the end:

“Moreover, an individual may contest before the Tribunal the decision whose review the individual applied for if the Board does not make a decision within 90 days after the receipt of the application, subject to the following:

(a) if the individual who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(b) if the Board considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be produced, the time limit is extended for 90 days; the individual who applied for the review must be notified of the extension.”

ACT RESPECTING THE QUÉBEC PENSION PLAN

38. Section 140 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing “and of his right to apply for a review within the time prescribed in section 186” in the first paragraph by “, of his right to apply for a review within the time prescribed in section 186 and, subject to the conditions set out in the second paragraph of section 188, of his right to contest the review decision before the Administrative Tribunal of Québec”.

39. Section 149 of the Act is amended by replacing “and the right of the debtor to apply for a review of the decision within the period prescribed in section 186” in the first paragraph by “, the right of the debtor to apply for a review of the decision within the period prescribed in section 186 and, subject to the conditions set out in the second paragraph of section 188, his right to contest the review decision before the Administrative Tribunal of Québec”.

40. Section 188 of the Act is amended by adding the following paragraph at the end:

“Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the Board does not make a decision within 90 days after the receipt of the application, subject to the following:

(1) if the person who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced; and

(2) if the Board considers it necessary, to allow it to make a decision, that an examination be conducted by a health professional or that documents be produced, the time limit is extended for 90 days; the person who applied for the review must be notified of the extension.”

ACT RESPECTING INCOME SUPPORT, EMPLOYMENT ASSISTANCE AND SOCIAL SOLIDARITY

41. Section 112 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is amended by replacing “and the debtor’s right to apply for a review” at the end of the first sentence of the first paragraph by “, the debtor’s right to apply for a review and, subject to the conditions set out in the second paragraph of section 139, the debtor’s right to bring a proceeding before the Administrative Tribunal of Québec”.

42. Section 139 of the Act is amended by adding the following paragraph at the end:

“Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the person in charge of the review does not dispose of the application within 90 days following its receipt or following the decision of the Tribunal returning the file for review in accordance with the second paragraph of section 132. However, the time limit runs from the time observations are presented or documents are produced if a person requested more time for that purpose.”

43. Section 141 of the Act, amended by section 176 of chapter 15 of the statutes of 2005, is again amended by striking out “a review decision concerning” in the second and third lines.

ACT RESPECTING PARENTAL INSURANCE

44. Section 29 of the Act respecting parental insurance (2001, chapter 9), amended by section 19 of chapter 13 of the statutes of 2005, is again amended by replacing “and the debtor’s right to apply for a review of the decision within the period prescribed by section 39” in the first paragraph by “, the debtor’s right to apply for a review of the decision within the period prescribed by section 39 and, subject to the conditions set out in the second paragraph of

section 40, the debtor's right to contest the review decision before the Administrative Tribunal of Québec".

45. Section 40 of the Act is amended by adding the following paragraph at the end:

"Moreover, the decision whose review was applied for may be contested before the Tribunal if the Minister does not dispose of the application within 90 days following its receipt or, if the applicant requested more time to present observations or produce documents, following presentation of the observations or production of the documents."

INDIVIDUAL AND FAMILY ASSISTANCE ACT

46. Section 97 of the Individual and Family Assistance Act (2005, chapter 15) is amended by replacing "and the debtor's right to apply for a review" in the third line of the first paragraph by ", the debtor's right to apply for a review and, subject to the conditions set out in the second paragraph of section 118, the debtor's right to contest the review decision before the Administrative Tribunal of Québec".

47. Section 118 of the Act is amended by adding the following paragraph at the end:

"Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the person in charge of the review does not dispose of the application within 90 days following its receipt or following the decision of the Tribunal returning the file for review in accordance with the second paragraph of section 112. However, the time limit runs from the time observations are presented or documents are produced if a person requested more time for that purpose."

TRANSITIONAL PROVISIONS

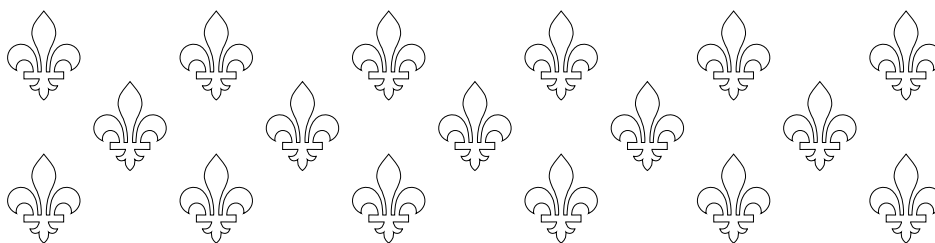
48. The members of the Administrative Tribunal of Québec in office on (*insert the date preceding the date of coming into force of section 2*) are deemed to have been appointed to hold office during good behaviour.

A full-time member in office on (*insert the date preceding the date of coming into force of section 2*) who resigns or retires on the date of expiry of his or her term is entitled to the transition allowance provided for in section 24 of the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec enacted by Order in Council 318-98 (1998, G.O. 2, 1443).

Full leave without pay granted to a public servant appointed to the Tribunal ends on the same date. A member on full leave without pay from the public service who resigns before that date is reinstated in the public service according to the rules set out in section 23 of that regulation.

49. Any provision of this Act introducing a new proceeding before the Administrative Tribunal of Québec to contest an initial decision made by an administrative authority is applicable to applications for review made before the date of the coming into force of the provision, as if the applications had been received on that date.

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



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 108
(2005, chapter 13)

**An Act to amend the Act respecting
parental insurance and other legislative
provisions**

**Introduced 10 May 2005
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EXPLANATORY NOTES

This bill amends the Act respecting parental insurance with a view to the implementation of the Québec parental insurance plan. It provides for the establishment of a social trust within the meaning of the Civil Code of Québec to be known as the Parental Insurance Fund. The Fund is to be established by transferring most of the assets of the Conseil de gestion de l'assurance parentale, which is the trustee of the Fund. The patrimony of the Fund is dedicated to paying benefits under the Act respecting parental insurance and to paying the obligations of the Conseil de gestion in the exercise of its fiduciary functions. The bill also enacts rules applicable to the Conseil de gestion in the exercise of its fiduciary functions and changes the composition of its board of directors.

Under the bill, the administration of the plan is entrusted to the Minister of Employment and Social Solidarity, who is responsible for the administration of the Act respecting parental insurance, except Chapter IV, which remains under the responsibility of the Minister of Revenue. The bill makes provision for the powers necessary for the administration of the plan.

The bill makes it possible for a person who adopts a child of full age or a spouse's child to receive adoption benefits. The bill provides that the employment earnings used to calculate premiums payable are the same as those used to calculate premiums payable under the federal employment insurance plan, and that the business income used to calculate premiums payable corresponds for the most part to the income from carrying on a business calculated for the purposes of the Taxation Act. The bill also provides that certain persons who reside in Québec but work outside Canada are required to pay a premium under the plan.

The bill clarifies the notion of an employee who reports for work at the establishment of an employer, in order to clearly identify in which cases employers and employees are required to pay a premium under the Québec parental insurance plan.

Moreover, the bill enacts additional rules to allow appropriate adjustment payments to be made between the federal employment insurance plan and the Québec parental insurance plan if premiums are deducted under one plan with regard to persons subject to the other plan.

As well, the bill authorizes the Government to make a regulation if the Conseil de gestion fails to do so within a reasonable time.

The bill also amends the Act respecting labour standards in order to harmonize that Act with the Act respecting parental insurance, in particular as regards parental leave in cases of adoption.

Lastly, the bill contains technical and consequential amendments to the Act respecting parental insurance and other Acts, including the Act respecting the Ministère du Revenu. It also contains transitional provisions, certain of which derive from the Canada-Québec Final Agreement on the Québec Parental Insurance Plan.

LEGISLATION AMENDED BY THIS BILL:

- Workers' Compensation Act (R.S.Q., chapter A-3);
- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1);
- Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001);
- Act respecting parental insurance (2001, chapter 9);
- Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information (2002, chapter 5).

Bill 108

AN ACT TO AMEND THE ACT RESPECTING PARENTAL INSURANCE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Act respecting parental insurance (2001, chapter 9) is amended by replacing “minor” in paragraph 3 by “child”.

2. Section 3 of the Act is amended

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

“(1) in respect of the qualifying period, the person is required to pay premiums under this plan in accordance with Division II of Chapter IV or, to the extent prescribed by regulation of the Conseil de gestion de l’assurance parentale, under the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or a plan established for the same purposes by another province or a territory;”;

(2) by replacing “where the person’s insurable earnings derive from a business” in subparagraph 2 of the first paragraph by “in the case of a person whose insurable earnings from a business are considered”;

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

“The eligibility arising out of the obligation to pay a premium under a plan referred to in subparagraph 1 of the first paragraph, other than this plan, is conditional on the Conseil de gestion entering into an agreement for that purpose with the Government of Canada or the government of another province or a territory.”

3. The Act is amended by inserting the following section after section 3:

3.1. In this Act, a person is considered resident in Québec if the person is so considered for the purposes of the Taxation Act (chapter I-3), and a person is considered not resident in Québec in all other cases.

Despite the first paragraph, if the person is considered resident in Québec as a result of the application of paragraph *a* of section 8 of the Taxation Act, the person is considered not resident in Québec for the purposes of this Act.”

4. Section 6 of the Act is replaced by the following section:

“6. The Conseil de gestion shall, by regulation, set the following premium rates:

- (1) the premium rate applicable to an employee or a person referred to in section 51;
- (2) the premium rate applicable to an employer;
- (3) the premium rate applicable to a self-employed worker.

For the purposes of the first paragraph, “employee”, “employer” and “self-employed worker” have the meanings assigned by section 43.

The premium rates come into force on 1 January of the year following the date of their publication in the *Gazette officielle du Québec*. They may not be published later than 15 September immediately preceding that 1 January.”

5. Section 7 of the Act is amended by adding the following paragraph at the end:

“The Conseil de gestion may, by regulation, determine other cases in which, following a request, payment may end after the expiry of the period prescribed in the second paragraph. The regulation shall determine how many weeks of benefits are suspended in each case.”

6. Section 8 of the Act is amended

- (1) by replacing “shall end” in the third line by “ends”;
- (2) by adding the following paragraph at the end:

“Following a request, payment may end after the expiry of the 18 weeks if the weeks of benefits are suspended in the cases and for the time prescribed by regulation of the Conseil de gestion.”

7. Section 11 of the Act is amended by replacing “within the framework of an adoption procedure” in the fifth line of the first paragraph by “for the purpose of the adoption”.

8. Section 12 of the Act is repealed.

9. Section 13 of the Act is amended by replacing the second paragraph by the following paragraph:

“A person who files for benefits must provide the Minister with any document or information necessary to check the person’s eligibility and determine the amount of the benefits.”

10. The Act is amended by adding the following after section 17:

“§6. — *Exclusions*

“**17.1.** A parent who has begun to receive or has already received benefits relating to a birth or an adoption under the employment insurance plan or a plan established by another province or a territory is not entitled to benefits under this plan for that birth or adoption.

The application of one of those plans in respect of the parent mentioned in the first paragraph entails the application of the same plan in respect of the other parent, regardless of the latter parent’s place of residence at the beginning of the benefit period, subject to the exceptions determined by regulation of the Conseil de gestion. The regulation may also prescribe the manner in which the parental insurance plan applies in exceptional cases.”

11. Section 19 of the Act is amended by striking out the second paragraph.

12. Section 20 of the Act is amended by replacing “revenu assurable d’entreprise” in the third line of the first paragraph of the French text by “revenu assurable provenant d’une entreprise”.

13. Section 21 of the Act is amended by striking out “reported to the Minister of Revenue” in the third and fourth lines of the third paragraph.

14. Section 22 of the Act is replaced by the following section:

“**22.** The insurable earnings of a person consist of

(1) the insurable earnings from employment, which is the total of all amounts each of which is equal to the person’s insurable earnings from an employment, as determined in respect of the person for the purposes of the Employment Insurance Act, or, if an amount of insurable earnings from that employment is not determined in respect of the person for the purposes of that Act, to the person’s eligible wages in respect of the employment within the meaning of section 43; and

(2) the insurable earnings from a business, which corresponds to the person’s business income within the meaning of section 43 less the part of that income included in the total determined in paragraph 1.”

15. Section 23 of the Act is amended

(1) by replacing “within the framework of an adoption procedure” in the fifth line of the second paragraph by “for the purpose of the adoption”;

(2) by striking out “The benefit period may not exceed the week in which the adopted child reaches majority.” in the sixth and seventh lines of the second paragraph.

16. The Act is amended by inserting the following section after section 25:

“25.1. If the final amount of the benefits is higher than that of the interim benefits, the Minister must pay the beneficiary the additional amount that would have been paid if the final benefits had been authorized instead of the interim benefits.

If the final amount is less than that of the interim benefits, the overpayment must be recovered in the manner determined by the Minister.”

17. Section 28 of the Act is replaced by the following section:

“28. The recovery of amounts unduly paid is prescribed five years after they become recoverable. If the person who received such an amount made a false declaration, recovery is prescribed five years after the date on which the Minister becomes aware that the amount is owed, but not later than 15 years after the date it becomes recoverable.”

18. The Act is amended by adding the following section after section 28:

“28.1. A false declaration is made when an amount is granted to a person as a result of the person’s failing to make a declaration, making a declaration containing false information, or sending a document containing incomplete or false information in order to make the person eligible under this plan or to allow the person to receive a benefit greater than the benefit the person would otherwise have been granted.”

19. Section 29 of the Act is amended by replacing the first paragraph by the following paragraph:

“29. The Minister shall send a formal notice to a debtor of an amount recoverable under this Act, stating the reasons why the debt is owed, the amount of the debt and the debtor’s right to apply for a review of the decision within the period prescribed by section 39. The notice must also include information on the recovery procedure, in particular with regard to the issue of a certificate and its effects.”

20. Section 30 of the Act is replaced by the following section:

“30. The debtor must repay any amount owed within the time and according to the terms and conditions determined in a regulation of the Conseil de gestion, unless the debtor and the Minister agree otherwise.

The Minister may make a deduction from any benefit payment that becomes payable to the debtor.

A deduction under the second paragraph interrupts prescription. The same applies to an allocation by the Minister of Revenue under the second paragraph of section 31 of the Act respecting the Ministère du Revenu (chapter M-31).”

21. Section 31 of the Act is replaced by the following section:

“31. Failing payment by the debtor, the Minister may, at the expiry of the time for filing an application for review or for contesting a decision made after a review or, as the case may be, at the expiry of a period of 30 days after a decision of the Administrative Tribunal of Québec confirming all or part of the Minister’s decision, issue a certificate stating the debtor’s name and address and the amount of the debt.

As of the filing of the certificate, accompanied by a copy of the final decision establishing the debt, in the office of the court of competent jurisdiction, the decision is executory as if it were a final judgment of that court, not subject to appeal, and has all the effects of such a judgment.”

22. Section 32 of the Act is replaced by the following section:

“32. In exceptional circumstances, the Minister may suspend all or part of the recovery of an amount owed or cancel all or part of the debt, on the conditions the Minister determines, even after the certificate referred to in section 31 has been filed.”

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

“However, the Minister may deduct from benefits payable under this Act the amount repayable to the Minister under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001).”

24. Section 42 of the Act is replaced by the following section:

“42. A proceeding to contest the accuracy of information communicated to the Minister by the Minister of Revenue that relates to the computation of income for the purpose of establishing a person’s entitlement to benefits under this Act must be brought under the Act respecting the Ministère du Revenu.”

25. Section 43 of the Act is amended

(1) by inserting the following definition after the definition of employer:

““employment” means an employment or office, within the meaning of section 1 of the Taxation Act, that is work covered by this plan within the meaning of section 4;”;

(2) by replacing the definitions of business and employer by the following definitions:

““business” means a business, within the meaning of section 1 of the Taxation Act, that is work covered by this plan within the meaning of section 4;

““employer” means a person, including a government, that pays a wage to another person in exchange for that other person’s services;”;

(3) by inserting the following definition after the definition of employment:

““establishment” means an establishment within the meaning of Chapter III of Title II of Book I of Part I of the Taxation Act;”;

(4) by inserting the following definitions after the definitions of Minister and business, respectively:

““province” means a province within the meaning of section 1 of the Taxation Act;

““business income” of a person for a year means the amount by which the aggregate of all amounts each of which is the person’s income from a business carried on by that person for the year, calculated in accordance with Part I of the Taxation Act, except for paragraph *v* of section 87 and section 154.1 of that Act, exceeds the aggregate of all amounts each of which is the person’s loss, so calculated, from such a business for the year;”;

(5) by replacing the definition of work income by the following definition:

““work income” of a person for a year means the aggregate of the person’s income for the year which is either the person’s eligible wages for that year in respect of an employment, in relation to an establishment, or the person’s business income for the year.”;

(6) by striking out the definition of income from a business;

(7) by replacing the definition of wages by the following definition:

““eligible wages” of a person for a year, in respect of an employment and in relation to an establishment, means one of the following amounts:

(1) if insurable earnings from the employment are determined for the year in respect of the person for the purposes of the Employment Insurance Act, the amount corresponding to

(a) the part of the insurable earnings that may reasonably be considered as being paid to the person for one or more periods during which the person reports for work at that establishment; or

(b) if the person is not required to report for work at any establishment of the employer, the part of the insurable earnings that may reasonably be considered as being paid to the person from that establishment;

(2) in the other cases, the aggregate of the amounts in respect of that employment each of which is a prescribed amount paid to the person during

the year for one or more periods during which the person reports for work at that establishment, or, if the person is not required to report for work at any establishment of the employer in respect of that employment, a prescribed amount paid to the person during the year from that establishment;”;

(8) by replacing the definition of self-employed worker by the following definition:

““self-employed worker” means a person who has business income for the year;”;

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

“For the purposes of the definition of business income set out in the first paragraph, income or losses from a business that a person carries on as a member of a partnership are only considered if the person is actively engaged in the activities of the partnership.”

26. The Act is amended by inserting the following section after section 43:

“43.1. A person residing in Québec at the end of a year who, in respect of an employment, reports for work at an establishment of the employer outside Canada or, if the person is not required to report for work at an establishment of the employer, whose wages are paid from such an establishment outside Canada is deemed to be an employee for the year if

(1) no insurable earnings from the employment are determined for the year in respect of the person for the purposes of the Employment Insurance Act;

(2) the employer has an establishment in Québec; and

(3) the person is not required to pay premiums under a prescribed plan.

If the presumption provided in the first paragraph applies, the establishment outside Canada is deemed to be an establishment in Québec.”

27. Sections 44 to 46 of the Act are replaced by the following sections:

“44. When any question arises as to whether a given person is required to pay a premium under this chapter for a year as an employee or as an employer, the given person, the given person’s employer or the person who would be the employer if the given person was an employee may apply to the Minister, not later than 30 April of the following year, for a determination of the question.

The application must be made on the prescribed form and sent to the Minister.

The Minister must give the persons involved in the application an opportunity to provide information or make representations.

The Minister must make the decision known to the persons involved in the application with dispatch, in the manner the Minister considers suitable.

“45. If an application under section 65 of the Act respecting the Québec Pension Plan (chapter R-9) was made by a person to whom section 44 applies for a particular year, no application may be made under that section 44 in respect of that year by any person involved in the application.

A decision rendered for the purposes of the Act respecting the Québec Pension Plan as to the capacity in which a person is required to pay a contribution for a year is valid as if it had been rendered for the purposes of this chapter.

“45.1. Chapter III.2 of the Act respecting the Ministère du Revenu applies, with the necessary modifications, to a decision rendered by the Minister under section 44.”

28. Sections 48 and 49 of the Act are replaced by the following sections:

“48. In this chapter, the following rules apply:

(1) a person who reports for work at an establishment of the employer means,

(a) in respect of wages other than wages described in subparagraph *b*, a person who reports for work at that establishment for the regular pay period to which the wages relate;

(b) in respect of wages paid as a premium, an increase with retroactive effect or vacation pay or wages that do not relate to a regular pay period, a person who ordinarily reports for work at that establishment;

(2) a person who reports for work at an establishment of the employer in Québec and at an establishment of the employer outside Québec during a regular pay period is deemed, for that period, in respect of wages other than wages described in subparagraph *b* of paragraph 1,

(a) to report for work only at the establishment in Québec, except if subparagraph *b* applies,

(b) to report for work only at the establishment outside Québec if the person reports for work mainly at such an establishment of the employer during that period;

(3) a person who ordinarily reports for work at an establishment of the employer in Québec and at an establishment of the employer outside Québec is deemed, in respect of wages described in subparagraph *b* of paragraph 1, to ordinarily report for work only at the establishment in Québec.

“48.1. For the purposes of this chapter, a person who is not required to report for work at an establishment of the employer and whose wages are not paid from such an establishment in Québec is deemed to report for work at an establishment of the employer in Québec for a pay period if, given the place where the person mainly reports for work, the place where the person mainly performs employment duties, the person’s principal place of residence, the establishment from where the person is supervised, the nature of the employment duties performed by the person or any similar criterion, it may reasonably be considered that the person is an employee of that establishment for that pay period.

“48.2. For the purposes of this chapter, if a person who is an employee of an establishment of an employer outside Québec provides a service in Québec to or for the benefit of another employer who is not the person’s employer, an amount that may reasonably be considered to be the wages earned by the person to provide the service is deemed to be wages paid by the other employer to one of the other employer’s employees in the pay period during which the wages are paid to the person if

(1) the other employer has an establishment in Québec at the time the service is provided; and

(2) the service provided by the person

(a) is provided by the person in the ordinary performance of employment duties with the employer,

(b) is provided to or for the benefit of the other employer in the course of regular and ongoing activities of a business carried on by the other employer, and

(c) is the kind of service provided by employees of employers carrying on the same type of business as the business referred to in subparagraph *b*; and,

(3) but for this section, the amount would not be included in the total wages paid by the other employer and determined for the purposes of this chapter.

“48.3. Section 48.2 does not apply in respect of a pay period of another employer if the Minister is of the opinion that a reduction in the premiums payable under this chapter by the employers referred to in that section is not one of the purposes or expected results of entering into or maintaining in effect

(1) the agreement under which the service is provided by the person to or for the benefit of the other employer; or

(2) any other agreement that affects the amount of wages paid by the other employer in the pay period for the purposes of this chapter and that the Minister considers to be related to the agreement for the provision of services referred to in paragraph 1.

“49. Except if inconsistent with this chapter or a regulation made under it, sections 1000 to 1026.0.1, 1026.2 and 1037 to 1079.16 of the Taxation Act apply, with the necessary modifications, to a premium in respect of the eligible wages of a person referred to in section 51 or the business income of a self-employed worker.”

29. Section 50 of the Act is amended by replacing “on the last day of a year” in the first line by “at the end of a year”.

30. Section 51 of the Act is amended by replacing “on the last day of a year” in the first line by “at the end of a year”.

31. Section 53 of the Act is amended by replacing “on the last day of a year” in the first and second lines by “at the end of a year”.

32. The Act is amended by inserting the following section after section 53:

“53.1. A person residing in Québec at the end of a year who, in respect of an employment, reports for work at an establishment of the employer outside Canada or, if the person is not required to report for work at an establishment of the employer, whose wages are paid from such an establishment outside Canada is deemed to be a person to whom section 51 applies for the year if

(1) insurable earnings from the employment are determined for the year in respect of the person for the purposes of the Employment Insurance Act; or

(2) the following conditions are met:

(a) the employer has no establishment in Québec; and

(b) the person is not required to pay premiums under a prescribed plan.

If the presumption provided in the first paragraph applies, the establishment outside Canada is deemed to be an establishment in Canada outside Québec.”

33. Section 54 of the Act is amended by replacing “under this chapter” in the third line by “under those sections”.

34. Sections 55 to 57 of the Act are replaced by the following sections:

“55. Despite sections 50 to 53, this chapter does not apply in respect of a person who, under section 982 or 983 of the Taxation Act or any of paragraphs *a* to *c* of section 96 of the Act respecting the Ministère du Revenu, is exempt from tax for the year under Part I of the Taxation Act.

“56. For the purposes of sections 50, 51, 53, 66, 68 and 72, if an employee, a person referred to in section 51 or a self-employed worker dies or ceases to be resident in Canada in a year, the moment that is immediately before the death or cessation of residence is deemed to be the end of that year.”

35. Sections 58 and 59 of the Act are replaced by the following sections:

“58. An employee is required to pay for a year in respect of an employment, by deduction at source, a premium equal to the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the lesser of

(1) the aggregate of the amounts each of which is the employee’s eligible wages for the year in respect of that employment, in relation to an establishment of the employer in Québec; and

(2) the maximum insurable earnings for the year.

“59. An employer is required to pay to the Minister for a year, in respect of each employee, a premium equal to the product obtained by multiplying the premium rate referred to in subparagraph 2 of the first paragraph of section 6 by the lesser of

(1) the aggregate of the amounts each of which is the eligible wages of the employee for the year in respect of the employment, in relation to an establishment of the employer in Québec; and

(2) the maximum insurable earnings for the year.

“59.1. If, during a year, an employer immediately succeeds another employer following the formation or winding-up of a legal person or following the acquisition of a major portion of the property of a business or of a separate part of a business, without there being an interruption of the services provided by an employee, the following rules apply:

(1) for the purposes of section 58, the employer is deemed to be the same as the preceding employer; and

(2) the premium the employer is required to pay under section 59 is equal to the difference between the premium that the preceding employer should have paid for the year in respect of each employee if there had been no successive employer, and the aggregate of the amounts that the latter is required to pay for that year.”

36. Section 60 of the Act is amended

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

“60. An employer is required to deduct from the wages paid to an employee in a year, in respect of an employment, the amount prescribed as the employee’s premium, provided the employee reports to an establishment of the employer in Québec in relation to the wages or, if the employee is not required to report to an establishment of the employer, provided the wages are paid to the employee from such an establishment in Québec.

The employer must make the deduction even if the wages are paid as a result of a judgment.”;

(2) by replacing “may draw up” in the second line of the second paragraph by “shall draw up”.

37. Section 63 of the Act is amended by replacing the second paragraph by the following paragraph:

“The employer may, however, make the deduction from the wages paid to the employee within 12 months following the failure to make the deduction if the wages are wages described in section 60.”

38. Sections 64 to 66 of the Act are replaced by the following sections:

“64. Subject to section 65, a person to whom section 51 applies for a year is required to pay a premium for that year that is equal to the lesser of

(1) the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the aggregate of the amounts each of which is equal to the eligible wages of the person for the year, in respect of an employment, in relation to an establishment of the employer in Canada outside Québec; and

(2) the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the amount by which the maximum insurable earnings for the year exceed the quotient obtained by dividing the total deductions at source made from the person’s wages as an employee for that year under this chapter by that rate.

For the purposes of subparagraph 2 of the first paragraph, the total deductions at source must be reduced by the premium overpayment, if any, determined in accordance with the first paragraph of section 68.

“65. A person to whom section 51 applies for a year may deduct the prescribed amount from the premium payable for that year.

“66. A self-employed worker resident in Québec at the end of a year is required to pay a premium for that year that is equal to the product obtained by multiplying the premium rate referred to in subparagraph 3 of the first paragraph of section 6 by the lesser of

(1) the worker’s business income for the year; and

(2) the amount by which the maximum insurable earnings for the year exceed the quotient obtained by dividing the aggregate of the following amounts by the premium rate referred to in subparagraph 1 of the first paragraph of section 6:

(a) the total deductions at source from the worker’s wages for the year as an employee under this chapter, reduced, if applicable, by the premium overpayment established in accordance with the first paragraph of section 68;

(b) the premium the worker is required to pay for the year under section 64, determined without reference to section 65.”

39. Section 67 of the Act is amended by adding the following paragraph at the end:

“The prescribed amount is deemed to be a payment made by a self-employed worker as a partial payment of his or her premium payable for the year under this chapter.”

40. Sections 68 and 69 of the Act are replaced by the following sections:

“68. The amount by which the total deductions at source made from a person’s wages as an employee for a year under this chapter exceed the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the lesser of

(1) the aggregate of the amounts each of which is the person’s eligible wages for the year in respect of an employment, in relation to an establishment of the employer in Québec, and

(2) the maximum insurable earnings for the year,

is a premium overpayment for that year by an employee resident in Québec at the end of the year.

However, the premium overpayment for a year by an employee resident in Québec at the end of the year referred to in section 54 corresponds to the aggregate of the deductions at source made from the person’s wages as an employee for that year under this chapter.

“68.1. The amount by which the amount prescribed for the purposes of section 65 exceeds the lesser of the amounts determined under subparagraphs 1

and 2 of the first paragraph of section 64 is a premium overpayment for the year by a person referred to in section 51.

However, the premium overpayment for a year by a person referred to in both section 51 and section 54 corresponds to the amount prescribed for the purposes of section 65.

“69. For the purposes of sections 64, 66 and 68, an amount an employer omitted to deduct is deemed to have been deducted by the employer as an employee’s premium if

(1) the employee notified the Minister of the employer’s omission not later than 30 April of the year following the year in which it occurred; or

(2) the employer paid the amount to the Minister.”

41. Section 71 of the Act is repealed.

42. Sections 72 and 73 of the Act are replaced by the following section:

“72. An employee resident outside Québec at the end of a year and in respect of whom amounts were deducted in relation to a premium payable under this chapter may not claim a refund of the amounts so deducted nor apply them to the payment of any debt owed by the employee to the Government insofar as those amounts relate to income that is subject to a premium under either a plan similar to that established by this Act if the employee is resident at the end of the year in another province where such a plan is in force, or the employment insurance plan established under the Employment Insurance Act if the employee is not resident in such a province at the end of the year.

The first paragraph only applies to an employee if the government of the other province, in the case of the employee resident in that province at the end of the year, or the Government of Canada in other cases, is authorized to make a remittance referred to in section 74 to the Government for the year.”

43. Section 74 of the Act is replaced by the following sections:

“74. With the authorization of the Government, the Minister may make an adjustment payment to the government of another province or the Government of Canada if, for a year, that government is authorized to remit to the Government amounts deducted or paid under a statute of the other province establishing a plan similar to the plan established by this Act or under the Employment Insurance Act and if, in the Minister’s opinion, that remittance is equivalent to an adjustment payment.

With the authorization of the Government, the Minister may make any agreement considered necessary for the purposes of this section with the government of another province or the Government of Canada.

“**74.1.** The total adjustment payments for a year in respect of employees is equal to the aggregate of

(1) all amounts deducted during the year under section 60 from the wages of employees resident outside Québec at the end of the year; and

(2) all amounts paid during the year under section 63 in respect of the wages of employees resident outside Québec at the end of the year.

“**74.2.** The total adjustment payments for a year in respect of employers is equal to the aggregate of the amounts each of which corresponds to the lesser of

(1) the amount an employer paid for the year under section 59 in respect of an employee resident outside Québec at the end of the year; and

(2) the amount the employer would have paid for the year, in respect of the employee, as a parental insurance plan premium had the employer been subject, in relation to the employee,

(a) in the case of an employee resident in another province referred to in the first paragraph of section 74 at the end of the year, to a statute of the other province establishing a plan similar to that established by this Act, or

(b) in the other cases, to the Employment Insurance Act.

“**74.3.** The Minister shall determine the part of the adjustment payments to be paid to the government of another province referred to in the first paragraph of section 74 and the part to be paid to the Government of Canada.

“**74.4.** An amount must only be considered when calculating the total adjustment payments referred to in section 74.1 or 74.2 if the employee’s income from which it was deducted or in respect of which it was paid are subject to a premium under either a plan similar to that established by this Act, if the employee is resident at the end of the year in another province where such a plan is in force, or the employment insurance plan established under the Employment Insurance Act if the employee is not resident in such a province at the end of the year.

“**74.5.** For the purposes of sections 74 to 74.4, “adjustment payment” means a payment made by the Government to the government of another province or the Government of Canada in respect of any amount deducted as a premium under the parental insurance plan established by this Act from the wages of an employee who is not resident in Québec at the end of the year or in respect of any amount paid as a premium under that parental insurance plan in relation to the wages of such an employee.”

44. Sections 76 and 77 of the Act are replaced by the following sections:

“76. Whatever its imputation, any payment, whether of tax under the Taxation Act, of a premium under this Act or of a contribution under the Act respecting the Québec Pension Plan, must first be imputed, subject to sections 72 and 77 of the Act respecting the Québec Pension Plan, on the premium payable under this Act.

“76.1. Before rendering a decision on an employer’s objection to an assessment for the purposes of this chapter, the Minister must, in the manner the Minister considers suitable, give the employee involved the opportunity to provide information and make representations if necessary to protect his or her interests.

The Minister must make the decision known to the employee involved with dispatch, in the manner the Minister considers suitable.”

45. Section 80 of the Act is replaced by the following section:

“30. The Minister is responsible for the administration of the parental insurance plan.”

46. Section 81 of the Act is amended

(1) by replacing the first sentence by the following sentence: “The administration entrusted to the Minister shall be the subject of an agreement between the Conseil de gestion and the Minister.”;

(2) by striking out “and investment” in the fifth line.

47. Section 83 of the Act is amended

(1) by inserting “or the government of another province or a territory” after “Canada” in the introductory sentence;

(2) by inserting “or a statute of another province or a territory” after “Employment Insurance Act” in the second line of subparagraph 1 of the first paragraph.

48. Section 84 of the Act is replaced by the following section:

“84. Subject to the second paragraph, the Minister may make an agreement with a department or body of the Government or, subject to the applicable legislative provisions, of the Government of Canada or the government of another province or a territory or with a person, provided their names appear in a list drawn up by the Government and published in the *Gazette officielle du Québec*, to gather or communicate nominative information required for the purposes of this Act and the regulations, in particular,

(1) to establish a person’s entitlement to benefits under this Act and to determine the amount to be paid;

(2) to identify, by means including file-matching, a situation not declared by a person that could affect the benefits granted or to be granted the person under this Act;

(3) to check the solvency of a person who is required to repay an amount under Division IV of Chapter II or identify the person's place of residence.

The Minister may also make an agreement with such entities as the Department of Human Resources and Skills Development of Canada, the Canada Revenue Agency and the following departments and bodies of the Government: the Ministère du Revenu, the Registrar of Civil Status, the Commission de la santé et de la sécurité du travail, the Régie de l'assurance maladie du Québec and the Société de l'assurance automobile du Québec.

For the purpose of identifying persons for the purposes of an agreement mentioned in this section, the Minister may communicate each person's name, date of birth, sex, address, social insurance number and file number, the name and date of birth of the child and the name, date of birth and social insurance number of the spouse of the child's parent. The department, body or person receiving the information must destroy it as soon as the purpose for which it was communicated has been fulfilled.

The information must be exchanged in accordance with the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1)."

49. Section 85 of the Act is amended

(1) by striking out "or the Board, as the case may be," in the first line of the first paragraph;

(2) by replacing "Either" in the first line of the second paragraph by "The Conseil de gestion" and by striking out "or the Board" in the second line of that paragraph.

50. Section 88 of the Act is amended

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

"(1) determining the procedure and time limits for making an application to the Minister and an application on behalf of a person who is deceased or unable to manage his or her affairs;"

(2) by inserting "within the meaning of section 43" after "income" in the fourth line of subparagraph 3 of the first paragraph;

(3) by adding "; the Government may approve them with or without amendment" at the end of the second paragraph;

(4) by adding the following paragraph after the second paragraph:

“If the Conseil de gestion fails to make a regulation within a period the Government considers reasonable, the Government may make the regulation. Such a regulation is deemed to be a regulation of the Conseil de gestion.”

51. The Act is amended by adding the following after section 88:

“CHAPTER V.1

“INSPECTION AND INVESTIGATION

“**88.1.** For the purposes of this Act, a person authorized by the Minister to act as an inspector may require, examine and make a copy of any information or document. The inspector may also require that information or documents be sent by fax or electronic means if a person may be so contacted.

“**88.2.** No proceedings may be brought against an inspector for acts performed in good faith in the exercise of his or her functions.

“**88.3.** The Minister or any person designated by the Minister as an investigator may investigate any matter under the Minister’s authority with respect to the administration of the parental insurance plan.

“**88.4.** For the purposes of an investigation, the Minister and investigators have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

An investigator may send a subpoena by fax or electronic means if the person to whom it is addressed may be so contacted.

“**88.5.** On request, inspectors or investigators must identify themselves and produce a certificate of authority signed by the Minister.

“**88.6.** No person may hinder an inspector in the exercise of his or her functions, mislead or attempt to mislead an inspector by misrepresentation or deceptive statements, refuse to produce documents required by an inspector or omit or refuse, without good cause, to answer any question that may lawfully be asked.”

52. Section 89 of the Act is amended by striking out “and a mandatary of the State” in the second paragraph.

53. Section 90 of the Act is amended by replacing the first paragraph by the following paragraph:

“90. The property in the possession of the Conseil de gestion on 16 June 2005 belongs to it, except the property transferred to the Parental Insurance Fund.”

54. Section 91 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the second paragraph:

“(2.1) to administer the Parental Insurance Fund as trustee;”.

55. The Act is amended by inserting the following section after section 91:

“91.1. The Conseil de gestion may conduct or commission research or studies in any field covered by this Act.”

56. Section 93 of the Act is amended by replacing “the Communauté urbaine” in the second line by “Ville”.

57. Section 94 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 3 of the first paragraph:

“(3.1) a member who is a non-union worker, after consultation with bodies representing non-union workers and bodies representing women;”;

(2) by striking out subparagraph 5 of the first paragraph;

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

“The Deputy Minister of Employment and Social Solidarity or the Deputy Minister’s representative are, by virtue of office, members of the board of directors.”

58. Section 105 of the Act is replaced by the following section:

“105. No document binds the Conseil de gestion or may be attributed to it unless it is signed by the president and director general or, to the extent determined in the internal by-laws of the Conseil de gestion, by a member of the board of directors or a member of the personnel.”

59. The Act is amended by inserting the following after section 110:

“DIVISION II.1

“STRATEGIC PLAN

“110.1. The Conseil de gestion shall adopt a strategic plan covering a period of more than one year.

“110.2. The strategic plan must state

- (1) the mission of the Conseil de gestion;
- (2) the context in which the Conseil de gestion acts and the main challenges it faces;
- (3) the strategic directions, objectives and lines of intervention selected;
- (4) the results targeted by the end of the period covered by the plan;
- (5) the performance indicators to be used in measuring results.

“110.3. The Conseil de gestion shall transmit the strategic plan to the Minister, who shall lay it before the National Assembly.”

60. Section 111 of the Act is amended by replacing “Child and Family Welfare” in the first line of paragraph 2 by “Employment and Social Solidarity”.

61. Section 112 of the Act is repealed.

62. Section 115 of the Act is amended by replacing the second paragraph by the following paragraph:

“The surplus, if any, may be allocated to reducing premiums or increasing benefits.”

63. The Act is amended by inserting the following after section 115:

“DIVISION III.1

“PARENTAL INSURANCE FUND

“115.1. The Parental Insurance Fund is hereby established as a social trust patrimony.

“115.2. The Conseil de gestion shall transfer to the Parental Insurance Fund the sums in its possession on 16 June 2005, including its securities deposited with the Caisse de dépôt et placement du Québec, except sums kept on deposit by the Conseil otherwise than in a fiduciary capacity.

“115.3. The debts of the Conseil de gestion as at 16 June 2005, except the sums owed otherwise than in a fiduciary capacity shall be borne by the Parental Insurance Fund.

“115.4. The Parental Insurance Fund is dedicated to

- (1) the payment of benefits under this Act; and

(2) the payment of the obligations of the Conseil de gestion in the exercise of its fiduciary functions.

“115.5. The Conseil de gestion is the trustee of the Parental Insurance Fund.

The Conseil is deemed to have accepted the trusteeship and the obligations arising from it as of 17 June 2005.

The Conseil shall act to promote the objectives pursued by the Parental Insurance Fund.

“115.6. Articles 1260 to 1262, 1264 to 1266, 1270, 1274, 1278, 1280, 1293, 1299, 1306 to 1308, 1313 and 1316, with the necessary modifications, are the only provisions of Titles Six and Seven of Book Four of the Civil Code that apply to the Parental Insurance Fund and the Conseil de gestion in its fiduciary capacity.

“115.7. The Conseil de gestion shall transfer to the Parental Insurance Fund all sums its receives for the funding of the parental insurance plan, as they are received, in accordance with section 111.

The Conseil de gestion shall prepare a monthly reconciliation of the sums so collected and the sums actually transferred.

“115.8. The sums transferred to the Parental Insurance Fund by the Conseil de gestion are deposited with a bank governed by the Bank Act (Statutes of Canada, 1991, chapter 46) or a financial services cooperative governed by the Act respecting financial services cooperatives (chapter C-67.3).

“115.9. The sums making up the Parental Insurance Fund that are not required immediately are deposited with the Caisse de dépôt et placement du Québec.

“115.10. The administrative expenses of the Parental Insurance Fund are payable out of the Fund.

The expenses incurred by the Conseil de gestion for the carrying out of this Act are payable out of the Fund, except those paid out of the sums kept on deposit by the Conseil otherwise than in a fiduciary capacity.

The sums required to pay the remuneration and expenses relating to the employment benefits and other conditions of employment of the personnel members of the Conseil de gestion, insofar as they work within the scope of the fiduciary functions of the Conseil de gestion, are also payable out of the Fund.

“115.11. When the Conseil de gestion withdraws a sum from the Parental Insurance Fund, it is acting in its fiduciary capacity.

“**115.12.** The Conseil de gestion must prepare budget estimates for the Parental Insurance Fund for the following fiscal year at least one month before the end of the current fiscal year or by any other date set by the board of directors.

It must also adopt an investment policy for the Fund.

“**115.13.** The Financial Administration Act (chapter A-6.001) does not apply to the Conseil de gestion in the exercise of its fiduciary functions, except sections 89 and 90.

“**115.14.** The Public Administration Act (chapter A-6.01) does not apply to the Conseil de gestion in the exercise of its fiduciary functions, except Chapter III, section 78 insofar as it relates to human resources and Chapters V and VI.

“**115.15.** The fiscal year of the Parental Insurance Fund ends on 31 December.

“**115.16.** Not later than 30 April each year, the Conseil de gestion must submit to the Minister the financial statements of the Parental Insurance Fund and an annual management report on the Fund’s operations for the previous fiscal year. The report must contain all the information prescribed by the Minister.

The Minister must lay the financial statements and the report before the National Assembly within 30 days of receiving them if the National Assembly is sitting or, if it is not sitting, within 30 days of resumption.

“**115.17.** The books and accounts of the Parental Insurance Fund are audited by the Auditor General every year and whenever ordered by the Government.

“**115.18.** The president and director general of the Conseil de gestion is accountable to the National Assembly for the management of the Parental Insurance Fund.

The competent parliamentary committee of the National Assembly may hear the president and director general at least once each year to discuss the management of the Fund.

The parliamentary committee may discuss, in particular, the Fund’s financial statements and annual management report, and any administrative matter related to the Fund that may have been noted in a report of the Auditor General or the Public Protector.”

64. The Act is amended by replacing the title of Division IV of Chapter VI by the following title:

“ACCOUNTABILITY”.

65. Section 116 of the Act is amended by replacing “March” by “December”.

66. Section 117 of the Act is amended

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

“**117.** Not later than 30 April each year, the Conseil de gestion shall submit to the Minister its financial statements and a management report on the results achieved in relation to the objectives set out in its strategic plan.

The report must also state

(1) the mandates conferred on the Conseil de gestion;

(2) the programs under the management or administration of the Conseil de gestion;

(3) changes in personnel levels;

(4) a statement by the president and director general concerning the reliability of the information in the report and of monitoring mechanisms.”;

(2) by striking out “and report of operations” in the first line of the second paragraph.

67. Section 118 of the Act is amended by replacing “report of operations” in the first line by “management report”.

68. The Act is amended by inserting the following section after section 118:

“**118.1.** Subject to the applicable legislative provisions, the president and director general is accountable to the National Assembly for his or her administrative management, in particular as concerns the exercise of the authority and powers of the Minister responsible.

If the Minister considers it appropriate, the competent parliamentary committee of the National Assembly shall hear the Minister and, as the case may be, the president and director general at least once each year to discuss their administrative management.

The parliamentary committee may examine the results achieved with regard to the administrative aspects of the strategic plan, and any other matter of an administrative nature under the authority of the Conseil de gestion that is noted in a report of the Auditor General or the Public Protector.”

69. Section 121 of the Act is amended by replacing paragraphs 3 to 5 by the following paragraphs:

“(3) enters false information in any document required by the Minister under this Act or the regulations, or

“(4) contravenes section 38 or 88.6.”.

70. The Act is amended by replacing “the Board” wherever it appears in sections 34 to 39, 41 and 82 by “the Minister”, with the necessary grammatical adjustments.

71. Sections 122, 134, 140 to 142, 144 and 145 of the Act are repealed.

72. Section 147 of the Act is amended by replacing “occurs within the framework of an adoption procedure” in the second line of the second paragraph by “for the purpose of the adoption occurs”.

73. Section 152 of the Act is amended by replacing “of Child and Family Welfare” by “of Employment and Social Solidarity”.

OTHER AMENDING PROVISIONS

WORKERS’ COMPENSATION ACT

74. Section 2 of the Workers’ Compensation Act (R.S.Q., chapter A-3) is amended by inserting “, the Act respecting parental insurance (2001, chapter 9)” after “chapter 23)” in the sixth line of subparagraph *p* of paragraph 1.

75. The Act is amended by inserting the following section after section 34.1:

“**34.2.** The Commission and the Minister of Employment and Social Solidarity shall enter into an agreement for the communication of the information required for the purposes of the Act respecting parental insurance (2001, chapter 9).”

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

76. Section 42.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by replacing “transmission” in the second line of the first paragraph by “communication”.

77. The Act is amended by inserting the following section after section 42.1:

“**42.2.** The Commission and the Minister of Employment and Social Solidarity shall enter into an agreement for the communication of the information required for the purposes of the Act respecting parental insurance (2001, chapter 9).”

FINANCIAL ADMINISTRATION ACT

78. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by section 52 of chapter 25, section 50 of chapter 30, section 53 of chapter 32, section 39 of chapter 35, section 40 of chapter 37 and section 16 of chapter 40 of the statutes of 2004, is again amended by inserting “Conseil de gestion de l’assurance parentale, in the exercise of its non-fiduciary functions” in alphabetical order.

ACT RESPECTING THE MINISTÈRE DE L’EMPLOI ET DE LA SOLIDARITÉ SOCIALE AND ESTABLISHING THE COMMISSION DES PARTENAIRES DU MARCHÉ DU TRAVAIL

79. Section 53.1 of the Act respecting the Ministère de l’Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001) is amended by replacing “and the power to designate an investigator under section 145 of that Act” in the fifth and sixth lines by “or under section 88.1 of the Act respecting parental insurance (2001, chapter 9), enacted by section 51 of chapter 13 of the statutes of 2005 as well as the power to designate an investigator under section 145 of the Act respecting income support, employment assistance and social solidarity or section 88.3 of the Act respecting parental insurance, enacted by section 51 of chapter 13 of the statutes of 2005”.

ACT RESPECTING THE MINISTÈRE DU REVENU

80. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 1 of chapter 10 of the statutes of 2004 and section 6 of chapter 2 of the statutes of 2005, is again amended by inserting the following subparagraph after subparagraph *j* of the second paragraph:

“(j.1) the Minister of Employment and Social Solidarity, solely to the extent that the information is required to establish a person’s entitlement to benefits under the Act respecting parental insurance (2001, chapter 9);”.

81. Section 93.2 of the Act, amended by section 513 of chapter 21 of the statutes of 2004, is again amended by inserting the following paragraphs after paragraph *h*:

“(h.1) a decision rendered under section 44 of the Act respecting parental insurance (2001, chapter 9);

“(h.2) an assessment issued for the purposes of Chapter IV of the Act respecting parental insurance, other than an assessment referred to in paragraph *h.3*, the amount of which does not exceed \$4,000;

“(h.3) an assessment relating to the eligible wages of a person referred to in section 51 of the Act respecting parental insurance or the business income of a self-employed worker, issued for the purposes of Chapter IV of that Act;”.

ACT RESPECTING LABOUR STANDARDS

82. Section 79.8 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing “mother, brother,” in the fourth line of the first paragraph by “his mother, the spouse of his father or mother, his brother, his”.

83. Section 81.1 of the Act is amended by striking out the fourth paragraph.

84. Section 81.5 of the Act is amended by striking out the second and third paragraphs.

85. Section 81.10 of the Act is amended

(1) by striking out “minor” in the second line of the first paragraph;

(2) by striking out the second paragraph.

86. The Act is amended by inserting the following sections after section 81.14:

“81.14.1. At the request of the employee, a maternity, paternity or parental leave may be divided into weeks if the child is hospitalized or if the employee may be absent under section 79.1 or 79.8, and in the cases, on the conditions, for the duration and within the time prescribed in the by-law.

“81.14.2. If the child is hospitalized during the maternity, paternity or parental leave, the leave may be suspended, following an agreement with the employer, to allow the employee to return to work during the hospitalization.

In addition, an employee who, before the expiry date of the leave, sends the employer a notice accompanied by a medical certificate attesting that the state of health of the child or, in the case of a maternity leave, that the state of health of the employee requires it, is entitled to an extension of the leave for the duration indicated in the medical certificate.”

87. Section 89 of the Act is amended by inserting the following paragraph after paragraph 6.1:

“(6.1.1) the other cases, conditions, times and durations prescribed for the division of a maternity, paternity or parental leave into weeks;”.

ACT RESPECTING THE QUÉBEC PENSION PLAN

88. The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by inserting the following section after section 65:

“65.1. If an application under section 44 of the Act respecting parental insurance (2001, chapter 9) has been made by an employer or an employee referred to in section 65 for a given year, no application may be made under that section 65 for that year by an employer or an employee involved in the application.

The decision rendered for the purposes of the Act respecting parental insurance as to the capacity in which the person is required to pay a premium for a given year is valid as if it had been rendered for the purposes of this Title.”

89. Section 72 of the Act is replaced by the following section:

“72. Whatever its imputation, any payment, whether of tax under the Taxation Act (chapter I-3), of an employer’s or an employee’s contribution under this Act or of a premium under the Act respecting parental insurance (2001, chapter 9), must first be imputed on the contribution payable under this Act.”

90. Section 77 of the Act is replaced by the following section:

“77. Whatever its imputation, any payment, whether of tax under the Taxation Act (chapter I-3), of a contribution in respect of self-employed earnings under this Act or of a premium under the Act respecting parental insurance (2001, chapter 9), must first be imputed on the contribution payable under this Act.”

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

91. The Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by inserting the following section after section 42:

“42.1. A pregnant worker shall receive no indemnity under sections 40 to 42 from the fourth week preceding the expected date of delivery, as stated in the certificate referred to in section 40, if she is eligible for benefits under the Act respecting parental insurance (2001, chapter 9).

However, the expected date of delivery may be changed after a pregnant worker referred to in the first paragraph files a claim for benefits under the Act respecting parental insurance, provided the Minister of Employment and Social Solidarity communicates the new date to the Commission not later than four weeks before the initial expected date of delivery.”

92. The Act is amended by inserting the following section after section 174:

“174.1. The Commission and the Minister of Employment and Social Solidarity shall enter into an agreement for the communication of the information required for the purposes of this Act and the Act respecting parental insurance (2001, chapter 9).”

ACT RESPECTING INCOME SUPPORT, EMPLOYMENT ASSISTANCE
AND SOCIAL SOLIDARITY

93. Section 27 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is amended by adding “or to which they are entitled under the Act respecting parental insurance (2001, chapter 9)” at the end of subparagraph *c* of subparagraph 3 of the first paragraph.

94. Section 156 of the Act is amended by inserting “or parental insurance” after “employment-insurance” in paragraph 18.

ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DU
REVENU AND OTHER LEGISLATIVE PROVISIONS AS REGARDS
THE PROTECTION OF CONFIDENTIAL INFORMATION

95. Section 12 of the Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information (2002, chapter 5) is amended by striking out “or the Act respecting parental insurance (2001, chapter 9)” in subparagraph 3 of subparagraph *n* of the second paragraph of section 69.1 of the Act respecting the Ministère du Revenu, enacted by paragraph 6.

96. Section 13 of the Act is amended by replacing “, the Act respecting family benefits (chapter P-19.1) or the Act respecting parental insurance (2001, chapter 9)” in the second paragraph of section 69.4 of the Act respecting the Ministère du Revenu, that it enacts, by “or the Act respecting family benefits (chapter P-19.1)”.

97. Section 39 of the Act is amended by striking out “except the words “or the Act respecting parental insurance (2001, chapter 9)” in subparagraph *n* of the second paragraph of section 69.1 and in section 69.4 of the Act respecting the Ministère du Revenu, amended, respectively, by sections 12 and 13, which will come into force on the date to be fixed by the Government, and”.

TRANSITIONAL AND FINAL PROVISIONS

98. The Conseil de gestion de l’assurance parentale is responsible for setting up the parental insurance plan and developing business processes leading to its implementation.

99. The work related to setting up and developing operational processes and procedures leading to the implementation of the plan are to be carried out by the Minister of Employment and Social Solidarity and the Minister of Revenue.

100. The expenses incurred and commitments made from 1 April 2004 by the Minister of Employment, Social Solidarity and Family Welfare, by the Minister of Employment and Social Solidarity from 18 February 2005, and by

the Minister of Revenue for setting up and developing operational processes and procedures leading to the implementation of the plan are borne by the Conseil de gestion de l'assurance parentale until 16 June 2005.

The sums required to reimburse the expenses are taken out of the sums at the disposal of the Conseil de gestion under section 111 of the Act respecting parental insurance, as amended by section 60.

The expenses are payable out of the Parental Insurance Fund from 17 June 2005.

101. From 17 June 2005, the Parental Insurance Fund assumes all the financial obligations contracted by the Conseil de gestion de l'assurance parentale from 10 January 2005, excluding those contracted by the Conseil de gestion otherwise than in its fiduciary capacity, and every document evidencing such an obligation is deemed to evidence an obligation of the Fund.

From the same date, the expenses incurred and commitments made by the Conseil de gestion from 10 January 2005, excluding those incurred or made by the Conseil otherwise than in its fiduciary capacity, are payable out of the Parental Insurance Fund.

The sums required from 10 January 2005 to pay the remuneration and expenses relating to the employment benefits and other conditions of employment of the personnel members of the Conseil de gestion, insofar as they work within the scope of the fiduciary functions of the Conseil de gestion, are also payable out of the Fund.

102. Despite section 21 of the Act respecting parental insurance (2001, chapter 9), as amended by section 13, if only insurable earnings from employment are considered, the average insurable earnings may, on request, be determined on the basis of a period of not more than 26 consecutive weeks preceding the beginning of the person's qualifying period. The average insurable earnings during that period are calculated using the method established by regulation of the Conseil de gestion de l'assurance parentale, excluding, on the conditions prescribed by regulation, the weeks where insurable earnings are below the threshold determined by regulation and subject to the divisor not being less than 16.

Likewise, the average insurable earnings may, on request and in the cases provided for by regulation of the Conseil de gestion, be determined on the basis of the 14 weeks involving the highest amount of insurable earnings from employment during the 52 weeks preceding a benefit period. The regulation must prescribe the method for calculating the average insurable earnings.

The average insurable earnings must be calculated in such a way that the recipient receives benefits equal to or greater than the benefits the recipient would have been entitled to under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).

This section remains in force until the Government terminates its application by order.

103. Despite subparagraph 1 of the first paragraph of section 3 of the Act respecting parental insurance (2001, chapter 9), as replaced by section 2, a person who, on (*insert the date preceding that of the coming into force of this section*), held an employment in respect of which the person was not required to pay a premium under the Employment Insurance Act for the sole reason that it was not insurable employment within the meaning of that Act and who, for (*insert the year of coming into force of this section*), will be required to pay a premium under the Act respecting parental insurance is eligible for benefits under the latter Act, if the person meets the other conditions prescribed by the latter Act.

For the purpose of determining the person's average weekly earnings, the insurable earnings from an employment for (*insert the year preceding that of the coming into force of this section*) correspond to the insurable earnings from an employment defined in paragraph 1 of section 22 of the latter Act, as replaced by section 14.

104. Despite subparagraph 1 of the first paragraph of section 3 of the Act respecting parental insurance (2001, chapter 9), as replaced by section 2, a person who, on (*insert the date of coming into force of this section*), was carrying on a business, also did so in (*insert the year preceding that of the coming into force of this section*) and, for (*insert the year of coming into force of this section*), will be required to pay a premium under the plan established by that Act is eligible for benefits under that Act if the person meets the other conditions prescribed by that Act.

For the purpose of determining the person's average weekly earnings, the person's business income for the year (*insert the year preceding that of the coming into force of this section*) corresponds to the insurable earnings defined in paragraph 2 of section 22 of that Act, as replaced by section 14.

105. The Conseil de gestion de l'assurance parentale may, by regulation, determine a different method for the reduction of the benefits of a beneficiary who, under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), may earn higher income without a reduction in benefits.

The regulation must set out the cases in which that method applies and the income threshold below which benefits are not reduced. The method, applied on request, must ensure that the recipient receives benefits equal to or greater than the benefits the recipient would have been entitled to under the Employment Insurance Act.

This section remains in force until the Government terminates its application by order.

106. If the Conseil de gestion de l'assurance parentale fails to make a regulation under section 102 or 105 within a time that the Government considers reasonable, the Government may make the regulation. The regulation is deemed to be a regulation of the Conseil de gestion and the provisions of section 107 apply.

107. A regulation made before (*insert the date of coming into force of section 1 of chapter 9 of the statutes of 2001*) under the Act respecting parental insurance (2001, chapter 9) as amended by this Act may be published within a period shorter than that set out in section 11 of the Regulations Act (R.S.Q., chapter R-18.1) but not less than 15 days, is exempt from the requirement set out in section 17 of that Act regarding the date of coming into force and, despite section 6 of the Act respecting parental insurance, may be published later than the date set out in that section.

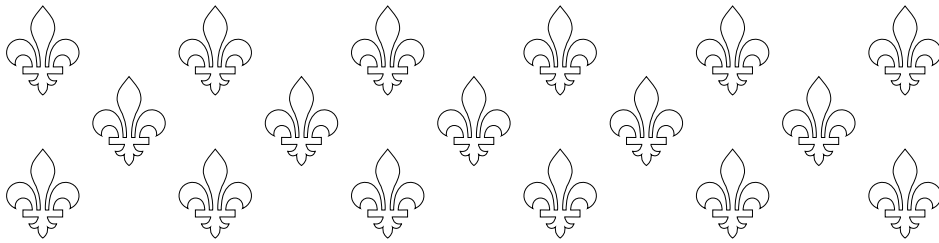
108. The Government may, by regulation, adopt any other transitional provision or measure that is expedient for the purposes of this Act, the Canada-Québec Final Agreement on the Québec Parental Insurance Plan and related administrative agreements before 17 June 2006.

A regulation made under this section is not subject to the publication requirement under section 8 of the Regulations Act (R.S.Q., chapter R-18.1). Moreover, a regulation may, if it so provides, apply from any date that is not prior to the date of coming into force of this section.

109. Despite section 154 of the Act respecting parental insurance (2001, chapter 9), subparagraph 4 of the first paragraph of section 3, sections 4, 7 and 8, the second paragraph of section 16, the second paragraph of section 18, the first paragraph of section 19, section 20, the first and third paragraphs of section 21, the second and third paragraphs of section 23, the second paragraph of section 26, the second paragraph of section 34, section 38, the third paragraph of section 83 and subparagraphs 2 to 6 of the first paragraph and the second paragraph of section 88 of that Act, insofar as they are necessary to allow the Conseil de gestion de l'assurance parentale to exercise its regulatory powers, come into force on 17 June 2005.

110. Sections 55 and 98 have effect from 10 January 2005 and section 99 has effect from 1 April 2004.

111. This Act comes into force on 17 June 2005, except sections 2, 4 to 6, 10, 15, 20, 47, 50, 102 and 105, save where those provisions apply in respect of the Conseil de gestion de l'assurance parentale and to the extent that they are necessary to allow it to exercise its regulatory powers, in which case they also come into force on 17 June 2005, and sections 1, 3, 7 to 9, 11 to 14, 16 to 19, 21 to 46, 49, 51, 69 to 72, 74, 81 to 91, 93 to 97, 103 and 104, which come into force on the date or dates to be set by the Government.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 110
(2005, chapter 14)

**An Act to amend the Act respecting
the legal publicity of sole
proprietorships, partnerships and legal
persons and other legislative provisions**

**Introduced 12 May 2005
Passage in principle 31 May 2005
Passage 8 June 2005
Assented to 17 June 2005**

**Québec Official Publisher
2005**

EXPLANATORY NOTES

This bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons and the Act respecting the Ministère du Revenu to allow enterprises to update the information contained in the register of sole proprietorships, partnerships and legal persons when filing their fiscal return, in accordance with an agreement to be entered into between the enterprise registrar and the Minister of Revenue.

The bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons by substituting an annual registration fee for the fee payable on the presentation of an annual declaration. Legal persons that are required to file a fiscal return, and natural persons operating sole proprietorships, will pay that fee to the Minister of Revenue, while enterprises having other juridical forms will pay it to the enterprise registrar.

The bill allows the use of information technologies for filing the declarations required by the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons, subject to the conditions that will be determined by the enterprise registrar.

As well, the bill introduces provisions that will allow the enterprise registrar, after an agreement is entered into, to send a department, body or government enterprise the information contained in the register. It also grants the enterprise registrar the power to correct ex officio any addresses declared in the register of sole proprietorships, partnerships and legal persons that are inaccurate.

Lastly, the bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons to clarify the way certain provisions of that Act are to be administered. It also contains transitional provisions and consequential amendments.

LEGISLATION AMENDED BY THIS BILL:

- Cooperatives Act (R.S.Q., chapter C-67.2);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

– Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45).

Bill 110

AN ACT TO AMEND THE ACT RESPECTING THE LEGAL PUBLICITY OF SOLE PROPRIETORSHIPS, PARTNERSHIPS AND LEGAL PERSONS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** Section 10 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) is amended by replacing “registration number” at the end of subparagraph 1 of the first paragraph by “business number”.
- 2.** Section 12 of the Act is amended by replacing “registration number” in paragraph 2 by “business number”.
- 3.** Section 17 of the Act is amended by replacing paragraph 1 by the following paragraph:

“(1) be in conformity with section 57.1;”.
- 4.** Section 21 of the Act is amended
 - (1) by replacing “described in the first paragraph of section 10 and assigning a registration number to the registrant” in the fourth and fifth lines of the first paragraph by “and assigning a Québec business number to the registrant”;
 - (2) by replacing “registration number” in the first line of the second paragraph by “business number”.
- 5.** Section 23 of the Act is amended
 - (1) by replacing “registration number” in the fifth line of the first paragraph by “business number”;
 - (2) by striking out the second paragraph.
- 6.** The Act is amended by inserting the following section after section 23:

“23.1. The initial declaration must

 - (1) be completed by the registrant or an authorized person;

(2) be in conformity with section 57.1; and

(3) be filed with the enterprise registrar within 60 days after the registration date.

If the declaration is filed after the time prescribed in subparagraph 3 of the first paragraph, it must also be presented with the fee prescribed by regulation.”

7. Section 24 of the Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) is not in conformity with section 57.1;”.

8. Section 26 of the Act is amended by replacing “contained in the declaration of registration or initial declaration” in the first and second lines of the first paragraph by “in the register concerning the registrant”.

9. The Act is amended by inserting the following sections after section 26:

“**26.1.** A registrant who must file a fiscal return with the Minister of Revenue under section 1000 of the Taxation Act (chapter I-3), or, in the case of a natural person operating a sole proprietorship, who would be required to file such a return if tax were payable by the person under Part I of that Act, may, during the filing period for an annual declaration, update the information in the register concerning the registrant by filing the prescribed form with the registrant’s fiscal return and indicating on that form any changes in the information entered in the reference document sent previously by the Minister of Revenue.

The form provided for in the first paragraph shall be prescribed by the Minister or Deputy Minister of Revenue. Sections 36.1, 37.1, 37.3 and 37.6 of the Act respecting the Ministère du Revenu (chapter M-31) apply to that form, with the necessary modifications. Section 89 of that Act does not apply.

“**26.2.** Where the application of the Taxation Act (chapter I-3) changes the filing period for the annual declaration of a registrant referred to in section 26.1 who is a legal person, the registrant is required to satisfy the obligation under section 26 only once during a calendar year.

“**26.3.** A legal person whose filing period for an annual declaration spans two calendar years and who, in accordance with section 26 or 26.1, updates the information concerning the legal person during the part of that period that is in the second calendar year although no such updating was done during the preceding calendar year, is deemed to have satisfied the annual updating obligation for the preceding calendar year.

The enterprise registrar shall enter each year for which the legal person is deemed to have satisfied the annual updating obligation under the first paragraph in the legal person’s statement of information.”

10. Section 28 of the Act is amended

(1) by replacing “, of which a copy, extract or transcription is deposited in the register pursuant to section 71,” in the third and fourth lines by “, that is deposited in the register following its transfer under section”;

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

“Every registrant who, during the period referred to in the first paragraph, files under section 26.1 a document transferred under section 72.1 that is deposited in the register together with the reference document sent previously by the Minister of Revenue is also exempted from that requirement.”

11. Section 29 of the Act is amended by replacing the second paragraph by the following paragraph:

“The notice must state that registration may be struck off if the registrant fails to remedy the default and to file the next annual declaration required of that registrant.”

12. Section 30 of the Act is amended by striking out “tardy filing” in the second line of the second paragraph.

13. The Act is amended by inserting the following section after section 30:

“30.1. A document transferred to the enterprise registrar under section 72 or 73 must be drawn up in accordance with the specifications determined by regulation.

In addition, a document submitted with the form provided for in section 26.1 and transferred to the enterprise registrar under section 72.1 must be drawn up in accordance with the specifications determined by regulation or on a medium of the same type, quality and format as that of the form.”

14. Section 31 of the Act is amended

(1) by replacing subparagraphs 4 and 5 of the first paragraph by the following subparagraphs:

“(4) is not in conformity with section 57.1;

“(5) is not presented with the fees prescribed by regulation, if those fees are payable.”;

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

“The enterprise registrar shall also refuse to file in the register the document referred to in section 28 if it is not in conformity with subparagraphs 1 and 2 of the first paragraph or section 30.1, or, in the case of a document filed by a

registrant and transferred under section 72.1, if it does not indicate the number of the reference document sent previously by the Minister of Revenue.”

15. Section 33 of the Act is amended by replacing the first paragraph by the following paragraphs:

“33. Where a registrant discovers or is informed that a declaration filed by the registrant or a document filed by the registrant and transferred under section 72, 72.1 or 73 is incomplete or contains inaccurate information, the registrant must make the appropriate correction by filing an amending declaration.

The correction is deemed to take effect from the date of deposit of the declaration or of the corrected document, as the case may be.”

16. Section 35 of the Act is amended by replacing “a declaration amending the declaration of registration or the initial declaration of the registrant whose registration number it retains” in the third and fourth lines by “an amending declaration to update in the register the information concerning the registrant whose business number it retains”.

17. Section 40 of the Act is amended

(1) by replacing “, of which a copy, extract or transcription is deposited in the register under section 71,” in the second and third lines by “ that is deposited in the register following its transfer under section”;

(2) by adding the following paragraph:

“Every registrant who, under section 26.1, files a document containing such information that is deposited in the register following its transfer under section 72.1 is also exempted from that requirement, if the second paragraph of section 28 does not apply.”

18. Section 41 of the Act is replaced by the following section:

“41. Every amending declaration must be presented to the enterprise registrar within 15 days after the change. It must

(1) be drawn up in duplicate on the form supplied for the purpose or authorized by the enterprise registrar, in accordance with the specifications determined by regulation;

(2) indicate the business number of the registrant and the change; and

(3) be in conformity with section 57.1.”

19. The Act is amended by inserting the following section after section 41:

41.1. A document transferred to the enterprise registrar under section 72 or 73 must be drawn up in accordance with the specifications determined by regulation.

In addition, a document submitted with the form provided for in section 26.1 and transferred to the enterprise registrar under section 72.1 must be drawn up in accordance with the specifications determined by regulation or on a medium of the same type, quality and format as that of the form.”

20. Section 42 of the Act is amended by inserting the following paragraph after the first paragraph:

“The enterprise registrar shall also refuse to deposit in the register a document referred to in section 40 that is not in conformity with subparagraphs 1 and 2 of the first paragraph, paragraph 2 of section 41 or section 41.1.”

21. Section 43 of the Act is amended by adding “; in the case of a document referred to in section 40, the enterprise registrar shall deposit it” at the end of the first paragraph.

22. Section 47 of the Act is replaced by the following section:

47. Every declaration for striking off must

(1) be drawn up in duplicate on the form supplied for the purpose or authorized by the enterprise registrar, in accordance with the specifications determined by regulation;

(2) be in conformity with section 57.1;

(3) indicate the business number of the registrant; and

(4) if it concerns a registrant other than a registrant referred to in section 57.5 or 57.6, be submitted with the annual registration fee, if that fee is payable, and any penalty prescribed in section 57.3.”

23. Section 48 of the Act is amended by replacing “the provisions of” in the second line of the first paragraph by “subparagraphs 1 to 3 of”.

24. Section 50 of the Act is amended by adding the following paragraph at the end:

“However, that legal person is deemed to continue in existence in order to terminate any judicial or administrative proceeding.”

25. Section 56 of the Act is amended by replacing “d’immatriculation” in the first line of the first paragraph of the French text by “de l’immatriculation”.

26. The Act is amended by inserting the following after section 57:

“CHAPTER IV.1**“TRANSMISSION OF DECLARATIONS**

“57.1. A declaration filed under this Act must be signed by the registrant or the registrant’s representative or be sent using an information technology medium in accordance with the conditions determined by the enterprise registrar.

“CHAPTER IV.2**“ANNUAL REGISTRATION FEE**

“57.2. A registrant who is registered on 1 January of each year must pay the annual registration fee prescribed by regulation that is applicable to the registrant’s juridical form on that date.

The obligation to pay the fee exists from the second year following the registrant’s initial registration.

“57.3. The registrant shall pay the annual registration fee to the enterprise registrar not later than whichever of the following dates occurs first:

(1) the date on which the period during which the registrant must file an annual declaration ends; and

(2) the date of presentation of a declaration for striking off, a document referred to in section 53, or any other document that entails the striking off of the registrant’s registration.

A registrant who fails to pay the annual registration fee in accordance with the first paragraph must, in addition, pay a penalty equal to 50% of that fee.

“57.4. Despite sections 57.2 and 57.3, a registrant or a registrant’s representative who presents an application for the revocation of a striking off under section 54 must also pay the enterprise registrar the annual registration fee prescribed by regulation for the current year, the fees in respect of all the years from the time of striking off until the presentation of the application, and the corresponding penalty prescribed in the second paragraph of section 57.3.

“57.5. Despite section 57.3, a natural person who operates a sole proprietorship and to whom section 26.1 applies shall pay the Minister of Revenue the annual registration fee on or before the balance-due day determined in respect of the registrant for the purposes of Part I of the Taxation Act (chapter I-3) for the preceding taxation year.

“57.6. Despite section 57.3, a legal person to which section 26.1 applies shall pay the Minister of Revenue the annual registration fee for a given year on or before the balance-due day determined in respect of the registrant for the

purposes of Part I of the Taxation Act (chapter I-3) for the taxation year that includes 1 January of that year.

57.7. Sections 57.5 and 57.6 constitute a fiscal law within the meaning of the Act respecting the Ministère du Revenu (chapter M-31).

Sections 1000 to 1010, 1037, 1045 and 1052 of the Taxation Act (chapter I-3) apply, with the necessary modifications, to sections 57.5 and 57.6.”

27. Section 61 of the Act is amended by inserting “and the documents transferred to the enterprise registrar under sections 72, 72.1 and 73 which are” after “contents of the declarations” in the second line.

28. Section 62 of the Act is amended

(1) by replacing the second sentence of the first paragraph by the following sentence: “Third persons may submit any proof to refute the information contained in a declaration or in a document transferred to the enterprise registrar under section 72, 72.1 or 73.”;

(2) by replacing “registration number” in the third line of subparagraph 15 of the second paragraph by “business number”.

29. Section 66 of the Act is amended by replacing “transcribe its contents in” in the third line of the first paragraph by “add its contents to”.

30. Section 67 of the Act is amended by replacing “transcribed” at the end of the first paragraph by “added”.

31. Section 68 of the Act is amended

(1) by replacing “any error contained in the index of documents, the statement of information or the index of names” in the first paragraph by “an index of documents, statement of information or index of names that is not consistent with the information declared by the registrant or the person referred to in section 5”;

(2) by replacing “that contains a clerical error or an inaccurate postal code” in the second line of the second paragraph by “inaccurate”;

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

“Where the correction is substantial, the enterprise registrar shall make the correction and deposit in the register a notice to that effect, a copy of which shall be given to the registrant.”

32. Section 70 of the Act is replaced by the following section:

“70. The enterprise registrar may, *ex officio*, cancel an entry or the deposit in the register of a declaration, a notice under the second paragraph of section 43, a notice of closure or a liquidation notice under section 53, or a document transferred under section 72, 72.1 or 73, where the presentation of the declaration, notice or document giving rise to the registration was carried out without entitlement.”

33. Section 71 of the Act is repealed.

34. Section 72 of the Act is amended

(1) by replacing “an agreement” in the first line of the first paragraph by “a written agreement”;

(2) by replacing “The department or body is authorized” in the first line of the second paragraph by “Any department or body is competent”;

(3) by replacing the third, fourth and fifth paragraphs by the following paragraphs:

“Where the document contains information that is not required for the purposes of the register, the department or body shall transfer to the enterprise registrar only a document containing the required information.

The department or body must inform the registrant before transferring a document that contains information concerning the registrant.”

35. The Act is amended by inserting the following section after section 72:

“72.1. The enterprise registrar shall enter into a written agreement with the Minister of Revenue to allow the document filed by a registrant under section 26.1 and a copy of the reference document sent previously to the registrant to be deposited in the register.

The Minister of Revenue is competent to enter into such an agreement and to transfer the documents referred to in the first paragraph to the enterprise registrar for deposit in the register.”

36. Section 73 of the Act is amended by replacing “an agreement” in the first line by “a written agreement”.

37. The Act is amended by inserting the following sections after section 73.1:

“73.2. The enterprise registrar may enter into a written agreement with a department, body or government enterprise to communicate to it information contained in a document filed by a registrant under this Act, where that information must also be communicated by the registrant to that department, body or enterprise.

Any department, body or government enterprise is competent to enter into such an agreement with the enterprise registrar.

The enterprise registrar must inform the registrant before transferring information concerning the registrant.

“73.3. The enterprise registrar may enter into a written agreement with a department, body or government enterprise to communicate to it all the information contained in the register and any subsequent amendments, where such a communication is necessary for the purposes of the duties and powers of that department, body or enterprise.

Any department, body or government enterprise is competent to enter into such an agreement with the enterprise registrar.

A department, body or government enterprise that receives information contained in the register under the first paragraph may not use that information to

(1) make a compilation of information for a third person; or

(2) make for its own purposes a compilation of information containing the name and address of a natural person or a compilation of information based on the name and address of a natural person, except if the compilation is made for the purposes set out in subparagraphs 1 to 3 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

An agreement referred to in the first paragraph must be submitted to the Commission d'accès à l'information for an opinion. Section 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information applies to such an agreement, with the necessary modifications.

Subparagraph 2 of the third paragraph does not prevent the Minister of Revenue from using the information from the register that was filed with the Minister by the enterprise registrar under section 71 of the Act respecting the Ministère du Revenu (chapter M-31) to make a compilation of information.

“73.4. For the purposes of this Act, a government body includes any body referred to in the first paragraph of section 2 of the Financial Administration Act (chapter A-6.001), and a government enterprise includes any government enterprise referred to in the third paragraph of that section.

In addition, a person designated by the National Assembly to exercise a function under its authority is considered to be a government body.”

38. Section 82 of the Act is amended

(1) by replacing the second sentence of the first paragraph by the following sentence: “Third persons may submit any proof to refute the information contained in a declaration or in a document transferred to the enterprise registrar under section 72, 72.1 or 73.”;

(2) by replacing “registration number” in subparagraphs 1 and 14 of the second paragraph by “business number”.

39. Section 84 of the Act is replaced by the following section:

“84. Any interested person may, upon payment of the fees prescribed by regulation, petition the enterprise registrar to cancel an entry or the deposit in the register of a declaration, a notice under the second paragraph of section 43, a notice of closure or a liquidation notice under section 53, or a document transferred under section 72, 72.1 or 73, where the presentation of the declaration, notice or document giving rise to the registration was carried out without entitlement.”

40. Section 98 of the Act is amended

(1) by inserting “or an annual declaration” after “an initial declaration” in subparagraph 2 of the first paragraph;

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

“The Government may also, by regulation, prescribe the annual registration fee payable and the fees payable for priority processing, on request, of a document that has been filed.”

41. Section 101 of the Act is amended

(1) by inserting “the following duly completed declarations within the applicable time:” at the end of the part preceding paragraph 1;

(2) by replacing “section 23 within the prescribed time” in paragraph 2 by “section 23.1”;

(3) by inserting “the registrant or person is deemed to have satisfied the obligation under section 26.3 or is” after “unless” in paragraph 3.

42. Section 102 of the Act is amended

(1) by replacing “23” in the second line by “23.1”;

(2) by striking out “être” in the third line of the French text.

43. The Act is amended by inserting the following section after section 102:

102.1. A registrant or a person referred to in section 5 is guilty of an offence upon knowingly presenting under section 26.1 a false, incomplete or misleading document that is deposited in the register following its transfer under section 72.1.”

44. Section 103 of the Act is amended by inserting “duly completed” after “file the” in paragraph 1.

45. Section 104 of the Act is amended by inserting “duly completed” after “time, the” in paragraph 1

46. Section 105 of the Act is amended by inserting “duly completed” after “present the” in paragraph 1.

47. Section 107 of the Act is amended by adding “in the case of a natural person, and not less than \$400 and not more than \$4,000 in the case of a legal person” at the end of the first paragraph.

48. Section 530 of the Act is amended by replacing “retain its existence in order to terminate any judicial proceeding” by “continue its existence in order to terminate any judicial or administrative proceeding”.

49. Section 539 of the Act is replaced by the following section:

539. The Minister of Finance is responsible for the administration of this Act, except sections 57.5, 57.6 and 57.7, which shall be administered by the Minister of Revenue.”

COOPERATIVES ACT

50. Section 190 of the Cooperatives Act (R.S.Q., chapter C-67.2) is amended by adding the following paragraph at the end:

“However, the cooperative referred to in the dissolution order is deemed to continue in existence in order to terminate any judicial or administrative proceeding.”

TAXATION ACT

51. Section 85.3.2 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing “registration number” in the third line of subparagraph *c* of the first paragraph by “business number”.

ACT RESPECTING THE MINISTÈRE DU REVENU

52. Section 12.0.2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 18 of chapter 4 and section 505 of chapter 21 of the statutes of 2004, is again amended by inserting “an assessment

issued pursuant to section 57.5 or 57.6 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45),” after “Taxation Act,” in the first paragraph.

53. Section 58.1.1 of the Act is amended by replacing “registration number” in paragraph *f* by “business number”.

54. Section 69.1 of the Act, amended by section 1 of chapter 10 of the statutes of 2004 and section 6 of chapter 2 of the statutes of 2005, is again amended

(1) by replacing “registration number” in the eighth line of subparagraph *h* of the second paragraph by “business number”;

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

“(u) the enterprise registrar, but only to the extent that the information is necessary to identify a registrant referred to in section 26.1 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45), to verify the address used to send the reference document referred to in that section, or, where the registrant is a corporation, to determine the filing period for the registrant’s annual declaration.”

55. Section 93.1.1 of the Act, amended by section 37 of chapter 4 of the statutes of 2004, is again amended by inserting “an assessment issued pursuant to section 57.5 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45),” after “Taxation Act (chapter I-3),” in the second paragraph.

56. Section 93.2 of the Act, amended by section 513 of chapter 21 of the statutes of 2004, is again amended by adding the following paragraph after paragraph *n*:

“(o) an assessment pursuant to section 57.5 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45).”

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

57. The declaration referred to in section 26 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) for a year prior to the year 2006 that was not filed by 1 January 2006 must, when filed, be presented with the fees prescribed by regulation that would have been applicable had the declaration been filed in accordance with the provisions of that Act in force on 31 December 2005 and the tardy filing fee corresponding to the fee applicable for the tardy filing of an annual declaration that was required before 1 January 2006.

Section 30 and subparagraphs 1 to 3 and 5 of the first paragraph of section 31 of that Act, as they read on 31 December 2005, apply to a declaration referred to in the first paragraph.

58. A legal person referred to in section 26.1 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45), enacted by section 9 of this Act, is exempted from the obligation under section 26 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons during the filing period applicable to that legal person if that period ends between 1 January and 30 June 2006, inclusively.

59. Despite section 57.2 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45), enacted by section 26 of this Act, a registrant whose registration is struck off after 31 December 2005 is exempted from paying the annual registration fee for the year 2006 if the document whose deposit in the register entailed the striking off was presented duly completed to the enterprise registrar before 1 January 2006.

60. This Act comes into force on 17 June 2005, except section 3, paragraph 2 of section 5, sections 6, 7 and 9, paragraph 2 of section 10, sections 12 to 15, paragraph 2 of section 17, sections 18 to 20, 22, 23, 26 and 27, paragraph 1 of section 28, section 32, paragraph 1 of section 38, sections 39 to 41, paragraph 1 of section 42 and sections 43, 49, 52 and 55 to 59, which come into force on 1 January 2006.

Regulations and other acts

Gouvernement du Québec

Agreement

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

AGREEMENT CONCERNING NEW METHODS OF VOTING FOR AN ELECTION USING “ACCU-VOTE ES 2000” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The LOCAL MUNICIPALITY OF MORIN-HEIGHTS, a legal person established in the public interest, having its head office at 567, chemin du Village, Province de Québec, represented by the mayor, Mr. Michel Plante, and the Director general - Secretary-treasurer, Mr. Yves Desmarais, under resolution number 67-04-05, hereinafter called

THE LOCAL MUNICIPALITY

AND

LES PAYS-D'EN-HAUT REGIONAL COUNTY MUNICIPALITY, a legal person established in the public interest, having its head office at 1014, rue Valiquette, Province de Québec, hereby represented by the warden, Mr. Charles Garnier, and the Director general - Secretary-treasurer, M^r Yvan Genest, under resolution number CM-62-04-05, hereinafter called

THE REGIONAL COUNTY MUNICIPALITY

AND

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

THE CHIEF ELECTORAL OFFICER

AND

the Honourable Nathalie Normandeau, in her capacity as MINISTER OF MUNICIPAL AFFAIRS AND REGIONS, having her main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province de Québec, hereinafter called

THE MINISTER

WHEREAS the council of the LOCAL MUNICIPALITY, by its resolution No. 244-11-04, passed at its meeting of November 10, 2004 and the council of the REGIONAL COUNTY MUNICIPALITY, by its resolution No. 164-10-04 adopted at its meeting of October 12th, 2004 have expressed the desire to avail themselves of the provisions of the Act respecting elections and referendums in municipalities and to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the general election of November 6, in the year 2005 in the LOCAL MUNICIPALITY and on the same date the election for the warden of the REGIONAL COUNTY MUNICIPALITY;

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

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

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

The agreement has the effect of law.

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

WHEREAS the LOCAL MUNICIPALITY AND THE REGIONAL COUNTY MUNICIPALITY expressed the desire to avail themselves of the provisions to hold a general election on November 6, 2005 and, could, with the necessary adaptations, avail themselves of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS the LOCAL MUNICIPALITY adopted resolution No. 67-04-05, at its meeting of April 13th, 2005, approving the text of the agreement and authorizing the Mayor and the Director general - Secretary-treasurer to sign the present agreement;

WHEREAS the REGIONAL COUNTY MUNICIPALITY designated by rural character may, by by-law, decree that the warden must be elected in accordance to article 210.29.2 of the Municipal Territorial Organization Act (R.S.Q., c. O-9);

WHEREAS the REGIONAL COUNTY MUNICIPALITY adopted such a by-law at its meeting of July 24th, in the year 2001;

WHEREAS that in a REGIONAL COUNTY MUNICIPALITY, the election of a warden must be held during the same year as the general election of all municipalities;

WHEREAS the provisions of the Elections and referendums in municipalities Act which are relative to the election of the Mayor, with the exception of those in chapter III and IV of Title 1, apply to the election of a warden on November 6th, 2005 and for every subsequent election stipulated in the agreement should they be compatible with such an election, taking into account the necessary adaptations;

WHEREAS the REGIONAL COUNTY MUNICIPALITY would like to use the new voting mechanism which will be used in the LOCAL MUNICIPALITY;

WHEREAS the Council of the REGIONAL COUNTY MUNICIPALITY adopted, at its meeting of April 12th, in the year 2005, resolution No. CM-62-04-05 approving the text of the agreement and authorizing the warden and the Director general - Secretary-treasurer to sign the present agreement;

WHEREAS that in order to plan for these elections, the procedure which applies throughout the territory of the LOCAL MUNICIPALITY, and on part of the territory of the REGIONAL COUNTY MUNICIPALITY formed by the territory of the LOCAL MUNICIPALITY;

WHEREAS an agreement must be entered into between the LOCAL MUNICIPALITY, the REGIONAL COUNTY MUNICIPALITY, and the DIRECTOR GENERAL OF ELECTIONS and the MINISTER;

WHEREAS the LOCAL MUNICIPALITY and the REGIONAL COUNTY MUNICIPALITY are solely responsible for the choice of technology;

WHEREAS the returning officer of the LOCAL MUNICIPALITY and the returning officer of the REGIONAL COUNTY MUNICIPALITY are responsible for the application of this agreement and the means necessary to carry it out throughout the territory of the LOCAL MUNICIPALITY;

THEREFORE, the parties agree to the following:

1. PREAMBLE

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

2. INTERPRETATION

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

2.1 "Electronic ballot box" means an apparatus containing a vote tabulator, a memory card, a printer, a cardboard or, where necessary, plastic recipient for ballot papers and a modem, where necessary.

2.2 "Vote tabulator" means a device that uses an optical scanner to detect a mark made in a circle on a ballot paper by an elector.

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

2.4 "Recipient for ballot papers" means a box into which the ballot paper cards fall.

Where applicable, "transfer box" means the box in which the ballot paper cards are placed when a plastic recipient is used for the electronic ballot box.

2.6 "Ballot paper card" means the card on which the ballot paper or papers are printed.

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

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

Unless otherwise mentioned, the expression “returning officer” means the returning officer of the LOCAL MUNICIPALITY and the returning officer of the REGIONAL COUNTY MUNICIPALITY who carries out their respective tasks pertaining to elections in each of their municipalities, taking into account the necessary adaptations.

3. ELECTION

3.1 For the purposes of the general election in the LOCAL MUNICIPALITY and the election of the warden of the REGIONAL COUNTY MUNICIPALITY on November 6th of the year 2005 for a part of its territory which coincides with the territory of the LOCAL MUNICIPALITY, a sufficient number of “Accu-Vote”, model ES 2000, model electronic ballot boxes will be used.

Before the publication of the notice of election, the LOCAL MUNICIPALITY must take the necessary steps to provide its electors with adequate information concerning the testing of the new method of voting. It must also inform electors that the new method applies as well to the election to the office of warden of the REGIONAL COUNTY MUNICIPALITY.

If the election of the warden of the REGIONAL COUNTY MUNICIPALITY is to be held after November 6th, 2005, the “Accu-Vote”, model ES 2000 voting mechanism will be used throughout the LOCAL MUNICIPALITY.

If the election of the warden must be held between November 6th, 2005 and the month of November 2009, the REGIONAL COUNTY MUNICIPALITY must take the necessary steps to inform the electors of the LOCAL MUNICIPALITY that the “Accu-Vote”, model ES 2000 voting mechanism will be used for the election of the warden.

4. SECURITY MECHANISMS

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

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

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

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

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

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

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

5. PROGRAMMING

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

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

6.1 Election officers

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

6.2 Functions of the electoral personnel

Members of the electoral personnel may exercise their functions for the general election of the LOCAL MUNICIPALITY and for the election of the REGIONAL COUNTY MUNICIPALITY pursuant to an agreement between the returning officer regarding their roles and functions along with the necessary adaptations.

6.3 Senior deputy returning officer, assistant to the senior deputy returning officer, deputy returning officer and poll clerk

The following is substituted for section 76 of the Act:

“76. The returning officer shall appoint the number of senior deputy returning officers and assistants to the

senior deputy returning officer that he deems necessary for each polling place.

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

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

The following is substituted for section 80 of the Act:

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

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

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

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

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

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

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

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

(8) when a ballot paper card has been refused by the tabulator, ask the elector to return to the polling booth, mark all the circles and go to the polling station in order to obtain another ballot paper card;

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

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

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

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

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

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

80.2. The deputy returning officer shall, in particular,

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

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

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

(4) make sure of electors’ identity;

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

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

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

The following is substituted for section 90.5 of the Act:

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

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

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

6.6 Notice of election

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

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

6.7 Polling subdivisions

The following is substituted for section 104 of the Act:

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

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

6.8 Verification of electronic ballot box

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

“§1.1 *Verification of electronic ballot box*

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) he may not change the programming for the scanning of the mark in a circle without supervision from the firm Technologies Nexxlink inc.”.

6.9 Mobile polling station

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

“**175.1.** The electors shall indicate their vote on the same type of ballot paper as that used in an advance polling station. After marking the ballot paper, each

elector shall insert it in the confidentiality sleeve and place it in the ballot box provided for that purpose. At the close of the mobile poll, the deputy returning officer and the mobile poll clerk shall seal the ballot box and affix their initials to it.

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

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

6.10 Advance polling

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

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

- (1) the number of ballot paper cards received from the returning officer;
- (2) the number of electors who were given a ballot paper card;
- (3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;
- (4) the names of the persons who have performed duties as election officers or as representatives.

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

182.1. The senior deputy returning officer, in the presence of the candidates or of their representative who wish to be present, shall seal the recipient for ballot papers, and then place the electronic ballot box in its travel case and place a seal the case. The senior deputy returning officer and the representatives who wish to do so shall note the number entered on the seal.

The senior deputy returning officer shall then give the recipient or recipients for ballot papers, the transfer box and the envelopes containing the list of electors to the returning officer or to the person designated by the returning officer.

The returning officer shall have custody of the recipient or recipients for ballot papers until the results of the advance poll have been compiled and then for the time prescribed for the conservation of electoral documents.

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

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

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

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

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

The deputy returning officer, the poll clerk and the representatives who wish to do so shall affix their initials to the seal.

185. From 7:00 p.m. on polling day, the returning officer or the person designated by the returning officer shall print out the results compiled by the electronic

ballot box at an advance polling station, in the presence of the deputy returning officers, the poll clerks and the representatives who wish to be present.

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

6.11 Booths

The following is substituted for section 191 of the Act:

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

6.12 Ballot papers

The following is substituted for section 193 of the Act:

“**193.** With the exception of the entry stating the office to be filled, the ballot papers shall be printed by reversing process so that, on the obverse, the indications appear in white on a black background and the circles provided to receive the elector’s mark appear in white on an orange vertical strip.”.

Section 195 of the Act is revoked.

6.13 Identification of the candidates

Section 196 of the Act is amended

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

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

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

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

6.14 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** For the election of the LOCAL MUNICIPALITY, the ballot paper cards shall contain on the obverse, as shown in the Schedule:

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

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

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

197.1 For the election of the prefect of the regional county municipality, the ballot paper cards shall contain on the obverse, as shown in the Schedule:

- (1) the name of the REGIONAL COUNTY MUNICIPALITY;
- (2) the indication “election of the office of warden of les Pays-d’en-Haut” and the date of the poll;
- (3) the ballot paper;
- (4) the bar code.

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

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

(4) the bar code.”.

6.15 Confidentiality sleeve

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

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

6.16 Withdrawal of a candidate

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

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

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

6.17 Withdrawal of authorization or recognition

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

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

6.18 Number of electronic ballot boxes

The following is substituted for section 200 of the Act:

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

The returning officer shall ensure that a sufficient number of recipients for ballot paper cards and, where applicable, of transfer boxes are available for each electronic ballot box.”.

6.19 Provision of polling materials

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

6.20 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

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

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

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

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

The following is substituted for section 209 of the Act:

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

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

POLLING PROCEDURE

6.21 Presence at the polling station

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

“In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the election clerk, the assistant to the returning officer, the senior deputy returning officer and the assistant to the senior

deputy returning officer may be present at the station. The officer in charge of information and order may be present, at the request of the deputy returning officer for as long as may be required. The poll runner may be present for the time required to perform his duties. Any other person assisting an elector under section 226 may be present for the time required to enable the elector to exercise his right to vote.”.

6.22 Initialling of ballot papers

The following is substituted for section 221 of the Act:

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

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

6.23 Voting

The following is substituted for section 222 of the Act:

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

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

6.24 Following the vote

The following is substituted for section 223 of the Act:

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

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

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

6.25 Automatic acceptance

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

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

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

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

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

6.26 Cancelled ballots

The following is substituted for section 224 of the Act:

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

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

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

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

6.27 Visually impaired person

Section 227 of the Act is amended:

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

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

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

(2) by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.28 Compilation of results

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

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

The report on the compiled results shall indicate the total number of ballot paper cards, the number of rejected ballot papers and the number of valid votes for each office.

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

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

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

(2) the number of electors admitted to vote;

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

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

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

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

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

6.29 Compiling sheet

Section 231 of the Act is revoked.

6.30 Counting of the votes

Section 232 of the Act is revoked.

6.31 Rejected ballot papers

The following is substituted for section 233 of the Act:

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

(1) has not been marked;

(2) has been marked in favour of more than one candidate;

(3) has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words both the cards containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.”.

6.32 Rejected ballot papers, procedural omission, valid ballot papers

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

6.33 Contested validity

The following is substituted for section 237 of the Act:

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

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

The following is substituted for section 238 of the Act:

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

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

The deputy returning officer shall make two copies of the partial statement of votes, one of which must be given to the senior deputy returning officer.

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

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

Section 240 of the Act is revoked.

6.35 Separate, sealed and initialled envelopes given to the returning officer

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

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

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or representatives who wish to be present, the senior deputy returning officer:

— if the plastic recipient has been used for the electronic ballot box, place the ballot paper cards from the recipient of the electronic ballot box in a transfer box. Next, he shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. He shall seal the envelope, initial it, allow the representatives who wish to do so to initial it and place it in the transfer box. He shall seal and initial the transfer box and allow the representatives who wish to do so to initial it;

— if the cardboard recipient is used for the electronic ballot box, remove the cardboard recipient containing the ballot papers. Next, he shall remove the memory card from the electronic ballot box and insert it in an envelope with a copy of the report on the results compiled by the electronic ballot box. He shall seal the envelope, initial it, allow the representatives who wish to do so to initial it and place it in the cardboard recipient. He shall seal and initial the cardboard recipient and allow the representatives who wish to do so to initial it.

The senior deputy returning officer give the transfer boxes or the cardboard recipients to the returning officer or to the person designated by the returning officer.

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

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

Section 244 of the Act is revoked.

6.36 Addition of votes

The following is substituted for section 247 of the Act:

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

6.37 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

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

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

6.38 Placing in envelope

The following is substituted for section 249 of the Act:

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

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

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

6.39 New counting of the votes

The following is substituted for section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box equipped with a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.”.

6.40 Notice to the Minister

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

6.41 Access to ballot papers

The following is substituted for section 261 of the Act:

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

6.42 Application for a recount

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

7. EXAMINATION OF REJECTED BALLOT PAPERS

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

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

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

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

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

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

8. DURATION AND APPLICATION OF AGREEMENT

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

The returning officer of the REGIONAL COUNTY MUNICIPALITY is responsible for applying this new agreement and consequently, the proper operation of the trial of this new voting mechanism for the election of the warden until December 31st, 2009.

9. AMENDMENT

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

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

10. ASSESSMENT REPORT

Within 120 days following the general election held on November 6th, 2005, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister setting out relevant ways to improve the trial and addressing, in particular, the following points:

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

- the conduct of the advance poll and the poll;

- the cost of using the electronic voting system:

- the cost of adapting election procedures;

- non-recurrent costs likely to be amortized;

- a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the general election on November 6th, 2005 using traditional methods;

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

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

- the results obtained during the addition of the votes and the correspondence between the number of ballot paper cards issued to the deputy returning officers and the number of ballot paper cards returned used and unused;

- the examination of rejected ballot papers, if it has been completed.

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

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election held on November 6th, 2005 and for each subsequent election until December 31st, 2009, in the LOCAL MUNICIPALITY, at the election of the warden of the REGIONAL COUNTY MUNICIPALITY throughout the territory of the LOCAL MUNICIPALITY, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

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

AGREEMENT SIGNED IN THREE COPIES

In Morin-Heights, on this 18th day of the month of April of the year 2005

THE MUNICIPALITY OF MORIN-HEIGHTS

By: _____
MICHEL PLANTE, YVES DESMARAIS,
Mayor Director general and
Secretary-treasurer

In Sainte-Adèle, on this 29th day of the month of April of the year 2005

THE MUNICIPALITÉ RÉGIONALE DE COMTÉ
DES PAYS-D'EN-HAUT

By: _____
CHARLES GARNIER, M^e YVAN GENEST,
Prefect General Manager and
Secretary-treasurer

In Québec, on this 29th day of the month of April of the year 2005

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec on this 24th day of the month of May of the year 2005

THE MINISTER OF MUNICIPAL AFFAIRS
AND REGIONS

DENYS JEAN, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER HOLDER

MUNICIPALITY OF MATTEAU

Municipal Election - November 2, 2003

"SPÉCIMEN"

Mayor Office

Marie BONENFANT ●

Jean-Charles BUREAU ●
Appartenance politique

Pierre-A. LARRIVÉE ●

Councillor seat no. 1

Robert ALLARD ●

Denise LESSARD ●
Appartenance politique

Serge LECLERC ●

Councillor seat no. 2

Jean-Pierre BRODEUR ●
Appartenance politique

Guy BROSSÉ ●

Maurice RICHARD ●

Councillor seat no. 3

Gérard CYR ●
Appartenance politique

Claudine DUSSAULT ●

Anne DUBÉ ●

Monique LEMAIRE ●

Councillor seat no. 4

Luc GAUTHIER ●

Carl LUSSIER ●
Appartenance politique

Hélène ROCHETTE ●

Sylvain ST-PIERRE ●

Councillor seat no. 5

Joël MORIN ●
Appartenance politique

Alain PERRON ●

Councillor seat no. 6

Claude BRETON ●

Alain TREMBLAY ●
Appartenance politique

<input type="text"/>	<input type="text"/>
Initials of the deputy returning officer	Polling subdivision
Printer name Address City Postal code	

MRC of Matteau

MRC election - November 6, 2005

Prefect Office	
Marie BONENFANT	●
Jean-Charles BUREAU	●
Pierre-A LARRIVÉE	●

<input type="text"/>	<input type="text"/>
Initials of the deputy returning officer	Polling subdivision
Printer name Address City Postal code	

Gouvernement du Québec

Agreement

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

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

AGREEMENT ENTERED INTO

BETWEEN

COMITÉ DE TRANSITION DE L'AGGLOMÉRATION DE LONGUEUIL

A legal person having its head office at 6, boulevard Desaulniers, Saint-Lambert, Province de Québec, J4P 1L3, represented by Yves Ryan, President, duly authorized for the purposes of this agreement by virtue of Section 11.2 of the By-law relative to the financial and contractual management of the Comité de transition de l'agglomération de Longueuil, hereinafter called

THE COMMITTEE OF LONGUEUIL

AND

COMITÉ DE TRANSITION DE L'AGGLOMÉRATION DE MONTRÉAL

A legal person having its head office at 800, rue du Square-Victoria, Montréal, Province de Québec, H4Z 1J2, represented by Pierre Lortie, President, duly authorized for the purposes of this agreement by virtue of Section 11.2 of the By-law relative to the financial and contractual management of the Comité de transition de l'agglomération de Montréal, hereinafter called

THE COMMITTEE OF MONTRÉAL

(The Committee of Longueuil and the Committee of Montréal are hereafter collectively called the Committees.)

AND

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

THE CHIEF ELECTORAL OFFICER

AND

Mrs. Nathalie Normandeau, in her capacity as MINISTER OF MUNICIPAL AFFAIRS AND REGIONS, having her main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province de Québec, hereinafter called

THE MINISTER

AND

The returning officers of each of the four (4) municipalities of the Agglomération of Longueuil to be reconstituted designated by Committee of Longueuil resolutions No. 05-03-07 and No. 05-05-01 adopted at the March 8 and May 5, 2005 meetings and the returning officers designated for each of the fifteen (15) municipalities of the Agglomération of Montréal to be reconstituted, by Committee of Montréal resolutions No. 05-02-112, 05-02-116, 05-03-130 and 05-04-142 adopted at the February 22, February 28, March 15 and April 11, 2005 meetings, namely :

Jacques Des Ormeaux	Boucherville
Pierre Robitaille	Brossard
Jacques Des Ormeaux	Saint-Bruno-de-Montarville
Jocelyne Vaillant	Saint-Lambert
François Gince	Baie d'Urfé
Johanne Legault	Beaconsfield
Marie Vallée	Côte-Saint-Luc
Chantale Bilodeau	Dollard-des-Ormeaux
Louise Vinet	Dorval and L'Île-Dorval
Marina Di-Blasi	Hampstead
Lise Labrosse	Kirkland
Hélenne De Block	Montréal-Est
Jacques E. Turgeon	Montréal-Ouest
Marie Turenne	Mont-Royal
Colette Gagnon	Pointe-Claire
Jacques Turgeon	Sainte-Anne-de-Bellevue
Suzanne Lalonde	Senneville
Lucie Tousignant	Westmount

WHEREAS the Comité de transition de l'agglomération de Longueuil, by resolution No. 12-02 adopted at its December 7, 2004 meeting, and the Comité de transition de l'agglomération de Montréal, by resolution No. 04-11-73 adopted at its November 29, 2004 meeting, have expressed the desire to avail themselves of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the returning officers concerned, the Chief Electoral Officer and the Minister, in order to allow the use of electronic ballot boxes for the November 6, 2005 municipal elections or any other polling day between May 1, 2005 and November 6, 2005,

that will take place in the nineteen (19) municipalities of the Agglomerations of Longueuil and Montréal to be reconstituted, divided as follows:

Comité de transition de l'agglomération de Longueuil : Boucherville, Brossard, Saint-Bruno-de-Montarville and Saint-Lambert;

Comité de transition de l'agglomération de Montréal : Baie d'Urfé, Beaconsfield, Côte-Saint-Luc, Dollard-des-Ormeaux, Dorval, Hampstead, Kirkland, L'Île-Dorval, Montréal-Est, Montréal-Ouest, Mont-Royal, Pointe-Claire, Sainte-Anne-de-Bellevue, Senneville and Westmount;

WHEREAS by virtue of decree 1212-2004, for purposes of the application of Section 659.2 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), the COMMITTEES may conclude an agreement by virtue of this provision;

WHEREAS the COMMITTEES wish to prevail to avail themselves of these provisions for the holding of the November 6, 2005 municipal elections or any other polling day between May 1, 2005 and November 6, 2005;

WHEREAS the procedure that applies during these municipal elections in the territory of each MUNICIPALITY TO BE RECONSTITUTED must be foreseen;

WHEREAS an agreement must be concluded between the COMMITTEES, the RETURNING OFFICERS CONCERNED, the CHIEF ELECTORAL OFFICER and the MINISTER;

WHEREAS the COMMITTEES are solely responsible for the technological choice made;

WHEREAS the COMMITTEE of Longueuil adopted, at its April 26, 2005 meeting, resolution No. 05-04-06 and the COMMITTEE of Montréal adopted, at its April 11, 2005 meeting, resolution No. 05-04-143 which both approve the text of the agreement and authorize the returning officers and the COMMITTEE presidents to sign the present agreement;

WHEREAS the returning officers concerned and the COMMITTEES' electoral process coordinators are responsible for the application of the present agreement and the means required to implement it;

THEREFORE, the parties agree to the following:

1. FOREWORD

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

2. INTERPRETATION

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

2.1 "Computerized polling station" designates an apparatus consisting of the following devices:

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

— a card reader with bar codes;

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

2.2 "Electronic ballot box" designates an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballots and a modem, where necessary.

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

2.4 "Memory card" means a memory device that computes and records the marks made by voters for each of the candidates whose names are printed on the ballot, as well as rejected ballots by vote tabulator program subdivision.

2.5 "Recipient for ballots" designates a box into which the ballots papers fall.

2.6 "Transfer box" designates the box in which the ballot papers are placed once the results of the poll have been compiled.

2.7 "Ballot paper" designates the card on which the ballot is printed.

2.8 "Refused ballot paper" means a ballot card the insertion of which the tabulator refuses.

2.9 "Confidentiality sleeve" means a sleeve designed to receive the ballot paper.

3. ELECTIONS

3.1 For the purposes of the November 6, 2005 municipal elections or any other polling day between May 1, 2005 and November 6, 2005 in the municipalities to be

reconstituted and part of the present agreement, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

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

4. SECURITY MECHANISMS

4.1 Computerized polling stations

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

4.2 Electronic ballot boxes

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

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

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

3) the electronic ballot box cannot be placed in “end of election” mode while the election is still in progress because the box requires the insertion of an end-of-election card;

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

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

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

5. PROGRAMMING

Each memory card used is specifically programmed by the specialized supplier to recognize and tally ballots in accordance with this agreement.

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

6.1 Election personnel

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

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer, deputy returning officer and poll clerk

Section 76 of the Act is replaced by the following:

“76. he returning officer shall appoint the number of senior deputy returning officers and assistants to the senior deputy returning officer that he or she deems necessary for each polling place. The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.”.

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

Section 80 of this Act is replaced by the following:

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

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

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

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

4. ensure that the electronic ballot box functions correctly;

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

6. complete an overall statement of the vote count from the statements of partial results and the results compiled by the electronic ballot box;

7. give the returning officer, at the closing of the poll, the results compiled by the electronic ballot box, the overall statement as well as the statements of partial results of the vote count;

8. transfer the ballot papers from the electronic ballot box recipient into the transfer boxes, seal them and give them to the returning officer;

9. when a ballot paper has been refused by the tabulator, ask the elector to return to the polling booth, mark all the spaces provided to indicate the elector's choice, and go to the polling station in order to obtain another ballot;

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

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

1. assist the senior deputy returning officer in the latter's duties;

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

3. verify the polling booths at the polling station;

4. obtain the pencils and confidentiality sleeves from the senior deputy returning officer and distribute them to each deputy returning officer.

80.2. The deputy returning officer shall, in particular:

1. see to the set-up of the polling station;

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

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

4. verify the identity of electors;

5. supply each elector with a ballot, a confidentiality sleeve and a pencil to exercise their right to vote;

6. take back from electors any ballot papers that are refused by the tabulator, give them another ballot paper, and record the occurrence in the poll book;

7. indicate on the screen "has voted" next to the name of the elector to whom he or she has given a ballot paper."

6.4 Duties of the poll clerk

Section 81 of this Act is replaced by the following:

81. The poll clerk shall, in particular:

1. enter in the poll book the particulars relating to the voting process;

2. indicate on the paper version of the list of electors "has voted" next to the names of electors to whom the deputy returning officer gives ballot papers;

3. assist the deputy returning officer."

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

Section 90.5 of this Act is replaced by the following:

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

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

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

6.6 Notice of election

Section 99 of this Act is amended by the addition, after paragraph 7, of the following:

"(8) the fact that the method of voting is a vote by means of electronic ballot boxes."

6.7 Polling subdivisions

Section 104 of this Act is replaced by the following:

"104. The returning officer shall divide the list of electors into polling subdivisions. The polling subdivisions shall have a number of electors determined by the returning officer. That number shall be close to 750 electors."

6.8 Verification of computerized polling stations and electronic ballot boxes

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

“§1.1. *Verification of computerized polling stations*

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

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

§1.2 *Verification of electronic ballot boxes*

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

173.3. During the testing of the electronic ballot boxes, adequate security measures must be taken by the returning officer or the person he or she delegates to guarantee the integrity of the system as a whole and of each component used to record, compile and memorize results. The returning officer must ensure that no electronic communication that could change the programming of the

electronic ballot box, the recording of data, the tallying of votes, the memorization of results or the integrity of the system as a whole may be established.

173.4. The returning officer or the person he or she delegates shall conduct the test by performing the following operations:

1. He shall mark the memory card with the returning officer’s initials and insert it into the electronic ballot box.

2. He shall insert into the electronic ballot box a pre-determined number of ballot papers, previously marked and tallied manually. The ballot papers shall include:

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

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

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

d) a sufficient and pre-determined number of blank ballots.

3. He shall place the electronic ballot box in “end of election mode” and ensure that the results compiled by the electronic ballot box are consistent with the manually-compiled results.

4. Once the test has been successfully completed, he or she shall reset the memory card to zero and seal it; the returning officer or the person he or she delegates and the representatives who wish to do so shall initial the seal.

5. He shall place the tabulator in the travel case and place a seal on it; the returning officer or the person he or she delegates and the representatives who wish to do so shall note the number entered on the seal.

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

7. He may not change the programming for the scanning of the mark made by an elector in the space provided for that purpose without supervision from the specialized firm.”.

6.9 Mobile polling station

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

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

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

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

6.10 Advance poll

Sections 182, 183 and 185 of this Act are replaced by the following :

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

1. the number of ballot papers received from the returning officer ;
2. the number of electors who were given a ballot paper ;
3. the number of spoiled, refused or cancelled ballot papers and the number of unused ballot papers ;
4. the names of the persons who have performed duties as election officers or as representatives.

The deputy returning officer shall place, in separate envelopes, the spoiled, refused or cancelled ballot papers, the unused ballot papers, the forms, the poll book and the list of electors. The deputy returning officer shall then seal the envelopes. The deputy returning officer, the poll clerk and the representatives who wish to do so

shall initial the seals of the envelopes. The envelopes, except the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

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

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

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

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

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

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

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the deputy returning officer and the poll clerk shall perform the same actions as at the close of the first day of advance polling. In addition, the senior deputy returning officer shall withdraw the memory card from the elec-

tronic ballot box, place it in an envelope, seal the envelope, place the envelope in a transfer box and seal the box.

The spoiled, refused or cancelled ballot papers from the second day shall be placed in separate sealed envelopes by the deputy returning officer. They shall also be placed in a sealed transfer box.

The deputy returning officer, the poll clerk and the representatives who wish to do so shall initial the above-mentioned seal.

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

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

6.11 Voting booths

Section 191 of this Act is replaced by the following :

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

6.12 Ballots

Section 193 of this Act is replaced by the following :

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

Section 195 of the Act is revoked.

6.13 Identification of the candidates

Section 196 of this Act is amended by the replacement of the first paragraph by the following :

“**196.** The ballots shall include, as the case may be, ballots for the office of mayor and ballots for the office or offices of councillor. Each ballot shall allow each candidate to be identified.

It shall contain, on the obverse :

1. the name of each candidate, his given name preceding his surname ;
2. under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case ;
3. a circle for the elector’s mark opposite the name of each candidate ;
4. the office in question and, where applicable, the number of the seat to be filled. Information on the office in question shall correspond to that contained in the nomination papers.”.

6.14 Ballot papers

Section 197 of this Act is replaced by the following :

“**197.** Ballot papers shall contain on the reverse, as shown in the attached model :

1. a space reserved for the identification of :
 - the name of the municipality to be reconstituted in question,
 - the name and/or the number of the electoral district, if applicable.
2. a space reserved for the identification of the polling subdivision ;
3. the voting section ;
4. the bar code.

The ballot papers shall have, on the reverse, as shown in the attached model :

1. arrows indicating the direction of insertion of the ballot paper into the tabulator ;
2. a space intended for the initials of the deputy returning officer ;
3. the name of the municipality to be reconstituted ;
4. the words “municipal election” and the date of the election, where applicable
5. the name and address of the printer ;
6. the indication of copyright, where applicable ;

7. the bar code, where applicable.”.

6.15 Confidentiality sleeve

This Act is amended by inserting the following after Section 197:

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

6.16 Withdrawal of a candidate

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

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

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

6.17 Withdrawal of authorization or recognition

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

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

6.18 Number of electronic ballot boxes

Section 200 of this Act is replaced by the following:

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

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

6.19 Provision of polling materials

Section 204 of this Act is amended by the replacement, in the second line of the first paragraph, of the words “a sealed ballot box” by the words “a sealed recipient.”

6.20 Examination of the electronic ballot box and polling materials

Section 207 of this Act is replaced by the following:

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

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

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

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

Section 209 of this Act is replaced by the following:

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

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

THE VOTING PROCESS

6.21 Presence at the polling station

The third paragraph of Section 214 of this law is replaced by the following:

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

6.22 Initialling of ballots

Section 221 of this Act is replaced by the following:

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

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

6.23 Voting

Section 222 of this Act is replaced by the following:

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

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

6.24 Procedure after marking

Section 223 of this law is replaced by the following:

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

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

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

6.25 Automatic acceptance

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

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

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

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

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

6.26 Cancelled ballots

Section 224 of this Act is replaced by the following:

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

The deputy returning officer of the polling station in question shall, if his or hers initials are not on the ballot paper, initial it before the persons present, provided that the ballot paper is, on first sight, a ballot given to the elector by the deputy returning officer that was not

initialled by oversight or inadvertence. The elector shall return to insert the ballot paper into the electronic ballot box.

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

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

6.27 Visually impaired voter

Section 227 of this Act is amended:

1. by substituting the following for the second and third paragraphs:

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

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

2. by striking out the fourth paragraph.

COMPILATION OF RESULTS AND ADDITION OF VOTES

6.28 Compilation of results

Sections 229 and 230 of this Act are replaced by the following:

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

The report on the compiled results shall indicate the total number of ballots, the number of rejected ballots and the number of valid votes for each office.

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

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

1. the number of ballot papers received from the returning officer;
2. the number of electors admitted to vote;
3. the number of spoiled, refused or cancelled ballot papers and the number of unused ballot papers;
4. the names of the persons who have performed duties as election officers or representatives assigned to that station.”.

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

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

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

6.29 Manual vote counting

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

6.30 Compilation sheet

Section 231 of the Act is revoked.

6.31 Electronic vote counting

Section 232 of the Act is revoked.

6.32 Rejected ballots

The following is substituted for Section 233 of the Act:

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

1. has not been marked;
2. has been marked in favour of more than one candidate;

3. has been marked in favour of a person who is not a candidate.

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot papers inserted, both ballots that are valid and those rejected, the only exception being ballot papers that have been refused.”.

6.33 Rejected ballots, procedural omission, valid ballots

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

6.34 Contested validity

The following is substituted for Section 237 of the Act:

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

6.35 Statement of partial results of votes, overall statement of votes and copy for representatives of candidates

The following is substituted for Section 238 of the Act:

“**238.** The deputy returning officer shall draw up the statement of partial results of votes, indicating:

1. the number of ballot papers received from the returning officer;
2. the number of spoiled, refused and cancelled ballot papers and of those that were not inserted into the electronic ballot box;
3. the number of unused ballot papers.

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

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

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

Section 240 of the Act is revoked.

6.36 Separate, sealed and initialed envelopes given to the returning officer

Sections 241, 242 and 243 of this Act are replaced by the following:

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

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

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

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

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

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

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

Section 244 of the Act is revoked.

6.37 Addition of votes

The following is substituted for Section 247 of the Act:

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

6.38 Adjournment of the addition of votes

The following is substituted for Section 248 of the Act:

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

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

6.39 Placing in an envelope

The following is substituted for Section 249 of the Act:

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

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

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

6.40 New vote count

The following is substituted for Section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he or

she determines, in the presence of the candidates or their representatives who wish to be present, shall retrieve the ballots used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.”

6.41 Notice to the Minister

The first line of the first paragraph of Section 251 of the Act is amended by replacing the words “statement of votes and ballot papers” by the words “overall summary of votes, the report of the results compiled by the electronic ballot box and the ballot papers”.

6.42 Access to ballots

The following is substituted for Section 261 of the Act:

“**261.** Except for the purposes of an examination of rejected ballots pursuant to this agreement, the returning officer or the person responsible for providing access to the documents held by the Committee, or the person responsible for providing access to the documents held by the municipality after January 1st, 2006, may not issue copies of the used ballots, nor allow any person to examine the ballots, without being required to do so by an order issued by a court or magistrate.”

6.43 Application for recount

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

7. EXAMINATION OF REJECTED BALLOTS

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

The returning officer must notify the candidates or their representatives that they may be present at the examination. The Chief Electoral Officer and the Minister shall be notified and they may delegate their representatives. The representative of the company that sold or rented out the electronic ballot boxes must attend the

examination to explain the operation of the mechanism for rejecting ballots and to answer questions from the participants.

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

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

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

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

8. DURATION AND IMPLEMENTATION OF THE AGREEMENT

The returning officer of the municipality to be reconstituted is responsible for the implementation of the present agreement and, consequently, for the effective functioning of the trial application of the new method of voting for the November 6, 2005 municipal elections or any other election between May 1, 2005 and November 6, 2005.

9. AMENDMENT

The parties agree that the present agreement may be amended if need be to ensure the effective functioning of the November 6, 2005 municipal elections or any other election between May 1, 2005 and November 6, 2005.

Mention of such an amendment must be included in the assessment report.

10. ASSESSMENT REPORT

At the latest on January 1, 2006, the returning officer shall forward, in accordance with Section 659.3 of the Act respecting elections and referendums in municipalities, (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and to the Minister, this report mentioning relevant ways to improve trial runs of a new voting mechanism, addressing, in particular, the following points:

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

— the conduct of the advance poll, the mobile poll and polling day;

— the cost of using electronic voting systems:

– the cost of adapting the election process;

– nonrecurrent costs, likely to be amortized;

– a comparison of actual election costs using the new methods of voting versus projected costs using traditional voting methods in the November 6, 2005 municipal elections or any other election date between May 1, 2005 and November 6, 2005;

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

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

— the results obtained during the addition of the votes and a comparison of the number of ballots given out to the deputy returning officers with the number of ballots returned used and unused;

— the survey of rejected ballot papers, if such a survey has been completed.

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

The Act respecting elections and referendums in municipalities, (R.S.Q., c. E-2.2) shall apply to the November 6, 2005 general elections and to any other election date between May 1, 2005 and November 6, 2005 in the municipalities to be reconstituted targeted by the present agreement, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECTIVE DATE OF THE AGREEMENT

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

AGREEMENT SIGNED IN FOUR COPIES:

In Montréal, this 1st day of the month of June in the year 2005

COMITÉ DE TRANSITION DE
L'AGGLOMÉRATION DE MONTRÉAL

PIERRE LORTIE, *President*

In Québec, this 7th day of the month of June in the year 2005

CHIEF RETURNING OFFICER

MARCEL BLANCHET, *Chief Returning Officer*

In Québec, this 13th day of the month of July in the year 2005

MINISTER OF MUNICIPAL AFFAIRS
AND REGIONS

DENYS JEAN, *Deputy Minister*

In Montréal, this 1st day of the month of June in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF BAIE D'URFÉ

FRANÇOIS GINCE, *Returning Officer*

In Montréal, this 31st day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF BEACONSFIELD

JOHANNE LEGAULT, *Returning Officer*

In Montréal, this 31st day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF CÔTE-SAINT-LUC

MARIE VALLÉE, *Returning Officer*

In Montréal, this 1st day of the month of June in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF DOLLARD-DES-ORMEAUX

CHANTALE BILODEAU, *Returning Officer*

In Montréal, this 31st day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF DORVAL AND L'ÎLE-DORVAL

LOUISE VINET, *Returning Officer*

In Montréal, this 31st day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF HAMPSTEAD

MARINA DI-BLASI, *Returning Officer*

In Montréal, this 31st day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF KIRKLAND

LISE LABROSSE, *Returning Officer*

In Montréal, this 1st day of the month of June in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF MONTRÉAL-EST

HÉLENNE DE BLOCK, *Returning Officer*

In Montréal, this 30th day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF MONTRÉAL-OUEST

JACQUES E. TURGEON, *Returning Officer*

In Montréal, this 30th day of the month of May in the year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF MONT-ROYAL

MARIE TURENNE, *Returning Officer*

In Montréal, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF POINTE-CLAIRE

COLETTE GAGNON, *Returning Officer*

In Montréal, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF SAINTE-ANNE-DE-BELLEVUE

JACQUES TURGEON, *Returning Officer*

In Montréal, this 1st day of the month of June in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF SENNEVILLE

SUZANNE LALANDE, *Returning Officer*

In Montréal, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF WESTMOUNT

LUCIE TOUSIGNANT, *Returning Officer*

In Longueuil, this 31st day of the month of May in the
year 2005

COMITÉ DE TRANSITION DE
L'AGGLOMÉRATION DE LONGUEUIL

YVES RYAN, *president*

In Longueuil, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED OF
BOUCHERVILLE

JACQUES DES ORMEAUX, *Returning Officer*

In Longueuil, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF BROSSARD

PIERRE ROBITAILLE, *Returning Officer*

In Longueuil, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF SAINT-BRUNO-DE-MONTARVILLE

JACQUES DES ORMEAUX, *Returning Officer*

In Longueuil, this 31st day of the month of May in the
year 2005

THE MUNICIPALITY TO BE RECONSTITUTED
OF SAINT-LAMBERT

JOCELYNE VAILLANT, *Returning Officer*

APPENDIX

SAMPLE OF A BALLOT

57992

Arrondissement
Saint-Laurent
Borough

Numéro de section de vote - Poll subdivision

1	2	3	4	5	6	7	8	9
10	20	30	40	50	60	70		

Conseillers de la ville / City Councillors
(Votez pour 2 candidats)
(Vote for 2 candidates)

Patricia BITTAR
Union des citoyens et des citoyennes de
l'île de Montréal
The Montreal Island Citizens Union

Laval DEMERS
Union des citoyens et des citoyennes de
l'île de Montréal
The Montreal Island Citizens Union

Ginette DESROCHERS
Vision Montréal

Roger GAGNON
Projet Montréal

Brian MAGED
Indépendant / Independent

Aref SALEM
Vision Montréal

Gerry ZOMBOR
Indépendant / Independent

↑ ↑ ↑ ↑ ↑ ↘

Initiales du scrutateur
Initials of DRO

Ville de Montréal

Élection partielle
By-election

le 19 décembre 2004 / December 19, 2004

Imprimé par / Printed by
Imprimerie Legros et fils ltée
142, rue St-Jacques,
Montréal, QC H8R 1E2

Gouvernement du Québec

Agreement

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

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

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY of the township of QUÉBEC, a legal person established in the public interest, having its head office at 2, rue des Jardins, Québec, Province de Québec, represented by the mayor, Mr. Jean-Paul L'Allier, and the clerk, M^e Josette Tessier, under a resolution bearing number CV-2005-0474, hereinafter called

THE MUNICIPALITY

AND

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

THE CHIEF ELECTORAL OFFICER

AND

Mrs. Nathalie Normandeau, in her capacity as MINISTER OF MUNICIPAL AFFAIRS AND REGIONS, having her main office at 10, rue Pierre-Olivier-Chauveau, in Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. CV-2005-0473, passed at its meeting of May 2nd 2005, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for a referendum in the MUNICIPALITY from the moment this agreement is accepted;

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

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

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

The agreement has the effect of law.

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

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for a referendum from the moment this agreement is accepted;

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

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

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

WHEREAS the council of the MUNICIPALITY passed, at its meeting of May 2nd 2005, resolution No. CV-2005-0474 approving the text of the agreement and authorizing the mayor and the clerk to sign this agreement;

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

THEREFORE, the parties agree to the following:

1. PREAMBLE

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

2. APPLICABLE PROVISIONS

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) applies to a referendum from the moment this agreement is accepted in the municipality, subject to the provisions of the Act amended or replaced by this agreement.

With the necessary adaptations, and to the extent that they are compatible, the following provisions of Title I of the Act respecting elections and referendums in municipalities apply to Title II of the aforementioned Act:

(1) the provisions of Divisions III and IV of Chapter V dealing with election officers and the Chief Electoral Officer;

(2) the provisions of Division II of Chapter VI dealing with the preparation, revision, and coming into force of the list of electors for a referendum for the municipality or sector concerned, as the case may be.

However, the clerk or secretary-treasurer is not obliged to submit a request pursuant to section 100 if he or she has already submitted a request pursuant to section 546, based on the same reference date and with regard to the territory covered by the referendum or a territory including that territory;

(3) the provisions of subdivisions 2 to 6 of Division IV of Chapter VI dealing with the advance poll, polling stations, materials required for the poll, formalities prior to the opening of polling stations, and polling proceedings;

(4) the provisions of Division V of Chapter VI dealing with the counting and addition of votes;

(5) the provisions of subdivision I of Division VII of Chapter VI dealing with the recount or re-addition of votes;

(6) the provisions of Chapter VII dealing with the electoral code of ethics.

Notwithstanding paragraph 3 of the second paragraph, the provisions of subdivision 2 of Division IV under Chapter VI of Title I dealing with the advance poll do not apply in the case of a referendum that concerns only some of the qualified voters in the municipality, unless the council of the municipality orders that those provisions shall apply to the referendum, or unless a facility contemplated in the second paragraph of section 50 is located in the territory in which the referendum will take place.

3. INTERPRETATION

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

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

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

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

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

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

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

3.4 “rejected ballot paper” means a ballot paper for which the button corresponding to “I do not wish to vote for the office of mayor” or “I do not wish to vote for this referendum” has been pushed by a qualified voter on the voting terminal;

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

4. ELECTION

4.1 For the purposes of a referendum of “PERFAS-MV” model electronic voting systems will be used.

4.2 As soon as the resolution ordering the holding of a referendum has been passed, the municipality must take the necessary steps to provide its qualified voters with adequate information concerning the testing of the new method of voting.

5. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

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

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

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

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

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

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

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

6. PROGRAMMING

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

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

7.1 Election officers

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

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

The following is substituted for section 76 of the Act:

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

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

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

The following is substituted for section 80 of the Act:

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

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

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

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

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

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

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

(7) give the clerk or secretary-treasurer, at the closing of the poll, the results compiled by each voting terminal, the overall statement of votes and the number of qualified voters at each polling station who were given an electronic voting card;

(8) give the clerk or secretary-treasurer the memory card on which the results of each voting terminal are recorded, the card used to place terminals in “poll” mode, the card used to place terminals in “end of poll” mode, and the voting terminals in sealed cases.

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

- (1) assist the senior deputy returning officer in the latter's duties;
- (2) receive any qualified voter referred by the senior deputy returning officer;
- (3) verify the polling booths in the polling place.

80.2. The deputy returning officer shall, in particular,

- (1) see to the arrangement of the polling station;
- (2) see that the polling is properly conducted and maintain order at the polling station;
- (3) facilitate the exercise of the right to vote and ensure that voting is secret;
- (4) make sure of qualified voters' identity;
- (5) give qualified voters an electronic voting card to exercise their right to vote;
- (6) check that each electronic voting card returned after the vote has been used. If a card has not been used, a record shall be made in the poll book that a qualified voter has failed to exercise the right to vote;
- (7) at the close of the poll, give the senior deputy returning officer a statement indicating the total number of qualified voters given an electronic voting card by the deputy returning officer at the polling station."

7.4 Duties of the poll clerk

The following is substituted for section 81 of the Act:

"81. The poll clerk shall, in particular,

- (1) enter in the poll book the particulars relating to the conduct of the polling;
- (2) note on the screen and on the paper referendum list of electors "has voted" next to the names of qualified voters to whom the deputy returning officer has given electronic voting cards;
- (3) assist the deputy returning officer."

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

The following is substituted for section 90.5 of the Act:

"90.5. Where, during the period beginning the fortieth day preceding polling day and ending on polling day at the time of closing of the polling stations, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emergency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

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

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

7.6 Polling subdivisions

The following is substituted for section 104 of the Act:

"104. The clerk or secretary-treasurer shall divide the list of electors for the referendum into polling subdivisions, each comprising not more than 750 qualified voters.

The clerk or secretary-treasurer shall provide a sufficient number of polling stations at each polling place to receive qualified voters, establish their identity and give them an electronic voting card.

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

7.7 Verification of electronic voting systems

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

“§1.1 Verification of electronic voting systems

173.1. The clerk or secretary-treasurer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, in cooperation with the firm’s representative and, if necessary, the representatives of the committees, for each polling place, test the electronic voting system to ensure that it tallies the number of votes cast accurately and precisely.

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

173.3. The clerk or secretary-treasurer shall conduct the test by performing the following operations :

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

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

(a) a sufficient and pre-determined number of ballot papers in favour of the “yes” or the “no” ;

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

(c) a sufficient and pre-determined number of ballot papers marked to indicate a “yes” and a “no” vote ;

(d) a sufficient and predetermined number of ballot papers with a mark opposite the statement “I do not wish to vote for this referendum” ;

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

(4) the clerk or secretary-treasurer shall ensure that the button used to record a vote can be pushed only after the button used to vote in favour of the “yes” or the “no” has been pushed ;

(5) he shall ensure that the information relating to the vote contained on the electronic voting cards is consistent with the information transferred to the cards by the clerk or secretary-treasurer ;

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

(7) once the test has been successfully completed, the clerk or secretary-treasurer shall reset the voting terminal to zero and replace it in a sealed case ; the clerk or secretary-treasurer and the representatives who so wish may affix their signature ;

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

(9) the clerk or secretary treasurer may not change the programming established by the firm PG Elections inc.”.

7.8 Advance polling

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

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

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

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

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

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

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

- (1) place the voting terminals in “end of poll” mode ;
- (2) transfer the data contained in the memory of the electronic ballot box onto a memory card ;
- (3) print the operations trail (audit) ;
- (4) place the memory card (memory chip) and the operations trail in separate envelopes, and seal the envelopes ;
- (5) forward the envelopes to the clerk or secretary-treasurer, who shall keep them safely in separated locations ;
- (6) set each voting terminal to zero, seal it and place it in its plastic case ;
- (7) affix his initials to all the seals and give the candidates or representatives present an opportunity to affix their initials.

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

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

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

The clerk or secretary-treasurer shall keep in safety, in separate locations, the envelopes containing the memory card and the operations trail.

182.3. The clerk or secretary-treasurer shall, using the various lists of electors for the referendum used in the advance polling, draw up an integrated list of all the electors who voted in the advance poll. The clerk or secretary-treasurer shall make as many copies of the list as there are to be polling stations on polling day.

183. Immediately before the time fixed for the opening of the polling station on the second day, where applicable, the senior deputy returning officer, before the persons

present, shall open the large envelope and give each deputy returning officer the poll books and the forms. Each deputy returning officer shall open the envelopes and take custody of their contents.

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

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

The clerk or secretary-treasurer, or the person designated by the clerk or secretary-treasurer, shall return the list of electors for the referendum to each deputy returning officer.

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

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

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

7.9 Revocation

Sections 186 and 187 of the Act are revoked.

7.10 Polling place

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

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

7.11 Ballot papers and electronic voting cards

The following is substituted for section 192 of the Act:

“**192.** The clerk or secretary-treasurer shall ensure that a sufficient number of electronic voting cards are available to facilitate the exercise of the qualified voters’ right to vote.”

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

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

7.12 Number of voting terminals

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

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

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

The voting terminal must be designed so that the button used to vote in favour of the “yes” is placed opposite the particulars relating to the “yes”, and that the button used to vote in favour of the “no” is placed opposite the particulars relating to the “no”.

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

7.13 Provision of polling materials

The following is substituted for section 204 of the Act:

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

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

(2) a poll book;

(3) electronic voting cards;

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

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

7.14 Examination of polling materials and documents

The following is substituted for section 207 of the Act:

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

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

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

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

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

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

POLLING PROCEDURE

7.15 Presence at the polling station

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

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

7.16 Electronic voting cards

The following is substituted for section 221 of the Act:

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

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

7.17 Voting

The following is substituted for section 222 of the Act:

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

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

(2) pressing the button placed opposite the particulars relating to the “yes” or the “no in favour of which the elector wishes to vote, causing a mark to appear in the rectangle;

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

7.18 Following the vote

The following is substituted for section 223 of the Act:

“**223.** After removing the electronic voting card from the voting terminal, the qualified voter shall leave the booth and give the electronic voting card to the polling officer designated for that purpose by the clerk or secretary-treasurer.

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

If a qualified voter fails to indicate and record a vote and leaves the polling place, the senior deputy returning officer or the latter’s assistant shall press the button corresponding to the statement “I do not wish to vote in this referendum”, and shall then record the qualified voter’s vote.

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

7.19 Cancelled and spoiled ballot papers

Sections 224 and 225 of the Act are revoked.

7.20 Assistance for qualified voters

The following is substituted for section 226 of the Act:

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

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

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

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

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

7.21 Visually impaired person

Section 227 of the Act is amended:

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

“The assistant to the senior deputy returning officer shall indicate to the qualified voter the order in which the “yes” and the “no” appear on the ballot paper.

The senior deputy returning officer shall help the qualified voter to register his vote.”; and

(2) by striking out the fourth paragraph.

7.22 Transfer of information to electronic voting cards

The following is substituted for section 228 of the Act:

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

COMPILATION OF RESULTS AND TALLYING OF VOTES

7.23 Compilation of results and tallying of votes

The following is substituted for section 229 of the Act:

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

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

The reports on the compiled results shall indicate the total number of qualified voters who have voted, the number of valid votes, the number of rejected ballot papers and the number of valid votes for the “yes” and for the “no”.

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

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

7.24 Entries in poll book

The following is substituted for section 230 of the Act:

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

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

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

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

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

7.25 Compiling sheet

Section 231 of the Act is revoked.

7.26 Counting of the votes

Section 232 of the Act is revoked.

7.27 Rejected ballot papers

The following is substituted for section 233 of the Act:

“**233.** The electronic voting system shall be programmed in such a way that every ballot paper for which the button corresponding to “I do not wish to vote in this referendum” is pushed by the qualified voter on the voting terminal is rejected.

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

Sections 234 to 237 of the Act are revoked.

7.28 Partial statement of votes and copy for representatives

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

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

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

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

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

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

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

7.29 Separate envelopes

The following is substituted for section 241 of the Act:

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

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

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

7.30 Seals

The following is substituted for section 242 of the Act:

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

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

(2) the envelopes provided for in section 230.1;

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

(4) the electronic voting cards.

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

7.31 Placing in ballot box

Section 243 of the Act is revoked.

7.32 Delivery to clerk or secretary-treasurer

The following is substituted for section 244 of the Act:

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

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

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

7.33 Addition of votes

The following is substituted for section 247 of the Act:

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

7.34 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

“**248.** The clerk or secretary-treasurer shall, if unable to obtain an overall statement of votes that should have been provided, adjourn the addition of votes until the statement is obtained.

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

7.35 Placing in envelope

The following is substituted for section 249 of the Act:

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

7.36 New counting of the votes

Section 250 of the Act is revoked.

7.37 Notice to the Minister

The following is substituted for section 251 of the Act:

“**251.** Where it is impossible to obtain the electronic cards used to record the results, where applicable, the clerk or secretary-treasurer shall advise the Minister of Municipal Affairs and Regions in accordance with Division III of Chapter XI.”.

7.38 Access to voting papers

Section 261 of the Act is revoked.

7.39 Application for a recount or re-addition

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

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

7.40 Notice to the representatives of qualified voters

The following is substituted for section 267 of the Act:

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

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

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

The following is substituted for section 268 of the Act:

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

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

The representatives concerned and the clerk or secretary-treasurer may, at that time, examine all the documents and items examined by the judge.”.

7.42 Repeal

Section 269 is revoked.

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

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

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

7.44 Custody of items and documents, and verification

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

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

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

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

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

7.45 Public notice of referendum poll

Section 572 of the Act is amended by adding the following after paragraph 7:

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

7.46 Polling booth

The following is substituted for section 574 of the Act:

“**574.** Where the poll takes place by electronic ballot box, the polling station shall include as many polling booths as shall be determined by the clerk or secretary-treasurer.”.

8. APPLICATION OF AGREEMENT

The clerk or secretary-treasurer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting for a referendum held until December 31st 2009.

9. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of a referendum from the moment this agreement is accepted.

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

10. ASSESSMENT REPORT

Within 120 days following the holding of a referendum, the clerk or secretary-treasurer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

- the preparations for the referendum (choice of the new method of voting, communications plan, etc.);
- the conduct of the advance poll and the poll;
- the cost of using the electronic voting system:
 - the cost of adapting referendum procedures;
 - non-recurrent costs likely to be amortized;
 - a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the referendum using traditional methods;
- the number and duration of incidents during which voting was stopped, if any;
- the advantages and disadvantages of using the new method of voting;
- the results obtained during the addition of the votes and the correspondence between the number of votes cast and the number of qualified voters admitted to vote.

11. EFFECT OF AGREEMENT

This agreement has effect from the time when the clerk or secretary-treasurer performs the first act for the purposes of a poll to which this agreement applies.

AGREEMENT SIGNED IN THREE COPIES :

In Quebec, this 11th day of May 2005

MUNICIPALITY OF QUÉBEC

By: _____

JEAN-PAUL L'ALLIER,
Mayor

JOSETTE TESSIER,
Clerk of the municipality

In Québec, on this 13th day of May 2005

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

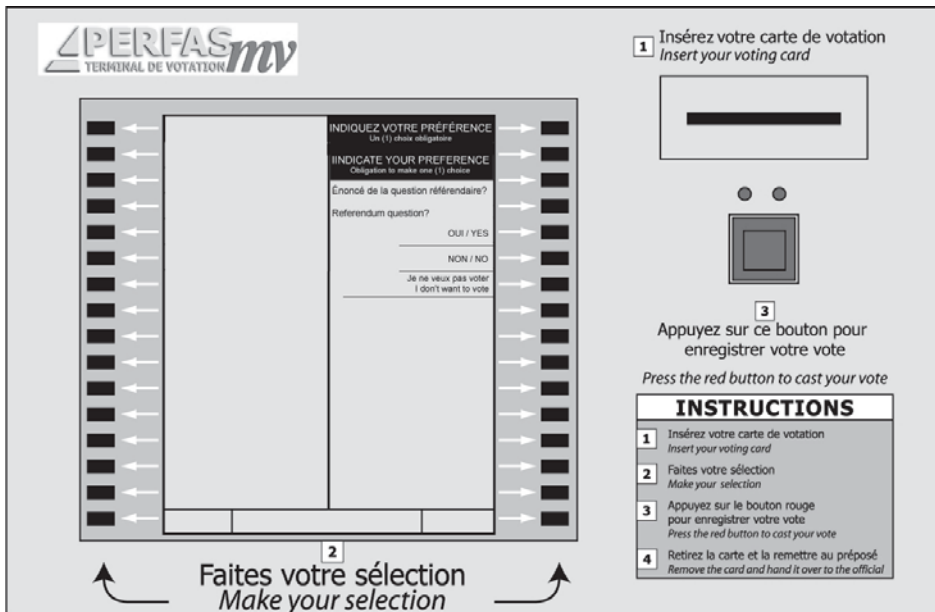
In Québec, on this 31th day of May 2005

THE MINISTER OF MUNICIPAL AFFAIRS
AND REGIONS

DENYS JEAN, *Deputy Minister*

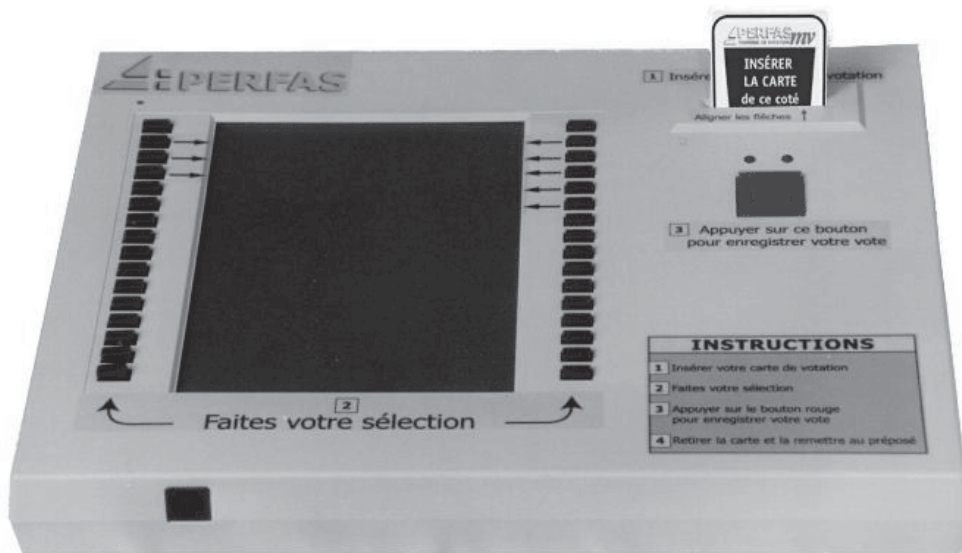
SCHEDULE I

BALLOT PAPER



SCHEDULE II

VOTING TERMINAL



Gouvernement du Québec

Agreement

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

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

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY of the township of QUEBEC, a legal person established in the public interest, having its head office at 2, rue des Jardins, Québec, Province de Québec, represented by the mayor, Mr. Jean-Paul L'Allier, and the clerk, M^e Josette Tessier, under a resolution bearing number CV-2005-0474, hereinafter called

THE MUNICIPALITY

AND

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

THE CHIEF ELECTORAL OFFICER

AND

Mrs. Nathalie Normandeau, in her capacity as MINISTER OF MUNICIPAL AFFAIRS AND REGIONS, having her main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province de Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. CV-2004-0474, passed at its meeting of May 2nd 2005, expressed the desire to avail itself of the provisions of the Act respecting elections and referendums in municipalities to enter into an agreement with the CHIEF ELECTORAL OFFICER and the MINISTER in order to allow the use of electronic ballot boxes for the municipal election of November 6th 2005 in the MUNICIPALITY;

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

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

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

The agreement has the effect of law.

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

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions for the municipal election held on November 6th 2005 and could, with the necessary adaptations, avail itself of those provisions for elections held after the date of the agreement, the necessary adaptations to be included in an addendum to this agreement;

WHEREAS it is expedient to provide the procedure that applies to the territory of the MUNICIPALITY for that municipal election of November 6th 2005;

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

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

WHEREAS the council of the MUNICIPALITY passed, at its meeting of May 2nd 2005, resolution No. CV-2005-0474 approving the text of the agreement and authorizing the mayor and the clerk to sign this agreement;

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

THEREFORE, the parties agree to the following:

1. PREAMBLE

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

2. INTERPRETATION

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

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

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

— a reader of electronic voting cards;

— one or more printers;

— one or more autonomous voting terminals;

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

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

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

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

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

3. ELECTION

3.1 For the purposes of the municipal election of November 6th 2005 in the municipality, a sufficient number of “PERFAS-MV” model electronic voting systems will be used.

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

4. SECURITY MECHANISMS

Each electronic voting system must include the following security mechanisms:

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

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

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

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

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

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

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

5. PROGRAMMING

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

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

6.1 Election officers

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

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer, deputy returning officer and poll clerk

The following is substituted for section 76 of the Act:

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

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

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

The following is substituted for section 80 of the Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

80.2. The deputy returning officer shall, in particular,

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

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

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

(4) make sure of electors’ identity;

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

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

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

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

The following is substituted for section 90.5 of the Act:

“**90.5.** Where, during the election period, within the meaning of section 364, it comes to the attention of the Chief Electoral Officer that, subsequent to an error, emer-

gency or exceptional circumstance, a provision referred to in section 90.1 or in the agreement provided for in section 659.2 of the Act respecting elections and referendums in municipalities does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object.

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

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

6.5 Notice of election

The following is added after paragraph 7 of section 99:

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

6.6 Polling subdivisions

The following is substituted for section 104 of the Act:

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

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

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

6.7 Verification of electronic voting systems

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

“§1.1 Verification of electronic voting systems

173.1. The returning officer shall, not later than the fifth day preceding the first day of advance polling and the fifth day preceding polling day, test the electronic

voting system to ensure that it tallies the number of votes cast accurately and precisely, in the presence of the candidates or their representatives if they so wish.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.8 Advance polling

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

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

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

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

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

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

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

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

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

(3) print the operations trail (audit);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.9 Revocation

Sections 186 and 187 of the Act are revoked.

6.10 Polling place

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

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

6.11 Booths

The following is substituted for section 191 of the Act:

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

6.12 Ballot papers and electronic voting cards

The following is substituted for section 192 of the Act:

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

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

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

6.13 Identification of the candidates

The following is substituted for section 196 of the Act:

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

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

(1) the name of each candidate, the given name preceding the surname;

(2) under each name, the name of the authorized party or recognized ticket to which the candidate belongs, where such is the case;

(3) a rectangle for the elector’s mark opposite the particulars pertaining to each candidate.

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

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

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

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

6.14 Reverse of ballot paper

Section 197 is revoked.

6.15 Withdrawal of a candidate

The following is substituted for section 198 of the Act:

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

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

6.16 Withdrawal of authorization or recognition

The following is substituted for section 199 of the Act:

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

6.17 Number of voting terminals

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

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

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

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

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

6.18 Provision of polling materials

The following is substituted for section 204 of the Act:

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

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

(2) a poll book;

(3) electronic voting cards;

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

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

6.19 Examination of polling materials and documents

The following is substituted for section 207 of the Act:

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

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

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

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

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

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

POLLING PROCEDURE

6.20 Presence at the polling station

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

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

6.21 Electronic voting cards

The following is substituted for section 221 of the Act :

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

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

6.22 Voting

The following is substituted for section 222 of the Act :

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

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

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

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

6.23 Following the vote

The following is substituted for section 223 of the Act :

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

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

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

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

6.24 Cancelled and spoiled ballot papers

Sections 224 and 225 of the Act are revoked.

6.25 Assistance for electors

The following is substituted for section 226 of the Act :

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

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

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

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

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

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

The following is substituted for section 228 of the Act:

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

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

The following is substituted for section 229 of the Act:

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

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

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

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

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

6.28 **Entries in poll book**

The following is substituted for section 230 of the Act:

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

- (1) the number of electors who have voted;

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

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

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

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

6.29 **Compiling sheet**

Section 231 of the Act is revoked.

6.30 **Counting of the votes**

Section 232 of the Act is revoked.

6.31 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

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

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

Sections 234 to 237 of the Act are revoked.

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

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

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

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

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

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

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

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

6.33 Separate envelopes

The following is substituted for section 241 of the Act:

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

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

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

6.34 Seals

The following is substituted for section 242 of the Act:

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

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

(2) the envelopes provided for in section 230.1;

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

(4) the electronic voting cards.

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

6.35 Placing in ballot box

Section 243 of the Act is revoked.

6.36 Delivery to returning officer

The following is substituted for section 244 of the Act:

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

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

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

6.37 Addition of votes

The following is substituted for section 247 of the Act:

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

6.38 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

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

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

6.39 Placing in envelope

The following is substituted for section 249 of the Act:

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

6.40 New counting of the votes

Section 250 of the Act is revoked.

6.41 Notice to the Minister

The following is substituted for section 251 of the Act:

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

6.42 Access to voting papers

Section 261 of the Act is revoked.

6.43 Application for a recount or re-addition

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

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

6.44 Notice to candidates

The following is substituted for section 267 of the Act:

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

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

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

The following is substituted for section 268 of the Act:

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

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

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

6.46 Repeal

Section 269 is revoked.

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

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

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

6.48 Custody of items and documents, and verification

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

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

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

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

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

7. DURATION AND APPLICATION OF AGREEMENT

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

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the municipal election to be held on November 6th 2005 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the municipal election held on November 6th 2005, the returning officer of the municipality shall forward, in accordance with section 659.3 of the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), an assessment report to the Chief Electoral Officer and the Minister addressing, in particular, the following issues:

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

— the conduct of the advance poll and the poll;

— the cost of using the electronic voting system:

– the cost of adapting election procedures;

– non-recurrent costs likely to be amortized;

– a comparison between the actual polling costs and the estimated polling costs using the new methods of voting and the projected cost of holding the municipal election on November 6th 2005 using traditional methods;

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

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

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

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

The Act respecting elections and referendums in municipalities shall apply to the municipal election held on November 6th 2005 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

11. EFFECT OF AGREEMENT

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

AGREEMENT SIGNED IN THREE COPIES

In Québec, this 11th day of May 2005

MUNICIPALITY OF QUEBEC

By: _____
JEAN-PAUL L'ALLIER,
Mayor

JOSETTE TESSIER,
Clerk of the municipality

In Québec, on this 27th day of June 2005

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

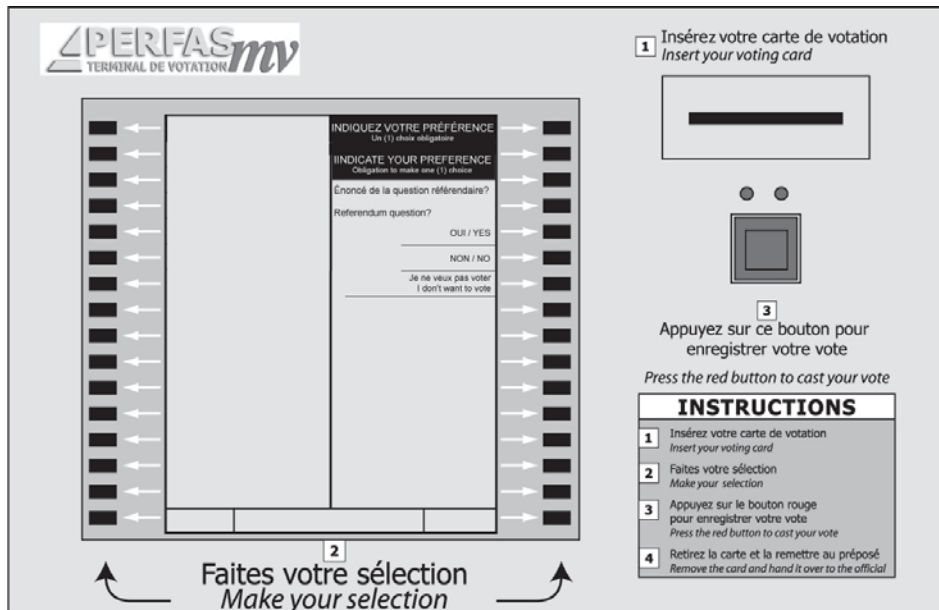
In Québec, on this 7th day of July 2005

THE MINISTER OF MUNICIPAL AFFAIRS
AND REGIONS

DENYS JEAN, *Deputy Minister*

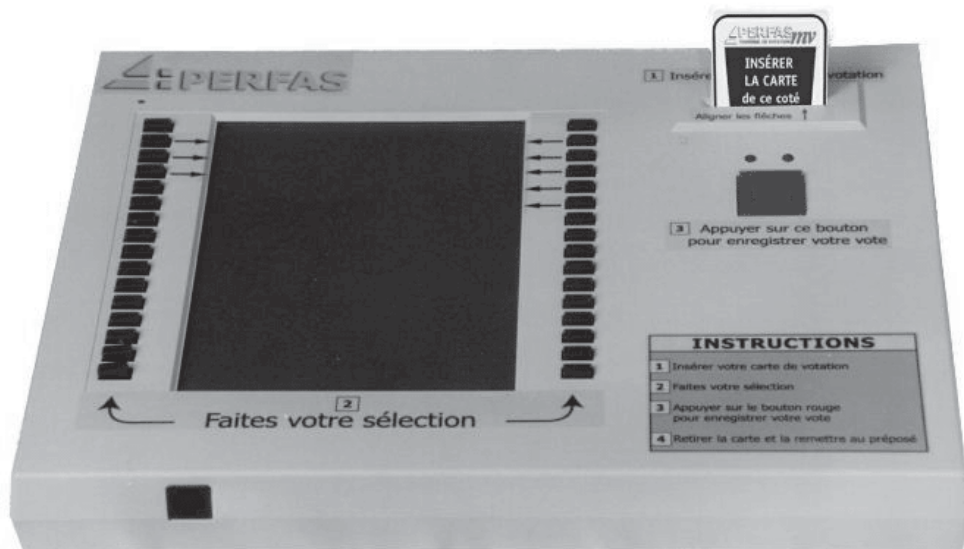
SCHEDULE I

BALLOT PAPER



SCHEDULE II

VOTING TERMINAL



M.O., 2005**Order 2005-008 of the Minister of Health and Social Services dated 14 July 2005**

An Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (2003, c. 25)

Date of effect of sections 72 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors

WHEREAS the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (2003, c. 25) was assented to on 18 December 2003;

WHEREAS the Act introduces a union representation system applicable to associations of employees and institutions in the social affairs sector whose negotiation process is governed by the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2);

WHEREAS, under section 71 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors, the Minister determines by order the date on which sections 72 to 92 take effect for each institution indicated by the Minister;

WHEREAS by Orders 2004-004 dated 25 February 2004, 2004-009 dated 20 July 2004, 2004-011 dated 20 August 2004, 2004-014 dated 19 October 2004, 2004-017 dated 30 November 2004, 2004-018 dated 7 December 2004 and 2005-004 dated 1 March 2005 made by the Minister of Health and Social Services, sections 72 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors took effect for the institutions listed in the Order;

WHEREAS it is expedient to determine the date of taking of effect of sections 72 to 92 of that Act for certain other institutions;

THEREFORE, the Minister of Health and Social Services determines 8 August 2005 to be the date on which sections 72 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors take effect for the following institutions:

Region 06 – Montréal

Batshaw Youth and Family Centres

La Corporation du Centre hospitalier Gériatrique Maimonides

Mount Sinai Hospital

Jewish Eldercare Centre

Region 17 – Nunavik

Centre de santé Inuulitsivik/ Inuulitsivik Health Centre

PHILIPPE COUILLARD,
Minister of Health and Social Services

6994

M.O., 2005**Order 2005-007 of the Minister of Health and Social Services dated 14 July 2005**

An Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (2003, c. 25)

Date of effect of sections 88 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors

WHEREAS the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (2003, c. 25) was assented to on 18 December 2003;

WHEREAS section 58 of the the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2,

amended by section 63 of chapter 25 of the Statutes of 2003), provides for, in the social affairs sector, the negotiation of the matters listed in Schedule A.1 of the Act and defined as being the subject of clauses negotiated and agreed at the local or regional level;

WHEREAS, under section 71 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors, the Minister determines by order the date on which sections 88 to 92 take effect for an institution in which there are fewer than four bargaining units;

WHEREAS, under section 93 of that Act, the matters listed in Schedule A.1 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors and defined as being the subject of clauses negotiated and agreed at the local or regional level may no longer be, from 18 December 2003, the subject of clauses negotiated and agreed at the national level;

WHEREAS, by Order 2004-020 dated 21 December 2004 made by the Minister of Health and Social Services, sections 88 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors took effect for the institutions mentioned in the Order;

WHEREAS it is expedient to determine the date of taking of effect of sections 88 to 92 of that Act for certain other institutions;

THEREFORE, the Minister of Health and Social Services determines 12 September 2005 to be the date on which sections 88 to 92 of the Act respecting bargaining units in the social affairs sector and amending the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors take effect for the following institutions:

Region 03 – Capitale-Nationale

Partagec Inc.

Region 06 – Montréal

Buanderie centrale de Montréal Inc.

Region 09 – Côte-Nord

Naskapi CLSC

Centre de santé de la Basse Côte Nord

Region 17 – Nunavik

Centre de santé Tulattavik de l'Ungava /
Ungava Tulattavik Health Centre

Region 18 – Terres-Cries-de-la-Baie-James

Cree Board of Health and Social Services
of James Bay

PHILIPPE COUILLARD,
Minister of Health and Social Services

6995

M.O., 2005

Order number 2005-010 of the Minister of Health and Social Services for the designation of a breast cancer detection centre dated 19 July 2005

Health Insurance Act
(R.S.Q., c. A-29)

THE MINISTER OF HEALTH AND SOCIAL SERVICES,

CONSIDERING subparagraph *b.3* of the first paragraph of section 69 of the Health Insurance Act (R.S.Q., c. A-29);

CONSIDERING subparagraph *ii* of paragraph *o* of section 22 of the Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, c. A-29, r.1);

ORDERS:

That the following breast cancer detection centre is designated for the Laurentides region:

“Centre de santé et de services sociaux des Sommets
Installation: Centre hospitalier Laurentien
234, rue Saint-Vincent
Sainte-Agathe-des-Monts (Québec)
J8C 2B8”.

Québec, 19 July 2005

PHILIPPE COUILLARD,
Minister of Health and Social Services

6997

M.O., 2005**Order number 2005-009 of the Minister of Health and Social Services for the designation of a breast cancer detection centre dated 19 July 2005**

Health Insurance Act
(R.S.Q., c. A-29)

THE MINISTER OF HEALTH AND SOCIAL SERVICES,

CONSIDERING subparagraph *b.3* of the first paragraph of section 69 of the Health Insurance Act (R.S.Q., c. A-29);

CONSIDERING subparagraph *ii* of paragraph *o* of section 22 of the Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, c. A-29, r.1);

ORDERS:

That the following breast cancer detection centre is designated for the Montréal region:

“Radiologie Jean-Talon Bélanger
1470, rue Bélanger Est
Montréal (Québec)
H2G 1A7”.

Québec, 19 July 2005

PHILIPPE COUILLARD,
Minister of Health and Social Services

6998

Draft Regulations

Draft Regulation

Civil Code of Québec
(a. 564; 2004, c. 3, s. 14)

Youth Protection Act
(R.S.Q., c. P-34.1, s. 71.6; 2004, c. 3, s. 22)

Adoption without a certified body of a child domiciled outside Québec by a person domiciled in Québec

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Order respecting the adoption without a certified body of a child domiciled outside Québec by a person domiciled in Québec, the text of which appears below, may be made by the Minister on the expiry of 45 days following this publication.

The draft Order sets out the cases in which a person domiciled in Québec may be authorized to make arrangements for the adoption of a child domiciled outside Québec without having to go through a certified body, and establishes the terms and conditions of the applicable adoption process. The draft Order also specifies which information and documents must in every case be provided by a prospective adopter in support of an application.

Further information may be obtained by contacting

Luce de Bellefeuille
Secretary and Director General
Secrétariat à l'adoption internationale
201, boulevard Crémazie Est, 1^{er} étage
Montréal (Québec) H2M 1L2
Telephone: (514) 873-4747
Fax: (514) 873-0157

Any interested person having comments to make on the draft Order is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Health and Social Services, 1075, chemin Sainte-Foy, 15^e étage, Québec (Québec) G1S 2M1.

PHILIPPE COUILLARD,
Minister of Health and Social Services

Order respecting the adoption without a certified body of a child domiciled outside Québec by a person domiciled in Québec

Civil Code of Québec
(a. 564; 2004, c. 3, s. 14)

Youth Protection Act
(R.S.Q., c. P-34.1, s. 71.6; 2004, c. 3, s. 22)

DIVISION 1 GENERAL

1. This Order governs the adoption of a child domiciled outside Québec by a person domiciled in Québec when the adoption arrangements are made without a body certified by the Minister under the Youth Protection Act.

2. Pursuant to article 564 of the Civil Code, only persons who meet the criteria and conditions set out in this Order may, without a body certified by the Minister, make arrangements for the adoption of a child domiciled outside Québec.

3. Before making adoption arrangements, a prospective adopter must satisfy the Minister of Health and Social Services that the eligibility requirements set out in this Order and in the provisions that apply in Québec and in the child's State of origin have been met.

4. A prospective adopter authorized by the Minister must make the adoption arrangements under the supervision or with the assistance of the Minister, as the case may be.

5. Unless otherwise provided in this Order, the provisions relating to the adoption of a child domiciled outside Québec by a person domiciled in Québec apply to adoptions under this Order.

6. A prospective adopter in pursuing the proposed adoption must comply with the provisions that apply in Québec and in the child's State of origin.

DIVISION 2

ADOPTIONS AUTHORIZED

§1. Adoption by the adopters themselves of a child domiciled outside Québec

7. A person may be authorized to make adoption arrangements without a certified body if

(1) the proposed adoption is of a brother, sister, nephew, niece, grandson, grand-daughter, cousin, half brother or half sister of the person or of the person's spouse including a de facto spouse with whom the person has been living for at least three years, provided that neither the person nor the person's spouse is bound to another person by marriage, civil union or another form of conjugal union that is still valid;

(2) the proposed adoption is of a child domiciled in a State for which no body has been certified, if

(a) the prospective adopter is or was a national of the State in which the adoption is being sought;

(b) under the law of that State, only a person who is or was a national of that State can adopt a child domiciled in that State; and

(c) the child is in the care of a competent child protection or adoption authority; or

(3) in the opinion of the Minister, owing to exceptional circumstances and for humanitarian considerations, the adoption of a child by the prospective adopter is the measure most likely to ensure the child's rights are respected owing to any of the following reasons:

(a) the child is in a situation such that the child's life or health would be in serious danger if the child were not adopted by the prospective adopter;

(b) the child has a handicap or biological characteristics that cause the child's rejection by the community in the child's State of origin; or

(c) the child has been placed in the care of the prospective adopter by the parents, tutor or a competent authority, and the prospective adopter has, for six consecutive months in the past two years in the child's State of origin, assumed the custody and supervision of the child and has fed and maintained the child and ensured the child's education because of the parents' or tutor's inability to do so.

§2. Adoption by the adopters themselves of a child domiciled in another province or a territory of Canada

8. A person may be authorized to make adoption arrangements without a certified body if the proposed adoption is of a child domiciled in a province or territory of Canada who has been placed in the care of a competent public child protection or adoption authority in that province or territory.

§3. Adoption with the assistance of the Minister

9. The Minister may assist the adopter with the adoption arrangements if

(1) the certification of the body with which the adopter has entered into a contract has not been renewed or has been suspended or revoked by the Minister and the adopter's file has already been forwarded to the State of origin;

(2) the adoption cannot take place through the certified body because the child's State of origin no longer authorizes the body to make adoption arrangements in its territory and the adopter's file has already been forwarded to the State of origin;

(3) the Minister wishes to assess the advisability of certifying a body for a State of origin for which no body has been certified;

(4) the child's State of origin requests the Minister intervene; or

(5) an agreement entered into between Québec and the child's State of origin provides for adoption with such assistance.

DIVISION 3

TERMS AND CONDITIONS OF THE ADOPTION PROCESS

§1. Authorization to initiate adoption arrangements without a certified body

10. The Minister receives the application from a prospective adopter who wishes to adopt without a certified body and must ascertain whether the application is eligible for consideration having regard to the conditions set out in this Order and in the provisions that apply in Québec and in the child's State of origin.

11. To determine whether the prospective adopter satisfies the conditions set out in the provisions of the State of origin, the Minister may require the prospective

adopter to provide a certified true copy of those provisions. The Minister may also require the prospective adopter to provide a certificate drawn up by a juriconsult.

12. The Minister must furnish the prospective adopter having filed an eligible application with a form allowing the Minister to collect the information required concerning

(1) the identity of the prospective adopter, establishing compliance with the age, civil status or family situation criteria;

(2) where applicable, the identity of the child and a description of the child's living conditions; and

(3) where applicable, the identity of the persons or authorities in whose care the child has been placed.

13. A prospective adopter must submit in support of the application all the documents required by the form to allow the following in particular to be established:

(1) the age of the prospective adopter and, if applicable, the age of the child;

(2) the nationality of the prospective adopter and, if applicable, the nationality of the child;

(3) if applicable, the kin relationship between the prospective adopter and the child; and

(4) the exceptional circumstances, if any, that warrant the processing of the application on humanitarian grounds.

14. The Minister must verify the information and documents received. In considering the application, the Minister may contact the prospective adopter and if the Minister considers it necessary, call the prospective adopter to an interview.

15. In considering the application and at any stage in the adoption process, the Minister may consult the immigration authorities and the competent adoption authorities in Québec or in the child's State of origin.

In deciding the application, the Minister must consider the situation in the State in which the child is domiciled and the guarantees given to the child, the child's parents and the prospective adopter.

16. After the application has been considered and all additional information and documents required by the prospective adopter's or the child's specific situation have been provided, the prospective adopter receives, if

applicable, confirmation authorizing the prospective adopter to undergo a psychosocial assessment and, if the recommendation in the assessment is positive, to initiate adoption arrangements in the State of origin concerned, on the conditions provided for by law and on any conditions the Minister considers necessary.

Except in urgent circumstances, the Minister must notify the prospective adopter in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) before refusing to grant the authorization referred to in the first paragraph, and allow the prospective adopter at least 10 days to present observations. The Minister's decision must be in writing and give reasons; an original must be sent to the prospective adopter.

17. The evaluator must send an original of the psychosocial assessment to the Minister.

18. On confirmation by the Minister of receipt of the positive psychosocial assessment, the prospective adopter may, pursuant to the authorization granted under section 16, initiate adoption arrangements in the State of origin concerned.

§2. Adoption arrangements and post-adoption follow-up

19. An adopter authorized to make adoption arrangements without a certified body must personally prepare his or her file and submit it to the State in which he or she is seeking to adopt.

20. The adopter must inform the Minister of the arrangements made and, on request, provide the Minister with documents showing that the adoption arrangements are in conformity with the provisions that apply in Québec and in the child's State of origin.

21. Before accepting an adoption proposal, the adopter must file a copy of the proposal with the Minister who must ascertain whether it conforms to the recommendation in the adopter's psychosocial assessment.

22. The adopter must show that the child is eligible for adoption by producing a decision issued by the competent authority in the State of origin.

23. The adopter must provide the Minister with proof that all consents have been given in view of a full adoption, as prescribed by articles 568 and 574 of the Civil Code.

The Minister may require consent in the appropriate form attached as a schedule to this Order.

24. Every document produced pursuant to this Order and written in a language other than French or English must be accompanied by a translation into French certified by an accredited translator, or in the absence of an accredited translator, by a qualified person in Québec.

25. Except for the adoptions referred to in subparagraph 1 or subparagraph *c* of subparagraph 3 of the first paragraph of section 7, an adopter may not establish contact with the biological parents in any of the following circumstances: before the child is born, before the child has been declared eligible for adoption, before the consents to the adoption have been given, or before adoption in the State of origin has been considered for the child, if such an adoption is possible.

26. The adopter must immediately inform the Minister of any change in his or her situation, or of any change concerning the child to be adopted or the persons, institutions or authorities in whose care the child has been placed, if the changes could affect the Minister's decision. The notice must be accompanied by any document or information relevant to the change.

If the Minister considers the change is material, the Minister may request an interview with the adopter or any other person concerned by the proposed adoption.

27. The Minister may amend or withdraw an authorization and terminate the adopter's arrangements if the Minister's verifications reveal an irregularity in the adoption process, or if the adopter has made misrepresentations or distorted a material fact in the application or in any document or information required in connection with the proposed adoption.

Except in urgent circumstances, the Minister must notify the adopter in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) before amending or withdrawing the authorization, and allow the adopter at least 10 days to present observations. The Minister's decision must be in writing and give reasons; an original must be sent to the adopter.

An amended authorization or a notice of withdrawal, as the case may be, must be sent by the Minister to the persons or authorities concerned by the application. A copy must be sent to the adopter.

28. A person who withdraws from the proposed adoption must so inform the Minister in writing within 30 days of the person's decision.

29. The adopter must as soon as possible inform the Minister of the child's arrival in Québec.

30. The adopter must, within six months after the child's arrival in Québec, undertake the judicial procedures required for the adoption to produce its effects in Québec.

The adopter must send a copy of the court's decision to the Minister as soon as it is received.

31. The adopter must, if required, produce and send the child's progress reports in the form, at the intervals and within the time determined by the child's State of origin, and file a copy of the reports with the Minister.

DIVISION 4 **COMING INTO FORCE**

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



SCHEDULE I
(s. 23, 2nd par.)

SPECIAL CONSENT TO THE ADOPTION OF A CHILD DOMICILED OUTSIDE QUÉBEC BY A PERSON DOMICILED IN QUÉBEC

Read carefully before completing. You should obtain any advice and information you wish regarding the consequences of your consent before signing. Sign only if you fully understand each proposal. You should receive a copy of this document and, if possible, retain it for your records. You must not have received any payment or consideration for your consent.

Identity of the child:

Surname First or given name(s)

Born on:

.....
Date of birth (DD/MM/YYYY)

Born in:

.....
Birthplace of the child

The child's mother:

signs this consent signs an attached consent is deceased or unknown has been deprived of her rights

Surname of the mother

.....
First or given name(s) of the mother

The child's father:

signs this consent signs an attached consent is deceased or unknown has been deprived of his rights

Surname of the father

.....
First or given name(s) of the father

Sex of the child: male female

The child is currently domiciled at the following address:

.....

Declaration

I, the undersigned:

Surname First or given name(s)

Born on:

.....
Date of birth (DD/MM/YYYY)

Having my domicile at the following address:

.....

declare as follows:

1. I am the mother, the father, the legal tutor of the child.
2. I am freely giving, without pressure or coercion, my consent to the adoption of this child.
3. I am giving my consent on behalf of:

.....
Surname and first name(s) of the adoptive mother

.....
Surname and first name(s) of the adoptive father

.....
Address

4. I know that the adoption of this child will operate to establish a bond of filiation with the adoptive parent(s).
5. I give my consent to an adoption that will operate to dissolve permanently the bond of filiation existing between this child and the child's biological family.
6. I have been told that I may withdraw my consent before and that after that date, my consent will be irrevocable.

I declare having understood the meaning and the scope of the preceding.

Place:, date:

.....
Signature of the declarant or declarant's mark

ATTESTATION OF WITNESS(ES)

(if required by law or circumstances, for example in the case of illiterate or disabled persons)

.....
Surname First name(s) Signature.....
Surname First name(s) Signature.....
Surname First name(s) Signature.....
Surname First name(s) Signature**ATTESTATION OF THE AUTHORITY AUTHORIZED TO RECEIVE THE CONSENT**.....
Name of authority.....
Address.....
Title or capacity of signatory

I hereby certify that the above-mentioned declarant (and witnesses) has (have) appeared before me and signed this document in my presence.

.....
Signature and seal



SCHEDULE II
(s. 23, 2nd par.)

**GENERAL CONSENT TO THE ADOPTION OF A CHILD DOMICILED OUTSIDE QUÉBEC BY A
PERSON DOMICILED IN QUÉBEC**

Read carefully before completing. You should obtain any advice and information you wish regarding the consequences of your consent before signing. Sign only if you fully understand each proposal. You should receive a copy of this document and, if possible, retain it for your records. You must not have received any payment or consideration for your consent.

Identity of the child:

.....
Surname First or given name(s)

Born on:
Date of birth (DD/MM/YYYY)

Born in:
Birthplace of the child

The child's mother:

signs this consent signs an attached consent is deceased or unknown has been deprived of her rights

.....
Surname of the mother First or given name(s) of the mother

The child's father:

signs this consent signs an attached consent is deceased or unknown has been deprived of his rights

.....
Surname of the father First or given name(s) of the father

Sex of the child: male female

The child is currently domiciled at the following address:
.....

Declaration

I, the undersigned:

.....
Surname First or given name(s)

Born on:
Date of birth (DD/MM/YYYY)

Having my domicile at the following address:
.....

declare as follows:

1. I am the mother, the father, the legal tutor of the child.
2. I am freely giving, without pressure or coercion, my consent to the adoption of this child.
3. I know that the child may be adopted by spouses or a person residing abroad.
4. I know that the adoption of this child will operate to establish a bond of filiation with the adoptive parent(s).
5. I give my consent to an adoption that will operate to dissolve permanently the bond of filiation existing between this child and the child's biological family.
6. I have been told that I may withdraw my consent before and that after that date, my consent will be irrevocable.

I declare having understood the meaning and the scope of the preceding.

Place: , date:

Signature of the declarant or declarant's mark

ATTESTATION OF WITNESS(ES)

(if required by law or circumstances, for example in the case of illiterate or disabled persons)

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

.....
Surname First name(s) Signature

ATTESTATION OF THE AUTHORITY AUTHORIZED TO RECEIVE THE CONSENT

.....
Name of authority

.....
Address

.....
Title or capacity of signatory

I hereby certify that the above-mentioned declarant (and witnesses) has (have) appeared before me and signed this document in my presence.

.....
Signature and seal



SCHEDULE III
(s. 23, 2nd par.)

CONSENT OF A CHILD DOMICILED OUTSIDE QUÉBEC TO THE CHILD'S ADOPTION BY A
PERSON DOMICILED IN QUÉBEC

Read carefully before completing. You should obtain any advice and information you wish regarding the consequences of your consent before signing. Sign only if you fully understand each proposal. You should receive a copy of this document and, if possible, retain it for your records. You must not have received any payment or consideration for your consent.

Identity of the child:

Surname First or given name (s)

Born on:
Date of birth (DD/MM/YYYY)

Born in:
Birthplace of the child

The child's mother:

has signed an attached consent is deceased or unknown has been deprived of her rights

.....
Surname of the mother First or given name (s) of the mother

The child's father:

has signed an attached consent is deceased or unknown has been deprived of his rights

.....
Surname of the father First or given name(s) of the father

Sex of the child: male female

The child is currently domiciled at the following address:
.....

Declaration

I, the undersigned:

.....
Surname First or given name(s)

declare as follows:

1. I am years old.

2. I freely consent, without pressure or coercion, to my adoption by:

.....
Surname and first name(s) of the adoptive mother Surname and first name(s) of the adoptive father

.....
Address

3. I know that my adoption will operate to establish a bond of filiation with my adoptive parent(s).

4. I know that my adoption will operate to dissolve permanently the bond of filiation existing between me and my biological family.

5. I have been told that I may withdraw my consent before and that after that date, my consent will be irrevocable.

I declare having understood the meaning and scope of the preceding.

Place:, date:

.....
Signature of the declarant or declarant's mark

ATTESTATION OF WITNESS(ES)

(if required by law or circumstances, for example in the case of illiterate or disabled persons)

Surname	First name(s)	Signature
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Surname	First name(s)	Signature
---------	---------------	-----------

Surname	First name(s)	Signature
---------	---------------	-----------

Surname	First name(s)	Signature
---------	---------------	-----------

ATTESTATION OF THE AUTHORITY AUTHORIZED TO RECEIVE THE CONSENT

.....
 Name of the authority

.....
 Address

.....
 Title or capacity of signatory

I hereby certify that the above-mentioned declarant (and witnesses) has (have) appeared before me and signed this document in my presence.

.....
 Signature and seal

Draft Regulation

Civil Code of Québec
(art. 564; 2004, c. 3, s. 14)

Youth Protection Act
(R.S.Q., c. P-34.1, s. 71.6; 2004, c. 3, s. 22)

Intercountry adoption bodies — Certification

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Order respecting the certification of intercountry adoption bodies, the text of which appears below, may be made by the Minister on the expiry of 45 days following this publication.

The draft Order sets out the conditions and qualifications that a body must meet to obtain certification to make intercountry adoption arrangements on behalf of persons domiciled in Québec. Among other things, the draft Order establishes the obligations required of bodies certified by the Minister in order to maintain certification, specifies the conditions for certification renewal and describes the types of offences that may give rise to a suspension or revocation of certification or a refusal to renew certification on conviction of the certified body or any of its officers, managers or directors.

Further information may be obtained by contacting

Luce de Bellefeuille
Secretary and Director General
Secrétariat à l'adoption internationale
201, boulevard Crémazie Est, 1^{er} étage
Montréal (Québec) H2M 1L2
Telephone: (514) 873-4747
Fax: (514) 873-0157

Any interested person having comments to make on the draft Order is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Health and Social Services, 1075, chemin Sainte-Foy, 15^e étage, Québec (Québec) G1S 2M1.

PHILIPPE COUILLARD,
Minister of Health and Social Services

Order respecting the certification of intercountry adoption bodies

Youth Protection Act
(R.S.Q., c. P-34.1, ss. 71.17, 2nd par., 71.20,
1st par., 71.21 and 71.23, par. 6; 2004, c. 3, s. 22)

DIVISION 1 CONDITIONS AND QUALIFICATIONS FOR CERTIFICATION

1. Intercountry adoption certification is granted to a body that applies therefore in writing and meets the conditions prescribed by this Order.

2. A body applying for intercountry adoption certification must satisfy the following conditions:

(1) have its head office in Québec;

(2) have a board of directors composed of no fewer than five persons domiciled in Québec and who are Canadian citizens or permanent residents;

(3) have intercountry adoption as one of its objects, in its articles, and carry on no activity in Québec or elsewhere that is inconsistent with that object;

(4) have a trust account;

(5) in the previous 12 months, have travelled to the State of origin concerned and observed at first hand the conditions in which the adoption arrangements will be made;

(6) hold a resolution from its board of directors by which the body declares being bound by ethical principles and rules of conduct that are sensitive to the public interest and international context of intercountry adoption and that pertain to such matters as the services provided to adopters, respect for the rights of the children, the biological parents and the adopters, conflicts of interest, the use of the sums disbursed by the adopters, and relations with the other certified bodies; and

(7) have the human, physical and financial resources necessary to make arrangements on behalf of adopters domiciled in Québec for the adoption of a child domiciled in the State of origin concerned.

3. The body must also show that it is directed, managed and administered by persons who

(1) are aware of and adhere to the ethical principles and rules of conduct to which the body has declared itself bound;

(2) have sufficient knowledge of the current intercountry adoption laws in Québec and in the State of origin concerned and of the relevant immigration rules;

(3) have sufficient knowledge of the process leading to the adoption of a child domiciled in the State of origin concerned;

(4) have sufficient knowledge of the culture and socio-political situation in the State of origin concerned;

(5) know the competent intercountry adoption authorities in Québec and in the State of origin concerned;

(6) have the training or relevant experience to work in the field of intercountry adoptions, in particular in the areas of management, law, psychology, social work, international relations, child care and humanitarian aid;

(7) have produced a signed and sworn statement in which they declare having no direct or indirect interest in an enterprise or activity placing their personal interest in conflict with that of the body; and

(8) are domiciled in Québec and are Canadian citizens or permanent residents.

4. The body must make a certification application for each State of origin concerned using the form furnished by the Minister, and provide the following information:

(1) the name and address of the person authorized by the board of directors to file the certification application on the body's behalf;

(2) the name of the body and the registration number assigned to it under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45);

(3) the name, address and occupation of each member of its board of directors;

(4) the name, address and occupation of each person having responsibilities assigned by the body in connection with the pursuit of the arrangements made on behalf of the adopter in Québec and in the State of origin concerned; and

(5) the name and address of the public or private institutions in the State of origin concerned and the name, address and occupation of the persons working therein who collaborate or are in liaison with the body to obtain adoption proposals.

5. The body must submit the following documents with its application:

(1) a copy of the resolution of its board of directors authorizing the filing of a certification application for the State of origin concerned;

(2) the body's articles and general by-laws;

(3) a certified true copy of an official version of the laws of the State of origin concerned;

(4) a copy of the documents establishing the terms of cooperation between the body and the persons having responsibilities assigned by the body in connection with the pursuit of the arrangements made on behalf of the adopter in Québec and in the State of origin concerned, and describing the services that those persons are to provide and the fees charged for them;

(5) a true copy of the internal procedures for opening files and protecting the personal information the body collects, holds, uses or communicates to third parties in the course of its activities;

(6) budget projections for 24 months;

(7) a copy of the standard contract to be entered into with adopters, accompanied by a detailed list of the services offered to the adopters and a detailed breakdown of the costs of adopting in Québec and in the State of origin concerned;

(8) a copy of the resolution of its board of directors attesting that the body has declared itself bound by ethical principles and rules of conduct; and

(9) a certified true copy of the accreditation, if any, granted by the State of origin concerned.

6. A body that must be accredited by a competent authority in the State of origin in order to make adoption arrangements must, to the extent possible, obtain that accreditation before filing a certification application. If the body is unable to obtain the accreditation without being certified by the Minister, it must obtain the required accreditation within 12 months after being certified, unless extenuating circumstances exist.

7. Pursuant to the first paragraph of section 71.17 of the Act, every person who is an officer, manager or director of the body must provide the Minister with a criminal record check completed by a police force in Québec, and authorize the Minister in writing to verify the criminal record check with a police force in Québec.

DIVISION 2 **OBLIGATIONS OF A BODY CERTIFIED BY** **THE MINISTER**

§1. General obligations

8. A certified body must comply with the laws and regulations governing the adoption of a child domiciled outside Québec, including the provisions relating to the protection of personal information set out in the Civil Code and in the Act respecting the protection of personal information in the private sector (R.S.Q., c. P-39.1).

The certified body must also comply at all times with the conditions required to obtain certification, and with any conditions imposed at the time certification is granted.

9. Every document produced pursuant to this Order that is drawn up outside Québec or is intended for a public or private institution in the State of origin concerned, if written in a language other than French or English, must be accompanied by a translation into French certified by an accredited translator, or in the absence of an accredited translator, by a qualified person in Québec.

10. A certified body must suspend registrations if so required by the situation in the State of origin concerned or if the body encounters difficulties in meeting its commitments to the adopters or the Minister. In such a case, the body must immediately so inform the Minister.

§2. Obligations towards adopters

11. Before making arrangements for the adoption of a child domiciled outside Québec on behalf of the adopters, the certified body must enter into a written contract with the adopters that specifies the services the body undertakes to provide to them and the respective responsibilities of each party to the contract; the contract must contain a breakdown of estimated costs with an indication of the person to whom the costs are payable and whether they may fluctuate, the manner in which the contract may be modified or terminated, and the refund procedure in the event the contract is terminated. The contract must specify when it takes effect and when it ends.

The certified body must respect the commitments in the contract and provide to the adopters the services specified therein.

12. As minimum services provided to the adopters, a certified body must

(1) offer information sessions that deal with matters including the services offered by the certified body to adopters, the conditions in the State of origin concerned, the profile of the children proposed for adoption and the support services offered after the child arrives in Québec;

(2) support the adopters in their proposed adoption;

(3) inform the adopters of any change likely to have an impact on how their proposed adoption is to proceed;

(4) verify the documents provided by the adopters, ensure that the file is complete and compliant and forward the file to the State of origin concerned;

(5) receive adoption proposals and ensure that they conform to the recommendations in the psychosocial assessment;

(6) pursue the adoption process in the proper manner, in particular by seeing to the timely forwarding of all documents required by the authorities in Québec and in the State of origin concerned;

(7) inform the adopters on the procedures after the child arrives in Québec, such as the judicial procedure and application for citizenship, and ensure follow-up;

(8) conduct follow-up on the sending of the child's progress reports in accordance with the requirements of the State of origin; and

(9) cooperate in research into family and medical antecedents or reunions.

13. A certified body may not require an amount of money be paid to it by the adopters before the contract has been signed by the parties.

The body must provide receipts for all amounts of money paid to it by the adopters.

14. A certified body may not propose a child for adoption before receiving the positive psychosocial assessment report on the adopters.

An adoption proposal that does not conform to the psychosocial assessment must be processed in collaboration with the Minister.

§3. *Obligations towards the Minister*

15. A certified body must inform the Minister in writing of any change in the information furnished in the certification application within 30 days following the change or, if the body is unable to do so within that time, as soon as the body is able to do so.

16. A certified body must send to the Minister a copy of the documents setting out the terms of its cooperation with the public or private institutions in the State of origin concerned.

The terms of the cooperation must be consistent with the laws that apply in Québec and in the State of origin.

§4. *Trust accounts*

17. A certified body must deposit in its trust account all amounts paid to it for services to be provided, disbursements to be made or charges to be paid to third parties.

18. A certified body must maintain books, records and accounts pertaining to its activities and enter therein all sums of money received by the body in trust, all disbursements made by it out of the trust account and the unexpended balance of the money held by it in trust.

19. A certified body must also maintain accounting records showing all receipts and all disbursements, distinguishing between

(1) money received in trust for adopters and disbursements of money held in trust; and

(2) money received and money disbursed in the body's own account.

§5. *Reports and follow-up on the body's activities*

20. The fiscal year of a certified body begins on 1 April and ends on 31 March.

21. A certified body must make an annual report to the Minister on its activities. The report, which is to cover the period ending on 31 March of the current year, must be made on or before 30 June of each year and contain the following information and documents:

(1) its financial statements prepared by a certified accountant, a certified management accountant or a certified general accountant;

(2) a copy of the standard contract used by the body;

(3) a list of adopters who have completed the process and the date on which their file was forwarded to the State of origin concerned;

(4) the name and address of the financial institution in which the trust account has been opened, the account number and the balance at 31 March;

(5) the average cost for the current year of fully processing an adoption file, with a breakdown by spending item, and the cost range for the entire file base if the charges vary from one file to another; and

(6) a summary of its development activities that concern intercountry adoption and mutual humanitarian assistance.

The certified body is to make only one report if it is certified or accredited in more than one State of origin. In such a case, the required information and documents must enable the report to be examined State by State.

22. The Minister is to monitor the activities of the certified body for the entire duration of certification. The Minister may send a written notice of non-compliance to a certified body if the body

(1) does not comply with the conditions of its certification;

(2) fails to perform a legal duty; or

(3) fails to inform the Minister of a change in the particulars submitted in support of the certification application such as the costs of adoption, the names of the foreign collaborators or the standard contract.

23. A written notice of non-compliance becomes part of the certified body's file.

DIVISION 3 CONDITIONS FOR CERTIFICATION RENEWAL

24. A certified body wishing to renew certification must make a written application to the Minister six months before the expiry of current certification, using the form furnished by the Minister. A certification renewal application must include an updating of the documents submitted under section 5.

25. The requisite conditions and qualifications referred to in section 1 also apply to certification renewal.

26. Before renewing certification, the Minister must assess the certified body's past record in intercountry adoptions and the situation in the State of origin concerned. For that purpose the Minister may consult the competent adoption or immigration authorities.

The Minister must consider such factors as

(1) the number of adoptions that have taken place and the conduct of the process in those adoptions;

(2) the number of complaints made against the certified body;

(3) the notices of non-compliance entered in the certified body's file;

(4) the certified body's relations with the institutions and public or private authorities in the State of origin concerned; and

(5) the certified body's relations with the Minister and the competent adoption or immigration authorities in Québec.

DIVISION 4

LIST OF OFFENCES

27. For the purposes of paragraph 6 of section 71.23 of the Act, the offences that may lead the Minister to suspend, revoke or refuse to renew certification are the following, whether committed in Québec or abroad:

(1) an offence with violence or of a sexual nature;

(2) an offence relating to child protection;

(3) an offence relating to the falsification of documents, fraud, false pretenses, theft, false representation or corruption;

(4) a criminal organization offence;

(5) an offence relating to privacy or the protection of personal information; and

(6) an offence relating to the possession, trafficking, importing or exporting of weapons, drugs or other illicit substances.

The certified body, and any officer, manager or director wishing to remain in office, must without delay notify the Minister of any conviction for an offence listed in the first paragraph and as soon as feasible provide the Minister with any document or information enabling the

Minister to make an enlightened decision regarding the suspension or revocation of certification or refusal to renew certification.

DIVISION 5

COMING INTO FORCE

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

7002

Draft Regulation

An Act respecting occupational health and safety (R.S.Q., c. S-2.1)

Occupational health and safety — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 224 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), that the Regulation to amend the Regulation respecting occupational health and safety, the text of which appears below, may be made by the Commission de la santé et de la sécurité du travail and submitted to the Government for approval on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to ensure the health and safety of workers by amending the Regulation respecting occupational health and safety.

To that end, it proposes to amend certain provisions respecting air quality and certain lifting apparatus, such as fork lift trucks and aerial basket lifting devices. It also proposes the addition of certain provisions concerning the minimum age and the training of fork lift truck and aerial basket lifting device operators. It provides for amendments to Parts 1 and 4 of Schedule I concerning certain substances and their characteristics. It also provides for additional safety measures concerning work in enclosed spaces and welding and cutting operations. In addition, it makes a reference to the most recent standard concerning safety shoes.

To date, study of the matter has shown little impact on enterprises and in particular on small and medium-sized businesses.

Further information may be obtained by contacting Louis Tremblay, Commission de la santé et de la sécurité du travail, 524, rue Bourdages, Québec (Québec) G1K 7E2. Telephone: (418) 266-4699; fax: (418) 266-4698.

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 Alain Albert, Vice-chair, Relations with partners and consultants, Commission de la santé et de la sécurité du travail, 1199, rue De Bleury, 14^e étage, Montréal (Québec) H3B 3J1.

GÉRARD BIBEAU,
Chairman of the Board
and Chief Executive Officer
Commission de la santé et de la
sécurité du travail

Regulation to amend the Regulation respecting occupational health and safety*

An Act respecting occupational health and safety (R.S.Q., c. S-2.1, s. 223, 1st par., subpars. 1, 3, 7, 19, 42, 2nd and 3rd pars.)

1. The Regulation respecting occupational health and safety is amended by replacing sections 58 and 59 by the following:

“**58. Collection and processing systems:** In addition to the requirements of section 108, every blower, conveyor, transfer or processing system for pulverized combustible dust and any other suspended matter presenting a fire or explosion hazard must be designed, built, installed, operated and maintained in compliance with the following standards according to their respective application:

(1) NFPA Standard 61-2002 Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities;

(2) NFPA Standard 484-2002 Combustible Metals, Metal Powders and Metal Dusts;

(3) NFPA Standard 664-2002 Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities.

For any other field of application, the system must comply with NFPA Standard 654-2000 Prevention of Fires and Dust Explosions from the Manufacturing, Processing and Handling of Combustible Particulate Solids.

Any system referred to in the first paragraph installed before (*insert the date of coming into force of this Regulation*) must comply with one of those standards or with the standard applicable at the time of the installation of the system.

59. Enclosed dust collectors: Every enclosed collector for combustible dust or any other suspended matter presenting a fire or explosion hazard must

(1) be designed, manufactured and maintained according to the rules of the trade; and

(2) be placed and installed

(a) outside a building if provided with explosion vents in compliance with NFPA Standard 68-1998 Guide for Venting of Deflagrations; vents already installed on collectors on (*insert the date of coming into force of this Regulation*) must also comply with that standard or with the standard applicable at the time of installation of the vents and be in good order;

(b) inside a building in either of the following cases:

i. if adjacent to an outside wall or ceiling towards which the explosion vents are channelled by explosion proof ducts and if they comply with NFPA 68-1998 Guide for Venting of Deflagrations; vents already installed on the collectors on (*insert the date of coming into force of this Regulation*) must also comply with that standard or with the standard applicable at the time of the installation of the vents and be in good order; or

ii. if equipped with an automatic explosion prevention system in compliance with NFPA Standard 69-2002 Explosion Prevention Systems; the automatic prevention systems installed on the collectors as of (*insert the date of coming into force of this Regulation*) must also comply with that standard or with the standard applicable at the time of the installation of the systems and be in good order.

59.1 Open Dust Collectors: Every open collector for combustible dust or any other suspended matter presenting a fire or explosion hazard and used in the wood industry may be placed and installed inside a building

(1) if it is not connected to a sander or abrasive planer with mechanical feed;

(2) if its capacity does not exceed 2.4 cubic metres per second;

* The Regulation respecting occupational health and safety approved by Order in Council 885-2001 dated 4 July 2001 (2001, G.O. 2, 3888) has not been amended since its approval.

(3) if the fan motor is designed for Class II or III locations according to the Canadian Electrical Code, First Part, Nineteenth Edition, CSA Standard C22-10-04 with Québec Amendments;

(4) if installed less than 6 metres from a work station, a travelway or an emergency exit, unless a risk analysis made by an engineer or the manufacturer allows for the installation of a firewall or anti-blast wall between the station, the travelway or the exit and the open dust collector, if it is not possible to comply with that distance;

(5) where there is more than one open dust collector, if the collectors are at least 6 metres apart, unless a risk analysis made by an engineer or the manufacturer allows for the installation of a firewall or anti-blast wall between the collectors, if it is not possible to comply with the distance; and

(6) if it is emptied as needed sufficiently often to ensure safety and collecting efficiency.

For the purposes of this section, “open dust collector” means equipment for the separation of air from solid particles designed and used to remove dust and having the following features:

(1) filtering is done by dust-laden air passing through a filtering element that gathers dust inside the filter and allows clean air to return to the ambient air;

(2) the filtering element is not enclosed or installed in a rigid casing;

(3) the filtering element is not shaken mechanically or by pulsed air jets;

(4) the filtering element is under positive pressure; and

(5) the cleaning of collected dust is neither continuous nor mechanical.”

2. Section 82 is amended by replacing “the standard Flammable and Combustible Liquids Code NFPA 30-1996” at the end of the first paragraph by “NFPA Standard 30-1996 Flammable and Combustible Liquids Code”.

3. Section 200 is amended by replacing the title “Precautions” by “Installing and using grinding wheels”.

4. The Regulation is amended by inserting the following after section 256:

“256.1. Lift truck operator retention device: A counterbalanced high-lift truck with a centre operating station, that cannot be lifted with the operator in a sitting position, referred to in the second paragraph of section 256, shall be equipped with a retention device, such as a safety belt, mesh doors, enclosed cabin, bucket seat or winged chair to prevent the operator from being crushed by the structure of the truck in the event the lift truck tips over.

256.2. Minimum age of operator: Every operator of a fork lift truck must be at least 16 years old.

256.3. Training of operator: A fork lift truck must be operated only by an operator who has undergone

(1) training including

(a) basic notions concerning fork lift trucks;

(b) the work environment and how it affects the operation of a fork lift truck;

(c) the operation of a fork lift truck; and

(d) safety rules and measures; and

(2) practical training under the supervision of an instructor and dealing with the operation of a fork lift truck such as starting, moving and stopping, handling loads and any other manoeuvre necessary to operate a fork lift truck.

The practical training must begin, if possible, outside of the area used for current operations and then be completed in the regular work area.

In addition, the training prescribed in subparagraphs 1 and 2 must include the directives concerning the work environment, its specific conditions and the type of fork lift truck to be operated. “.

5. Section 261 is amended

(1) by striking out “a lift truck or” in the first paragraph;

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

“The lifting of a worker using a fork lift truck must be done in compliance with ASME Standard B56.1 (1993-A.1995) Safety Standard for Low Lift and High Lift Trucks.”.

6. Sections 262 and 263 are replaced by the following:

“**262. Aerial basket lifting device:** Every aerial basket lifting device must be designed, manufactured and installed on a carrier vehicle in compliance with CSA Standard C225 or ANSI Standard A92.2 applicable at the time of its manufacture.

263. Aerial basket lifting device – design and manufacture: Every aerial basket lifting device designed and manufactured before November 1976 must

(1) be equipped with an emergency stop button located within reach of the worker occupying the basket; and

(2) be installed on a carrier that must provide a stable and structurally sound support when the basket is used.

263.1. Aerial basket lifting device – training: Every operator of an aerial basket lifting device must undergo training in compliance with articles 10.11 and 10.11.3 of CSA Standard C225-00 Vehicle-Mounted Aerial Devices and more specifically on the operating methods related to the operation in motion of the carrier vehicle of the aerial basket lifting device.”

7. Section 306 is amended by replacing subparagraph 3 of the first paragraph by the following:

“(3) if the workers leave the enclosed area and the work site, even momentarily, unless continuous monitoring is maintained.”

8. Section 311 is amended by replacing “filling” by “the operations”.

9. Section 319 is replaced by the following:

“**319. Antiback-up arresters:** The oxygen lead hose and the combustible gas lead hose to a torch must be equipped with at least one antiback-up gas arrester and one antiback-up flame arrester. The arresters must be installed in compliance with the manufacturer’s instructions.”

10. Section 344 is amended by replacing “the CSA Z195-M92 Safety Footwear standard” by “CAN/CSA Standard Z195-02 Protective Footwear”.

11. Part 1 of SCHEDULE I is amended

(1) by inserting, in alphabetical order, the following substances and their characteristics in replacement of the substances of the same name and their characteristics:

Substance	[#CAS]	TWA/EV		STEV/Ceiling		Designation and remarks
		ppm	mg/m ³	ppm	mg/m ³	
“Acetaldehyde	[75-07-0]			C25	C45	C3,RP
Acetone	[67-64-1]	500	1190	1000	2380	
Beryllium [7440-41-7], metal and compounds (as Be)			0.00015			C1,RP,EM,S
2-Butoxyethanol	[111-76-2]	20	97			
n-Butyl acrylate	[141-32-2]	2	10			
Calcium carbonate	[471-34-1]		10			Td
Cumene	[98-82-8]	50	246			
p-Dichlorobenzene	[106-46-7]	20	120			C3
Dimethylamine	[124-40-3]	5	9			
N,N-Dimethylformamide	[68-12-2]	10	30			Pc
Dinitrotoluene	[25321-14-6]		0.2			Pc,C3
Dioxane	[123-91-1]	20	72			Pc,C3
Dipropylene glycol monomethyl ether	[34590-94-8]	100	606	150	909	Pc
Ethyl acrylate	[140-88-5]	5	20	15	61	C3,S
Ethylenediamine	[107-15-3]	10	25			Pc

Substance	[#CAS]	TWAEV		STEV/Ceiling		Designation and remarks
		ppm	mg/m ³	ppm	mg/m ³	
Fibres-Artificial Vitreous Mineral Fibres						
Insulation wool fibres, Glass wool (note 4)			2 fibre/cm ³			
Insulation wool fibres, Rock wool (note 4)			1 fibre/cm ³			
Insulation wool fibres, Slag wool (note 4)			1 fibres/cm ³			
Glutaraldehyde	[111-30-8]			C0.1	C0.41	<i>RP,S</i>
n-Hexane	[110-54-3]	50	176			<i>Pc</i>
Limestone	[1317-65-3]		10			<i>Td, note 1</i>
Methyl acrylate	[96-33-3]	2	7			<i>Pc,S</i>
Methyl methacrylate (monomer)	[80-62-6]	50	205			<i>S</i>
Phenyl glycidyl ether (PGE)	[122-60-1]	0.1	0.61			<i>Pc,S,C3</i>
Picric acid	[88-89-1]		0.1			
Sodium hydroxide	[1310-73-2]				C2	<i>RP</i>
Terphenyls	[26140-60-3]			C0.53	C5	<i>RP</i>
Tetranitromethane	[509-14-8]	0.005	0.04			<i>C2,EM</i>
Vanadium pentoxide, fume and respirable dust (as V ₂ O ₅)	[1314-62-1]				C0.05	<i>RP</i>
Vinyl chloride (monomer)	[75-01-04]	1	2.6			<i>C1,RP,EM</i> ;

(2) by inserting, in alphabetical order, the following substances and their characteristics :

Substance	[#CAS]	TWAEV		STEV/Ceiling		Designation and remarks
		ppm	mg/m ³	ppm	mg/m ³	
“Calcium chromate (as Cr)	[13756-19-0]		0.001			<i>C2,RP,EM</i>
Chromium (VI) compounds water insoluble (as Cr)			0.01			<i>C1,RP,EM,S</i>
Chromium (VI) compounds water soluble (as Cr)			0.05			<i>C1,RP,EM,S</i>
Graphite (all forms except fibers)	[7782-42-5]		2			<i>Rd, note 1</i>
Lead [7439-92-1], and inorganic compounds (as Pb)			0.05			<i>C3</i>
Lead chromate (as Cr)	[7758-97-6]		0.012			<i>C2,RP,EM</i>
Mercury [7439-97-6], aryl compounds (as Hg)			0.1			<i>Pc</i>
Mercury [7439-97-6], inorganic compounds (as Hg)			0.025			<i>Pc</i>
Mercury [7439-97-6], mercury vapor (as Hg)			0.025			<i>Pc</i>

Substance	[#CAS]	TWAEV		STEV/Ceiling		Designation and remarks
		ppm	mg/m ³	ppm	mg/m ³	
Pentyl acetates						
n-Amyl acetate	[628-63-7]	50	266	100	532	
sec-Amyl acetate	[626-38-0]	50	266	100	532	
Isoamyl acetate	[123-92-2]	50	266	100	532	
tert-Amyl acetate	[625-16-1]	50	266	100	532	
2-Methyl-1-butanol acetate	[624-41-9]	50	266	100	532	
3-Pentyl acetate	[620-11-1]	50	266	100	532	
Strontium chromate (as Cr)	[7789-06-2]		0.0005			C2,RP,EM
Triglic			See Triglycidyl isocyanurate			
Triglycidyl isocyanurate (TGIC) (alpha-)	[59653-73-5]		0.05			
Triglycidyl isocyanurate (TGIC) (beta-)	[59653-74-6]		0.05			
Triglycidyl isocyanurate (TGIC) (mixed isomers)	[2451-62-9]		0.05			
Zinc chromates [13530-65-9; 11103-86-9; 37300-23-5] (as Cr)			0.01			C1,RP,EM,S" ;

(3) by striking out the following substances and their characteristics :

Substance	[#CAS]	TWAEV		STEV/Ceiling		Designation and remarks
		ppm	mg/m ³	ppm	mg/m ³	
"n-Amyl acetate	[628-63-7]	100	532			
sec-Amyl acetate	[626-38-0]	125	665			
Isoamyl acetate	[123-92-2]	100	532			
Chromium (II) compounds (as Cr)			0.5			
Chromium (VI) compounds Certain water insoluble (as Cr)			0.05			C1,RP,EM
Chromium (VI) compounds Water soluble (as Cr)			0.05			
Graphite (natural)	[7782-42-5]		2.5			Rd, note 1
Graphite (synthetic, except fibers)			5			Rd, note 1
Mercury [7439-97-6], all forms except alkyl compounds (as Hg)						
Aryl and inorganic compounds			0.1			Pc
Mercury vapor			0.05			Pc

Substance	[#CAS]	TWAEV		STEV/Ceiling		Designation and remarks
		ppm	mg/m ³	ppm	mg/m ³	
Lead [7439-92-1] and inorganic compounds, dusts and fumes (as Pb)			0.15			
Lead chromate (as Cr)	[7758-97-6]		0.012			<i>C2,RP,EM</i>
Zinc chromates [13530-65-9; 11103-86-9; 37300-23-5] (as Cr)			0.01			<i>C1,RP,EM</i> ”;

(4) by replacing, in the English text, “Acetone cyanohydrin” by “Acetone cyanohydrin (as CN)” and “Systox See Demeton 7” by “Systox See Demeton ®”.

12. Part 4 of SCHEDULE I is amended

(1) by inserting the following substances in numerical order

“471-34-1	Calcium carbonate
620-11-1	3-Pentyl acetate
624-41-9	2-Methyl, 1-butanol acetate
625-16-1	Tert-amyl acetate
1317-65-3	Limestone
2451-62-9	Triglycidyl isocyanurate (TGIC) (mixed isomers)
7782-42-5	Graphite (all forms except fibres)
7789-06-2	Strontium chromate
13756-19-0	Calcium chromate
59653-73-5	Triglycidyl isocyanurate (TGIC) (alpha-)
59653-74-6	Triglycidyl isocyanurate (TGIC) (beta-”);

(2) by striking out “ 1317-65-3 Calcium carbonate
7782-42-5 Graphite (natural)”.

13. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 256.1 and 261 which come into force on the date that occurs one year after the coming into force of this Regulation. The substance Lead [7439-92-1] and its inorganic compounds (as Pb) in **PART 1** of **SCHEDULE 1** comes into force on the date that occurs one year after the coming into force of the Regulation to the extent that it applies to secondary lead smelters.

For the purposes of this section, “secondary lead smelter” means any plant or factory in which lead-bearing scrap or lead-bearing materials, other than lead-bearing concentrates derived from a mining operation, are processed by metallurgical or chemical process into refined lead, lead alloys or lead oxide.

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

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