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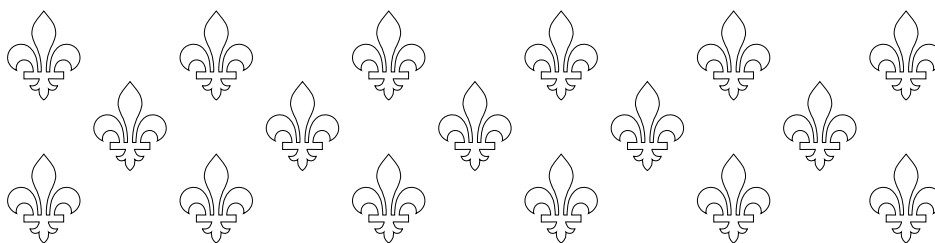
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NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 94
(2005, chapter 19)

**An Act to amend the Act respecting
the Ministère des Ressources naturelles,
de la Faune et des Parcs and other
legislative provisions**

**Introduced 14 April 2005
Passage in principle 5 May 2005
Passage 14 June 2005
Assented to 17 June 2005**

**Québec Official Publisher
2005**

EXPLANATORY NOTES

This bill amends the Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs to create the position of chief forester, which is to be filled by government appointment. The chief forester is to hold the position of associate deputy minister for a five-year term in accordance with the Public Service Act.

The bill specifies that the chief forester supervises the operations for calculating annual allowable cuts, identifies the forest and ecological data required to make that calculation, and prepares the forest management manual. It provides that from now on the power to determine annual allowable cuts will be exercised by the chief forester and that the decisions made in that regard will be made public. The chief forester also advises the Minister on the content of the plans required under the Forest Act, on the plans submitted to the Minister for approval, and on policy and planning in forest research and development.

The bill provides that the chief forester must draw up and send the Minister a five-year review of the state of the forests in the domain of the State and the results achieved with respect to sustainable forest development within the meaning of the Forest Act. The review is to be tabled in the National Assembly.

Under the bill, the chief forester may require a public body to provide the information and documents necessary for the exercise of the chief forester's functions of office.

The bill specifies that the Minister's mission includes facilitating the ecosystem-based, integrated and regionalized management of the activities carried on in the forests in the domain of the State.

Finally, the bill extends the special rules concerning advance harvesting applicable to the years 2005-2006, 2006-2007 and 2007-2008 enacted under the Act to amend the Forest Act and other legislative provisions applicable to forest management activities, passed on 22 March 2005, to the territory referred to in Chapter 3 of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs (R.S.Q., chapter M-25.2);
- Act to amend the Forest Act and other legislative provisions and to enact certain special provisions applicable to forest management activities prior to 1 April 2008 (2003, chapter 16).

Bill 94

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DES RESSOURCES NATURELLES, DE LA FAUNE ET DES PARCS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs (R.S.Q., chapter M-25.2) is amended by inserting the following section after section 11.1:

“11.2. In pursuing this mission, the Minister shall facilitate the ecosystem-based development of the forest and the integrated and regionalized management of the activities carried on in the forests in the domain of the State.”

2. The Act is amended by inserting the following division after section 17.1:

“DIVISION II.01

“CHIEF FORESTER

“17.1.1. This Act establishes the position of chief forester. The chief forester shall exercise the functions entrusted to the chief forester by this Act, with the independence granted by the Act, and in keeping with the principle of sustainable development.

The Government shall appoint a chief forester from among at least three persons approved by a committee following a selection process established by the Government. The committee is to be composed of three members appointed by the Government.

The chief forester shall hold the position of associate deputy minister for a five-year term in accordance with the Public Service Act (chapter F-3.1.1).

The term may be renewed by the Government.

“17.1.2. The chief forester is responsible for

(1) supervising the operations for calculating the annual allowable cut for each forest management unit and each forest reserve, and proposing special requirements to be imposed on the holders of a timber supply and forest management agreement or a forest management agreement in determining the cut;

- (2) preparing the forest management manual; and
- (3) determining the forest and ecological data required and the steps that must be taken to calculate the annual allowable cut.

The Minister may entrust to the chief forester any other forestry mandate.

“17.1.3. The power provided for in section 35.4 of the Forest Act to determine annual allowable cuts by species or group of species is exercised by the chief forester.

The chief forester shall make public the annual allowable cuts and the reasons for them.

“17.1.4. The chief forester shall advise the Minister on

- (1) the content of the plans required under the Forest Act;
- (2) the plans submitted to the Minister for approval in accordance with the Forest Act; and
- (3) policy and planning in forest research and development.

“17.1.5. The chief forester shall advise the Minister on any forestry matter the latter submits to the chief forester in respect of either private forests or forests in the domain of the State.

The chief forester shall refer to the Minister any forestry matter that, in the opinion of the chief forester, requires the Government’s attention or action.

“17.1.6. The advice of the chief forester may be accessed by the public.

“17.1.7. The chief forester shall draw up a five-year review of the state of the forests in the domain of the State and the results achieved for those forests with respect to sustainable forest development within the meaning of the preliminary provision of the Forest Act, as well as recommendations to facilitate the pursuit of the chief forester’s mission, and send them to the Minister, at the time and subject to the conditions determined by the Minister.

The Minister shall table the review in the National Assembly within 30 days of receiving it, or, if the Assembly is not in session, within 30 days of resumption. The review is examined by the appropriate committee of the National Assembly.

“17.1.8. A public body referred to in the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) must provide the chief forester with the information and documents the latter requires to exercise the functions provided for in this division.

“17.1.9. Carrying out any investigations the chief forester considers necessary is included in the functions of office.

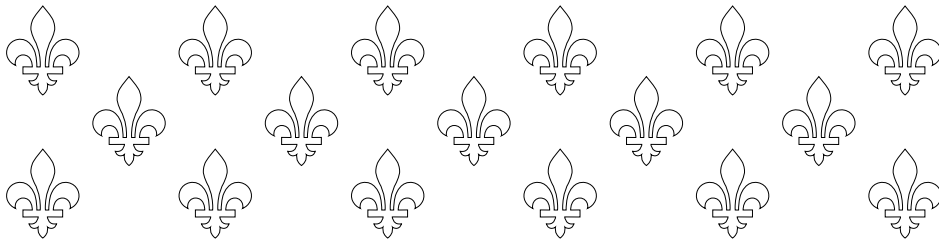
For the purposes of an investigation, the chief forester is vested with the powers and immunity provided for in the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“17.1.10. Within three months of the end of each fiscal year, the chief forester shall send the Minister an activities report. That report is appended to the report referred to in section 11.”

3. Section 67.4 of the Act to amend the Forest Act and other legislative provisions and to enact certain special provisions applicable to forest management activities prior to 1 April 2008 (2003, chapter 16), enacted by section 12 of chapter 3 of the statutes of 2005, is amended by striking out “who carries on forest management activities in a common area that is not located entirely or partially in the territory referred to in section 95.7 of the Forest Act” in the first paragraph.

4. Section 3 has effect from 1 April 2005.

5. This Act comes into force on 17 June 2005, except section 2, which comes into force on the date or dates to be set by the Government.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 100
(2005, chapter 23)

**Budget Act No. 2 giving effect
to the Budget Speech delivered
on 30 March 2004 and to certain
other budget statements**

**Introduced 11 May 2005
Passage in principle 2 June 2005
Passage 13 June 2005
Assented to 17 June 2005**

**Québec Official Publisher
2005**

EXPLANATORY NOTES

This bill amends various legislation to give effect primarily to the Budget Speech delivered on 30 March 2004. The bill also gives effect, in an incidental manner, to the Budget Speeches delivered on 12 June 2003 and on 21 April 2005 and to Information Bulletins 2001-13 dated 20 December 2001, 2003-7 dated 12 December 2003, 2004-6 dated 30 June 2004, 2004-8 dated 21 October 2004, 2004-9 dated 12 November 2004 and 2004-11 dated 22 December 2004, published by the Ministère des Finances.

The bill amends the Act respecting international financial centres, in particular,

(1) to exclude, as a rule, transactions between the operator of an international financial centre and a person with whom the operator is not dealing at arm's length;

(2) to restrict the deduction that may be claimed by employees of an international financial centre, other than foreign specialists, solely to employees who devote at least 75% of their duties with the centre to carrying out qualified transactions, and to limit that deduction to \$50,000 on an annual basis.

The bill amends the Mining Duties Act so that the additional deductions of 25% in respect of certain exploration expenses incurred in Québec's Near North and Far North under the flow-through share system are made permanent.

The bill repeals the provisions of the Act respecting municipal taxation concerning the tax on telecommunications, gas distribution and electric power systems and introduces a new public utility tax in the Taxation Act.

The bill amends the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi and the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) in order to relax standards regarding immovable property investments in Québec businesses.

The bill amends the Taxation Act to introduce, amend or repeal certain measures. In particular, the amendments concern

- (1) *the methods of computing the alternative minimum tax;*
- (2) *the further reduction of the amount of the deduction for securities options;*
- (3) *the averaging of the taxation of income from artistic activities and the eligibility of performing artists for the deduction respecting copyright income;*
- (4) *the obligation for an employee to keep a logbook in which the employee records the trips made with an automobile made available by the employer and to provide the employer with a copy of the logbook;*
- (5) *the recognition of registered Québec amateur athletic associations and the Agence de la Francophonie as organizations authorized to issue receipts for charitable gifts;*
- (6) *the relaxation of the rules limiting the deduction for entertainment expenses;*
- (7) *the elimination of the deduction for market-makers;*
- (8) *the introduction of rules applicable to the tax holiday of an employee or to a tax credit relating to wages in order to allow the Minister to take into account the remuneration paid to an employee who is temporarily absent from employment;*
- (9) *the elimination of the five-year tax holiday for new corporations;*
- (10) *the improvement of the refundable tax credit for on-the-job training periods when served with a business situated in a remote resource region;*
- (11) *the elimination of the refundable tax credit for railway undertakings;*
- (12) *the simplification of the refundable tax credit for Québec film production and of the refundable tax credit for book publishing;*
- (13) *the improvement of the refundable tax credit for technological adaptation services;*
- (14) *the provisions relating to biotechnology development centres in order to reduce fiscal assistance granted to certain exempt*

corporations that carry out an innovative project in such a centre, and to standardize and simplify the rules governing the granting of that assistance to corporations that carry on a business in such a centre;

(15) the increase of the rate of the refundable tax credit for job creation in the Gaspésie and certain maritime regions of Québec and the introduction of more profitable rules applicable to the fields of marine biotechnology and mariculture;

(16) the permanence of the flow-through share system and the increase of tax benefits relating to flow-through shares and to the tax credit relating to resources;

(17) the specifications made regarding the scientific research and experimental development expenditures incurred by a research consortium;

(18) the increase from \$600,000 to \$1,000,000 of the maximum deduction corporations may claim in computing their paid-up capital subject to the tax on capital;

(19) the introduction of a new public utility tax.

The bill amends the Act respecting the Ministère du Revenu in particular to establish rules applicable to registered Québec amateur athletic associations in respect of the keeping of registers and records and the appeal of decisions made by the Minister to refuse or revoke the registration of such an organization.

The bill amends the Act respecting the Régie de l'assurance maladie du Québec in order to increase the level of exemptions taken into consideration in establishing the premium payable under the prescription drug insurance plan.

The bill amends the Act respecting the Québec sales tax, in particular;

(1) to limit the amount of the estimates that may be used in determining the Québec sales tax in respect of the sale of road vehicles;

(2) to relax the conditions for the application of the cap on the amount of input tax refund that may be claimed by a registrant with respect to entertainment expenses incurred to earn income from a business or property;

(3) to clarify the restriction on the input tax refund in respect of energy purchased by a large business.

Lastly, the bill amends other legislation to make various technical amendments, including consequential and terminology-related amendments.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting international financial centres (R.S.Q., chapter C-8.3);
- Mining Duties Act (R.S.Q., chapter D-15);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., chapter F-3.1.2);
- Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., chapter F-3.2.1);
- Hydro-Québec Act (R.S.Q., chapter H-5);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the application of the Taxation Act (R.S.Q., chapter I-4);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting property tax refund (R.S.Q., chapter R-20.1);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Act giving effect to the Budget Speech delivered on 1 November 2001, to the supplementary statement of 19 March 2002 and to certain other budget statements (2003, chapter 9);
- Act giving effect to the Budget Speech delivered on 12 June 2003 and to certain other budget statements (2004, chapter 21).

Bill 100

BUDGET ACT NO. 2 GIVING EFFECT TO THE BUDGET SPEECH DELIVERED ON 30 MARCH 2004 AND TO CERTAIN OTHER BUDGET STATEMENTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING INTERNATIONAL FINANCIAL CENTRES

I. (1) Section 4 of the Act respecting international financial centres (R.S.Q., chapter C-8.3), amended by section 5 of chapter 21 of the statutes of 2004 and by section 90 of chapter 37 of the statutes of 2004, is again amended

(1) by inserting the following definition in alphabetical order:

““specified shareholder” has the meaning assigned by sections 21.17 and 21.18 of the Taxation Act;”;

(2) by striking out “(chapitre I-3)” in the definition of “année d’imposition” in the French text;

(3) by inserting the following definition in alphabetical order:

““ultimate beneficiary”, at any time, in respect of a corporation or partnership operating an international financial centre as an adviser, means a person or any member of a group of persons, if, directly or indirectly, in any manner whatsoever, the person or group of persons has, at that time, an interest of more than 10% in the securities the corporation or partnership manages in the course of the operations of the international financial centre or in respect of which the corporation or partnership provides advice in the course of those operations;”;

(4) by replacing the definition of “financial corporation” by the following definition:

““financial corporation” means

(1) a bank, a savings and credit union, a trust company, a corporation dealing in securities, an insurance corporation or any other similar financial or insurance institution, that is liable for tax under Part IV or VI of the Taxation Act or that would be liable for such tax if it had an establishment in Québec, within the meaning of sections 12 to 16.2 of that Act, or carried on a business in Québec; or

(2) a corporation all the issued capital stock of which, except directors' qualifying shares, belongs to one or more entities referred to in paragraph 1;";

(5) by inserting the following definition in alphabetical order:

““designated financial corporation”, at a particular time, means a corporation or partnership that is operating an international financial centre as an adviser at that time and in respect of which

(1) each ultimate beneficiary in respect of the corporation or partnership, at any given time in the taxation year or fiscal period of the corporation or partnership that includes the particular time, is dealing at arm's length with the corporation or partnership at that given time; or

(2) the following conditions are satisfied:

(a) no ultimate beneficiary in respect of the corporation or partnership, at any given time in the taxation year or fiscal period of the corporation or partnership that includes the particular time, is an individual who is an employee of the corporation or partnership in respect of whom a certificate has been issued, for a period including that given time, to the corporation or partnership in accordance with section 19 or 20 in relation to the international financial centre or in respect of whom it may reasonably be expected that such a certificate will be issued,

(b) in the case of the corporation, no ultimate beneficiary in respect of the corporation, at any given time in the taxation year of the corporation that includes the particular time, and no group of persons referred to in the definition of “ultimate beneficiary” and of which such an ultimate beneficiary is a member at that given time, has, directly or indirectly, in any manner whatsoever, an interest as a specified shareholder of the corporation at that given time,

(c) in the case of the partnership, no ultimate beneficiary in respect of the partnership, at any given time in the fiscal period of the partnership that includes the particular time, and no group of persons referred to in the definition of “ultimate beneficiary” and of which such an ultimate beneficiary is a member at that given time, has, directly or indirectly, in any manner whatsoever, an interest as a member of the partnership having, alone or with any other member of the partnership with whom the member is not dealing at arm's length, an interest of at least 10% in the income or loss of the partnership for that fiscal period, and

(d) each ultimate beneficiary in respect of the corporation or partnership, at any given time in the taxation year or fiscal period of the corporation or partnership that includes the particular time, is, at that given time, dealing at arm's length with an individual described in subparagraph *a* in relation to that given time or with a person having an interest as a specified shareholder, that is referred to in subparagraph *b*, or with a person, or each of the members of a

group of members of the partnership, having an interest as a member of the partnership, that is referred to in subparagraph *c*, as the case may be;”.

(2) Paragraphs 1 to 3 and 5 of subsection 1 have effect from 31 March 2004.

(3) Paragraph 4 of subsection 1 has effect from 30 March 2004. However, when the definition of “financial corporation” in section 4 of the Act applies after 29 March 2004 and before 23 December 2004, paragraph 1 of that definition reads as if “a loan corporation,” was inserted after “a savings and credit union,”.

2. (1) Section 5 of the Act is amended by adding the following paragraph after paragraph 2:

“(3) a person or partnership is considered not to be dealing at arm’s length with another person or partnership where the person or partnership is considered as such for the purposes of Part I of the Taxation Act, and a person or partnership is considered to be a person or partnership dealing at arm’s length with the other person or partnership in all other cases.”

(2) Subsection 1 has effect from 31 March 2004.

3. (1) Section 7 of the Act, amended by section 7 of chapter 21 of the statutes of 2004, is again amended

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

“**7.** In this Act, subject to section 7.1, “qualified international financial transaction” means”;

(2) by striking out “for the purposes of Part I of the Taxation Act” in subparagraph *a* of paragraph 25.

(2) Subsection 1 has effect from 31 March 2004.

4. (1) The Act is amended by inserting the following section after section 7:

“**7.1.** A qualified international financial transaction does not include such a transaction carried out between a corporation or partnership operating an international financial centre and a person or partnership with which it is not dealing at arm’s length.

The first paragraph does not apply in respect of a qualified international financial transaction if any of the parties to the transaction is a financial corporation or a designated financial corporation or if the transaction is described in paragraph 25 of section 7.

For the purposes of the first paragraph and subparagraph *a* of paragraph 25 of section 7, if any of the parties to a qualified international financial transaction is a partnership, the partnership must be considered, for the purpose of determining whether the parties are not dealing at arm's length, to be a corporation all the voting shares in the capital stock of which are owned by each member of the partnership at the end of the fiscal period of the partnership in which the qualified international financial transaction is carried out, in a proportion equal to the proportion that the member's share of the income or loss of the partnership for that fiscal period is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for that fiscal period is equal to \$1,000,000."

(2) Subsection 1 has effect from 31 March 2004.

5. (1) Section 15 of the Act is amended by replacing the first paragraph by the following paragraph:

"15. The Minister shall issue to a corporation or partnership a qualification certificate recognizing one of its employees as an employee other than a foreign specialist, upon being satisfied that it may reasonably be expected that from the date or for the period indicated on the qualification certificate, the employee's duties with the corporation or partnership are devoted, in a proportion of at least 75%, to carrying out qualified international financial transactions as part of the operations of a business of the corporation or partnership which constitutes or shall constitute an international financial centre."

(2) Subsection 1 has effect from 30 March 2004, in relation to a period that begins after that date.

6. (1) The Act is amended by inserting the following section after section 15:

"15.1. For the purposes of section 15, the employee's duties with the corporation or partnership that are devoted to carrying out a qualified international financial transaction mean the duties that are directly attributable to the transactional process that is specific to the qualified international financial transaction.

However, unless they constitute in themselves a qualified international financial transaction, the duties of the employee that relate to corporate management, finance, accounting, taxation, legal affairs, marketing, communications, reception work, secretarial work, messenger services, office computing or human and physical resource management do not constitute duties that are directly attributable to the transactional process that is specific to a qualified international financial transaction."

(2) Subsection 1 has effect from 30 March 2004, in relation to a period that begins after that date.

7. (1) Section 20 of the Act is amended by replacing the first paragraph by the following paragraph:

“20. The Minister shall issue to a corporation or partnership a certificate recognizing one of its employees as an employee other than a foreign specialist if, for the calendar year,

(1) the qualification certificate issued to the corporation or partnership in accordance with section 15 in respect of the employee is valid; and

(2) the employee’s duties with the corporation or partnership were devoted, in a proportion of at least 75%, to carrying out qualified international financial transactions as part of the operations of a business of the corporation or partnership in respect of which a qualification certificate issued in accordance with section 10 was valid.”

(2) Subsection 1 applies from the calendar year 2004. However, when subparagraph 2 of the first paragraph of section 20 of the Act applies to the calendar year 2004, it reads as follows:

“(2) the employee’s duties with the corporation or partnership were devoted, in a proportion of at least 75%,

(a) in relation to a period before 31 March 2004, to the operations of a business of the corporation or partnership in respect of which a qualification certificate issued in accordance with section 10 was valid, or

(b) in relation to a period after 30 March 2004, to carrying out qualified international financial transactions as part of the operations of a business of the corporation or partnership in respect of which a qualification certificate issued in accordance with section 10 was valid.”

8. (1) The Act is amended by inserting the following section after section 20:

“20.1. For the purposes of section 20, the employee’s duties with the corporation or partnership that are devoted to carrying out a qualified international financial transaction mean the duties that are directly attributable to the transactional process that is specific to the qualified international financial transaction.

However, unless they constitute in themselves a qualified international financial transaction, the duties of the employee that relate to corporate management, finance, accounting, taxation, legal affairs, marketing, communications, reception work, secretarial work, messenger services, office computing or human and physical resource management do not constitute

duties that are directly attributable to the transactional process that is specific to a qualified international financial transaction.”

(2) Subsection 1 applies from the calendar year 2004.

9. (1) Section 21 of the Act is repealed.

(2) Subsection 1 applies from the calendar year 2001.

10. (1) Section 27 of the Act is amended by replacing “any of sections 19 to 21” in the second paragraph by “section 19 or 20, or section 21 as it read before being repealed”.

(2) Subsection 1 applies from the calendar year 2001.

11. (1) Section 51 of the Act is amended by replacing “any of sections 19 to 21” by “section 19 or 20”.

(2) Subsection 1 applies from the calendar year 2001.

12. (1) Section 63 of the Act, amended by section 19 of chapter 21 of the statutes of 2004, is again amended

(1) by replacing subparagraphs 2 and 3 of the first paragraph by the following subparagraphs:

“(2) where section 104 applies for the period or part of the period in respect of the employee in relation to that employment, a certificate had been issued for the preceding taxation year in accordance with section 19 or 20 in respect of the employee in relation to that employment and is valid; and

“(3) it may reasonably be considered that the conditions relating to that employment on which was based the decision of the Minister of Finance to issue the qualification certificate referred to in paragraph 1 or the certificate referred to in paragraph 2, or, if they are not the same, the conditions on which would have been based the decision of the Minister of Finance to issue the qualification certificate or the certificate in relation to the period or part of the period, remain essentially the same for the period or part of the period.”;

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

“The part of the remuneration to which the first paragraph refers is

(1) in the case of an employee in respect of whom subparagraph 1 of the first paragraph applies by reason of a qualification certificate issued in respect of the employee in accordance with section 15 in relation to that employment, or in respect of whom subparagraph 2 of the first paragraph applies by reason

of a certificate issued in respect of the employee in accordance with section 20 in relation to that employment, the total of

(a) the lesser of

i. 37.5% of the part of the employee's wages, within the meaning of section 72, from that employment for the period or part of the period concerned that may reasonably be attributed to a period after 30 March 2004, and

ii. the amount obtained by multiplying \$50,000 by the proportion that the number of days in the period or part of the period concerned is of 365,

(b) 37.5% of the part of the employee's wages, within the meaning of section 72, from that employment for the period or part of the period concerned that may reasonably be attributed to a period after 12 June 2003 but before 31 March 2004, and

(c) 50% of the part of the employee's wages, within the meaning of section 72, from that employment for the period or part of the period concerned that may reasonably be attributed to a period before 13 June 2003; or".

(2) Paragraph 1 of subsection 1, when it replaces subparagraph 2 of the first paragraph of section 63 of the Act, applies from the taxation year 2002. In addition, when that section 63 applies to the taxation year 2001, subparagraph 2 of its first paragraph reads as if "any of sections 19 to 21" was replaced by "section 19 or 20, or section 21 as it read before being repealed,".

(3) Paragraph 1 of subsection 1, when it replaces subparagraph 3 of the first paragraph of section 63 of the Act, has effect from 30 March 2004, in relation to a period, or part of a period, that is after that date.

(4) Paragraph 2 of subsection 1 applies from the taxation year 2004. However, when subparagraph ii of subparagraph *a* of subparagraph 1 of the second paragraph of section 63 of the Act applies to the taxation year 2004, it reads as if "after 30 March 2004" was inserted after "days".

(5) In addition, when the second paragraph of section 63 of the Act applies to the taxation year 2002, it reads as if "section 20 or 21" was replaced by "section 20".

(6) In addition, when subparagraph 1 of the second paragraph of section 63 of the Act applies to the taxation year 2003, it reads as if "section 20 or 21" was replaced by "section 20".

13. (1) Section 64 of the Act, amended by section 20 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph,

(1) by replacing "any of sections 19 to 21" in subparagraph 1 by "section 19 or 20";

(2) by replacing subparagraph 2 by the following subparagraph:

“(2) for any other period and subject to section 64.2, the employee’s duties with the corporation or partnership that are devoted to the operations of the international financial centre.”

(2) Paragraph 1 of subsection 1 applies from the calendar year 2001.

(3) Paragraph 2 of subsection 1 applies in respect of wages that relate to a pay period beginning after 30 June 2004.

14. (1) The Act is amended by inserting the following section after section 64.1, enacted by section 5 of chapter 1 of the statutes of 2005:

“**64.2.** For the purposes of subparagraph 2 of the first paragraph of section 64, an employee’s duties with a corporation or partnership operating an international financial centre that are devoted to the operations of that centre include only those in respect of which the corporation or partnership keeps a register containing the information the Minister of Revenue considers necessary in order to determine the portion of the employee’s wages that is attributable to those duties.”

(2) Subsection 1 applies in respect of wages that relate to a pay period beginning after 30 June 2004.

15. (1) The Act is amended by inserting the following section after section 69.1, enacted by section 23 of chapter 21 of the statutes of 2004:

“**69.1.1.** If, in a taxation year, an individual is absent from an employment the individual holds with a particular corporation or partnership operating an international financial centre and, were it not for that absence, would be an individual described in section 66 for the part of the year that is included in the individual’s period of absence, the Minister may, for the purposes of this subdivision, consider that part of the year to be included in the individual’s reference period, established under section 69, in relation to the employment if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The conditions set out in section 66 that were satisfied by the individual before the beginning of the individual’s period of absence are deemed to be satisfied for the part of the year in respect of which the Minister exercises discretion in the individual’s favour in accordance with the first paragraph.”

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003 under Part I of the Taxation Act (R.S.Q., chapter I-3).

16. (1) Section 71 of the Act, replaced by section 25 of chapter 21 of the statutes of 2004, is again replaced by the following section:

“**71.** An individual who holds employment with a corporation or partnership operating an international financial centre may deduct, in computing the individual’s taxable income for a taxation year, an amount not exceeding the total of

(1) the lesser of

(a) 37.5% of the aggregate of all amounts each of which is the part of the individual’s wages for the year from an employment with a particular corporation or partnership operating an international financial centre, that may reasonably be attributed to a qualifying period beginning after 30 March 2004 and established in respect of the individual under section 73 in relation to the particular corporation or partnership, except, where applicable, the part of that period that is included in the individual’s reference period, established under section 69, in relation to an employment, and

(b) the amount obtained by multiplying \$50,000 by the proportion, not exceeding 1, that the number of days in the part, to which the aggregate of the amounts determined under subparagraph *a* relates, of all the qualifying periods established in respect of the individual under section 73 is of 365; and

(2) the aggregate of all amounts each of which is the product obtained by multiplying the percentage determined under the second paragraph by the part of the individual’s wages for the year from an employment with a particular corporation or partnership operating an international financial centre, that may reasonably be attributed to a qualifying period ending before 31 March 2004 and established in respect of the individual under section 73 in relation to the particular corporation or partnership, except, where applicable, the part of that period that is included in the individual’s reference period, established under section 69, in relation to an employment.

The percentage to which subparagraph 2 of the first paragraph refers is

(1) 37.5% if the qualifying period begins after 12 June 2003, or

(2) 50% if the qualifying period ends before 13 June 2003.”

(2) Subsection 1 applies from the taxation year 2004.

17. (1) The Act is amended by inserting the following section after section 72:

“**72.1.** If, in a taxation year, an individual is absent from an employment the individual holds with a particular corporation or partnership operating an international financial centre and the remuneration that the particular corporation or partnership paid to the individual for the part of that year that is included in the individual’s period of absence would not otherwise be included in the part of the individual’s wages for the year from that employment, that may reasonably be attributed to a qualifying period established in respect of

the individual under section 73 in relation to the particular corporation or partnership, the Minister may consider the remuneration to be included in the part of the wages if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.”

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003 under Part I of the Taxation Act (R.S.Q., chapter I-3).

18. (1) Section 73 of the Act, amended by section 26 of chapter 21 of the statutes of 2004, is again amended by replacing paragraph 2 by the following paragraph:

“(2) the individual held a valid certificate covering the whole of the particular period which was issued in respect of the individual in accordance with section 20 to each corporation or partnership that is the particular corporation or the particular partnership or, where applicable, any of the other corporations or partnerships referred to in subparagraph *b* of paragraph 1, in relation to the individual’s employment with the corporation or partnership; and”.

(2) Subsection 1 applies from the calendar year 2001.

19. (1) Section 104 of the Act, replaced by section 27 of chapter 21 of the statutes of 2004, is amended by replacing “or 21,” in paragraph 2 by “, or section 21 as it read before being repealed,”.

(2) Subsection 1 applies from the calendar year 2001.

MINING DUTIES ACT

20. (1) Section 16.1 of the Mining Duties Act (R.S.Q., chapter D-15), amended by section 31 of chapter 21 of the statutes of 2004, is again amended by striking out “but not later than 31 December 2004,” in the portion of subparagraph *b.1* of paragraph 1 before subparagraph *i*.

(2) Subsection 1 has effect from 1 January 2005.

ACT RESPECTING MUNICIPAL TAXATION

21. (1) Section 221 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is repealed.

(2) Subsection 1 applies from the calendar year 2005.

22. (1) Sections 224 to 226.1 of the Act are repealed.

(2) Subsection 1 applies from the calendar year 2005.

23. (1) Section 227 of the Act is amended by striking out “221 or” wherever it appears.

(2) Subsection 1 applies from the calendar year 2005.

24. (1) Sections 228 to 228.2 of the Act are repealed.

(2) Subsection 1 applies from the calendar year 2005.

25. (1) Section 229 of the Act is amended by replacing the first paragraph by the following paragraph:

“**229.** Sections 220.2 to 220.13 are deemed to be fiscal law within the meaning of the Act respecting the Ministère du Revenu (chapter M-31).”

(2) Subsection 1 applies from the calendar year 2005.

26. (1) Section 265 of the Act is repealed.

(2) Subsection 1 applies from the calendar year 2005.

ACT TO ESTABLISH FONDACTION, LE FONDS
DE DÉVELOPPEMENT DE LA CONFÉDÉRATION DES SYNDICATS
NATIONAUX POUR LA COOPÉRATION ET L'EMPLOI

27. (1) Section 19 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., chapter F-3.1.2), amended by section 33 of chapter 21 of the statutes of 2004, is again amended by replacing “for residential use or for use as a shopping centre” in the ninth paragraph by “for the operation of shopping centres”.

(2) Subsection 1 applies in respect of an investment in immovable property made after 20 December 2001.

ACT TO ESTABLISH THE FONDS DE SOLIDARITÉ DES
TRAVAILLEURS DU QUÉBEC (F.T.Q.)

28. (1) Section 15 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., chapter F-3.2.1), amended by section 34 of chapter 21 of the statutes of 2004, is again amended by replacing “for housing or shopping centres” in the eighth paragraph by “for the operation of shopping centres”.

(2) Subsection 1 applies in respect of an investment in immovable property made after 20 December 2001.

HYDRO-QUÉBEC ACT

29. (1) Section 16 of the Hydro-Québec Act (R.S.Q., chapter H-5) is amended by replacing the second paragraph by the following paragraph:

“However,

(a) the Company shall, for itself and for its subsidiaries, pay, on its consolidated capital, the capital tax provided for in Part IV of the Taxation Act; and

(b) the Company and the companies in which it holds at least ninety per cent of the shares shall pay the public utility tax provided for in Part VI.4 of the Taxation Act.”

(2) Subsection 1 applies from the calendar year 2005.

TAXATION ACT

30. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 4 of chapter 8 of the statutes of 2004, by section 37 of chapter 21 of the statutes of 2004, by section 90 of chapter 37 of the statutes of 2004 and by section 20 of chapter 1 of the statutes of 2005, is again amended

(1) by inserting the following definitions in alphabetical order:

““registered Canadian amateur athletic association” has the meaning assigned by section 21.41;

““registered Québec amateur athletic association” has the meaning assigned by section 21.42;”;

(2) by replacing the definition of “Canadian stock exchange” by the following definition:

““Canadian stock exchange” means a prescribed Canadian stock exchange;”;

(3) by replacing the definition of “foreign stock exchange” by the following definition:

““foreign stock exchange” means a prescribed foreign stock exchange;”;

(4) by striking out the definition of “registered home ownership savings plan”;

(5) by inserting the following definition in alphabetical order:

““income-averaging annuity respecting income from artistic activities” in relation to an individual means, except for the purposes of Chapter VI.0.1 of Title VI of Book III, an annuity established under a contract that meets the conditions set out in section 346.0.2 and in respect of which the individual

has deducted an amount in computing the individual's income under section 346.0.1;”.

(2) Paragraph 1 of subsection 1 has effect from 31 March 2004.

(3) Paragraph 2 of subsection 1 has effect from 26 November 1999.

(4) Paragraph 3 of subsection 1 has effect from 24 June 2003.

(5) Paragraph 5 of subsection 1 applies from the taxation year 2004.

31. (1) Section 21.1 of the Act, amended by section 40 of chapter 21 of the statutes of 2004, is again amended

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

“21.1. Sections 21.2 to 21.3.1 apply in respect of the control of a corporation for the purposes of sections 6.2, 21.2 to 21.3.1, 83.0.3, 93.3.1, 93.4, 106.4, 158.1 to 158.14, 175.9, 222 to 230.0.0.2, 237 to 238.1, 308.0.1 to 308.6, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, sections 564.2 to 564.4.2, 727 to 737 and 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraphs *d* and *e* of section 771.13, paragraph *f* of section 772.13, section 776.1.5.6, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 and sections 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8.”;

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

“Section 21.4.1 applies in respect of the control of a corporation for the purposes of sections 6.2, 21.0.1 to 21.0.4, 83.0.3, 93.4, 222 to 230.0.0.2, 308.1, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, subparagraph *d* of the third paragraph of section 559, sections 560.1.2, 727 to 737 and 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraphs *d* and *e* of section 771.13, paragraph *f* of section 772.13, section 776.1.5.6, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of “qualified

corporation” in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 and sections 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8.”

(2) Subsection 1 has effect from 12 June 2003. However, when section 21.1 of the Act applies before 31 March 2004,

(1) the first paragraph of that section reads as follows:

“21.1. Sections 21.2 to 21.3.1 apply in respect of the control of a corporation for the purposes of sections 6.2, 21.2 to 21.3.1, 83.0.3, 93.3.1, 93.4, 106.4, 158.1 to 158.14, 175.9, 222 to 230.0.0.2, 237 to 238.1, 308.0.1 to 308.6, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, sections 564.2 to 564.4.2, 727 to 737 and 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraph *d* of section 771.13, paragraph *f* of section 772.13, section 776.1.5.6, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2 and 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 and sections 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8.”; and

(2) the third paragraph of that section reads as follows:

“Section 21.4.1 applies in respect of the control of a corporation for the purposes of sections 6.2, 21.0.1 to 21.0.4, 83.0.3, 93.4, 222 to 230.0.0.2, 308.1, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, subparagraph *d* of the third paragraph of section 559, sections 560.1.2, 727 to 737 and 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraph *d* of section 771.13, paragraph *f* of section 772.13, section 776.1.5.6, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2 and 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of “qualified corporation” in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 and sections 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8.”

32. (1) Section 21.4.1 of the Act, amended by section 41 of chapter 21 of the statutes of 2004, is again amended by replacing paragraph *b* by the following paragraph:

“(b) to avoid the application of Chapter IV.1, any of sections 83.0.3, 93.4, 225, 308.1, 384.4, 384.5, 560.1.2 and 736, paragraph *a* or *b* of section 736.0.2, section 736.0.3.1 or 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraph *d* or *e* of section 771.13, paragraph *c* of the definition of “qualified corporation” in the first paragraph of section 1029.8.36.0.3.46 or 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of any of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of “qualified corporation” in the first paragraph of any of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 or any of sections 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8; or”.

(2) Subsection 1 applies in respect of a right acquired after 11 June 2003. However, when paragraph *b* of section 21.4.1 of the Act applies in respect of a right acquired before 31 March 2004, it reads as follows:

“(b) to avoid the application of Chapter IV.1, any of sections 83.0.3, 93.4, 225, 308.1, 384.4, 384.5, 560.1.2 and 736, paragraph *a* or *b* of section 736.0.2, section 736.0.3.1 or 737.18.9.2, subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5, paragraph *d* of section 771.13, paragraph *c* of the definition of “qualified corporation” in the first paragraph of section 1029.8.36.0.3.46 or 1029.8.36.0.3.60, subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of section 1029.8.36.0.21.2 or 1029.8.36.0.25.2, paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of “qualified corporation” in the first paragraph of any of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 or any of sections 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8; or”.

33. Section 21.12 of the Act is amended by replacing subparagraph *iii* of paragraph *c* in the French text by the following subparagraph:

“*iii.* en totalité ou en quasi-totalité, directement ou indirectement, en échange ou en remplacement d’un titre de créance ou d’une partie de celui-ci dont la société donnée ou une autre société qui réside au Canada et avec laquelle elle a un lien de dépendance était redevable envers une personne avec laquelle la société donnée ou l’autre société n’avait pas de lien de dépendance, à un moment où, en raison de difficultés financières, soit la société donnée ou l’autre société était en défaut à l’égard de ce titre, soit il était raisonnable de prévoir que la société donnée ou l’autre société le deviendrait.”

34. (1) Section 21.20.9 of the Act is amended by inserting the following paragraph after paragraph *k*:

“(k.1) the entity governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1);”.

(2) Subsection 1 applies from the taxation year 2001.

35. Section 21.31 of the Act is amended by replacing “produit d’aliénation” in the French text by “produit de l’aliénation”.

36. (1) The Act is amended by inserting the following after section 21.40:

“CHAPTER XV

“REGISTERED AMATEUR ATHLETIC ASSOCIATIONS

“**21.41.** A registered Canadian amateur athletic association means a Canadian amateur athletic association registered as such with the Minister.

For the purposes of the first paragraph, the following rules apply:

(a) a Canadian amateur athletic association is registered as such with the Minister if it is an association that

i. is created under a law in force in Canada,

ii. is resident in Canada,

iii. is a person exempt from tax described in section 996,

iv. has, as its primary purpose and its primary function, the promotion of amateur athletics in Canada on a nation-wide basis, and

v. has filed an application with the Minister in prescribed form for registration as a Canadian amateur athletic association that has been granted and its registration has not been revoked in accordance with section 1065; and

(b) subject to the Minister’s power to refuse or revoke registration, a Canadian amateur athletic association validly registered as such under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed to be also registered as such with the Minister.

“**21.42.** A registered Québec amateur athletic association means a Québec amateur athletic association registered as such with the Minister and the registration of which is in force.

For the purposes of the first paragraph, the Minister may, on application made to the Minister in prescribed form, register an organization as a Québec amateur athletic association if the Minister considers that the organization

(a) is created under a law of Québec or Canada,

(b) has its management and control centre in Québec,

(c) is a person exempt from tax described in section 996, and

(d) has, as its primary purpose and its primary function, the promotion of amateur athletics in Québec on a Québec-wide basis.”

(2) Subsection 1 has effect from 31 March 2004.

37. (1) The Act is amended by inserting the following sections after section 41.1.3, enacted by section 44 of chapter 21 of the statutes of 2004:

“**41.1.4.** If an employer or a person to whom the employer is related makes an automobile, other than a vehicle in respect of which section 41.1.3 applies, available in a taxation year to an employee or to a person related to the employee, the employee shall keep, in respect of trips made with the automobile for the total number of days in the year during which the automobile is so made available to the employee or to a person to whom the employee is related, a logbook in which the employee enters the information provided for in section 41.1.5, and shall give a copy of the logbook to the employer on or before the tenth day following the last day of the year during which the employer or a person related to the employer made such an automobile available to the employee or to a person to whom the employee is related.

“**41.1.5.** The information to which section 41.1.4 refers is

(a) the total number of days in the year during which the employer or a person to whom the employer is related made the automobile available to the individual or to a person related to the individual;

(b) on a daily, weekly or monthly basis, the total number of kilometres travelled by the automobile during the total number of days referred to in subparagraph *a*; and

(c) on a daily basis, for each trip made with the automobile in connection with or in the course of the office or employment of the individual, the identification of the place of departure and the place of destination, the number of kilometres travelled by the automobile between those two places, and any information necessary to establish that the trip was made in connection or in the course of the office or employment of the individual.

However, if the kilometres travelled by the automobile during the total number of days referred to in subparagraph *a* are kilometres exclusively travelled by the automobile otherwise than in connection with or in the course of the office or employment of the individual, the information to which section 41.1.4 refers is

(a) the total number of days in the year during which the employer or a person to whom the employer is related made the automobile available to the individual or to a person related to the individual; and

(b) the kilometres registered on the odometer of the automobile at the beginning and end of each period, within the year, during which the automobile was made available, on a continuous basis, to the individual or a person to whom the individual is related by the employer or a person related to the employer.”

(2) Subsection 1 applies from the taxation year 2005.

38. (1) Section 78.1 of the Act is amended by striking out “for the year” in the first paragraph.

(2) Subsection 1 applies in respect of a reimbursement made after 31 December 2003.

(3) In addition, subsection 1 applies in respect of a reimbursement made by or on behalf of an individual after 31 December 1997 and before 1 January 2004, when the individual so elects on or before the individual’s filing-due date, within the meaning of section 1 of the Act, for the taxation year 2004.

(4) When an individual makes an election under subsection 3, the Act reads, in respect of the reimbursement for which an election was made, without reference to Division II.8.1 of Chapter III.1 of Title III of Book IX of Part I.

39. Section 97.1 of the Act is amended by replacing “produit d’aliénation” in paragraph *a* in the French text by “produit de l’aliénation”.

40. Section 125.1 of the Act, amended by section 54 of chapter 1 of the statutes of 2005, is again amended by replacing “produit d’aliénation” in paragraph *f* in the French text by “produit de l’aliénation”.

41. (1) Section 175.2 of the Act, amended by section 63 of chapter 21 of the statutes of 2004, is again amended by inserting the following paragraph after paragraph *a*:

“(a.1) making a payment to acquire an income-averaging annuity respecting income from artistic activities;”.

(2) Subsection 1 applies from the taxation year 2004.

42. (1) Section 175.6.1 of the Act, enacted by section 65 of chapter 21 of the statutes of 2004, is amended

(1) by replacing subparagraphs *a* and *b* of the first paragraph by the following subparagraphs:

“(a) in respect of a business of the taxpayer that consists in acting as an intermediary in selling property included in the inventory of another taxpayer,

i. if the taxpayer’s gross revenue for the year from the business referred to in this subparagraph does not exceed \$32,500, the amount determined by the formula

$$[2\% \times (A / B)] + [2\% \times (C - A)],$$

ii. if the taxpayer’s gross revenue for the year from the business referred to in this subparagraph exceeds \$32,500 but does not exceed \$51,999, \$650, and

iii. if the taxpayer’s gross revenue for the year from the business referred to in this subparagraph exceeds \$51,999, the amount determined by the formula

$$[1.25\% \times (A / B)] + [1.25\% \times (C - A)];$$

“(b) in any other case,

i. if the taxpayer’s gross revenue for the year from the business or property does not exceed \$32,500, an amount equal to 2% of that gross revenue,

ii. if the taxpayer’s gross revenue for the year from the business or property exceeds \$32,500 but does not exceed \$51,999, \$650, and

iii. if the taxpayer’s gross revenue for the year from the business or property exceeds \$51,999, an amount equal to 1.25% of that gross revenue.”;

(2) by replacing “the formula provided for in” in the portion of the second paragraph before subparagraph *a* by “the formulas in subparagraphs i and iii of”;

(3) by inserting the following paragraph after the second paragraph:

“If the number of days in the taxation year of the taxpayer is less than 365, the following rules apply:

(a) for the purposes of subparagraphs *a* and *b* of the first paragraph, the taxpayer’s gross revenue for the year from a business or property is deemed to be equal to the amount obtained by multiplying that revenue by the proportion that 365 is of the number of days in the year; and

(b) the amount determined under subparagraph *a* or *b* of the first paragraph is deemed to be equal to that amount, otherwise determined, multiplied by the proportion that the number of days in the year is of 365.”

(2) Subsection 1 applies to a taxation year that ends after 30 March 2004. However, when section 175.6.1 of the Act applies to a taxation year that begins before 12 June 2003 and ends after 30 March 2004, it reads as if

(1) the formula in subparagraph i of subparagraph *a* of the first paragraph was replaced by the following formula:

“ $[2\% \times (A / B)] + [2\% \times (C - A)] + D$ ”;

(2) subparagraph ii of subparagraph *a* of the first paragraph was replaced by the following subparagraph:

“ii. if the taxpayer’s gross revenue for the year from the business referred to in this subparagraph exceeds \$32,500 but does not exceed \$51,999, the amount obtained by adding

(1) the aggregate of all amounts each of which is the proportion of an amount to which section 421.1 applies for the year and that, if no reference were made to this section, would be deductible by the taxpayer in computing the taxpayer’s income for the year from the business referred to in this subparagraph, that the number of days in the year that precede 13 June 2003 is of the number of days in the year, and

(2) the amount obtained by multiplying \$650 by the proportion that the number of days in the year that follow 12 June 2003 is of the number of days in the year, and”;

(3) the formula in subparagraph iii of subparagraph *a* of the first paragraph was replaced by the following formula:

“ $[1.25\% \times (A / B)] + [1.25\% \times (C - A)] + D$ ”;

(4) subparagraphs i to iii of subparagraph *b* of the first paragraph were replaced by the following subparagraphs:

“i. if the taxpayer’s gross revenue for the year from the business or property does not exceed \$32,500, the amount obtained by adding

(1) the aggregate of all amounts each of which is the proportion of an amount to which section 421.1 applies for the year and that, if no reference were made to this section, would be deductible by the taxpayer in computing the taxpayer’s income for the year from the business or property, that the number of days in the year that precede 13 June 2003 is of the number of days in the year, and

(2) the amount obtained by multiplying 2% of that gross revenue by the proportion that the number of days in the year that follow 12 June 2003 is of the number of days in the year,

“ii. if the taxpayer’s gross revenue for the year from the business or property exceeds \$32,500 but does not exceed \$51,999, the amount obtained by adding

(1) the aggregate of all amounts each of which is the proportion of an amount to which section 421.1 applies for the year and that, if no reference were made to this section, would be deductible by the taxpayer in computing the taxpayer's income for the year from the business or property, that the number of days in the year that precede 13 June 2003 is of the number of days in the year, and

(2) the amount obtained by multiplying \$650 by the proportion that the number of days in the year that follow 12 June 2003 is of the number of days in the year, and

“iii. if the taxpayer's gross revenue for the year from the business or property exceeds \$51,999, the amount obtained by adding

(1) the aggregate of all amounts each of which is the proportion of an amount to which section 421.1 applies for the year and that, if no reference were made to this section, would be deductible by the taxpayer in computing the taxpayer's income for the year from the business or property, that the number of days in the year that precede 13 June 2003 is of the number of days in the year, and

(2) the amount obtained by multiplying 1.25% of that gross revenue by the proportion that the number of days in the year that follow 12 June 2003 is of the number of days in the year.”;

(5) subparagraph *a* of the second paragraph was replaced by the following subparagraph:

“(a) A is the aggregate of all amounts each of which is the proportion of the amount of a commission that the taxpayer included in computing the taxpayer's income for the year from the business referred to in that subparagraph *a*, that the number of days in the year that follow 12 June 2003 is of the number of days in the year.”;

(6) subparagraph *c* of the second paragraph was replaced by the following subparagraph:

“(c) C is an amount equal to the proportion of the gross revenue for the year from the carrying on of the business referred to in that subparagraph *a*, that the number of days in the year that follow 12 June 2003 is of the number of days in the year; and”;

(7) the following subparagraph was added after subparagraph *c* of the second paragraph:

“(d) D is the aggregate of all amounts each of which is the proportion that an amount to which section 421.1 applies for the year and that, if no reference were made to this section, would be deductible by the taxpayer in computing the taxpayer's income for the year from the business referred to in that

subparagraph *a*, that the number of days in the year that precede 13 June 2003 is of the number of days in the year.”;

(8) no reference was made to the third paragraph; and

(9) “the first paragraph” in the fourth paragraph was replaced by “the first paragraph and in subparagraph *d* of the second paragraph”.

43. Section 277.1 of the Act is amended by replacing “in section 752.0.10.1” in the portion before paragraph *a* by “in the first paragraph of section 752.0.10.1”.

44. Section 280 of the Act is amended by replacing the portion before paragraph *a* by the following:

“**280.** For the purposes of this Part, if a taxpayer has disposed of a property for which there are proceeds of disposition referred to in any of subparagraphs ii, iii and iv of subparagraph *f* of the first paragraph of section 93, the time of disposition of that property and the time when those proceeds become receivable by the taxpayer are deemed to be the earliest of the following times, and the taxpayer is deemed to have owned the property continuously until that time:”.

45. Section 301.1 of the Act is amended by replacing “produit d’aliénation” in paragraph *a* in the French text by “produit de l’aliénation”.

46. Section 310 of the Act is amended by striking out “965.49, 965.50;”.

47. Section 311 of the Act, amended by section 84 of chapter 1 of the statutes of 2005, is again amended by striking out paragraph *j*.

48. (1) Section 312 of the Act, amended by section 85 of chapter 1 of the statutes of 2005, is again amended by inserting the following paragraph after paragraph *d*:

“(d.1) an amount received as a payment in full or partial commutation of an income-averaging annuity respecting income from artistic activities or as proceeds of disposition by reason of the cancellation or redemption of an income-averaging annuity respecting income from artistic activities;”.

(2) Subsection 1 applies from the taxation year 2004.

49. Section 339 of the Act is amended by striking out paragraphs *c* and *g*.

50. (1) The Act is amended by inserting the following after section 346:

“CHAPTER VI.0.1**“INCOME-AVERAGING ANNUITIES RESPECTING INCOME FROM ARTISTIC ACTIVITIES**

“346.0.1. An individual who is, in a taxation year, a recognized artist may deduct, in computing income for the year, an amount that the individual pays in the year or within 60 days after the end of the year to acquire an income-averaging annuity respecting income from artistic activities from a person described in the fourth paragraph, to the extent that that amount has not been deducted for the preceding year.

However, the amount that an individual may deduct for a taxation year under the first paragraph may not exceed an amount equal to the amount obtained by subtracting, from the portion of the individual’s income for the year that may reasonably be considered to be attributable to artistic activities in respect of which the individual is a recognized artist, the aggregate of \$50,000 and the amount that the individual may deduct for the year under section 726.26.

In this section, “recognized artist” means an individual who is a professional artist, within the meaning of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01), or an artist, within the meaning of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (chapter S-32.1).

A person to whom the first paragraph refers is a person who is licensed or otherwise authorized by the laws of Québec or Canada to carry on an annuities business in Québec or offer trustee services in Québec, and who is authorized by the Minister, in accordance with section 346.0.3, to offer an income-averaging annuity respecting income from artistic activities for the purposes of this chapter.

“346.0.2. No individual may deduct an amount under section 346.0.1 unless the contract under which the individual acquires an income-averaging annuity respecting income from artistic activities is consistent with the standard contract previously approved by the Minister and provides for stipulations consistent with the following provisions:

(a) the income-averaging annuity respecting income from artistic activities is acquired in consideration for a single payment;

(b) the income-averaging annuity respecting income from artistic activities is payable, at least once a year or at more frequent periodic intervals, in equal payments sufficient to ensure its full payment over a period not exceeding seven years from the date on which the first payment is made, which payment must be made not later than ten months after the date on which the single payment referred to in paragraph *a* is made;

(c) the individual is entitled to request, at any time, the full or partial commutation of the income-averaging annuity respecting income from artistic activities;

(d) the income-averaging annuity payments respecting income from artistic activities may only be made to the individual or, after the individual's death, to a person designated by the individual under the contract, the individual's succession or any of the beneficiaries of the individual's succession, as the case may be;

(e) except in case of death, the rights of the individual as annuitant may not be disposed of otherwise than by the redemption or cancellation of the income-averaging annuity respecting income from artistic activities by the debtor; and

(f) the rights of the individual as annuitant may not be given or transferred as security in any manner whatsoever.

“346.0.3. For the purposes of the fourth paragraph of section 346.0.1, the Minister may authorize a person to offer an income-averaging annuity respecting income from artistic activities if

(a) the person first submitted to the Minister for approval a standard contract containing stipulations consistent with the provisions mentioned in paragraphs *a* to *f* of section 346.0.2; and

(b) the person undertakes with the Minister that any annuity contract the person enters into with an individual to enable the individual to benefit from the deduction under section 346.0.1 be consistent with that standard contract.

“346.0.4. If an individual dies and an amount the individual was entitled to receive before dying under an income-averaging annuity contract respecting income from artistic activities is paid after the individual's death under that contract, that amount is deemed to be an amount paid under such a contract.”

(2) Subsection 1 applies from the taxation year 2004. However, when the first paragraph of section 346.0.1 of the Act applies for the taxation year 2004, it reads as if “in the year or within 60 days after the end of the year” was replaced by “before 15 June 2005”.

51. (1) Section 359.1 of the Act, amended by section 76 of chapter 21 of the statutes of 2004, is again amended by striking out “and acquired by the person before 1 January 2005,” in the portion before subparagraph *a* of the first paragraph.

(2) Subsection 1 has effect from 1 January 2005.

52. Section 496 of the Act is amended by replacing “produit d’aliénation” in the French text by “produit de l’aliénation”.

53. Section 647 of the Act is amended by striking out “a registered home ownership savings plan,” in subparagraph *a* of the third paragraph.

54. (1) The Act is amended by inserting the following section after section 669.4:

“**669.5.** If a testamentary trust receives, in a taxation year, an amount under an income-averaging annuity contract respecting income from artistic activities, that amount is deemed, for the purposes of paragraphs *c* and *d.1* of section 312 and section 1129.68, to be an amount received at a particular time by a particular beneficiary under the trust, and not to have been received by the trust, to the extent that the amount may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be paid or payable at the particular time to the particular beneficiary.”

(2) Subsection 1 applies from the taxation year 2004.

55. Section 688.0.1 of the Act is amended by replacing “produit d’aliénation” in paragraph *a* in the French text by “produit de l’aliénation”.

56. Section 693 of the Act, amended by section 98 of chapter 21 of the statutes of 2004, is again amended by striking out “VI.0.1,” in the second paragraph.

57. (1) Section 710 of the Act, amended by section 99 of chapter 21 of the statutes of 2004, is again amended, in paragraph *a*,

(1) by replacing subparagraph *ii* by the following subparagraph:

“*ii.* a registered Canadian amateur athletic association,”;

(2) by inserting the following subparagraph after subparagraph *ii*:

“*ii.1.* a registered Québec amateur athletic association, if the gift is made after 30 March 2004,”;

(3) by inserting the following subparagraph after subparagraph *v*:

“*v.1.* the Agence de la Francophonie or any of its subsidiary bodies, if the gift is made after 30 March 2004,”.

(2) Subsection 1 has effect from 31 March 2004.

58. (1) Section 711 of the Act is amended

(1) by replacing subparagraphs *b* and *c* of the second paragraph by the following subparagraphs:

“(b) B is the aggregate of all amounts each of which is a taxable capital gain of the corporation for the year from a disposition that is the making of a gift made by the corporation in the year and described in paragraph *a* of section 710;

“(c) C is the aggregate of all amounts each of which is a taxable capital gain of the corporation for the year, by reason of the application of section 234.0.1, from a disposition of a property in a preceding taxation year; and”;

(2) by striking out “that is a property related to the mission of the donee,” in subparagraph ii of subparagraph *d* of the second paragraph;

(3) by striking out the third paragraph.

(2) Subsection 1 applies to a taxation year that begins after 31 December 2003.

59. (1) Section 714.1 of the Act, amended by section 100 of chapter 21 of the statutes of 2004, is again amended by replacing “subparagraphs i, ii, iii.1, iv and vi to viii” in the first paragraph by “subparagraphs i to ii.1, iii.1, iv and v.1 to viii”.

(2) Subsection 1 has effect from 31 March 2004.

60. The heading of Title V.1 of Book IV of Part I of the Act is replaced by the following heading:

“SECURITIES OPTIONS, DEFERRED PROFIT SHARING PLANS,
HOME RELOCATION LOANS AND OTHER MATTERS”.

61. (1) Section 725.2 of the Act, amended by section 103 of chapter 21 of the statutes of 2004, is again amended by replacing “37.5%” in the portion before paragraph *a* by “25%”.

(2) Subsection 1 applies in respect of a transaction, circumstance or event that occurs after 30 March 2004 in consequence of which a benefit is deemed to have been received by an individual under section 49 or any of sections 50 to 52.1 of the Act.

62. (1) Section 725.3 of the Act, amended by section 104 of chapter 21 of the statutes of 2004, is again amended by replacing “37.5%” in the portion before paragraph *a* by “25%”.

(2) Subsection 1 applies in respect of a disposition or exchange made after 30 March 2004.

63. Title VI.0.1 of Book IV of Part I of the Act is repealed.

64. (1) Section 726.4.10 of the Act, amended by section 138 of chapter 8 of the statutes of 2004 and by section 107 of chapter 21 of the statutes of 2004, is again amended by striking out “but not after 31 December 2004” in the portion of subparagraph i of paragraph *a* before subparagraph 1.

(2) Subsection 1 has effect from 1 January 2005.

65. (1) The Act is amended by inserting the following section after section 726.4.10.2, enacted by section 108 of chapter 21 of the statutes of 2004:

“726.4.10.3. Despite sections 726.4.10.1 and 726.4.10.2, if an expense referred to in subparagraph i of paragraph *a* of section 726.4.10 was incurred after 30 March 2004, the percentage of 33 1/3% mentioned in that paragraph *a* is to be replaced, in respect of the expense, by a percentage of 25%.

The first paragraph does not apply in respect of an expense if it was incurred as a consequence of the acquisition of a flow-through share before 31 March 2004.”

(2) Subsection 1 has effect from 31 March 2004.

66. (1) The Act is amended by inserting the following section after section 726.4.11.2, enacted by section 109 of chapter 21 of the statutes of 2004:

“726.4.11.3. Despite sections 726.4.11.1 and 726.4.11.2, if an amount referred to in paragraph *b* of section 726.4.11 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be considered to be an expenditure in respect of which section 726.4.10.3 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.11 is to be replaced, in respect of the amount, by a percentage of 25%.”

(2) Subsection 1 has effect from 31 March 2004.

67. (1) Section 726.4.12 of the Act, amended by section 110 of chapter 21 of the statutes of 2004, is again amended

(1) by striking out “and not later than 31 December 2004” in paragraph *b*;

(2) by striking out “but not later than 31 December 2004” in subparagraph i of paragraph *d*.

(2) Subsection 1 has effect from 1 January 2005.

68. (1) Section 726.4.17.2 of the Act, amended by section 139 of chapter 8 of the statutes of 2004 and by section 111 of chapter 21 of the statutes of 2004, is again amended by striking out “but not later than 31 December 2004” in the portion of paragraph *a* before subparagraph *i*.

(2) Subsection 1 has effect from 1 January 2005.

69. (1) The Act is amended by inserting the following section after section 726.4.17.2.2, enacted by section 112 of chapter 21 of the statutes of 2004:

“**726.4.17.2.3.** Despite sections 726.4.17.2.1 and 726.4.17.2.2, if an expense referred to in paragraph *a* of section 726.4.17.2 was incurred after 30 March 2004, the percentage of 33 1/3% mentioned in that section is to be replaced, in respect of the expense, by a percentage of 25%.

The first paragraph does not apply in respect of an expense if it was incurred as a consequence of the acquisition of a flow-through share before 31 March 2004.”

(2) Subsection 1 has effect from 31 March 2004.

70. (1) The Act is amended by inserting the following section after section 726.4.17.3.2, enacted by section 113 of chapter 21 of the statutes of 2004:

“**726.4.17.3.3.** Despite sections 726.4.17.3.1 and 726.4.17.3.2, if an amount referred to in paragraph *b* of section 726.4.17.3 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be considered to be an expenditure in respect of which section 726.4.17.2.3 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.17.3 is to be replaced, in respect of the amount, by a percentage of 25%.”

(2) Subsection 1 has effect from 31 March 2004.

71. (1) Section 726.4.17.4 of the Act, amended by section 114 of chapter 21 of the statutes of 2004, is again amended

(1) by striking out “and not later than 31 December 2004” in paragraph *b*;

(2) by striking out “but not later than 31 December 2004” in subparagraph *i* of paragraph *d*.

(2) Subsection 1 has effect from 1 January 2005.

72. (1) Section 726.4.17.12 of the Act, amended by section 115 of chapter 21 of the statutes of 2004, is again amended by adding “, in relation to a flow-through share acquired before 31 March 2004” at the end of the fourth paragraph.

(2) Subsection 1 has effect from 31 March 2004.

73. (1) Section 726.4.17.13 of the Act, amended by section 116 of chapter 21 of the statutes of 2004, is again amended by adding “and the proceeds of which were used by the partnership to acquire flow-through shares before 31 March 2004” at the end of the fourth paragraph.

(2) Subsection 1 has effect from 31 March 2004.

74. (1) Section 726.4.17.20 of the Act, amended by section 119 of chapter 21 of the statutes of 2004, is again amended by striking out “but not later than 31 December 2004,” in the portion of paragraph *a* before subparagraph *i*.

(2) Subsection 1 has effect from 1 January 2005.

75. (1) Section 726.6 of the Act, amended by section 140 of chapter 8 of the statutes of 2004, by section 120 of chapter 21 of the statutes of 2004 and by section 138 of chapter 1 of the statutes of 2005, is again amended, in the first paragraph,

(1) by replacing subparagraph *a.0.1* by the following subparagraph:

“(a.0.1) “qualified fishing property” of an individual, other than a trust, at any time means a fishing licence, an individual quota or a fishing boat owned or held by the individual at that time and that has been used by the individual in carrying on a fishing business, including the harvesting of marine plants, in Québec;”;

(2) by replacing “or paragraph *c* or *c.1* of section 312” in subparagraph *i* of subparagraph *e* by “, paragraph *c* of section 312 or paragraph *c.1* of section 312, as that paragraph read for that year before being struck out”;

(3) by replacing subparagraph *v* of subparagraph *e* by the following subparagraph:

“v. the amount by which the aggregate of all amounts, other than amounts in respect of an income-averaging annuity contract, an income-averaging annuity contract respecting income from artistic activities or an annuity contract purchased pursuant to a deferred profit sharing plan or a revoked plan, referred to in section 879, included in computing the individual’s income for the year under paragraph *c* of section 312 or paragraph *c.1* of section 312, as that paragraph read for the year before being struck out, exceeds the aggregate of

all amounts deducted under paragraph *f* of section 336 in computing the individual's income for the year; and”.

(2) Paragraph 1 of subsection 1 has effect from 11 December 2002.

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 2004.

76. (1) Section 726.20.1 of the Act, amended by section 126 of chapter 21 of the statutes of 2004, is again amended by replacing paragraphs *a* and *b* of the definition of “resource property” in the first paragraph by the following paragraphs:

“(a) a flow-through share issued to the individual or partnership pursuant to an agreement in writing entered into after 14 May 1992, as part of a public share issue, where the flow-through share was issued as part of such an issue, in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted after that date, except for a flow-through share that

i. was issued following an investment made after 12 June 2003, or following an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after 12 June 2003, and

ii. was acquired by the individual or partnership before 31 March 2004;

“(b) an interest in a particular partnership acquired by the individual or partnership after 14 May 1992 as part of a public issue of interests in a partnership, where the interest in the particular partnership was acquired as part of such an issue, in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted after that date, provided that

i. any of the following conditions is met:

(1) a flow-through share referred to in paragraph *a* is issued to the particular partnership, or

(2) the particular partnership incurs Canadian exploration expenses or Canadian development expenses after 14 May 1992 otherwise than by reason of the acquisition of a flow-through share, and

ii. where the condition set out in subparagraph 2 of subparagraph i is met, the interest in the particular partnership was not acquired by the individual or partnership before 31 March 2004 following an investment made after 12 June 2003, or following an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after 12 June 2003; and”.

(2) Subsection 1 has effect from 13 June 2003.

77. (1) Section 726.26 of the Act, amended by section 127 of chapter 21 of the statutes of 2004, is again amended

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

“In the first paragraph, an individual’s copyright income for a taxation year is equal to the amount by which the aggregate of the amounts included in computing the individual’s income for the year from rights described in the third paragraph of which the individual is the first owner, exceeds the aggregate of the amounts deducted in computing the individual’s income for the year and that may reasonably be considered as relating to expenses incurred to collect the amounts from those rights described in the third paragraph.”;

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

“The rights to which the second paragraph refers are the following:

(a) copyrights and public lending rights paid under a program administered by the Public Lending Right Commission under the authority of the Canada Council for the Arts, in respect of a work of which the individual is the creator;

(b) copyrights including an exclusive right in respect of a performance of the individual as a performing artist;

(c) the right to be paid equitable remuneration conferred on the individual by the Copyright Act (Revised Statutes of Canada, 1985, chapter C-42) for the performance in public or the communication to the public by telecommunication of the sound recording of a performance of the individual as a performing artist; and

(d) the right to receive remuneration for the reproduction for private use of sound recordings conferred on the individual by the Copyright Act.”

(2) Subsection 1 applies from the taxation year 2004.

78. (1) The Act is amended by inserting the following section after section 736.2:

“736.3. Despite section 727, an individual to whom the Minister grants an authorization following an application to that effect may deduct, under that section, in computing the individual’s taxable income for a particular taxation year an amount in respect of a non-capital loss sustained by the individual in a taxation year, in this section referred to as the “reimbursement year”, subsequent to the third taxation year that follows the particular taxation year, if

(a) the individual deducted in computing the individual’s income for the reimbursement year, under section 78.1, an amount paid by or on behalf of the individual as the reimbursement of an amount the individual included in computing the individual’s income from an office or employment for the particular taxation year;

(b) the amount for which the application is made does not exceed the portion of the non-capital loss sustained by the individual in the reimbursement year that may reasonably be considered to be attributable to the reimbursement referred to in paragraph *a*; and

(c) in the Minister's opinion, it is reasonable to expect, by reason of the nature and severity of the individual's disability, that the individual will not earn sufficient income in a taxation year subsequent to the reimbursement year to allow the individual to deduct in computing the individual's taxable income, under section 727, the non-capital loss sustained by the individual in the reimbursement year."

(2) Subsection 1 applies in respect of a reimbursement made after 31 December 2003.

(3) In addition, subsection 1 applies in respect of a reimbursement made by or on behalf of an individual after 31 December 1997 and before 1 January 2004, if the individual makes the election provided for in subsection 3 of section 38.

79. (1) Section 737.18.6 of the Act, amended by section 137 of chapter 21 of the statutes of 2004, is again amended by replacing "the Minister of Finance" in paragraph *d* of the definition of "foreign specialist" in the first paragraph by "Investissement Québec".

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

80. (1) The Act is amended by inserting the following section after section 737.18.6.2, enacted by section 138 of chapter 21 of the statutes of 2004:

"737.18.6.3. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign specialist for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider that part of the year to be included in the individual's exemption period in relation to the employment if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph."

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

81. (1) Section 737.18.9 of the Act is amended by replacing “where the Minister of Finance” and “issued by the Minister of Finance” by “if Investissement Québec” and “issued”, respectively.

(2) Subsection 1 has effect from 31 March 2004.

82. (1) Section 737.18.9.1 of the Act, enacted by section 141 of chapter 21 of the statutes of 2004, is amended by replacing “the Minister of Finance” wherever it appears by “Investissement Québec”.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

83. (1) Section 737.18.9.2 of the Act, enacted by section 141 of chapter 21 of the statutes of 2004, is amended by replacing “the Minister of Finance” in subparagraph *a* of the second paragraph by “Investissement Québec”.

(2) Subsection 1 has effect from 31 March 2004.

84. (1) The Act is amended by inserting the following section after section 737.18.29.1, enacted by section 149 of chapter 21 of the statutes of 2004:

“737.18.29.2. If, in a taxation year, an individual is absent from an employment the individual holds with a qualified corporation and, were it not for that absence, would be a foreign specialist for the part of the year that is included in the individual’s period of absence, the Minister may, for the purposes of this Title, consider that part of the year to be included in the individual’s eligibility period in relation to the employment if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual’s favour in accordance with the first paragraph.”

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

85. (1) The Act is amended by inserting the following section after section 737.19.2, enacted by section 157 of chapter 21 of the statutes of 2004:

“737.19.3. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign researcher for the part of the year that is included in the individual’s period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual’s eligible income for the year in relation to the employment, that the eligible

employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign researcher for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph."

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

86. (1) The Act is amended by inserting the following section after section 737.22.0.0.1.1, enacted by section 163 of chapter 21 of the statutes of 2004:

"737.22.0.0.1.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign researcher on a post-doctoral internship for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign researcher on a post-doctoral internship for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph."

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

87. (1) The Act is amended by inserting the following section after section 737.22.0.0.5.1, enacted by section 169 of chapter 21 of the statutes of 2004:

"737.22.0.0.5.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign expert for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign expert for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph."

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

88. (1) Section 737.22.0.1 of the Act, amended by section 174 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph,

(1) by striking out "of the first paragraph" in paragraph *f* of the definition of "eligible employer";

(2) by replacing paragraph *g* of the definition of "hiring period" by the following paragraph:

"(g) where the eligible employer is a corporation referred to in paragraph *f* of the definition of "eligible employer", the period that begins on 30 March 2001 and that ends on 12 June 2003 or the period that begins on 31 March 2004; and";

(3) by replacing paragraph *a.1* of the definition of "foreign specialist" by the following paragraph:

"(a.1) the individual took up employment, as an employee, with the eligible employer before 2 September 2003, except if the eligible employer was, at the time the individual took up employment, a corporation referred to in subparagraph iii of paragraph *a* of section 771.12 or, where the employment contract was entered into after 30 March 2004, a corporation referred to in paragraph *f* of the definition of "eligible employer";".

(2) Subsection 1 has effect from 31 March 2004.

89. (1) The Act is amended by inserting the following section after section 737.22.0.1.1, enacted by section 175 of chapter 21 of the statutes of 2004:

"737.22.0.1.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign specialist for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph."

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

90. (1) Section 737.22.0.2.3 of the Act, enacted by section 177 of chapter 21 of the statutes of 2004, is amended by replacing subparagraph *b* of the third paragraph by the following subparagraph:

"(b) if the first employer is a corporation described in paragraph *d* or *f* of the definition of "eligible employer" in the first paragraph of section 737.22.0.1, any of the following corporations:

i. where the new employment contract is entered into between 12 June 2003 and 31 March 2004, a corporation described in that paragraph *d* or *f*, or

ii. where the new employment contract is entered into after 30 March 2004, a corporation described in that paragraph *d*; or"

(2) Subsection 1 applies from the taxation year 2004.

91. (1) The Act is amended by inserting the following section after section 737.22.0.5.1, enacted by section 181 of chapter 21 of the statutes of 2004:

"737.22.0.5.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign professor for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

The individual is deemed to be a foreign professor for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph."

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

92. Section 750.1 of the Act, amended by section 146 of chapter 1 of the statutes of 2005, is again amended by replacing "768 and 770" in the portion before paragraph *a* by "768, 770 and 1015.3".

93. (1) Section 752.0.8 of the Act is amended by replacing subparagraph vi of paragraph *a* by the following subparagraph:

“vi. the amount by which an annuity payment included in computing the individual’s or, as the case may be, the eligible spouse’s income for the year under paragraph *c* of section 312, other than an income-averaging annuity payment respecting income from artistic activities, exceeds the capital element of that payment as determined under paragraph *f* of section 336; and”.

(2) Subsection 1 applies from the taxation year 2004.

94. (1) Section 752.0.10.1 of the Act, amended by section 194 of chapter 21 of the statutes of 2004, is again amended

(1) by replacing paragraph *b* of the definition of “total charitable gifts” in the first paragraph by the following paragraph:

“(b) a registered Canadian amateur athletic association,”;

(2) by inserting the following paragraph after paragraph *b* of the definition of “total charitable gifts” in the first paragraph:

“(b.1) a registered Québec amateur athletic association, if the gift is made after 30 March 2004,”;

(3) by inserting the following paragraph after paragraph *e* of the definition of “total charitable gifts” in the first paragraph:

“(e.1) the Agence de la Francophonie or any of its subsidiary bodies, if the gift is made after 30 March 2004,”;

(4) by replacing subparagraphs *b* and *c* of the fourth paragraph by the following subparagraphs:

“(b) B is the aggregate of all amounts each of which is a taxable capital gain of the individual for the year from a disposition that is the making of a gift by the individual in the year and included in the total charitable gifts of the individual for the year;

“(c) C is the aggregate of all amounts each of which is a taxable capital gain of the individual for the year, because of the application of section 234.0.1, from the disposition of a property in a preceding taxation year;”;

(5) by striking out “that is a property related to the mission of the donee,” in subparagraph ii of subparagraph *d* of the fourth paragraph;

(6) by striking out the fifth paragraph.

(2) Paragraphs 1 to 3 of subsection 1 have effect from 31 March 2004.

(3) Paragraphs 4 to 6 of subsection 1 apply to a taxation year that begins after 31 December 2003.

95. Section 752.0.10.4 of the Act is amended by replacing “in section 752.0.10.1” in the portion before paragraph *a* by “in the first paragraph of section 752.0.10.1”.

96. Section 752.0.10.5 of the Act is amended by replacing “in section 752.0.10.1” by “in the first paragraph of section 752.0.10.1”.

97. Section 752.0.10.7 of the Act is amended by replacing “set forth in section 752.0.10.1” by “in the first paragraph of section 752.0.10.1”.

98. (1) Section 752.0.10.11.1 of the Act, amended by section 195 of chapter 21 of the statutes of 2004, is again amended

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

“752.0.10.11.1. For the purposes of this chapter, if at any time an individual makes a gift of a work of art described in the second paragraph to a donee referred to in any of paragraphs *a* to *b.1*, *c.1*, *d* and *e.1* to *h* of the definition of “total charitable gifts” in the first paragraph of section 752.0.10.1, other than such a donee who acquires the work of art in connection with its primary mission, the individual is deemed, in respect of that work of art, not to have made a gift unless the donee disposes of the work of art on or before 31 December of the fifth year following the year that includes that time.”;

(2) by replacing “à laquelle réfère le premier alinéa” in the second paragraph in the French text by “à laquelle le premier alinéa fait référence”.

(2) Paragraph 1 of subsection 1 has effect from 31 March 2004.

99. Section 752.0.10.11.2 of the Act is amended by replacing “in section 752.0.10.1” by “in the first paragraph of section 752.0.10.1”.

100. Section 752.0.10.12 of the Act is amended by replacing “in section 752.0.10.1” by “in the first paragraph of section 752.0.10.1”.

101. Section 752.0.10.15.1 of the Act is amended by replacing “in section 752.0.10.1” by “in the first paragraph of section 752.0.10.1”.

102. (1) Section 771 of the Act, amended by section 198 of chapter 21 of the statutes of 2004, is again amended by replacing “under subparagraph *b* of the first paragraph of section 771.8.5” in subparagraph 1 of subparagraph ii of paragraph *j* of subsection 1 by “under subparagraph ii of subparagraph *c* of the second paragraph of section 771.8.5”.

(2) Subsection 1 has effect from 12 June 2003.

103. (1) Section 771.1 of the Act, amended by section 201 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph,

(1) by replacing “subparagraph *a* of the first paragraph of section 771.8.5” in the definition of “eligible business” by “subparagraph *i* of subparagraph *c* of the second paragraph of section 771.8.5”;

(2) by replacing “on the later of the first day of the corporation’s first taxation year” in the definition of “eligibility period” by “on the later of the day of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in its respect”.

(2) Paragraph 1 of subsection 1 has effect from 12 June 2003.

(3) Paragraph 2 of subsection 1 applies to a corporation in respect of which a certificate, referred to in paragraph *a* of section 771.12 of the Act, was issued after 10 March 2003. In addition, if the definition of “eligibility period” in the first paragraph of section 771.1 of the Act applies to a corporation in respect of which a certificate referred to in paragraph *a* of section 771.12 of the Act was issued before 11 March 2003, it reads as if “on the later of the first day of the corporation’s first taxation year” was replaced by “on the latest of the first day of the corporation’s first taxation year, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in its respect”.

104. (1) Section 771.5 of the Act is amended by adding “but before 30 March 2004” at the end of paragraph *a*.

(2) Subsection 1 has effect from 30 March 2004.

105. (1) Section 771.6 of the Act is amended by replacing subparagraph *e* of the first paragraph by the following subparagraph:

“(e) was a beneficiary under a trust other than a mutual fund trust; or”.

(2) Subsection 1 is declaratory.

106. (1) Section 771.8.5 of the Act is replaced by the following section:

“771.8.5. The amount that, for the purposes of paragraph *j* of subsection 1 of section 771, is to be determined under this section in respect of a corporation for a taxation year is the amount determined by the formula

$A \times B \times C$.

In the formula in the first paragraph,

(a) A is,

i. if the corporation's taxation year includes the last day of its eligibility period, the proportion that the number of days in the year that are included in the eligibility period of the corporation is of the number of days in the year, and

ii. in any other case, 1;

(b) B is

i. 75%, if the corporation is referred to in subparagraph iii of paragraph *a* of section 771.12 and any of the following conditions is met:

(1) the certificate referred to in paragraph *a* of section 771.12 and held by the corporation provides for the application of that rate, or

(2) subject to the third paragraph, control of the corporation was acquired at the beginning of the year or of a preceding taxation year, but after 11 June 2003, by a person or a group of persons, and

ii. 100%, in any other case; and

(c) C is the lesser of

i. the amount by which its income for the year from an eligible business carried on by it in Canada exceeds its loss for the year from such a business, and

ii. the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount determined in respect of the corporation for the year under section 771.0.2.2 and the portion of that income that is not, because of an Act of the Legislature of Québec, subject to tax under this Part.

The condition set out in subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph is deemed not to be met if

(a) the acquisition of control occurs after 11 June 2003 but before 1 July 2004 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) the person acquiring control of the corporation or, if control is acquired by a group of persons, each of the persons forming the group, is an exempt corporation; or

(c) the acquisition of control derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003."

(2) Subsection 1 has effect from 12 June 2003.

107. (1) Section 771.12 of the Act is amended by striking out paragraph *c*.

(2) Subsection 1 has effect from 26 March 1997.

108. (1) Section 771.13 of the Act, amended by section 206 of chapter 21 of the statutes of 2004, is again amended

(1) by inserting “, other than a mutual fund trust,” after “trust” in the portion of subparagraph *c* of the first paragraph before subparagraph *i*;

(2) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) the corporation is referred to in subparagraph *i* or *ii* of paragraph *a* of section 771.12 and is the subject, at the beginning of the year or of a preceding taxation year, but after 11 June 2003, of an acquisition of control by a person or a group of persons, unless the acquisition of control

i. occurs after 11 June 2003 but before 1 July 2004 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

ii. is by an exempt corporation or a group of persons all the members of which are exempt corporations, or

iii. derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003; or”;

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

“(e) the corporation is referred to in subparagraph *iii* of paragraph *a* of section 771.12 and is the subject, at the beginning of the year or of a preceding taxation year, but after 30 March 2004, of an acquisition of control by a person or a group of persons, unless the acquisition of control

i. occurs after 30 March 2004 but before 1 July 2005 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 30 March 2004 and was binding on the parties on that date,

ii. is by an exempt corporation or a group of persons all the members of which are exempt corporations, or

iii. derives from the exercise after 30 March 2004 of one or more rights described in paragraph *b* of section 20 that were acquired before 31 March 2004.”;

- (4) by striking out the second paragraph.
- (2) Paragraph 1 of subsection 1 is declaratory.
- (3) Paragraphs 2 and 4 of subsection 1 have effect from 12 June 2003.
- (4) Paragraph 3 of subsection 1 has effect from 31 March 2004.

109. (1) The Act is amended by inserting the following sections after section 772.9.1, enacted by section 150 of chapter 8 of the statutes of 2004:

“772.9.2. If at any particular time in a taxation year an individual who is not resident in Canada disposes of a property that the individual last acquired because of the application of paragraph *c* of section 785.2 at any time, in this section referred to as the “acquisition time”, after 1 October 1996, the individual may deduct from the individual’s tax otherwise payable under this Part for the year, in this section referred to as the “emigration year”, that includes the time immediately before the acquisition time, an amount not exceeding the lesser of

(a) the aggregate of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the taxation year to the government described in the second paragraph, that can reasonably be regarded as having been paid in respect of that portion of any gain or profit from the disposition of the property that accrued while the individual was resident in Canada and before the time the individual last ceased to be resident in Canada; and

(b) the amount by which the amount of tax under this Part that was, after taking into account the application of this section to dispositions that occurred before the disposition time, otherwise payable by the individual for the emigration year, exceeds the amount of such tax that would otherwise have been payable if the property had not been deemed under section 785.2 to have been disposed of in the emigration year.

The government to which subparagraph *a* of the first paragraph refers is,

(a) if the property is immovable property situated in a country other than Canada,

i. the government of that country, or

ii. the government of a country with which Canada has a tax treaty at the particular time referred to in the first paragraph and in which the individual is resident at that time; or

(b) if the property is not immovable property, the government of a country with which Canada has a tax treaty at the particular time referred to in the first paragraph and in which the individual is resident at that time.

“772.9.3. If at any particular time in a taxation year an individual who is not resident in Canada disposes of a property that the individual last acquired at any time, in this section referred to as the “acquisition time”, on a distribution by a trust after 1 October 1996 to which subparagraphs *a* to *c* of the first paragraph of section 688 do not apply only because of the application of section 692, the trust may deduct from its tax otherwise payable under this Part for the year, in this section referred to as the “distribution year”, that includes the acquisition time, an amount not exceeding the lesser of

(*a*) the aggregate of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the taxation year to the government described in the second paragraph, that can reasonably be regarded as having been paid in respect of that portion of any gain or profit from the disposition of the property that accrued before the distribution and after the latest of the times, before the distribution, at which

- i. the trust became resident in Canada,
- ii. the individual became a beneficiary under the trust, or
- iii. the trust acquired the property; and

(*b*) the amount by which the amount of tax under this Part that was, after taking into account the application of this section to dispositions that occurred before the particular time, otherwise payable by the trust for the distribution year, exceeds the amount of such tax that would otherwise have been payable by the trust if the property had not been distributed to the individual.

The government to which subparagraph *a* of the first paragraph refers is,

(*a*) if the property is immovable property situated in a country other than Canada,

- i. the government of that country, or
- ii. the government of a country with which Canada has a tax treaty at the particular time referred to in the first paragraph and in which the individual is resident at that time; or

(*b*) if the property is not immovable property, the government of a country with which Canada has a tax treaty at the particular time referred to in the first paragraph and in which the individual is resident at that time.

“772.9.4. For the purposes of sections 772.9.2 and 772.9.3, in computing the total amount of taxes paid by an individual for a taxation year to one or more governments of countries other than Canada in relation to the disposition of a property by the individual in the year, there shall be deducted any tax credit, or other reduction in the amount of a tax, to which the individual was entitled for the year, under the law of any of those countries or under a tax treaty between Canada and any of those countries, because of taxes paid or

payable by the individual under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the disposition or a previous disposition of the property.”

(2) Subsection 1 applies from the taxation year 1996.

110. Section 776.1.5.1 of the Act is amended by inserting “, as they read before being repealed,” after “sections 1029.8.27 to 1029.8.30” in subparagraph *b* of the second paragraph.

111. (1) Section 776.42 of the Act is amended by striking out “and 1029.11”.

(2) Subsection 1 has effect from 10 December 2003.

112. (1) Section 776.44 of the Act is repealed.

(2) Subsection 1 has effect from 10 December 2003.

113. (1) Section 776.45 of the Act is amended by striking out paragraph *f*.

(2) Subsection 1 applies from the taxation year 2005.

114. (1) Section 776.46 of the Act is amended, in subparagraph *a* of the second paragraph,

(1) by replacing “or a subsequent year;” in subparagraph iii by “, and”;

(2) by adding the following subparagraph after subparagraph iii:

“iv. 16%, where the taxation year is the year 2003 or a subsequent year;”.

(2) Subsection 1 applies from the taxation year 2003.

115. (1) Section 776.47 of the Act is amended by replacing “\$25,000” in paragraphs *a* and *b* by “\$40,000”.

(2) Subsection 1 applies from the taxation year 2003.

116. (1) Sections 776.48 and 776.49 of the Act are replaced by the following sections:

“776.48. Despite paragraph *b* of section 776.47, if more than one trust described in that paragraph arose as a consequence of contributions to the trusts by an individual and those trusts have filed with the Minister in prescribed form an agreement whereby, for the purposes of this Book, they allocate an amount or several amounts to one or more of them for a taxation year and the aggregate of the amounts so allocated does not exceed \$40,000, the basic exemption for the year of each of the trusts is the amount so allocated to it.

“776.49. Despite paragraph *b* of section 776.47, if more than one trust described in that paragraph arose as a consequence of contributions to the trusts by an individual and no agreement referred to in section 776.48 has been filed with the Minister before the expiry of 30 days after notice in writing has been forwarded by the Minister to any of the trusts that such an agreement is required for the purpose of an assessment of tax under this Part, the Minister may, for the purposes of this Book, allocate an amount or several amounts to one or more of the trusts for a taxation year, the aggregate of all of which amounts does not exceed \$40,000, and the basic exemption for the year of each of the trusts is the amount so allocated.”

(2) Subsection 1 applies from the taxation year 2003.

117. (1) Section 776.56 of the Act is amended by replacing “7/10” in paragraphs *a* to *c* by “3/4”.

(2) Subsection 1 applies from the taxation year 2003.

118. (1) Section 776.59 of the Act is replaced by the following section:

“776.59. For the purposes of section 776.51, the aggregate of all amounts deductible in computing the income of a trust for the year under sections 656.2, 657 and 657.4 shall be established as if it were equal to the total of the aggregate of all amounts otherwise deductible under those sections and the aggregate of all amounts each of which is 1/2 of

(a) an amount designated by the trust for the year under section 668; or

(b) that portion of a net taxable capital gain of the trust that may reasonably be considered

i. to be included in an amount included in computing the income for the year of a beneficiary of the trust under any of sections 661 to 663 if the beneficiary is not resident in Canada, or

ii. to have been paid in the year by a trust governed by an employee benefit plan to a beneficiary under that plan.”

(2) Subsection 1 applies from the taxation year 2003.

119. (1) Section 776.60 of the Act is amended

(1) by replacing “sections 725.6 and 726.0.1” in the first paragraph by “section 725.6”;

(2) by replacing “725.2 and 725.3 to” in the portion of the third paragraph before subparagraph *a* by “725.4 and”;

(3) by striking out subparagraph *b* of the third paragraph;

(4) by replacing subparagraph *c* of the third paragraph by the following subparagraph:

“(c) as regards sections 725.4 and 725.5, 1/2 of the amounts deducted under those sections.”

(2) Paragraphs 2 to 4 of subsection 1 apply from the taxation year 2000. However, when subparagraph *c* of the third paragraph of section 776.60 of the Act applies to the taxation year 2000, 2001 or 2002, it reads as if “1/2” was replaced by “3/5”.

120. (1) Section 785.0.1 of the Act, enacted by section 153 of chapter 8 of the statutes of 2004 and amended by section 223 of chapter 21 of the statutes of 2004, is again amended by replacing paragraph *f* of the definition of “excluded right or interest” by the following paragraph:

“(f) a right of the individual to receive an amount under an annuity contract, an income-averaging annuity contract or an income-averaging annuity contract respecting income from artistic activities;”.

(2) Subsection 1 applies from the taxation year 2004.

121. (1) Section 785.3.1 of the Act, enacted by section 157 of chapter 8 of the statutes of 2004, is amended by replacing “For the purposes of sections 785.2.2” by “For the purposes of sections 772.9.2 to 772.9.4, 785.2.2”.

(2) Subsection 1 has effect from 2 October 1996.

122. (1) Section 851.34 of the Act is amended by replacing “that is a prescribed Canadian amateur athletic association prescribed for the purposes of subparagraph ii of paragraph *a* of section 710” in the portion before paragraph *a* by “that is a registered Canadian amateur athletic association”.

(2) Subsection 1 has effect from 31 March 2004.

123. Title V of Book VII of Part I of the Act is repealed.

124. Section 961.24.1 of the Act is repealed.

125. Section 961.24.2 of the Act is amended by replacing “Sections 961.24 and 961.24.1 apply” in the portion before paragraph *a* by “Section 961.24 applies”.

126. Section 961.24.3 of the Act is repealed.

127. Section 961.24.4 of the Act is amended by replacing “section 961.24 or 961.24.1” in the portion before paragraph *a* by “section 961.24”.

128. (1) Section 965.6.23 of the Act is amended

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

“(b) to acquire, on or before 31 December in the year, qualifying shares or qualifying non-guaranteed convertible securities with the proceeds or expected proceeds, for the year, of the public security issue or, in the case of qualifying shares, as a result of the exercise of a conversion right conferred on the holder of a convertible security, qualifying non-guaranteed convertible security or preferred share that meets the requirements of paragraph *b* of section 965.9.1.0.4.2 or 965.9.1.0.5 purchased in the year by the investment fund with the proceeds or expected proceeds of the issue, whose adjusted cost is not less than the adjusted cost of the aggregate of all qualifying securities issued by the fund in the year and constituting valid qualifying securities; and”;

(2) by adding the following paragraph:

“For the purposes of subparagraph *b* of the first paragraph and section 965.6.23.0.1, the expected proceeds of a public security issue made by an investment fund for a year are the proceeds of such a public security issue or a portion of such proceeds, as the case may be, to the extent that the following conditions are satisfied:

(a) the public security issue ends on or before 31 December of that year; and

(b) the proceeds or the portion of the proceeds is used to compensate or repay the acquisition cost of qualifying shares or qualifying non-guaranteed convertible securities acquired by the investment fund at a particular time during the 90-day period that precedes the date on which the public security issue ends.”

(2) Subsection 1 applies from the taxation year 2001. However, when the portion of the second paragraph of section 965.6.23 of the Act before subparagraph *a* applies to the taxation year 2001, it reads without reference to “and section 965.6.23.0.1”.

129. (1) The Act is amended by inserting the following section after section 965.6.23:

“**965.6.23.0.1.** An investment fund that intends to make a public security issue after 31 December 2001 and to acquire qualifying shares or qualifying non-guaranteed convertible securities with the expected proceeds of the public security issue shall stipulate in the final prospectus or in the application for an exemption from filing a prospectus relating to the issue that it undertakes to satisfy the conditions set out in subparagraphs *a* and *b* of the second paragraph of section 965.6.23.”

(2) Subsection 1 has effect from 1 January 2002.

130. (1) Section 965.21 of the Act is replaced by the following section:

“965.21. Subject to the second paragraph, the deemed disposition after 10 May 1983, under any of sections 299, 436 and 440, of a share or debenture included in a stock savings plan does not entail the withdrawal of the share or debenture from the plan.

If an amount was deducted for a year under section 726.1 in respect of a particular security that is a qualifying share, a qualifying security or a qualifying non-guaranteed convertible security, if the deduction is related, directly or through an investment group or investment fund, to a share issue or security issue made by a corporation and if the corporation became a bankrupt in a particular year, the particular security is deemed withdrawn from the stock savings plan on the later of 1 January of the third year following the year of the deduction and the time in the particular year when the corporation became a bankrupt.”

(2) Subsection 1 applies from the taxation year 2002.

131. Title VI.4 of Book VII of Part I of the Act is repealed.

132. (1) Section 968 of the Act is amended by replacing “an income-averaging annuity,” in the second paragraph by “an income-averaging annuity contract, an income-averaging annuity contract respecting income from artistic activities”.

(2) Subsection 1 applies from the taxation year 2004.

133. (1) Section 979.6 of the Act is replaced by the following section:

“979.6. A market-maker who is an individual other than a trust and is resident in Québec on 31 December of a taxation year may deduct, in computing employment or business income as a market-maker for the year, an amount not exceeding the contributions the market-maker pays into a reserve account for contingent losses in the year and before 30 March 2004, if the market-maker is an employee, or in the particular period that coincides with the year or ends in that year and before 30 March 2004, to the extent that the market-maker has not deducted those contributions for the preceding taxation year, if the market-maker works for the market-maker’s own account.”

(2) Subsection 1 applies from the taxation year 2004.

134. (1) Section 979.9 of the Act is amended by adding the following paragraph:

“If a market-maker so elects in respect of the balance of the market-maker’s reserve account for contingent losses that the market-maker is deemed to have withdrawn in a taxation year by reason of the application of the second paragraph of section 979.12, the following rules apply:

(a) the market-maker may elect not to include, in computing income for the year, an amount not exceeding 50% of that balance; and

(b) the market-maker must include, in computing income for the taxation year that follows the year, the amount referred to in subparagraph *a.*”

(2) Subsection 1 applies from the taxation year 2004.

135. (1) Sections 979.12 and 979.13 of the Act are replaced by the following sections:

“979.12. If a market-maker ceases to act as such on the trading floor of the Montréal Stock Exchange by reason of death or for any other reason, ceases to be resident in Québec or is deemed to have ceased to act as such under the second paragraph, the following rules apply:

(a) the market-maker is deemed to have withdrawn, immediately before that cessation, the balance of the funds then accumulated in the market-maker’s reserve account for contingent losses;

(b) the market-maker’s clearing member is deemed to have paid that balance to the market-maker; and

(c) if the market-maker works or worked for the market-maker’s own account, the fiscal period of that business during which the cessation occurs is deemed, in respect of the aggregate of the amounts that the market-maker withdrew or is deemed to have withdrawn from the account during that fiscal period, to end at the cessation, and the election provided for in section 190 or 601 does not apply in respect of those amounts.

A market-maker is deemed to cease acting as such on 30 March 2004.

“979.13. If a market-maker is resident in Canada outside Québec on the last day of the taxation year during which the market-maker ceases or is deemed to cease acting as such or ceases to be resident in Québec as provided for in section 979.12, the market-maker who is or was an employee is deemed, in respect of the aggregate of the amounts that the market-maker withdrew from the market-maker’s reserve account for contingent losses in the year, to the extent that those amounts should otherwise be included in computing the market-maker’s employment income for the year, in accordance with sections 979.9 to 979.11, to have carried on a business having an establishment in Québec at any time in the year and whose income attributable to that establishment for a fiscal period having ended in the year is equal to the aggregate of those amounts and, in such case, the market-maker shall not include those amounts in computing the market-maker’s employment income for the year under those sections.

For the purposes of this section, if an individual ceases to be resident in Canada during a taxation year, the last day of the individual's taxation year is the last day on which the individual was resident in Canada."

(2) Subsection 1 applies from the taxation year 2004.

136. Section 998 of the Act, amended by section 176 of chapter 8 of the statutes of 2004 and by section 90 of chapter 37 of the statutes of 2004, is again amended by striking out paragraph *i*.

137. Section 1010 of the Act, amended by section 9 of chapter 4 of the statutes of 2004 and by section 177 of chapter 8 of the statutes of 2004, is again amended by replacing "en la forme prescrite" in subparagraph *ii* of paragraph *b* of subsection 2 in the French text by "au moyen du formulaire prescrit".

138. Section 1010.1 of the Act is amended by replacing "en la forme prescrite" in the French text by "au moyen du formulaire prescrit".

139. (1) Section 1012.1 of the Act, amended by section 178 of chapter 8 of the statutes of 2004 and by section 248 of chapter 21 of the statutes of 2004, is again amended by replacing paragraph *d.1* by the following paragraph:

"(d.1) sections 772.2 to 772.9.1 and 772.10 to 772.13 in respect of the unused portion of the foreign tax credit, within the meaning of section 772.2, or sections 772.9.2 to 772.9.4 in respect of foreign taxes paid, for a subsequent taxation year;"

(2) Subsection 1 applies to a taxation year that ends after 1 October 1996. However, when paragraph *d.1* of section 1012.1 of the Act applies to a taxation year of a taxpayer that ends before 1 January 2000, it reads as if "sections 772.2 to 772.9.1" was replaced by "sections 772.2 to 772.9".

(3) In relation to a deduction under section 772.9.2 or 772.9.3 of the Act, enacted by section 109, in respect of foreign taxes paid by a taxpayer, the prescribed form referred to in section 1012 of the Act is deemed to have been filed within the prescribed time if it is filed on or before the taxpayer's filing-due date for the taxpayer's taxation year that includes 17 June 2005.

140. (1) Section 1015 of the Act, amended by section 127 of chapter 9 of the statutes of 2001 and by section 249 of chapter 21 of the statutes of 2004, is again amended by replacing subparagraph *f* of the second paragraph by the following subparagraph:

"(f) an annuity payment or a payment in full or partial commutation of an annuity, other than a payment made under an income-averaging annuity contract respecting income from artistic activities;"

(2) Subsection 1 applies from the taxation year 2004.

141. (1) Section 1029.6.0.0.1 of the Act, amended by section 253 of chapter 21 of the statutes of 2004 and by section 212 of chapter 1 of the statutes of 2005, is again amended

(1) by replacing “Fonds de diversification de l’économie de la région de la capitale” in subparagraph viii of subparagraph *c* of the second paragraph by “Fonds de développement économique de la région de la Capitale-Nationale”;

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

“Subject to subparagraph *b* of the second paragraph, when that subparagraph *b* refers to Division II.6.0.0.1, and subparagraphs *c* to *f* of the second paragraph, government assistance includes the amount of any financial contribution in respect of a property that is a Québec film production, within the meaning of the first paragraph of section 1029.8.34, a qualified production, within the meaning of the first paragraph of section 1029.8.36.0.0.1 or 1029.8.36.0.0.4, a qualified low-budget production, within the meaning of the first paragraph of section 1029.8.36.0.0.4, a qualified sound recording, within the meaning of the first paragraph of section 1029.8.36.0.0.7, a qualified performance, within the meaning of the first paragraph of section 1029.8.36.0.0.10, an eligible work or an eligible group of works, within the meaning of the first paragraph of section 1029.8.36.0.0.13, that a corporation has received, is entitled to receive or may reasonably expect to receive from a government, municipality or other public authority, or a person or partnership that pays that contribution in the course of carrying on a business or operating a property in circumstances where it is reasonable to conclude that the person or partnership would not have paid the contribution but for an amount that the person or partnership or another person or partnership received from a government, municipality or other public authority, excluding an amount that is income from the operation of the property.”

(2) Paragraph 1 of subsection 1 has effect from 29 January 2002.

(3) Paragraph 2 of subsection 1 applies in respect of

(1) subject to subsection 5, a property that is a Québec film production, within the meaning of section 1029.8.34 of the Act, for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003, or, despite the filing of an application for an advance ruling with the Société de développement des entreprises culturelles before 1 May 2003, the Société de développement des entreprises culturelles considers that the work surrounding the property was not sufficiently advanced on 11 March 2003;

(2) a property that is a qualified production, within the meaning of the first paragraph of section 1029.8.36.0.0.1 of the Act, for which an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003; or

(3) a property that is a qualified production or a qualified low-budget production, within the meaning of the first paragraph of section 1029.8.36.0.0.4 of the Act, a qualified sound recording, within the meaning of the first paragraph of section 1029.8.36.0.0.7 of the Act, a qualified performance, within the meaning of the first paragraph of section 1029.8.36.0.0.10 of the Act, for a period referred to in paragraphs *a* to *c* of the definition of “qualified performance” in that first paragraph, an eligible work, a work that is part of an eligible group of works or an eligible group of works, within the meaning of the first paragraph of section 1029.8.36.0.0.13 of the Act, for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003, or, despite the filing of an application for an advance ruling with the Société de développement des entreprises culturelles before 1 May 2003, the Société de développement des entreprises culturelles considers that the work surrounding the property was not sufficiently advanced on 11 March 2003.

(4) Despite paragraph 3 of subsection 3, if the third paragraph of section 1029.6.0.0.1 of the Act applies to a taxation year for which a corporation first files with the Minister of Revenue, before 12 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act, it reads as if “an eligible group of works” was replaced by “a work that is part of an eligible group of works”.

(5) Paragraph 2 of subsection 1 does not apply in respect of a property that is an episode or broadcast that is part of a series if an application for an advance ruling or, in the absence of such an application, an application for a certificate has been filed with the Société de développement des entreprises culturelles before 1 May 2003 in respect of an episode or broadcast of that series and the Société de développement des entreprises culturelles considers that the work surrounding an episode or broadcast of that series was sufficiently advanced on 11 March 2003.

142. (1) Section 1029.6.0.1 of the Act, amended by section 254 of chapter 21 of the statutes of 2004 and by section 213 of chapter 1 of the statutes of 2005, is again amended by replacing “under any of Divisions II to II.6.2” in paragraphs *a* and *b* by “under any of Divisions II to II.6.0.1.6, II.6.0.3 to II.6.2”.

(2) Subsection 1 applies to a taxation year that ends after 12 December 2003.

143. (1) The Act is amended by inserting the following sections after section 1029.6.0.1.2:

“1029.6.0.1.2.1. For the purposes of paragraphs *a* and *b* of section 1029.6.0.1, a particular expenditure or particular costs, in respect of which a particular amount is or may be deemed under any of Divisions II to II.6.0.1.6, II.6.0.3 to II.6.2, II.6.5, II.6.5.3, II.6.5.4 and II.6.8 to II.6.15 to have

been paid to the Minister by a taxpayer, or by a person or a member of a partnership, for a taxation year, or is deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer, include the aggregate of the expenditures and costs taken into account, or to be taken into account, as the case may be, in computing the amount used as a basis for computing the particular amount.

“1029.6.0.1.2.2. The rule set out in the second paragraph applies if

(a) any of the following conditions is met in relation to an expenditure, in this section referred to as the “initial expenditure”, incurred in whole or in part after 12 December 2003:

i. by reason of paragraph *b* of section 1029.6.0.1, no amount may, in respect of all or part of a cost, an expenditure or costs that constitute only a portion of the initial expenditure, in this section referred to as the “portion not qualifying for a tax credit”, be deemed under any of Divisions II to II.6.0.1.6, II.6.0.3 to II.6.2, II.6.5, II.6.5.3, II.6.5.4 and II.6.8 to II.6.15 to have been paid to the Minister by a taxpayer for a taxation year, or be deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer, or

ii. a contract payment, within the meaning of the first paragraph of section 1029.8.36.0.17 or 1029.8.36.4, must be taken into account in computing the amount used as a basis for computing, in respect of the portion of the initial expenditure that, where applicable, exceeds the portion not qualifying for a tax credit thereof, the amount that is deemed under Division II.6.0.3 or II.6.2 to have been paid to the Minister by a taxpayer for a taxation year;

(b) but for this section and section 1029.6.0.1.2.3, a particular amount would be, in respect of the portion of the initial expenditure, in subparagraph *c* and the second paragraph referred to as the “portion qualifying for a tax credit”, that, where applicable, exceeds the portion not qualifying for a tax credit thereof, deemed under any of Divisions II to II.6.0.1.6, II.6.0.3 to II.6.2, II.6.5, II.6.5.3, II.6.5.4 and II.6.8 to II.6.15 to have been paid to the Minister by the taxpayer for the year, or deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec to have been an overpayment to the Minister by the taxpayer; and

(c) the portion qualifying for a tax credit of the initial expenditure is an expenditure in respect of which a particular maximum amount, which would correspond to a particular limit, in dollars, established on an annual, weekly or hourly basis, or which, where applicable, would be obtained by multiplying, before the application of section 1029.6.0.1.2.3, that particular limit by a proportion or, successively, by more than one proportion, would be provided for by the division referred to in subparagraph *b* or by Division II.6.0.1.6, for the purpose of determining the amount used as a basis for computing the particular amount referred to in that subparagraph *b*.

The amount that, in respect of the portion qualifying for a tax credit of the initial expenditure, may be deemed under the division referred to in subparagraph *b* of the first paragraph to have been paid to the Minister by the taxpayer for the year, or deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec to have been an overpayment to the Minister by the taxpayer, must be determined as if, subject to section 1029.6.0.1.2.3, the maximum amount then applicable was equal to the product obtained by multiplying the particular maximum amount referred to in subparagraph *c* of the first paragraph for the purposes, in respect of the portion qualifying for a tax credit of the initial expenditure, of that division or Division II.6.0.1.6, by the proportion that the part of the period covered by the initial expenditure that may reasonably be attributed to the portion of the initial expenditure that exceeds the aggregate, relating to the portion of the initial expenditure that was incurred after 12 December 2003, of the portion not qualifying for a tax credit of the initial expenditure and any contract payment, within the meaning of the first paragraph of section 1029.8.36.0.17 or 1029.8.36.4, taken into account in computing the amount used as a basis for computing, in respect of the portion qualifying for a tax credit of the initial expenditure, the particular amount referred to in subparagraph *b* of the first paragraph, is of the period covered by the initial expenditure.

“1029.6.0.1.2.3. In this section, an expenditure entitling a taxpayer to more than one tax credit for a taxation year means a particular expenditure or particular costs that

(a) were incurred in whole or in part after 12 December 2003;

(b) relate to an activity that is eligible, for the purposes, for the year, of any of Divisions II to II.6.0.1.6, II.6.0.3 to II.6.2, II.6.5, II.6.5.3, II.6.5.4 and II.6.8 to II.6.15 in respect of the taxpayer, such division being in this section referred to as the “applicable division”, and for the purposes, for any taxation year, of one or more other divisions among those divisions, each division then applicable, if any, being in this section referred to as the “applicable division”, or of any of Divisions II.6.0.1.7 and II.6.6.1 to II.6.6.7, in respect of the taxpayer;

(c) are attributable to the period corresponding to the aggregate of all the periods in the year, or relating to the year, during which they relate to the activity referred to in subparagraph *b*; and

(d) relate to an activity that is eligible for the purposes, for at least a part of the period referred to in subparagraph *c*, of both the first applicable division mentioned in subparagraph *b* and at least one of the other divisions referred to in that subparagraph *b*.

If, for the purposes, in respect of an expenditure entitling a taxpayer to more than one tax credit for a taxation year, of the applicable divisions relating to the expenditure, the taxpayer allocates among those applicable divisions all or part of the period to which that expenditure is attributable, the following rules apply, except for the purposes of paragraph *b* of section 1029.6.0.1, for the

purpose of establishing, in respect of that expenditure, the particular amount deemed under an applicable division relating to the expenditure to have been paid to the Minister by the taxpayer for the year, or deemed under section 34.1.9 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer:

(a) if a period is attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that applicable division or Division II.6.0.1.6, the portion of that expenditure that does not relate to that period is not to be taken into account;

(b) if no period is attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that applicable division or Division II.6.0.1.6, no portion of that expenditure is to be taken into account; and

(c) if, for the purpose of establishing the amount used as a basis for computing the particular amount, a maximum amount that corresponds to a particular limit, in dollars, established on an annual, weekly or hourly basis, or that, where applicable, is obtained by multiplying that particular limit by a proportion or, successively, by more than one proportion is to be taken into account, that maximum amount is deemed to be equal to

i. if the second paragraph of section 1029.6.0.1.2.2 applies for the purposes, in respect of the expenditure entitling to more than one tax credit or of part of that expenditure, of that applicable division or Division II.6.0.1.6, the product obtained by multiplying the maximum amount then determined under that second paragraph in relation to that division by the proportion, not exceeding 1, that the period that is attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that division is of the part of the period to which the expenditure entitling to more than one tax credit is attributable that was considered as a numerator in the proportion referred to in that second paragraph in relation to that division, and

ii. if subparagraph i does not apply, the product obtained by multiplying that maximum amount, otherwise determined, by the proportion that the period attributed for the purposes, in respect of the expenditure entitling to more than one tax credit, of that applicable division or Division II.6.0.1.6, is of the part of the period to which the expenditure entitling to more than one tax credit is attributable that may reasonably be considered, for the purposes of that division, as having been devoted to the activity referred to in subparagraph *b* of the first paragraph in relation to that expenditure.

For the purpose of making the allocation provided for in the second paragraph, the following rules apply:

(a) the period attributed for the purposes of a particular applicable division must be included entirely in the part of the period to which the expenditure entitling to more than one tax credit is attributable that may reasonably be

considered, for the purposes of that applicable division, as having been devoted to the activity referred to in subparagraph *b* of the first paragraph in relation to that expenditure;

(*b*) the period attributed for the purposes of a particular applicable division must not include any part of the period attributed for the purposes of another applicable division in respect of the expenditure entitling to more than one tax credit; and

(*c*) the taxpayer may attribute, for the purposes of any of the applicable divisions, no part of the period to which the expenditure entitling to more than one tax credit is attributable.

“1029.6.0.1.2.4. For the purposes of Divisions II.6.0.1.7 and II.6.6.1 to II.6.6.7, the following rules apply:

(*a*) an expenditure, in respect of which no amount may, because of paragraph *b* of section 1029.6.0.1, be deemed under any of Divisions II to II.6.0.1.6, II.6.0.3 to II.6.2, II.6.5, II.6.5.3, II.6.5.4 and II.6.8 to II.6.15 to have been paid to the Minister by a corporation for a taxation year, must, where it is a salary or wages paid by the corporation, be considered to be included in computing an expenditure in respect of which the corporation is deemed to have paid an amount to the Minister under this chapter for any taxation year; and

(*b*) the portion of the salaries or wages that may reasonably be considered, for the purposes of a particular provision of any of those divisions, to be included in computing an expenditure in respect of which a corporation is deemed to have paid an amount to the Minister under this chapter for any taxation year corresponds, in relation to a particular amount deemed to have been paid to the Minister by the corporation under this chapter, to the aggregate of the salaries or wages that were taken into account in computing the amount used as a basis for computing the particular amount less, to the extent that it otherwise reduces in that particular provision the amount of the salaries or wages paid by the corporation, the portion of that aggregate that is equal to the amount of any government assistance or non-government assistance that was taken into account in computing the amount used as a basis for computing the particular amount.”

(2) Subsection 1, when it enacts section 1029.6.0.1.2.1 of the Act, applies in respect of an expenditure or costs incurred after 12 December 2003.

(3) Subsection 1, when it enacts sections 1029.6.0.1.2.2 and 1029.6.0.1.2.3 of the Act, applies to a taxation year that ends after 12 December 2003. However,

(1) when section 1029.6.0.1.2.2 applies before 12 March 2003, it reads without reference to “, II.6.5.3, II.6.5.4” in subparagraph *i* of subparagraph *a* and subparagraph *b* of the first paragraph; and

(2) when section 1029.6.0.1.2.3 applies

(a) before 12 March 2003, it reads without reference to “, II.6.5.3, II.6.5.4” in subparagraph *b* of the first paragraph, or

(b) to a taxation year that includes 12 December 2003 in relation to an expenditure entitling a taxpayer to more than one tax credit for that taxation year that was incurred in part before 13 December 2003 and in part after 12 December 2003,

i. the second paragraph of that section reads as follows:

“If, for the purposes, in respect of the portion incurred after 12 December 2003 of an expenditure entitling a taxpayer to more than one tax credit for a taxation year, of the applicable divisions relating to the expenditure, the taxpayer allocates among those applicable divisions all or part of the period to which that portion, in this section referred to as the “expenditure subsequent to 12 December 2003”, of the expenditure entitling to more than one tax credit is attributable, the following rules apply, except for the purposes of paragraph *b* of section 1029.6.0.1, for the purpose of establishing, in respect of the expenditure entitling to more than one tax credit, the particular amount deemed under an applicable division relating to the expenditure to have been paid to the Minister by the taxpayer for the year, or deemed under section 34.1.9 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5) to have been an overpayment to the Minister by the taxpayer:

(a) if a period is attributed for the purposes, in respect of the expenditure subsequent to 12 December 2003, of that applicable division or Division II.6.0.1.6, the portion of the expenditure subsequent to 12 December 2003 that does not relate to that period is not to be taken into account;

(b) if no period is attributed for the purposes, in respect of the expenditure subsequent to 12 December 2003, of that applicable division or Division II.6.0.1.6, no portion of the expenditure subsequent to 12 December 2003 is to be taken into account; and

(c) if, for the purpose of establishing the amount used as a basis for computing the particular amount, a maximum amount that corresponds to a particular limit, in dollars, established on an annual, weekly or hourly basis, or that, where applicable, is obtained by multiplying that particular limit by a proportion or, successively, by more than one proportion, is to be taken into account,

i. that maximum amount must, for the purposes of that applicable division or Division II.6.0.1.6, in respect of the portion of the expenditure entitling to more than one tax credit that was incurred before 13 December 2003, be computed as if the part of the year before that date was a distinct taxation year, and

ii. that maximum amount is deemed to be equal to, for the purposes of that applicable division or Division II.6.0.1.6, in respect of the expenditure subsequent to 12 December 2003,

(1) if the second paragraph of section 1029.6.0.1.2.2 applies for the purposes, in respect of the expenditure entitling to more than one tax credit or of part of that expenditure, of that applicable division or Division II.6.0.1.6, the product obtained by multiplying the maximum amount then determined under that second paragraph in relation to that division by the proportion, not exceeding 1, that the period that is attributed for the purposes, in respect of the expenditure subsequent to 12 December 2003, of that division is of the part of the period to which the expenditure entitling to more than one tax credit is attributable that was considered as a numerator in the proportion referred to in that second paragraph in relation to that division, and

(2) if subparagraph 1 does not apply, the product obtained by multiplying that maximum amount, otherwise determined, by the proportion that the period attributed for the purposes, in respect of the expenditure subsequent to 12 December 2003, of that applicable division or Division II.6.0.1.6, is of the part of the period to which the expenditure entitling to more than one tax credit is attributable that may reasonably be considered, for the purposes of that division, as having been devoted to the activity referred to in subparagraph *b* of the first paragraph in relation to the expenditure entitling to more than one tax credit.”, and

ii. the third paragraph of that section reads as if “expenditure entitling to more than one tax credit” wherever it appears was replaced by “expenditure subsequent to 12 December 2003”.

(4) Subsection 1, when it enacts section 1029.6.0.1.2.4 of the Act, applies in respect of an expenditure incurred after 31 December 2003.

144. (1) The Act is amended by inserting the following section after section 1029.6.0.1.7, enacted by section 255 of chapter 21 of the statutes of 2004:

“1029.6.0.1.8. For the purposes of Divisions II, II.1, II.2.1, II.3, II.4.3, II.6 to II.6.0.0.6, II.6.0.1.1 to II.6.0.4, II.6.2, II.6.5, II.6.6.1 to II.6.6.7, II.6.7 as it read before being repealed, II.6.9, II.6.11, II.6.13, II.6.14.1 and II.6.15 and for the purpose of determining the salaries or wages a person, a partnership or any other entity has incurred or paid in respect of the person’s, partnership’s or entity’s employees for a particular period for particular activities or duties, the Minister may take into account the remuneration that would not otherwise be included in those salaries or wages that the person, partnership or entity has incurred or paid in respect of an employee while the employee was temporarily absent from the employee’s employment for reasons the Minister considers reasonable.”

(2) Subsection 1 applies to a taxation year for which a notice of assessment is established after 12 June 2003.

145. (1) The Act is amended by inserting the following sections after section 1029.8.9.0.2:

“1029.8.9.0.2.1. For the purposes of this division,

(a) the expenditures made by an eligible research consortium for scientific research and experimental development mean the expenditures referred to in subsection 1 of section 222 or paragraph *a* of section 223, other than those described in section 1029.8.9.0.2.2, and must be determined as if section 230 were read without reference to subparagraph *c* of its first paragraph; and

(b) scientific research and experimental development related to a business of a taxpayer, or of a partnership, who or which is a member of an eligible research consortium that is made by that consortium must be considered to be related to a business of the eligible research consortium.

“1029.8.9.0.2.2. The expenditures to which paragraph *a* of section 1029.8.9.0.2.1 refers are

(a) an expenditure of a current nature incurred by a taxpayer or partnership in respect of the general administration or management of a business, including

i. the administrative salary or wages, including related benefits, of a person none or substantially none of whose duties are oriented toward the prosecution of scientific research and experimental development, except to the extent that such expenditure is a prescribed expenditure,

ii. a legal or accounting fee,

iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179,

iv. an entertainment expense,

v. an advertising or selling expense,

vi. a conference or convention expense,

vii. a due or fee in respect of membership in a scientific or technical organization, and

viii. a fine or penalty;

(b) an expenditure of a current nature incurred by a taxpayer or partnership for the maintenance and upkeep of premises, facilities or equipment to the extent that such expenditure is not attributable to the prosecution of scientific research and experimental development;

(c) an expenditure of a capital nature incurred by a taxpayer or partnership to acquire property, except any such expenditure that, at the time it was incurred, was for the provision of premises, facilities or equipment if, at the time of the acquisition of the premises, facilities or equipment, it was intended

i. that the premises, facilities or equipment would be used during all or substantially all of their operating time in their expected useful life for the prosecution of scientific research and experimental development carried on in Canada, or

ii. that all or substantially all of the value of the premises, facilities or equipment would be consumed in the prosecution of scientific research and experimental development carried on in Canada;

(d) an expenditure of a capital nature incurred by a taxpayer or partnership to acquire property if such property has been used or acquired for use or lease, for any purpose whatsoever, before it was acquired;

(e) an expenditure made to acquire rights in, or arising out of, scientific research and experimental development;

(f) an expenditure related to scientific research and experimental development in respect of which an amount is deductible under sections 710 to 716.0.3 or 752.0.10.1 to 752.0.10.18 in computing taxable income or tax payable under this Part, as the case may be;

(g) an expenditure of a current or capital nature, to the extent that the taxpayer or partnership having incurred it has received or is entitled to receive a reimbursement in respect of the expenditure from a person resident in Canada, other than

i. the State or Her Majesty in right of Canada or a province, other than Québec,

ii. a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec,

iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatsoever, by the State or Her Majesty in right of Canada or a province, other than Québec, or by a mandatary of the State or of Her Majesty in right of Canada or a province, other than Québec, or

iv. a municipality in Canada or a municipal or public body performing a function of government in Canada;

(h) an expenditure of a current or capital nature, to the extent that the taxpayer or the partnership having incurred it has received or is entitled to receive a reimbursement in respect of the expenditure from a person not resident in Canada and to the extent that the reimbursement is deductible by the person in computing taxable income earned in Canada for a taxation year;

(i) an expenditure referred to in section 230.0.0.2; and

(j) an expenditure specified by a corporation for the purposes of clause A of subparagraph ii of paragraph *a* of subsection 2 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

“1029.8.9.0.2.3. If an expenditure made by an eligible research consortium for scientific research and experimental development consists in acquiring property from a member of that consortium or obtaining a service rendered by a member of that consortium, the amount of that expenditure must not exceed the lesser of the fair market value of the property or service the cost or capital cost of the property or service to the member.”

(2) Subsection 1 applies in respect of an expenditure incurred after 12 December 2003 for scientific research and experimental development made after that date, in relation to work carried out after that date.

146. (1) Section 1029.8.21.17 of the Act, amended by section 149 of chapter 29 of the statutes of 2003 and by section 224 of chapter 1 of the statutes of 2005, is again amended, in the first paragraph,

(1) by replacing the definition of “eligible college centre for the transfer of technology” by the following definition:

““eligible college centre for the transfer of technology” means a prescribed college centre for the transfer of technology or a prescribed research centre affiliated with such a centre;”;

(2) by replacing paragraph *b* in the definition of “expenditure in respect of an eligible liaison and transfer service” by the following paragraph:

“(b) the fees relating to a subscription, in respect of an eligible liaison and transfer service, offered by the eligible liaison and transfer centre or the eligible college centre for the transfer of technology, as the case may be, provided these fees are incurred before 1 April 2005 under a contract entered into before 31 March 2004;”;

(3) by replacing the portion of the definition of “expenditure in respect of an eligible competitive intelligence service” before paragraph *a* by the following:

““expenditure in respect of an eligible competitive intelligence service” of a qualified corporation for a taxation year or a qualified partnership for a fiscal period means an amount incurred by the qualified corporation in the year or the qualified partnership in the fiscal period, as the case may be, but before 1 April 2005, under a contract entered into before 31 March 2004 with an eligible competitive intelligence centre, that is, to the extent that that amount is paid, the aggregate of”;

(4) by striking out “, subject to section 1029.8.21.18,” in the portion of the definition of “qualified corporation” before paragraph *a*;

(5) by replacing the definition of “qualified partnership” by the following definition:

““qualified partnership” for a fiscal period means a partnership that, if it were a corporation, would be a qualified corporation for that fiscal period.”

(2) Paragraph 1 of subsection 1 applies in respect of an expenditure incurred after 30 March 2004 under a contract entered into after that date.

(3) Paragraphs 2 to 5 of subsection 1 have effect from 30 March 2004.

147. (1) Sections 1029.8.21.17.1 to 1029.8.21.21 of the Act are repealed.

(2) Subsection 1 has effect from 30 March 2004.

148. (1) Section 1029.8.21.22 of the Act, amended by section 284 of chapter 21 of the statutes of 2004, is again amended by replacing “30%” in the first paragraph by “50%”.

(2) Subsection 1 applies in respect of an expenditure incurred after 30 March 2004. However, when the first paragraph of section 1029.8.21.22 of the Act applies to an expenditure incurred after 30 March 2004 under a contract entered into

(1) after 12 June 2003 and before 31 March 2004, the percentage of 50% provided for in the first paragraph of section 1029.8.21.22 is replaced by a percentage of 30% if that expenditure is one of the expenditures mentioned in subsection 3; or

(2) before 13 June 2003, the percentage of 50% provided for in the first paragraph of section 1029.8.21.22 is replaced by a percentage of 40% if that expenditure is one of the expenditures mentioned in subsection 3.

(3) The expenditure to which paragraphs 1 and 2 of subsection 2 refer is

(1) an expenditure described in paragraph *b* of the definition of “expenditure in respect of an eligible liaison and transfer service” in section 1029.8.21.17 of the Act, that subsection 1 of section 146 amends; or

(2) an expenditure in respect of an eligible competitive intelligence service, within the meaning of section 1029.8.21.17 of the Act, that subsection 1 of section 146 amends.

149. (1) Section 1029.8.21.23 of the Act, amended by section 285 of chapter 21 of the statutes of 2004, is again amended by replacing “30%” in the first paragraph by “50%”.

(2) Subsection 1 applies in respect of an expenditure incurred after 30 March 2004. However, when the first paragraph of section 1029.8.21.23 of the Act applies to an expenditure incurred after 30 March 2004 under a contract entered into

(1) after 12 June 2003 and before 31 March 2004, the percentage of 50% provided for in the first paragraph of section 1029.8.21.23 is replaced by a percentage of 30% if that expenditure is one of the expenditures mentioned in subsection 3; or

(2) before 13 June 2003, the percentage of 50% provided for in the first paragraph of section 1029.8.21.23 is replaced by a percentage of 40% if that expenditure is one of the expenditures mentioned in subsection 3.

(3) The expenditure to which paragraphs 1 and 2 of subsection 2 refer is

(1) an expenditure described in paragraph *b* of the definition of “expenditure in respect of an eligible liaison and transfer service” in section 1029.8.21.17 of the Act, that subsection 1 of section 146 amends; or

(2) an expenditure in respect of an eligible competitive intelligence service, within the meaning of section 1029.8.21.17 of the Act, that subsection 1 of section 146 amends.

150. Section 1029.8.21.35 of the Act is amended by replacing paragraph *b* by the following paragraph:

“(b) an associated group at the end of a taxation year or fiscal period means the group formed by all the corporations and partnerships that are associated with each other at that time.”

151. Division II.5 of Chapter III.1 of Title III of Book IX of Part I of the Act is repealed.

152. (1) Section 1029.8.33.4.2 of the Act, enacted by section 294 of chapter 21 of the statutes of 2004, is amended by inserting “or a qualified training period that begins after 30 March 2004” after “13 June 2003” in the portion before paragraph *a*.

(2) Subsection 1 applies in respect of an expenditure incurred after 30 March 2004.

153. (1) Section 1029.8.34 of the Act, amended by section 300 of chapter 21 of the statutes of 2004 and by section 230 of chapter 1 of the statutes of 2005, is again amended

(1) by replacing “outside the Montréal area” in the portion of paragraph *b* of the definition of “expenditure for services rendered outside the Montréal area” in the first paragraph before subparagraph *i* by “in Québec, outside the Montréal area,”;

(2) by replacing the definition of “Québec film production” in the first paragraph by the following definition:

““Québec film production” means a motion picture film, a video tape or a set of episodes or broadcasts that are part of a series in respect of which the Société de développement des entreprises culturelles gave a favourable advance ruling or issued a certificate for the purposes of this division;”;

(3) by inserting the following subparagraph after subparagraph *b* of the second paragraph:

“(b.1) remuneration, including a salary or wages, does not include remuneration paid for services rendered by a person who, in the opinion of the Société de développement des entreprises culturelles as indicated in the advance ruling given or the certificate issued in relation to property, assumes the role of the main character in the production of the property that is a docu-soap;”;

(4) by replacing subparagraph *d.1* of the second paragraph by the following subparagraph:

“(d.1) paragraph *b* of the definition shall be read as if there were no reference, in subparagraphs ii and iii, to the words “having an establishment in Québec” and, in subparagraph iv, to the words “carrying on a business in Québec”, where the property is an animated film the main filming or taping of which began on or before 25 March 2001;”;

(5) by replacing subparagraph *a* of the sixth paragraph by the following subparagraph:

“(a) the date to which those definitions refer is the date that is 18 months after the end of the corporation’s fiscal period that includes the date of recording of the first trial composite of the property or, in the case of a series, the date of recording of the last first trial composite of an episode or broadcast that is part of the series; and”.

(2) Paragraph 1 of subsection 1 has effect from 1 July 1999.

(3) Paragraphs 2 and 5 of subsection 1 apply to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.35 of the Act.

(4) Paragraph 3 of subsection 1 applies in respect of a labour expenditure incurred after 30 March 2004.

154. (1) Section 1029.8.35 of the Act, amended by section 301 of chapter 21 of the statutes of 2004, is again amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the amount obtained by multiplying the appropriate percentage determined in section 1029.8.35.2 by the amount of its qualified labour expenditure for the year in respect of the property; and”.

(2) Subsection 1 has effect from 12 June 2003.

155. (1) Section 1029.8.35.1 of the Act, amended by section 302 of chapter 21 of the statutes of 2004, is again amended

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

“1029.8.35.1. The amount that a corporation is deemed to have paid to the Minister, under section 1029.8.35, on account of its tax payable for a taxation year under this Part in respect of a property, must not exceed the amount by which \$2,500,000 exceeds the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under that section in respect of the property for a preceding taxation year exceeds the aggregate of all amounts each of which is an amount that the corporation is required to pay under section 1129.2 in respect of the property for a preceding taxation year.”;

(2) by striking out “, wherever it appears,” in the second paragraph;

(3) by striking out the third paragraph.

(2) Paragraphs 1 and 2 of subsection 1 apply to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.35 of the Act.

156. (1) Section 1029.8.35.2 of the Act, replaced by section 303 of chapter 21 of the statutes of 2004, is amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

“1029.8.35.2. If the property referred to in the first paragraph of section 1029.8.35 is a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 31 August 2003, or a property for which, despite the filing of an application for an advance ruling with the Société de développement des entreprises culturelles before 1 September 2003, the Société de développement des entreprises culturelles considers that the work surrounding the property was not sufficiently advanced on 12 June 2003 and that the property is not a series for which an application for an advance ruling or, in the absence of such an application, an application for a certificate has been filed with the Société de développement des entreprises culturelles before 1 September 2003 in respect of an episode or broadcast of that series and the Société de développement des entreprises

culturelles considers that the work surrounding an episode or broadcast of that series was sufficiently advanced on 12 June 2003, the percentage to which subparagraph *a* of the first paragraph of section 1029.8.35 refers in respect of the property is”;

(2) by replacing the portion of the second paragraph before subparagraph *a* by the following:

“If the first paragraph does not apply, the percentage to which subparagraph *a* of the first paragraph of section 1029.8.35 refers in respect of the property is”.

(2) Subsection 1 has effect from 12 June 2003. However, if section 1029.8.35.2 of the Act applies to a taxation year for which a corporation first files with the Minister of Revenue, before 12 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.35 of the Act, it reads as if “the property is not a series” in the portion before subparagraph *a* of the first paragraph was replaced by “the property is not an episode or broadcast that is part of a series”.

157. (1) Section 1029.8.36.0.0.4 of the Act, amended by section 308 of chapter 21 of the statutes of 2004 and by section 232 of chapter 1 of the statutes of 2005, is again amended by replacing “of subparagraph *a*” by “of subparagraph *i* of subparagraph *b*” in the following provisions of the first paragraph:

— subparagraph *iii* of paragraph *a* of the definition of “qualified computer-aided special effects and animation expenditure”;

— subparagraph *iii* of paragraph *a* of the definition of “qualified labour expenditure”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

158. (1) Section 1029.8.36.0.0.7 of the Act, amended by section 311 of chapter 21 of the statutes of 2004 and by section 233 of chapter 1 of the statutes of 2005, is again amended, in subparagraph *i* of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph,

(1) by replacing “in subparagraph *a*” and “that subparagraph *a*” in subparagraph 2 by “in subparagraph *i* of subparagraph *b*” and “that subparagraph *i*”, respectively;

(2) by replacing “of subparagraph *a*” in subparagraph 3 by “of subparagraph *i* of subparagraph *b*”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

159. (1) Section 1029.8.36.0.0.10 of the Act, amended by section 314 of chapter 21 of the statutes of 2004 and by section 234 of chapter 1 of the statutes of 2005, is again amended, in subparagraph i of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph,

(1) by replacing “in subparagraph *a*” and “that subparagraph *a*” in subparagraph 2 by “in subparagraph i of subparagraph *b*” and “that subparagraph i”, respectively;

(2) by replacing “of subparagraph *a*” in subparagraph 3 by “of subparagraph i of subparagraph *b*”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

160. (1) Section 1029.8.36.0.0.13 of the Act, amended by section 317 of chapter 21 of the statutes of 2004, is again amended

(1) by replacing the portion of subparagraph i of paragraph *b* of the definition of “qualified labour expenditure attributable to printing costs” in the first paragraph before subparagraph 1 by the following:

“i. 33 1/3% of the amount by which the printing costs directly attributable to the printing of the property that the corporation incurred before the end of the year in respect of the property to the extent that they relate to services rendered before the date on which the first printing of the eligible work or the last work that is part of the eligible group of works is completed or within a period that is reasonable to the Minister but that must not extend beyond the date provided for in subparagraph *a* of the fourth paragraph, and that are paid by the corporation, exceeds the aggregate of”;

(2) by replacing the portion of subparagraph i of paragraph *b* of the definition of “qualified labour expenditure attributable to preparation costs” in the first paragraph before subparagraph 1 by the following:

“i. 50% of the amount by which the preparation costs directly attributable to the preparation of the property that the corporation incurred before the end of the year in respect of the property to the extent that they relate to services rendered before the date on which the first printing of the eligible work or the last work that is part of the eligible group of works is completed or within a period that is reasonable to the Minister but that must not extend beyond the date provided for in subparagraph *a* of the fourth paragraph, and that are paid by the corporation, exceeds the aggregate of”;

(3) by replacing paragraphs *a* to *c* of the definition of “labour expenditure attributable to printing costs” in the first paragraph by the following paragraphs:

“(a) the salaries or wages directly attributable to the printing of the property that are incurred by the corporation in the year and, if the year is the taxation year in which the corporation files an application for an advance ruling or, in the absence of such an application, an application for a certificate in respect of the property with the Société de développement des entreprises culturelles, the salaries or wages that are incurred by the corporation in a year preceding the year in which the corporation filed the application for an advance ruling or a certificate, to the extent that they relate to services rendered in Québec for eligible printing work relating to the property before the date on which the first printing of the eligible work or the last work that is part of the eligible group of works is completed or within a period that is reasonable to the Minister but that must not extend beyond the date provided for in subparagraph *a* of the fourth paragraph, and that are paid by the corporation to its eligible employees;

“(b) the portion of the remuneration, other than a salary or wages or a non-repayable advance, that is incurred by the corporation in the year and, if the year is the taxation year in which the corporation files an application for an advance ruling or, in the absence of such an application, an application for a certificate in respect of the property with the Société de développement des entreprises culturelles, the portion of the remuneration that is incurred by the corporation in a year preceding the year in which the corporation filed the application for an advance ruling or a certificate for services rendered in Québec to the corporation for eligible printing work relating to the property pursuant to a contract entered into in respect of the eligible work or a work that is part of the eligible group of works, and that is paid by the corporation,

i. to an eligible individual who carries on a business in Québec, has an establishment in Québec and is not dealing at arm’s length with the corporation at the time the contract is entered into, to the extent that that portion of remuneration is reasonably attributable to services personally rendered in Québec by the eligible individual in connection with the printing of the eligible work or a work that is part of the eligible group of works, or to the wages of the individual’s eligible employees that relate to services rendered in Québec by the individual’s eligible employees in connection with the printing of the work,

ii. to a particular corporation that has an establishment in Québec and is not dealing at arm’s length with the corporation at the time the contract is entered into, other than a particular corporation referred to in subparagraph iii, to the extent that that portion of remuneration is reasonably attributable to the wages paid to the particular corporation’s eligible employees that relate to services rendered in Québec by the particular corporation’s eligible employees in connection with the printing of the eligible work or a work that is part of the eligible group of works,

iii. to a particular corporation that has an establishment in Québec and is not dealing at arm's length with the corporation at the time the contract is entered into, all the issued capital stock of which, other than directors' qualifying shares, belongs to an eligible individual, and whose activities consist principally in providing the eligible individual's services, to the extent that that portion of remuneration is reasonably attributable to services rendered in Québec by the eligible individual in connection with the printing of the eligible work or a work that is part of the eligible group of works, or

iv. to a partnership that carries on a business in Québec, has an establishment in Québec and is not dealing at arm's length with the corporation at the time the contract is entered into, to the extent that that portion of remuneration is reasonably attributable to services rendered in Québec in connection with the printing of the eligible work or a work that is part of the eligible group of works, by an individual who is a member of the partnership, or to the wages paid to the partnership's eligible employees that relate to services rendered in Québec by the partnership's eligible employees in connection with the printing of the work; and

“(c) one-third of the consideration, other than a salary or wages or a non-repayable advance, that is incurred by the corporation in the year and, if the year is the taxation year in which the corporation files an application for an advance ruling or, in the absence of such an application, an application for a certificate in respect of the property with the Société de développement des entreprises culturelles, one-third of the portion of the consideration that is incurred by the corporation in a year preceding the year in which the corporation filed the application for an advance ruling or a certificate pursuant to a contract entered into in respect of the eligible work or a work that is part of the eligible group of works, and that is paid by the corporation, for services rendered in Québec to the corporation for eligible printing work by an eligible individual or by a corporation or partnership having an establishment in Québec, other than an employee of the corporation, with which the corporation is dealing at arm's length at the time the contract is entered into;”;

(4) by replacing paragraphs *a* to *d* of the definition of “labour expenditure attributable to preparation costs” in the first paragraph by the following paragraphs:

“(a) the salaries or wages directly attributable to the preparation of the property that are incurred by the corporation in the year and, if the year is the taxation year in which the corporation files an application for an advance ruling or, in the absence of such an application, an application for a certificate in respect of the property with the Société de développement des entreprises culturelles, the salaries or wages that are incurred by the corporation in a year preceding the year in which the corporation filed the application for an advance ruling or a certificate, to the extent that they relate to services rendered in Québec for eligible preparation work relating to the property before the date on which the first printing of the eligible work or the last work that is part of the eligible group of works is completed or within a period that

is reasonable to the Minister but that must not extend beyond the date provided for in subparagraph *a* of the fourth paragraph, and that are paid by the corporation to its eligible employees;

“(b) the non-refundable advances directly attributable to the preparation of the property that are incurred by the corporation in the year pursuant to a contract entered into in respect of the eligible work or a work that is part of the eligible group of works, and that are paid by the corporation to a Québec author or a holder of the rights of a Québec author, except such advances paid to a holder of the rights of a Québec author for the acquisition of rights on the existing material;

“(c) the portion of the remuneration, other than a salary or wages or a non-repayable advance, that is incurred by the corporation in the year and, if the year is the taxation year in which the corporation files an application for an advance ruling or, in the absence of such an application, an application for a certificate in respect of the property with the Société de développement des entreprises culturelles, the portion of the remuneration that is incurred by the corporation in a year preceding the year in which the corporation filed the application for an advance ruling or a certificate for services rendered in Québec to the corporation for eligible preparation work relating to the property pursuant to a contract entered into in respect of the eligible work or a work that is part of the eligible group of works, and that is paid by the corporation,

i. to an eligible individual who carries on a business in Québec, has an establishment in Québec and is not dealing at arm’s length with the corporation at the time the contract is entered into, to the extent that that portion of remuneration is reasonably attributable to services personally rendered in Québec by the eligible individual in connection with the preparation of the eligible work or a work that is part of the eligible group of works, or to the wages of the individual’s eligible employees that relate to services rendered in Québec by the individual’s eligible employees in connection with the preparation of the work,

ii. to a particular corporation that has an establishment in Québec and is not dealing at arm’s length with the corporation at the time the contract is entered into, other than a particular corporation referred to in subparagraph iii, to the extent that that portion of remuneration is reasonably attributable to the wages paid to the particular corporation’s eligible employees that relate to services rendered in Québec by the particular corporation’s eligible employees in connection with the preparation of the eligible work or a work that is part of the eligible group of works,

iii. to a particular corporation that has an establishment in Québec and is not dealing at arm’s length with the corporation at the time the contract is entered into, all the issued capital stock of which, other than directors’ qualifying shares, belongs to an eligible individual, and whose activities consist principally in providing the eligible individual’s services, to the extent that that portion of remuneration is reasonably attributable to services rendered

in Québec by the eligible individual in connection with the preparation of the eligible work or a work that is part of the eligible group of works, or

iv. to a partnership that carries on a business in Québec, has an establishment in Québec and is not dealing at arm's length with the corporation at the time the contract is entered into, to the extent that that portion of remuneration is reasonably attributable to services rendered in Québec in connection with the preparation of the eligible work or a work that is part of the eligible group of works, by an individual who is a member of the partnership, or to the wages paid to the partnership's eligible employees that relate to services rendered in Québec by the partnership's eligible employees in connection with the preparation of the work; and

“(d) half of the consideration, other than a salary or wages or a non-repayable advance, that is incurred by the corporation in the year and, if the year is the taxation year in which the corporation files an application for an advance ruling or, in the absence of such an application, an application for a certificate in respect of the property with the Société de développement des entreprises culturelles, half of the portion of the consideration that is incurred by the corporation in a year preceding the year in which the corporation filed the application for an advance ruling or a certificate pursuant to a contract entered into in respect of the eligible work or a work that is part of the eligible group of works, and that is paid by the corporation, for services rendered in Québec to the corporation for eligible preparation work by an eligible individual or by a corporation or partnership having an establishment in Québec, other than an employee of the corporation, with which the corporation is dealing at arm's length at the time the contract is entered into;”;

(5) by inserting the following definition in alphabetical order:

““eligible group of works” for a taxation year means property that is a group of works in respect of which the corporation holds, for the year, a favourable advance ruling given or a certificate issued by the Société de développement des entreprises culturelles for the purposes of this division;”;

(6) by replacing “ou une attestation rendue ou délivrée” in the definition of “ouvrage admissible” in the first paragraph in the French text by “rendue ou un certificat délivré”;

(7) by striking out the definition of “work that is part of an eligible group of works” in the first paragraph;

(8) by replacing the definitions of “eligible preparation work” and “eligible printing work” in the first paragraph by the following definitions:

““eligible preparation work” in relation to a property that is an eligible work or an eligible group of works means the work to carry out the various stages related to publishing the property, from the initial stage to the stage

preceding the production in print form of the eligible work or works that are part of the eligible group of works, including editing, design, research, art work, mock-up production, layout, typesetting and pre-press work;

““eligible printing work” in relation to a property that is an eligible work or an eligible group of works means the work to carry out the various stages related to printing the property, which include the first printing of the eligible work or works that are part of the eligible group of works, first assembly and first binding;”;

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

“For the purposes of this section, the initial stage of publishing, in relation to an eligible work or an eligible group of works, means

(a) if a publishing contract is entered into between a qualified corporation and the author or one of the authors of the eligible work or a work that is part of the eligible group of works,

i. in the case of an eligible work, the time at which the qualified corporation enters into such a publishing contract with the author or one of the authors of the work, and

ii. in the case of an eligible group of works, the time at which the qualified corporation enters into a first publishing contract with the author or one of the authors of a work of the group; and

(b) in any other case, the date on which the qualified corporation files an application with the Société de développement des entreprises culturelles for an advance ruling in respect of the eligible work or the eligible group of works.”;

(10) by replacing subparagraph *a* of the fourth paragraph by the following subparagraph:

“(a) the date to which those definitions refer is the date that is 18 months after the end of the corporation’s fiscal period that includes the date on which the first printing of the eligible work or the last work that is part of the eligible group of works is completed; and”;

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

“For the purposes of this division, the printing costs directly attributable to the printing of a property that is an eligible work or an eligible group of works incurred before the end of a taxation year are the costs, other than publishing fees and administration costs, incurred by the corporation for the first printing of the eligible work or works that are part of the eligible group of works, first assembly and first binding.”;

(12) by striking out “a work that is part of” in the following provisions:

- the definition of “eligible employee” in the first paragraph;
- the definition of “eligible individual” in the first paragraph;
- the portion of the definition of “labour expenditure attributable to preparation costs” in the first paragraph before paragraph *a*;
- the portion of the definition of “labour expenditure attributable to printing costs” in the first paragraph before paragraph *a*;
- the portion of the definition of “qualified labour expenditure attributable to preparation costs” in the first paragraph before paragraph *a*;
- the portion of the definition of “qualified labour expenditure attributable to printing costs” in the first paragraph before paragraph *a*;
- subparagraph *a* of the third paragraph;
- subparagraph *b* of the fourth paragraph;
- subparagraph *a* of the fifth paragraph;
- the portion of the seventh paragraph before subparagraph *a*;
- the portion of the eighth paragraph before subparagraph *a*;
- the portion of the ninth paragraph before subparagraph *a*;
- the portion of the tenth paragraph before subparagraph *a*;
- the portion of the eleventh paragraph before subparagraph *a*.

(2) Paragraphs 1 to 5 and 7 to 12 of subsection 1 apply to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act.

(3) Paragraph 6 of subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

(4) In addition,

(1) if subparagraph *i* of paragraph *b* of the definition of “qualified labour expenditure attributable to printing costs” in the first paragraph of section 1029.8.36.0.0.13 of the Act applies in respect of a property for which an

application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003, it reads as if “in Québec for the eligible printing work relating to the property” in the portion of that subparagraph *i* before subparagraph 1 was struck out;

(2) if subparagraph *i* of paragraph *b* of the definition of “qualified labour expenditure attributable to preparation costs” in the first paragraph of section 1029.8.36.0.0.13 of the Act applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003, it reads as if “in Québec for the eligible preparation work relating to the property” in the portion of that subparagraph *i* before subparagraph 1 was struck out; and

(3) if paragraph *b* of the definition of “labour expenditure attributable to preparation costs” in the first paragraph of section 1029.8.36.0.0.13 of the Act applies in respect of an expenditure incurred after 14 March 2000, it reads as if “, to the extent that the services for the eligible preparation work in respect of the property were rendered in Québec,” was struck out.

161. (1) Section 1029.8.36.0.0.14 of the Act, amended by section 318 of chapter 21 of the statutes of 2004, is again amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

“1029.8.36.0.0.14. A corporation that, in a taxation year, is a qualified corporation and encloses with the fiscal return it is required to file for the year under section 1000 the prescribed form containing the prescribed information and a copy of the favourable advance ruling given or certificate issued by the Société de développement des entreprises culturelles, that has not been revoked, in respect of a property that is an eligible work or an eligible group of works, is deemed, subject to the second paragraph, if the application for an advance ruling has been filed or, in the absence of such an application, an application for a certificate has been filed in respect of the property with the Société de développement des entreprises culturelles before the end of the year, to have paid to the Minister on the corporation’s balance-due day for the year, on account of its tax payable for that year under this Part, an amount equal to”;

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

“The amount that a corporation is deemed to have paid to the Minister, under the first paragraph, on account of its tax payable for a taxation year under this Part in respect of a property that is an eligible work or an eligible group of works must not exceed the amount by which, if the property is co-edited by the corporation and one or more other eligible corporations, the amount obtained by applying to the amount determined under the fourth paragraph the corporation’s share, expressed as a percentage, of the publishing

costs in relation to the preparation and printing of the property that is specified in the favourable advance ruling given or certificate issued by the Société de développement des entreprises culturelles in respect of the property or, in any other case, the amount determined under the fourth paragraph, exceeds the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under that paragraph in respect of the property for a preceding taxation year exceeds the aggregate of all amounts each of which is an amount that the corporation is required to pay under section 1129.4.0.18 in respect of the property for a preceding taxation year.”;

(3) by inserting the following paragraph after the third paragraph:

“The amount to which the third paragraph refers is equal to,

(a) in the case of an eligible work, \$500,000; and

(b) in the case of an eligible group of works, the amount obtained by multiplying \$500,000 by the number of works that form that group.”;

(4) by replacing “third” in the fourth paragraph by “fourth”.

(2) Subsection 1 applies to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act.

162. (1) Section 1029.8.36.0.0.15 of the Act, amended by section 319 of chapter 21 of the statutes of 2004, is again amended by striking out “a work that is part of” in the portion before paragraph *a*.

(2) Subsection 1 applies to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act.

163. Section 1029.8.36.0.0.17 of the Act is amended by replacing the second paragraph by the following paragraph:

“An associated group at the end of a taxation year means the group formed by all the corporations that are associated with each other at that time.”

164. Section 1029.8.36.0.3.60 of the Act, amended by section 330 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph, by striking out “situated in Québec” after “such an establishment” in subparagraph ii of paragraph *b* of the definition of “base amount” and in paragraph *b* of the definition of “eligible amount”.

165. (1) Section 1029.8.36.0.3.68 of the Act is replaced by the following section:

“1029.8.36.0.3.68. If, after the beginning of the winding-up of a subsidiary, within the meaning of section 556, to which the rules in sections 556 to 564.1 and 565 apply, the parent corporation, within the meaning of section 556, begins to carry on a recognized business the subsidiary was carrying on before the beginning of its winding-up, the parent corporation and the subsidiary are deemed, for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division for its taxation year in which ends the calendar year in which the winding-up began and for a subsequent taxation year, to be the same corporation throughout the period during which the subsidiary carried on, or is deemed to have carried on under this division, the business.

In addition, for the purposes of this division, if the parent corporation carried on after the beginning of the winding-up a recognized business resulting from the consolidation of a recognized business carried on by the parent corporation immediately before the beginning of the winding-up and a recognized business carried on by the subsidiary immediately before the beginning of the winding-up, each recognized business so carried on before the beginning of the winding-up is deemed to be a separate recognized business carried on by the parent corporation after the beginning of the winding-up.”

(2) Subsection 1 has effect from 1 January 2001.

166. (1) Section 1029.8.36.0.3.69 of the Act, amended by section 337 of chapter 21 of the statutes of 2004, is again amended

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

“(b) if the particular recognized business is a business of a corporation that is associated with the vendor at the end of the particular calendar year, the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.0.3.62 or in subparagraph ii of paragraph *c* of section 1029.8.36.0.3.63, determined in respect of the vendor, is deemed to be equal to the amount by which that amount, determined without reference to this subparagraph, exceeds the amount determined by the formula”;

(2) by striking out “situated in Québec” or “in Québec” after “such an establishment” in the following provisions:

— subparagraph 2 of subparagraph iii of subparagraph *c* of the first paragraph;

— subparagraph i of subparagraph *d* of the first paragraph;

— subparagraph *c* of the second paragraph;

(3) by replacing the portion of subparagraph *d* of the first paragraph before subparagraph *i* by the following:

“(d) if the particular recognized business is a business of a corporation that is associated with the purchaser at the end of the particular calendar year, the purchaser is deemed to have paid”;

(4) by replacing subparagraph *ii* of subparagraph *b* of the second paragraph by the following subparagraph:

“ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside a designated site, other than an excluded employee of the vendor, that the vendor paid in the course of carrying on any business in respect of a pay period, within the vendor’s base period, in relation to the particular recognized business, throughout which the employee spends, when at work, at least 90% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in any of paragraphs *a* to *c* of the definition of “recognized business” in the first paragraph of section 1029.8.36.0.3.60;”.

(2) Paragraphs 1, 3 and 4 of subsection 1 have effect from 1 January 2001. However, when subparagraph *ii* of subparagraph *b* of the second paragraph of section 1029.8.36.0.3.69 of the Act applies before 1 January 2003, it reads as if “pay” was struck out.

167. (1) Section 1029.8.36.0.17 of the Act, amended by section 338 of chapter 21 of the statutes of 2004, is again amended

(1) by replacing paragraphs *a* and *d* of the definition of “qualified property” in the first paragraph by the following paragraphs:

“(a) that, before being acquired or leased by the corporation, has not been used for any purpose whatsoever nor acquired for use for a purpose other than lease to an exempt corporation or, where it was acquired after 30 March 2004, to a specified corporation in respect of a biotechnology development centre;

“(d) that the corporation uses principally in a qualified centre and, exclusively or almost exclusively, to earn income from,

i. where the corporation is an exempt corporation, a business it carries on in that centre, or

ii. where the corporation is a specified corporation and the qualified centre is a biotechnology development centre, the part of a business it carries on in that centre that may reasonably be attributed to the carrying out of a specified activity; and”;

(2) by replacing the definition of “eligible rental expenses” in the first paragraph by the following definition:

““eligible rental expenses” incurred by a corporation in respect of an eligible facility means the aggregate of all expenses incurred by the corporation for the lease of the facility, including expenses attributable to property that is necessary for the use of the facility and that is consumed in connection with that use and to a person’s wages or compensation for services rendered in connection with that use, to the extent that, where the corporation is a specified corporation in respect of a biotechnology development centre, the facility is leased for the carrying out of a specified activity of the corporation in relation to that centre;”;

(3) by replacing the definition of “eligibility period” in the first paragraph by the following definition:

““eligibility period” of a corporation means

(a) for the purpose of determining the amount of qualified wages paid by the corporation in a taxation year, the period that begins on the particular day that is the later of the day of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in respect of the corporation and the corporation’s reference date, if the certificate was issued after 10 March 2003, or the latest of the day on which the corporation’s first taxation year begins, the day of coming into force of that certificate and the corporation’s reference date, in any other case, and that ends on the earlier of the day that precedes the day on which the corporation ceases to be an exempt corporation and

i. 31 December 2010, if any of the following days is before 1 January 2001:

(1) the day of coming into force of the certificate, where it is issued after 10 March 2003, or

(2) the later of the day on which the corporation’s first taxation year begins and the day of coming into force of the certificate, in any other case,

ii. the last day of the ten-year period that begins on the particular day, if any of the following days is after 31 December 2000 and before 1 January 2004:

(1) the day of coming into force of the certificate, where it is issued after 10 March 2003, or

(2) the later of the day on which the corporation’s first taxation year begins and the day of coming into force of the certificate, in any other case, or

iii. 31 December 2013, if the day of coming into force of the certificate is after 31 December 2003;

(b) for the purpose of determining the amount that the corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.0.25 in relation to rental expenses paid in respect of qualified property, or under section 1029.8.36.0.25.1, the five-year period that begins,

i. where the corporation is an exempt corporation or a specified corporation in respect of a biotechnology development centre that was an exempt corporation in a preceding taxation year, on the later of the day of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in respect of the corporation and the corporation's reference date, if that certificate was issued after 10 March 2003, or on the latest of the day on which the corporation's first taxation year begins, the day of coming into force of that certificate and the corporation's reference date, in any other case, or

ii. where the corporation is a specified corporation in respect of a biotechnology development centre other than a corporation referred to in subparagraph i, on the date indicated for that purpose on the certificate that was issued to the corporation for the year in respect of a specified activity, in relation to that centre; or

(c) for the purpose of determining the amount that the corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.36.0.25 in relation to acquisition costs incurred in respect of qualified property, the three-year period that begins,

i. where the corporation is an exempt corporation or a specified corporation in respect of a biotechnology development centre that was an exempt corporation in a preceding taxation year, on the later of the day of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in respect of the corporation and the corporation's reference date, if that certificate was issued after 10 March 2003, or on the latest of the day on which the corporation's first taxation year begins, the day of coming into force of that certificate and the corporation's reference date, in any other case, or

ii. where the corporation is a specified corporation in respect of a biotechnology development centre other than a corporation referred to in subparagraph i, on the date indicated for that purpose on the certificate that was issued to the corporation for the year in respect of a specified activity, in relation to that centre;"

(4) by replacing the portion of subparagraph iv of paragraph *b* of the definition of "specified corporation" in the first paragraph before subparagraph 1 by the following:

"iv. a corporation control of which is acquired by a person or group of persons at the beginning of the year or of a preceding taxation year, but between 11 June 2003 and 31 March 2004, where the corporation carries on or may carry on its business in a biotechnology development centre, or after 11 June 2003, in any other case, unless acquiring control of the corporation";

(5) by inserting the following paragraph after the third paragraph:

“For the purposes of paragraphs *b* and *c* of the definition of “eligibility period” in the first paragraph, the eligibility period of a corporation that is a specified corporation in respect of a biotechnology development centre for a taxation year does not include the part of any taxation year that begins at the time the corporation ceases to be a specified corporation in respect of that centre for that year.”;

(6) by adding the following paragraph after the fifth paragraph:

“Subparagraph iv of paragraph *b* of the definition of “specified corporation” in the first paragraph does not apply for a taxation year to a corporation that carries on or may carry on its business in a biotechnology development centre if, after 30 March 2004, Investissement Québec has issued to the corporation a certificate, referred to in paragraph *c* of that definition, for the year.”

(2) Subsection 1 applies in respect of wages or expenses incurred after 30 March 2004. In addition, when the definition of “eligibility period” in the first paragraph of section 1029.8.36.0.17 of the Act applies

(1) after 10 March 2003, in respect of wages or expenses incurred before 31 March 2004,

(a) the portion of that definition before paragraph *a* reads as follows:

““eligibility period” of a corporation means the period that begins on the later of the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in respect of the corporation and the corporation’s reference date, if the certificate was issued after 10 March 2003, or on the latest of the time the corporation’s first taxation year begins, the date of coming into force of that certificate and the corporation’s reference date, in any other case, and ends”, and

(b) paragraph *a* of that definition reads as if subparagraphs i to iv were replaced by the following subparagraphs:

“i. 31 December 2010, if any of the following days is before 1 January 2001:

(1) the day of coming into force of the certificate, where it is issued after 10 March 2003, or

(2) the later of the day on which the corporation’s first taxation year begins and the day of coming into force of the certificate, in any other case,

“ii. the last day of the ten-year period that begins at that time or on that date, if any of the following days is after 31 December 2000 and before 1 January 2004:

(1) the day of coming into force of the certificate, where it is issued after 10 March 2003, or

(2) the later of the day on which the corporation's first taxation year begins and the day of coming into force of the certificate, in any other case,

“iii. 31 December 2013, if the day of coming into force of the certificate is after 31 December 2003 and before 1 January 2011, or

“iv. the last day of the three-year period that begins on that date, if the day of coming into force of the certificate is after 31 December 2010;”;

(2) between 29 March 2001 and 11 March 2003, the portion of that definition before paragraph *a* reads as follows:

““eligibility period” of a corporation means the period that begins on the latest of the time the corporation's first taxation year begins, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in respect of the corporation and the corporation's reference date, and ends”;

(3) before 30 March 2001, the portion of that definition before paragraph *a* reads as follows:

““eligibility period” of a corporation means the period that begins on the latest of the time the corporation's first taxation year begins, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in respect of the corporation and 10 March 1999, and ends”;

(4) between 31 December 2000 and 11 March 2003, paragraph *a* of that definition reads as if subparagraphs i to iv were replaced by the following subparagraphs:

“i. 31 December 2010, if the day on which the corporation's first taxation year begins or, if it is later, the day of coming into force of the certificate is before 1 January 2001,

“ii. the last day of the ten-year period that begins at that time or on that date, if the day on which the corporation's first taxation year begins or, if it is later, the day of coming into force of the certificate is after 31 December 2000 and before 1 January 2004,

“iii. 31 December 2013, if the day on which the corporation's first taxation year begins or, if it is later, the day of coming into force of the certificate is after 31 December 2003 and before 1 January 2011, or

“iv. the last day of the three-year period that begins at that time or on that date, if the day on which the corporation's first taxation year begins or, if it is later, the day of coming into force of the certificate is after 31 December 2010;”;
and

(5) before 1 January 2001, paragraph *a* of that definition reads as if subparagraphs i to iv were replaced by the following subparagraphs:

“i. 31 December 2010, if the day on which the corporation’s first taxation year begins or, if it is later, the day of coming into force of the certificate is before 1 January 2008, or

“ii. the last day of the three-year period that begins at that time or on that date, if the day on which the corporation’s first taxation year begins or, if it is later, the day of coming into force of the certificate is after 31 December 2007;”.

168. (1) The Act is amended by inserting the following section after section 1029.8.36.0.21.1:

“1029.8.36.0.21.2. For the purpose of determining the amount that a corporation that carries on or may carry on its business in a biotechnology development centre is deemed to have paid to the Minister, on account of its tax payable for a taxation year, in accordance with section 1029.8.36.0.19 or 1029.8.36.0.20, each of the rates of 40% referred to in the first paragraph of that section and in subparagraph *a* of the first paragraph of section 1029.8.36.0.23 is replaced by a rate of 30% if

(*a*) the certificate referred to in paragraph *a* of section 771.12 that is held by the corporation provides for the application of that reduced rate; or

(*b*) subject to the second paragraph, control of the corporation was acquired at the beginning of the year or of a preceding taxation year, but after 11 June 2003, by a person or a group of persons.

However, the condition set out in subparagraph *b* of the first paragraph is deemed not to be met if

(*a*) the acquisition of control occurs after 11 June 2003 but before 1 July 2004 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(*b*) the person acquiring control of the corporation or, if control is acquired by a group of persons, each of the persons forming the group, is an exempt corporation; or

(*c*) the acquisition of control derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003.

169. (1) The Act is amended by inserting the following section after section 1029.8.36.0.22:

“1029.8.36.0.22.1. For the purpose of determining the amount that a corporation that carries on or may carry on its business in a biotechnology development centre is deemed to have paid to the Minister, on account of its tax payable for a taxation year, in accordance with section 1029.8.36.0.22, each of the rates of 40% referred to in the first paragraph of that section and in subparagraph *a* of the first paragraph of section 1029.8.36.0.24 is replaced by a rate of 30% if

(*a*) the certificate referred to in paragraph *c* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17, that is issued to the corporation for the year provides for the application of that reduced rate;

(*b*) subject to the second paragraph, control of the corporation was acquired at the beginning of the year or of a preceding taxation year, but after 30 March 2004, by a person or a group of persons;

(*c*) section 1029.8.36.0.21.2 applied to the corporation for a preceding taxation year for the purpose of determining the amount that the corporation is deemed to have paid to the Minister, on account of its tax payable for that taxation year, in accordance with section 1029.8.36.0.19 or 1029.8.36.0.20; or

(*d*) the corporation ceased to be a specified corporation at the beginning of a preceding taxation year by reason of the application of subparagraph *iv* of paragraph *b* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17.

However, the condition set out in subparagraph *b* of the first paragraph is deemed not to be met if

(*a*) the acquisition of control occurs after 30 March 2004 but before 1 July 2005 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 30 March 2004 and was binding on the parties on that date;

(*b*) the person acquiring control of the corporation or, if control is acquired by a group of persons, each of the persons forming the group, is an exempt corporation or a specified corporation; or

(*c*) the acquisition of control derives from the exercise after 30 March 2004 of one or more rights described in paragraph *b* of section 20 that were acquired before 31 March 2004.”

(2) Subsection 1 has effect from 31 March 2004.

170. Section 1029.8.36.0.23 of the Act is amended by striking out “1029.8.32.1,” in subparagraph *ii* of subparagraph *b* of the first paragraph.

171. Section 1029.8.36.0.24 of the Act is amended by striking out “1029.8.32.1,” in subparagraph ii of subparagraph *b* of the first paragraph.

172. (1) Section 1029.8.36.0.25 of the Act is amended

(1) by inserting “, or a specified corporation in respect of a biotechnology development centre,” after “exempt corporation” in the portion before subparagraph *a* of the first paragraph;

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

“(c) if the corporation is a specified corporation in respect of a biotechnology development centre,

i. a copy of the unrevoked certificate referred to in paragraph *c* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17 that Investissement Québec issued to the corporation for the year and for the purposes of this division, and

ii. a copy of the unrevoked certificate that Investissement Québec issued to the corporation for the year and for the purposes of this division in respect of a specified activity, in relation to the biotechnology development centre, that is an activity for the carrying out of which the corporation uses the qualified property.”

(2) Subsection 1 applies in respect of expenses incurred after 30 March 2004.

173. (1) Section 1029.8.36.0.25.0.1 of the Act, enacted by section 339 of chapter 21 of the statutes of 2004, is amended by replacing the first paragraph by the following paragraph:

“1029.8.36.0.25.0.1. Despite section 1029.8.36.0.25, no amount may, in relation to qualified property, be deemed to have been paid to the Minister by a corporation for a taxation year, in respect of acquisition costs incurred by the corporation in that year in respect of the property, where at any time before the corporation’s filing-due date for that taxation year, the property ceases, otherwise than by reason of its loss, the involuntary destruction of the property by fire, theft or water, a major breakdown of the property or its obsolescence, to be used by the corporation, mainly in a qualified centre or exclusively or almost exclusively to earn income from,

(a) where the corporation is an exempt corporation, a business carried on by the corporation in that centre; or

(b) where the corporation is a specified corporation and the qualified centre is a biotechnology development centre, the part of a business carried on by the corporation in that centre that may reasonably be attributed to the carrying out of a specified activity.”

(2) Subsection 1 has effect from 12 May 2004.

174. (1) Section 1029.8.36.0.25.1 of the Act is amended

(1) by replacing the portion before paragraph *a* by the following:

“1029.8.36.0.25.1. A corporation that is, for a taxation year, an exempt corporation that carries on or may carry on its business in a biotechnology development centre, or a specified corporation in respect of such a centre, is deemed, subject to the second paragraph, to have paid to the Minister on the corporation’s balance-due day for that year, on account of its tax payable for that year under this Part, an amount equal to the amount by which the aggregate of all amounts each of which is equal to 40% of the eligible rental expenses incurred by the corporation in the year or a preceding taxation year and during its eligibility period, in respect of an eligible facility of a person in relation to the biotechnology development centre, to the extent that those expenses are paid, exceeds the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under this section in respect of the eligible facility for a preceding taxation year, if the corporation encloses, with the fiscal return it is required to file for the year under section 1000, the following documents:”;

(2) by adding the following paragraph after paragraph *c*:

“(d) if the corporation is a specified corporation,

i. a copy of the unrevoked certificate referred to in paragraph *c* of the definition of “specified corporation” in the first paragraph of section 1029.8.36.0.17 that Investissement Québec issued to the corporation for the year and for the purposes of this division, and

ii. a copy of the unrevoked certificate that Investissement Québec issued to the corporation for the year and for the purposes of this division in respect of a specified activity, in relation to the biotechnology development centre, that is an activity for the carrying out of which the corporation rented the eligible facility.”;

(3) by adding the following paragraph:

“For the purpose of computing the payments that a corporation referred to in the first paragraph is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.”

(2) Paragraph 1 of subsection 1 applies in respect of expenses incurred after 30 March 2004, except when it replaces “is deemed to have paid to the Minister” by “is deemed, subject to the second paragraph, to have paid to the Minister”, in which case it applies to a taxation year that ends after 11 July 2002.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 30 March 2004.

(4) Paragraph 3 of subsection 1 applies to a taxation year that ends after 11 July 2002.

175. (1) The Act is amended by inserting the following section after section 1029.8.36.0.25.1:

“1029.8.36.0.25.2. For the purpose of determining the amount that a corporation that carries on or may carry on its business in a biotechnology development centre is deemed to have paid to the Minister, on account of its tax payable for a particular taxation year, in accordance with section 1029.8.36.0.25 or 1029.8.36.0.25.1, the rate of 40% that is applied to acquisition costs or rental expenses that are incurred or paid in any given taxation year, or to eligible rental expenses that are incurred in any given taxation year is replaced by a rate of 30% if

(a) the certificate referred to in paragraph *a* of section 771.12 that is held by the corporation provides for the application of that reduced rate;

(b) subject to the second paragraph, the corporation is an exempt corporation for the given taxation year the control of which was acquired at the beginning of the given year or of a preceding taxation year, but after 11 June 2003, by a person or a group of persons; or

(c) the corporation is a specified corporation for the given taxation year.

However, the condition set out in subparagraph *b* of the first paragraph is deemed not to be met if

(a) the acquisition of control occurs after 11 June 2003 but before 1 July 2004 and Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) the person acquiring control of the corporation or, if control is acquired by a group of persons, each of the persons forming the group, is an exempt corporation; or

(c) the acquisition of control derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003. However, when the first paragraph of section 1029.8.36.0.25.2 of the Act applies before 31 March 2004, it reads without reference to its subparagraph *c* and as if its subparagraph *b* was replaced by the following subparagraph:

“(b) subject to the second paragraph, control of the corporation was acquired, at the beginning of the given year or of a preceding taxation year but after 11 June 2003, by a person or a group of persons.”

176. (1) Section 1029.8.36.0.27 of the Act is amended by replacing “the time the corporation’s first taxation year begins” in the third paragraph by “the day of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in its respect”.

(2) Subsection 1 applies to a corporation in respect of which a certificate, referred to in paragraph *a* of section 771.12 of the Act, was issued after 10 March 2003. In addition, if the last paragraph of section 1029.8.36.0.27 of the Act applies to a corporation in respect of which a certificate referred to in paragraph *a* of section 771.12 of the Act was issued before 11 March 2003, it reads as if “on the later of the time the corporation’s first taxation year begins” was replaced by “on the latest of the time the corporation’s first taxation year begins, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in its respect”.

177. (1) Section 1029.8.36.0.38 of the Act, amended by section 340 of chapter 21 of the statutes of 2004 and by section 239 of chapter 1 of the statutes of 2005, is again amended by replacing “the Minister of Finance” by “Investissement Québec” wherever it appears in the following provisions:

- the definition of “eligible employee” in the first paragraph;
- subparagraph *i* of paragraph *d* of the definition of “excluded corporation” in the first paragraph;
- paragraph *a* of the definition of “recognized business” in the first paragraph;

— the third paragraph.

(2) Subsection 1, when it amends subparagraph *i* of paragraph *d* of the definition of “excluded corporation” in the first paragraph of section 1029.8.36.0.38 of the Act, has effect from 31 March 2004 and, in any other case, applies in respect of a certificate issued after 30 March 2004.

178. (1) Section 1029.8.36.0.38.1 of the Act is amended by replacing “the Minister of Finance” in paragraph *a* by “Investissement Québec”.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

179. (1) Section 1029.8.36.0.48 of the Act is amended by replacing “where the Minister of Finance” and “issued by the Minister of Finance” in the portion before subparagraph *a* of the first paragraph by “if Investissement Québec” and “issued”, respectively.

(2) Subsection 1 has effect from 31 March 2004.

180. (1) Section 1029.8.36.0.55 of the Act, amended by section 342 of chapter 21 of the statutes of 2004, is again amended by replacing “the Minister of Finance” by “Investissement Québec” wherever it appears in the following provisions:

— the definition of “eligible contract” in the first paragraph;

— the third paragraph.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

181. (1) Section 1029.8.36.0.65 of the Act is amended by replacing “where the Minister of Finance” and “issued by the Minister of Finance” in the portion before subparagraph *a* of the first paragraph by “if Investissement Québec” and “issued”, respectively.

(2) Subsection 1 has effect from 31 March 2004.

182. (1) Section 1029.8.36.0.72 of the Act, amended by section 344 of chapter 21 of the statutes of 2004, is again amended by replacing “the Minister of Finance” by “Investissement Québec” wherever it appears in the following provisions:

— subparagraph *v* of paragraph *a* of the definition of “qualified property” in the first paragraph and subparagraph *iv* of paragraphs *b*, *c* and *d* of that definition;

— the third paragraph.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

183. (1) Section 1029.8.36.0.76 of the Act is amended by replacing “where the Minister of Finance” and “issued by the Minister of Finance” in the portion before subparagraph *a* of the first paragraph by “if Investissement Québec” and “issued”, respectively.

(2) Subsection 1 has effect from 31 March 2004.

184. (1) Section 1029.8.36.0.84 of the Act, amended by section 347 of chapter 21 of the statutes of 2004 and by section 240 of chapter 1 of the statutes of 2005, is again amended by replacing “the Minister of Finance” by “Investissement Québec” in the following provisions of the first paragraph:

- the definition of “completion date of the work”;
- the definition of “strategic building”.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

185. (1) Section 1029.8.36.0.85 of the Act is amended by replacing “the Minister of Finance” in the first paragraph by “Investissement Québec”.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

186. (1) Section 1029.8.36.0.87 of the Act is amended by replacing “the Minister of Finance” by “Investissement Québec”.

(2) Subsection 1 applies in respect of a certificate issued after 30 March 2004.

187. (1) Section 1029.8.36.0.93 of the Act is amended by replacing “where the Minister of Finance” and “issued by the Minister of Finance” in the portion before subparagraph *a* of the first paragraph by “if Investissement Québec” and “issued”, respectively.

(2) Subsection 1 has effect from 31 March 2004.

188. (1) Section 1029.8.36.59.1 of the Act is replaced by the following section:

“1029.8.36.59.1. In this division, “property taxes” in respect of an immovable that is all the lands forming the road bed of the railway, within the meaning of section 47 of the Act respecting municipal taxation (chapter F-2.1), of a taxpayer for a taxation year or of a partnership for a fiscal

period, in relation to a railway undertaking that the taxpayer or partnership operates in the year or fiscal period, as the case may be, means

(a) when the taxation year or fiscal period ends before 31 March 2004, the aggregate of all amounts each of which is an amount deductible in computing the income from the railway undertaking of the taxpayer for the year or of the partnership for the fiscal period under this Part as property tax imposed on the immovable by a local municipality under the Act respecting municipal taxation or by a school board under the Education Act (chapter I-13.3);

(b) when the taxation year or fiscal period ends after 30 March 2004 and includes that date, the amount equal to the proportion of the aggregate of all amounts each of which is an amount deductible in computing the income from the railway undertaking of the taxpayer for the year or of the partnership for the fiscal period under this Part as property tax imposed on the immovable by a local municipality under the Act respecting municipal taxation or by a school board under the Education Act that the number of days in the year or fiscal period that precede 31 March 2004 is of the number of days in the year or fiscal period; and

(c) in any other case, an amount equal to zero.”

(2) Subsection 1 has effect from 30 March 2004.

189. Section 1029.8.36.59.5 of the Act is amended by replacing “a taxpayer pays,” in the portion before paragraph *a* by “a taxpayer pays, before 31 March 2006,”.

190. Section 1029.8.36.59.6 of the Act is amended by replacing “Where a partnership pays,” in the portion before paragraph *a* by “Where, before 31 March 2006, a partnership pays,”.

191. Section 1029.8.36.59.7 of the Act is amended by replacing “Where a taxpayer who is a member of a partnership pays,” in the portion before paragraph *a* by “Where, before 31 March 2006, a taxpayer who is a member of a partnership pays,”.

192. Section 1029.8.36.59.22 of the Act, enacted by section 244 of chapter 1 of the statutes of 2005, is amended by replacing the portion of the second paragraph before subparagraph *a* by the following:

“For the purposes of the first paragraph, an associated group, at a particular time, means the aggregate of all corporations that are associated with each other at that time; in that respect, the following rules apply:”.

193. (1) Section 1029.8.36.72.15 of the Act, amended by section 368 of chapter 21 of the statutes of 2004, is again amended by replacing the sixth paragraph by the following paragraph:

“Where Investissement Québec cancels, at the request of a corporation, a qualification certificate issued to the corporation, in relation to a recognized business, the certificate so cancelled is not a revoked certificate for the purposes of Part III.10.1.3.”

(2) Subsection 1 applies in respect of a request to cancel a qualification certificate relating to the calendar year 2002.

194. (1) Section 1029.8.36.72.43 of the Act, amended by section 385 of chapter 21 of the statutes of 2004, is again amended by replacing the sixth paragraph by the following paragraph:

“Where Investissement Québec cancels, at the request of a corporation, a qualification certificate issued to the corporation, in relation to a recognized business, the certificate so cancelled is not a revoked certificate for the purposes of Part III.10.1.5.”

(2) Subsection 1 applies in respect of a request to cancel a qualification certificate relating to the calendar year 2002.

195. Section 1029.8.36.72.56 of the Act, amended by section 393 of chapter 21 of the statutes of 2004, is again amended by striking out “situated in Québec” after “such an establishment” in the following provisions of the first paragraph:

— subparagraph 2 of subparagraph ii of paragraph *a* of the definition of “base amount”;

— subparagraph 2 of subparagraph ii of paragraph *b* of the definition of “base amount”;

— subparagraph ii of paragraph *a* of the definition of “eligible amount”;

— subparagraph ii of paragraph *b* of the definition of “eligible amount”.

196. (1) Section 1029.8.36.72.65 of the Act, replaced by section 402 of chapter 21 of the statutes of 2004, is again replaced by the following section:

“1029.8.36.72.65. If, after the beginning of the winding-up of a subsidiary, within the meaning of section 556, to which the rules in sections 556 to 564.1 and 565 apply, the parent corporation, within the meaning of section 556, begins to carry on a recognized business the subsidiary was carrying on before the beginning of its winding-up, the parent corporation and the subsidiary are deemed, for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division for its taxation year in which ends the calendar year in which the winding-up began and for a subsequent taxation year, to be the same corporation throughout the period during which the subsidiary carried on, or is deemed to have carried on under this division, the business.

In addition, for the purposes of this division, if the parent corporation carried on after the beginning of the winding-up a recognized business resulting from the consolidation of a recognized business carried on by the parent corporation immediately before the beginning of the winding-up and a recognized business carried on by the subsidiary immediately before the beginning of the winding-up, each recognized business so carried on before the beginning of the winding-up is deemed to be a separate recognized business carried on by the parent corporation after the beginning of the winding-up.”

(2) Subsection 1 has effect from 1 January 2002.

197. (1) Section 1029.8.36.72.66 of the Act, amended by section 403 of chapter 21 of the statutes of 2004, is again amended

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

“(b) if the particular recognized business is a business of a corporation that is associated with the vendor at the end of the particular calendar year, the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.58, in subparagraph ii of paragraph *c* of section 1029.8.36.72.59, in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.61.2 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.61.3, as the case may be, determined in respect of the vendor, is deemed to be equal to the amount by which the amount determined without reference to this subparagraph, exceeds the amount determined by the formula”;

(2) by striking out “situated in Québec” after “such an establishment” in the following provisions:

— subparagraph 2 of subparagraph iii of subparagraph *c* of the first paragraph;

— subparagraph i of subparagraph *d* of the first paragraph;

— subparagraph *c* of the second paragraph;

(3) by replacing the portion of subparagraph *d* of the first paragraph before subparagraph i by the following:

“(d) if the particular recognized business is a business of a corporation that is associated with the purchaser at the end of the particular calendar year, the purchaser is deemed to have paid”;

(4) by replacing subparagraph ii of subparagraph *b* of the second paragraph by the following subparagraph:

“ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside an eligible site or the Québec area, according to whether the recognized business is described in paragraph *a* or *b*, respectively, of the definition of “recognized business” in the first paragraph of section 1029.8.36.72.56, other than an excluded employee of the vendor, paid by the vendor in the course of carrying on any business in respect of a pay period, within the vendor’s base period, in relation to the particular recognized business, throughout which the employee spends, when at work, at least 90% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in that paragraph *a* or *b*”;

(2) Paragraphs 1, 3 and 4 of subsection 1 have effect from 1 January 2002. However, when subparagraph ii of subparagraph *b* of the second paragraph of section 1029.8.36.72.66 of the Act applies before 1 January 2003, it reads as if “pay” was struck out.

198. (1) Section 1029.8.36.72.70 of the Act, amended by section 406 of chapter 21 of the statutes of 2004, is again amended by replacing the sixth paragraph by the following paragraph:

“Where Investissement Québec cancels, at the request of a corporation, a qualification certificate issued to the corporation, in relation to a recognized business, the certificate so cancelled is not a revoked certificate for the purposes of Part III.10.1.7.”

(2) Subsection 1 applies in respect of a request to cancel a qualification certificate relating to the calendar year 2002.

199. (1) Section 1029.8.36.72.82.1 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended

(1) by striking out “situated in Québec” after “such an establishment” in paragraph *b* of the definition of “eligible amount” in the first paragraph;

(2) by striking out “situated in Québec” after “such an establishment” in subparagraph ii of paragraph *b* of the definition of “base amount” in the first paragraph;

(3) by replacing paragraph *c* of the definition of “eligible region” in the first paragraph by the following paragraph:

“(c) in respect of a recognized business whose activities described in a qualification certificate issued for the purposes of this division are the manufacturing of wind turbines, the production of wind power or activities related to such manufacturing or production activities, the Municipalité régionale de comté de Matane or the administrative region referred to in

subparagraph iii of paragraph *b* and described in the Order in Council, as amended, referred to in that paragraph *b*; and”;

(4) by replacing the portion of paragraph *j* of the definition of “eligible repayment of assistance” in the first paragraph before subparagraph ii by the following:

“(j) where the qualified corporation pays in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.6 that reduced the amount of the salary or wages paid by the qualified corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2 that relates to a calendar year preceding the calendar year ending in the taxation year, except to the extent that paragraph *j.1* applies to that repayment, the amount by which the particular amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid by the qualified corporation, in respect of such an amount of assistance, as repayment in the taxation year or a preceding taxation year, exceeds the aggregate of

i. the particular amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2 in respect of the qualified corporation in relation to the preceding calendar year, and”;

(5) by inserting the following paragraph after paragraph *j* of the definition of “eligible repayment of assistance” in the first paragraph:

“(j.1) where the qualified corporation pays in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.6 that reduced the amount of the salary or wages paid by the qualified corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2 that relates to a calendar year preceding the calendar year ending in the taxation year, the amount by which the particular amount that would have been determined under that subparagraph *a.1* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid by the qualified corporation, in respect of such an amount of assistance, as repayment in the taxation year or a preceding taxation year, exceeds the aggregate of

i. the particular amount determined under subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a taxation year preceding the taxation year under this paragraph in relation to a repayment of assistance;”;

(6) by replacing the portion of paragraph *k* of the definition of “eligible repayment of assistance” in the first paragraph before subparagraph ii by the following:

“(k) where a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.6 that reduced the amount of the salary or wages paid by the corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 that relates to a calendar year preceding the calendar year in relation to the qualified corporation at the end of which the qualified corporation was not associated with any other qualified corporation that was carrying on a recognized business for its taxation year in which the preceding calendar year ended, except to the extent that paragraph *k.1* applies to that repayment, the amount by which the particular amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, exceeds the aggregate of

i. the particular amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 in respect of the qualified corporation in relation to the preceding calendar year, and”;

(7) by inserting the following paragraph after paragraph *k* of the definition of “eligible repayment of assistance” in the first paragraph:

“(k.1) where a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.6 that reduced the amount of the salary or wages paid by the corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 that relates to a calendar year preceding the calendar year in relation to the qualified corporation at the end of which the qualified corporation was not associated with any other qualified corporation that was carrying on a recognized business for its taxation year in which the preceding calendar year ended, the amount by which the particular amount that would have been determined under that subparagraph *a.1* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, exceeds the aggregate of

i. the particular amount determined under subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;”;

(8) by replacing the portion of paragraph *l* of the definition of “eligible repayment of assistance” in the first paragraph before subparagraph ii by the following:

“(l) where a qualified corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.72.82.6 that reduced the amount of the salary or wages paid by the qualified corporation to an employee, for the purpose of computing the excess amount referred to in subparagraph *a* or *c* of the first paragraph of section 1029.8.36.72.82.4 determined, in respect of a calendar year preceding the calendar year, in relation to all of the corporations that were associated with each other at the end of that preceding calendar year and with which the qualified corporation was associated at that time, except to the extent that paragraph *l.1* applies to that repayment, the amount by which the particular amount that would have been determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 in respect of the qualified corporation in relation to the preceding calendar year if, for the purposes of subparagraph *a* or *c* of the first paragraph of section 1029.8.36.72.82.4 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, and if the amount determined pursuant to section 1029.8.36.72.82.4 had been attributed to a qualified corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, exceeds the aggregate of

i. the particular amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 in respect of the qualified corporation in relation to the preceding calendar year, and”;

(9) by inserting the following paragraph after paragraph *l* of the definition of “eligible repayment of assistance” in the first paragraph:

“(l.1) where a qualified corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.72.82.6 that reduced the amount of the salary or wages paid by the qualified corporation to an employee, for the purpose of computing the excess amount referred to in paragraph *a* or *c* of section 1029.8.36.72.82.4.1 determined, in respect of a

calendar year preceding the calendar year, in relation to all of the corporations that were associated with each other at the end of that preceding calendar year and with which the qualified corporation was associated at that time, the amount by which the particular amount that would have been determined under subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 in respect of the qualified corporation in relation to the preceding calendar year if, for the purposes of paragraph *a* or *c* of section 1029.8.36.72.82.4.1 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, and if the amount determined pursuant to section 1029.8.36.72.82.4.1 had been attributed to a qualified corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, exceeds the aggregate of

i. the particular amount determined under subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;”;

(10) by striking out subparagraph *a* of the second paragraph;

(11) by replacing the fourth paragraph by the following paragraph:

“Where Investissement Québec does not issue in the eligibility period of a corporation, in relation to a particular calendar year, a qualification certificate in respect of a recognized business, because of a major unforeseen event affecting the corporation, the following rules apply, for the purpose of determining the eligibility period of the corporation from the calendar year in respect of which a new qualification certificate is issued, in respect of the recognized business:

(*a*) unless the new qualification certificate certifies that the corporation has resumed carrying on the recognized business in a municipality more than 40 kilometres away from the municipality in which the recognized business was carried on before the major unforeseen event occurred, any qualification certificate issued to the corporation, in relation to the recognized business, in respect of a calendar year preceding the particular calendar year, for the purposes of this division or of any of Divisions II.6.6.2, II.6.6.4 and II.6.6.6, is deemed cancelled; and

(*b*) the definition of “eligibility period” in the first paragraph is to be read without “preceding the calendar year 2008.”

(2) Paragraphs 3 to 9 and 11 of subsection 1 have effect from 1 January 2004.

(3) Paragraph 10 of subsection 1 has effect from 1 January 2003.

200. (1) Section 1029.8.36.72.82.2 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended

(1) by replacing the portion before subparagraph i of subparagraph *a* of the first paragraph by the following:

“1029.8.36.72.82.2. A qualified corporation that is not associated with any other corporation at the end of a calendar year within the qualified corporation’s eligibility period and that encloses the documents referred to in the third paragraph with the fiscal return the qualified corporation is required to file under section 1000 for the taxation year in which the calendar year ends, is deemed, subject to the second paragraph, to have paid to the Minister on the qualified corporation’s balance-due day for that taxation year, on account of its tax payable for that taxation year under this Part, an amount equal, where the calendar year is the year 2004 or a subsequent year, to the aggregate of

(*a*) 30% of the particular amount that is the amount by which the lesser of the following amounts exceeds the particular amount determined for the calendar year in accordance with subparagraph *a.1.*”;

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

“(a.1) 40% of the particular amount that is the least of

i. the amount by which the aggregate of all amounts each of which is the salary or wages paid by the qualified corporation to an employee in respect of a pay period, within the calendar year, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, exceeds the aggregate of all amounts each of which is

(1) except in respect of a corporation that results from an amalgamation, an amount equal to zero, where, at no time in its base period, the corporation carried on a business in Québec in the sectors of activity described in a qualification certificate issued, for the purposes of this division, to the corporation for the year in respect of a recognized business, and

(2) in any other case, the aggregate of all amounts each of which is the salary or wages paid by the corporation to an employee in respect of a pay period, within its base period, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1,

ii. the amount by which the amount that would be the qualified corporation’s eligible amount for the calendar year exceeds the amount that would be

the qualified corporation's base amount if, for the purposes of the definitions of "base amount" and "eligible amount" in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of "eligible region" in the first paragraph of section 1029.8.36.72.82.1 were considered, and

iii. the lesser of the amount determined for the calendar year in accordance with subparagraph i of subparagraph *a* and the amount determined for that year in accordance with subparagraph ii of that subparagraph *a*; and";

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

"(b) the aggregate of

i. 40% of the portion of the eligible repayment of assistance of the qualified corporation for the taxation year that may reasonably be attributed to an amount paid in the year and referred to in any of paragraphs *j.1*, *k.1* and *l.1* of the definition of "eligible repayment of assistance" in the first paragraph of section 1029.8.36.72.82.1, and

ii. 30% of the amount by which the eligible repayment of assistance of the qualified corporation for the taxation year exceeds 100/40 of the amount determined for the year in accordance with subparagraph i.";

(4) by striking out the second paragraph.

(2) Paragraphs 1 to 3 of subsection 1 have effect from 1 January 2004.

(3) Paragraph 4 of subsection 1 applies to a taxation year that includes the end of a calendar year subsequent to the year 2003.

201. (1) Section 1029.8.36.72.82.3 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended

(1) by replacing the portion before subparagraph i of subparagraph *a* of the first paragraph by the following:

"1029.8.36.72.82.3. A qualified corporation that is associated with one or more other corporations at the end of a calendar year within the qualified corporation's eligibility period and that encloses the documents referred to in the fourth paragraph with the fiscal return the qualified corporation is required to file under section 1000 for the taxation year in which the calendar year ends, is deemed, subject to the third paragraph, to have paid to the Minister on the qualified corporation's balance-due day for that taxation year, on account of its tax payable for that taxation year under this Part, an amount equal, where the calendar year is the year 2004 or a subsequent year, to the aggregate of

(a) subject to the second paragraph, 30% of the particular amount that is the amount by which the least of the following amounts exceeds the particular amount determined for the calendar year in accordance with subparagraph *a.1.*”;

(2) by replacing “the aggregate of all amounts each of which is the qualified corporation’s eligible amount for the calendar year or the aggregate” in the portion of subparagraph ii of subparagraph *a* of the first paragraph before subparagraph 1 by “the aggregate of the qualified corporation’s eligible amount for the calendar year and the aggregate”;

(3) by inserting the following subparagraph after subparagraph *a* of the first paragraph:

“(a.1) 40% of the particular amount that is the least of

i. the amount by which the aggregate of all amounts each of which is the salary or wages paid by the qualified corporation to an employee in respect of a pay period, within the calendar year, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, exceeds the aggregate of all amounts each of which is

(1) except in respect of a corporation that results from an amalgamation, an amount equal to zero, where, at no time in its base period, the corporation carried on a business in Québec in the sectors of activity described in a qualification certificate issued, for the purposes of this division, to the corporation for the year in respect of a recognized business, and

(2) in any other case, the aggregate of all amounts each of which is the salary or wages paid by the corporation to an employee in respect of a pay period, within its base period, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1,

ii. the amount by which the aggregate of the amount that would be the qualified corporation’s eligible amount for the calendar year if, for the purposes of the definition of “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, and the aggregate of all amounts each of which is the salary or wages paid by another corporation with which the qualified corporation is associated at the end of the calendar year to an employee who reports for work at an establishment of the other corporation situated in Québec, where the salary or wages are paid in respect of a pay period, within the calendar year, throughout which the employee spends,

when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business and that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, exceeds the total of

(1) the amount that would be the qualified corporation’s base amount if, for the purposes of the definition of “base amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, and

(2) the aggregate of all amounts each of which is the salary or wages paid by another corporation with which the qualified corporation is associated at the end of the calendar year to an employee who reports for work at an establishment of the other corporation situated in Québec, where the salary or wages are paid in respect of a pay period, within the qualified corporation’s base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business and that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1,

iii. the amount by which the amount that would be the qualified corporation’s eligible amount for the calendar year exceeds the amount that would be the qualified corporation’s base amount if, for the purposes of the definitions of “base amount” and “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, and

iv. the lesser of the amounts determined for the calendar year in accordance with subparagraphs i to iii of subparagraph *a*; and”;

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

“(b) the aggregate of

i. 40% of the portion of the eligible repayment of assistance of the qualified corporation for the taxation year that may reasonably be attributed to an amount paid in the year and referred to in any of paragraphs *j.1*, *k.1* and *l.1* of the definition of “eligible repayment of assistance” in the first paragraph of section 1029.8.36.72.82.1, and

ii. 30% of the amount by which the eligible repayment of assistance of the qualified corporation for the taxation year exceeds 100/40 of the amount determined for the year in accordance with subparagraph *i.*”;

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

“Where the qualified corporation referred to in the first paragraph is associated, at the end of the calendar year, with at least one other qualified corporation carrying on a recognized business in the taxation year in which the calendar year ends, the following rules apply:

(*a*) the particular amount determined under subparagraph *a* of that first paragraph, in respect of the calendar year, may not exceed the amount that is attributed to it in respect of that year pursuant to the agreement referred to in section 1029.8.36.72.82.4; and

(*b*) the particular amount determined, where applicable, under subparagraph *a.1* of that first paragraph, in respect of the calendar year, may not exceed the amount that is attributed to it in respect of that year pursuant to the agreement referred to in section 1029.8.36.72.82.4.1.”;

(6) by striking out the third paragraph;

(7) by replacing subparagraph *c* of the fifth paragraph by the following subparagraph:

“(c) where the second paragraph applies, the agreement referred to in section 1029.8.36.72.82.4 and, where applicable, the agreement referred to in section 1029.8.36.72.82.4.1, filed in prescribed form.”

(2) Paragraphs 1, 3 to 5 and 7 of subsection 1 have effect from 1 January 2004. In addition, when the portion of the first paragraph of section 1029.8.36.72.82.3 of the Act before subparagraph *a* has effect before 1 January 2004, it reads as if “fourth” and “third” were replaced by “fifth” and “fourth”, respectively.

(3) Paragraph 2 of subsection 1 has effect from 1 January 2003.

(4) Paragraph 6 of subsection 1 applies to a taxation year that includes the end of a calendar year subsequent to the year 2003.

202. (1) Section 1029.8.36.72.82.4 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended, in the first paragraph,

(1) by replacing the portion before subparagraph *a* by the following:

“1029.8.36.72.82.4. The agreement to which subparagraph *a* of the second paragraph of section 1029.8.36.72.82.3 refers in respect of a calendar year means an agreement under which all of the qualified corporations carrying on, in the calendar year, a recognized business and that are associated with each other at the end of that calendar year, hereinafter called the “group of associated corporations”, attribute to one or more of their number, for the purposes of this division, one or more amounts; the aggregate of the amounts so attributed, for the calendar year, shall not be greater than the least of”;

(2) by replacing “or the salary or wages” in the portion of subparagraph *c* before subparagraph *i* by “or the aggregate of all amounts each of which is the salary or wages”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 2004.

(3) Paragraph 2 of subsection 1 has effect from 1 January 2003.

203. (1) The Act is amended by inserting the following section after section 1029.8.36.72.82.4, enacted by section 412 of chapter 21 of the statutes of 2004:

“1029.8.36.72.82.4.1. The agreement to which subparagraph *b* of the second paragraph of section 1029.8.36.72.82.3 refers in respect of a calendar year means an agreement under which all of the qualified corporations carrying on, in the calendar year, a recognized business and that are associated with each other at the end of that calendar year, hereinafter called the “group of associated corporations”, attribute to one or more of their number, for the purposes of this division, one or more amounts; the aggregate of the amounts so attributed, for the calendar year, shall not be greater than the least of

(a) the amount by which the aggregate of all amounts each of which is the salary or wages paid by a qualified corporation that is a member of the group of associated corporations to an employee in respect of a pay period, within the calendar year, for which the employee is an eligible employee of the corporation, to the extent that the salary or wages may reasonably be attributed to activities of the employee that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, exceeds the aggregate of all amounts each of which is,

i. except in respect of a corporation that results from an amalgamation, an amount equal to zero, where, at no time in the base period of a qualified corporation that is a member of the group of associated corporations, the corporation carried on a business in Québec the activities of which were described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business, and

ii. in any other case, the aggregate of all amounts each of which is the salary or wages paid by a qualified corporation that is a member of the group of associated corporations to an employee in respect of a pay period, within its base period, for which the employee is an eligible employee of the qualified corporation, to the extent that the salary or wages may reasonably be attributed to activities of the employee that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1;

(*b*) the amount by which the aggregate of all amounts each of which is the amount that would be the eligible amount of a qualified corporation that is a member of the group of associated corporations for the calendar year exceeds the aggregate of all amounts each of which is the amount that would be the base amount of such a corporation if, for the purposes of the definitions of “base amount” and “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of that section were considered; and

(*c*) the amount by which the aggregate of all amounts each of which is the amount that would be the eligible amount of a qualified corporation that is a member of the group of associated corporations at the end of the calendar year if, for the purposes of the definition of “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of that section were considered, or the aggregate of all amounts each of which is the salary or wages paid by another corporation that is associated with a qualified corporation that is a member of the group at the end of the calendar year but that does not carry on a recognized business in the calendar year, to an employee who reports for work at an establishment of the other corporation situated in Québec, where the salary or wages are paid in respect of a pay period, within the calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business and that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of that section, exceeds the total of

i. the aggregate of all amounts each of which would be the base amount of a qualified corporation that is a member of the group of associated corporations at the end of the calendar year if, for the purposes of the definition of “base amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of that section were considered, and

ii. the aggregate of all amounts each of which is the salary or wages paid by another corporation that is associated with a corporation that is a member of the group at the end of the calendar year but that does not carry on a recognized business in the calendar year, to an employee who reports for work at an establishment of the other corporation situated in Québec, where the salary or wages are paid by the other corporation in respect of a pay period, within the base period of a qualified corporation that is a member of the group at the end of the calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the other corporation that are described in a qualification certificate issued for the year, for the purposes of this division and in respect of a recognized business, to a qualified corporation that is a member of the group and that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, except if an amount is included, in respect of the employee, in computing an amount under this subparagraph, in relation to a period within a base period in relation to another recognized business carried on by a qualified corporation that is a member of the group.”

(2) Subsection 1 has effect from 1 January 2004.

204. (1) Section 1029.8.36.72.82.5 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is replaced by the following section:

“1029.8.36.72.82.5. Where the aggregate of the amounts attributed, in respect of a calendar year, in an agreement referred to in subparagraph *a* or *b* of the first paragraph of section 1029.8.36.72.82.3 and entered into with the qualified corporations that are carrying on, in that calendar year, a recognized business and that are associated with each other at the end of that calendar year exceeds the particular amount that is the least of the amounts determined for that calendar year in respect of those corporations under any of subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.72.82.4 or under any of paragraphs *a* to *c* of section 1029.8.36.72.82.4.1, as the case may be, the amount attributed to each of the corporations for the calendar year is deemed, for the purposes of section 1029.8.36.72.82.3, to be equal to the proportion of the particular amount that the amount attributed for the calendar year to that corporation in the agreement is of the aggregate of all amounts attributed for the calendar year in the agreement.”

(2) Subsection 1 has effect from 1 January 2004.

205. (1) Section 1029.8.36.72.82.6 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended

(1) by replacing the portion of subparagraph *a* of the first paragraph before subparagraph *i* by the following:

“(a) the amount of the salaries or wages referred to in the definitions of “base amount” and “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, in subparagraph i of subparagraphs *a* and *a.1* of the first paragraph of section 1029.8.36.72.82.2 or in subparagraph i of subparagraphs *a* and *a.1* of the first paragraph of section 1029.8.36.72.82.3 and paid by the qualified corporation, and the amount of the salaries or wages referred to in subparagraph ii of subparagraphs *a* and *a.1* of the first paragraph of section 1029.8.36.72.82.3 and paid by a corporation associated with the qualified corporation shall be reduced, where applicable,”;

(2) by replacing the portion of subparagraph *b* of the first paragraph before subparagraph i by the following:

“(b) the amount of the salaries or wages paid by a particular qualified corporation associated with one or more other qualified corporations and referred to in section 1029.8.36.72.82.4 or 1029.8.36.72.82.4.1, shall be reduced, where applicable,”;

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

“The aggregate of the amounts referred to in the first paragraph that reduced the amount of the salaries or wages paid by the qualified corporation or a corporation associated with it, in respect of a pay period within the qualified corporation’s base period, and determined for the purpose of computing the particular amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2 or 1029.8.36.72.82.3, in relation to the qualified corporation, for a calendar year ending in a taxation year, may not exceed the aggregate of the amounts referred to in that first paragraph that reduced the amount of the salaries or wages paid by the qualified corporation or the corporation associated with it, in respect of a pay period within the calendar year, and determined for the purpose of computing the particular amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2 or 1029.8.36.72.82.3, in relation to the qualified corporation, for that calendar year.”;

(4) by adding the following paragraph after the second paragraph:

“The aggregate of the amounts referred to in the first paragraph that reduced the amount of the salaries or wages paid by the qualified corporation or a corporation associated with it, in respect of a pay period within the qualified corporation’s base period, and determined for the purpose of computing the particular amount referred to in subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2 or 1029.8.36.72.82.3 for a calendar year ending in a taxation year, may not exceed the aggregate of the amounts referred to in that first paragraph that reduced the amount of the salaries or wages paid by the qualified corporation or the corporation associated with it, in respect of a pay period within the calendar year, and determined for the purpose of computing the particular amount referred to in subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2 or 1029.8.36.72.82.3, for that calendar year.”

(2) Subsection 1 has effect from 1 January 2004.

206. (1) Section 1029.8.36.72.82.7 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended by replacing subparagraphs i and ii of paragraph *a* by the following subparagraphs:

“i. in the case of assistance referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.6, the amount that the qualified corporation is deemed to have paid to the Minister for a taxation year under subparagraph *a* or *a.1* of the first paragraph of section 1029.8.36.72.82.2 or 1029.8.36.72.82.3, or

“ii. in the case of assistance referred to in subparagraph *b* of the first paragraph of section 1029.8.36.72.82.6, the excess amount referred to in subparagraph *a* or *c* of the first paragraph of section 1029.8.36.72.82.4 or in any of paragraphs *a* to *c* of section 1029.8.36.72.82.4.1 determined, in respect of a calendar year, in relation to all of the qualified corporations that are associated with each other;”.

(2) Subsection 1 has effect from 1 January 2004.

207. (1) Section 1029.8.36.72.82.9 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is replaced by the following section:

“**1029.8.36.72.82.9.** If, after the beginning of the winding-up of a subsidiary, within the meaning of section 556, to which the rules in sections 556 to 564.1 and 565 apply, the parent corporation, within the meaning of section 556, begins to carry on a recognized business the subsidiary was carrying on before the beginning of the winding-up, the parent corporation and the subsidiary are deemed, for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division for its taxation year in which ends the calendar year in which the winding-up began and for a subsequent taxation year, to be the same corporation throughout the period during which the subsidiary carried on, or is deemed to have carried on under this division, the business.”

(2) Subsection 1 has effect from 1 January 2003.

208. (1) Section 1029.8.36.72.82.10 of the Act, enacted by section 412 of chapter 21 of the statutes of 2004, is amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

“**1029.8.36.72.82.10.** Subject to sections 1029.8.36.72.82.8 and 1029.8.36.72.82.9, where, at a particular time in a particular calendar year, the activities carried on by a person or partnership, in this section referred to as the “vendor”, in relation to a recognized business or a business that could qualify as a recognized business if it were carried on in a designated region,

diminish or cease and it may reasonably be considered that, as a result, another person or partnership, in this section referred to as the “purchaser”, that is not associated with the vendor at the particular time, begins, after the particular time, to carry on similar activities in the course of carrying on such a business, or increases, after the particular time, the scope of similar activities carried on in the course of carrying on such a business, the following rules apply, for the purpose of determining the amount that a particular corporation is deemed to have paid to the Minister under this division for the taxation year in which the particular calendar year ends and for the taxation year in which a subsequent calendar year ends:”;

(2) by replacing the portion of subparagraph i of subparagraph *a* of the first paragraph before the formula by the following:

“i. the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee, is deemed, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 and subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula”;

(3) by inserting the following subparagraph after subparagraph i of subparagraph *a* of the first paragraph:

“i.1. the aggregate of all amounts each of which is the portion of a salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee, that may reasonably be attributed to activities of the employee that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, is deemed, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a*.1 of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a*.1 of the first paragraph of section 1029.8.36.72.82.3 and subparagraph ii of paragraph *a* of section 1029.8.36.72.82.4.1, to be equal to the amount by which that amount otherwise determined exceeds the amount that would be determined by the formula in subparagraph i if, for the purposes of subparagraph *a* of the second paragraph, only the employees of the vendor who carry on such activities were considered.”;

(4) by replacing the portion of subparagraph ii of subparagraph *a* of the first paragraph before the formula by the following:

“ii. the base amount of the vendor is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula”;

(5) by adding the following subparagraph after subparagraph ii of subparagraph *a* of the first paragraph:

“iii. the amount that would be the base amount of the vendor if, for the purposes of the definition of “base amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, is deemed to be equal to the amount by which the amount otherwise determined without reference to subparagraph ii exceeds the amount that would be determined by the formula in subparagraph ii if, for the purposes of subparagraph *b* of the second paragraph, only the employees of the vendor who carry on such activities were considered;”;

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

“(b) if the particular corporation is a corporation with which the vendor was associated at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$C \times D \times E$, and

ii. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.82.4.1, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount that would be determined by the formula in subparagraph i if, for the purposes of subparagraph *c* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered;”;

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

“i. to have paid, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, as the case may be, to employees, in

respect of a pay period, within the purchaser's base period, for which the employees are eligible employees, the amount that is the proportion of the aggregate, in subparagraph ii referred to as the "particular aggregate", of all amounts each of which is the salary or wages paid by the purchaser to an employee, after the particular time, in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities that began or increased at the particular time, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities,";

(8) by inserting the following subparagraph after subparagraph i of subparagraph c of the first paragraph:

"i.1. to have paid, for the purposes of subparagraph 2 of subparagraph i of subparagraph a.1 of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph a.1 of the first paragraph of section 1029.8.36.72.82.3 or subparagraph ii of paragraph a of section 1029.8.36.72.82.4.1, as the case may be, to employees, in respect of a pay period, within the purchaser's base period, for which the employees are eligible employees, the amount that is the proportion of the aggregate, in subparagraph ii.1 referred to as the "particular aggregate", of all amounts each of which is the salary or wages paid by the purchaser to an employee, after the particular time, in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities referred to in any of paragraphs a to d of the definition of "eligible region" in the first paragraph of section 1029.8.36.72.82.1, that began or increased at the particular time, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities,";

(9) by replacing subparagraph ii of subparagraph c of the first paragraph by the following subparagraph:

"ii. to have paid, for the purposes of subparagraph i of subparagraph a of the first paragraph of section 1029.8.36.72.82.2, subparagraph i of subparagraph a of the first paragraph of section 1029.8.36.72.82.3 or subparagraph a of the first paragraph of section 1029.8.36.72.82.4, as the case may be, to employees in respect of a pay period, within the particular calendar year, for which the employees are eligible employees, the amount by which the amount determined pursuant to subparagraph i exceeds the amount of the particular aggregate,";

(10) by inserting the following subparagraph after subparagraph ii of subparagraph c of the first paragraph:

"ii.1. to have paid, for the purposes of subparagraph i of subparagraph a.1 of the first paragraph of section 1029.8.36.72.82.2, subparagraph i of

subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or paragraph *a* of section 1029.8.36.72.82.4.1, as the case may be, to employees in respect of a pay period, within the particular calendar year, for which the employees are eligible employees, the amount by which the amount determined pursuant to subparagraph *i.1* exceeds the amount of the particular aggregate.”;

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

“(1) the purchaser’s base amount otherwise determined, and”;

(12) by inserting the following subparagraph after subparagraph *iii* of subparagraph *c* of the first paragraph:

“*iii.1.* to have an amount that would be the purchaser’s base amount if, for the purposes of the definition of “base amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, that is equal to the aggregate of

(1) the amount that would be the purchaser’s base amount if, for the purposes of the definition of “base amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, and if no reference were made to subparagraph *iii* or this subparagraph *iii.1*, and

(2) the amount that is the proportion of the aggregate, in subparagraph 2 of subparagraph *v* referred to as the “particular aggregate”, of all amounts each of which is the salary or wages that the purchaser paid to an employee after the particular time in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, or the salary or wages of an employee who reports for work at an establishment of the purchaser situated in Québec but outside a designated region of the purchaser, that the purchaser paid after the particular time in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the purchaser situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the purchaser that are described in a qualification certificate issued to the purchaser, for the purposes of this division, for the year in respect of a recognized business, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, that began or increased at the particular time, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities,

except if an amount is included, in respect of the employee, in relation to the purchaser, in computing an amount determined under this subparagraph 2, in relation to another recognized business,”;

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

“(1) the purchaser’s eligible amount otherwise determined for the particular calendar year, and”;

(14) by adding the following subparagraph after subparagraph iv of subparagraph *c* of the first paragraph:

“v. to have an amount that would be the purchaser’s eligible amount for the particular calendar year if, for the purposes of the definition of “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in that first paragraph were considered, that is equal to the aggregate of

(1) the amount that would be the purchaser’s eligible amount for the particular calendar year if, for the purposes of the definition of “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in that first paragraph were considered, and if no reference were made to subparagraph iv or this subparagraph v, and

(2) the amount by which the amount determined pursuant to subparagraph 2 of subparagraph iii.1 exceeds the amount of the particular aggregate; and”;

(15) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) if the particular corporation is a corporation that is associated with the purchaser at the end of the particular calendar year, the following rules apply:

i. the purchaser is deemed, for the purposes of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, to have paid to the employees referred to therein

(1) in respect of a pay period within the particular corporation’s base period, the amount that is the proportion of the aggregate, in subparagraph 2 referred to as the “particular aggregate”, of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of

the purchaser situated in Québec, that the purchaser paid after the particular time in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the purchaser situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the purchaser that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation in relation to the particular calendar year, in respect of a recognized business, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities that began or increased at the particular time and except if an amount is included, in respect of the employee, in relation to the purchaser, in computing an amount determined under this subparagraph 1, in relation to a recognized business carried on by a corporation other than the particular corporation, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities, and

(2) in respect of a pay period within the particular calendar year, the amount by which the amount determined pursuant to subparagraph 1 exceeds the amount of the particular aggregate, and

ii. the purchaser is deemed, for the purposes of subparagraph ii of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or paragraph *c* of section 1029.8.36.72.82.4.1, to have paid to the employees referred to therein

(1) in respect of a pay period within the particular corporation's base period, the amount that is the proportion of the aggregate, in subparagraph 2 referred to as the "particular aggregate", of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the purchaser situated in Québec, that the purchaser paid after the particular time in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the purchaser situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the purchaser that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation in relation to the particular calendar year, in respect of a recognized business, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities referred to in any of paragraphs *a* to *d* of the definition of "eligible region" in the first paragraph of section 1029.8.36.72.82.1, that began or increased at the particular time, and except if an amount is included, in respect of the employee, in relation to the purchaser, in computing an amount determined under this subparagraph 1, in relation to a recognized business carried on by a corporation other than the particular corporation, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities, and

(2) in respect of a pay period within the particular calendar year, the amount by which the amount determined pursuant to subparagraph 1 exceeds the amount of the particular aggregate.”;

(16) by replacing subparagraph ii of subparagraph *b* of the second paragraph by the following subparagraph:

“ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside a designated region of the vendor, paid by the vendor in respect of a pay period, within the particular corporation’s base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business;”;

(17) by striking out the third and fourth paragraphs.

(2) Paragraphs 1, 6, 7 and 15 to 17 of subsection 1 have effect from 1 January 2003. However,

(1) when subparagraph *b* of the first paragraph of section 1029.8.36.72.82.10 of the Act has effect before 1 January 2004, it reads as follows:

“(b) if the particular corporation is a corporation with which the vendor was associated at the end of the particular calendar year, the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$C \times D \times E$ ”;

(2) when subparagraph i of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.10 of the Act has effect before 1 January 2004, it reads as follows:

“i. to have paid in respect of the purchaser’s base period to employees referred to in subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, in subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, as the case may be, the amount that is the proportion of the aggregate, in subparagraph ii referred to as the “particular aggregate”, of all amounts each of which is the salary or wages paid by the purchaser to an

employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities that began or increased at the particular time, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities,”;

(3) when subparagraph *d* of the first paragraph of section 1029.8.36.72.82.10 of the Act has effect before 1 January 2004, it reads as follows:

“(d) if the particular corporation is a corporation that is associated with the purchaser at the end of the particular calendar year, the purchaser is deemed to have paid

i. in respect of the base period of the particular corporation, the amount that is the proportion of the aggregate, in subparagraph ii referred to as the “particular aggregate”, of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the purchaser situated in Québec, that the purchaser paid after the particular time in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the purchaser situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the purchaser that are described in a qualification certificate that is issued for the particular calendar year to the particular corporation, for the purposes of this division, in respect of a recognized business, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities that began or increased at the particular time and except if an amount is included, in respect of the employee, in relation to the purchaser, in computing an amount determined under this subparagraph, in relation to a recognized business carried on by a corporation other than the particular corporation, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities, and

ii. in respect of the particular calendar year, the amount by which the amount determined pursuant to subparagraph i exceeds the amount of the particular aggregate.”

(3) Paragraphs 2 to 5 and 8 to 14 of subsection 1 have effect from 1 January 2004.

209. (1) The Act is amended by inserting the following sections after section 1029.8.36.72.82.10, enacted by section 412 of chapter 21 of the statutes of 2004:

“**1029.8.36.72.82.10.1.** Subject to sections 1029.8.36.72.82.8 and 1029.8.36.72.82.9, if, at a particular time in a particular calendar year, the activities carried on by a person or partnership, in this section referred to as

the “vendor”, in relation to a recognized business or a business that could qualify as a recognized business if it were carried on in a designated region, diminish or cease and it may reasonably be considered that, as a result, another person or partnership, in this section referred to as the “purchaser”, that is associated with the vendor at the particular time, begins, after the particular time, to carry on similar activities in the course of carrying on such a business, or increases, after the particular time, the scope of similar activities carried on in the course of carrying on such a business, the following rules apply, for the purpose of determining the amount that a particular corporation is deemed to have paid to the Minister under this division for the taxation year in which the particular calendar year ends and for the taxation year in which a subsequent calendar year ends:

(a) if the particular corporation is the vendor,

i. the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee, is deemed, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 and subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$A \times G,$

ii. the aggregate of all amounts each of which is the portion of a salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee, that may reasonably be attributed to activities of the employee that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, is deemed, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 and subparagraph ii of paragraph *a* of section 1029.8.36.72.82.4.1, to be equal to the amount by which that amount otherwise determined exceeds the amount that would be determined by the formula in subparagraph i if, for the purposes of subparagraph *a* of the second paragraph, only the employees of the vendor who carry on such activities were considered,

iii. the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, is deemed, for the purposes of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 and subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, to be equal to the amount by which

that amount otherwise determined exceeds the amount determined by the formula

$$B \times G,$$

iv. the aggregate of all amounts each of which is the portion of a salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, that may reasonably be attributed to activities of the employee that are referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, is deemed, for the purposes of subparagraph *i* of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2, subparagraph *i* of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 and paragraph *a* of section 1029.8.36.72.82.4.1, to be equal to the amount by which that amount otherwise determined exceeds the amount that would be determined by the formula in subparagraph *iii* if, for the purposes of subparagraph *b* of the second paragraph, only the employees of the vendor who carry on such activities were considered,

v. the base amount of the vendor is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$$C \times G,$$

vi. the amount that would be the vendor’s base amount if, for the purposes of the definition of “base amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, is deemed to be equal to the amount by which that amount determined without reference to subparagraph *v* exceeds the amount that would be determined by the formula in subparagraph *v* if, for the purposes of subparagraph *c* of the second paragraph, only the employees of the vendor who carry on such activities were considered,

vii. the eligible amount of the vendor for the particular calendar year is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$$D \times G, \text{ and}$$

viii. the amount that would be the vendor’s eligible amount for the particular calendar year if, for the purposes of the definition of “eligible amount” in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered, is deemed to be

equal to the amount by which that amount determined without reference to subparagraph vii exceeds the amount that would be determined by the formula in subparagraph vii if, for the purposes of subparagraph *d* of the second paragraph, only the employees of the vendor who carry on such activities were considered;

(*b*) if the particular corporation is a corporation with which the vendor was associated at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$$E \times G,$$

ii. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.82.4.1, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount that would be determined by the formula in subparagraph i if, for the purposes of subparagraph *e* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered,

iii. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 before subparagraph 1 or in the portion of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4 before subparagraph i, determined in respect of the vendor for the particular calendar year, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$$F \times G, \text{ and}$$

iv. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 before subparagraph 1 or in the portion of paragraph *c* of section 1029.8.36.72.82.4.1 before subparagraph i, determined in respect of the vendor for the particular calendar year, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount that would be determined by the formula in subparagraph iii if, for the purposes of subparagraph *f* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of

paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered;

(c) if the particular corporation is the purchaser, the purchaser is deemed

i. to have paid, for the purposes of subparagraph 2 of subparagraph *i* of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph *i* of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or subparagraph *ii* of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, as the case may be, to employees, in respect of a pay period, within the purchaser’s base period, for which the employees are eligible employees, the amount determined by the formula

$A \times G$,

ii. to have paid, for the purposes of subparagraph 2 of subparagraph *i* of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph *i* of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or subparagraph *ii* of paragraph *a* of section 1029.8.36.72.82.4.1, as the case may be, to employees, in respect of a pay period, within the purchaser’s base period, for which the employees are eligible employees, the amount that would be determined by the formula in subparagraph *i* if, for the purposes of subparagraph *a* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered,

iii. to have paid, for the purposes of subparagraph *i* of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph *i* of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, as the case may be, to employees in respect of a pay period, within the particular calendar year, for which the employees are eligible employees, the amount determined by the formula

$B \times G$,

iv. to have paid, for the purposes of subparagraph *i* of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.2, subparagraph *i* of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or paragraph *a* of section 1029.8.36.72.82.4.1, as the case may be, to employees in respect of a pay period, within the particular calendar year, for which the employees are eligible employees, the amount that would be determined by the formula in subparagraph *iii* if, for the purposes of subparagraph *b* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered,

v. to have a base amount equal to the aggregate of

(1) the purchaser's base amount otherwise determined, and

(2) the amount determined by the formula

$C \times G$,

vi. to have an amount that would be the purchaser's base amount if, for the purposes of the definition of "base amount" in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of "eligible region" in that first paragraph were considered, that is equal to the aggregate of

(1) the amount that would be the purchaser's base amount if, for the purposes of the definition of "base amount" in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of "eligible region" in that first paragraph were considered, and if no reference were made to subparagraph v or this subparagraph vi, and

(2) the amount that would be determined by the formula in subparagraph 2 of subparagraph v if, for the purposes of subparagraph *c* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of "eligible region" in the first paragraph of section 1029.8.36.72.82.1 were considered,

vii. to have an eligible amount for the particular calendar year equal to the aggregate of

(1) the purchaser's eligible amount otherwise determined for the particular calendar year, and

(2) the amount determined by the formula

$D \times G$, and

viii. to have an amount that would be the purchaser's eligible amount for the particular calendar year if, for the purposes of the definition of "eligible amount" in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of "eligible region" in that first paragraph were considered, that is equal to the aggregate of

(1) the amount that would be the purchaser's eligible amount for the particular calendar year if, for the purposes of the definition of "eligible amount" in the first paragraph of section 1029.8.36.72.82.1, only the portion of the salary or wages of an employee that may reasonably be attributed to activities referred to in any of paragraphs *a* to *d* of the definition of "eligible

region” in that first paragraph were considered, and if no reference were made to subparagraph vii or this subparagraph viii, and

(2) the amount that would be determined by the formula in subparagraph 2 of subparagraph vii if, for the purposes of subparagraph *d* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered; and

(*d*) if the particular corporation is a corporation that is associated with the purchaser at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, determined in respect of the purchaser, is deemed to be equal to the aggregate of

(1) the amount of that aggregate determined without reference to this subparagraph i, and

(2) the amount determined by the formula

$$E \times G,$$

ii. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.82.4.1, determined in respect of the purchaser, is deemed to be equal to the aggregate of

(1) the amount of that aggregate determined without reference to this subparagraph ii, and

(2) the amount that would be determined by the formula in subparagraph i if, for the purposes of subparagraph *e* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered,

iii. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 before subparagraph 1 or in the portion of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4 before subparagraph i, determined in respect of the purchaser for the particular calendar year, is deemed to be equal to the aggregate of

(1) the amount of that aggregate determined without reference to this subparagraph iii for the particular calendar year, and

(2) the amount determined by the formula

$F \times G$, and

iv. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3 before subparagraph 1 or in the portion of paragraph *c* of section 1029.8.36.72.82.4.1 before subparagraph i, determined in respect of the purchaser for the particular calendar year, is deemed to be equal to the aggregate of

(1) the amount of that aggregate determined without reference to this subparagraph iv for the particular calendar year, and

(2) the amount that would be determined by the formula in subparagraph iii if, for the purposes of subparagraph *f* of the second paragraph, only the employees of the vendor who carry on activities referred to in any of paragraphs *a* to *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1 were considered.

In the formulas in subparagraphs *a* to *d* of the first paragraph,

(*a*) *A* is the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee;

(*b*) *B* is the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee;

(*c*) *C* is the aggregate of all amounts each of which is

i. the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee, or

ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside a designated region of the vendor, paid by the vendor in respect of a pay period, within the vendor’s base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(*d*) *D* is the aggregate of all amounts each of which is

i. the salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, or

ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, other than an employee referred to in subparagraph i, paid by the vendor in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(e) E is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, paid by the vendor in respect of a pay period, within the particular corporation's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business, except if an amount is included, in respect of the employee, in relation to the vendor, in computing an amount determined under this subparagraph, in relation to another corporation that carries on a recognized business;

(f) F is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, paid by the vendor in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business, except if an amount is included, in respect of the employee, in relation to the vendor, in computing an amount determined under this subparagraph, in relation to another corporation that carries on a recognized business; and

(g) G is the proportion that the number of the vendor's employees referred to in any of subparagraphs *a* to *f*, as the case may be, who were assigned to the carrying on of part of the activities that diminished or ceased at the particular time is of the number of the vendor's employees assigned to those activities immediately before the particular time.

“1029.8.36.72.82.10.2. For the purposes of sections 1029.8.36.72.82.10 and 1029.8.36.72.82.10.1, to determine whether a vendor is associated with a purchaser at a particular time, the following rules apply:

(a) if the vendor or purchaser is an individual, other than a trust, the individual is deemed to be a corporation all the voting shares in the capital stock of which are owned at the particular time by the individual;

(b) if the vendor or purchaser is a partnership, the partnership is deemed to be a corporation whose taxation year is its fiscal period and all the voting shares in the capital stock of which are owned at the particular time by each member of the partnership in a proportion equal to the proportion that the member's share of the income or loss of the partnership for its fiscal period that includes the particular time is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for that fiscal period is equal to \$1,000,000; and

(c) if the vendor or purchaser is a trust, the trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries, in this paragraph referred to as the “distribution date”, and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) if such a beneficiary's share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, and if the particular time occurs before the distribution date, are owned at that time by the beneficiary, or

(2) if subparagraph 1 does not apply and the particular time occurs before the distribution date, are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. if a beneficiary's share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at the particular time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at the particular time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at the particular time by the person referred to in that section from whom property of the trust or property for which it was substituted was directly or indirectly received.”

(2) Subsection 1 has effect from 1 January 2003. However, when section 1029.8.36.72.82.10.1 of the Act has effect before 1 January 2004, it reads as follows:

“1029.8.36.72.82.10.1. Subject to sections 1029.8.36.72.82.8 and 1029.8.36.72.82.9, if, at a particular time in a particular calendar year, the activities carried on by a person or partnership, in this section referred to as the “vendor”, in relation to a recognized business or a business that could qualify as a recognized business if it were carried on in a designated region, diminish or cease and it may reasonably be considered that, as a result, another person or partnership, in this section referred to as the “purchaser”, that is associated with the vendor at the particular time, begins, after the particular time, to carry on similar activities in the course of carrying on such a business, or increases, after the particular time, the scope of similar activities carried on in the course of carrying on such a business, the following rules apply, for the purpose of determining the amount that a particular corporation is deemed to have paid to the Minister under this division for the taxation year in which the particular calendar year ends and for the taxation year in which a subsequent calendar year ends:

(a) if the particular corporation is the vendor,

i. the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor’s base period, for which the employee is an eligible employee, is deemed, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 and subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$$A \times G,$$

ii. the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, is deemed, for the purposes of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 and subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$$B \times G,$$

iii. the base amount of the vendor is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$C \times G$, and

iv. the eligible amount of the vendor for the particular calendar year is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$D \times G$;

(b) if the particular corporation is a corporation with which the vendor was associated at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$E \times G$, and

ii. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 before subparagraph 1 or in the portion of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4 before subparagraph i, determined in respect of the vendor for the particular calendar year, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$F \times G$;

(c) if the particular corporation is the purchaser, the purchaser is deemed

i. to have paid, for the purposes of subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph 2 of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, as the case may be, to employees, in respect of a pay period, within the purchaser's base period, for which the employees are eligible employees, the amount determined by the formula

$A \times G$,

ii. to have paid, for the purposes of subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.2, subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or

subparagraph *a* of the first paragraph of section 1029.8.36.72.82.4, as the case may be, to employees in respect of a pay period, within the particular calendar year, for which the employees are eligible employees, the amount determined by the formula

$B \times G$,

iii. to have a base amount equal to the aggregate of

- (1) the purchaser's base amount otherwise determined, and
- (2) the amount determined by the formula

$C \times G$, and

iv. to have an eligible amount for the particular calendar year equal to the aggregate of

- (1) the purchaser's eligible amount otherwise determined for the particular calendar year, and
- (2) the amount determined by the formula

$D \times G$; and

(*d*) if the particular corporation is a corporation that is associated with the purchaser at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 or in subparagraph ii of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4, determined in respect of the purchaser, is deemed to be equal to the aggregate of

- (1) the amount of that aggregate determined without reference to this subparagraph i, and
- (2) the amount determined by the formula

$E \times G$, and

ii. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.3 before subparagraph 1 or in the portion of subparagraph *c* of the first paragraph of section 1029.8.36.72.82.4 before subparagraph i, determined in respect of the purchaser for the particular calendar year, is deemed to be equal to the aggregate of

- (1) the amount of that aggregate determined without reference to this subparagraph ii for the particular calendar year, and

(2) the amount determined by the formula

$F \times G$.

In the formulas in subparagraphs *a* to *d* of the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor's base period, for which the employee is an eligible employee;

(*b*) B is the aggregate of all amounts each of which is the salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee;

(*c*) C is the aggregate of all amounts each of which is

i. the salary or wages paid by the vendor to an employee in respect of a pay period, within the vendor's base period, for which the employee is an eligible employee, or

ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside a designated region of the vendor, paid by the vendor in respect of a pay period, within the vendor's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(*d*) D is the aggregate of all amounts each of which is

i. the salary or wages paid by the vendor to an employee in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, or

ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, other than an employee referred to in subparagraph i, paid by the vendor in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(e) E is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, paid by the vendor in respect of a pay period, within the particular corporation's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business, except if an amount is included, in respect of the employee, in relation to the vendor, in computing an amount determined under this subparagraph, in relation to another corporation that carries on a recognized business;

(f) F is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, paid by the vendor in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business, except if an amount is included, in respect of the employee, in relation to the vendor, in computing an amount determined under this subparagraph, in relation to another corporation that carries on a recognized business; and

(g) G is the proportion that the number of the vendor's employees referred to in any of subparagraphs *a* to *f*, as the case may be, who were assigned to the carrying on of part of the activities that diminished or ceased at the particular time is of the number of the vendor's employees assigned to those activities immediately before the particular time."

210. (1) The Act is amended by inserting the following after section 1029.8.36.72.82.12, enacted by section 412 of chapter 21 of the statutes of 2004:

"DIVISION II.6.6.6.2

"CREDIT FOR JOB CREATION IN THE GASPÉSIE AND CERTAIN MARITIME REGIONS OF QUÉBEC IN THE FIELDS OF MARINE BIOTECHNOLOGY AND MARICULTURE

"§1. — *Definitions and general*

"1029.8.36.72.82.13. In this division,

"base amount" of a corporation means

(a) except in respect of a corporation that results from an amalgamation, an amount equal to zero, if, at no time in its base period, the corporation carried on a business in Québec in the sectors of activity described in a qualification certificate issued, for the purposes of this division, to the corporation for the year in respect of a recognized business; and

(b) in any other case, the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the corporation situated in Québec but outside an eligible region, that were paid by the corporation in respect of a pay period, within its base period, throughout which the employee spends when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the corporation that are described in a qualification certificate issued, for the purposes of this division, to the corporation for the year in respect of a recognized business;

“base period” of a corporation means the calendar year preceding the calendar year in which the eligibility period of the corporation begins;

“eligibility period” of a corporation means, subject to the third and fourth paragraphs, the period that begins on 1 January of the first calendar year, in this definition referred to as the “particular calendar year”, preceding the calendar year 2008, that is referred to in the first unrevoked qualification certificate issued to the corporation or deemed obtained by it, in relation to a recognized business, for the purposes of this division and that includes the number of calendar years that is the number by which five exceeds the number of calendar years preceding the particular calendar year in respect of which the corporation is deemed to have paid an amount to the Minister for the purposes of this division, or would have been so deemed to have paid an amount to the Minister if, where Investissement Québec has not issued, in respect of a calendar year, any certificate to the qualified corporation, in relation to a recognized business, otherwise than because of a major unforeseen event affecting the corporation, Investissement Québec had issued such a certificate to the qualified corporation, in relation to the recognized business, and if the amount determined in accordance with subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14 or 1029.8.36.72.82.15 had been greater than 0;

“eligible amount” of a corporation for a calendar year means the aggregate of all amounts each of which is

(a) the salary or wages paid by the corporation to an employee in respect of a pay period, within the year, for which the employee is an eligible employee; or

(b) the salary or wages of an employee who reports for work at an establishment of the corporation situated in Québec, other than an employee

referred to in paragraph *a*, that were paid by the corporation in respect of a pay period, within the year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the corporation that are described in a qualification certificate issued, for the purposes of this division, to the corporation for the year in respect of a recognized business;

“eligible employee” of a corporation, for a pay period within a calendar year, means an employee in respect of whom a qualification certificate is issued to the corporation for the year by Investissement Québec for the purposes of this division, certifying that the employee is an eligible employee of the corporation for the pay period;

“eligible region” means one of the following administrative regions described in Order in Council 2000-87 dated 22 December 1987 concerning the revision of the boundaries of the administrative regions of Québec, as amended:

- (a) administrative region 01 Bas-Saint-Laurent;
- (b) administrative region 09 Côte-Nord; or
- (c) administrative region 11 Gaspésie–Îles-de-la-Madeleine;

“eligible repayment of assistance” for a taxation year of a qualified corporation means the aggregate of

(a) if the qualified corporation pays in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph *i* of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.18, that reduced the amount of the salary or wages paid by the qualified corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14 that relates to a calendar year preceding the calendar year ending in the taxation year, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid by the qualified corporation, in respect of such an amount of assistance, as repayment in the taxation year or a preceding taxation year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a taxation year preceding the taxation year under this paragraph in relation to a repayment of assistance;

(b) if a corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.18 that reduced the amount of the salary or wages paid by the corporation to an employee, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 that relates to a calendar year preceding the calendar year in relation to the qualified corporation at the end of which the qualified corporation was not associated with any other qualified corporation that was carrying on a recognized business for its taxation year in which the preceding calendar year ended, the amount by which the amount that would have been determined under that subparagraph *a* in respect of the qualified corporation in relation to the preceding calendar year if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;

(c) if a qualified corporation pays in a calendar year ending in the taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of assistance referred to in subparagraph i of subparagraph *b* of the first paragraph of section 1029.8.36.72.82.18 that reduced the amount of the salary or wages paid by the qualified corporation to an employee, for the purpose of computing the excess amount referred to in paragraph *a* or *c* of section 1029.8.36.72.82.16 determined, in respect of a calendar year preceding the calendar year, in relation to all of the corporations that were associated with each other at the end of that preceding calendar year and with which the qualified corporation was associated at that time, the amount by which the amount that would have been determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 in respect of the qualified corporation in relation to the preceding calendar year if, for the purposes of paragraph *a* or *c* of section 1029.8.36.72.82.16 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the calendar year or a preceding calendar year, and if the amount determined under section 1029.8.36.72.82.16 had been attributed to a qualified corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, exceeds the aggregate of

i. the amount determined under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 in respect of the qualified corporation in relation to the preceding calendar year, and

ii. the aggregate of all amounts determined for a calendar year preceding the calendar year under this paragraph in relation to a repayment of assistance;

“qualified corporation”, for a calendar year, means a corporation that, in the year, carries on a qualified business in Québec and has an establishment in Québec, but does not include

(a) a corporation that is exempt from tax under Book VIII for the taxation year in which the calendar year ends; or

(b) a corporation that would be exempt from tax for the taxation year in which the calendar year ends under section 985 but for section 192;

“recognized business” of a corporation means a business carried on in a calendar year by the corporation in an eligible region and in respect of which a qualification certificate is issued for the year by Investissement Québec for the purposes of this division;

“salary or wages” means the income computed under Chapters I and II of Title II of Book III, but does not include directors’ fees, premiums, incentive bonuses, compensation for hours worked in addition to normal working hours, commissions or benefits referred to in Division II of Chapter II of Title II of Book III.

For the purposes of this division,

(a) if, during a pay period within a calendar year, an employee reports for work at an establishment of a qualified corporation situated in Québec and at an establishment of the qualified corporation situated outside Québec, the employee is, for that period, deemed,

i. unless subparagraph ii applies, to report for work only at the establishment situated in Québec, or

ii. to report for work only at the establishment situated outside Québec if, during that period, the employee reports for work mainly at an establishment of the qualified corporation situated outside Québec; and

(b) if, during a pay period within a calendar year, an employee is not required to report for work at an establishment of a qualified corporation and the employee’s salary or wages in relation to that period are paid from such an establishment situated in Québec, the employee is deemed to report for work at that establishment if the duties performed by the employee during that period are performed mainly in Québec.

Unless section 1029.8.36.72.82.20 or 1029.8.36.72.82.21 applies, if, in a taxation year, a corporation carries on a business in respect of which a qualification certificate has been issued by Investissement Québec and, in the opinion of Investissement Québec, the business is the continuation of a

recognized business or part of a recognized business previously carried on by another corporation, the corporation is deemed, for the purposes of the definition of “eligibility period” in the first paragraph, to have obtained the qualification certificate, in relation to the business or part of the business, on the date on which the other corporation obtained its qualification certificate, in relation to the recognized business, for the purposes of this division.

If Investissement Québec does not issue in the eligibility period of a corporation, in relation to a particular calendar year, a qualification certificate in respect of a recognized business, because of a major unforeseen event affecting the corporation, the following rules apply for the purpose of determining the eligibility period of the corporation from the calendar year in respect of which a new certificate is issued in respect of the recognized business:

(a) unless the new qualification certificate certifies that the corporation has resumed carrying on the recognized business in a municipality more than 40 kilometres away from the municipality in which the recognized business was carried on before the major unforeseen event occurred, any qualification certificate issued to the corporation, in relation to the recognized business, in respect of a calendar year preceding the particular calendar year, for the purposes of this division, is deemed cancelled; and

(b) the definition of “eligibility period” in the first paragraph is to be read without “preceding the calendar year 2008,”.

For the purposes of this division, a reference to a calendar year ending in a taxation year includes a reference to a calendar year ending coincidentally with that taxation year.

“§2. — *Credits*

“1029.8.36.72.82.14. A qualified corporation that is not associated with any other corporation at the end of a calendar year within the qualified corporation’s eligibility period and that encloses the documents referred to in the third paragraph with the fiscal return the qualified corporation is required to file under section 1000 for the taxation year in which the calendar year ends, is deemed, subject to the second paragraph, to have paid to the Minister on the qualified corporation’s balance-due day for that taxation year, on account of its tax payable for that taxation year under this Part, an amount equal to 40% of the aggregate of

(a) the lesser of

i. the aggregate of all amounts each of which is the salary or wages paid by the qualified corporation to an employee in respect of a pay period, within the calendar year, for which the employee is an eligible employee, and

ii. the amount by which the qualified corporation's eligible amount for the calendar year exceeds the qualified corporation's base amount; and

(b) the eligible repayment of assistance of the qualified corporation for the taxation year.

For the purpose of computing the payments that a qualified corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under this division, to have been paid to the Minister on that date, for the purpose of computing that payment.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing the prescribed information; and

(b) a copy of all unrevoked certificates and qualification certificates issued to the qualified corporation for the year in respect of a recognized business and its eligible employees.

“1029.8.36.72.82.15. A qualified corporation that is associated with one or more other corporations at the end of a calendar year within the qualified corporation's eligibility period and that encloses the documents referred to in the fourth paragraph with the fiscal return the qualified corporation is required to file under section 1000 for the taxation year in which the calendar year ends, is deemed, subject to the third paragraph, to have paid to the Minister on the qualified corporation's balance-due day for that taxation year, on account of its tax payable for that taxation year under this Part, an amount equal to 40% of the aggregate of

(a) subject to the second paragraph, the least of

i. the aggregate of all amounts each of which is the salary or wages paid by the qualified corporation to an employee in respect of a pay period, within the calendar year, for which the employee is an eligible employee,

ii. the amount by which the aggregate of the qualified corporation's eligible amount for the calendar year and the aggregate of all amounts each of which is the salary or wages paid by another corporation with which the qualified corporation is associated at the end of the calendar year to an employee who reports for work at an establishment of the other corporation situated in Québec, if the salary or wages are paid in respect of a pay period, within the calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business, exceeds the total of

(1) the qualified corporation's base amount, and

(2) the aggregate of all amounts each of which is the salary or wages paid by another corporation with which the qualified corporation is associated at the end of the calendar year to an employee who reports for work at an establishment of the other corporation situated in Québec, if the salary or wages are paid in respect of a pay period, within the qualified corporation's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business, and

iii. the amount by which the qualified corporation's eligible amount for the calendar year exceeds the qualified corporation's base amount; and

(b) the eligible repayment of assistance of the qualified corporation for the taxation year.

If the qualified corporation referred to in the first paragraph is associated, at the end of the calendar year, with at least one other qualified corporation carrying on a recognized business in the taxation year in which the calendar year ends, the amount determined under subparagraph *a* of that first paragraph, in respect of the calendar year, may not exceed the amount that is attributed to it in respect of the calendar year pursuant to the agreement referred to in section 1029.8.36.72.82.16.

For the purpose of computing the payments that a qualified corporation is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the qualified corporation is deemed to have paid to the Minister, on account of the aggregate of its tax payable for the year under this

Part and of its tax payable for the year under Parts IV, IV.1, VI and VI.1, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under this division, to have been paid to the Minister on that date, for the purpose of computing that payment.

The documents to which the first paragraph refers are the following:

(a) the prescribed form containing the prescribed information;

(b) a copy of all unrevoked certificates and qualification certificates issued to the qualified corporation for the year in respect of a recognized business and its eligible employees; and

(c) if the second paragraph applies, the agreement referred to in section 1029.8.36.72.82.16 filed in prescribed form.

“1029.8.36.72.82.16. The agreement to which the second paragraph of section 1029.8.36.72.82.15 refers in respect of a calendar year means an agreement under which all of the qualified corporations that are carrying on, in the calendar year, a recognized business and that are associated with each other at the end of that calendar year, hereinafter called the “group of associated corporations”, attribute to one or more of their number, for the purposes of this division, one or more amounts; the aggregate of the amounts so attributed, for the calendar year, shall not be greater than the least of

(a) the aggregate of all amounts each of which is the salary or wages paid by a qualified corporation that is a member of the group of associated corporations to an employee in respect of a pay period, within the calendar year, for which the employee is an eligible employee of the corporation;

(b) the amount by which the aggregate of all amounts each of which is the eligible amount of a qualified corporation that is a member of the group of associated corporations for the calendar year exceeds the aggregate of all amounts each of which is the base amount of such a corporation; and

(c) the amount by which the aggregate of all amounts each of which is the eligible amount of a qualified corporation that is a member of the group of associated corporations at the end of the calendar year, or the aggregate of all amounts each of which is the salary or wages paid by another corporation that

is associated with a qualified corporation that is a member of the group at the end of the calendar year but that does not carry on a recognized business in the calendar year, to an employee who reports for work at an establishment of the other corporation situated in Québec, if the salary or wages are paid in respect of a pay period, within the calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued, for the purposes of this division, to the qualified corporation for the year in respect of a recognized business, exceeds the total of

i. the aggregate of all amounts each of which is the base amount of a qualified corporation that is a member of the group of associated corporations at the end of the calendar year, and

ii. the aggregate of all amounts each of which is the salary or wages paid by another corporation that is associated with a qualified corporation that is a member of the group at the end of the calendar year but that does not carry on a recognized business in the calendar year, to an employee who reports for work at an establishment of the other corporation situated in Québec, if the salary or wages are paid by the other corporation in respect of a pay period, within the base period of a qualified corporation that is a member of the group at the end of the calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the other corporation situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to the activities of the other corporation that are described in a qualification certificate issued for the year, for the purposes of this division and in respect of a recognized business, to a qualified corporation that is a member of the group, except if an amount is included, in respect of the employee, in computing an amount under this subparagraph, in relation to a period within a base period in relation to another recognized business carried on by a qualified corporation that is a member of the group.

“1029.8.36.72.82.17. If the aggregate of the amounts attributed, in respect of a calendar year, in an agreement entered into with the qualified corporations that are carrying on, in that calendar year, a recognized business and that are associated with each other at the end of that calendar year exceeds the particular amount that is the least of the amounts determined for that calendar year in respect of those corporations under any of paragraphs *a* to *c* of section 1029.8.36.72.82.16, the amount attributed to each of the corporations for the calendar year is deemed, for the purposes of section 1029.8.36.72.82.15, to be equal to the proportion of the particular amount that the amount attributed for the calendar year to that corporation in the agreement is of the aggregate of all amounts attributed for the calendar year in the agreement.

“§3. — *Government assistance, non-government assistance and other particulars*

“**1029.8.36.72.82.18.** For the purpose of computing the amount that is deemed to have been paid to the Minister by a qualified corporation, for a particular taxation year, under section 1029.8.36.72.82.14 or 1029.8.36.72.82.15, the following rules apply, subject to the second paragraph:

(a) the amount of the salaries or wages referred to in the definitions of “base amount” and “eligible amount” in the first paragraph of section 1029.8.36.72.82.13, in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14 or in subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 and paid by the qualified corporation, and the amount of the salaries or wages referred to in subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 and paid by a corporation associated with the qualified corporation shall be reduced, where applicable,

i. by the amount of any government assistance or non-government assistance attributable to the salaries or wages that the qualified corporation or the corporation associated with it, as the case may be, has received, is entitled to receive or may reasonably expect to receive, on or before the qualified corporation’s filing-due date for its taxation year, except any amount of government assistance that reduced the amount of the salaries or wages referred to in subparagraph ii,

ii. by the portion of such salaries or wages that may reasonably be considered to be included in computing an expenditure in respect of which the qualified corporation or the corporation associated with it, as the case may be, is deemed to have paid an amount to the Minister under this chapter for any taxation year, and

iii. by the amount of any benefit or advantage, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner, other than a benefit or advantage derived from the performance of the duties of an employee, that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the qualified corporation’s filing-due date for its taxation year, to the extent that the benefit or advantage may reasonably be considered to be attributable, directly or indirectly, to part or all of the amount of the salaries or wages paid by the qualified corporation or the corporation associated with it, as the case may be; and

(b) the amount of the salaries or wages paid by a particular qualified corporation associated with one or more other qualified corporations, determined for the purpose of computing the amount that may be attributed, in respect of a calendar year, in accordance with section 1029.8.36.72.82.16 to one or more of their number, shall be reduced, where applicable,

i. by the amount of any government assistance or non-government assistance attributable to the salaries or wages that the particular qualified corporation has received, is entitled to receive or may reasonably expect to receive, on or before the qualified corporation's filing-due date for its taxation year, except any amount of government assistance that reduced the amount of the salaries or wages referred to in subparagraph ii,

ii. by the portion of such salaries or wages that may reasonably be considered to be included in computing an expenditure in respect of which the particular qualified corporation is deemed to have paid an amount to the Minister under this chapter for any taxation year, and

iii. by the amount of any benefit or advantage, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner, other than a benefit or advantage derived from the performance of the duties of an eligible employee, that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the particular qualified corporation's filing-due date for its taxation year, to the extent that the benefit or advantage may reasonably be considered to be attributable, directly or indirectly, to part or all of the amount of the salaries or wages paid by the particular qualified corporation.

The aggregate of the amounts referred to in the first paragraph that reduced the amount of the salaries or wages paid by the qualified corporation or a corporation associated with it, in respect of a pay period within the qualified corporation's base period, may not exceed the aggregate of the amounts referred to in the first paragraph that reduced the amount of the salaries or wages paid by the qualified corporation or the corporation associated with it, in respect of a pay period within the calendar year ending in the particular taxation year.

“1029.8.36.72.82.19. For the purposes of this division, an amount of assistance is deemed to be repaid in a calendar year by a qualified corporation, pursuant to a legal obligation, if that amount

(a) reduced the amount of salaries or wages for the purpose of computing,

i. in the case of assistance referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.18, the amount that the qualified corporation is deemed to have paid to the Minister for a taxation year under subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14 or 1029.8.36.72.82.15, or

ii. in the case of assistance referred to in subparagraph *b* of the first paragraph of section 1029.8.36.72.82.18, the excess amount referred to in paragraph *a* or *c* of section 1029.8.36.72.82.16 determined, in respect of a calendar year, in relation to all of the qualified corporations that are associated with each other;

(b) was not received by the qualified corporation; and

(c) ceased in the calendar year to be an amount that the qualified corporation may reasonably expect to receive.

“1029.8.36.72.82.20. If a corporation, in this section referred to as the “new corporation”, resulting from the amalgamation, within the meaning of section 544, of two or more corporations, each of which referred to in this section as a “predecessor corporation”, carries on after the amalgamation a business carried on before the amalgamation by a predecessor corporation, the new corporation and the predecessor corporation are deemed, for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division for the taxation year in which ends the calendar year in which the amalgamation occurred and for a subsequent taxation year, to be the same corporation throughout the period during which the predecessor corporation carried on, or is deemed to have carried on under this division, the business.

“1029.8.36.72.82.21. If, after the beginning of the winding-up of a subsidiary, within the meaning of section 556, to which the rules in sections 556 to 564.1 and 565 apply, the parent corporation, within the meaning of section 556, begins to carry on a recognized business the subsidiary was carrying on before the beginning of its winding-up, the parent corporation and the subsidiary are deemed, for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division for its taxation year in which ends the calendar year in which the winding-up began and for a subsequent taxation year, to be the same corporation throughout the period during which the subsidiary carried on, or is deemed to have carried on under this division, the business.

“1029.8.36.72.82.22. Subject to sections 1029.8.36.72.82.20 and 1029.8.36.72.82.21, if, at a particular time in a particular calendar year, the activities carried on by a person or partnership, in this section referred to as the “vendor”, in relation to a recognized business or a business that could qualify as a recognized business if it were carried on in an eligible region, diminish or cease and it may reasonably be considered that, as a result, another person or partnership, in this section referred to as the “purchaser”, that is not associated with the vendor at the particular time, begins, after the particular time, to carry on similar activities in the course of carrying on such a business, or increases, after the particular time, the scope of similar activities carried on in the course of carrying on such a business, the following rules apply for the purpose of determining the amount that a particular corporation is deemed to have paid to the Minister under this division for the taxation year in which the particular calendar year ends and for the taxation year in which a subsequent calendar year ends:

(a) if the particular corporation is the vendor, the base amount of the vendor is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$A \times C \times D$;

(b) if the particular corporation is a corporation with which the vendor was associated at the end of the particular calendar year, the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.82.16, determined in respect of the vendor, is deemed to be equal to the amount by which the amount determined without reference to this subparagraph exceeds the amount determined by the formula

$B \times C \times D$;

(c) if the particular corporation is the purchaser, the purchaser is deemed

i. to have a base amount equal to the aggregate of

(1) the purchaser's base amount otherwise determined, and

(2) the amount that is the proportion of the aggregate, in subparagraph 2 of subparagraph ii referred to as the "particular aggregate", of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the purchaser situated in Québec but outside an eligible region, that the purchaser paid after the particular time, in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the purchaser situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the purchaser that are described in a qualification certificate issued to the purchaser, for the purposes of this division, for the year in respect of a recognized business, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities that began or increased at the particular time, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities, except if an amount is included, in respect of the employee, in relation to the purchaser, in computing an amount determined under this subparagraph 2, in relation to another recognized business, and

ii. to have an eligible amount for the particular calendar year equal to the aggregate of

(1) the purchaser's eligible amount otherwise determined for the particular calendar year, and

(2) the amount by which the amount determined pursuant to subparagraph 2 of subparagraph i exceeds the amount of the particular aggregate; and

(d) if the particular corporation is a corporation that is associated with the purchaser at the end of the particular calendar year, the purchaser is deemed,

for the purposes of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 or paragraph *c* of section 1029.8.36.72.82.16, to have paid to employees referred to therein

i. in respect of a pay period within the particular corporation's base period, the amount that is the proportion of the aggregate, in subparagraph ii referred to as the "particular aggregate", of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the purchaser situated in Québec, that the purchaser paid after the particular time in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the purchaser situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation, in relation to the particular calendar year, in respect of a recognized business, to the extent that the salary or wages may reasonably be considered to relate to the carrying on by the employee of the part of the activities that began or increased at the particular time and except if an amount is included, in respect of the employee, in relation to the purchaser, in computing an amount determined under this subparagraph, in relation to a recognized business carried on by a corporation other than the particular corporation, that 365 is of the number of days in the particular calendar year during which the purchaser carried on those activities, and

ii. in respect of a pay period within the particular calendar year, the amount by which the amount determined pursuant to subparagraph i exceeds the amount of the particular aggregate.

In the formulas in subparagraphs *a* and *b* of the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside an eligible region, paid by the vendor in respect of a pay period, within the vendor's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(*b*) B is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, paid by the vendor in respect of a pay period, within the particular corporation's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly

related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business, except if an amount is included, in respect of the employee, in relation to the vendor, in computing an amount determined under this subparagraph, in relation to another corporation that carries on a recognized business;

(c) C is the proportion that the number of the vendor's employees referred to in subparagraph *a* or *b*, who were assigned to the carrying on of part of the activities that diminished or ceased at the particular time is of the number of the vendor's employees assigned to those activities immediately before the particular time; and

(d) D is, where this section applies for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division in respect of the particular calendar year, the proportion that the number of days in the particular calendar year following the particular time is of 365 and, in any other case, 1.

“1029.8.36.72.82.23. Subject to sections 1029.8.36.72.82.20 and 1029.8.36.72.82.21, if, at a particular time in a particular calendar year, the activities carried on by a person or partnership, in this section referred to as the “vendor”, in relation to a recognized business or a business that could qualify as a recognized business if it were carried on in an eligible region, diminish or cease and it may reasonably be considered that, as a result, another person or partnership, in this section referred to as the “purchaser”, that is associated with the vendor at the particular time, begins, after the particular time, to carry on similar activities in the course of carrying on such a business, or increases, after the particular time, the scope of similar activities carried on in the course of carrying on such a business, the following rules apply for the purpose of determining the amount that a particular corporation is deemed to have paid to the Minister under this division for the taxation year in which the particular calendar year ends and for the taxation year in which a subsequent calendar year ends:

(a) if the particular corporation is the vendor,

i. the base amount of the vendor is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$A \times D$, and

ii. the eligible amount of the vendor for the particular calendar year is deemed to be equal to the amount by which that amount otherwise determined exceeds the amount determined by the formula

$B \times D$;

(b) if the particular corporation is a corporation with which the vendor was associated at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.82.16, determined in respect of the vendor, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount determined by the formula

$C \times D$, and

ii. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 before subparagraph 1 or in the portion of paragraph *c* of section 1029.8.36.72.82.16 before subparagraph i, determined in respect of the vendor for the particular calendar year, is deemed to be equal to the amount by which that amount determined without reference to this subparagraph exceeds the amount that would be determined for the particular calendar year by the formula in subparagraph i if subparagraph *c* of the second paragraph were read with “paid by the vendor in respect of a pay period, within the vendor’s base period” replaced by “paid by the vendor, before the particular time, in respect of a pay period, within the particular calendar year”;

(c) if the particular corporation is the purchaser, the purchaser is deemed

i. to have a base amount equal to the aggregate of

(1) the purchaser’s base amount otherwise determined, and

(2) the amount determined by the formula

$A \times D$, and

ii. to have an eligible amount for the particular calendar year equal to the aggregate of

(1) the purchaser’s eligible amount otherwise determined for the particular calendar year, and

(2) the amount determined by the formula

$B \times D$; and

(d) if the particular corporation is a corporation that is associated with the purchaser at the end of the particular calendar year, the following rules apply:

i. the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of

section 1029.8.36.72.82.15 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.82.16, determined in respect of the purchaser, is deemed to be equal to the aggregate of

(1) the amount of that aggregate determined without reference to this subparagraph i, and

(2) the amount determined by the formula

$C \times D$, and

ii. the amount that is the second aggregate mentioned in the portion of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 before subparagraph 1 or in the portion of paragraph *c* of section 1029.8.36.72.82.16 before subparagraph i, determined in respect of the purchaser for the particular calendar year, is deemed to be equal to the aggregate of

(1) the amount of that aggregate determined without reference to this subparagraph ii for the particular calendar year, and

(2) the amount that would be determined for the particular calendar year, in respect of the purchaser, by the formula in subparagraph 2 of subparagraph i if subparagraph *c* of the second paragraph were read with “paid by the vendor in respect of a pay period, within the vendor’s base period” replaced by “paid by the vendor, before the particular time, in respect of a pay period, within the particular calendar year”.

In the formulas in subparagraphs *a* to *d* of the first paragraph,

(*a*) *A* is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside an eligible region, paid by the vendor in respect of a pay period, within the vendor’s base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(*b*) *B* is the aggregate of all amounts each of which is

i. the salary or wages paid by the vendor to an employee, before the particular time, in respect of a pay period, within the particular calendar year, for which the employee is an eligible employee, or

ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, other than an employee

referred to in subparagraph i, paid by the vendor, before the particular time, in respect of a pay period, within the particular calendar year, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the vendor for the year in respect of a recognized business;

(c) C is the aggregate of all amounts each of which is the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec, paid by the vendor in respect of a pay period, within the vendor's base period, throughout which the employee spends, when at work, at least 75% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in a qualification certificate issued, for the purposes of this division, to the particular corporation for the year in respect of a recognized business, except if an amount is included, in respect of the employee, in relation to the vendor, in computing an amount determined under this subparagraph, in relation to another corporation that carries on a recognized business; and

(d) D is the proportion that the number of the vendor's employees referred to in any of subparagraphs *a* to *c*, as the case may be, who were assigned to the carrying on of part of the activities that diminished or ceased at the particular time is of the number of the vendor's employees assigned to those activities immediately before the particular time.

“1029.8.36.72.82.24. For the purposes of sections 1029.8.36.72.82.22 and 1029.8.36.72.82.23, to determine whether a vendor is associated with a purchaser at a particular time, the following rules apply:

(a) if the vendor or purchaser is an individual, other than a trust, the individual is deemed to be a corporation all the voting shares in the capital stock of which are owned at the particular time by the individual;

(b) if the vendor or purchaser is a partnership, the partnership is deemed to be a corporation whose taxation year is its fiscal period and all the voting shares in the capital stock of which are owned at the particular time by each member of the partnership in a proportion equal to the proportion that the member's share of the income or loss of the partnership for its fiscal period that includes the particular time is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for that fiscal period is equal to \$1,000,000; and

(c) if the vendor or purchaser is a trust, the trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries, in this paragraph referred to as the “distribution date”, and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) if such a beneficiary’s share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, and if the particular time occurs before the distribution date, are owned at that time by the beneficiary, or

(2) if subparagraph 1 does not apply and the particular time occurs before the distribution date, are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. if a beneficiary’s share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at the particular time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at the particular time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at the particular time by the person referred to in that section from whom property of the trust or property for which it was substituted was directly or indirectly received.

“1029.8.36.72.82.25. For the purposes of this division, if a corporation has received, is entitled to receive or may reasonably expect to receive non-government assistance, or if a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain a benefit or advantage, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner, in respect of a taxation year or fiscal period in which the base period of a particular corporation ends, and if it may reasonably be considered that the main reason for the assistance or the benefit or advantage is to reduce, in accordance with subparagraph i or iii of subparagraph *a* or *b* of the first paragraph of section 1029.8.36.72.82.18, the amount of the salaries or wages paid by the particular corporation or a corporation that is associated with the particular corporation, in respect of the base period of the particular corporation, so as to cause the particular corporation to be deemed to have paid an amount to the Minister under this division for a

taxation year or to increase an amount that the particular corporation is deemed to have paid to the Minister under this division for a taxation year, the amount of the assistance or of the benefit or advantage is deemed to be equal to zero.

“1029.8.36.72.82.26. If it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a calendar year is to cause a qualified corporation to be deemed to have paid an amount to the Minister under this division in respect of that year or to increase an amount that a qualified corporation is deemed to have paid to the Minister under this division in respect of that year, those corporations are deemed, for the purposes of this division, to be associated with each other at the end of the year.”

(2) Subsection 1 has effect from 1 January 2004.

211. Section 1029.8.36.72.83 of the Act, amended by section 413 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph, by striking out “situated in Québec” after “such an establishment” in subparagraph ii of paragraph *b* of the definition of “base amount” and in paragraph *b* of the definition of “eligible amount”.

212. (1) Section 1029.8.36.72.91 of the Act is replaced by the following section:

“1029.8.36.72.91. If, after the beginning of the winding-up of a subsidiary, within the meaning of section 556, to which the rules in sections 556 to 564.1 and 565 apply, the parent corporation, within the meaning of section 556, begins to carry on a recognized business the subsidiary was carrying on before the beginning of its winding-up, the parent corporation and the subsidiary are deemed, for the purpose of determining the amount that a corporation is deemed to have paid to the Minister under this division for its taxation year in which ends the calendar year in which the winding-up began and for a subsequent taxation year, to be the same corporation throughout the period during which the subsidiary carried on, or is deemed to have carried on under this division, the business.

In addition, for the purposes of this division, if the parent corporation carried on after the beginning of the winding-up a recognized business resulting from the consolidation of a recognized business carried on by the parent corporation immediately before the beginning of the winding-up and a recognized business carried on by the subsidiary immediately before the beginning of the winding-up, each recognized business so carried on before the beginning of the winding-up is deemed to be a separate recognized business carried on by the parent corporation after the beginning of the winding-up.”

(2) Subsection 1 has effect from 1 January 2002.

213. (1) Section 1029.8.36.72.92 of the Act, amended by section 420 of chapter 21 of the statutes of 2004, is again amended

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

“(b) if the particular recognized business is a business of a corporation that is associated with the vendor at the end of the particular calendar year, the amount that is the aggregate referred to in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph of section 1029.8.36.72.85 or in subparagraph ii of paragraph *c* of section 1029.8.36.72.86, determined in respect of the vendor, is deemed to be equal to the amount by which the amount determined without reference to this subparagraph exceeds the amount determined by the formula”;

(2) by striking out “situated in Québec” after “such an establishment” in the following provisions:

— subparagraph 2 of subparagraph iii of subparagraph *c* of the first paragraph;

— subparagraph i of subparagraph *d* of the first paragraph;

— subparagraph *c* of the second paragraph;

(3) by replacing the portion of subparagraph *d* of the first paragraph before subparagraph i by the following:

“(d) if the particular recognized business is a business of a corporation that is associated with the purchaser at the end of the particular calendar year, the purchaser is deemed to have paid”;

(4) by replacing subparagraph ii of subparagraph *b* of the second paragraph by the following subparagraph:

“ii. the salary or wages of an employee who reports for work at an establishment of the vendor situated in Québec but outside an eligible site, other than an excluded employee of the vendor, that the vendor paid in the course of carrying on any business in respect of a pay period, within the vendor’s base period, in relation to the particular recognized business, throughout which the employee spends, when at work, at least 90% of the time in undertaking, supervising or supporting, in an establishment of the vendor situated in Québec or elsewhere, but in connection with the mandates attributable to such an establishment, work that is directly related to activities of the vendor that are described in any of paragraphs *a* to *e* of the definition of “recognized business” in the first paragraph of section 1029.8.36.72.83;”.

(2) Paragraphs 1, 3 and 4 of subsection 1 have effect from 1 January 2002. However, when subparagraph ii of subparagraph *b* of the second paragraph of

section 1029.8.36.72.92 of the Act applies before 1 January 2003, it reads as if “pay” was struck out.

214. Section 1029.8.36.89.1 of the Act is amended by replacing the second paragraph by the following paragraph:

“An associated group at the end of a taxation year means the group formed by all the corporations that are associated with each other at that time.”

215. (1) Section 1029.8.36.95 of the Act, amended by section 90 of chapter 37 of the statutes of 2004, is again amended by replacing the definition of “qualification certificate” in the first paragraph by the following definition:

““qualification certificate” in respect of an individual means a certificate issued to a corporation by the Minister of Finance after 31 March 1998 that certifies that the individual qualifies as a fund manager for the purposes of this division and that the individual took up employment with the corporation in that capacity before 12 June 2003;”.

(2) Subsection 1 applies in respect of a qualification certificate issued after 11 June 2003.

216. (1) Section 1029.8.36.96 of the Act is amended by replacing “40%” in the portion before subparagraph *a* of the first paragraph by “30%”.

(2) Subsection 1 applies in respect of the portion of the qualified wages paid to an individual by a corporation for a taxation year, that is incurred after 12 June 2003.

(3) For the purposes of subsection 2, if the amount of the qualified wages paid to an individual by a corporation for a taxation year is limited to \$75,000 or to a lesser amount because of paragraph *a* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.95 of the Act, and the taxation year ends after 12 June 2003 but includes that date, the portion of the qualified wages paid to the individual by the corporation for the year, that is incurred after 12 June 2003, is deemed to be equal to the amount by which the amount determined under that paragraph *a*, in respect of the qualified wages paid to the individual by the corporation for the year, exceeds the portion of the aggregate of all amounts each of which is an amount paid by the corporation to the individual, as wages incurred before 13 June 2003, for a week ending in the eligibility period applicable to the individual for the year in relation to the corporation that exceeds the aggregate of all amounts each of which is

(1) an amount of government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation’s filing-due date for the year; or

(2) the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the exercise of the employment held by the individual with the corporation as an eligible fund manager, that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the corporation's filing-due date for the year, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner.

217. (1) Section 1029.8.36.115 of the Act is amended

(1) by replacing the definition of “eligible specialist” in the first paragraph by the following definition:

““eligible specialist”, in respect of a calendar year, of a corporation or of a partnership operating an international financial centre means an employee of the corporation or of the partnership in whose respect a valid certificate has been issued to the corporation or partnership in accordance with section 22 of the Act respecting international financial centres for all or part of the calendar year, and whose starting date of employment with the corporation or partnership specified in the qualification certificate mentioned in that section is before 12 June 2003;”;

(2) by replacing “qui opère” in subparagraph *a* of the second paragraph in the French text by “qui exploite”.

(2) Paragraph 1 of subsection 1 applies in respect of an employee whose qualification certificate mentioned in section 22 of the Act respecting international financial centres (R.S.Q., chapter C-8.3) is issued after 11 June 2003, except where it replaces “opérant” by “exploitant” in the French text of the definition of “employé spécialisé admissible” in the first paragraph of section 1029.8.36.115 of the Act.

218. (1) Section 1029.8.36.116 of the Act is amended, in the first paragraph,

(1) by replacing “opérant” in the French text by “exploitant”;

(2) by replacing “40%” by “30%”.

(2) Paragraph 2 of subsection 1 applies in respect of the portion of the qualified wages paid to an individual by a corporation and attributed to a taxation year, that is incurred after 12 June 2003.

(3) For the purposes of subsection 2, if the amount of the qualified wages paid to an individual by a corporation and attributed to a taxation year is limited to \$75,000 or to a lesser amount because of paragraph *a* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.115 of the Act, and the taxation year ends after 12 June 2003 but includes that date, the portion of the qualified wages paid to the individual by the corporation

and attributed to the taxation year, that is incurred after 12 June 2003, is deemed to be equal to the amount by which the amount determined under that paragraph *a*, in respect of the qualified wages paid to the individual by the corporation and attributed to the taxation year, exceeds the portion of the aggregate of all amounts each of which is an amount paid by the corporation to the individual, as wages incurred before 13 June 2003, for a week ending in the eligibility period applicable to the individual for the year in relation to the corporation that exceeds the aggregate of all amounts each of which is

(1) an amount of government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation's filing-due date for the year; or

(2) the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the exercise of the employment held by the individual with the corporation as an eligible specialist, that a person or partnership has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the corporation's filing-due date for the year, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner.

219. (1) Section 1029.8.36.117 of the Act is amended, in the first paragraph,

(1) by replacing “opérant” in the French text by “exploitant”;

(2) by replacing “40%” by “30%”.

(2) Paragraph 2 of subsection 1 applies in respect of the portion of the qualified wages paid to an individual by a partnership and attributed to a fiscal period, that is incurred after 12 June 2003.

(3) For the purposes of subsection 2, if, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under section 1029.8.36.117 of the Act by a taxpayer that is a member of a partnership at the end of the particular fiscal period of the partnership that ends in the year, the amount of the qualified wages paid to an individual by the partnership and attributed to the particular fiscal period is limited to \$75,000 or to a lesser amount because of paragraph *a* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.115 of the Act, and the particular fiscal period ends after 12 June 2003 but includes that date, the portion of the qualified wages paid to the individual by the partnership and attributed to the particular fiscal period, that is incurred after 12 June 2003, is deemed to be equal to the amount by which the amount determined under that paragraph *a*, in respect of the qualified wages paid to the individual by the partnership and attributed to the particular fiscal period, exceeds the portion of the aggregate of all amounts each of which is an amount paid by the partnership to the individual, as wages incurred before 13 June 2003, for a week ending in the eligibility period applicable to the individual for the particular fiscal

period in relation to the partnership that exceeds the aggregate of all amounts each of which is

(1) an amount of government assistance or non-government assistance attributable to such wages that the partnership has received, is entitled to receive or may reasonably expect to receive, on or before the day that is six months after the end of the particular fiscal period;

(2) the product obtained by multiplying, by the proportion described in subsection 4, an amount of government assistance or non-government assistance attributable to such wages that the taxpayer has received, is entitled to receive or may reasonably expect to receive, on or before the day that is six months after the end of the particular fiscal period;

(3) the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the exercise of the employment held by the individual with the partnership as an eligible specialist, that a partnership or a person other than a person referred to in paragraph 4 has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the day that is six months after the end of the particular fiscal period, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner; or

(4) the product obtained by multiplying, by the proportion described in subsection 4, the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the exercise of the employment held by the individual with the partnership as an eligible specialist, that the taxpayer or a person with whom the taxpayer is not dealing at arm's length has obtained, is entitled to obtain or may reasonably expect to obtain, on or before the day that is six months after the end of the particular fiscal period, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner.

(4) The proportion to which paragraphs 2 and 4 of subsection 3 refer is the proportion that the income or loss of the partnership for the particular fiscal period is of the taxpayer's share of that income or loss, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for the particular fiscal period is equal to \$1,000,000.

220. Section 1029.8.36.126 of the Act is amended by replacing the second paragraph by the following paragraph:

“An associated group at the end of a taxation year or fiscal period means the group formed by all the corporations and partnerships that are associated with each other at that time.”

221. (1) Section 1029.8.36.147 of the Act, amended by section 90 of chapter 37 of the statutes of 2004, is again amended by replacing paragraphs *a* and *b* of the definition of “qualification certificate” in the first paragraph by the following paragraphs:

“(a) a certificate issued to a corporation by the Minister of Finance after 29 June 2000 that certifies that the individual qualifies as a financial analyst specialized in securities of Québec corporations for the purposes of this division and that the individual took up employment with the corporation in that capacity before 12 June 2003; or

“(b) a certificate issued to a corporation by the Minister of Finance after 9 April 2001 that certifies that the individual qualifies as a financial analyst specialized in financial derivatives for the purposes of this division and that the individual took up employment with the corporation in that capacity before 12 June 2003;”.

(2) Subsection 1 applies in respect of a qualification certificate issued after 11 June 2003.

222. (1) Section 1029.8.36.152 of the Act is amended by replacing “40%” in the portion before subparagraph *a* of the first paragraph by “30%”.

(2) Subsection 1 applies in respect of the portion of the qualified wages paid to an individual by a corporation for a taxation year, that is incurred after 12 June 2003.

(3) For the purposes of subsection 2, if the amount of the qualified wages paid to an individual by a corporation for a taxation year is limited to \$75,000 or to a lesser amount because of paragraph *a* of the definition of “qualified wages” in the first paragraph of section 1029.8.36.147 of the Act, and the taxation year ends after 12 June 2003 but includes that date, the portion of the qualified wages paid to the individual by the corporation for the year, that is incurred after 12 June 2003, is deemed to be equal to the amount by which the amount determined under that paragraph *a*, in respect of the qualified wages paid to the individual by the corporation for the year, exceeds the portion of the aggregate of all amounts each of which is an amount paid by the corporation to the individual, as wages incurred before 13 June 2003, for a week ending in the eligibility period applicable to the individual for the year in relation to the corporation that exceeds the aggregate of all amounts each of which is

(1) an amount of government assistance or non-government assistance attributable to such wages that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before the corporation’s filing-due date for the year; or

(2) the amount of a benefit or advantage in respect of such wages, other than a benefit or advantage that may reasonably be attributed to the exercise of the employment held by the individual with the corporation as an eligible financial analyst, that a person or partnership has obtained, is entitled to

obtain or may reasonably expect to obtain, on or before the corporation's filing-due date for the year, whether in the form of a reimbursement, compensation, guarantee, in the form of proceeds of disposition of property which exceed the fair market value of the property, or in any other form or manner.

223. Section 1029.8.36.166.7 of the Act is amended by replacing the second paragraph by the following paragraph:

“An associated group at the end of a taxation year means the group formed by all the corporations that are associated with each other at that time.”

224. (1) Section 1029.8.36.170 of the Act, amended by section 427 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph,

- (1) by replacing “30%” in subparagraph *b* by “35%”;
- (2) by replacing “33.75%” in subparagraph *c* by “38.75%”;
- (3) by replacing “15%” in subparagraph *d* by “10%”;
- (4) by replacing “11.25%” in subparagraph *e* by “6.25%”.

(2) Subsection 1 applies in respect of eligible expenses incurred after 30 March 2004.

225. (1) Section 1029.8.36.171 of the Act, amended by section 428 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph,

- (1) by replacing “30%” in subparagraph *b* by “35%”;
- (2) by replacing “33.75%” in subparagraph *c* by “38.75%”;
- (3) by replacing “15%” in subparagraph *d* by “10%”;
- (4) by replacing “11.25%” in subparagraph *e* by “6.25%”.

(2) Subsection 1 applies in respect of eligible expenses incurred after 30 March 2004.

226. (1) Section 1029.8.36.171.1 of the Act, enacted by section 429 of chapter 21 of the statutes of 2004, is amended by replacing “seven” in subparagraph *a* of the first paragraph by “ten”.

(2) Subsection 1 has effect from 30 March 2004.

227. (1) Division II.8.1 of Chapter III.1 of Title III of Book IX of Part I of the Act is repealed.

(2) Subsection 1 applies in respect of a reimbursement made after 31 December 2003.

228. (1) The Act is amended by inserting the following after section 1029.8.50.1:

“DIVISION II.8.2

**“CREDIT RELATING TO THE TAX DEDUCTED OR WITHHELD
IN RESPECT OF AN INCOME-AVERAGING ANNUITY RESPECTING
INCOME FROM ARTISTIC ACTIVITIES**

“1029.8.50.2. An individual resident in Québec at the end of a taxation year is deemed to have paid to the Minister, on the individual’s filing-due date for the year, on account of the individual’s tax payable for the year under this Part, an amount equal to the aggregate of all amounts each of which is an amount deducted or withheld, under the second paragraph of section 1129.68, in respect of an income-averaging annuity payment respecting income from artistic activities, as defined in section 1129.67, to the extent that each of the amounts referred to in the definition of that expression is included in computing the individual’s income for the year under paragraph *c* or *d.1* of section 312.

For the purposes of the first paragraph, the following rules apply:

(a) if an individual dies or ceases to be resident in Canada in a taxation year, the last day of the individual’s taxation year is deemed to be the day of the individual’s death or the last day on which the individual was resident in Canada; and

(b) if an amount is not deducted or withheld in accordance with the second paragraph of section 1129.68 in respect of an income-averaging annuity payment respecting income from artistic activities and the tax provided for in section 1129.68 is paid, in respect of the income-averaging annuity payment respecting income from artistic activities, by the individual referred to in the first paragraph of that section, or by the person referred to in the second paragraph of that section, the amount so paid is deemed to have been deducted or withheld in accordance with the second paragraph of section 1129.68 in respect of the income-averaging annuity payment respecting income from artistic activities.

For the purpose of computing the payments that an individual referred to in the first paragraph is required to make under section 1025 or 1026, the individual is deemed to have paid to the Minister, on account of the individual’s tax payable for the year under this Part, on the date on or before which each payment is required to be made, an amount equal to the lesser of

(a) the amount by which the amount determined under the first paragraph for the year exceeds the aggregate of all amounts each of which is the portion of that amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the year but before that date; and

(b) the amount by which the amount of that payment, determined without reference to this chapter, exceeds the aggregate of all amounts each of which is an amount that is deemed, under this chapter but otherwise than under the first paragraph, to have been paid to the Minister on that date, for the purpose of computing that payment.”

(2) Subsection 1 applies from the taxation year 2004.

229. Divisions II.14 and II.15 of Chapter III.1 of Title III of Book IX of Part I of the Act are repealed.

230. Section 1044 of the Act, amended by section 181 of chapter 8 of the statutes of 2004, is again amended by replacing “une formule prescrite a été produite” in subparagraph *a* of the second paragraph in the French text by “un formulaire prescrit a été produit”.

231. (1) Section 1049.2.6 of the Act is amended by replacing “paragraph *b* of section 965.6.23” by “subparagraph *b* of the first paragraph of section 965.6.23”.

(2) Subsection 1 applies from the taxation year 2001.

232. (1) Section 1049.2.7 of the Act is amended by replacing “paragraph *c* of section 965.6.23” by “subparagraph *c* of the first paragraph of section 965.6.23”.

(2) Subsection 1 applies from the taxation year 2001.

233. Section 1049.14.1 of the Act is repealed.

234. (1) The Act is amended by inserting the following section after section 1049.33:

“**1049.34.** Every employee who fails to provide the employer with a copy of the logbook referred to in section 41.1.4 within the time specified in that section incurs a penalty of \$200.”

(2) Subsection 1 applies from the taxation year 2005.

235. (1) Section 1050 of the Act is amended by replacing “1049.33” by “1049.34”.

(2) Subsection 1 applies from the taxation year 2005.

236. Section 1053 of the Act, amended by section 182 of chapter 8 of the statutes of 2004, is again amended by replacing “une formule prescrite a été produite” in paragraph *a* in the French text by “un formulaire prescrit a été produit”.

237. (1) Section 1063 of the Act is amended

(1) by replacing the portion before paragraph *a* by the following:

“**1063.** The Minister may revoke the registration of a charity, of a Canadian amateur athletic association or of a Québec amateur athletic association the registration of which has been recognized or authorized by this Part or by regulation, if such organization or association”;

(2) by replacing “in the case of a prescribed Canadian amateur athletic association” in paragraph *f* by “in the case of a registered Canadian amateur athletic association or of a registered Québec amateur athletic association”.

(2) Subsection 1 has effect from 31 March 2004.

238. Section 1098 of the Act is amended by replacing “certificat dans la forme prescrite” in the French text by “certificat, au moyen du formulaire prescrit”.

239. Section 1100 of the Act is amended by replacing “certificat dans la forme prescrite” in the French text by “certificat, au moyen du formulaire prescrit”.

240. (1) Section 1129.1 of the Act is amended

(1) by inserting the following definitions in alphabetical order:

““computer-aided special effects and animation expenditure” has the meaning assigned by section 1029.8.34;

““expenditure for services rendered outside the Montréal area” has the meaning assigned by section 1029.8.34;”;

(2) by replacing the definition of “Québec film production” by the following definition:

““Québec film production” has the meaning assigned by the first paragraph of section 1029.8.34;”;

(3) by inserting the following definitions in alphabetical order:

““regional corporation” has the meaning assigned by the first paragraph of section 1029.8.34;

““regional production” has the meaning assigned by the first paragraph of section 1029.8.34;”.

(2) Paragraphs 1 and 3 of subsection 1 apply in respect of a property for which an application for an advance ruling or, in the absence of such an

application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

(3) Paragraph 2 of subsection 1 applies to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.35 of the Act.

241. (1) Section 1129.2 of the Act is amended

(1) by adding the following subparagraphs after subparagraph ii of subparagraph *c* of the first paragraph:

“iii. the corporation ceases, in the particular year, to be considered as a regional corporation by reason of the fact that the Société de développement des entreprises culturelles revokes, in the particular year, the certificate issued to the corporation for any year and certifying that it qualifies for the purposes of subparagraph *a.1* of the first paragraph of section 1029.8.35,

“iv. an amount relating to an expenditure for services rendered outside the Montréal area ceases, in the particular year, to be considered as attributable to services rendered in any year outside the Montréal area in relation to a regional production, by reason of a revocation by the Société de développement des entreprises culturelles, that relates to that amount indicated, by budgetary item, on a document enclosed with the advance ruling given or the certificate issued to the corporation in relation to the property, or

“v. an amount relating to a computer-aided special effects and animation expenditure ceases, in the particular year, to be considered as attributable to an amount paid in any year for activities related to computer-aided special effects and animation, by reason of a revocation by the Société de développement des entreprises culturelles, that relates to that amount indicated, by budgetary item, on a document enclosed with the advance ruling given or the certificate issued to the corporation in relation to the property;”;

(2) by replacing “auquel réfère le paragraphe *c* du premier alinéa” in the portion of the second paragraph before subparagraph *a* in the French text by “auquel le paragraphe *c* du premier alinéa fait référence”;

(3) by adding the following subparagraphs after subparagraph ii of subparagraph *a* of the second paragraph:

“iii. where subparagraph iii of subparagraph *c* of the first paragraph applies, the amount that it is deemed to have paid to the Minister under subparagraph *a.1* of the first paragraph of section 1029.8.35, in respect of the property, had been equal to zero for the taxation year in respect of which the certificate is revoked, and

“iv. where subparagraph iv or v of subparagraph *c* of the first paragraph applies, the amount had not been indicated for the year referred to in any of

those subparagraphs on the document that the Société de développement des entreprises culturelles had then enclosed with the advance ruling given or the certificate issued to the corporation in relation to the property; and”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

242. (1) Section 1129.4.0.5 of the Act is amended by inserting the following definition in alphabetical order:

““computer-aided special effects and animation expenditure” has the meaning assigned by the first paragraph of section 1029.8.36.0.0.4;”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

243. (1) Section 1129.4.0.6 of the Act is amended

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

“**1129.4.0.6.** Every corporation that, in relation to a property that is a qualified production or a qualified low-budget production, is deemed to have paid an amount to the Minister, under section 1029.8.36.0.0.5, on account of its tax payable under Part I for any taxation year shall pay, for a particular taxation year, a tax equal to

(a) the amount by which the aggregate of all amounts each of which is a tax that the corporation is required to pay under this Part in respect of the property for a taxation year preceding the particular year is exceeded by the aggregate of all amounts each of which is an amount that the corporation is deemed, under section 1029.8.36.0.0.5, to have so paid to the Minister in respect of the property for a year preceding the particular year, where the property ceases, in the particular year, to be considered as a qualified production or a qualified low-budget production by reason of the fact that the favourable advance ruling given by the Société de développement des entreprises culturelles in respect of the property ceases to be in force at that time and that no certificate is issued by the Société in respect of the property, or of the fact that the certificate issued by the Société in respect of the property is revoked at that time; and

(b) where subparagraph *a* does not apply in the particular year or in a preceding taxation year, in relation to the property, the amount determined in respect of the corporation under the second paragraph where

i. in computing the amount determined under paragraph *b* of the definition of “qualified computer-aided special effects and animation expenditure” in

the first paragraph of section 1029.8.36.0.0.4 or subparagraph i of paragraph *b* of the definition of “qualified labour expenditure” in that first paragraph, government assistance or non-government assistance that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for the particular year, must be taken into account for the particular year or from that year in respect of the property, and the expenditure to which the assistance is attributable was incurred by the corporation in a taxation year preceding the particular year,

ii. an amount relating to an expenditure included in a qualified computer-aided special effects and animation expenditure or a qualified labour expenditure in respect of the property, other than the amount of an assistance to which subparagraph i applies, is, during the particular taxation year, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation, or

iii. an amount relating to a computer-aided special effects and animation expenditure ceases, in the particular year, to be considered as attributable to an amount paid in any year for activities related to computer-aided special effects and animation, by reason of a revocation by the Société de développement des entreprises culturelles, that relates to that amount indicated, by budgetary item, on a document enclosed with the advance ruling given or the certificate issued to the corporation in relation to the property.”;

(2) by replacing the portion of the second paragraph before subparagraph *a* by the following:

“The amount to which subparagraph *b* of the first paragraph refers, in relation to a property, is equal, for the corporation, to the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.0.0.5 in respect of the property for the particular year or a preceding taxation year, exceeds the aggregate of”;

(3) by replacing “du bien” in the portion of subparagraph *a* of the second paragraph before subparagraph i in the French text by “de ce bien”;

(4) by replacing subparagraphs i and ii of subparagraph *a* of the second paragraph by the following subparagraphs:

“i. where subparagraph i of subparagraph *b* of the first paragraph applies, the assistance referred to in that subparagraph i had been received by the corporation in the year during which the expenditure to which the assistance is attributable was incurred,

“ii. where subparagraph ii of subparagraph *b* of the first paragraph applies, any amount referred to in that subparagraph ii had been refunded, paid or allocated in the year during which the expenditure to which the amount is attributable was incurred, and”;

(5) by adding the following subparagraph after subparagraph ii of subparagraph *a* of the second paragraph:

“iii. where subparagraph iii of subparagraph *b* of the first paragraph applies, the amount had not been indicated for the year referred to in that subparagraph iii on the document that the Société de développement des entreprises culturelles had enclosed at that time with the advance ruling given or the certificate issued to the corporation in relation to the property; and”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

244. (1) Section 1129.4.0.10 of the Act is amended

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

“1129.4.0.10. Every corporation that, in relation to the production of a property that is a qualified sound recording, is deemed to have paid an amount to the Minister, under section 1029.8.36.0.0.8, on account of its tax payable under Part I for any taxation year shall pay, for a particular taxation year, a tax equal to

(*a*) the amount by which the aggregate of all amounts each of which is a tax that the corporation is required to pay under this Part in respect of the production of the property for a taxation year preceding the particular year is exceeded by the aggregate of all amounts each of which is an amount that the corporation is deemed, under section 1029.8.36.0.0.8, to have so paid to the Minister in respect of the production of the property for a year preceding the particular year, where the property ceases, in the particular year, to be considered as a qualified sound recording by reason of the fact that the favourable advance ruling given by the Société de développement des entreprises culturelles in respect of the property ceases to be in force at that time and that no certificate is issued by the Société in respect of the property, or of the fact that the certificate issued by the Société in respect of the property is revoked at that time; and

(*b*) where subparagraph *a* does not apply in the particular year or in a preceding taxation year, in relation to the production of the property, the amount determined in respect of the corporation under the second paragraph where

i. in computing the amount determined under subparagraph ii of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph of section 1029.8.36.0.0.7, government assistance or non-government assistance that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for the particular year, must be taken into account for the particular year or from that year in

respect of the production of the property, and the expenditure to which the assistance is attributable was incurred by the corporation in a taxation year preceding the particular year, or

ii. an amount relating to an expenditure included in a qualified labour expenditure in respect of the property, other than the amount of an assistance to which subparagraph i applies, is, during the particular taxation year, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation.”;

(2) by replacing “to which the first paragraph refers” in the portion of the second paragraph before subparagraph *a* by “to which subparagraph *b* of the first paragraph refers”;

(3) by replacing subparagraphs i and ii of subparagraph *a* of the second paragraph by the following subparagraphs:

“i. where subparagraph i of subparagraph *b* of the first paragraph applies, the assistance referred to in that subparagraph i had been received by the corporation in the year during which the expenditure to which the assistance is attributable was incurred, and

“ii. where subparagraph ii of subparagraph *b* of the first paragraph applies, any amount referred to in that subparagraph ii had been refunded, paid or allocated in the year during which the expenditure to which the amount is attributable was incurred; and”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

245. (1) Section 1129.4.0.14 of the Act is amended

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

“1129.4.0.14. Every corporation that, in relation to the production of a property that is a qualified performance, is deemed to have paid an amount to the Minister, under section 1029.8.36.0.0.11, on account of its tax payable under Part I for any taxation year shall pay, for a particular taxation year, a tax equal to

(*a*) the amount by which the aggregate of all amounts each of which is a tax that the corporation is required to pay under this Part in respect of the production of the property for a taxation year preceding the particular year is exceeded by the aggregate of all amounts each of which is an amount that the corporation is deemed, under section 1029.8.36.0.0.11, to have so paid to the Minister in respect of the production of the property for a year preceding the particular year, where the property ceases, in the particular year, to be considered

as a qualified performance by reason of the fact that the favourable advance ruling given by the Société de développement des entreprises culturelles in respect of the property ceases to be in force at that time and that no certificate is issued by the Société in respect of the property, or of the fact that the certificate issued by the Société in respect of the property is revoked at that time; and

(b) where subparagraph *a* does not apply in the particular year or in a preceding taxation year, in relation to the production of the property, the amount determined in respect of the corporation under the second paragraph where

i. in computing the amount determined under subparagraph ii of paragraph *a* of the definition of “qualified labour expenditure” in the first paragraph of section 1029.8.36.0.0.10, government assistance or non-government assistance that the corporation has received, is entitled to receive or may reasonably expect to receive, on or before its filing-due date for the particular year, must be taken into account for the particular year or from that year in respect of the production of the property, and the expenditure to which the assistance is attributable was incurred by the corporation in a taxation year preceding the particular year, or

ii. an amount relating to an expenditure included in a qualified labour expenditure in respect of the property, other than the amount of an assistance to which subparagraph i applies, is, during the particular taxation year, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by the corporation.”;

(2) by replacing “to which the first paragraph refers” in the portion of the second paragraph before subparagraph *a* by “to which subparagraph *b* of the first paragraph refers”;

(3) by replacing subparagraphs i and ii of subparagraph *a* of the second paragraph by the following subparagraphs:

“i. where subparagraph i of subparagraph *b* of the first paragraph applies, the assistance referred to in that subparagraph i had been received by the corporation in the year during which the expenditure to which the assistance is attributable was incurred, and

“ii. where subparagraph ii of subparagraph *b* of the first paragraph applies, any amount referred to in that subparagraph ii had been refunded, paid or allocated in the year during which the expenditure to which the amount is attributable was incurred; and”.

(2) Subsection 1 applies in respect of a property for which an application for an advance ruling or, in the absence of such an application, an application for a certificate is filed with the Société de développement des entreprises culturelles after 30 April 2003.

246. (1) Section 1129.4.0.17 of the Act is amended

(1) by inserting the following definition in alphabetical order:

““eligible group of works” has the meaning assigned by the first paragraph of section 1029.8.36.0.0.13;”;

(2) by striking out the definition of “work that is part of an eligible group of works”.

(2) Subsection 1 applies to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act.

247. (1) Section 1129.4.0.18 of the Act, amended by section 451 of chapter 21 of the statutes of 2004, is again amended

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

“1129.4.0.18. Every corporation that, in relation to a property that is an eligible work or an eligible group of works, is deemed to have paid an amount to the Minister, under section 1029.8.36.0.0.14, on account of its tax payable under Part I for any taxation year shall pay, for a particular taxation year, a tax equal to

(*a*) the amount by which the aggregate of all amounts each of which is a tax that the corporation is required to pay under this Part in respect of the property for a taxation year preceding the particular year is exceeded by the aggregate of all amounts each of which is an amount that the corporation is deemed, under section 1029.8.36.0.0.14, to have so paid to the Minister in respect of the property for a year preceding the particular year, where the property ceases, in the particular year, to be considered as an eligible work or an eligible group of works by reason of the fact that the favourable advance ruling given by the Société de développement des entreprises culturelles in respect of the property ceases to be in force at that time and that no certificate is issued by the Société in respect of the property, or of the fact that the certificate issued by the Société in respect of the property is revoked at that time;

(*b*) where subparagraph *a* does not apply in the particular year or in a preceding taxation year, in relation to the property, the amount determined in respect of the corporation under the second paragraph where”;

(2) by striking out “the publishing of” in the following provisions:

— subparagraph *i* of subparagraph *b* of the first paragraph;

— the portion of the second paragraph before subparagraph *a*.

(2) Subsection 1 applies to a taxation year for which a corporation first files with the Minister of Revenue, after 11 December 2003, the prescribed form containing the prescribed information provided for in the first paragraph of section 1029.8.36.0.0.14 of the Act.

248. (1) Section 1129.4.30.1 of the Act is amended by replacing “the Minister of Finance” and “issued by the Minister of Finance” in the first paragraph by “Investissement Québec” and “that had been issued”, respectively.

(2) Subsection 1 has effect from 31 March 2004.

249. Section 1129.34 of the Act is amended by adding the following paragraph:

“In every provision of this Part, a reference to Division II.5 of Chapter III.1 of Title III of Book IX of Part I, or to any section of that Division, is a reference to that division or to that section, as the case may be, as it read for the taxation year concerned.”

250. (1) Section 1129.45.3.18.1 of the Act is amended by adding the following paragraph:

“The cancellation by Investissement Québec, at the request of a corporation, of a qualification certificate issued to the corporation, in relation to a recognized business referred to in paragraph *b* or *e* of the definition of “recognized business” in the first paragraph of section 1029.8.36.72.43, or in paragraph *f* of that definition in relation to a business whose activities are related to the activities of a business referred to in that paragraph *b* or *e*, does not constitute a revocation of the certificate for the purposes of this Part.”

(2) Subsection 1 has effect from 1 January 2004.

251. (1) Section 1129.45.3.30.2 of the Act, enacted by section 482 of chapter 21 of the statutes of 2004, is amended by adding the following paragraph:

“The cancellation by Investissement Québec, at the request of a corporation, of a qualification certificate issued to the corporation, in relation to a recognized business referred to in paragraph *b* or *d* of the definition of “eligible region” in the first paragraph of section 1029.8.36.72.82.1, does not constitute a revocation of the certificate for the purposes of this Part.”

(2) Subsection 1 has effect from 1 January 2004.

252. (1) Section 1129.45.3.30.3 of the Act, enacted by section 482 of chapter 21 of the statutes of 2004, is amended, in the first paragraph,

(1) by replacing the portion of subparagraph *c* before subparagraph *ii* by the following:

“(c) where the corporation pays, in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced the amount of the salary or wages paid to an employee by the corporation in respect of its base period, for the purpose of computing the excess amount referred to in any of subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.72.82.4 that relates to a calendar year preceding the particular calendar year, in respect of all the corporations that were associated with each other at the end of that preceding calendar year and with which the corporation was associated at that time, the amount by which the aggregate of all amounts each of which is the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.72.82.3 on account of its tax payable under Part I for a taxation year in which a calendar year preceding the particular calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.3 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if, for the purposes of sections 1029.8.36.72.82.4 and 1029.8.36.72.82.4.1 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the particular calendar year or in a preceding calendar year, and if the amount determined pursuant to section 1029.8.36.72.82.4 or 1029.8.36.72.82.4.1 had been attributed to the corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, and”;

(2) by replacing the portion of subparagraph *d* before subparagraph ii by the following:

“(d) where any other corporation pays, in the particular calendar year ending in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced the amount of the salary or wages paid to an employee by the other corporation in respect of the base period of a qualified corporation that is a member of a group of associated corporations referred to in section 1029.8.36.72.82.4, for the purpose of computing the excess amount referred to in any of subparagraphs *a* to *c* of the first paragraph of that section that relates to a calendar year preceding the particular calendar year, in respect of all the corporations that were a member of the group at the end of that preceding calendar year and with which the corporation was associated at that time, the amount by which the aggregate of all amounts each of which is the amount that the corporation is deemed to have paid to the Minister, under section 1029.8.36.72.82.3, on account of its tax payable under Part I for a taxation year in which a calendar year preceding the particular calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.3 on account of its tax payable

under Part I for the taxation year in which the preceding calendar year ends if, for the purposes of sections 1029.8.36.72.82.4 and 1029.8.36.72.82.4.1 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the particular calendar year or in a preceding calendar year, and if the amount determined pursuant to section 1029.8.36.72.82.4 or 1029.8.36.72.82.4.1 had been attributed to the corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, and”;

(3) by replacing the portion of subparagraph *g* before subparagraph *ii* by the following:

“(g) where, in the particular calendar year ending in the particular taxation year, an amount, in relation to a salary or wages paid to an employee by any other corporation, that is included in computing the excess amount referred to in any of subparagraphs *a* to *c* of the first paragraph of section 1029.8.36.72.82.4 that relates to a calendar year preceding the particular calendar year, in respect of all the corporations that were associated with each other at the end of that preceding calendar year and with which the corporation was associated at that time, other than a salary or wages paid in respect of the base period of any of the associated corporations, is, directly or indirectly, refunded or otherwise paid to the other corporation or allocated to a payment to be made by it, the amount by which the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.72.82.3 on account of its tax payable under Part I for a taxation year in which the preceding calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.3 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends in respect of the corporation, in relation to the preceding calendar year, if, for the purposes of sections 1029.8.36.72.82.4 and 1029.8.36.72.82.4.1 in relation to the preceding calendar year, every amount that was so refunded, paid or allocated at or before the end of the particular taxation year, in relation to the salary or wages, had been government assistance received in the preceding calendar year and attributable to such a salary or wages, and if the amount determined pursuant to section 1029.8.36.72.82.4 or 1029.8.36.72.82.4.1 had been attributed to the corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, and”.

(2) Subsection 1 has effect from 1 January 2004.

253. (1) The Act is amended by inserting the following after section 1129.45.3.30.5, enacted by section 482 of chapter 21 of the statutes of 2004:

“PART III.10.1.7.2**“SPECIAL TAX RELATING TO THE CREDIT FOR JOB CREATION IN THE GASPÉSIE AND CERTAIN MARITIME REGIONS OF QUÉBEC IN THE FIELDS OF MARINE BIOTECHNOLOGY AND MARICULTURE**

“1129.45.3.30.6. In this Part,

“base amount” has the meaning assigned by the first paragraph of section 1029.8.36.72.82.13;

“base period” has the meaning assigned by the first paragraph of section 1029.8.36.72.82.13;

“eligibility period” has the meaning assigned by section 1029.8.36.72.82.13;

“eligible employee” has the meaning assigned by the first paragraph of section 1029.8.36.72.82.13;

“Minister” means the Minister of Revenue;

“recognized business” has the meaning assigned by the first paragraph of section 1029.8.36.72.82.13;

“salary or wages” has the meaning assigned by the first paragraph of section 1029.8.36.72.82.13;

“taxation year” has the meaning assigned by Part I.

For the purposes of this Part, a reference to a calendar year ending in a taxation year includes a reference to a calendar year ending coincidentally with that taxation year.

“1129.45.3.30.7. Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.36.72.82.14 or 1029.8.36.72.82.15, on account of its tax payable under Part I, for any given taxation year, shall pay, for a particular taxation year, if Investissement Québec revokes in the particular year a qualification certificate issued, in relation to a calendar year that ended in the given taxation year, to the corporation in relation to a recognized business for the purposes of Division II.6.6.6.2 of Chapter III.1 of Title III of Book IX of Part I, a tax equal to the amount by which the amount that the corporation is deemed to have so paid to the Minister, under section 1029.8.36.72.82.14 or 1029.8.36.72.82.15, for the given taxation year, exceeds the aggregate of

(a) the amount that the corporation would be deemed to have so paid to the Minister, under section 1029.8.36.72.82.14 or 1029.8.36.72.82.15, for the given taxation year if the revoked qualification certificate had not been issued to the corporation by Investissement Québec and if the period specified in any qualification certificate issued to the corporation in relation to an employee

whose duties relate directly to activities of the corporation described in the revoked qualification certificate, were adjusted to take the revocation into account; and

(b) the aggregate of all amounts each of which is a tax that the corporation is required to pay under this Part, in relation to the given taxation year, for a taxation year preceding the particular year.

“1129.45.3.30.8. Every corporation that is deemed to have paid an amount to the Minister, under section 1029.8.36.72.82.14 or 1029.8.36.72.82.15, on account of its tax payable under Part I, for any taxation year, shall pay, for a particular taxation year, a tax equal to the aggregate of the following amounts, unless section 1129.45.3.30.7 applies in respect of the corporation in relation to that taxation year:

(a) if the corporation pays, in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced the amount of the salary or wages paid to an employee by the corporation and that is included in its base amount, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14, determined in its respect, that relates to a calendar year preceding the particular calendar year ending in the particular taxation year, the amount by which the aggregate of all amounts each of which is the amount that the corporation is deemed to have paid to the Minister under that section on account of its tax payable under Part I for a taxation year in which a calendar year preceding the particular calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.14 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if each of the amounts of assistance paid in respect of the salary or wages had been reduced by any amount paid by the corporation, in respect of such an amount of assistance, as repayment in the particular taxation year or a preceding taxation year, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this Part for a taxation year preceding the particular taxation year, in relation to a repayment of government assistance or non-government assistance that reduced the amount of such a salary or wages;

(b) if any other corporation pays, in the particular calendar year ending in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced the amount of the salary or wages paid to an employee by the other corporation in respect of the corporation's base period, for the purpose of computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15, determined in respect of

the corporation, that relates to a calendar year preceding the particular calendar year ending in the particular taxation year at the end of which the corporation was not associated with any qualified corporation carrying on a recognized business for its taxation year in which the preceding calendar year ended, the amount by which the aggregate of all amounts each of which is the amount that the corporation is deemed to have paid to the Minister under that section on account of its tax payable under Part I for a taxation year in which a calendar year preceding the particular calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if the aggregate of all amounts each of which is an amount of assistance paid in respect of the salary or wages had been reduced by the aggregate of all amounts each of which is an amount paid, in respect of such an amount of assistance, as repayment in the particular calendar year or a preceding calendar year, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this Part for a taxation year preceding the particular taxation year, in relation to a repayment of government assistance or non-government assistance that reduced the amount of such a salary or wages;

(c) if the corporation pays, in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced the amount of the salary or wages paid to an employee by the corporation and that is included in its base amount, for the purpose of computing the excess amount referred to in paragraph *b* or *c* of section 1029.8.36.72.82.16 that relates to a calendar year preceding the particular calendar year, in respect of all the corporations that were associated with each other at the end of that preceding calendar year and with which the corporation was associated at that time, the amount by which the aggregate of all amounts each of which is the amount that the corporation is deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for a taxation year in which a calendar year preceding the particular calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if, for the purposes of section 1029.8.36.72.82.16 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the particular calendar year or in a preceding calendar year, and if the amount determined pursuant to section 1029.8.36.72.82.16 had been attributed to the corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this Part for a taxation year preceding the particular taxation year, in relation to a repayment of government assistance or non-government assistance that reduced the amount of such a salary or wages;

(d) if any other corporation pays, in the particular calendar year ending in the particular taxation year, pursuant to a legal obligation, an amount that may reasonably be considered to be a repayment of government assistance or non-government assistance that reduced the amount of the salary or wages paid to an employee by the other corporation in respect of the base period of a qualified corporation that is a member of a group of associated corporations referred to in section 1029.8.36.72.82.16, for the purpose of computing the excess amount referred to in paragraph *b* or *c* of that section that relates to a calendar year preceding the particular calendar year, in respect of all the corporations that were a member of the group at the end of that preceding calendar year and with which the corporation was associated at that time, the amount by which the aggregate of all amounts each of which is the amount that the corporation is deemed to have paid to the Minister, under section 1029.8.36.72.82.15, on account of its tax payable under Part I for a taxation year in which a calendar year preceding the particular calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if, for the purposes of section 1029.8.36.72.82.16 in relation to that preceding calendar year, each of the amounts of assistance in respect of the salary or wages had been reduced by any amount paid, in respect of such an amount of assistance, as repayment in the particular calendar year or in a preceding calendar year, and if the amount determined pursuant to section 1029.8.36.72.82.16 had been attributed to the corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this Part for a taxation year preceding the particular taxation year, in relation to a repayment of government assistance or non-government assistance that reduced the amount of such a salary or wages;

(e) if, in the particular taxation year, an amount, in relation to a salary or wages paid to an employee by the corporation, that is included in computing the particular amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.14 determined in respect of the corporation in relation to a calendar year preceding the calendar year ending in the particular taxation year, other than a salary or wages paid in respect of the base period of the corporation, is, directly or indirectly, refunded or otherwise paid to the corporation or allocated to a payment to be made by it, the amount by which the amount that the corporation is deemed to have paid to the Minister under that section on account of its tax payable under Part I for a taxation year in which the preceding calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.14 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if every amount that was so refunded, paid or allocated at or before the end of the particular taxation year, in relation to the salary or wages, had been government assistance received by the corporation in the preceding calendar year and attributable to such a salary or wages, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this subparagraph for a taxation year preceding the particular taxation year, in respect of an amount so refunded, paid or allocated, in relation to the salary or wages;

(f) if, in the particular calendar year ending in the particular taxation year, an amount, in relation to a salary or wages paid to an employee by any other corporation, that is included in computing the amount referred to in subparagraph *a* of the first paragraph of section 1029.8.36.72.82.15 determined in respect of the corporation in relation to a calendar year preceding the particular calendar year at the end of which the corporation was not associated with any other qualified corporation carrying on a recognized business, other than a salary or wages paid in respect of the base period of the corporation, is, directly or indirectly, refunded or otherwise paid to the other corporation or allocated to a payment to be made by it, the amount by which the amount that the corporation is deemed to have paid to the Minister under that section on account of its tax payable under Part I for a taxation year in which the preceding calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends if every amount that was so refunded, paid or allocated at or before the end of the particular taxation year, in relation to the salary or wages, had been government assistance received in the preceding calendar year and attributable to such a salary or wages, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this subparagraph for a taxation year preceding the particular taxation year, in respect of an amount so refunded, paid or allocated, in relation to the salary or wages; and

(g) if, in the particular calendar year ending in the particular taxation year, an amount, in relation to a salary or wages paid to an employee by any other corporation, that is included in computing the excess amount referred to in paragraph *b* or *c* of section 1029.8.36.72.82.16 that relates to a calendar year preceding the particular calendar year, in respect of all the corporations that were associated with each other at the end of that preceding calendar year and with which the corporation was associated at that time, other than a salary or wages paid in respect of the base period of any of the associated corporations, is, directly or indirectly, refunded or otherwise paid to the other corporation or allocated to a payment to be made by it, the amount by which the amount

that the corporation is deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for a taxation year in which the preceding calendar year ends, exceeds the aggregate of

i. the amount that the corporation would have been deemed to have paid to the Minister under section 1029.8.36.72.82.15 on account of its tax payable under Part I for the taxation year in which the preceding calendar year ends in respect of the corporation, in relation to the preceding calendar year, if, for the purposes of section 1029.8.36.72.82.16 in relation to the preceding calendar year, every amount that was so refunded, paid or allocated at or before the end of the particular taxation year, in relation to the salary or wages, had been government assistance received in the preceding calendar year and attributable to such a salary or wages, and if the amount determined pursuant to section 1029.8.36.72.82.16 had been attributed to the corporation in the same proportion as that determined in its respect in relation to the preceding calendar year, and

ii. the aggregate of all amounts each of which is a tax paid by the corporation under this subparagraph for a taxation year preceding the particular taxation year, in respect of an amount so refunded, paid or allocated, in relation to the salary or wages.

For the purposes of subparagraphs *e* to *g* of the first paragraph, if Investissement Québec revokes in the particular taxation year the qualification certificate issued, for the purposes of Division II.6.6.6.2 of Chapter III.1 of Title III of Book IX of Part I, to the corporation in relation to an eligible employee for a pay period of a calendar year within the corporation's eligibility period, the amount of the salary or wages paid to the employee by a corporation is deemed to be refunded to the corporation in the particular taxation year.

“1129.45.3.30.9. For the purposes of Part I, except Division II.6.6.6.2 of Chapter III.1 of Title III of Book IX, the tax paid to the Minister by a corporation at any time under this Part, in relation to salaries or wages paid in the course of carrying on a recognized business, is deemed to be an amount of assistance repaid by the corporation at that time in respect of the salaries or wages pursuant to a legal obligation.

“1129.45.3.30.10. Except where inconsistent with this Part, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024, subparagraph *b* of the first paragraph of section 1027, section 1029.8.36.72.82.19 and sections 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

(2) Subsection 1 has effect from 1 January 2004.

254. (1) The Act is amended by inserting the following after section 1129.66:

“PART III.16**“SPECIAL TAX RELATING TO AN INCOME-AVERAGING ANNUITY PAYMENT RESPECTING INCOME FROM ARTISTIC ACTIVITIES**

“1129.67. In this Part,

“income-averaging annuity payment respecting income from artistic activities” means an amount paid as an annuity payment under an income-averaging annuity contract respecting income from artistic activities, or an amount referred to in paragraph *d.1* of section 312;

“income-averaging annuity respecting income from artistic activities” has the meaning assigned by section 1;

“Minister” means the Minister of Revenue;

“person” has the meaning assigned by section 1;

“taxation year” has the meaning assigned by Part I.

“1129.68. An individual who receives, in a taxation year, an income-averaging annuity payment respecting income from artistic activities is required to pay a tax under this Part for the year equal to 24% of the income-averaging annuity payment respecting income from artistic activities.

Every person who makes, in a taxation year, an income-averaging annuity payment respecting income from artistic activities to an individual must deduct or withhold, from the income-averaging annuity payment respecting income from artistic activities, the amount of tax referred to in the first paragraph that the individual is liable to pay for the year in respect of that payment, and pay to the Minister the amount so deducted or withheld, as tax on behalf of the individual, within 30 days after the date of payment of the income-averaging annuity payment respecting income from artistic activities.

Every person who makes an income-averaging annuity payment respecting income from artistic activities to an individual must pay, as tax on behalf of the individual, any amount the person did not deduct or withhold under the second paragraph and is authorized to recover from that individual the amount so paid.

“1129.69. Except where inconsistent with this Part, sections 1001, 1002 and 1037 and Titles II, V and VI of Book IX of Part I apply, with the necessary modifications, to this Part.”

(2) Subsection 1 applies from the taxation year 2004.

255. (1) Section 1137.0.0.2 of the Act is amended, in subparagraph *b* of the second paragraph,

(1) by replacing subparagraph iv by the following subparagraph:

“iv. where the taxation year is a 2004 taxation year that does not include 31 December 2003, \$600,000;”;

(2) by adding the following subparagraphs after subparagraph iv:

“v. where the taxation year is a 2005 taxation year that includes 31 December 2004, the total of

(1) the proportion of \$600,000 that the number of days in the taxation year before 1 January 2005 is of the number of days in the taxation year, and

(2) the proportion of \$1,000,000 that the number of days in the taxation year after 31 December 2004 is of the number of days in the taxation year, and

“vi. in any other case, \$1,000,000; and”.

(2) Subsection 1 applies from the taxation year 2004.

256. Section 1137.5 of the Act, amended by section 490 of chapter 21 of the statutes of 2004, is again amended by replacing “subparagraph ii or iii” in the portion of the second paragraph before subparagraph *a* by “any of the subparagraphs”.

257. (1) Section 1137.8 of the Act, enacted by section 491 of chapter 21 of the statutes of 2004, is amended by replacing subparagraphs i to iii of the second paragraph by the following subparagraphs:

“(a) occurs after 11 June 2003 and before 1 July 2004 where Investissement Québec certifies that the acquisition of control results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date,

“(b) is by a corporation carrying on at that time a recognized business, or by a group of persons all the members of which are corporations carrying on at that time a recognized business, or

“(c) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003.”

(2) Subsection 1 has effect from 12 June 2003. However, when subparagraph *a* of the second paragraph of section 1137.8 of the Act has effect before 31 March 2004, it reads as if “Investissement Québec” was replaced by “the Minister of Finance”.

258. (1) Section 1138 of the Act is amended

(1) by striking out “soit” in the portion of paragraph *d.2* of subsection 1 before subparagraph *i* in the French text;

(2) by replacing “par une” in subparagraphs *i* and *ii* of paragraph *d.2* of subsection 1 in the French text by “soit par une”;

(3) by inserting the following subsection after subsection 2.1.2.1:

“(2.1.2.2) For the purposes of subsection 1, the amount of the debts referred to in paragraphs *d.1* and *d.2* of that subsection must be reduced by the part, attributable to those debts, of the reserve for doubtful debts that is deducted, in accordance with subsection 3, in computing the amount of the assets of the corporation.”;

(4) by striking out “soit” in the portion of subsection 2.1.3 before paragraph *a* in the French text;

(5) by replacing “une société” in paragraphs *a* and *b* of subsection 2.1.3 in the French text by “soit une société”.

(2) Paragraph 3 of subsection 1 is declaratory.

259. (1) Section 1138.2.1 of the Act is replaced by the following section:

“**1138.2.1.** The paid-up capital, for a taxation year, of a corporation that is an exempt corporation for the year, within the meaning of sections 771.12 and 771.13, shall be reduced by the amount determined by the formula

$$A \times B \times C.$$

In the formula in the first paragraph,

(*a*) A is,

i. if the corporation’s taxation year includes the first or last day of its eligibility period, within the meaning of the first paragraph of section 771.1, the proportion that the number of days in the year included in that eligibility period is of the number of days in the year, and

ii. in any other case, 1;

(*b*) B is

i. 75%, if the corporation is referred to in subparagraph *iii* of paragraph *a* of section 771.12 and any of the conditions mentioned in subparagraphs 1 and 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 771.8.5 is met in its respect, and

ii. 100%, in any other case; and

(c) C is the corporation's paid-up capital for that year, computed before the application of this section."

(2) Subsection 1 has effect from 12 June 2003. In addition,

(1) when the second paragraph of section 1138.2.1 of the Act applies

(a) between 9 March 1999 and 12 June 2003, it reads as if "its eligibility date or the" was replaced by "the first or", or

(b) before 10 March 1999, it reads as if "26 March 1997 or the" was replaced by "the first or"; and

(2) when the third paragraph of section 1138.2.1 of the Act applies before 12 June 2003, it reads as follows:

"In this section, "eligibility period" has the meaning assigned by the first paragraph of section 771.1."

260. Section 1166 of the Act is amended by striking out the definition of "international financial centre" in the first paragraph.

261. (1) The Act is amended by inserting the following after section 1175.28:

"PART VI.4

"PUBLIC UTILITY TAX

"BOOK I

"INTERPRETATION AND GENERAL

"1175.29. In this Part,

"financial statements" means the financial statements submitted to the shareholders of a corporation or to the members of a partnership and prepared in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, such financial statements if they had been prepared in accordance with generally accepted accounting principles;

"fiscal period" has the meaning assigned by Part I;

"immovable subject to tax" means an immovable situated in Québec that must not be entered on the property assessment roll under any of

sections 66 to 68 of the Act respecting municipal taxation (chapter F-2.1) or land that is the site of such an immovable and that is described in paragraph 7 of section 204 of that Act;

“lessee” of an immovable subject to tax means the person or partnership that pays a remuneration to a lessor, in relation to the immovable, in connection with the use by the lessee of a telecommunications or gas distribution system or an electric power production, transmission or distribution system that includes the immovable;

“lessor” of an immovable subject to tax means the person or partnership that receives a remuneration from a lessee, in relation to the immovable, in connection with the use by the lessee of a telecommunications or gas distribution system or an electric power production, transmission or distribution system that includes the immovable;

“Minister” means the Minister of Revenue;

“operator” means a person or partnership that operates a telecommunications or gas distribution system or an electric power production, transmission or distribution system certain immovables of which are immovables subject to tax;

“owner” of an immovable subject to tax means

(a) the person or partnership that holds the right of ownership to that immovable, except in the cases provided for in paragraphs *b* to *d*;

(b) the person or partnership that owns the immovable in the manner described in article 922 of the Civil Code of Québec, except in the cases provided for in paragraphs *c* and *d*;

(c) the person or partnership that owns the immovable as institute under a substitution or emphyteutic lessee, or, if the immovable is land in the domain of the State, the person or partnership that occupies it under a promise of sale, occupation licence or location ticket; or

(d) the person or partnership that owns the immovable as usufructuary otherwise than as a member of a group of usufructuaries each having a right of enjoyment periodically and successively in the immovable;

“person” or any word or expression meaning a person includes a corporation and a trust;

“telecommunications” means the transmission or broadcast of sound, images, signs, signals, data or messages by wire, cable, waves or other electric, electronic, magnetic, electromagnetic or optical means;

“trust” has the meaning assigned by section 1.

In this Part, the reference to a fiscal period ending in a calendar year includes a reference to a fiscal period the end of which coincides with the end of that calendar year.

1175.30. For the purposes of this Part, to determine whether an operator is associated, within the meaning of sections 21.20 to 21.25 and 781.1, with another operator in a fiscal period, the following rules apply:

(a) an operator who is an individual is deemed to be a corporation all the voting shares in the capital stock of which are owned by the individual at the time referred to in section 21.20, in this section referred to as the “particular time”;

(b) an operator that is a partnership is deemed to be a corporation whose fiscal period is the fiscal period of the partnership and all the voting shares in the capital stock of which are owned at the particular time by each member of the partnership in a proportion equal to the proportion that the member’s share of the income or loss of the partnership for its fiscal period that includes the particular time is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership’s income for that fiscal period is equal to \$1,000,000; and

(c) an operator that is a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries, in this paragraph referred to as the “distribution date”, and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) if such a beneficiary’s share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, and if the particular time occurs before the distribution date, are owned at that time by the beneficiary, or

(2) if subparagraph 1 does not apply and the particular time occurs before the distribution date, are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. in the case where a beneficiary’s share of the accumulating income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at the particular time by

the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at the particular time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at the particular time by the person referred to in that section from whom property of the trust or property for which it was substituted was directly or indirectly received.

“BOOK II

“LIABILITY FOR AND AMOUNT OF THE TAX

“**1175.31.** A person or partnership that is an operator in a calendar year shall pay for that year, on or before 1 March of that year, a public utility tax.

For the purposes of the first paragraph, the person or partnership that operates a structure used to produce electric power supplied to another person or partnership operating an electric power production, transmission or distribution system is itself deemed to operate such a system.

“**1175.32.** The public utility tax to be paid by an operator for a calendar year is equal to

(a) in the case of the operation of a telecommunications system, the aggregate of

i. 0.70% of the portion of the net value of the assets forming part of the operator’s system for the operator’s last fiscal period that ends in the preceding calendar year, that does not exceed \$750,000,000, and

ii. 10.5% of the portion of the net value of the assets forming part of the operator’s system for the operator’s last fiscal period that ends in the preceding calendar year, that exceeds \$750,000,000;

(b) in the case of the operation of a gas distribution system, the aggregate of

i. 0.75% of the portion of the net value of the assets forming part of the operator’s system for the operator’s last fiscal period that ends in the preceding calendar year, that does not exceed \$750,000,000, and

ii. 1.50% of the portion of the net value of the assets forming part of the operator's system for the operator's last fiscal period that ends in the preceding calendar year, that exceeds \$750,000,000; and

(c) in the case of the operation of an electric power production, transmission or distribution system, the aggregate of

i. 0.20% of the portion of the net value of the assets forming part of the operator's system for the operator's last fiscal period that ends in the preceding calendar year, that does not exceed \$750,000,000, and

ii. 0.55% of the portion of the net value of the assets forming part of the operator's system for the operator's last fiscal period that ends in the preceding calendar year, that exceeds \$750,000,000.

“1175.33. Despite section 1175.32, if an operator is not associated, within the meaning of sections 21.20 to 21.25 and 781.1, with any other operator in a fiscal period and the operator operates, in that fiscal period, more than one telecommunications or gas distribution system or more than one electric power production, transmission or distribution system, the amount of \$750,000,000 provided for in section 1175.32 and determined in respect of each of those systems, in relation to that fiscal period, must be replaced, wherever it appears, by the greater of \$0 and the portion of that amount that the operator allocates, in prescribed form, in respect of that system, in relation to that fiscal period.

The aggregate of the amounts allocated in relation to a fiscal period under the first paragraph may not exceed \$750,000,000.

If an operator does not make the allocation provided for in the first paragraph in relation to a fiscal period or if the aggregate of the amounts allocated by an operator under the first paragraph in relation to a fiscal period exceeds \$750,000,000, the amount of \$750,000,000 provided for in section 1175.32 and determined in respect of each of those systems, in relation to that fiscal period, must be replaced, wherever it appears, by the greater of \$0 and the portion of that amount that the Minister allocates in respect of that system, in relation to that fiscal period.

The aggregate of the amounts allocated by the Minister under the third paragraph, in relation to a fiscal period of an operator, must be equal to \$750,000,000.

“1175.34. Despite section 1175.32, if an operator is associated, within the meaning of sections 21.20 to 21.25 and 781.1, with another operator in a fiscal period that ends in a particular calendar year, the amount of \$750,000,000 provided for in section 1175.32, in relation to that fiscal period, must be replaced, wherever it appears, by the greater of \$0 and the portion of that amount that is allocated to the operator for that fiscal period in accordance with the agreement under which all the operators that are associated with each

other in their fiscal period that ends in the particular calendar year allocate, for the purposes of this Part, in prescribed form, an amount to one or more of them for the fiscal period.

The aggregate of the amounts allocated for a fiscal period under the first paragraph may not exceed \$750,000,000.

If the operators that are associated with each other do not make the allocation provided for in the first paragraph in relation to a fiscal period or if the aggregate of the amounts allocated under the first paragraph, in relation to a fiscal period, exceeds \$750,000,000, the amount of \$750,000,000 provided for in section 1175.32, in relation to that fiscal period, must be replaced, wherever it appears, by the greater of \$0 and the portion of that amount that the Minister allocates, for that fiscal period, to one or each of the operators so associated.

The aggregate of the amounts allocated by the Minister under the third paragraph, in relation to operators associated in a fiscal period, must be equal to \$750,000,000.

“1175.35. Despite sections 1175.32 and 1175.34, if an operator is associated, within the meaning of sections 21.20 to 21.25 and 781.1, with another operator in a fiscal period and the operator operates, in that fiscal period, more than one telecommunications or gas distribution system or more than one electric power production, transmission or distribution system, the amount that was allocated to the operator under section 1175.34, in relation to that fiscal period, must be replaced, wherever it appears, by the greater of \$0 and the portion of that amount that the operator allocates, in prescribed form, in respect of each of those systems, in relation to that fiscal period.

The aggregate of the amounts allocated in relation to a fiscal period under the first paragraph may not exceed the amount that was allocated to the operator under section 1175.34, in relation to that fiscal period.

If an operator does not make the allocation provided for in the first paragraph in relation to a fiscal period or if the aggregate of the amounts allocated by an operator under the first paragraph in relation to a fiscal period exceeds the amount that was allocated to the operator under section 1175.34, the amount so allocated under that section, in relation to that fiscal period, must be replaced, wherever it appears, by the greater of \$0 and the portion of that amount that the Minister allocates in respect of each of the systems operated by the operator, in relation to that fiscal period.

The aggregate of the amounts allocated by the Minister under the third paragraph, in relation to a fiscal period of an operator, must be equal to the amount that was allocated to the operator under the first paragraph of section 1175.34.

“BOOK III**“COMPUTATION OF THE NET VALUE OF THE ASSETS**

“1175.36. In this Part, the net value of the assets forming part of a system, determined in respect of an operator for a particular fiscal period, means the aggregate of all amounts each of which is

(a) the excess amount, as shown in the operator’s financial statements prepared for the particular fiscal period, that is the amount by which the cost of an immovable subject to tax that is included in the system of the operator and of which the operator is the owner at the end of the particular fiscal period exceeds the accumulated depreciation;

(b) unless subparagraph *c* applies, the amount determined by the following formula in respect of an immovable subject to tax that is included in the system of the operator and of which the operator is the lessee at any time in the particular fiscal period:

$$(A \times 10) 365 / B; \text{ or}$$

(c) the excess amount, as shown in the operator’s financial statements prepared for the operator’s last fiscal period that ends in the calendar year in which the particular fiscal period ends, that is the amount by which the cost to the owner of an immovable subject to tax that is included in the system of the operator and of which the operator is the lessee at any time in the particular fiscal period exceeds the accumulated depreciation, where the owner is the lessor of the immovable subject to tax, in relation to the operator, and the owner and operator were not dealing with each other at arm’s length at the time the operator became the lessee of the immovable subject to tax or, if the owner is not the lessor of the immovable subject to tax, in relation to the operator, where each person or partnership that is a lessor of the immovable subject to tax, in relation to a lessee, and that lessee were not dealing with each other at arm’s length at the time the person or partnership became the lessor of the immovable subject to tax in relation to that lessee.

In the formula in subparagraph *b* of the first paragraph,

(a) *A* is the portion of the rental cost of the immovable incurred in the particular fiscal period by the operator; and

(b) *B* is the number of days in the particular fiscal period.

Subparagraphs *b* and *c* of the first paragraph do not apply in respect of an immovable subject to tax of which an operator is the lessee at any time in the operator’s last fiscal period that ends in a calendar year if that immovable is shown in the financial statements of another operator that is the owner of that immovable, prepared for that operator’s last fiscal period that ends in the calendar year.

“1175.37. For the purpose of determining the net value of the assets of an operator for a fiscal period, an immovable subject to tax that is sold by the operator before the end of the fiscal period is deemed to be an immovable subject to tax of the operator at the end of the fiscal period if the Minister is of the opinion that the sale is part of an operation or transaction, or a series of operations or transactions, one of the purposes of which is to reduce the net value of the assets of the operator for that fiscal period.

“BOOK IV

“MISCELLANEOUS PROVISIONS

“1175.38. A person or partnership that is required to pay a tax provided for in section 222 of the Act respecting municipal taxation (chapter F-2.1) in a fiscal period, in relation to an electric power production system the person or partnership operates, and that consumes all the electric power the person or partnership produces is exempt from the public utility tax for the calendar year in which the fiscal period ends.

A person or partnership that is required to pay a tax provided for in section 222 of the Act respecting municipal taxation in a fiscal period, in relation to an electric power production system the person or partnership operates, and that sells part of the electric power the person or partnership produces is required to pay the public utility tax for a calendar year to the extent that the amount of that tax exceeds the amount of the tax provided for in that section 222 that the person or partnership is required to pay in the fiscal period that ends in the calendar year.

For the purposes of this section, the power consumed by a person or partnership related to the person or partnership that produces it is deemed to be consumed by the latter person or partnership.

“1175.39. A municipality is exempt from the public utility tax.

“1175.40. An operator that is required to pay the public utility tax for a calendar year shall file with the Minister, in prescribed form, without notice or demand, a fiscal return containing the prescribed information and the operator’s financial statements prepared for the operator’s last fiscal period that ends in the preceding calendar year.

The documents must be filed by the following persons and within the following time:

(a) in the case of an operator that is a corporation or partnership, by the corporation or partnership, as the case may be, or on its behalf, within six months after the end of the last fiscal period;

(b) in the case of an operator that is a succession or a trust, by the liquidator of the succession, the executor or the trustee, as the case may be, within 90 days after the end of the last fiscal period; and

(c) in the case of an operator who is an individual, by the individual, on or before 15 June of the calendar year.

Despite subparagraph *c* of the first paragraph, if the operator is an individual who dies in the calendar year but before 16 June, the documents mentioned in the first paragraph must be produced by the individual's legal representative within six months after the death.

If the documents are not filed in accordance with the first or second paragraph, they must be filed by the person who is required by notice in writing from the Minister to file the documents, within such reasonable time as the notice specifies.

“1175.41. If the fiscal period of a person or partnership exceeds 365 days and for that reason the person or partnership does not have a fiscal period ending in a particular calendar year, the first fiscal period of the person or partnership ending in the calendar year following the particular year is deemed, for the purposes of this Part, to end on the last day of the particular year.

“1175.42. Unless otherwise provided, sections 17 to 21, 1002 to 1014 and 1037 to 1079.16 apply, with the necessary modifications, to this Part.”

(2) Subsection 1 applies from the calendar year 2005.

ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

262. Section 72 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by replacing “dans la forme prescrite” in the portion of the second paragraph before subparagraph *a* in the French text by “au moyen du formulaire prescrit”.

ACT RESPECTING THE MINISTÈRE DU REVENU

263. (1) Section 34 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing the first paragraph of subsection 2 by the following paragraph:

“(2) Every registered charity, every registered Canadian amateur athletic association and every registered Québec amateur athletic association, within the meaning assigned to those expressions by section 1 of the Taxation Act (chapter I-3), shall keep, at a place designated by the Minister, registers and a duplicate of each receipt containing the prescribed information.”

(2) Subsection 1 has effect from 31 March 2004.

264. Section 59.2 of the Act, amended by section 312 of chapter 1 of the statutes of 2005, is again amended by replacing the third paragraph by the following paragraph:

“Notwithstanding the foregoing, the penalty does not apply in the case of an amount that was required to be paid under Chapter III of Title III of Book IX of Part I of the Taxation Act (chapter I-3) or under section 1185.1 of that Act.”

265. (1) Section 68.1 of the Act, amended by section 5 of chapter 2 of the statutes of 2005, is again amended

(1) in the first paragraph,

(a) by striking out “, licence” wherever it appears;

(b) by striking out “, licence” after “d’un tel certificat” in the French text;

(2) in the fourth paragraph,

(a) by striking out “, licence” after “for which a certificate”;

(b) by replacing “such a certificate, licence or permit” by “such a certificate or permit”.

(2) Subsection 1 has effect from 1 September 2004.

266. Section 69.1 of the Act, amended by section 1 of chapter 10 of the statutes of 2004 and by section 6 of chapter 2 of the statutes of 2005, is again amended by striking out subparagraph *l* of the second paragraph.

267. (1) Section 93.1.15 of the Act is amended, in the first paragraph,

(1) by replacing subparagraph *a* by the following subparagraph:

“(a) refusing registration as a charitable organization, private foundation, public foundation, Canadian amateur athletic association or Québec amateur athletic association, or giving notice that the Minister intends to revoke such registration;”;

(2) by striking out subparagraph *c*.

(2) Paragraph 1 of subsection 1 has effect from 31 March 2004.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

268. (1) Section 33 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5), amended by section 517 of chapter 21 of the statutes of 2004 and by section 324 of chapter 1 of the statutes of 2005, is

again amended by replacing “on the later of the beginning of the exempt employer’s first taxation year” in the portion of the definition of “eligibility period” in the first paragraph before paragraph *a* by “on the later of the day of coming into force of the certificate referred to in paragraph *a* of section 771.12 of the Taxation Act that was issued in respect of the exempt employer”.

(2) Subsection 1 applies to a corporation in respect of which a certificate, referred to in paragraph *a* of section 771.12 of the Taxation Act (R.S.Q., chapter I-3), was issued after 10 March 2003. In addition, if the definition of “eligibility period” in the first paragraph of section 33 of the Act applies to a corporation in respect of which a certificate referred to in paragraph *a* of section 771.12 of the Taxation Act was issued before 11 March 2003, it reads as if “on the later of the beginning of the exempt employer’s first taxation year” was replaced by “on the latest of the beginning of the exempt employer’s first taxation year, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 of the Taxation Act that was issued in respect of the exempt employer”.

269. (1) Section 34 of the Act, amended by section 518 of chapter 21 of the statutes of 2004 and by section 327 of chapter 1 of the statutes of 2005, is again amended

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

“(a) in respect of the wages or amount paid or deemed to be paid by an employer if, at the time the wages or amount are paid or deemed to be paid, the employer is an exempt employer other than an employer described in subparagraph i of subparagraph *a.1* and if that time is included in the employer’s eligibility period;”;

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

“(a.1) in respect of 3/4 of the wages or amount paid or deemed to be paid by an employer if

i. at the time of payment or deemed payment of the wages or amount, the employer is an exempt employer referred to in subparagraph iii of paragraph *a* of section 771.12 of the Taxation Act in respect of whom any of the conditions mentioned in subparagraphs 1 and 2 of subparagraph i of subparagraph *b* of the second paragraph of section 771.8.5 of that Act is met, and

ii. the time of payment or deemed payment of the wages or amount is included in the employer’s eligibility period;”.

(2) Subsection 1 has effect from 12 June 2003.

270. (1) Section 34.1.4 of the Act, amended by section 519 of chapter 21 of the statutes of 2004, is again amended

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

“(1) section 310 of the said Act, to the extent that section 310 refers to section 931.1 or 965.20 of the said Act,”;

(2) by inserting the following subparagraph after subparagraph 5 of subparagraph ii of paragraph *b*:

“(5.1) section 346.0.1, to the extent that it is reasonable to consider that the amount so deducted is attributable to the part of the individual’s income from artistic activities for the year, referred to in subparagraph ii of paragraph *a*, or”.

(2) Paragraph 2 of subsection 1 applies from the year 2004.

271. (1) Section 37.4 of the Act, amended by section 522 of chapter 21 of the statutes of 2004, is again amended, in the first paragraph,

(1) by replacing the portion before subparagraph *a* by the following:

“**37.4.** The aggregate to which the definition of “family income” in section 37.1 refers in respect of an individual referred to in section 37.6 for a year is the aggregate of”;

(2) by replacing subparagraphs i to iv of subparagraph *a* by the following subparagraphs:

“i. \$12,240 where, for the year, the individual has no eligible spouse and no dependent child,

“ii. \$19,850 where, for the year, the individual has no eligible spouse but has one dependent child,

“iii. \$22,615 where, for the year, the individual has no eligible spouse but has more than one dependent child,

“iv. \$19,850 where, for the year, the individual has an eligible spouse but has no dependent child, and”;

(3) by replacing subparagraphs 1 and 2 of subparagraph *v* of subparagraph *a* by the following subparagraphs:

“(1) \$22,615 where the individual has one dependent child for the year, or

“(2) \$25,165 where the individual has more than one dependent child for the year; and”.

(2) Paragraphs 2 and 3 of subsection 1 apply from the year 2004.

ACT RESPECTING PROPERTY TAX REFUND

272. Section 14 of the Act respecting property tax refund (R.S.Q., chapter R-20.1) is replaced by the following section:

“**14.** A person who, on 31 December in a year, owns an immovable in which is situated a dwelling inhabited by a person described in section 2 and in respect of which rent has been paid or is payable for the month of December of the year must send to that person, not later than the last day of February of the following year, a certificate in prescribed form containing the prescribed information in respect of the property tax attributable to that dwelling for the year.”

ACT RESPECTING THE QUÉBEC SALES TAX

273. (1) Section 17.0.2 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 527 of chapter 21 of the statutes of 2004, is again amended by replacing “made by the person referred to in” in the portion before paragraph 1 by “that meets the requirements of”.

(2) Subsection 1 applies in respect of the bringing of a vehicle into Québec for which the tax provided for in Title I of the Act is payable after 30 November 2004. However, it does not apply when the written estimate is made before 1 December 2004 and provided, for the purpose of computing the tax payable in relation to the bringing of a vehicle into Québec, before 1 February 2005.

274. (1) Section 55.0.3 of the Act, amended by section 528 of chapter 21 of the statutes of 2004, is again amended by replacing the third paragraph by the following paragraph:

“The written estimate must be made by a person who has been issued a certificate of professional qualification as an estimator of automobile damage by the Groupement des assureurs automobiles, established by the Automobile Insurance Act (chapter A-25), in the course of the person’s professional practice within a certified appraisal centre or an establishment accredited by the Groupement.”

(2) Subsection 1 applies in respect of a supply for which the tax under Title I of the Act is payable after 30 November 2004. However, it does not apply when the written estimate is made before 1 December 2004 and provided, for the purpose of computing the tax payable in relation to a supply, before 1 February 2005.

275. Section 325 of the Act is amended by replacing “produit d’aliénation” in paragraph 2 in the French text by “produit de l’aliénation”.

276. Section 326 of the Act is amended by replacing “produit d’aliénation” in the French text by “produit de l’aliénation”.

277. (1) Section 402.3 of the Act, amended by section 532 of chapter 21 of the statutes of 2004, is again amended by replacing paragraph 3 by the following paragraph:

“(3) a written estimate of the vehicle or of the repairs to be carried out in respect of the vehicle, that meets the requirements of the third paragraph of section 55.0.3, is made within a reasonable time after the time of the supply.”

(2) Subsection 1 applies in respect of a rebate relating to the supply or bringing of a vehicle into Québec for which the tax under Title I of the Act is payable after 30 November 2004.

278. (1) Section 457.1.4 of the Act, enacted by section 537 of chapter 21 of the statutes of 2004, is amended by replacing the second and third paragraphs by the following paragraphs:

“For the purposes of this section, the determined amount to which subparagraph 3 of the first paragraph refers is equal to the amount determined by the formula

$$A \times 2.$$

For the purposes of the formula in the second paragraph, A is the amount determined under section 175.6.1 of the Taxation Act that is, or would be if the registrant were a taxpayer under that Act, deductible in computing the registrant’s income from the business or property for the taxation year.”

(2) Subsection 1 applies in respect of the tax payable in relation to the supply of food, beverages or entertainment, if the tax becomes due or is paid without having become due in a taxation year, within the meaning of the Taxation Act (R.S.Q., chapter I-3), that ends after 30 March 2004.

279. Section 489 of the Act, amended by section 361 of chapter 1 of the statutes of 2005, is again amended by replacing “composante d’un bien mobilier” in the portion before subparagraph 1 of the first paragraph in the French text by “un composant d’un bien meuble”.

280. Section 490 of the Act, amended by section 362 of chapter 1 of the statutes of 2005, is again amended by replacing “composante” in subparagraph 4 of the first paragraph in the French text by “un composant”.

281. (1) Section 494.1 of the Act, enacted by section 364 of chapter 1 of the statutes of 2005, is amended by inserting “and is not registered” after “who is not required to be registered” in the first paragraph.

(2) Subsection 1 has effect from 1 September 2004.

ACT GIVING EFFECT TO THE BUDGET SPEECH DELIVERED ON
1 NOVEMBER 2001, TO THE SUPPLEMENTARY STATEMENT OF
19 MARCH 2002 AND TO CERTAIN OTHER BUDGET STATEMENTS

282. (1) Section 220 of the Act giving effect to the Budget Speech delivered on 1 November 2001, to the supplementary statement of 19 March 2002 and to certain other budget statements (2003, chapter 9) is amended, in subsection 3,

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

“(a.1) with the portion of the definition of “eligibility period” in the first paragraph before paragraph *a* replaced by the following:

““eligibility period” of a corporation means the period that begins on the latest of the time the corporation’s first taxation year begins, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in its respect and 26 March 1997 and ends, as the case may be,”;”;

(2) by replacing, in subparagraph *b* of paragraph 1, subparagraphs *i* and *ii* of paragraph *a* of the definition of “eligibility period” in the first paragraph of section 1029.8.36.0.4 of the Taxation Act (R.S.Q., chapter I-3), enacted by that subparagraph *b*, by the following subparagraphs:

“*i.* 31 December 2010, if the day on which the first taxation year of the corporation begins or, where it is later, the day of coming into force of the certificate is before 1 January 2008, or

“*ii.* the last day of the three-year period that begins at that time or on that date if the day on which the first taxation year of the corporation begins or, where it is later, the day of coming into force of the certificate is after 31 December 2007;”;

(3) by striking out “and” at the end of paragraph 4 and by replacing the period at the end of paragraph 5 by “; and”;

(4) by adding the following paragraph after paragraph 5:

“(6) section 1029.8.36.0.8 of the said Act shall be read with “on the later of the time the corporation’s first taxation year begins” in the third paragraph replaced by “on the latest of the time the corporation’s first taxation year begins, the date of coming into force of the certificate referred to in paragraph *a* of section 771.12 that was issued in its respect”.”

(2) Subsection 1 has effect from 10 December 2003.

ACT GIVING EFFECT TO THE BUDGET SPEECH DELIVERED ON
12 JUNE 2003 AND TO CERTAIN OTHER BUDGET STATEMENTS

283. (1) Section 315 of the Act giving effect to the Budget Speech delivered on 12 June 2003 and to certain other budget statements (2004, chapter 21) is amended by replacing the portion of subsection 4 before subparagraph *b* of the fourth paragraph of section 1029.8.36.0.0.11 of the Taxation Act (R.S.Q., chapter I-3), that that subsection 4 enacts, by the following:

“(4) However, where section 1029.8.36.0.0.11 of the said Act applies in respect of property for which a corporation is deemed to have paid, to the Minister of Revenue on account of its tax payable under Part I of the said Act for one or more taxation years, amounts determined in relation to the portion of a qualified labour expenditure referred to in subparagraph *a* of the first paragraph of that section and in relation to the portion of a qualified labour expenditure referred to in subparagraph *b* of that paragraph, in respect of the property, that section shall be read with the third and fourth paragraphs replaced by the following paragraphs for each of the corporation’s taxation years in respect of which an amount is determined in whole or in part in relation to the portion of a qualified labour expenditure referred to in that subparagraph *a*:

“The amount that a corporation is deemed to have paid to the Minister, under the first paragraph, on account of its tax payable for a taxation year under this Part in respect of a property that is a qualified performance shall not exceed the amount by which, where the property is co-produced by the corporation and one or more other qualified corporations, the amount obtained by applying to the amount determined by the following formula the corporation’s share, expressed as a percentage, of the production costs in relation to the production of the property that is specified in the favourable advance ruling given or the certificate issued by the Société de développement des entreprises culturelles in respect of the property or, in any other case, the amount determined by the following formula, exceeds the amount by which the aggregate of all amounts each of which is an amount that the corporation is deemed to have paid to the Minister under this paragraph in respect of the property for a preceding taxation year exceeds the aggregate of all amounts each of which is an amount that the corporation is required to pay under section 1129.4.0.14 in respect of the property for a preceding taxation year:

$$[1 - (A / B)] \times \$262,500 + [(A / B) \times \$300,000].$$

“In the formula provided for in the third paragraph,

(*a*) A is the aggregate of all amounts, not exceeding \$300,000, each of which is an amount that the corporation is deemed to have paid under the first paragraph for the taxation year and a preceding taxation year and determined in relation to the portion of a qualified labour expenditure referred to in subparagraph *b* of that paragraph; and”.

(2) Subsection 1 has effect from 3 November 2004.

284. (1) Section 412 of the Act is amended by replacing subsection 2 by the following subsection:

“(2) Subsection 1 has effect from 1 January 2003. However, where Division II.6.6.6.1 of Chapter III.1 of Title III of Book IX of Part I of the said Act applies in computing an amount that a corporation is deemed to have paid to the Minister of Revenue in respect of the calendar year 2003, subparagraph *a* of the third paragraph of section 1029.8.36.72.82.2 of the said Act and subparagraph *a* of the fourth paragraph of section 1029.8.36.72.82.3 of the said Act shall be read as follows:

“(a) the amount by which the particular amount that is the lesser of the aggregate of all amounts each of which is an amount determined under the first paragraph of section 1029.8.36.72.16, 1029.8.36.72.17, 1029.8.36.72.44, 1029.8.36.72.45, 1029.8.36.72.71 or 1029.8.36.72.72 for the taxation year preceding the particular taxation year and the amount determined under the first paragraph for the particular taxation year exceeds the aggregate of all amounts each of which is the portion of the particular amount that may reasonably be considered to be deemed to have been paid to the Minister under this paragraph in the particular taxation year but before that date; and”.

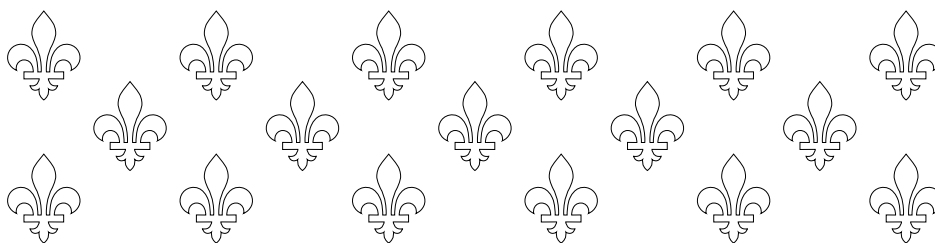
(2) Subsection 1 has effect from 3 November 2004.

285. (1) Section 206.3 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), as it read before the coming into force of section 350 of chapter 63 of the statutes of 1995 and as amended by section 345 of chapter 40 of the statutes of 2002, is again amended by inserting “property intended to be incorporated in an immovable by that person,” after ““sales of electricity, gas, combustibles or steam” and “other than” in the second paragraph.

(2) Subsection 1 applies in respect of the tax that becomes payable after 20 October 2004 and is not paid before 21 October 2004 in relation to the supply or bringing into Québec of electricity, gas, combustibles or steam.

In addition, subsection 1 applies in respect of the tax that becomes payable or is paid without having become due before 21 October 2004 in relation to the supply or bringing into Québec of electricity, gas, combustibles or steam, if the Minister receives, after 20 October 2004, a return or an application for a rebate filed by the recipient in relation to that tax.

286. This Act comes into force on 17 June 2005.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 111
(2005, chapter 28)

An Act to amend various legislative provisions concerning municipal affairs

Introduced 10 May 2005
Passage in principle 2 June 2005
Passage 16 June 2005
Assented to 17 June 2005

Québec Official Publisher
2005

EXPLANATORY NOTES

This bill introduces amendments concerning certain time limits in city planning matters and allows a regional county municipality that regulates by by-law the planting and felling of trees in private forests to designate an officer in each local municipality in whose territory the by-laws apply to be responsible for their enforcement.

The bill allows local municipalities to create a financial reserve, as of 2006, to finance expenditures made to improve techniques and procedures and develop infrastructures related to the supply of water. A municipality that created such a reserve has the power to impose a tax from which the revenues are to be allocated of right to the reserve.

Under the bill, the clerks and secretary-treasurers of all the municipalities are authorized to amend an act of the council in order to correct an error that is obvious just by reading the documents provided in support of the decision.

The bill also allows a mayor and certain councillors of a local municipality with a population of 100,000 or more to set up an office and hire staff. Staff members are not or, if applicable, cease to be officers or employees of the municipality.

The bill removes the requirement, when giving a notice of motion, to making an application prior to dispensing with the reading of a by-law before its adoption by a municipal council.

The bill increases the time limit within which an officer or employee to whom a power has been delegated must report to the council of the municipality, the executive committee or the borough council from 5 to 25 days.

The bill removes the requirement for municipalities and public transit authorities to obtain prior authorization from the Minister of Municipal Affairs and Regions when contracting certain temporary loans.

Under the bill, certain contracts for the performance of work on a railway right-of-way are exempted from the rules governing the awarding of contracts.

The bill contains various amendments relating to electoral matters in order to simplify the application of certain provisions and harmonize other provisions with the Election Act, in particular, as concerns the authorization of political parties.

The bill gives a regional county municipality whose territory is not included in whole or in part in that of the Communauté métropolitaine de Montréal until 1 August to put into force its by-law ordering that the warden be elected by a general vote during the election of November 2005. It also introduces changes in the process for electing a warden.

The bill removes any electoral provisions referring to the notion of “borough elector” or related to such a notion, in particular, any provision mentioning a “borough electoral list” from the constituting acts of various municipalities.

Under the bill, the members of the council of Municipalité de Baie-James who are members of the pension plan of elected municipal officers are entitled to obtain pension credit under that plan from 20 December 2001.

The bill increases the maximum non-taxable value of the trapping camp of an Indian from \$15,000 to \$26,000, beginning in 2006. It also introduces amendments to maintain the obligation of the Government to pay compensations in lieu of taxes with regard to certain immovables belonging to religious institutions and used by education, health and social services institutions. It also corrects a rule of the various general property tax rates scheme in the case of immovables consisting of non-residential space as well as six or more dwellings.

The bill establishes a mechanism by which the minimum and maximum remunerations and indemnities applicable to municipal officers are to be automatically adjusted every year, beginning in 2006, based on the increase in the Consumer Price Index of Canada.

The bill authorizes Ville de Québec to create a special financial reserve chargeable to the ratepayers in the territory of the former Ville de Québec in order to amortize the initial actuarial deficit of the pension plan of the employees of the former Ville de Québec.

The bill also authorizes Ville de Laval to establish an arts council and to adopt beautification programs.

Under the bill, the executive committee of Ville de Terrebonne will become permanent.

The bill defines the context in which a municipality or a municipal body may use actuarial gains to redeem a municipal bond paid to the pension fund of a pension plan when there is an agreement with the associations representing officers and employees.

The bill confirms the power of a current municipality or a future reconstituted municipality to impose a special tax for the purpose of financing the expenditures related either to holding a referendum on the reconstitution of a former municipality or to reimbursing certain costs assumed by the Chief Electoral Officer or the Government for the referendum or the transition leading to the reconstitution.

The bill provides that setting up and operating a snow dump do not constitute the exercise of an agglomeration power but that the management of dangerous residual materials and first response services do. It also broadens the possible content of an agglomeration order made by the Government in order to facilitate transition during the reorganization of current municipalities leading to the reconstitution of former municipalities.

The bill introduces amendments in order to apply the first assessment rolls drawn up specifically for the municipalities of the agglomeration of Longueuil to the fiscal years 2007 and 2008 as well as 2006.

The bill confirms that the Société d'habitation du Québec is authorized to make international agreements and establish subsidiaries.

The bill also contains other provisions, some of which deal with particular situations concerning municipal affairs.

Lastly, the bill changes the name of the Minister of Education and the Ministère de l'Éducation to the Minister of Education, Recreation and Sports and the Ministère de l'Éducation, du Loisir et du Sport, respectively. It also changes the name of the Minister of Municipal Affairs, Sports and Recreation and the Ministère des Affaires Municipales, du Sport et du Loisir to the Minister of Municipal Affairs and Regions and the Ministère des Affaires Municipales et des Régions, respectively. Furthermore, provision is made for transferring responsibility for the functions relating to sports and recreation.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting land use planning and development (R.S.Q., chapter A-19.1);
- Charter of Ville de Gatineau (R.S.Q., chapter C-11.1);
- Charter of Ville de Lévis (R.S.Q., chapter C-11.2);
- Charter of Ville de Longueuil (R.S.Q., chapter C-11.3);
- Charter of Ville de Montréal (R.S.Q., chapter C-11.4);
- Charter of Ville de Québec (R.S.Q., chapter C-11.5);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Highway Safety Code (R.S.Q., chapter C-24.2);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- James Bay Region Development and Municipal Organization Act (R.S.Q., chapter D-8.2);
- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (R.S.Q., chapter E-20.1);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Act respecting the Ministère de l'Éducation (R.S.Q., chapter M-15);
- Act respecting the Ministère des Affaires municipales, du Sport et du Loisir (R.S.Q., chapter M-22.1);
- Act respecting municipal territorial organization (R.S.Q., chapter O-9);
- Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);
- Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16);

- Act respecting safety in sports (R.S.Q., chapter S-3.1);
- Act respecting the Société d’habitation du Québec (R.S.Q., chapter S-8);
- Act respecting public transit authorities (R.S.Q., chapter S-30.01);
- Act respecting municipal and private electric power systems (R.S.Q., chapter S-41);
- Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001);
- Act respecting off-highway vehicles (R.S.Q., chapter V-1.2);
- Charter of the City of Laval (1965, 1st session, chapter 89);
- Act respecting Ville de Chapais (1999, chapter 98);
- Act to amend various legislative provisions concerning municipal affairs (2003, chapter 3);
- Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14);
- Act to amend various legislative provisions concerning municipal affairs (2004, chapter 20);
- Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29);
- Municipal Powers Act (2005, chapter 6).

Bill 111

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING MUNICIPAL AFFAIRS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

1. Section 59.7 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by replacing “45” in the first line of the second paragraph by “30”.

2. The Act is amended by inserting the following section after section 79.19.1, enacted by section 6 of chapter 20 of the statutes of 2004:

“79.19.2. The council of the regional county municipality may, by by-law, designate a by-law enforcement officer in every municipality in whose territory the by-laws provided for in sections 79.1 and 79.19 apply; the designation is valid only if the council of the municipality consents to it.

Only the representatives of the municipalities in whose territory the by-law provided for in section 79.1 applies may participate in the deliberations and vote of the council of the regional county municipality in relation to the by-law provided for in the first paragraph, both for its adoption and for the exercise of the functions arising from it. Only those municipalities shall contribute to the payment of expenses resulting from such adoption or exercise.

Section 120 applies, with the necessary modifications, to the officers designated under the first paragraph.”

3. Section 103 of the Act is amended by replacing “45” in the second line of the first paragraph by “30”.

4. Section 110.7 of the Act is amended by replacing “45” in the first line of the second paragraph by “30”.

5. Section 137.11 of the Act is amended by replacing “45” in the first line of the second paragraph by “30”.

6. Section 165.4.5 of the Act, enacted by section 10 of chapter 20 of the statutes of 2004, is amended by replacing “receipt of the copy of the certificate or written confirmation” in the first and second lines of the first paragraph by

“either the date of receipt of the copy of the certificate or the written confirmation or the date on which the competent municipal officer informed the applicant of the admissibility of the application, whichever is later”.

7. Section 165.4.11 of the Act, enacted by section 10 of chapter 20 of the statutes of 2004, is amended by replacing “receiving the copy of the authorization certificate or the written confirmation referred to in section 165.4.4 from the Minister of the Environment” in the sixth, seventh and eighth lines of the first paragraph by “either the date on which the regional county municipality received a copy of the certificate or the written confirmation referred to in section 165.4.4 from the Minister of Sustainable Development, Environment and Parks or the date on which the competent municipal officer informed the applicant of the admissibility of the application, whichever is later”.

8. Section 165.4.13 of the Act, enacted by section 10 of chapter 20 of the statutes of 2004, is amended

(1) by replacing “a condition set out in subparagraph 2 of” in the first line of the second paragraph by “a condition set out in”;

(2) by replacing “s’appliquent” in the fifth line of the second paragraph of the French text by “s’applique”;

(3) by replacing “such a condition” in the first line of the third paragraph by “the condition set out in subparagraph 2 of the first paragraph”.

9. Section 165.4.15 of the Act, enacted by section 10 of chapter 20 of the statutes of 2004, is amended by adding the following paragraph after the second paragraph:

“The Minister may not exercise the power under the first paragraph if the municipality did not receive a copy of the request within the time specified.”

10. Section 231 of the Act is amended by adding the following at the end of the first paragraph: “The court may order the owner or the person having custody of the structure to keep the structure under adequate surveillance until the imposed corrective measure has been carried out. It may authorize the regional county municipality or the municipality to ensure surveillance at the owner’s expense if the owner or person having custody of the structure fails to comply with the court judgment.”

CHARTER OF VILLE DE GATINEAU

11. Section 4 of Schedule B to the Charter of Ville de Gatineau (R.S.Q., chapter C-11.1) is repealed.

12. Section 6.5 of Schedule B to the Charter is repealed.

CHARTER OF VILLE DE LÉVIS

13. Section 14 of the Charter of Ville de Lévis (R.S.Q., chapter C-11.2) is repealed.

14. Section 15 of the Charter is amended by striking out the first sentence.

15. Section 35 of the Charter is repealed.

16. Section 36 of the Charter is replaced by the following section:

“**36.** The division of the territory of the city into electoral districts must be done in such a way that the resulting number of councillors per borough corresponds to that provided for in Schedule B.”

17. Sections 37, 38 and 39 of the Charter are repealed.

18. Section 85 of the Charter is amended

(1) by adding the following sentence at the end of the second paragraph: “To that end, if a power is attributed to or an obligation imposed on the council of a municipality with a certain population, the population of the city is taken into consideration rather than the population of the borough.”;

(2) by replacing “five” in the last line of the third paragraph by “25”.

CHARTER OF VILLE DE LONGUEUIL

19. Section 16 of the Charter of Ville de Longueuil (R.S.Q., chapter C-11.3) is repealed.

20. Section 17 of the Charter is amended by striking out the first sentence.

21. Section 37 of the Charter is repealed.

22. Section 38 of the Charter is replaced by the following section:

“**38.** The division of the territory of the city into electoral districts must be done in such a way that the resulting number of councillors per borough corresponds to that provided for in Schedule B.”

23. Sections 39, 40 and 41 of the Charter are repealed.

24. Section 71 of the Charter is amended

(1) by adding the following sentence at the end of the second paragraph: “To that end, if a power is attributed to or an obligation imposed on the council of a municipality with a certain population, the population of the city is taken into consideration rather than the population of the borough.”;

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

“Subject to section 477.2 of the Cities and Towns Act (chapter C-19), the borough council may, by regulation, provide for the delegation of any power within its jurisdiction, other than the power to make by-laws or a power under section 82 or 83, to any officer or employee assigned to the borough by the city and set the terms and conditions for the exercise of the delegated power. If the delegation concerns personnel management, the officer or employee to whom the power was delegated must report to the borough council on any decision made in the exercise of the delegated power at the first regular meeting after the expiry of 25 days following the date of the decision.”

25. Section 22 of Schedule C to the Charter is repealed.

CHARTER OF VILLE DE MONTRÉAL

26. Section 15 of the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is repealed.

27. Section 16 of the Charter is amended by striking out the first sentence.

28. Sections 19, 40, 41 and 42 of the Charter are repealed.

29. Section 20 of the Charter is amended by adding the following paragraph at the end:

“However, the borough mayor may not, in that capacity, exercise the power provided for in section 114.4 of that Act.”

30. Section 94 of the Charter, amended by section 156 of chapter 6 of the statutes of 2005, is again amended by replacing “the by-law” in the fourth line of the second paragraph by “the resolution”.

31. Section 130 of the Charter, amended by section 31 of chapter 28 of the statutes of 2003, is again amended

(1) by adding the following sentence at the end of the second paragraph: “To that end, if a power is attributed to or an obligation imposed on the council of a municipality with a certain population, the population of the city is taken into consideration rather than the population of the borough.”;

(2) by replacing “five” in the last line of the third paragraph by “25”.

32. Section 144.1 of the Charter, enacted by section 41 of chapter 28 of the statutes of 2003, is amended by replacing “The” in the first line by “Subject to the terms and conditions determined in the by-law under section 186 of Schedule C, the”.

33. Section 144.2 of the Charter, enacted by section 41 of chapter 28 of the statutes of 2003, is amended by replacing “The” in the first line of the first paragraph by “Subject to the terms and conditions determined in the by-law under section 186 of Schedule C, the”.

34. Section 144.3 of the Charter, enacted by section 41 of chapter 28 of the statutes of 2003, is amended by striking out “requiring only the approval of the Minister of Municipal Affairs, Sports and Recreation” in the first and second lines of the second paragraph.

35. Section 146.1 of the Charter, enacted by section 42 of chapter 28 of the statutes of 2003, is amended by striking out the third paragraph.

36. Section 102.1 of Schedule C to the Charter, amended by section 151 of chapter 29 of the statutes of 2004, is repealed.

37. Section 133 of Schedule C to the Charter is amended by striking out “, and must specify that they are issued for the purposes of the working fund of the city” at the end of subparagraph 2 of the first paragraph.

CHARTER OF VILLE DE QUÉBEC

38. Section 14 of the Charter of Ville de Québec (R.S.Q., chapter C-11.5) is repealed.

39. Section 15 of the Charter is amended by striking out the first sentence.

40. Section 37 of the Charter is repealed.

41. Section 38 of the Charter is replaced by the following section:

“38. The division of the territory of the city into electoral districts must be done in such a way that the resulting number of councillors per borough corresponds to that provided for in Schedule B.”

42. Sections 39, 40 and 41 of the Charter are repealed.

43. Section 114 of the Charter is amended

(1) by adding the following sentence at the end of the second paragraph: “To that end, if a power is attributed to or an obligation imposed on the council of a municipality with a certain population, the population of the city is taken into consideration rather than the population of the borough.”;

(2) by replacing “five” in the ninth line of the third paragraph by “25”.

44. Section 40 of Schedule C to the Charter is repealed.

45. Section 124 of Schedule C to the Charter, amended by section 92 of chapter 20 of the statutes of 2004, is again amended by replacing “classes of work from the commission’s jurisdiction” in the seventh and eighth lines of the first paragraph by “from the Commission’s jurisdiction classes of work in all or part of the territory of the city over which the Commission has jurisdiction”.

46. Schedule C to the Charter is amended by inserting the following sections after section 149:

“**149.1.** The city council may, by by-law, create a financial reserve to finance the expenditures, under the sixth paragraph of section 8 of this Charter, relating to a debt of Ville de Québec, as it existed on 31 December 2001. Such a reserve is deemed to be created for the benefit of the sector of the territory of the city corresponding to the territory of that former municipality.

Subdivision 31.1 of Division XI of the Cities and Towns Act (chapter C-19) applies to such a financial reserve, subject to the following rules:

(1) a by-law creating a financial reserve does not require the approval of the qualified voters in the sector referred to in the first paragraph;

(2) despite section 569.6 of the Cities and Towns Act, a sum allocated to the financial reserve must be invested in accordance with the by-law that created the reserve; the by-law must aim to constitute a diversified portfolio so as to minimize major losses;

(3) any amount by which income exceeds expenditures, determined at the end of the existence of the reserve, is converted into a tax credit for the exclusive benefit of the taxable immovables in the sector referred to in the first paragraph.

“**149.2.** The city council may allocate a loan in the amount of \$20,000,000 to the financial reserve provided for in section 149.1 for a term of not more than 20 years and on the repayment conditions agreed upon with the Government.”

47. Section 182 of Schedule C to the Charter is repealed.

CITIES AND TOWNS ACT

48. The Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting the following section after section 92:

“**92.1.** The clerk is authorized to amend the minutes or a by-law, resolution, order or other act of the council, executive committee or borough council in order to correct an error that is obvious just by reading the documents provided in support of the decision. In such a case, the clerk must attach the minutes of the correction to the original of the amended document and file a

copy of the amended document and of the minutes of the correction at the next meeting of the council, executive committee or borough council.”

49. Section 108.4.2 of the Act is amended by inserting “that were” after “documents” in the second line and by adding “and that the external auditor considers necessary to carry out his mandate” at the end.

50. The Act is amended by inserting the following after section 114.3:

“IX. — *Office staff*

“**114.4.** The mayor or a designated councillor, within the meaning of section 114.5, of a municipality with a population of 100,000 or more may appoint a chief of staff and any other staff members necessary for the orderly administration of the mayor’s or the councillor’s office.

However, a designated councillor may not exercise the power under the first paragraph until the mayor does so.

“**114.5.** For the purposes of sections 114.4, 114.11 and 114.12, “designated councillor” means the councillor designated as such by an authorized party, other than the party to which the mayor belongs, that obtained at least 20% of all the valid votes at the last general election in the municipality.

However, if, among the authorized parties other than the mayor’s, there is none that obtained that minimum percentage of votes at that election, “designated councillor” means the councillor designated as such by the party among those other parties that obtained the greatest number of valid votes at that election.

The designation is valid for the duration of the current term of the councillor. It ceases to have effect, however, before the end of that term if the councillor ceases to belong to the authorized party that made the designation or if the designation is revoked or transferred. The designation of a councillor who continues to belong to the authorized party that made the designation may be revoked or transferred before the end of the term only if the councillor did not exercise the power provided for in section 114.4.

A notice of the designation is signed by the party leader and submitted to the council by a councillor in the party. The same applies for revocation of the designation if it does not result from a transfer.

“**114.6.** The standards and scales according to which the chief of staff and other staff members are recruited, appointed and remunerated, as well as their other conditions of employment, are determined by the executive committee.

“114.7. Subject to section 114.10, a person who joins the office staff of the mayor or a designated councillor does not become or ceases to be an officer or employee of the municipality.

However, a person who ceases to be an officer or employee of the municipality under the first paragraph retains the classification held at the time of appointment to the office staff of the mayor or a designated councillor throughout the period of that appointment.

“114.8. A former officer or employee referred to in section 114.7 may, at any time, require from the municipality an assessment of the classification that former officer or employee would be assigned if the right to return to the public service were exercised under section 114.9.

The assessment must take into account the classification referred to in the second paragraph of section 114.7, as well as the experience and education acquired since the date of appointment to the office staff of the mayor or a designated councillor.

“114.9. A former officer or employee referred to in section 114.7 may, on ceasing to be a member of the office staff of the mayor or a designated councillor, require that the municipality reassess the qualifications of the former officer or employee and rehire that person by priority in a position corresponding to those qualifications.

The application for reassessment must be made in writing and received not later than the sixtieth day following the day the person ceases to be a member of that office staff.

“114.10. A person who is a member of the office staff of the mayor or a designated councillor is deemed to be an officer or employee of the municipality for the purposes of Division XIII.1.

“114.11. If the mayor or a designated councillor exercised the power provided for in section 114.4 before the budget of the municipality was adopted, the budget must contain an estimate to cover the expenditures relating to office staff and determined according to the standards, scales and other conditions set under section 114.6.

However, the estimate may not exceed the percentage of the total of the other estimates in the budget determined by the Minister.

“114.12. If no designated councillor exercises the power provided for in section 114.4, the mayor is entitled to the total amount of the estimate provided for in section 114.11.

Otherwise, unless the Minister determines another way of sharing that amount with respect to any municipality the Minister designates,

(1) if a single designated councillor exercises the power, the mayor is entitled to two-thirds of the amount, and the councillor, to one-third of it;

(2) if two or more designated councillors exercise the power, the mayor is entitled to half the amount and the balance is divided between those councillors in proportion to the valid votes cast at the last general election in the municipality for the authorized party that designated each of them.”

51. Section 356 of the Act is amended by replacing the first sentence of the second paragraph by the following sentence: “It is not necessary to read the by-law if a copy of the proposed by-law was given to the council members not later than two juridical days before the sitting at which it is to be approved and if, at that sitting, all the council members present declare that they have read it and waive the reading of it.”

52. Section 474.0.4 of the Act is amended

(1) by replacing “any municipality having a population of 500,000 or over” in the first and second lines of the first paragraph by “Ville de Montréal and of Ville de Québec”;

(2) by striking out “having among its members at least one councillor on 1 January of the fiscal year covered by the budget” in the fourth and fifth lines of the first paragraph;

(3) by striking out “referred to in the first paragraph” in the second line of the third paragraph.

53. Section 477.2 of the Act is amended

(1) by replacing “five” in the third line of the fifth paragraph by “25”;

(2) by replacing “five” in the second line of subparagraph 3 of the sixth paragraph by “25”.

54. Section 567 of the Act, amended by section 101 of chapter 20 of the statutes of 2004, is again amended by striking out the second sentence of the second paragraph of paragraph 2.

55. The Act is amended by inserting the following after section 569.6:

“§31.2. — *Financial reserve for the supply of water*

“569.7. A municipality may, for the benefit of its whole territory, create a financial reserve to finance expenditures made to improve techniques and procedures and develop infrastructures related to the supply of water.

The supply of water includes all matters related to waterworks, sewers, and, in general, water supply and water purification.

The duration of the reserve is unlimited.

“569.8. The reserve is made up of

(1) any revenues from the tax under section 569.11 which are of right allocated to the reserve;

(2) the sums the municipality annually allocates to the reserve out of its general fund or its revenues from

(a) any tax, other than the tax under section 569.11, or any tariff, if the tax or tariff is imposed for the supply of water;

(b) any subsidy or other liberality not reserved for a purpose other than the purposes for which the reserve is created;

(3) the interest earned on the capital allocated to the reserve under subparagraph 1 or 2.

“569.9. The resolution creating the reserve must set out the amount and the mode of financing the municipality proposes for the reserve.

It must specify that the reserve is created for the benefit of the whole territory of the municipality, for the purpose of financing the expenditures referred to in section 569.7.

“569.10. The sums allocated to the reserve must be invested in accordance with section 99.

“569.11. In addition to any property or rental tax and any tariff it may impose for the supply of water, a municipality that has a reserve under section 569.7 may, by by-law, impose a special annual tax on all the taxable immovables in its territory on the basis of their taxable value.

The tax rate may vary according to the classes of immovables determined by the by-law.”

56. Section 573.3 of the Act is amended by adding the following subparagraph after subparagraph 9 of the first paragraph:

“(10) whose object is the performance of work on a railway right-of-way used as such, entered into with the owner or operator of the railway, for a price corresponding to the price usually charged by an undertaking generally performing such work.”

MUNICIPAL CODE OF QUÉBEC

57. The Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by inserting the following article after article 202:

202.1. The secretary-treasurer is authorized to amend the minutes or a by-law, resolution, order or other act of the council in order to correct an error that is obvious just by reading the documents provided in support of the decision. In such a case, the secretary-treasurer shall attach the minutes of the correction to the original of the amended document and file a copy of the amended document and of the minutes of the correction at the next sitting of the council.”

58. Article 445 of the Code is amended by replacing the first sentence of the second paragraph by the following sentence: “It is not necessary to read the by-law if a copy of the proposed by-law was given to the council members not later than two juridical days before the sitting at which it is to be approved and if, at that sitting, all the council members present declare that they have read it and waive the reading of it.”

59. Article 938 of the Code is amended by adding the following subparagraph after subparagraph 9 of the first paragraph:

“(10) whose object is the performance of work on a railway right-of-way used as such, entered into with the owner or operator of the railway, for a price corresponding to the price usually charged by an undertaking generally performing such work.”

60. Article 961.1 of the Code is amended by replacing “five” in the third line of the fifth paragraph by “25”.

61. Article 1093 of the Code is amended by striking out the second sentence of the second paragraph.

62. The Code is amended by inserting the following after article 1094.6:

“CHAPTER VII

“FINANCIAL RESERVE FOR THE SUPPLY OF WATER

1094.7. A local municipality may, for the benefit of its whole territory, create a financial reserve to finance expenditures made to improve techniques and procedures and develop infrastructures related to the supply of water.

The supply of water includes all matters related to waterworks, sewers and, in general, water supply and water purification.

The duration of the reserve is unlimited.

1094.8. The reserve is made up of

(1) any revenues from the tax under article 1094.11 which are of right allocated to the reserve;

(2) the sums the municipality annually allocates to the reserve, taken out of its general fund or its revenues from

(a) any tax, other than the tax under article 1094.11, or any tariff, if the tax or tariff is imposed for the supply of water;

(b) any subsidy or other liberality not reserved for a purpose other than the purposes for which the reserve is created;

(3) the interest earned on the capital allocated to the reserve under paragraph 1 or 2.

“1094.9. The resolution creating the reserve must set out the amount and the mode of financing the municipality proposes for the reserve.

It must specify that the reserve is created for the benefit of the whole territory of the municipality, for the purpose of financing the expenditures referred to in article 1094.7.

“1094.10. The sums allocated to the reserve must be invested in accordance with article 203.

“1094.11. In addition to any property or rental tax and any tariff it may impose for the supply of water, a municipality that has a reserve under article 1094.7 may, by by-law, impose a special annual tax on all the taxable immovables in its territory on the basis of their taxable value.

The tax rate may vary according to the classes of immovables determined in the by-law.”

JAMES BAY REGION DEVELOPMENT AND MUNICIPAL ORGANIZATION ACT

63. Section 38 of the James Bay Region Development and Municipal Organization Act (R.S.Q., chapter D-8.2) is amended by replacing “two-year” in the first line of the first paragraph by “four-year”.

64. Section 38.1 of the Act is amended by replacing “two-year” in the second line of the first paragraph by “four-year”.

65. The Act is amended by inserting the following section after section 40.2, enacted by section 133 of chapter 20 of the statutes of 2004:

“40.3. The municipality may establish a limited partnership with any person for the purpose of producing electric power. The second paragraph of article 678 of the Municipal Code of Québec (chapter C-27.1) applies to such a partnership, with the necessary modifications.”

ACT RESPECTING ELECTIONS AND REFERENDUMS IN
MUNICIPALITIES

66. Section 52 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by adding the following paragraph after the second paragraph:

“A person who is not an elector of the municipality when the person votes in an advance poll solely because that person is not then of full age, but who will have attained full age by polling day, is deemed to be an elector of the municipality.”

67. Section 53 of the Act is amended by inserting “, the Act respecting school elections (chapter E-2.3)” after “645” in the third line of the first paragraph.

68. Section 69 of the Act is amended by inserting “, the Act respecting school elections (chapter E-2.3)” after “section 645” in the third line of the first paragraph.

69. Section 81.1 of the Act is amended by inserting the following paragraph after the second paragraph:

“If there is only one polling station in a place, the deputy returning officer and the poll clerk of the polling station may act as panel members.”

70. The Act is amended by inserting the following section after section 88.1:

“**88.2.** The Act respecting labour standards (chapter N-1.1) does not apply to election officers.”

71. Section 97 of the Act is amended by inserting “, the Act respecting school elections (chapter E-2.3)” after “section 645” in the second line of the first paragraph.

72. Section 126 of the Act is replaced by the following section:

“**126.** Not later than five days before the last day set for making applications for entry, striking off or correction, the returning officer shall send each person whose name is entered on the list of electors to be revised a notice reproducing the particulars concerning that person which appear on the list, including the particulars contained in the public notice, and send to each residential address for which no elector’s name is entered on the list of electors to be revised and which is within the territory of the municipality or within the district or ward whose electoral list is to be revised, a notice including the particulars contained in the public notice and indicating that no electors’ names are entered on the list.

Notices to be sent to persons at the same address may be combined in one notice.

No mention of the date of birth of electors is made in the notice.

If two or more boards of revisors are established, the only particulars provided for in subparagraph 3 of the first paragraph of section 125 that are to be included in the notice are those concerning the board responsible for the revision of the part of the list that includes the name of the person to whom the notice is sent or that would include the name of the elector if a name were entered for the address to which the notice is sent.”

73. Section 140 of the Act is amended by adding the following paragraph after the third paragraph:

“That information must be sent to the chief electoral officer not later than the thirtieth day after the revision of the list of electors is completed or interrupted.”

74. Section 148 of the Act is repealed.

75. Section 149 of the Act is amended by replacing the second and third paragraphs by the following paragraph:

“The application must be accompanied by a list including the names, addresses and signatures of at least 10 electors of the municipality who support the application.”

76. Section 150 of the Act is amended by replacing “sections 148 and 149” in the second line of the first paragraph by “section 149”.

77. Section 152 of the Act is amended

(1) by striking out the first paragraph;

(2) by replacing “The returning officer shall also” in the first line of the second paragraph by “The returning officer shall”.

78. Section 162.1 of the Act is amended

(1) by replacing “in detail” in the second line of the first paragraph by “the total amount of”;

(2) by adding the following sentence at the end of the first paragraph: “If the total amount is greater than \$1,000, a breakdown of the publicity expense must be made.”;

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

“The chief electoral officer shall see that this section is carried out and, in that regard, may perform the same duties as those listed in section 368, if they are consistent with this section.”

79. Section 164 of the Act is amended by replacing “The writing” in the fourth line by “The candidate may designate himself as his official agent. Except in that case, the writing”.

80. Section 175 of the Act is amended by inserting “, or, if there is no revision of the list under section 277, not later than 12 days before polling day” at the end of subparagraph 2 of the second paragraph.

81. Section 180 of the Act is amended by adding the following paragraphs at the end:

“The elector may also be assisted

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

(2) by another person, in the presence of the deputy returning officer and the poll clerk.

The person referred to in subparagraph 2 of the second paragraph shall attest under oath to not having assisted another elector who is not that person’s spouse or relative within the meaning of section 131, during the advance poll.”

82. Section 185 of the Act is amended by replacing “7” in the first line of the first paragraph by “8”.

83. Section 186 of the Act is amended by striking out “authorized” in the second line of the third paragraph.

84. Section 210 of the Act is amended by replacing “9 a.m.” and “7 p.m.” in the second line by “10 a.m.” and “8 p.m.” respectively.

85. Section 226 of the Act is amended by replacing “he has not assisted another elector during the poll” in the second line of the second paragraph by “the person has not assisted another elector who is not that person’s spouse or relative within the meaning of section 131, during the poll”.

86. Section 283 of the Act is amended

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

“If the party, ticket or candidate promoted by prohibited partisan publicity refuses to stop or remove the publicity after being requested to do so, the returning officer may have it stopped or removed at the expense of the party, ticket or candidate.”;

(2) by striking out “waiting in line” in the third line of the second paragraph.

87. Section 301 of the Act is amended by inserting “, the Act respecting school elections (chapter E-2.3)” after “645” in the second line of the first paragraph.

88. Section 378 of the Act is amended by adding the following sentence at the end: “The leader must be an elector of the municipality in whose territory the party intends to carry on its activities.”

89. Section 383 of the Act is amended

(1) by inserting “, except an authorized independent candidate who designates himself as official agent and representative” after “municipality” in subparagraph 2 of the first paragraph;

(2) by inserting “, the Act respecting school elections (chapter E-2.3)” after “645” in the second line of subparagraph 7 of the first paragraph.

90. Section 389 of the Act is amended by inserting “, the Act respecting school elections (chapter E-2.3)” after “645” in the second line of subparagraph 9 of the first paragraph.

91. Section 396 of the Act is repealed.

92. Section 397 of the Act is amended by replacing the second and third paragraphs by the following paragraphs:

“The application must be accompanied by a list including the names and addresses of party members who are electors of the municipality and who support the application; the minimum number of party members is set out in the third paragraph. The list must include the number and the expiry date of each person’s membership card and contain each person’s signature.

The minimum number of party members who must be on the list is

(1) 100, in the case of a municipality with a population of 100,000 or more;

(2) 50, in the case of a municipality with a population of 50,000 to 99,999; and

(3) 25, in the case of a municipality with a population of 5,000 to 49,999.”

93. Section 400 of the Act is amended by inserting “, unless the candidate designates himself as his official agent and representative, in which case that fact must be indicated” at the end of subparagraph 5 of the first paragraph.

94. Section 406 of the Act is repealed.

95. Section 458 of the Act is amended

(1) by inserting “opened for that purpose” after “an account” in the second line of the second paragraph;

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

“It is not necessary to open such an account if the sums come exclusively from contributions made by an authorized independent candidate.”

96. Section 479 of the Act is amended by replacing “containing” in the third line of the first paragraph by “in the form prescribed by a directive of the chief electoral officer. The report must contain”.

97. Section 482 of the Act is replaced by the following section:

“**482.** If the auditor of the party must audit the financial report, it shall be deemed filed with the treasurer only if it is accompanied by the report of the auditor of the party.”

98. Section 488 of the Act is amended

(1) by replacing “examine” in the first line by “audit”;

(2) by replacing “and issue” in the second line by “if the revenues collected exceed \$5,000. The auditor shall then deliver”.

99. Section 512.1 of the Act is amended by adding the following paragraphs at the end:

“An authorized political party that does not present candidates at a general election or a by-election and that wishes to intervene as a private intervenor shall notify the treasurer of the municipality accordingly. The party is deemed to hold an authorization as a private intervenor from the treasurer from the date its notice is received; the treasurer assigns the party an authorization number.

Sections 512.7, 512.8 and 512.12 to 512.20 apply to that party, with the necessary modifications. For the purposes of those sections, the party leader is deemed to be the elector representing the private intervenor referred to in the last paragraph of section 512.3.

An authorized political party that took advantage of section 455 during an election period cannot obtain the status of private intervenor during that period.”

100. Section 524 of the Act is amended by inserting “, the Act respecting school elections (chapter E-2.3)” after “645” in the second line of the first paragraph.

101. The Act is amended by inserting the following section after section 533:

“533.1. A qualified voter who attests under oath to not being able to enter the personal particulars required or sign the register, may be assisted by the person in charge of the register.

The qualified voter may also be assisted

(1) by the qualified voter’s spouse or relative within the meaning of section 131; or

(2) by another person, in the presence of the person in charge of the register.

The person referred in subparagraph 2 of the second paragraph shall attest under oath to not having assisted another elector who is not that person’s spouse or relative within the meaning of section 131, during the registration procedure.”

102. Section 550 of the Act is amended

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

“The person in charge of the register may have any prohibited publicity stopped or removed.”;

(2) by striking out “waiting in line” in the second and third lines of the second paragraph.

103. The Act is amended by inserting the following section after section 550:

“550.1. Section 86 applies, with the necessary modifications, to a person who exercises a function under this chapter.”

104. Section 567 of the Act is amended by adding the following subparagraph after subparagraph 5 of the first paragraph:

“(6) the provisions of Chapter VII.1 respecting election posters and billboards.”

105. Section 594 of the Act is amended by inserting the following paragraph after paragraph 1:

“(1.1) every person other than an officer or employee who exercises a function under Chapter IV of Title II and who engages in partisan work after taking the oath of office;”.

106. Section 601 of the Act is amended

(1) by striking out “or sympathiser” in the second line of paragraph 1;

(2) by replacing “of the electoral district mentioned” in the third line of paragraph 1 by “of the municipality mentioned”.

107. Section 602 of the Act is amended by replacing “of the electoral district mentioned” in the third line by “of the municipality mentioned”.

108. Section 636.1 of the Act is amended

(1) by inserting “or referendum” after “election” in the first line of paragraph 1;

(2) by inserting “or referendum” after “election” in the first line of paragraph 2.

109. Section 659.2 of the Act is amended by replacing the second paragraph by the following paragraph:

“The agreement must

(1) describe the new methods of voting;

(2) mention the provisions of this Act it amends or replaces; and

(3) specify that it applies to a poll held to elect a warden in the territory of the municipality if the territory is comprised in that of the regional county municipality whose warden is elected in accordance with section 210.29.2 of the Act respecting municipal territorial organization (chapter O-9).”

ACT TO SECURE HANDICAPPED PERSONS IN THE EXERCISE OF THEIR RIGHTS WITH A VIEW TO ACHIEVING SOCIAL, SCHOOL AND WORKPLACE INTEGRATION

110. Section 61.1 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (R.S.Q., chapter E-20.1), enacted by section 39 of chapter 31 of the statutes of 2004, is amended by inserting “local” before “municipality” in the second line.

ACT RESPECTING MUNICIPAL TAXATION

111. Section 231.2 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 166 of chapter 20 of the statutes of 2004, is again amended by replacing “\$15 000” in the fourth line by “\$26,000”.

112. Section 244.42 of the Act is amended by replacing “were all or part of the rate specific to the category of industrial immovables not applicable to the unit” in the eighth and ninth lines of the second paragraph by “if that rate were

fixed and if no rate specific to the category of industrial immovables were fixed”.

113. Section 244.47 of the Act is amended by replacing “has not fixed a rate specific to the category of immovables consisting of six or more dwellings” by “did not fix a rate specific to the category of immovables consisting of six or more dwellings or fixed a rate equal to the basic rate” in the second and third lines of the third paragraph.

114. Section 244.53 of the Act is amended by replacing the third paragraph by the following paragraph:

“Even if no rate specific to the category of non-residential immovables has been fixed, the first or second paragraph applies to a unit of assessment referred to in that paragraph belonging to the category of immovables consisting of six or more dwellings, if a rate specific to that category and higher than the basic rate has been fixed; for the purposes of that paragraph, a rate specific to the category of non-residential immovables, equal to the basic rate, is then deemed to have been fixed. If the unit of assessment belonging to the category of immovables consisting of six or more dwellings is referred to in the first paragraph, a reference to the basic rate in that paragraph is deemed to be a reference to the rate specific to that category.”

115. Section 255 of the Act, replaced by section 187 of chapter 20 of the statutes of 2004, is amended by adding the following subparagraph after subparagraph 4 of the second paragraph:

“(5) an immovable whose owner is a religious institution and

(a) that a person referred to in subparagraph 2 uses for one of the person’s ordinary activities;

(b) that a person referred to in subparagraph 3 uses for purposes mentioned in that subparagraph; or

(c) that a person referred to in subparagraph 4 uses for purposes specific to an institution mentioned in that subparagraph, other than preschool, elementary or secondary education.”

116. Section 261.5 of the Act is amended by replacing “were all or part of the rate specific to the category of industrial immovables not applicable to the unit” at the end of the second paragraph by “if that rate were fixed and if no rate specific to the category of industrial immovables were fixed”.

ACT RESPECTING THE MINISTÈRE DE L’ÉDUCATION

117. Section 1.1 of the Act respecting the Ministère de l’Éducation (R.S.Q., chapter M-15) is amended by replacing “and in the fields of university education and university research, except a field of education within the

competence of another minister” in the second, third and fourth lines by “and university education and research, except where another minister is responsible, and in the fields of recreation and sports”.

118. Section 1.2 of the Act is amended

(1) by inserting “, recreation and sports” after “education” in subparagraph 1 of the first paragraph;

(2) by inserting “as well as the level of participation in recreation and sports activities” after “professional achievement” in the second line of subparagraph 2 of the first paragraph.

119. Section 5 of the Act is amended by replacing “for such purpose,” in the first line of the second paragraph by “for the purposes of this Act”.

ACT RESPECTING THE MINISTÈRE DES AFFAIRES MUNICIPALES,
DU SPORT ET DU LOISIR

120. Section 7.1 of the Act respecting the Ministère des Affaires municipales, du Sport et du Loisir (R.S.Q., chapter M-22.1) is repealed.

ACT RESPECTING MUNICIPAL TERRITORIAL ORGANIZATION

121. Section 210.29.2 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended by replacing the second paragraph by the following paragraphs:

“The provisions of the Act respecting elections and referendums in municipalities (chapter E-2.2) that relate to the election of the mayor, except the provisions of Chapters III and IV of Title I, apply to the election of the warden to the extent that they are consistent with such an election, with the necessary modifications and the specific modifications mentioned in Schedule I.

The purpose of the specific modifications is to distribute the functions related to the election of the warden between the returning officer of the regional county municipality and the returning officer of each local municipality whose territory is comprised in that of the regional county municipality. The modifications shall establish in particular that the returning officer of the regional county municipality must draw up the list of electors, issue the notice of election, receive nomination papers, and declare elected the candidate who obtained the greatest number of votes, and that the returning officer of each local municipality must revise the part of the list of electors of the regional county municipality that concerns the territory of the local municipality and hold the vote in that territory.”

122. The Act is amended by adding the following schedule at the end:

“SCHEDULE I
(Section 210.29.2)

“SPECIFIC MODIFICATIONS OF CERTAIN PROVISIONS OF THE ACT
RESPECTING ELECTIONS AND REFERENDUMS IN
MUNICIPALITIES (CHAPTER E-2.2) FOR THE PURPOSES OF THE
ELECTION OF THE WARDEN

“**1.** Section 55.1 is amended by adding “, except if that board was established by the returning officer of a local municipality, in which case that returning officer shall transmit the application” at the end.

“**2.** Section 63 is amended by replacing paragraph 3 by the following paragraph:

“(3) the election officers of the regional county municipality and of each local municipality whose territory is comprised in that of the regional county municipality;”.

“**3.** Section 67 is replaced by the following section:

“**67.** A person is ineligible for office as warden if he is a candidate for office as member of the council of a local municipality or was declared elected to that office in the past 30 days.”

“**4.** Section 68 is amended by adding the following paragraph at the end:

“The election officers of a regional county municipality include the returning officer, the election clerk and any other person whose services are temporarily required by the returning officer. If the territory of the regional county municipality comprises an unorganized territory, the election officers of the regional county municipality may also include any other member mentioned in the first paragraph, for an election to the office of warden in the unorganized territory.”

“**5.** Section 87 is amended by replacing the first paragraph by the following paragraph:

“**87.** As soon as practicable after taking the oath, each election officer of the regional county municipality and of each local municipality whose territory is comprised in that of the regional county municipality shall be registered on a list posted in the office of the regional county municipality.”

“**6.** Section 88.1 is amended by replacing the first paragraph by the following paragraph:

“**88.1.** No penalty may be imposed by the regional county municipality on an officer or employee who is an election officer of the regional county

municipality or of a local municipality whose territory is comprised in that of the regional county municipality for acts performed in good faith by the election officer in the performance of his duties, even outside the election period within the meaning of section 364.”

“**7.** Section 101.1 is replaced by the following section:

“**101.1.** The list of electors is prepared by local municipal territory and, where applicable, by unorganized territory. The list of electors of all those territories constitutes the list of electors of the regional county municipality.”

“**8.** The Act is amended by inserting the following section after section 103:

“**103.1.** After completing the list, the returning officer of the regional county municipality shall transmit a copy of the list that concerns the territory of each local municipality whose territory is comprised in that of the regional county municipality to the returning officer of that local municipality. The returning officer of the regional county municipality shall also transmit the information received from the chief electoral officer under section 100.1 that concerns the territory of each local municipality.”

“**9.** Sections 104 and 105 are replaced by the following sections:

“**104.** The returning officer of each local municipality shall divide the list of electors of which he received a copy into polling subdivisions, which, as far as practicable, must comprise close to 300 electors. If applicable, the returning officer of the regional county municipality shall divide the list he prepared for the unorganized territory in the same manner.

As soon as practicable after dividing the list of electors into polling subdivisions, the returning officer of the local municipality shall transmit a copy of the divided list to the returning officer of the regional county municipality.

“**105.** The returning officer of the regional county municipality shall deposit all the divided lists in the office of the regional county municipality.”

“**10.** Section 111 is amended by replacing the first paragraph by the following paragraph:

“**111.** The returning officer of each local municipality whose territory is comprised in that of the regional county municipality shall establish a board of revisors to revise the list of which he received a copy under section 103.1. If applicable, the returning officer of the regional county municipality shall establish a board of revisors to revise the list he prepared for the unorganized territory.”

“**11.** Section 112 is amended by replacing the first paragraph by the following paragraph:

“**112.** Not later than 22 days before polling day, the returning officer shall determine the place where any board of revisors he established will sit. The returning officer of a local municipality shall notify the returning officer of the regional county municipality of his decision within the same time limit.”

“**12.** Section 113 is replaced by the following section:

“**113.** Not later than 22 days before polling day, the returning officer of the regional county municipality shall inform each candidate for the office of warden of any decision made under section 112.”

“**13.** “Returning officer” in sections 114 and 118 to 121 means the returning officer who established the board of revisors.

“**14.** Section 122 is amended by replacing the second and third paragraphs by the following paragraphs:

“The returning officer of the regional county municipality shall notify the returning officer of each local municipality whose territory is comprised in that of the regional county municipality of his decision as soon as practicable, and each candidate for the office of warden not later than 22 days before polling day.

After consulting with the returning officer who established the board of revisors, the chairman of the board may extend the board’s hours of sittings.”

“**15.** Section 128 is amended by inserting “who established it” after “the returning officer” in the fourth line of the fifth paragraph and by replacing “the returning officer shall send the notice to the other board” at the end by “that returning officer shall send the notice to the other board, except if the other board was established by another returning officer, in which case the other returning officer shall send the notice to the competent board”.

“**16.** Section 134.1 is amended by adding “, except if that board was established by the returning officer of a local municipality, in which case that returning officer shall transmit the applications and documents” at the end of the second paragraph.

“**17.** Section 136 is amended by replacing “who shall transmit the notice to the competent board” at the end of the third paragraph by “who established it, who shall transmit the notice to the competent board, except if the board was established by another returning officer, in which case the other returning officer shall transmit the notice to the competent board”.

“18. Section 138 is replaced by the following section:

“138. The board of revisors shall transmit its decisions to the returning officer who established it, in accordance with the returning officer’s directives.

The returning officer of each local municipality shall transmit to the returning officer of the regional county municipality a copy of the decisions he received.

The returning officer of the regional county municipality shall incorporate the changes into the list or prepare an abstract of changes.”

“19. Section 175 is amended by replacing “each authorized party or recognized ticket and to each independent candidate concerned” at the end of the third paragraph by “the returning officer of each local municipality and to each candidate for the office of warden”.

“20. Section 177 is amended

(1) by adding the following sentence at the end of the first paragraph: “The returning officer referred to is the returning officer of the local municipality or, for the purposes of an election held in an unorganized territory, the returning officer of the regional county municipality.”;

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

“The returning officer of the local municipality shall notify the returning officer of the regional county municipality of his decision as soon as practicable. The returning officer of the regional county municipality shall notify each candidate for the office of warden of the decision made by another returning officer or by himself as soon as practicable.”

“21. Section 182 is amended by adding the following sentence at the end of the fourth paragraph: “The returning officer referred to is the returning officer of the local municipality or, for the purposes of the election held in an unorganized territory, the returning officer of the regional county municipality.”

“22. Section 184 is replaced by the following section:

“184. The poll clerk shall prepare the list of the electors who voted in advance at his polling station and transmit it, as soon as practicable, to the returning officer or the person designated by the returning officer. The returning officer referred to is the returning officer of the local municipality or, for the purposes of an election held in an unorganized territory, the returning officer of the regional county municipality.

Not later than four days before polling day, the returning officer of the local municipality shall transmit a copy of the list to the returning officer of the regional county municipality.

The returning officer of the regional county municipality shall transmit a copy of all the lists prepared by the poll clerks to each candidate for the office of warden not later than three days before polling day.”

“**23.** Section 185 is amended by replacing the second and third paragraphs by the following paragraphs:

“The counting shall be effected at the place determined by the returning officer, in accordance with the rules applicable to the counting of the votes cast on polling day, adapted as required. If the deputy returning officer or poll clerk who acted in the advance polling station is unable to act, the returning officer shall appoint a substitute for the purposes of this section.

The returning officer referred to is the returning officer of the local municipality or, for the purposes of an election held in an unorganized territory, the returning officer of the regional county municipality.”

“**24.** Section 186 is replaced by the following section:

“**186.** The returning officer shall establish a polling station for each polling subdivision. The returning officer may, however, establish several polling stations for the same subdivision and determine which electors of the subdivision are entitled to vote at each polling station.

The returning officer referred to is the returning officer of the local municipality or, for the purposes of an election held in an unorganized territory, the returning officer of the regional county municipality.

The returning officer of the local municipality shall notify the returning officer of the regional county municipality of his decision as soon as practicable. The returning officer of the regional county municipality shall notify each candidate for the office of warden of the decision made by another returning officer or by himself as soon as practicable.”

“**25.** “Returning officer” in sections 187, 190, 192, 196, 198, 200, 203 to 205, 211, 213.1, 214, 231, 238 and 240 means the returning officer of the local municipality or, for the purposes of an election held in an unorganized territory, the returning officer of the regional county municipality.

“**26.** Section 244 is replaced by the following section:

“**244.** The deputy returning officer shall deliver the ballot box and a copy of the statement of votes to the returning officer or to the person the returning officer designates to receive them. The returning officer referred to is the returning officer of the local municipality or, for the purposes of an election held in an unorganized territory, the returning officer of the regional county municipality.

The returning officer of the local municipality shall then transmit the ballot box and the copy of the statement of votes to the returning officer of the regional county municipality or to the person that returning officer designates to receive them.”

“27. Section 250 is amended by adding the following sentence at the end of the first paragraph: “The returning officer shall communicate with the deputy returning officer and the poll clerk through the returning officer of the local municipality, unless he himself established the polling station.”

“28. Section 260 is amended by replacing the second paragraph by the following paragraph:

“The returning officer shall transmit a copy of the notice to the chief electoral officer and to each local municipality whose territory is comprised in that of the regional county municipality.”

“29. Section 511 is amended by replacing “the regional county municipality, the metropolitan community” in the third line of the first paragraph by “the local municipalities whose territory is comprised in that of the regional county municipality”.

“30. Section 659.2 is amended by replacing the first and second paragraphs by the following paragraphs:

“659.2. A regional county 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 held in an unorganized territory. 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.”

“31. When an election for the office of member of the council of the local municipality and another election for the office of warden are held simultaneously in the territory of a local municipality, the returning officer of the local municipality must ensure that the acts under his authority for the election for the office of warden are performed by the same election officers, on the same days and hours and at the same places as for the other election.

An election officer other than the returning officer, the election clerk or any returning officer’s assistant who would thus be entitled to two remunerations or expense allowances for the same duties performed during the two elections is entitled to a single remuneration or expense allowance. Returning officers, election clerks and returning officers’ assistants are entitled, in addition to the remuneration or expense allowance for the duties performed during the election for the office of member of the council of the local municipality, to a

remuneration or an expense allowance equal to half the remuneration or allowance they would be entitled to receive if they were performing their duties only for the election for the office of warden.”

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

123. Section 54.1 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is amended by adding the following paragraph after the second paragraph:

“However, a regulation provided for in the second paragraph may fix a different rate of interest than the rate fixed under that paragraph with respect to the period beginning on the day following the date an application for a refund is received at the Commission and ending on the date of the refund. If the event giving entitlement to a refund is the death of the member, the period begins on the day following the date of death. If the event is the death of the beneficiary or the surviving spouse, the period begins on the first day of the month following the date of death.”

124. The Act is amended by inserting the following after section 63.0.10:

“CHAPTER VI.0.3

“REDEMPTION OF YEARS OF SERVICE FOR MEMBERS OF THE COUNCIL OF MUNICIPALITÉ DE BAIE-JAMES

“63.0.11. A person referred to in the first paragraph of section 36 of the James Bay Region Development and Municipal Organization Act (chapter D-8.2) who participates in this plan may choose to obtain pension credit equivalent to that granted under the plan in respect of the pensionable salary paid to the person as a member of the council of Municipalité de Baie-James during any period after 19 December 2001 the person specifies. The first paragraph of section 58 applies, with the necessary modifications, to the determination of the pensionable salary paid by the municipality with regard to the period redeemed in accordance with this section.

However, the period redeemed by a person referred to in subparagraph 1 of the first paragraph of section 36 of the James Bay Region Development and Municipal Organization Act may not be before the date the person began to participate in the pension plan as a member of the council of the local municipality of which the person is the mayor.

“63.0.12. To exercise the right provided for in section 63.0.11, a person must send a written application to the Commission. A copy of the application must be sent to Municipalité de Baie-James. The application must indicate, among other things, the period for which it is being made. Subject to the second paragraph, a later application may be made for all or part of a year of

past service referred to in section 63.0.11, provided an application for redemption has not already been made for that period.

An application for redemption made under this chapter must reach the Commission not later than the ninetieth day following the date on which the person ceases to be a member of the council of the municipality.

“63.0.13. A person who exercises the right provided for in section 63.0.11 must pay the Commission the amount corresponding to the contributions payable by a participant, under this pension plan, to obtain the pension credits. The amount is established according to the terms and conditions determined by regulation of the Government.

Section 61 applies with regard to the payment of the amount referred to in the first paragraph.

The municipality must pay the Commission the difference between that amount and the amount required to provide for the payment of the pension attributable to the years of service credited in accordance with the redemption made.

“63.0.14. A person who exercises the right provided for in section 63.0.11 is deemed, for every purpose other than the payment of surpluses, to have participated in this plan in respect of the years of service thus credited.”

125. Section 70.4 of the Act is amended by replacing “, where applicable, the vice-chairman of the Commission” in the first and second lines of the second paragraph by “any vice-chairmen of the Commission,”.

126. Section 70.10 of the Act is amended by replacing “its vice-chairman” in the first line by “any vice-chairmen” and “the vice-chairman” in the second line by “a vice-chairman”.

127. Section 75 of the Act is amended by adding the following paragraph after the second paragraph:

“A regulation provided for in subparagraph 4.4 of the first paragraph may determine periods relating to interest payable and determine a separate rate of interest for each period.”

ACT RESPECTING RETIREMENT PLANS FOR THE MAYORS AND COUNCILLORS OF MUNICIPALITIES

128. Section 42 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16) is amended by inserting the following paragraph after the first paragraph:

“A regulation under subparagraph *a* or *k* of the first paragraph may determine periods relating to interest payable and determine a separate rate of interest for each period.”

ACT RESPECTING THE SOCIÉTÉ D’HABITATION DU QUÉBEC

129. The Act respecting the Société d’habitation du Québec (R.S.Q., chapter S-8) is amended by inserting the following section after section 3.3:

“3.3.1. With the authorization of the Government, the Société may acquire or establish any subsidiary that may be useful in the pursuit of its mission.

A legal person all of whose common shares are held directly or indirectly by the Société is a subsidiary of the Société. A subsidiary of the Société is a mandatary of the State.

The provisions of this Act, with the exception of sections 2, 3.1 to 3.3, 3.5, 6 to 22, 51 to 86.1, except subparagraph *l* of the first paragraph of section 86, sections 87 and 88.1, the second paragraph of section 89 and sections 90 to 94.5 apply to a subsidiary of the Société, with the necessary modifications.

The Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) applies to a subsidiary of the Société.”

130. Section 89.1 of the Act is replaced by the following section:

“89.1. Subject to the applicable legislative provisions, the Société may enter into an agreement with a government other than the Gouvernement du Québec, with a department or body of that government or with an international organization or one of its agencies.

The Société may enter into an agreement with a department or body of the Gouvernement du Québec, with a municipality or with a person or body.

Within the framework of an agreement under the first or second paragraph relating to the administration of a program consistent with the objects of the Société, the Société may, to the extent it indicates, authorize the signatory to transfer part of the administration to a third person.”

131. Section 90 of the Act is amended

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

“90. If an agreement under the first paragraph of section 89.1 with the Government of Canada or a body of the Government of Canada could affect the economic, financial or fiscal policies of the Gouvernement du Québec, the agreement must be negotiated after consultation with the Minister of Finance

and with the Minister's authorization, and must be made on the basis of a proposal that has received the Minister's prior approval.”;

(2) by inserting “referred to in the first paragraph” after “agreement” in the first line of the third paragraph;

(3) by replacing “such an agreement” in the first line of the fourth paragraph by “an agreement referred to in the first paragraph”.

132. Section 90.0.1 of the Act is amended by replacing “accord visé” in the second line of the first paragraph of the French text by “entente visée”.

ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

133. Section 124 of the Act respecting public transit authorities (R.S.Q., chapter S-30.01) is amended by striking out the second sentence.

ACT RESPECTING MUNICIPAL AND PRIVATE ELECTRIC POWER SYSTEMS

134. Section 8 of the Act respecting municipal and private electric power systems (R.S.Q., chapter S-41) is amended by replacing “section 7” in the first and second lines of the first paragraph by “the Act respecting municipal taxation (chapter F-2.1)”.

ACT RESPECTING THE REMUNERATION OF ELECTED MUNICIPAL OFFICERS

135. Section 12 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), replaced by section 199 of chapter 20 of the statutes of 2004, is amended by replacing “fixed by the government regulation provided for in section 31.6” in the second and third lines of the second paragraph by “established in accordance with Division VI”.

136. Section 13 of the Act, amended by section 200 of chapter 20 of the statutes of 2004, is again amended by replacing “fixed by the government regulation provided for in section 31.6” in the third paragraph by “established in accordance with Division VI”.

137. Section 16 of the Act, amended by section 201 of chapter 20 of the statutes of 2004, is again amended

(1) by replacing “fixed in respect of each of them by the government regulation provided for in section 31.6” in the first paragraph by “established in respect of each of them in accordance with Division VI”;

(2) by replacing “fixed by the government regulation provided for in section 31.6” in the second paragraph by “established in accordance with Division VI”.

138. Section 21 of the Act is amended

(1) by replacing “by government regulation under section 32” in the third line of the first paragraph by “under sections 21.1 to 21.3”;

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

“A member of a borough council who is not also a member of the council of the municipality whose territory includes the borough is considered a member of the council of that municipality.”

139. The Act is amended by inserting the following sections after section 21:

“21.1. Subject to sections 21.2 and 21.3, the total annual remuneration a member of the council of a municipality is entitled to receive for all duties performed within the municipality, a mandatory body of the municipality or a supramunicipal body may not exceed the amount established for the position the member holds among those referred to in the second paragraph. For each subparagraph of that paragraph, the amount is established in accordance with Division VI.

The following positions are subject to separate maximum annual remunerations:

- (1) the mayor of Ville de Montréal;
- (2) the mayor of a municipality with a population of 500,000 or more;
- (3) the mayor of a municipality with a population of 300,000 to 499,999;
- (4) the mayor of a municipality with a population of 100,000 to 299,999;
- (5) the mayor of a municipality with a population of 50,000 to 99,999;
- (6) a member of the executive committee of a metropolitan community or the chair or vice-chair of a standing committee of a metropolitan community;
- (7) the warden of a regional county municipality elected in accordance with section 210.29.2 of the Act respecting municipal territorial organization (chapter O-9);
- (8) a member of the council of a municipality, other than a member referred to in subparagraphs 1 to 7 or section 21.2.

“21.2. The total annual remuneration referred to in section 21.1 to which a member of the executive committee of a municipality with a population of 50,000 or more, or the chair or vice-chair of a standing committee of that municipality may be entitled may not exceed 90% of the maximum applicable to the mayor of the municipality.

“21.3. Where the maximums under two or more provisions included in the subparagraphs of the second paragraph of section 21.1 or in section 21.2 are likely to apply to the same person, the greater of those maximums applies.”

140. Section 22 of the Act, amended by section 202 of chapter 20 of the statutes of 2004, is again amended by replacing “fixed by the government regulation provided for in section 32.1” in the first paragraph by “established in accordance with Division VI”.

141. The Act is amended by inserting the following after section 24:

“DIVISION VI

“INDEXATION

“24.1. Sections 24.2 to 24.4 apply in respect of any amount under section 12, 13, 16, 21.1 or 22.

“24.2. Subject to section 24.3, the amount applicable for a fiscal year, referred to as “the fiscal year concerned”, is the result obtained by indexing upward the amount applicable for the preceding fiscal year.

The indexation consists in increasing the amount applicable for the preceding fiscal year by a percentage corresponding to the rate of increase, according to Statistics Canada, of the Consumer Price Index for Canada.

That rate is established by

(1) subtracting the index established for the third month of December preceding the fiscal year concerned from the index established for the second month of December preceding that fiscal year; and

(2) dividing the difference obtained under subparagraph 1 by the index established for the third month of December preceding the fiscal year concerned.

If the indexation results in a mixed number,

(1) for an amount under section 12, only the first three decimal places are considered;

(2) for another amount, only the integer is used and it is rounded up if the first decimal is greater than 4.

“24.3. If an increase is impossible for the fiscal year concerned, the amount applicable for that fiscal year is equal to the amount applicable for the preceding fiscal year.

“24.4. Before the beginning of the fiscal year concerned, the Minister of Municipal Affairs and Regions shall publish a notice in the *Gazette officielle du Québec*

(1) stating the percentage corresponding to the rate of increase used to establish any amount applicable for that fiscal year or, as the case may be, indicating that an increase is impossible for that fiscal year;

(2) stating any amount applicable for that fiscal year.”

142. Chapter V of the Act, amended by sections 204 to 207 of chapter 20 of the statutes of 2004, is repealed.

CHARTER OF THE CITY OF DE LAVAL

143. The Charter of the City of Laval (1965, 1st session, chapter 89) is amended by inserting the following sections after section 32:

“32.1. The council may, by by-law, establish an arts council.

“32.2. The arts council has the following functions:

(1) to draw up and keep a permanent list of the associations, societies, organizations, groups or persons engaged in artistic and cultural activities in the territory of the city;

(2) to align, co-ordinate and promote artistic or cultural initiatives in the territory of the city; and

(3) within the limits of the funds available for that purpose, to designate the associations, societies, organizations, groups or persons and the artistic or cultural events worthy of receiving grants, determine the amount of any grant and recommend payment by the city.

The city council may, by by-law, confer any other power on the arts council or impose on it any other duty it believes could enable it to more fully attain its objects.

“32.3. The council shall determine, by the by-law referred to in section 32.1, the number of members composing the arts council, the qualifications they must have, the duration of their terms and the time and method of their appointment and replacement, as well as the rules of internal management and operation of the arts council, and the rules of procedure for its meetings.

“32.4. The members of the arts council must be Canadian citizens and be domiciled in the territory of the city.

The members are appointed by the city council, which shall designate a chair and two vice-chairs from among those members.

“32.5. The members of the arts council are not remunerated. However, they are entitled to reimbursement by the arts council for all expenses authorized by the arts council that they incur in the exercise of their functions.

“32.6. The members of the arts council may retain the services of the personnel they require, including a secretary, and determine their remuneration.

The employees of the arts council are not by that sole fact officers or employees of the city.

The treasurer of the city or an assistant designated by the treasurer is by virtue of office the treasurer of the arts council.

“32.7. The fiscal year of the arts council coincides with that of the city, and the city’s auditor shall audit the financial statements of the arts council and, within 120 days following the expiry of the fiscal year, make a report of that audit to the city.

“32.8. The arts council is provided with a special fund of which the treasurer of the arts council has custody.

“32.9. The fund is constituted of

- (1) the gifts, legacies and grants made to the arts council;
- (2) the sums voted annually for that purpose out of the city’s budget; and
- (3) the sums put at the disposal of the arts council every year that have not been used at the end of the fiscal year.

The city council may, by by-law, prescribe the minimum amount that must be allocated every year for the purposes of subparagraph 2 of the first paragraph. As long as the by-law remains in force, the treasurer of the city must include the amount prescribed in the certificate prepared in accordance with section 474 of the Cities and Towns Act (R.S.Q, chapter C-19).

“32.10. The fund is used exclusively to pay grants, on the recommendation of the arts council, and to defray the administrative costs of the arts council.

At the end of each fiscal year, the treasurer of the arts council shall render account to it of the sums paid under the first paragraph.

“32.11. The jurisdiction of the arts council extends to every municipality whose territory is situated in whole or in part within a 50-kilometre radius of

the territory of the city and which has expressed such a desire by a resolution of its council transmitted to the clerk of the city.

The council of such a municipality is empowered to pass the resolution provided for in the first paragraph.

The resolution remains in force for a period of three years; it is thereafter tacitly renewed every three years for a new three-year period unless the municipality has given the clerk of the city a notice to the opposite effect at least six months before the date of expiry of the three-year period then in effect.

The arts council has jurisdiction with regard to the municipality as long as the resolution remains in force.

“32.12. The city shall determine the annual contribution that must be paid into the fund by a municipality with regard to which the arts council has jurisdiction under section 32.11; it shall also determine the conditions and the time of payment of the contribution.

A municipality may require the city to determine for the municipality, for a period of three years, the contribution, and the conditions and time of payment referred to in the first paragraph before it transmits its resolution to the clerk of the city in accordance with the first paragraph of section 32.11 or, where applicable, at least one month before the expiry of the time allowed it to give a notice in accordance with the third paragraph of that section.

“32.13. A municipality with regard to which the arts council has jurisdiction under section 32.11 is authorized and required to pay into the fund the annual contribution determined for the municipality in accordance with section 32.12.

“32.14. For the purposes of sections 32.1 to 32.13, “territory of the city” includes the territory of a municipality with regard to which the arts council has jurisdiction under section 32.11.”

144. The Charter is amended by inserting the following section after section 33:

“33.1. The council may, by by-law, adopt beautification programs and, with the consent of the owner, make improvements on private property.

The cost of the improvements may be assumed in full by the city or charged to the owner, according to the conditions set for the program by the executive committee.”

ACT RESPECTING VILLE DE CHAPAIS

145. Section 2 of the Act respecting Ville de Chapais (1999, chapter 98), amended by section 94 of chapter 77 of the statutes of 2002 and by section 235 of chapter 19 of the statutes of 2003, is again amended by replacing “2004” in the second paragraph by “2005”.

ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS
CONCERNING MUNICIPAL AFFAIRS

146. Section 13 of the Act to amend various legislative provisions concerning municipal affairs (2003, chapter 3), amended by section 242 of chapter 19 of the statutes of 2003 and by section 216 of chapter 20 of the statutes of 2004, is replaced by the following sections:

“**13.** Section 12 does not apply in respect of a pension plan or a document ancillary to a pension plan that is the subject of an agreement, entered into after 6 June 2003 between a municipality or a body and a certified association or an association representing the majority of the executive officers of the municipality or body party to the pension plan, that expressly mentions that the agreement applies despite section 12.

“**13.1.** If a bond was remitted to the pension fund of the pension plan for the purposes of section 255 of the Act to amend various legislative provisions concerning municipal affairs (2004, chapter 20), any actuarial gain determined by an actuarial valuation of the whole plan that was not appropriated for the purposes of section 12 must, subject to the second sentence of the second paragraph of that section, be appropriated for the redemption of the bond, except insofar as it corresponds to surplus assets for which the municipality or the body may not determine the appropriation.

“**13.2.** A municipality or a body may reduce the amount of the bond it could issue under section 255 of the Act to amend various legislative provisions concerning municipal affairs (2004, chapter 20) by appropriating to that purpose the actuarial gain referred to in the second paragraph of section 12 or in section 13.1. Such an appropriation of the actuarial gain is considered the payment of a contribution for the purposes of the first paragraph of section 255 of that Act or the redemption of a bond for the purposes of the second paragraph of section 12 or of section 13.1.”

ACT RESPECTING THE CONSULTATION OF CITIZENS WITH
RESPECT TO THE TERRITORIAL REORGANIZATION OF CERTAIN
MUNICIPALITIES

147. The Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14) is amended by inserting the following sections after section 76:

“76.1. The transition committee may or must, depending on what is provided for in the second paragraph, enter into a contract of employment on behalf of a reconstituted municipality, under which the holder of either of the senior officer positions of the reconstituted municipality is hired for a period ending before the second anniversary of the reorganization of the city.

Entering into such a contract is mandatory in the case of the position of clerk or secretary-treasurer and optional in the case of the position of director general or treasurer, as well as any other position for which the Minister authorizes the committee to hire someone.

“76.2. The transition committee, on behalf of a reconstituted municipality, may enter into a supply or services contract, within the meaning of section 573 of the Cities and Towns Act (R.S.Q., chapter C-19) or article 935 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), under which the reconstituted municipality receives goods or services.

If the committee considers it appropriate that the supply of goods or services under a contract it intends to enter into on behalf of the reconstituted municipality also apply, in respect of the territory of the reconstituted municipality, before the reorganization of the city, it may enter into the contract on behalf of the city and the reconstituted municipality for a period beginning before and ending after the reorganization. However, the city may, at the request of the committee, enter into the contract on its own behalf and on behalf of the reconstituted municipality. The city acts through its deliberative body or officer that would have jurisdiction if the contract were entered into only on behalf of the city. No decision of the city relating to the contract requires the approval provided for in section 88.

For the period before the reorganization, the city may not enter into a contract in respect of which the committee may exercise the powers provided for in the second paragraph, or begin the process for awarding such a contract, unless the committee decides not to enter into a contract for the same purpose on behalf of the city and the reconstituted municipality for a period beginning before and ending after the reorganization and not to request the city to do so.

The rules provided by the Cities and Towns Act or the Municipal Code of Québec for awarding contracts apply in respect of the contract provided for in the first or second paragraph. Any call for tenders for the contract, as well as any document referred to in the call for tenders, must be approved by the Minister before being published or delivered.

“76.3. A contract entered into under section 76.1 or 76.2 binds the reconstituted municipality as if it were a party to it. It also binds the city, for the period in which the city has jurisdiction over the territory concerned, if the transition committee enters into the contract on behalf of the city under the second paragraph of section 76.2.

In addition to the case referred to in the second paragraph of section 76.2, the contract may, if it so provides, apply in anticipation of the reorganization of the city.

“76.4. No contract may be entered into under section 76.1 or 76.2 as of the time when the majority of the candidates elected as members of the council of the reconstituted municipality, in an election held under section 48, have taken the oath provided for in section 313 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2).

For the purpose of entering into a supply or services contract, the reconstituted municipality may continue the awarding process begun by the transition committee or the city under section 76.2.”

148. Section 78.1 of the Act, enacted by section 156 of chapter 29 of the statutes of 2004, is amended by replacing “77,” in the second line of the second paragraph by “76.1 to”.

149. Section 79 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: “However, the expenses relating to the remuneration and expense allowances payable to a person who performs duties in the course of that process under Chapter IV of Title II of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) are reimbursed according to the tariff established in the regulation under section 150.”;

(2) by replacing “to those expenses” in the third line of the second paragraph by “to the amount that would have been reimbursed under the first paragraph.”

150. Section 84 of the Act, amended by section 157 of chapter 29 of the statutes of 2004, is again amended by replacing “the sums referred to in the first paragraph shall be apportioned between those municipalities” in the third and fourth lines of the second paragraph by “and it is not reasonably possible to break down the expenses by municipality, the sums referred to in the first paragraph shall be apportioned among them”.

151. The Act is amended by inserting the following section after section 84:

“84.1. On borrowing money, the reconstituted municipality may, among other things, impose a special tax based on taxable value on all the taxable immovables situated in its territory, annually or for several years, for the purpose of financing the reimbursement provided for in sections 81 and 84.

For the purpose of financing the expenses referred to in section 82 or the reimbursement provided for in section 83, the city may, among other things, impose such a tax on all the taxable immovables situated in the sector concerned from which, under section 82, the revenues intended for the financing must be derived exclusively.

Such a tax imposed by the city is considered to be the tax provided for in section 487.2 of the Cities and Towns Act (R.S.Q., chapter C-19) or article 979.2 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), as the case may be.”

ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING MUNICIPAL AFFAIRS

152. Section 237 of the Act to amend various legislative provisions concerning municipal affairs (2004, chapter 20) is replaced by the following section:

“237. A local municipality may not, with respect to hog farms, take advantage of subparagraph 4.1 of the second paragraph of section 113 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), amended by section 7, until one of the following documents, which must be in conformity with aims complementary to this Act and related to the objectives referred to in subparagraph 2.1 of the first paragraph of section 5 of the Act respecting land use planning and development, comes into force in its territory:

- (1) an amended land use planning and development plan;
- (2) a revised land use planning and development plan; or
- (3) an interim control by-law including standards deriving from the exercise of the powers provided for in subparagraph 4.1 of the second paragraph of section 113 of the Act respecting land use planning and development.”

ACT RESPECTING THE EXERCISE OF CERTAIN MUNICIPAL POWERS IN CERTAIN URBAN AGGLOMERATIONS

153. Section 4 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29) is amended

- (1) by replacing “Baie-d’Urfé” in the second line by “Baie-D’Urfé”;
- (2) by replacing “Dollard-des-Ormeaux” in the third line by “Dollard-Des Ormeaux”.

154. Section 9 of the Act is amended by striking out “, Village de Cap-aux-Meules”.

155. Section 19 of the Act is amended

- (1) by striking out paragraph 4;
- (2) by replacing “residual materials disposal and reclamation, and” in the first line of paragraph 6 by “the disposal and reclamation of residual materials and any other aspect of their management if they are dangerous, as well as”;

(3) by replacing “and fire protection” in subparagraph *a* of paragraph 8 by “, fire protection and first aid”.

156. Section 22 of the Act is amended

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

“**22.** The urban agglomeration council identifies the thoroughfares forming the arterial road system in the urban agglomeration by a by-law that is subject to the right of objection under section 115.

It does so by listing the names and numbers of the thoroughfares or by identifying them on a map, plan or other illustration.”;

(2) by inserting “if the document specified in the order is of the same nature as those referred to in the second paragraph,” after “case, ” in the third line of the third paragraph.

157. The Act is amended by inserting the following section after section 24:

“**24.1.** The central municipality is the owner of the thoroughfares forming the arterial road system of the urban agglomeration including those located in the territory of a reconstituted municipality, despite section 6 of the Act respecting roads (R.S.Q., chapter V-9).

A thoroughfare located in the territory of a reconstituted municipality that is no longer part of the arterial road system following a decision to that effect by the urban agglomeration council becomes the property of that municipality.

For the purposes of this Act, a thoroughfare is a public road within the meaning of section 66 of the Municipal Powers Act (2005, chapter 6).”

158. The Act is amended by inserting the following section after section 27:

“**27.1.** The central municipality is the owner of the water or sewer mains that are not purely local.

A main located in the territory of a reconstituted municipality that becomes purely local as a result of a decision to that effect by the urban agglomeration council becomes the property of that municipality.”

159. Section 124 of the Act is amended by striking out subparagraph 6 of the first paragraph.

160. Section 125 of the Act is repealed.

161. Section 142 of the Act is replaced by the following section:

“**142.** An urban agglomeration order may identify the thoroughfares forming the arterial road system of the urban agglomeration.

To that end, it may either list the names and numbers of the thoroughfares or identify them on a map, plan or other illustration, or refer to a document containing such a list or identification.”

162. Section 145 of the Act is amended by replacing the second paragraph by the following paragraph:

“An urban agglomeration order may assign any power or obligation to a related municipality as regards an asset or liability that remains with the central municipality or is transferred to a reconstituted municipality.”

163. The Act is amended by inserting the following sections after section 147:

“**147.1.** For the sole purpose of facilitating decision making and the implementation of decisions in anticipation of the reorganization of the city, an urban agglomeration order may

(1) prescribe that paragraphs 1 and 2 of section 61 and section 62 do not apply as regards matters it specifies;

(2) reduce the period prescribed in the second paragraph of section 115 or prescribe any case in which the by-law referred to in the third paragraph of that section may be published before the prescribed period has expired or before the approval required under that paragraph is given;

(3) prescribe the rules for managing the resolutive effects of a refusal if publication of the by-law referred to in the third paragraph of section 115 was permitted before the approval required under that paragraph was granted or refused; and

(4) eliminate or amend any element of the process leading to the adoption or coming into force of a by-law of a related municipality, in particular, the requirement to give a notice of motion.

“**147.2.** To facilitate the transition, an urban agglomeration order may prescribe that, as regards any subject and for the period it specifies, the situation existing immediately before the reorganization of the city is to be maintained after that reorganization, despite the sharing of powers provided for in this Act.

“**147.3.** For the purposes of any of the provisions mentioned in the second paragraph, an urban agglomeration order may prescribe a rule under which a document is considered to be the budget of a reconstituted municipality or one of the parts of the budget of the central municipality referred to in

section 117 for the fiscal year preceding the fiscal year that begins when the city is reorganized.

Under the first paragraph, the order may prescribe a rule for the application of the following provisions: the fifth paragraph of subsection 3 of section 474 of the Cities and Towns Act (R.S.Q., chapter C-19), the fifth paragraph of subsection 3 of article 954 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), section 148.1 of the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) and section 128.1 of the Charter of Ville de Québec (R.S.Q., chapter C-11.5).”

164. Section 165 of the Act is amended by replacing “is considered to be an urban agglomeration power, to the extent that all or part of that jurisdiction” in the second and third lines by “or the regulation of discharges into a water purification works or watercourse is considered to be an urban agglomeration power to the extent that all or part of that jurisdiction”.

165. The Act is amended by inserting the following section after section 165:

“**165.1.** Only the central municipality, to the exclusion of the other related municipalities, may enter into an agreement with the Minister of Agriculture, Fisheries and Food respecting food inspection under section 29.2 of the Cities and Towns Act (R.S.Q., chapter C-19) or article 10.9 of the Municipal Code of Québec (R.S.Q., chapter C-27.1).

The power to enter into and implement the agreement is an urban agglomeration power.

The same is true for the jurisdiction to exercise a power or carry out an obligation deriving from participation in an agreement, in particular, the power provided for in section 29.2.1 of the Cities and Towns Act or article 10.10 of the Municipal Code of Québec. For the purposes of this section, the urban agglomeration is considered to be the territory of the central municipality that is a party to the agreement.”

166. Section 167 of the Act is amended

(1) by replacing “La Tuque, Sainte-Agathe-des-Monts” in the first and second lines of subparagraph 1 of the first paragraph by “Longueuil, La Tuque”;

(2) by replacing “and Mont-Laurier” in the first and second lines of subparagraph 2 of the first paragraph by “, Mont-Laurier and Sainte-Agathe-des-Monts”;

(3) by striking out the second paragraph.

167. Section 168 of the Act is amended

(1) by replacing “subparagraph 2 or 3 of the first paragraph” in the second line of the first paragraph by “paragraph 2 or 3”;

(2) by replacing “subparagraph 2 of the first paragraph” in the second line of the second paragraph by “paragraph 2”;

(3) by replacing “subparagraph 3 of that paragraph” in the fourth line of the second paragraph by “paragraph 3 of that section”.

168. Section 171 of the Act is amended

(1) by replacing “subparagraph 1 of the first paragraph of section 167 or in the second paragraph of that section” in the first and second lines of subparagraph 1 of the second paragraph by “paragraph 1 of section 167”;

(2) by replacing “subparagraph 2 or 3 of the first paragraph” in the first and second lines of subparagraph 2 of the second paragraph by “paragraph 2 or 3”;

(3) by replacing “subparagraph 1 of the first paragraph of section 167 or in the second paragraph of that section” in the first and second lines of subparagraph *a* of subparagraph 1 of the third paragraph by “paragraph 1 of section 167”;

(4) by replacing “subparagraph 2 or 3 of the first paragraph” in the first and second lines of subparagraph *b* of subparagraph 1 of the third paragraph by “paragraph 2 or 3”;

(5) by replacing “subparagraph 1 of the first paragraph of section 167 or in the second paragraph of that section” in the first and second lines of subparagraph *a* of subparagraph 1 of the fourth paragraph by “paragraph 1 of section 167”;

(6) by replacing “subparagraph 2 or 3 of the first paragraph” in the first and second lines of subparagraph *b* of subparagraph 1 of the fourth paragraph by “paragraph 2 or 3”.

169. Section 172 of the Act is amended by replacing “subparagraph 1 of the first paragraph” in the second line by “paragraph 1”.

170. Section 173 of the Act is amended by replacing “subparagraph 1 of the first paragraph” in the first and second lines by “paragraph 1”.

171. Section 174 of the Act is amended by replacing “subparagraph 1 of the first paragraph” in the first and second lines by “paragraph 1”.

172. Section 178 of the Act is amended

(1) by striking out “the council exists” in the first line of the third paragraph;

(2) by inserting “and those provided for in section 178.1; the council exists and the officers and employees act” after “acts” in the second line of the third paragraph.

173. The Act is amended by inserting the following sections after section 178:

“178.1. If, during the period mentioned in the third paragraph of section 178, the council of the reconstituted municipality, on behalf of the municipality, intends to enter into a supply or services contract, within the meaning of section 573 of the Cities and Towns Act (R.S.Q., chapter C-19) or article 935 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), and if the council considers it appropriate that the supply of goods or services also apply, in respect of the territory of the reconstituted municipality, before the reorganization of the city, it may enter into the contract on behalf of the city and the reconstituted municipality for a period beginning before and ending after the reorganization.

However, the city may, at the request of the council of the reconstituted municipality, enter into the contract on its own behalf and on behalf of the reconstituted municipality. The city acts through its deliberative body or officer that would have jurisdiction if the contract were entered into only on behalf of the city. No decision of the city relating to the contract requires the approval provided for in section 88 of the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14).

For the period before the reorganization, the city may not enter into a contract in respect of which the council of the reconstituted municipality may exercise the powers provided for in the first two paragraphs, or begin the process for awarding such a contract, unless the council decides not to enter into a contract for the same purpose on behalf of the city and the reconstituted municipality for a period beginning before and ending after the reorganization and not to request the city to do so.

Any call for tenders for the contract provided for in the first or second paragraph, as well as any document referred to in the call for tenders, must be approved by the Minister before being published or delivered.

A contract entered into by one municipality on behalf of another binds the latter for the period in which the latter has jurisdiction over the territory concerned, as if that other municipality were a party to the contract.

“178.2. In the case of the central municipality, the first three paragraphs of section 178.1 apply, with the necessary modifications, if the council composed of persons elected in the election referred to in section 121 intends to enter into a contract referred to in the first paragraph of section 178.1 during the period mentioned in the third paragraph of section 178, and if the council considers it appropriate that the planned supply of goods or services also

apply, in respect of the territory under its jurisdiction, before the reorganization of the city.

For the purposes of the first paragraph, the council concerned is the regular council or, if applicable, a borough council. However, a borough council does not have the power to make a request under the second paragraph of section 178.1 if the borough under its jurisdiction does not correspond to the borough before the reorganization.

If the contract concerned falls within the jurisdiction of the executive committee of the central municipality, the powers granted under the first paragraph to the regular council composed of persons elected in the election referred to in section 121 belong to the committee composed of such persons.”

174. Section 179 of the Act is amended by inserting “and section 179.1” after “178” in the second line of the second paragraph.

175. The Act is amended by inserting the following section after section 179:

“**179.1.** The first three paragraphs of section 178.1 apply, with the necessary modifications, if the urban agglomeration council constituted before the reorganization of the city intends to enter into a contract referred to in the first paragraph of section 178.1 during the period mentioned in the second paragraph of section 179, and if the council considers it appropriate that the planned supply of goods or services also apply, in respect of the urban agglomeration, before the reorganization of the city.

If the contract concerned falls within the jurisdiction of the executive committee of the central municipality, given the order made under section 135, the powers granted to the urban agglomeration council under the first paragraph belong to the committee composed of persons elected in the election referred to in section 121.”

176. Section 182 of the Act is amended by replacing “165” in the second paragraph by “165.1”.

MUNICIPAL POWERS ACT

177. Section 4 of the Municipal Powers Act (2005, chapter 6) is amended by replacing “set out in this Act” in the third line of the second paragraph by “provided by law”.

OTHER AMENDING PROVISIONS

178. Section 28 of Order in Council 736-2001 dated 20 June 2001, concerning Ville de Terrebonne, is amended by striking out “and until the second general election” in the first and second lines of the first paragraph.

179. Section 9 of Order in Council 841-2001 dated 27 June 2001, concerning Ville de Saguenay, is repealed.

180. Section 10 of the Order in Council is amended by striking out the first sentence.

181. Section 30 of the Order in Council is repealed.

182. Section 31 of the Order in Council is replaced by the following section:

“31. The division of the territory of the city into electoral districts must be done in such a way that the resulting number of councillors per borough corresponds to that provided for in Schedule C.”

183. Sections 32, 33 and 34 of the Order in Council are repealed.

184. Section 68 of the Order in Council, amended by section 276 of chapter 37 of the statutes of 2002, is again amended

(1) by adding the following sentence at the end of the second paragraph: “To that end, if a power is attributed to or an obligation imposed on the council of a municipality with a certain population, the population of the city is taken into consideration rather than the population of the borough.”;

(2) by replacing “five” in the last line of the third paragraph by “25”.

185. Section 10 of Order in Council 850-2001 dated 4 July 2001, concerning Ville de Sherbrooke, is repealed.

186. Section 11 of the Order in Council is amended by striking out the first sentence.

187. Section 14 of the Order in Council is replaced by the following section:

“14. For each of boroughs 1 and 3, two borough councillors must be elected to sit exclusively on the borough council.”

188. Section 34 of the Order in Council is repealed.

189. Section 35 of the Order in Council is replaced by the following section:

“35. The division of the territory of the city into electoral districts must be done in such a way that the resulting number of councillors per borough corresponds to that provided for in section 13, except for boroughs 1 and 3 where only the two borough councillor positions provided for in section 14 must be counted.

In each of those boroughs, the two districts serve for the purposes of the election of the two borough councillors, in accordance with the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2), which applies as if they were city councillors; the districts are deemed to constitute only one district for the purposes of the election of the city councillor.”

190. Sections 36, 37 and 38 of the Order in Council are repealed.

191. Section 63 of the Order in Council, amended by section 278 of chapter 37 of the statutes of 2002, is again amended

(1) by adding the following sentence at the end of the second paragraph: “To that end, if a power is attributed to or an obligation imposed on the council of a municipality with a certain population, the population of the city is taken into consideration rather than the population of the borough.”;

(2) by replacing “five” in the last line of the third paragraph by “25”.

192. Sections 14 and 16 of Order in Council 1043-2001 dated 12 September 2001, concerning *Municipalité des Îles-de-la-Madeleine*, are repealed.

193. Order in Council 110-2002 dated 13 February 2002 concerning *Ville de Sainte-Agathe-des-Monts* is amended by inserting the following section after section 41:

“41.1. For the purposes set out in section 117.1 of the Act respecting land use planning and development, the new town may prescribe, in any zoning or subdivision by-law, as a condition for the approval of a plan relating to a cadastral operation or for the issuing of a building permit, that the owner of an immovable referred to in a plan or permit undertake to establish, at no charge and in favour of the town, a servitude of right of way in respect of that immovable.

A condition prescribed under the first paragraph replaces any condition referred to in section 117.2 of the Act respecting land use planning and development.”

194. Section 11 of Order in Council 858-2002 dated 10 July 2002, concerning *Ville de Cookshire-Eaton*, is repealed.

195. In any Act, “Minister of Education”, “Deputy Minister of Education” and “Ministère de l’Éducation”, wherever they appear, are replaced by “Minister of Education, Recreation and Sports”, “Deputy Minister of Education, Recreation and Sports”, and “Ministère de l’Éducation, du Loisir et du Sport” respectively, with the necessary modifications.

In any other document, unless the context indicates otherwise,

(1) a reference to the Minister or Deputy Minister of Education or the Ministère de l'Éducation is a reference to the Minister or Deputy Minister of Education, Recreation and Sports or the Ministère de l'Éducation, du Loisir et du Sport;

(2) a reference to the Act respecting the Ministère de l'Éducation or one of its provisions is a reference to the Act respecting the Ministère de l'Éducation, du Loisir et du Sport or the corresponding provision of that Act.

196. Subject to the second paragraph, in any Act, “, Sports and Recreation”, and “du Sport et du Loisir”, wherever they appear, are replaced by “and Regions” and “et des Régions” respectively, with the necessary modifications.

In section 422 of the Highway Safety Code (R.S.Q., chapter C-24.2), sections 20 and 73 of the Act respecting safety in sports (R.S.Q., chapter S-3.1) and section 1 of the Act respecting off-highway vehicles (R.S.Q., chapter V-1.2), “of Municipal Affairs, Sports and Recreation”, wherever they appear, are replaced by “of Municipal Affairs and Regions”, with the necessary modifications.

In any other document, unless the context indicates otherwise,

(1) a reference to the Minister or Deputy Minister of Municipal Affairs, Sports and Recreation or the Ministère des Affaires municipales, du Sport et du Loisir is, depending on the subject matter, a reference to the Minister or Deputy Minister of Municipal Affairs and Regions or the Ministère des Affaires municipales et des Régions or to the Minister or Deputy Minister of Education, Recreation and Sports or the Ministère de l'Éducation, du Loisir et du Sport; and

(2) a reference to the Act respecting the Ministère des Affaires municipales, du Sport et du Loisir or to any of its provisions is, depending on the subject matter, a reference to the Act respecting the Ministère des Affaires municipales et des Régions, the Act respecting the Ministère de l'Éducation, du Loisir et du Sport or the corresponding provisions of either Act.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

197. The governmental policy regarding the preservation and sustainable development of agricultural activities in agricultural zones, referred to in section 78 of the Act to amend the Act to preserve agricultural land and other legislative provisions in order to promote the preservation of agricultural activities (1996, chapter 26), is the governmental policy that is complementary to the Act to amend the Act respecting the preservation of agricultural land and agricultural activities and other legislative provisions (2001, chapter 35) and the Act to amend various legislative provisions concerning municipal affairs (2004, chapter 20) in the case of a regional county municipality whose land use planning and development plan has not been modified or revised to

take into account the governmental policy concerning those matters which is complementary to the second Act mentioned.

In the case of a regional county municipality whose land use planning and development plan has been modified or revised to take into account that governmental policy, that section 78 is applicable with respect to the governmental policy concerning those matters which is complementary to the Act to amend various legislative provisions concerning municipal affairs.

A decision rendered by a regional county municipality that takes into account the governmental policy concerning those matters which is complementary to the Act mentioned in the second paragraph may not be contested on the grounds that the policy was not referred to in that section 78.

198. The property assessment roll and the roll of rental values of Ville de Disraeli, in force since the beginning of the fiscal year 2004, remain in force until the end of the fiscal year 2005, which is considered as the third year of application of those rolls.

For the purpose of determining the fiscal years for which subsequent rolls must be drawn up in accordance with sections 14 and 14.1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), the rolls referred to in the first paragraph are deemed to have been drawn up for the fiscal years 2003, 2004 and 2005.

199. For the purposes of the general election to be held in 2005, the date of 1 May mentioned in the second paragraph of section 210.29.1 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is replaced by 1 August.

200. Despite sections 210.39 and 214.2 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9), the Government may amend the constituting order of a regional county municipality in relation to any of the objects mentioned in that section 210.39, even if the municipality has not made a request to that effect, in order to take into account the reconstitution of certain local municipalities under the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29).

201. Sections 1 and 3 to 5, which shorten the periods prescribed in sections 59.7, 103, 110.7 and 137.11 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), do not apply to a period in progress on 17 June 2005.

202. Sections 36, 55, 62, 111 to 114 and 116 have effect for the purposes of every fiscal year from the fiscal year 2006.

If Ville de Montréal creates a reserve under section 569.7 of the Cities and Towns Act (R.S.Q., chapter C-19), enacted by section 55, the revenues available from the tax it imposed under section 102.1 of Schedule C to the Charter of

Ville de Montréal (R.S.Q., chapter C-11.4) before that section was repealed by section 36 are allocated to the reserve as if they were tax revenues under section 569.11 of the Cities and Towns Act, enacted by section 55.

203. The extension of a term of office under section 63 or 64 does not apply to the term of a person who is a member of the council of Municipalité de Baie-James on 17 June 2005.

204. An agreement in force on 16 June 2005 and entered into under section 659.2 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2), as it read before being amended by section 109, by a local municipality whose territory is comprised in that of a regional county municipality whose warden is elected in accordance with section 210.29.2 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is deemed to specify that it applies, with the necessary modifications, to a poll held to elect a warden in the territory of the local municipality.

Any such agreement entered into by a regional county municipality is without effect with regard to the election of a warden.

205. Section 115 has effect for the purposes of every fiscal year from the fiscal year 2005.

206. Sections 123, 127 and 128 have effect from 1 June 2005.

All or part of the first regulation the Government makes after 31 May 2005 under subparagraph 4 or 4.4 of the first paragraph of section 75 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3), amended by section 127, or under subparagraph *a* or *k* of the first paragraph of section 42 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16), amended by section 128, may have effect from any date not earlier than 1 June 2005 set in the regulation.

207. Sections 24.2 to 24.4 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001) apply for the purpose of establishing the amounts under sections 12, 13, 16, 21.1 and 22 of that Act for every fiscal year from the fiscal year 2006.

Those provisions are the ones that exist after being amended by sections 135 to 137 and 140 or enacted by sections 139 and 141.

208. For the fiscal year 2005, the amounts under section 12 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), amended by section 135, are the following for each inhabitant of a municipality in the population bracket concerned:

(1) 1 to 5,000 inhabitants: \$1.013;

- (2) 5,001 to 15,000 inhabitants: \$0.909;
- (3) 15,001 to 50,000 inhabitants: \$0.562;
- (4) 50,001 to 100,000 inhabitants: \$0.243;
- (5) 100,001 to 300,000 inhabitants: \$0.097;
- (6) 300,001 inhabitants or more: \$0.005.

209. For the fiscal year 2005, the excess amount referred to in the third paragraph of section 13 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), amended by section 136, may not exceed \$2,173.

210. For the fiscal year 2005, the minimum amounts under the first paragraph of section 16 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), amended by section 137, are \$2,840 for the annual remuneration of a mayor and \$946 for that of a councillor.

211. For the fiscal year 2005, the minimum amount under the second paragraph of section 16 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), amended by section 137, is \$31,320 for the annual remuneration of a warden.

212. For the fiscal year 2005, the maximum amounts for the remuneration of a member of the council of a municipality in a position referred to in the second paragraph of section 21.1 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), enacted by section 139, are the following:

- (1) mayor of Ville de Montréal: \$137,000;
- (2) mayor of a municipality with a population of 500,000 inhabitants or more: \$130,000;
- (3) mayor of a municipality with a population of 300,000 to 499,999: \$125,500;
- (4) mayor of a municipality with a population of 100,000 to 299,999: \$118,000;
- (5) mayor of a municipality with a population of 50,000 to 99,999: \$97,000;
- (6) member of the executive committee of a metropolitan community or chair or vice-chair of a standing committee of a metropolitan community: \$103,135;

(7) warden of a regional county municipality elected in accordance with section 210.29.2 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9): \$65,000;

(8) member of the council of a municipality, other than a member referred to in paragraphs 1 to 7 and section 21.2 of the Act respecting the remuneration of elected municipal officers, enacted by section 139: \$85,585.

213. For the fiscal year 2005, the maximum amount under the first paragraph of section 22 of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001), amended by section 140, for the total expense allowances of a member of the council of a municipality is \$13,434.

214. Section 145 has effect from 1 January 2005.

215. Section 146 has effect from 16 July 2003.

216. If a transition committee established under section 51 of the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14) or a person designated under section 78.1 of that Act published or delivered a call for tenders before 17 June 2005 for a contract referred to in section 76.2 of that Act, enacted by section 147, the awarding process is suspended and the call for tenders, as well as any document referred to in it, must be approved by the Minister of Municipal Affairs and Regions.

The awarding process may only proceed if the approval is given.

217. Section 149 has effect from 18 December 2003.

218. This Act comes into force on 17 June 2005, except sections 30, 134 and 177, 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 MUNICIPALITY OF MASCOUCHE, a legal person established in the public interest, having its head office at 3034, chemin Sainte-Marie, Mascouche, Province of Québec, represented by the mayor, Richard Marcotte, and the clerk Me Danielle Lord, notary, under resolution number 05-03-140, 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 of Québec, hereinafter called

THE CHIEF ELECTORAL OFFICER

AND

Ms. Nathalie Normandeau, in her capacity as MINISTER OF MUNICIPAL AFFAIRS AND REGIONS, having her main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 05-03-140, passed at its meeting of March 7th 2005, expressed the desire to avail itself 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 6th 2005 in the 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 and Regions Affairs 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 and Regions Affairs and the Chief Electoral Officer.”;

WHEREAS the MUNICIPALITY expressed the desire to avail itself of those provisions to hold a general election 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 general election ;

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

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

WHEREAS the council of the MUNICIPALITY passed, at its meeting of March 7th 2005, resolution No. 05-03-140 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 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.

2.5 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.

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

3. ELECTION

3.1 For the purposes of the general election of November 6th 2005 in the municipality, a sufficient number of Accu-Vote ES 2000 model electronic ballot boxes will be used.

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

4. SECURITY MECHANISMS

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., or by the returning officer under the supervision of 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 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 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.”.

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

The following is substituted for section 90.5 of the Act:

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

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs and 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 of the Act:

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

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.

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

6.7 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.”.

6.8 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.”

6.9 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.”.

6.10 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.”.

6.11 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.

6.12 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. 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.”.

6.13 Ballot paper cards

The following is substituted for section 197 of the Act:

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

(1) the name of the municipality;

(2) the indication “municipal election” and the date of the poll;

(3) the ballot papers;

(4) the bar code.

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

(1) a space intended to receive the initials of the deputy returning officer;

(2) a space intended to receive the number of the polling subdivision;

(3) the name and address of the printer;

(4) the bar code.”.

6.14 Confidentiality sleeve

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

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

6.15 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.”.

6.16 **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.”.

6.17 **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.”.

6.18 **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.

6.19 **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

6.20 **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 **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.”.

6.22 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.”.

6.23 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.”.

6.24 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.”.

6.25 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.”.

6.26 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

6.27 **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.”.

6.28 **Compiling sheet**

Section 231 of the Act is revoked.

6.29 **Counting of the votes**

Section 232 of the Act is revoked.

6.30 **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.”.

6.31 **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.

6.32 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.”.

6.33 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.

6.34 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.

6.35 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.”.

6.36 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.”.

6.37 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.”.

6.38 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.”.

6.39 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.

6.40 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.”.

6.41 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 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 October 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 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

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

AGREEMENT SIGNED IN THREE COPIES :

In Mascouche, on this 20th day of the month of April
of the year 2005

THE MUNICIPALITY OF MASCOUCHE

By: _____
RICHARD MARCOTTE, *Mayor*

DANIELLE LORD, *Clerk*

In Québec, on this 4th day of the month of May 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** ●City Councillor
District 1**Luc GAUTHIER** ●**Carl LUSSIER** ●**Hélène ROCHETTE** ●
Appartenance politique**Sylvain SAINT-PIERRE** ●

<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 “PERFAS-TAB” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF ROSEMÈRE, a legal person established in the public interest, having its head office at 100, rue Charbonneau, Rosemère, Province de Québec, J7A 3W1, represented by the mayoress, Monique Richer, and the clerk, Patrick St-Amour, under a resolution bearing number 2005-06-278, 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, Québec, Province de Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 2005-06-278, passed at its meeting of June 13, 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 general election of November 6, 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 general election to be held on November 6, 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 general election;

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

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

WHEREAS the council of the MUNICIPALITY passed, at its meeting of June 13, 2005, resolution No. 2005-06-278 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 ballot box” means an apparatus containing a vote tabulator, a memory card, a printer, a recipient for ballot papers and a modem, where necessary.

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

2.3 “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 paper cards” means a box into which the ballot paper cards fall.

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

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

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

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

3. ELECTION

3.1 For the purposes of the general election of November 6, 2005 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

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

4. SECURITY MECHANISMS

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

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

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

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

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

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

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

5. PROGRAMMING

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

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

6.1 Election officers

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

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer, 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 ballot box;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80.2. The deputy returning officer shall, in particular,

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

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

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

(4) make sure of electors’ identity;

(5) give 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 the electors another ballot paper, and record the occurrence in the poll book.”.

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

The following is substituted for section 90.5 of the Act:

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

The chief electoral officer shall first inform the Minister of Municipal Affairs and 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 of the Act:

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

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.

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

6.7 Verification of electronic ballot boxes

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 boxes*

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 Cognicase inc. and the representatives of the candidates.

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

173.3. 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 initial the seal;

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

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

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

6.8 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.”.

6.9 Advance polling

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

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

- (1) the number of ballot paper cards received from the returning officer ;
- (2) the number of electors who were given a ballot paper card ;
- (3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards ;
- (4) the names of the persons who have performed duties as election officers or as representatives.

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

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

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

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

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

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

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

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the 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 a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope 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.”.

6.10 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.”.

6.11 Ballot papers

The following is substituted for section 193 of the Act:

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

Section 195 of the Act is revoked.

6.12 Identification of the candidates

Section 196 of the Act is amended

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

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

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

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

6.13 Ballot paper cards

The following is substituted for section 197 of the Act:

“**197.** The ballot paper card shall contain on the obverse, as shown in the attached specimen:

(1) a space for the identification of:

— the name or number of the borough;

— the name or number of the electoral district, where applicable;

(2) a space for the identification of the polling subdivision;

(3) the ballot paper card(s);

(4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown on the attached specimen:

(1) arrows indicating the direction of insertion of the ballot paper card in the vote tabulator;

(2) a space for the initials of the deputy returning officer;

(3) the name of the municipality;

(4) the indication “municipal elections” and the polling date;

(5) the name and address of the printer;

(6) the indication of copyright, where applicable;

(7) the bar code, where applicable.”.

6.14 Confidentiality sleeve

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

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

6.15 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.”

6.16 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.”

6.17 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 transfer boxes are available for each electronic ballot box.”

6.18 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.

6.19 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

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

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

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

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

The following is substituted for section 209 of the Act:

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

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

POLLING PROCEDURE

6.20 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 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.”.

6.22 Voting

The following is substituted for section 222 of the Act:

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

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

6.23 Following the vote

The following is substituted for section 223 of the Act:

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

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

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

6.24 Automatic acceptance

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

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

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

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

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

6.25 Cancelled ballots

The following is substituted for section 224 of the Act:

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

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

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

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

6.26 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

6.27 Compilation of results

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

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

The report on the compiled results shall indicate the total number of ballot paper cards, the number of 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 the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

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

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

(2) the number of electors admitted to vote;

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

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

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

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

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

6.28 Manual counting of the votes

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

6.29 Compiling sheet

Section 231 of the Act is revoked.

6.30 Electronic 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 those 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 poll in respect of the validity of the results following the printing of the results compiled by an electronic ballot box.”

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 or those that were not inserted into the electronic ballot box;
- (3) the number of unused ballot paper cards.

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

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

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

Section 240 of the Act is revoked.

6.35 Separate, sealed and initialed envelopes given to the returning officer

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

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

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

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

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

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

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

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

Section 244 of the Act is revoked.

6.36 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 that includes 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 magistrate.”

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 transfer boxes.

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

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

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

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

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

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before December 31, 2013.

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 to be held on November 6, 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 costs of holding the general election on November 6, 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 papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused;

— a survey of rejected ballot papers, if the survey has been completed.

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

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election to be held on November 6, 2005 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

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

AGREEMENT SIGNED IN THREE COPIES

In Rosemère, this 16th day of June 2005

MUNICIPALITY OF ROSEMÈRE

By: _____
MONIQUE RICHER, *Mayoress*

PATRICK ST-AMOUR, *Clerk*

In Québec, on this 27th day of June 2005

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 19th day of July 2005

THE MINISTER OF MUNICIPAL AFFAIRS
AND REGIONS

DENYS JEAN, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD

Arrondissement
 xxxxxxxxxxxxxxxxxxxx
Borough
District xxxxxxxxxxxxxx

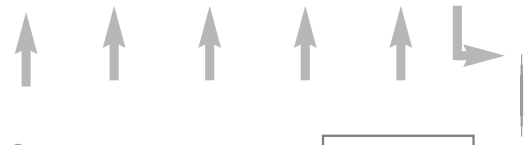
Numéro de section de vote - Poll subdivision
 01 02 03 04 05 06 07 08 09 10 11

Conseiller d'arrondissement
Borough councillor

Xxxxxx XXXXXXXX

Xxxxxx XXXXXXXX
 xxxxxxxxxxxxxx

Xxxxxx XXXXXXXX
 xxxxxxxxxxxxxx



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Initiales du scrutateur
Initials of DRO

Ville de Gestiville

Élections municipales
Municipal Elections

le 2 novembre 2003 / November 2, 2003

Droits d'auteur Solutions Nixsoft Inc. 2003

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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 “ACCU-VOTE ES 2000” BALLOT BOXES

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF AMOS, a legal person established in the public interest, having its head office at 182, 1^{re} Rue Est, Amos, Province de Québec, represented by the mayor, Mr. Ulrick Chérubin, and the assistant clerk, Mr. Guy Nolet, under resolution number 2005-05, hereinafter called

THE MUNICIPALITY

AND

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

THE CHIEF ELECTORAL OFFICER

AND

the Honourable Jean-Marc Fournier, in his capacity as MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND RECREATION, having his main office at 10, rue Pierre-Olivier-Chauveau, Québec, Province of Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 2004-461, passed at its meeting of November 15th, 2004, expressed the desire to avail itself 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 municipal election of November 6th 2005 in the 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, 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 to hold a general municipal election 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 general municipal election;

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

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

WHEREAS the council of the MUNICIPALITY passed, at its meeting of January 17th 2005, resolution No. 2005-05 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

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

THEREFORE, the parties agree to the following:

1. PREAMBLE

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

2. INTERPRETATION

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

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

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

— a card reader for cards with bar codes;

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

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

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

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

“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.

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

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

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

3. ELECTION

3.1 For the purposes of the general municipal election of November 6th 2005 in the municipality, a sufficient number of Accu-Vote ES 2000 model electronic ballot boxes will be used.

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

4. SECURITY MECHANISMS

4.1 Computerized polling stations

The list of electors for a polling place must correspond to the list of electors for that polling place as drawn up and revised by the returning officer. Access to the computers at a polling place must be secured by a password.

4.2 Electronic ballot boxes

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

(1) a report displaying a total of “zero” must be automatically produced by an electronic ballot box upon being turned on 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., or by the returning officer under the supervision of 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 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 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;

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

6.4 Duties of the poll clerk

The following is substituted for section 81 of the Act:

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

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

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

(3) assist the deputy returning officer.”.

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

The following is substituted for section 90.5 of the Act:

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

The Chief Electoral Officer shall first inform the Minister of Municipal Affairs, Sports and Recreation 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 computerised polling stations and electronic ballot box

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

“§1.1 Verification of computerized polling stations

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

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

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

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

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

§1.2 Verification of electronic ballot box

173.2. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and

that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm Technologies Nexxlink inc. and the representatives of the candidates.

173.3. 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.

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

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

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

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

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

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

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

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

(4) once the test has been successfully completed, he shall reset the memory card to zero and seal it; the returning officer and the representatives who wish to do so shall 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. Each ballot paper shall allow each candidate to be identified. It shall contain, on the obverse:”;

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

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

6.14 Ballot paper cards

The following is substituted for section 197 of the Act:

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

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

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

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

6.15 Confidentiality sleeve

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

“**197.1.** The returning officer shall ensure that a sufficient number of confidentiality sleeves are available. Confidentiality sleeves shall be sufficiently opaque to ensure that no mark affixed on the ballot paper may be seen through 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, 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 municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before November 6th 2005.

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 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 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 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 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 municipal election held on November 6th 2005 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

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

AGREEMENT SIGNED IN THREE COPIES:

In Amos, province of Quebec, on this 18th day of the month of January of the year 2005

THE MUNICIPALITY OF AMOS

By: _____
ULRICK CHÉRUBIN, *Mayor*

GUY NOLET, *Assistant Clerk*

In Québec, on this 8th day of the month of February of the year 2005

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 18th day of the month of February of the year 2005

THE MINISTER OF MUNICIPAL AFFAIRS,
SPORTS AND RECREATION

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 <small>Appartenance politique</small>	●
Pierre-A. LARRIVÉE	●

Councillor seat no. 1

Robert ALLARD	●
Denise LESSARD <small>Appartenance politique</small>	●
Serge LECLERC	●

Councillor seat no. 2

Jean-Pierre BRODEUR <small>Appartenance politique</small>	●
Guy BROSSÉ	●
Maurice RICHARD	●

Councillor seat no. 3

Gérard CYR <small>Appartenance politique</small>	●
Claudine DUSSAULT	●
Anne DUBÉ	●
Monique LEMAIRE	●

Councillor seat no. 4

Luc GAUTHIER	●
Carl LUSSIER <small>Appartenance politique</small>	●
Hélène ROCHETTE	●
Sylvain ST-PIERRE	●

Councillor seat no. 5

Joël MORIN <small>Appartenance politique</small>	●
Alain PERRON	●

Councillor seat no. 6

Claude BRETON	●
Alain TREMBLAY <small>Appartenance politique</small>	●

<input type="text"/>	<input type="text"/>
Initials of the deputy returning officer	Polling subdivision
<small>Printer name Address City Postal code</small>	

Gouvernement du Québec

Agreement

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

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

AGREEMENT ENTERED INTO

BETWEEN

The MUNICIPALITY OF RAWDON, a legal person established in the public interest, having its head office at 3647, rue Queen, Rawdon, Province de Québec, represented by the mayor, Louise Major, and the secretary-treasurer, Jean Lacroix, Lawyer, under a resolution bearing number 05-112, 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, Québec, Province de Québec, hereinafter called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by its resolution No. 05-94, passed at its meeting of March 8, 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 general election of November 6, 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 general election held on November 6, 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 general election;

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

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

WHEREAS the council of the MUNICIPALITY passed, at its meeting of March 29, 2005, resolution No. 05-112 approving the text of the agreement and authorizing the mayor and the clerk or secretary-treasurer to sign this agreement;

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

THEREFORE, the parties agree to the following:

1. PREAMBLE

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

2. INTERPRETATION

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

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

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

— a card reader for cards with bar codes;

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

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

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

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

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

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

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

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

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

3. ELECTION

3.1 For the purposes of the general election of November 6, 2005 in the municipality, a sufficient number of PerFas-TAB electronic ballot boxes will be used.

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

4. SECURITY MECHANISMS

4.1 Computerized polling stations

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

4.2 Electronic ballot boxes

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

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

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

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

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

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

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

5. PROGRAMMING

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

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

6.1 Election officers

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

6.2 Senior deputy returning officer, assistant to the senior deputy returning officer, 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 ballot box;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80.2. The deputy returning officer shall, in particular,

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

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

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

(4) 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;

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

6.4 Duties of the poll clerk

The following is substituted for section 81 of the Act:

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

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

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

(3) assist the deputy returning officer.”.

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

The following is substituted for section 90.5 of the Act:

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

The chief electoral officer shall first inform the Minister of Municipal Affairs and 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 computerized polling stations and electronic ballot box

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

“§1.1 Verification of computerized polling stations

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

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

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

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

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

§1.2 Verification of electronic ballot boxes

173.2. The returning officer shall, at least five days before the first day fixed for the advance poll and at least three days before the day fixed for the polling, test the electronic ballot box to ensure that the vote tabulator accurately detects the mark made on a ballot paper and

that it tallies the number of votes cast accurately and precisely, in the presence of a representative of the firm PG Elections inc. and the representatives of the candidates.

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

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

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

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

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

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

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

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

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

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

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

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

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

6.9 Mobile polling station

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

175.1. he 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. he 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 the envelope containing the list of electors, shall be given to the senior deputy returning officer for deposit in one of the transfer boxes.

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

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

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

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

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

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

At the close of the second day of advance polling, where applicable, the senior deputy returning officer, the 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 a transfer box and seal the box.

The spoiled, refused or cancelled ballot paper cards from the second day shall be placed in separate sealed envelope 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 in accordance with the model shown in the Schedule, by reversing process so that, on the obverse, the indications appear in white on a dark-coloured background and each circle provided for the affixing of the elector’s mark appears in white inside an 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 the Act is amended

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

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

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

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

6.14 Ballot paper cards

“**197.** The ballot paper card shall contain on the obverse, as shown in the attached specimen:

(1) a space for the identification of:

— the name or number of the borough;

— the name or number of the electoral district, where applicable;

(2) a space for the identification of the polling subdivision;

(3) the ballot paper card(s);

(4) the bar code.

The ballot paper cards shall contain, on the reverse, as shown on the attached specimen:

(1) arrows indicating the direction of insertion of the ballot paper card in the vote tabulator;

(2) a space for the initials of the deputy returning officer;

(3) the name of the municipality;

(4) the indication “municipal elections” and the polling date;

(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

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

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

6.16 Withdrawal of a candidate

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

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

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

6.17 Withdrawal of authorization or recognition

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

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

6.18 Number of electronic ballot boxes

The following is substituted for section 200 of the Act:

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

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

6.19 Provision of polling materials

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

6.20 Examination of the electronic ballot box and polling materials

The following is substituted for section 207 of the Act:

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

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

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

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

The following is substituted for section 209 of the Act:

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

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

POLLING PROCEDURE

6.21 Presence at the polling station

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

“In addition, only the deputy returning officer, the poll clerk and the representatives assigned to the polling station, together with the returning officer, the 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 the ballot paper or papers in the space provided for that purpose opposite the indications pertaining to the candidates whom the elector wishes to elect to the offices of mayor, councillor or councillors.

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

6.24 Following the vote

The following is substituted for section 223 of the Act:

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

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

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

6.25 Automatic acceptance

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

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

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

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

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

6.26 Cancelled ballots

The following is substituted for section 224 of the Act:

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

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

If the ballot paper card has been initialled by a person other than the deputy returning officer, or if the ballot paper card is not a ballot paper card given to the elector by the deputy returning officer, the deputy returning officer of the polling station in question shall 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 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 the in polling place shall complete the partial statement of votes according to section 238 and shall give a copy of it to the senior deputy returning officer.

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

- (1) the number of ballot paper cards received from the returning officer;
- (2) the number of electors admitted to vote;
- (3) the number of spoiled, refused or cancelled ballot paper cards and the number of unused ballot paper cards;
- (4) the names of the persons who have performed duties as election officers or representatives assigned to that station.”.

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

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

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

6.29 **Manual counting of the votes**

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

6.30 **Compiling sheet**

Section 231 of the Act is revoked.

6.31 **Electronic counting of the votes**

Section 232 of the Act is revoked.

6.32 **Rejected ballot papers**

The following is substituted for section 233 of the Act:

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

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

For the purposes of the poll, the memory card shall be programmed in such a way as to ensure that the electronic ballot box processes and conserves all the ballot paper cards inserted, in other words those containing valid ballot papers and those containing rejected ballot papers, except any ballot paper cards that have been refused.”.

6.33 **Rejected ballot papers, procedural omission, valid ballot papers**

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

6.34 **Contested validity**

The following is substituted for section 237 of the Act:

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

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

The following is substituted for section 238 of the Act:

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

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

(2) the number of spoiled, refused or cancelled ballot paper cards or those that were not inserted into the electronic ballot box;

(3) the number of unused ballot paper cards.

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

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

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

Section 240 of the Act is revoked.

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

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

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

242. After the results compiled by the electronic ballot box have been printed, in the presence of the candidates or their representatives who wish to be present, the

senior deputy returning officer shall place the ballot paper cards from the electronic ballot box recipient in one or more envelopes, and then seal and initial the envelope or envelopes. Any representatives or candidates who wish to do so may initial the seal or seals.

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

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

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

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

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

Section 244 of the Act is revoked.

6.37 Addition of votes

The following is substituted for section 247 of the Act:

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

6.38 Adjournment of the addition of votes

The following is substituted for section 248 of the Act:

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

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

6.39 Placing in envelope

The following is substituted for section 249 of the Act:

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

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

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

6.40 New counting of the votes

The following is substituted for section 250 of the Act:

“**250.** Where it is not possible to print a new report on the results compiled using the memory card, the returning officer, on the date, at the time and at the place that he determines, in the presence of the candidates or their representatives who wish to be present, shall recover the ballot paper cards used for the office or offices concerned and shall insert them, one by one, in the opening of the electronic ballot box that includes a new programmed memory card. He shall then print out the results compiled by the electronic ballot box.”.

6.41 Notice to the Minister

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

6.42 Access to ballot papers

The following is substituted for section 261 of the Act:

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

6.43 Application for a recount

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

7. EXAMINATION OF REJECTED BALLOT PAPERS

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

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

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

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

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

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

8. DURATION AND APPLICATION OF AGREEMENT

The returning officer of the municipality is responsible for the application of this agreement and, consequently, for the proper conduct of the trial application of the new method of voting during general elections and by-elections held before November 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 6, 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 costs of holding the general election on November 6, 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 papers given out to the deputy returning officers and the number of ballot paper cards returned used and unused;

— a survey of rejected ballot papers, if the survey has been completed.

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

The Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2) shall apply to the general election held on November 6, 2005 in the municipality, subject to the provisions of the Act that this agreement amends or replaces.

12. EFFECT OF THE AGREEMENT

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

AGREEMENT SIGNED IN THREE COPIES:

In Rawdon, this 26th day of April 2005

MUNICIPALITY OF RAWDON

By: _____
LOUISE MAJOR, *Mayor*

JEAN LACROIX, *Secretary-treasurer
of the municipality*

In Québec, on this 13th day of May 2005

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 2nd day of June 2005

THE MINISTER OF MUNICIPAL AFFAIRS
AND REGIONS

DENYS JEAN, *Deputy Minister*

SCHEDULE

MODEL BALLOT PAPER CARD

Arrondissement
 xxxxxxxxxxxxxxxxxxxx
Borough
District xxxxxxxxxxxxxx

Numéro de section de vote - Poll subdivision
 01 02 03 04 05 06 07 08 09 10 11

Conseiller d'arrondissement
Borough councillor

Xxxxxx XXXXXXXX

Xxxxxx XXXXXXXX
 xxxxxxxxxxxxxx

Xxxxxx XXXXXXXX
 xxxxxxxxxxxxxx

↑ ↑ ↑ ↑ ↑ ↘

Initiales du scrutateur
Initials of DRO

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Ville de Gestiville

Élections municipales
Municipal Elections

le 2 novembre 2003 / November 2, 2003

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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 TOWN OF DUNHAM, a legal person established
in the public interest, having its head office at
3777, rue Principale, Dunham, Province de Québec,
represented by the mayor, Michel Barrette, and the clerk,
Pierre Loiseau, under a resolution bearing number 216-04,
hereinafter called

THE MUNICIPALITY

AND

Mtre Marcel Blanchet, in his capacity as CHIEF ELEC-
TORAL 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 Jean-Marc Fournier, in his capacity as
MINISTER OF MUNICIPAL AFFAIRS, SPORTS AND
RECREATION, having his main office at 10, rue Pierre-
Olivier-Chauveau, Québec, Province de Québec, herein-
after called

THE MINISTER

WHEREAS the council of the MUNICIPALITY, by
its resolution No. 193-04, passed at its meeting of
September 7th, 2004, expressed the desire to avail itself
of the provisions of the Act respecting elections and
referendums in municipalities to enter into an agreement
with the CHIEF ELECTORAL OFFICER and the
MINISTER in order to allow the use of electronic ballot
boxes for the general election of November 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 appli-
cation.

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 general 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 adap-
tations to be included in an addendum to this agreement;

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

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

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

WHEREAS the council of the MUNICIPALITY passed, at
its meeting of October 4th, 2004, resolution No. 216-04
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 general 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, 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, Sports and Recreation 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, Sports and Recreation 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 November 30th, 2013.

8. AMENDMENT

The parties agree that this agreement may be amended if need be to ensure the proper conduct of the general election to be held on November 6th, 2006 and of any subsequent election provided for in the agreement. Mention of that fact shall be made in the assessment report.

9. ASSESSMENT REPORT

Within 120 days following the general election held on November 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 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 votes cast and the number of electors admitted to vote.

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

The Act respecting elections and referendums in municipalities shall apply to the general election held on November 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 Dunham, this 3rd day of November 2004

TOWN OF DUNHAM

By: _____
MICHEL BARRETTE, *Mayor*

PIERRE LOISELLE, *Clerk of the municipality*

In Québec, on this 13th day of December 2004

THE CHIEF ELECTORAL OFFICER

MARCEL BLANCHET

In Québec, on this 3rd day of February 2005

THE MINISTER OF MUNICIPAL AFFAIRS,
SPORTS AND RECREATION

DENYS JEAN, *Deputy Minister*

SCHEDULE I

BALLOT PAPER

PERFASmv
TERMINAL DE VOTATION

MAIRE Un (1) choix obligatoire	CONSEILLER Un (1) choix obligatoire
<input type="checkbox"/> Candidature 1 Part 1	<input type="checkbox"/> Candidature 1 Part 1
<input type="checkbox"/> Candidature 2 Part 2	<input type="checkbox"/> Candidature 2 Part 2
<input type="checkbox"/> Candidature 3 Part 3	<input type="checkbox"/> Candidature 3 Part 3
<input type="checkbox"/> Candidature 4 Part 4	<input type="checkbox"/> Candidature 4 Part 4
<input type="checkbox"/> Je ne veux pas voter pour le poste de maire	<input type="checkbox"/> Je ne veux pas voter pour le poste de conseiller

1 Insérez votre carte de votation
Insert your voting card

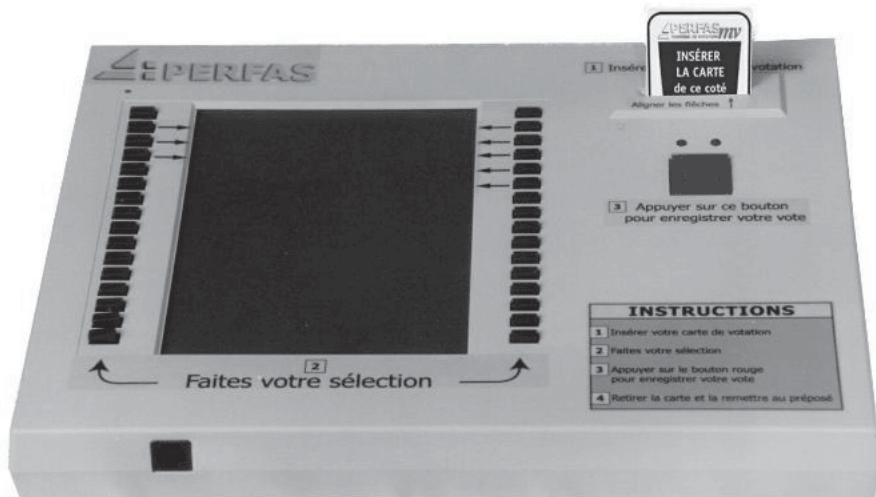
2 Faites votre sélection
Make your selection

3 Appuyez sur ce bouton pour enregistrer votre vote
Press the red button to cast your vote

INSTRUCTIONS	
1	Insérez votre carte de votation Insert your voting card
2	Faites votre sélection Make your selection
3	Appuyez sur le bouton rouge pour enregistrer votre vote Press the red button to cast your vote
4	Retirez la carte et la remettre au préposé Remove the card and hand it over to the official

SCHEDULE II

VOTING TERMINAL



M.O., 2005-011**Order of the Minister of Health and Social Services making the Regulation to amend the Regulation respecting the List of medications covered by the basic prescription drug insurance plan dated 28 July 2005**

An Act respecting prescription drug insurance (R.S.Q., c. A-29.01 ; 2002, c. 27)

THE MINISTER OF HEALTH AND SOCIAL SERVICES,

CONSIDERING that the agreement on the administration of the “Patients d’exception” program by the Régie de l’assurance maladie du Québec attached as a Schedule to Décret 2678-83 dated 21 December 1983, as amended by Décret 971-66 dated 7 August 1996, ends on 30 August 2005;

CONSIDERING section 60 of the Act respecting prescription drug insurance (R.S.Q., c. A-29.01 ; 2002, c. 27, s. 22, 3rd par.);

CONSIDERING Order 1999-014 of the Minister of State for Health and Social Services and Minister of Health and Social Services dated 15 September 1999 making the Regulation respecting the List of medications covered by the basic prescription drug insurance plan;

CONSIDERING that it is necessary to amend the List of Medications attached as a Schedule to that Regulation;

CONSIDERING that the Conseil du médicament has been consulted on the draft Regulation;

MAKES the Regulation to amend the Regulation respecting the List of medications covered by the basic prescription drug insurance plan, the text of which is attached to this Order.

Québec, 28 July 2005

PHILIPPE COUILLARD,
Minister of Health and Social Services

Regulation to amend the Regulation respecting the List of medications covered by the basic prescription drug insurance plan*

An Act respecting prescription drug insurance (R.S.Q., c. A-29.01, s. 60 ; 2002, c. 27, s. 22, 3rd par.)

1. The Regulation respecting the List of medications covered by the basic prescription drug insurance plan is amended by inserting the following sections after section 5.1 in the List of Medications in Schedule 1 to the Regulation:

“6. Conditions, cases and circumstances on or in which the cost of any other medication is covered by the basic plan, except the medications or classes of medications specified below

6.1. Objective

The purpose of this measure is to provide for the payment, in exceptional circumstances, of a medication that is not on the List or an exception medication prescribed for a therapeutic indication not specified on the List for that medication, on or in the conditions, cases and circumstances described below, and to provide for coverage under the basic prescription drug insurance plan of the cost of the medication and the cost of the pharmaceutical services provided by a pharmacist to an eligible person.

* The Regulation respecting the List of medications covered by the basic prescription drug insurance plan, made by Order 1999-014 dated 15 September 1999 (1999, *G.O.* 2, 3197) of the Minister of State for Health and Social Services and Minister of Health and Social Services, was last amended by the regulations made by Minister’s Orders 2003-010 dated 10 September 2003 (2003, *G.O.* 2, 2915A), 2003-012 dated 28 October 2003 (2003, *G.O.* 2, 3288), 2003-013 dated 2 December 2003 (2003, *G.O.* 2, 3472), 2004-002 dated 19 January 2004 (2004, *G.O.* 2, 828), 2004-006 dated 15 April 2004 (2004, *G.O.* 2, 1376), 2004-008 dated 17 June 2004 (2004, *G.O.* 2, 2028), 2004-013 dated 21 September 2004 (2004, *G.O.* 2, 2864), 2004-015 dated 15 November 2004 (2004, *G.O.* 2, 3157), 2004-019 dated 13 December 2004 (2004, *G.O.* 2, 3613), 2005-001 dated 20 January 2005 (2005, *G.O.* 2, 491) and 2005-006 dated 13 May 2005 (2005, *G.O.* 2, 1381). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2005, updated to 1 March 2005.

6.2. Conditions, cases and circumstances

6.2.1. Conditions

A medication that is not on the List, or an exception medication prescribed for a therapeutic indication not specified on the List for that medication, is covered by the basic prescription drug insurance plan on an exceptional basis when no other pharmacological treatment specified on the List or medical treatment whose cost is covered under the Health Insurance Act (chapter A-29) can be considered because the treatment is contraindicated, there is significant intolerance to the treatment, or the treatment is ineffective due to the clinical condition of the eligible person.

The medication to which section 6 applies must be

(1) manufactured and marketed in Canada and, subject to the fourth paragraph of this section, have been assigned a DIN by Health Canada;

(2) an extemporaneous preparation consisting of ingredients marketed in Canada; or

(3) a sterile preparation made by a pharmacist from sterile pharmaceutical products marketed in Canada, at least one of which is not specified on the List for parenteral administration or ophthalmic use.

The medication is covered by the basic plan if it satisfies every condition specified for both of the following criteria:

(1) severity of the medical condition; and

(2) chronicity, treatment of an acute infection, and palliative care.

An exception medication referred to in Appendix 4 may be covered by the basic plan even if it has not been assigned a DIN by Health Canada, insofar as its coverage is not subject to any exclusion set out in the List.

6.2.1.1. Severity of the medical condition

The medication is to be used to treat a severe medical condition of an eligible person for whom there is a specific necessity of an exceptional nature to use the medication, recorded in the person's medical file.

“Severe medical condition” means a symptom, illness or severe complication arising from the illness with consequences that pose a serious health threat, such as significant physical or psychological injury, with a high

probability that the person will require the use of a number of services in the health network such as frequent medical services or hospitalization if the medication is not administered, and whose severity is, as the case may be,

(1) immediate, in that it already severely restricts the afflicted person's activities or quality of life or would, according to the current state of scientific knowledge, lead to significant functional injury or the person's death; or

(2) foreseeable in the short term, in that its evolution or complications could affect the eligible person's morbidity or mortality risk.

If, however, the consequences of the severe medical condition are significant functional psychological injury, the injury must be immediate and as a consequence already severely restrict the eligible person's activities or quality of life.

6.2.1.2. Chronicity, treatment of an acute severe infection, and palliative care

The medication is to be used, as the case may be,

(1) to treat a chronic medical condition or a complication or manifestation arising from the chronic medical condition provided its degree of severity satisfies subparagraph 1 or 2 of the second paragraph of section 6.2.1.1;

(2) to treat an acute severe infection; or

(3) notwithstanding the degree of severity criteria in section 6.2.1.1, to provide for the administration of a medication required for final phase ambulatory palliative care in the case of a terminal illness.

6.3. Exclusions

Despite the conditions being satisfied for coverage by the basic prescription drug plan under section 6.2.1 as a medication not on the List or as an exception medication prescribed for a therapeutic indication not specified on the List for that medication, a request for payment authorization must be denied for the following medications:

(1) medications prescribed to treat infertility;

(2) medications prescribed for aesthetic or cosmetic purposes;

(3) medications prescribed to treat alopecia or baldness;

- (4) medications prescribed to treat erectile dysfunction;
- (5) medications prescribed to treat obesity;
- (6) medications prescribed for cachexia and to stimulate appetite; and
- (7) oxygen.

6.4. Price paid by the Régie de l'assurance maladie du Québec

The price of a medication to which section 6 applies, and for which the Régie de l'assurance maladie du Québec assumes payment for persons whose coverage under the basic plan is provided by the Régie, is the actual purchase price paid for the medication by the pharmacist.

6.5. Payment authorization and duration of authorization

The prescriber must send

(1) to the Régie de l'assurance maladie du Québec, in the case of persons whose coverage by the basic plan is provided by the Régie, a request for prior authorization on the duly completed form provided by the Régie;

(2) to the insurer or administrator of the employee benefit plan, in the case of persons whose basic plan coverage is provided by insurers transacting group insurance or by administrators of private-sector employee benefit plans, if it is required by the applicable group insurance contract or benefit plan, a prior request for authorization duly completed in accordance with the terms and conditions of the contract or plan, as the case may be.

If the request is accepted, the medication for which payment authorization is sought is covered only for the period authorized by the Régie, the insurer or the administrator of the employee benefit plan, as the case may be.”.

2. Requests for authorization sent to the Régie de l'assurance maladie du Québec before 1 September 2005 under the “Patients d'exception” program administered by the Régie de l'assurance maladie du Québec under Décret 2678-83 dated 21 December 1983, as amended by Décret 971-96 dated 7 August 1996, will be processed in accordance with the terms and conditions of the agreements attached to those Orders in Council.

3. This Regulation comes into force on 1 September 2005.

7006

Draft Regulations

Draft Regulation

An Act respecting the Régie de l'énergie
(R.S.Q., c. R-6.01)

Second block of wind energy

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the second block of wind energy, the text of which appears below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation determines, for the purpose of fixing the cost of electric power, and for the purposes of the supply plan and the tender solicitation by the electric power distributor, the second block of wind energy from a target capacity of 2,000 megawatts.

The draft Regulation also provides that the electric power distributor must solicit public tenders for that block of energy not later than 31 October 2005.

The draft Regulation will have no direct impact on the public. The interested businesses in the wind energy sector will be able to participate in the tender solicitation by the electric power distributor.

Through the Regulation and an Order in Council pertaining to the economic, social and environmental concerns, which will later be communicated to the Régie de l'énergie, the Government seeks to facilitate the implementation of projects that supply electricity at competitive rates, and to maximize the economic benefits as follows:

— through expenditure, including the installation of the wind turbines, and structural investment in the Québec manufacturing sector corresponding to at least 60% of the overall costs, including the installation of the wind turbines, for the 2,000 megawatt capacity,

— through expenditure, excluding the installation of the wind turbines, and structural investment in the manufacturing sector in Municipalité régionale de comté de Matane and in the Gaspésie–Îles-de-la-Madeleine administrative region corresponding to at least 30% of the overall costs, excluding the installation of the wind turbines,

— by making it possible for the Government to require, after the contracts signed have ended, that the facilities be transferred to it without compensation,

— through the contribution of the 2,000 megawatt capacity to the development of a hi-tech industry manufacturing wind turbines and wind turbine components in Québec, on the understanding that Municipalité régionale de comté de Matane and the Gaspésie–Îles-de-la-Madeleine administrative region are to receive preferential treatment, and

— through the project's favourable impact on the economic development of the local and Native communities.

Further information on the draft Regulation may be obtained by contacting René Paquette, Directeur du développement électrique, Ministère des Ressources naturelles et de la Faune, 5700, 4^e Avenue Ouest, bureau A-416, Charlesbourg (Québec) G1H 6R1; telephone: (418) 627-6386, ext. 8351; fax: (418) 646-1878; e-mail: rene.paquette@mrfn.gouv.qc.ca

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 45-day period, to Mario Bouchard, Associate Deputy Minister, Énergie et Mines, Ministère des Ressources naturelles et de la Faune, 5700, 4^e Avenue Ouest, bureau B 401, Charlesbourg (Québec) G1H 6R1.

PIERRE CORBEIL,
*Minister of Natural Resources
and Wildlife*

Regulation respecting the second block of wind energy

An Act respecting the Régie de l'énergie
(R.S.Q., c. R-6.01, s. 112, 1st par., subpars. 2.1 and 2.2)

1. For the purpose of fixing the cost of electric power referred to in section 52.2 of the Act respecting the Régie de l'énergie (R.S.Q., c. R-6.01), and for the purposes of the supply plan provided for in section 72 of the Act and the tender solicitation by the electric power distributor under section 74.1 of the Act, a second block of wind energy linked to structural investment in the manufacturing sector must be produced in Québec from a target capacity of 2,000 megawatts, within the following timeframe :

- 300 megawatts, no later than 1 December 2009 ;
- 400 megawatts, no later than 1 December 2010 ;
- 400 megawatts, no later than 1 December 2011 ;
- 450 megawatts, no later than 1 December 2012 ;
- 450 megawatts, no later than 1 December 2013.

The block referred to in the first paragraph is subject to a balancing service and supplementary capacity in the form of a wind energy integration agreement between the electric power distributor and another Québec supplier or Hydro-Québec, in its electricity production operations.

2. The electric power distributor must, not later than 31 October 2005, solicit public tenders for each portion of the block referred to in section 1.

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

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

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