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# Laws and Regulations

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## Summary

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# Regulations and other acts

Gouvernement du Québec

## O.C. 989-2006, 1 November 2006

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10)

**Commission administrative des régimes de retraite et d'assurances**
**— Signing of certain deeds, documents or writings**

Regulation respecting the signing of certain deeds, documents or writings of the Commission administrative des régimes de retraite et d'assurances

WHEREAS, under the first paragraph of section 144 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), no deed, document or writing binds the Commission unless it is signed by the chair, the vice-chairs or by an officer and, in the case of an officer, only to the extent determined by regulation of the Government published in the *Gazette officielle du Québec*;

WHEREAS, by Order in Council 981-96 dated 14 August 1996, the Government made the Regulation respecting the signing of certain deeds, documents or writings of the Commission administrative des régimes de retraite et d'assurances;

WHEREAS it is expedient to replace the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Chair of the Conseil du trésor:

THAT the Regulation respecting the signing of certain deeds, documents or writings of the Commission administrative des régimes de retraite et d'assurances, attached to this Order in Council, be made.

GÉRARD BIBEAU,
*Clerk of the Conseil exécutif*

## Regulation respecting the signing of certain deeds, documents or writings of the Commission administrative des régimes de retraite et d'assurances

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10, s. 144)

**1.** The officers of the Commission administrative des régimes de retraite et d'assurances who hold the positions mentioned in this Regulation permanently or on an interim basis are authorized, within the limits of their duties, to sign the contracts described below alone and with the same authority as the chair of the Commission.

**2.** A contract for the purchase or lease of movable property and any contract of enterprise or for services may be signed

(1) by a service head if the amount of the contract is less than $5,000;

(2) by a director if the amount of the contract is less than $10,000; or

(3) by the director of the financial and material resources service if the amount of the contract is less than $25,000.

**3.** A contract of enterprise or for services that is to be performed by or under the responsibility of professionals may be signed by a director if the amount of the contract is less than $25,000.

For the purposes of the first paragraph, professionals are persons who hold an undergraduate university degree, or the equivalent, recognized by the Minister of Education, Recreation and Sports and, in the case of an exclusive profession, are members of a professional order governed by the Professional Code (R.S.Q., c. C-26).

**4.** Contracts to lease space entered into with the Société immobilière du Québec may be signed by the director of the financial and material resources service.

**5.** This Regulation replaces the Regulation respecting the signing of certain deeds, documents or writings of the Commission administrative des régimes de retraite et d'assurances, made by Order in Council 981-96 dated 14 August 1996.

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

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Gouvernement du Québec

## O.C. 1010-2006, 8 November 2006

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2)

**Chambre de la sécurité financière**
**— Compulsory professional development**

Regulation of the Chambre de la sécurité financière respecting compulsory professional development

WHEREAS, under paragraph 2 of section 202.1 of the Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2), the Autorité des marchés financiers shall determine, by regulation, the rules governing compulsory professional development for representatives of each sector or class of sector other than financial planning;

WHEREAS the Chambre de la sécurité financière is a legal person established under the Act;

WHEREAS, under the fourth paragraph of section 312 of the Act, the Chambre de la sécurité financière shall exercise, in respect of its members, the regulatory power provided for in section 202.1;

WHEREAS, under the first paragraph of section 217 of the Act, a regulation made pursuant to the Act shall be submitted to the Government for approval with or without amendment;

WHEREAS, by Order in Council 1171-99 dated 13 October 1999, the Government approved the Regulation governing compulsory professional development of the Chambre de la sécurité financière;

WHEREAS the Chambre de la sécurité financière made the Regulation of the Chambre de la sécurité financière respecting compulsory professional development on 28 February 2006 to replace the above-mentioned Regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation of the Chambre de la sécurité financière respecting compulsory professional development was published in the *Gazette officielle du Québec* of 14 June 2006 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation of the Chambre de la sécurité financière respecting compulsory professional development, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
*Clerk of the Conseil exécutif*

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## Regulation of the Chambre de la sécurité financière respecting compulsory professional development

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2, s. 202.1, par. 2 and s. 312)

**DIVISION I**
SCOPE AND INTERPRETATION

**1.** This Regulation applies to all representatives, whether or not they are independent, who hold a certificate issued by the Autorité des marchés financiers authorizing them to practise in any of the following sectors, including the classes thereof provided for in the Regulation respecting the issuance and renewal of representatives' certificates, adopted by the Autorité des marchés financiers by Resolution 99.07.08 dated 6 July 1999:

(1) insurance of persons;
(2) group insurance of persons;
(3) group savings plan brokerage;
(4) investment contract brokerage;
(5) scholarship plan brokerage.

For the purposes of this Regulation, the sectors listed in subparagraphs 3 to 5 of the first paragraph constitute a single sector.

**2.** In this Regulation, the term "professional development unit" or "PDU" means one hour of training recognized by the Chambre de la sécurité financière.

## DIVISION II
TRAINING

*§1. Period, frequency and content of training*

**3.** As of 30 November 2006, a representative referred to in section 1 must, between that date and 30 November 2007, and for any 24-month period thereafter, take part in training activities recognized by the Chamber in accordance with Division III consisting of at least 10 PDUs from among the following general subjects :

(1) management of a financial services firm;
(2) Civil Code;
(3) accounting;
(4) economics;
(5) finance;
(6) business planning for clients;
(7) business planning for representatives;
(8) financial planning;
(9) tax planning;
(10) actuarial sciences;
(11) legislative environment;
(12) intestate and testamentary succession.

During that period, the representative must also take part in training activities recognized by the Chamber having the following additional PDUs :

(1) 10 PDUs in subjects pertaining to compliance with standards, ethics or business conduct; and

(2) 10 PDUs in subjects specific to each sector listed in the first paragraph of section 1, for each sector for which the representative is authorized to act under the certificate :

*(a)* insurance of persons :

i. client counselling;
ii. underwriting or risk management;
iii. disability insurance;
iv. life insurance;
v. trusts;
vi. risk management in insurance of persons;
vii. underwriting in insurance of persons;
viii. accident or health insurance plans;
ix. segregated funds;
x. strategy of wealth accumulation and use;
xi. financial needs analysis;
xii. deferred income plans;
xiii. mutual funds;
xiv. investor profile and asset allocation;
xi. investment strategy;
xvi. retirement and estate planning;
xvii. guaranteed investment certificates and linked notes;

*(b)* group insurance of persons :

i. client counselling;
ii. underwriting or risk management;
iii. disability insurance;
iv. life insurance;
v. group insurance and group pension plans;
vi. benefits and underwriting in group insurance and group annuity plans;
vii. setting up a group insurance and group annuity program;
viii. preparing a rate schedule and analyzing group insurance and group annuity quotes;
ix. preparing a group insurance and group annuity recommendation;
x. public and private plans;
xi. processing group insurance claims;
xii. mutual funds;
xiii. guaranteed investment certificates and linked notes;

*(c)* group savings plan brokerage, investment contract brokerage and scholarship plan brokerage :

i. client counselling;
ii. underwriting or risk management;
iii. retirement and estate planning;
iv. rusts;
v. segregated funds;
vi. strategy of wealth accumulation and use;
vii. scholarship plans;
viii. concepts of investment contracts;
ix. investment products;
x. derivatives;
xi. financial needs analysis;
xii. deferred income plans;
xiii. mutual funds;
xiv. investor profile and asset allocation;
xi. investment strategy;
xvi. guaranteed investment certificates and linked notes.

*§2. Variations in the training requirement*

**4.** Representatives referred to in section 1 who are issued a certificate between 30 November 2006 and 30 November 2007, or in any subsequent 24-month period, must accumulate PDUs from among the subjects listed in subdivision 1 in the proportion that the number of full months for which the certificate has been held is of 24 months.

Despite the foregoing, representatives who have held a certificate for less than 6 months are exempt from the requirements of subdivision 1.

Representatives who are authorized to act in a new sector during a period referred to in the first paragraph, in addition to the sector in which they are authorized to act under the certificate, are deemed to comply with the requirements of subdivision 1, but only for that new sector.

**5.** Representatives who are absent or on sick leave or accident leave, or for family or parental reasons, are exempt from the requirements of subdivision 1 to the extent and subject to the following conditions:

(1) the absence or leave is of a duration of not less than four consecutive weeks; and

(2) the representatives make a written request to the Chamber to avail themselves of the exemption and submit a supporting document or the medical certificate required for entitlement to the absence or leave.

Subject to subparagraphs 1 and 2, for the purposes of this section, the causes and terms of absences or leaves are those set out in Divisions V.0.1 and V.1 of Chapter IV of the Act respecting labour standards (R.S.Q., c. N-1.1).

Representatives must inform the Chamber in writing as soon as the absence or leave has ended and comply with the requirements of subdivision 1. They must then accumulate PDUs in the proportion that the number of full months in the period in which they were not absent or on leave is of 24 months.

**6.** Representatives who were suspended or struck off the roll or whose certificate was cancelled or revoked pursuant to a decision of the disciplinary committee of the Chamber or whose certificate is revoked, suspended, not renewed or included conditions imposed by the Autorité des marchés financiers cannot give training activities recognized by the Chamber or earn PDUs as a trainer, instructor or facilitator of those activities.

*§3. Awarding and assignment of PDUs*

**7.** Representatives who act as trainers, instructors or facilitators of a training activity recognized by the Chamber are entitled, only once for the activity, to double the number of PDUs awarded for the activity.

**8.** Representatives who, during the period referred to in subdivision 1, took part in training activities recognized by the Chamber consisting of more PDUs than required under subparagraphs 1 and 2 of the second paragraph of section 3, may count the excess PDUs under general subjects but only during that period. Such representatives cannot count the excess PDUs accumulated in the general subjects listed in subdivision 1 under a subject pertaining to compliance with standards, ethics or business conduct or a specific subject.

*§4. Notice from the Chamber*

**9.** At the latest within 30 days before the end of the period referred to in subdivision 1, the Chamber must send a notice to each representative who has not accumulated the required number of PDUs and inform the representative of the consequences, set out in sections 118.1 and 126 of the Regulation respecting the issuance and renewal of representatives' certificates, for failure to take part in training activities.

**10.** Within 30 days after the end of the period referred to in subdivision 1, the Chamber must send a notice to each representative who has not accumulated the required number of PDUs and inform the representative of the consequences, set out in sections 118.1 and 126 of the Regulation respecting the issuance and renewal of representatives' certificates, for failure to take part in training activities.

The Chamber must inform the Autorité des marchés financiers when it sends the notice provided for in the first paragraph to a representative.

*§5. Keeping and sending of documents*

**11.** Representatives must keep the attendance vouchers or certificates of exam or test results issued to them by the person, organization or educational institution providing the training activities recognized by the Chamber, for a 24-month period following the end of the period referred to in subdivision 1.

**12.** During the period referred to in subdivision 1, representatives must, personally or through the firm for which they are acting or the independent partnership of which they are a partner or employee, send to the Chamber a paper copy of the attendance vouchers for the activities it recognized.

Despite the foregoing, representatives are exempt from the requirement under the first paragraph if they, or the firm for which they are acting or the independent partnership of which they are a partner or employee, send their attendance vouchers for the activities recognized by the Chamber to its technological address by means of its secured access. The representatives are then not required to send a copy of the vouchers, unless the Chamber so requires for data verification purposes, in which case paper copies must be provided within 30 days of the Chamber's request.

**DIVISION III**
RECOGNITION OF TRAINING ACTIVITIES

**13.** The Chamber recognizes the training activities related to the sectors listed in section 1 if the activities enable the following professional skills and knowledge to be developed:

(1) business development;
(2) technical analysis;
(3) client satisfaction;
(4) business strategies.

The Chamber also recognizes and awards PDUs for any activity provided by a person, organization or educational institution during which training pertains to products specific to the sectors listed in section 1, provided that the time allocated to the training does not exceed one-half of the total time of the activity.

**14.** A representative or a person, organization or educational institution wishing to have an activity recognized must apply for recognition to the Chamber not later than six months after the activity is held.

**15.** The application for recognition must include

(1) a description of the training activity;
(2) the training procedure for the activity;
(3) a document explaining how the activity develops professional skills;
(4) if the application is submitted before the activity is held, the name and address of the person responsible for the activity;
(5) if the application is submitted by the representative after the activity is held, proof that the representative attended the activity;
(6) the method of assessing successful completion of the activity, if applicable;
(7) if the application is submitted after the activity is held by the person, organization or educational institution providing the activity, a list of participants; and
(8) the number of PDUs and the subject to which the training activity applies.

The person, organization or educational institution applying for recognition of a training activity for financial products must also produce a written undertaking to the effect that the duration and content of the training given to the representatives reflects the duration and content proposed to the Chamber.

**16.** The Chamber recognizes or refuses to recognize an activity within 45 days of receipt of the application. If the recognition is refused or the activity is recognized for fewer PDUs than requested, the Chamber must give reasons to the applicant.

**17.** The recognition of an activity is valid for 24 months. At the end of that period, a person wishing to renew the recognition must make a new application to the Chamber.

**18.** The person responsible for an activity must submit a new application for recognition to the Chamber if its content, duration or assessment procedures have been modified.

The Chamber may then maintain or terminate the recognition, or increase or decrease the number of PDUs awarded for the activity.

**19.** The Chamber may terminate recognition of an activity or increase or decrease the number of PDUs awarded to it if the Chamber becomes aware that the activity being provided is different from the activity that was recognized, or if the conditions set out in section 13 or 15 are not being met.

**DIVISION IV**
TRANSITIONAL AND FINAL

**20.** For the purposes of this Regulation, the Chamber recognizes PDUs accumulated by representatives for training activities taken between 1 January 2006 and the date of coming into force of this Regulation as if the activities had been taken on or after the latter date.

**21.** Despite section 3, between 30 November 2006 and 30 November 2007, a representative may replace up to 5 PDUs for training activities recognized by the Chamber in subjects pertaining to compliance with standards, ethics or business conduct by an equivalent number of PDUs in the other subjects.

**22.** This Regulation replaces the Regulation governing compulsory professional development of the Chambre de la sécurité financière approved by Order in Council 1171-99 dated 13 October 1999.

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

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Gouvernement du Québec

## **O.C. 1023-2006,** 8 November 2006

Food Products Act
(R.S.Q., c. P-29)

**Food**
**— Amendments**

Regulation to amend the Regulation respecting food

WHEREAS, under paragraphs *c*, *f* and *g* of section 40 of the Food Products Act (R.S.Q., c. P-29), the Government may make regulations respecting the various matters set forth therein;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation to amend the Regulation respecting food attached hereto was published in Part 2 of the *Gazette officielle du Québec* of 18 August 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS no comments on the draft Regulation were received;

WHEREAS it is expedient to make the Regulation to amend the Regulation respecting food without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Agriculture, Fisheries and Food:

THAT the Regulation to amend the Regulation respecting food, attached to this Order in Council, be made.

GÉRARD BIBEAU,
*Clerk of the Conseil exécutif*

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## Regulation to amend the Regulation respecting food [*]

Food Products Act
(R.S.Q., c. P-29, s. 40, pars. *c*, *f* and *g*)

**1.** The Regulation respecting food is amended by inserting “or hog” in section 1.3.1.12.1 after “poultry”.

**2.** Section 1.3.4.9.1 is amended

(1) by inserting “on the site of the holder’s agricultural operation” after “operate a dismembering plant”;

(2) by replacing “from the permit holder’s livestock exclusively” by “or hog carcasses, exclusively from animals raised on the site”.

**3.** Section 7.2.11.1 is amended by adding the following paragraph:

“Despite the first paragraph, the dismembering plant may have a composting facility different from the facility required by that paragraph, such as a rotating compost drum, if the facility

*(a)* is sufficiently resistant to withstand the operations necessary to the composting process;

*(b)* ensures that runoff from rain and snow flows outside the facility;

*(c)* ensures that the leachate from the composting is retained inside the facility; and

*(d)* prevents access to the facility by live animals.”.

**4.** The following is inserted after section 7.2.24:

“**7.2.24.1.** The dismembering plant in the “composting” category must have a thermometer capable of accurately measuring the internal temperature of composting materials.”.

**5.** Section 7.4.3 is amended by replacing “on the day of” in the second paragraph by “within 24 hours after”.

**6.** Section 7.4.4 is amended by replacing “section 7.4.3 must dispose of it by another authorized procedure” in the second paragraph by “the second paragraph of section 7.4.3 must dispose of it using any other procedure authorized under section 7.3.1.”.

**7.** Section 7.4.10 is amended by inserting “The operator must also indicate, not later than every 72 hours of operation, the internal temperature of each batch of composting materials.” after “species.” in the sixth paragraph.

**8.** 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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[*] The Regulation respecting food (R.R.Q., 1981, c. P-29, r.1) was last amended by the regulation made by Order in Council 922-2005 dated 12 October 2005 (2005, *G.O.* 2, 4529). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2006, updated to 1 September 2006.

## M.O., 2006

**Order number 2006-022 of the Minister of Health and Social Services to cancel the designation of a breast cancer detection centre dated 3 November 2006**

Health Insurance Act
(R.S.Q., c. A-29)

THE MINISTER OF HEALTH AND SOCIAL SERVICES,

CONSIDERING subparagraph *b*.3 of the first paragraph of section 69 of the Health Insurance Act (R.S.Q., c. A-29);

CONSIDERING subparagraph *ii* of paragraph *o* of section 22 of the Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, c. A-29, r.1);

CONSIDERING the designation of breast cancer detection centres by Minister's Order dated 11 August 1998;

CONSIDERING that it is necessary to amend that Minister's Order to strike the name of a breast cancer detection centre;

ORDERS AS FOLLOWS :

For the Laurentides region, the following breast cancer detection centre is struck from the operative part of the Minister's Order dated 11 August 1998 :

"Clinique de radiologie St-Eustache
75, rue Grignon, suite 18
Saint-Eustache (Québec)
J7P 4J2"

Québec, 3 November 2006

PHILIPPE COUILLARD
*Minister of Health and Social Services*

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## M.O., 2006

**Order number AM 2006-043 of the Minister of Natural Resources and Wildlife dated 2 November 2006**

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

CONCERNING the modification of the name of the York-Baillargeon Controlled Zone to that of the Baillargeon Controlled Zone

THE MINISTER OF NATURAL RESOURCES AND WILDLIFE,

CONSIDERING the establishment of the York-Baillargeon Controlled Zone under section 81.2 of the Wild-life Conservation Act (R.S.Q., c. C-61) by the making of the Regulation respecting the York-Baillargeon Controlled Zone (R.R.Q., 1981, c. C-61, r.152);

CONSIDERING the replacement of the Wild-life Conservation Act by the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1);

CONSIDERING section 184 of this Act, which provides that the provisions of the Wild-life Conservation Act are replaced by the corresponding provisions of the Act respecting the conservation and development of wildlife;

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

CONSIDERING section 191.1 of the Act respecting the conservation and development of wildlife, which provides that the regulations made by the Government under notably section 104 of this Act prior to 1 January 1987 continue to be in force until they are, from 17 June 1998, replaced or repealed by order of the Minister;

CONSIDERING the replacement of the Regulation respecting the York-Baillargeon Controlled Zone by Order No. A.M. 2001-027 of 20 December 2001, the number of which was clarified by erratum (2002) *G.O.* 2, 866;

CONSIDERING the application of the organization that manages the York-Baillargeon Controlled Zone seeking to modify this name;

CONSIDERING that it is expedient to modify the name of the York-Baillargeon Zone to that of the Baillargeon Controlled Zone;

ORDERS THE FOLLOWING :

The name of the York-Baillargeon Controlled Zone be modified to that of the Baillargeon Controlled Zone;

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

Québec, 2 November 2006

PIERRE CORBEIL
*Minister of Natural Resources and Wildlife*

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## **M.O.,** 2006-03

**Order number V-1.1-2006-03 of the Minister of Finance dated 31 October 2006**

Securities Act
(R.S.Q., c. V-1.1)

CONCERNING amendments to concordant regulations to Regulation 81-107 respecting independent review committee for investment funds

WHEREAS subparagraphs 1, 2, 6, 8, 11, 14, 16, 17, 20 and 34 of section 331.1 of the Securities Act stipulate that the Autorité des marchés financiers may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act stipulate that a draft regulation shall be published in the Bulletin of the Authority, accompanied with the notice required under section 10 of the Regulations Act (R.S.Q., c. R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the first and fifth paragraphs of the said section stipulate that every regulation made under section 331.1 must be approved, with or without amendment, by the Minister of Finance and comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the regulation;

WHEREAS the following regulations have been made by a decision of the Autorité des marchés financiers or approved by a ministerial order of the Minister of Finance:

— Regulation 13-101 respecting the system for electronic analysis and retrieval (SEDAR) on June 12, 2001 by the decision No. 2001-C-0272;

— Regulation 81-101 mutual fund prospectus disclosure on June 12, 2001 by the decision No. 2001-C-0283;

— Regulation 81-102 mutual funds on May 22, 2001 by the decision No. 2001-C-0209;

— Regulation 81-104 respecting commodity pools on March 3, 2003 by the decision No. 2003-C-0075;

— Regulation 81-106 respecting investment fund continuous disclosure approved by Ministerial Order No. 2005-05 dated May 19, 2005;

WHEREAS the following draft regulations were published in accordance with section 331.2 of Securities Act and made by the Autorité des marchés financiers:

— Regulation to amend Regulation 13-101 respecting the system for electronic analysis and retrieval (SEDAR) published in the Supplement to the Bulletin concerning securities of the Autorité des marchés financiers, volume 2, No. 21 of May 27, 2005 and made on October 19, 2006, by the decision No. 2006-PDG-0182;

— Regulation to amend Regulation 81-101 mutual fund prospectus disclosure published in the Supplement to the Bulletin concerning securities of the Autorité des marchés financiers, volume 2, No. 21 of May 27, 2005 and made on October 19, 2006, by the decision No. 2006-PDG-0183;

— Regulation to amend Regulation 81-102 mutual funds published in the Supplement to the Bulletin concerning securities of the Autorité des marchés financiers, volume 2, No. 21 of May 27, 2005 and made on October 19, 2006, by the decision no. 2006-PDG-0184;

— Regulation to amend Regulation 81-104 respecting commodity pools published in the Supplement to the Bulletin concerning securities of the Autorité des marchés financiers, volume 2, No. 21 of May 27, 2005 and made on October 19, 2006, by the decision No. 2006-PDG-0185;

— Regulation to amend Regulation 81-106 respecting investment fund continuous disclosure published in the Supplement to the Bulletin concerning securities of the Autorité des marchés financiers, volume 2, No. 21 of May 27, 2005 and made on October 19, 2006, by the decision No. 2006-PDG-0186;

WHEREAS there is cause to approve those regulations with amendments;

Consequently, the Minister of Finance approves with amendments the following regulations appended hereto:

— Regulation to amend Regulation 13-101 respecting the system for electronic analysis and retrieval (SEDAR);

— Regulation to amend Regulation 81-101 mutual fund prospectus disclosure;

— Regulation to amend Regulation 81-102 mutual funds;

— Regulation to amend Regulation 81-104 respecting commodity pools;

— Regulation to amend Regulation 81-106 respecting investment fund continuous disclosure.

October 31, 2006

MICHEL AUDET,
*Minister of Finance*

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## Regulation to amend Regulation 13-101 respecting the system for electronic document analysis and retrieval (SEDAR)

Securities Act
(R.S.Q., c. V-1.1, s. 331.1 par. 1 and 2)

**1.** Appendix A of Regulation 13-101 respecting the System for Electronic Document Analysis and Retrieval (SEDAR) is amended:

(1) by adding the following items after Item 17 of paragraph B of Part I:

"18. Report by Independent Review Committee

19. Manager - transactions in securities of related issuers

20. Manager - transactions under Part 4 of Regulation 81-102 Mutual Funds adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision No. 2001-C-0209 dated May 22, 2001

21. Manager - notification under Part 5 of Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by Ministerial Order no. 2006-02 dated October 31, 2006;";

(2) by adding the following items after Item 18 of subparagraph (a) of paragraph B of Part II:

"19. Report by Independent Review Committee

20. Manager - transactions in securities of related issuers

21. Manager - transactions under Part 4 of Regulation 81-102 Mutual Funds

22. Manager - notification under Part 5 of Regulation 81-107 respecting Independent Review Committee for Investment Funds".

**2.** The SEDAR Filer Manual, Standards, Procedures and Guidelines for Electronic Filing with the Canadian Securities Administrators, of the Regulation is amended by replacing the words "gérant", "le gérant", "du gérant" and "un gérant", wherever they appear in the French text, with the words "société de gestion", "la société de gestion", "de la société de gestion" and "une société de gestion", respectively, and making the necessary changes.

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

## Regulation to amend Regulation 81-101 mutual fund prospectus disclosure

Securities Act
(R.S.Q., c. V-1.1, s. 331.1 par. 1, 6, 14, 16, 17 and 34)

**1.** Section 1.1 of Regulation 81-101 Mutual Fund Prospectus Disclosure is amended:

(1) by adding the following before the definition of "material contract":

"“independent review committee” means the independent review committee of the investment fund established under Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by Ministerial Order no. 2006-02 dated October 31, 2006;";

(2) in the definition of "commodity pool":

(a) by replacing, in paragraph (a) of the French text, the words "Règlement 81-102 *Les organismes de placement collectif*" with the words "Règlement 81-102 sur les organismes de placement collectif adopté par la Commission des valeurs mobilières du Québec en vertu de la décision n° 2001-C-0209 du 22 mai 2001";

(b) by replacing, in paragraph (b), the words "Regulation 81-102" with the words "Regulation 81-102 Mutual Funds";

(3) by replacing, in the definition of "precious metals fund", the words "Regulation 81-102" with the words "Regulation 81-102 Mutual Funds".

**2.** Form 81-101F1, Contents of Simplified Prospectus, of the Regulation is amended:

(1) in General Instruction (2), by deleting the words *"adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2001-C-0209 dated May 22, 2001"* and by replacing the words *"of Regulation 81-102"* with the words *"of Regulation 81-102 Mutual Funds"*;

(2) in Part A:

(a) in Item 5:

(i) by adding the following subsection after subsection (3):

"(3.1) Under a separate sub-heading "Independent Review Committee" in the diagram or table, briefly describe the independent review committee of the mutual funds, including

• an appropriate summary of its mandate,
• its composition,
• that it prepares at least annually a report of its activities for securityholders which is available on the [mutual fund's/mutual fund family's] Internet site at [insert mutual fund's Internet site address], or at the securityholders' request, at no cost, by contacting the [mutual fund/mutual fund family] at [insert mutual fund's e-mail address]), and
• that additional information about the independent review committee, including the names of the members, is available in the mutual fund's Annual Information Form.";

(ii) by adding the following subsection after subsection (5):

"(6) Despite subsection (3.1), if the information required by subsection (3.1) is not the same for substantially all of the mutual funds described in the document, provide only that information that is the same for substantially all of the mutual funds and provide the remaining disclosure required by that subsection under Item 4(3.1) of Part B of this Form.";

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

*"(3) The information about the independent review committee should be brief. For instance, its mandate may in part be described as "reviewing, and providing input on, the manager's written policies and procedures which deal with conflict of interest matters for the manager and reviewing such conflict of interest matters." A cross-reference to the annual information form for additional information on the independent review committee and fund governance should be included.";*

(b) in Item 8.1:

(i) by adding the following subsection after subsection (3):

"(3.1) Under "Operating Expenses" in the table, include a description of the fees and expenses payable in connection with the independent review committee.";

(ii) by adding the following subsection after subsection (5):

"(6) Despite subsection (3.1), if the information required by subsection (3.1) is not the same for each mutual fund described in the document, make this disclosure in the description of fees and expenses required for each fund by Item 5 of Part B of this Form and include a cross-reference to that information in the table required by this Item.";

(3) in Part B:

(a) by adding the following after subsection (3) of Item 4:

"(3.1) Under a separate sub-heading "Independent Review Committee" in the diagram or table, briefly describe the independent review committee of the mutual funds, including

• an appropriate summary of its mandate,
• its composition,
• that it prepares at least annually a report of its activities for securityholders which is available on the [mutual fund's/mutual fund family's] Internet site at [insert mutual fund's Internet site address], or at the securityholders' request, at no cost, by contacting the [mutual fund/mutual fund family] at [insert mutual fund's e-mail address]), and
• that additional information about the independent review committee, including the names of the members, is available in the mutual fund's Annual Information Form.";

(b) by adding the following after subparagraph (ii) of paragraph (f) of Item 5:

"(iii) the amount of the fees and expenses payable in connection with the independent review committee, charged to the mutual fund; and";

(c) by deleting, in subsection (1) of Item 11.1, the words "adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2001-C-0209 dated May 22, 2001";

(4) by replacing, wherever they appear, the words "Regulation 81-102" with the words "Regulation 81-102 Mutual Funds", and making the necessary changes;

(5) by replacing the words "gérant", "le gérant", "du gérant", "au gérant" and "son gérant", wherever they appear in the French text, with the words "société de gestion", "la société de gestion", "de la société de gestion", "à la société de gestion" and "sa société de gestion", respectively, and making the necessary changes.

**3.** Form 81-101F2, Contents of Annual Information Form, of the Regulation is amended:

(1) in General Instruction (2), by deleting the words *"adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2001-C-0209 dated May 22, 2001"* and by replacing the words *"of Regulation 81-102" with the words "of Regulation 81-102 Mutual Funds";*

(2) by adding the following after subsection (2) of Item 4:

"(2.1) If the mutual fund has relied on the approval of the independent review committee and has satisfied the relevant requirements of Regulation 81-107 respecting Independent Review Committee for Investment Funds to vary any of the investment restrictions and practices contained in securities legislation, including Regulation 81-102 Mutual Funds, provide details of the variations.

(2.2) If the mutual fund has relied on the approval of the independent review committee to implement a reorganization with, or transfer of assets to, another mutual fund or to proceed with a change of auditor of the mutual fund as permitted by Regulation 81-102 Mutual Funds, provide details.";

(3) in Item 10.1, by striking out the word "and" at the end of paragraph (f), adding "; and" at the end of paragraph (g) and adding the following after paragraph (g):

"(h) the oversight of the manager of the mutual fund by the independent review committee.";

(4) by adding the following after subsection (5) of Item 11.1:

"(6) Disclose the percentage of securities of each class or series of voting or equity securities beneficially owned, directly or indirectly, in aggregate, by all the independent review committee members of the mutual fund

(a) in the mutual fund if the aggregate level of ownership exceeds 10 percent,

(b) in the manager, or

(c) in any person or company that provides services to the mutual fund or the manager.";

(5) by replacing the heading of Item 12 of the French text with the words "Gouvernance d'OPC";

(6) in Item 12:

(a) by replacing, in subsection (1) of the French text, the word "régie" with the word "gouvernance";

(b) by replacing paragraph (a) of subsection (1) with the following:

"(a) the mandate and responsibilities of the independent review committee and the reasons for any change in the composition of the independent review committee since the date of the most recently filed annual information form;

(a.1) any other body or group that has responsibility for fund governance and the extent to which its members are independent of the manager of the mutual fund; and";

(c) in the Instruction, by adding "*(1)*" before "The disclosure";

(d) in the Instruction, by adding the following paragraph before the heading **"Item 13: Fees and Expenses":**

*"(2) If the mutual fund has an independent review committee, state in the disclosure provided under paragraph (1)(b) that Regulation 81-107 respecting Independent Review Committee for Investment Funds requires the manager to have policies and procedures relating to conflicts of interest.";*

(6) by replacing subsection (2) of Item 15 with the following:

"(2) Describe any arrangements under which compensation was paid or payable by the mutual fund during the most recently completed financial year of the mutual fund, for the services of directors of the mutual fund, members of an independent board of governors or advisory board of the mutual fund and members of the independent review committee of the mutual fund, including the amounts paid, the name of the individual and any expenses reimbursed by the mutual fund to the individual

(a) in that capacity, including any additional amounts payable for committee participation or special assignments; and

(b) as consultant or expert.".

**4.** The Regulation is amended by replacing, wherever they appear, the words "Regulation 81-102" with the words "Regulation 81-102 Mutual Funds", and making the necessary changes.

**5.** The Regulation is amended by replacing the words "gérant", "le gérant", "du gérant", "au gérant" and "son gérant", wherever they appear in the French text, with the words "société de gestion", "la société de gestion", "de la société de gestion", "à la société de gestion" and "sa société de gestion", respectively, and making the necessary changes, except in the expression "courtier gérant".

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

## Regulation to amend Regulation 81-102 mutual funds

Securities Act
(R.S.Q., c. V-1.1, s. 331.1 par. 6, 11, 16, 17 and 34)

**1.** Section 1.1 of Regulation 81-102 Mutual Funds is amended:

(1) by adding the following after the definition of "illiquid asset":

""independent review committee" means the independent review committee of the investment fund established under Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by Ministerial Order no. 2006-02 dated October 31, 2006;";

(2) by replacing the definition of "manager" with the following:

""manager" means a person or company that directs the business, operations and affairs of a mutual fund;"

(3) by replacing the definition of "mutual fund conflict of interest investment restrictions" with the following:

""mutual fund conflict of interest investment restrictions" means the provisions of securities legislation that

(a) prohibit a mutual fund from knowingly making or holding an investment in any person or company who is a substantial securityholder, as defined in securities legislation, of the mutual fund, its management company, manager or distribution company;

(b) prohibit a mutual fund from knowingly making or holding an investment in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder, as defined in securities legislation;

(c) prohibit a mutual fund from knowingly making or holding an investment in an issuer in which any person or company who is a substantial securityholder of the mutual fund, its management company, manager or distribution company, has a significant interest, as defined in securities legislation;

(d) prohibit a mutual fund, a responsible person as defined in securities legislation, a portfolio adviser or a registered person acting under a management contract from knowingly causing any investment portfolio managed by it, or a mutual fund, to invest in, or prohibit a mutual fund from investing in, any issuer in which a responsible person, as defined in securities legislation, is an officer or director unless the specific fact is disclosed to the mutual fund, securityholder or client, and where securities legislation requires it, the written consent of the client to the investment is obtained before the purchase;

(e) prohibit a mutual fund, a responsible person as defined in securities legislation, or a portfolio adviser knowingly causing any investment portfolio managed by it to subscribe for, purchase or sell, or prohibit a mutual fund from subscribing for, purchasing or selling, the securities of any issuer from or to the account of a responsible person, as defined in securities legislation, an associate of a responsible person or the portfolio adviser; and;

(f) prohibit a portfolio adviser or a registered person acting under a management contract from subscribing for or buying securities on behalf of a mutual fund, where his or her own interest might distort his or her judgment, unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the subscription or purchase;".

**2.** Section 4.1 of the Regulation is amended by adding the following after subsection (3):

"(4) Subsection (1) does not apply to an investment in a class of securities of an issuer if, at the time of each investment

(a) the independent review committee of the dealer managed mutual fund has approved the transaction under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(b) in a class of debt securities of an issuer other than a class of securities referred to in subsection (3), the security has been given, and continues to have, an approved rating by an approved credit rating organization;

(c) in any other class of securities of an issuer,

(i) the distribution of the securities is made by prospectus filed with one or more securities regulatory authorities or regulators in Canada, and;

(ii) during the 60-day period referred to in subsection (1) the investment in the securities is made on an exchange on which these securities are listed and traded; and

(d) no later than the time the dealer managed mutual fund files its annual financial statements, the manager of the dealer managed mutual fund files the particulars of each investment made by the dealer managed mutual fund during its most recently completed financial year.

(5) The corresponding provisions contained in securities legislation referred to in Appendix C do not apply with respect to an investment in a class of securities of an issuer referred to in subsection (4) if the investment is made in accordance with that subsection.".

**3.** Section 4.3 of the Regulation is amended by inserting "(1)" before the heading "Exception" and adding the following subsection after this subsection:

"(2) Section 4.2 does not apply to a purchase or sale of a class of debt securities by a mutual fund from, or to, another mutual fund managed by the same manager or an affiliate of the manager, if, at the time of the transaction

(a) the mutual fund is purchasing from, or selling to, another mutual fund to which Regulation 81-107 respecting Independent Review Committee for Investment Funds applies;

(b) the independent review committee of the mutual fund has approved the transaction under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(c) the transaction complies with subsection 6.1(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds.".

**4.** Section 5.1 of the Regulation is amended by deleting paragraph (d).

**5.** Section 5.3 of the Regulation is amended by adding the following after subsection (1):

"(2) Despite section 5.1, the approval of securityholders of a mutual fund is not required to be obtained for a change referred to in paragraph 5.1(f) if

(a) the independent review committee of the mutual fund has approved the change under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(b) the mutual fund is being reorganized with, or its assets are being transferred to, another mutual fund to which this Regulation and Regulation 81-107 respecting Independent Review Committee for Investment Funds apply and that is managed by the manager, or an affiliate of the manager, of the mutual fund;

(c) the reorganization or transfer of assets of the mutual fund complies with the criteria in paragraphs 5.6(1)(a), (b), (c), (d), (g), (h) and (i) and subsection 5.6(2);

(d) the simplified prospectus of the mutual fund discloses that, although the approval of securityholders may not be obtained before making the change, securityholders will be sent a written notice at least 60 days before the effective date of the change; and

(e) the notice referred to in paragraph (d) to securityholders is sent 60 days before the effective date of the change.".

**6.** The Regulation is amended by adding the following after section 5.3:

"5.3.1 Change of Auditor of the Mutual Fund

The auditor of the mutual fund may not be changed unless

(a) the independent review committee of the mutual fund has approved the change under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(b) the simplified prospectus of the mutual fund discloses that, although the approval of securityholders may not be obtained before making the change, securityholders will be sent a written notice at least 60 days before the effective date of the change; and

(c) the notice referred to in paragraph (b) to securityholders is sent 60 days before the effective date of the change.".

**7.** The Regulation is amended by adding the following after Appendix B-3:

**"APPENDIX C**

PROVISIONS CONTAINED IN SECURITIES LEGISLATION FOR THE PURPOSE OF SUBSECTION 4.1(5) – PROHIBITED INVESTMENTS

| JURISDICTION | SECURITIES LEGISLATION REFERENCE |
|---|---|
| Alberta | Section 9 of Alberta Securities Commission Policy 7.1 |
| British Columbia | Section 81 of the *Securities Rules* |
| Newfoundland and Labrador | Section 191 of Reg 805/96" |
| New Brunswick | Section 13.2 of Local Rule 31-501, *Registration Requirements* |
| Nova Scotia | Section 67 of the General Securities Rules |
| Ontario | Section 227 of Reg. 1015 |
| Quebec | Sections 236 and 237.1 of the *Securities Regulation*" |

**8.** The Regulation is amended by replacing the words "gérant", "le gérant", "du gérant", "au gérant" and "son gérant", wherever they appear in the French text, with the words "société de gestion", "la société de gestion", "de la société de gestion", "à la société de gestion" and "sa société de gestion", respectively, and making the necessary changes, except in the expression "courtier gérant".

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

## Regulation to amend Regulation 81-104 respecting commodity pools

Securities Act
(R.S.Q., c. V-1.1, s. 331.1 par. 1, 6, 8, 20 and 34)

**1.** Section 1.1 of Regulation 81-104 respecting Commodity Pools is amended by adding the following after the definition of "Derivatives Fundamentals Course":

"“independent review committee” means the independent review committee of the investment fund established under Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by Ministerial Order no. 2006-02 dated October 31, 2006;".

**2.** Section 9.2 of the Regulation is amended:

(1) by replacing, in paragraph (d) of the French text, the words "gérant, conseiller, courtier" with the words "conseiller ou courtier, une société de gestion";

(2) by replacing, in paragraph (e) of the French text, the words "le gérant" with the words "la société de gestion";

(3) by adding the following after paragraph (o), and making the necessary changes:

"(p) provide the disclosure concerning the independent review committee of the commodity pool that is required to be provided by a mutual fund under

(i) subsection (3.1) of Item 5 of Part A of Form 81-101F1, Contents of Simplified Prospectus, of Regulation 81-101 Mutual Fund Prospectus Disclosure adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision No. 2001-C-0283 dated June 12, 2001;

(ii) subsection (3.1) of Item 8 of Part A of Form 81-101F1, Contents of Simplified Prospectus, of Regulation 81-101 Mutual Fund Prospectus Disclosure;

(iii) subsections (2.1) and (2.2) of Item 4 of Form 81-101F2, Contents of Annual Information Form, of Regulation 81-101 Mutual Fund Prospectus Disclosure;

(iv) paragraph (h) of Item 10.1 of Form 81-101F2, Contents of Annual Information Form, of Regulation 81-101 Mutual Fund Prospectus Disclosure;

(v) subsection (6) of Item 11.1 of Form 81-101F2, Contents of Annual Information Form, of Regulation 81-101 Mutual Fund Prospectus Disclosure;

(vi) subsection (1) of Item 12 of Form 81-101F2, Contents of Annual Information Form, of Regulation 81-101 Mutual Fund Prospectus Disclosure;

(vii) subsection (2) of Item 15 of Form 81-101F2, Contents of Annual Information Form, of Regulation 81-101 Mutual Fund Prospectus Disclosure in connection with the independent review committee."

**3.** The Regulation is amended by replacing the words "gérant", "le gérant" and "du gérant", wherever they appear in the French text, with the words "société de gestion", "la société de gestion" and "de la société de gestion", respectively, and making the necessary changes.

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

## Regulation to amend Regulation 81-106 respecting investment fund continuous disclosure

Securities Act
(R.S.Q., c. V-1.1, s. 331.1 par. 1, 6, 8, 20 and 34)

**1.** Section 1.1 of Regulation 81-106 respecting Investment Fund Continuous Disclosure is amended by adding the following after the definition of "EVCC":

"“independent review committee” means the independent review committee of the investment fund established under Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by Ministerial Order no. 2006-02 dated October 31, 2006;".

**2.** Section 3.2 of the Regulation is amended by adding the following after item 8:

"8.1. independent review committee fees;".

**3.** Section 9.4 of the Regulation is amended by replacing paragraph (f) of subsection (2) with the following:

"(f) Item 15 of Form 81-101F2, Contents of Annual Information Form, of Regulation 81-101 Mutual Fund Prospectus Disclosure does not apply to an investment fund that is a corporation, except for the disclosure in connection with the independent review committee; and".

**4.** Form 81-106F1, Contents of Annual and Interim Management Report, of the Regulation is amended:

(1) in Item 2.4, by adding the following paragraph after paragraph (e), and making the necessary changes:

"(f) changes to the composition or members of the independent review committee of the investment fund.";

(2) in Item 2.5, by adding the following Instruction after Instruction (3):

"*(4) If the investment fund has an independent review committee, state whether the investment fund has relied on the positive recommendation or approval of the independent review committee to proceed with the transaction, and provide details of any conditions or parameters surrounding the transaction imposed by the independent review committee.*"

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

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## **M.O.,** 2006-02

**Order number V-1.1-2006-02 of the Minister of Finance dated 31 October 2006**

Securities Act
(R.S.Q., c. V-1.1)

CONCERNING the Regulation 81-107 respecting independent review committee for investment funds

WHEREAS subparagraphs 1, 8, 11, 16, 17 and 34 of section 331.1 of the Securities Act (R.S.Q., c. V-1.1) stipulate that the Autorité des marchés financiers may make regulations concerning the matters referred to in that paragraph;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act stipulate that a draft regulation shall be published in the Bulletin of the Authority, accompanied with the notice required under section 10 of the Regulations Act (R.S.Q., c. R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the first and fifth paragraphs of the said section stipulate that every regulation made under section 331.1 must be approved, with or without amendment, by the Minister of Finance and comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the regulation;

WHEREAS the draft Regulation 81-107 respecting prospectus and registration exemptions was published in the Supplement to the Bulletin concerning securities of the Autorité des marchés financiers, volume 2, No. 21 of May 27, 2005;

WHEREAS on October 19, 2006, by the decision No. 2006-PDG-0181, the Authority made the Regulation 81-107 respecting independent review committee for investment funds;

WHEREAS there is cause to approve this regulation with amendments;

CONSEQUENTLY, the Minister of Finance approves with amendments the Regulation 81-107 respecting independent review committee for investment funds.

October 31, 2006

MICHEL AUDET,
*Minister of Finance*

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# Regulation 81-107 respecting independent review committee for investment funds

Securities Act
(R.S.Q., c. V-1.1, s. 331.1 par. 1, 8, 11, 16, 17 and 34)

**PART 1**
DEFINITIONS AND APPLICATION

1.1. **Investment funds subject to Regulation**

(1) This Regulation applies to an investment fund that is a reporting issuer.

(2) In Québec, this Regulation does not apply to a reporting issuer organized under

*(a)* an Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., c. F-3.2.1);

*(b)* an Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., c. F-3.1.2); and

*(c)* an Act constituting Capital régional et coopératif Desjardins (R.S.Q., c. C-6.1).

1.2. **Definition of "conflict of interest matter"**

In this Regulation, "a conflict of interest matter" means

*(a)* a situation where a reasonable person would consider a manager, or an entity related to the manager, to have an interest that may conflict with the manager's ability to act in good faith and in the best interests of the investment fund; or

*(b)* a conflict of interest or self-dealing provision listed in Appendix A that restricts or prohibits an investment fund, a manager or an entity related to the manager from proceeding with a proposed action.

1.3. **Definition of "entity related to the manager"**

In this Regulation, "entity related to the manager" means

*(a)* a person or company that can direct or materially affect the direction of the management and policies of the manager or the investment fund, other than as a member of the independent review committee; or

*(b)* an associate, affiliate, partner, director, officer or subsidiary of the manager or of a person or company referred to in paragraph (a).

1.4. **Definition of "independent"**

(1) In this Regulation, a member of the independent review committee is "independent" if the member has no material relationship with the manager, the investment fund, or an entity related to the manager.

(2) For the purposes of subsection (1), a material relationship means a relationship which could reasonably be perceived to interfere with the member's judgment regarding a conflict of interest matter.

1.5. **Definition of "inter-fund self-dealing investment prohibitions"**

In this Regulation, "inter-fund self-dealing investment prohibitions" means the provisions listed in Appendix B that prohibit

*(a)* a portfolio manager from knowingly causing any investment portfolio managed by it to purchase or sell, or

*(b)* an investment fund from purchasing or selling,

the securities of an issuer from or to the account of a responsible person, an associate of a responsible person or the portfolio manager.

1.6. **Definition of "manager"**

In this Regulation, "manager" means a person or company that directs the business, operations and affairs of an investment fund.

1.7. **Definition of "standing instruction"**

In this Regulation, "standing instruction" means a written approval or recommendation from the independent review committee that permits the manager to proceed with a proposed action under section 5.2 or 5.3 on an ongoing basis.

**PART 2**
FUNCTIONS OF THE MANAGER

2.1. **Manager standard of care**

A manager in exercising its powers and discharging its duties related to the management of the investment fund must

*(a)* act honestly and in good faith, and in the best interests of the investment fund; and

*(b)* exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

2.2. **Manager to have written policies and procedures**

(1) Before proceeding with a conflict of interest matter or any other matter that securities legislation requires the manager to refer to the independent review committee, the manager must

*(a)* establish written policies and procedures that it must follow on that matter or on that type of matter, having regard to its duties under securities legislation; and

*(b)* refer the policies and procedures to the independent review committee for its review and input.

(2) In establishing the written policies and procedures described in subsection (1), the manager must consider the input of the independent review committee, if any.

(3) The manager may revise its policies and procedures if it provides the independent review committee with a written description of any significant changes for the independent review committee's review and input before implementing the revisions.

2.3. **Manager to maintain records**

A manager must maintain a record of any activity that is subject to the review of the independent review committee, including

*(a)* a copy of the policies and procedures that address a matter referred to the independent review committee;

*(b)* minutes of its meetings, if any; and

*(c)* copies of materials, including any written reports, provided to the independent review committee.

2.4. **Manager to provide assistance**

(1) When a manager refers to the independent review committee a conflict of interest matter or any other matter that securities legislation requires it to refer, or refers its policies and procedures related to such matters, the manager must

*(a)* provide the independent review committee with information sufficient for the independent review committee to properly carry out its responsibilities, including

i. a description of the facts and circumstances giving rise to the matter;

ii. the manager's policies and procedures;

iii. the manager's proposed course of action, if applicable; and

iv. all further information the independent review committee reasonably requests;

*(b)* make its officers who are knowledgeable about the matter available to attend meetings of the independent review committee or respond to inquiries of the independent review committee about the matter; and

*(c)* provide the independent review committee with any other assistance it reasonably requests in its review of the matter.

(2) A manager must not prevent or attempt to prevent the independent review committee, or a member of the independent review committee, from communicating with the securities regulatory authority.

**PART 3**
INDEPENDENT REVIEW COMMITTEE

3.1. **Independent review committee for an investment fund**

An investment fund must have an independent review committee.

3.2. **Initial appointments**

The manager must appoint each member of an investment fund's first independent review committee.

3.3. **Vacancies and reappointments**

(1) An independent review committee must fill a vacancy on the independent review committee as soon as practicable.

(2) A member whose term has expired, or will soon expire, may be reappointed by the other members of the independent review committee.

(3) In filling a vacancy on the independent review committee or reappointing a member of the independent review committee, the independent review committee must consider the manager's recommendations, if any.

(4) A member may not be reappointed for a term or terms of office that, if served, would result in the member serving on the independent review committee for longer than 6 years, unless the manager agrees to the reappointment.

(5) If, for any reason, an independent review committee has no members, the manager must appoint a member to fill each vacancy as soon as practicable.

3.4. **Term of office**

The term of office of a member of an independent review committee must be not less than 1 year and not more than 3 years, and must be set by the manager or the independent review committee, as the case may be, at the time the member is appointed.

3.5. **Nominating criteria**

Before a member of the independent review committee is appointed, the manager or the independent review committee, as the case may be, must consider

*(a)* the competencies and skills the independent review committee, as a whole, should possess;

*(b)* the competencies and skills of each other member of the independent review committee; and

*(c)* the competencies and skills the prospective member would bring to the independent review committee.

3.6. **Written charter**

(1) The independent review committee must adopt a written charter that includes its mandate, responsibilities and functions, and the policies and procedures it will follow when performing its functions.

(2) If the independent review committee and the manager agree in writing that the independent review committee will perform functions other than those prescribed by securities legislation, the charter must include a description of the functions that are the subject of the agreement.

(3) In adopting the charter, the independent review committee must consider the manager's recommendations, if any.

3.7. **Composition**

(1) An independent review committee must have at least three members.

(2) The size of the independent review committee is to be determined by the manager, with a view to facilitating effective decision-making, and may only be changed by the manager.

(3) Every independent review committee member must be independent.

(4) An independent review committee must appoint a member as Chair.

(5) The Chair of an independent review committee is responsible for managing the mandate, and responsibilities and functions, of the independent review committee.

3.8. **Compensation**

(1) The manager may set the initial compensation and expenses of an independent review committee that is appointed under section 3.2 or subsection 3.3(5).

(2) The independent review committee must set reasonable compensation and proper expenses for its members.

(3) When setting its compensation and expenses under subsection (2), the independent review committee must consider

*(a)* the independent review committee's most recent assessment of its compensation under paragraph 4.2(2)(b); and

*(b)* the manager's recommendations, if any.

3.9. **Standard of care**

(1) Every member of an independent review committee, in exercising his or her powers and discharging his or her duties related to the investment fund, and, for greater certainty, not to any other person, as a member of the independent review committee must

*(a)* act honestly and in good faith, with a view to the best interests of the investment fund; and

*(b)* exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) Every member of an independent review committee must comply with this Regulation and the written charter of the independent review committee required under section 3.6.

(3) A member of the independent review committee does not breach paragraph (1)(b), if the member exercised the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, including reliance in good faith on

*(a)* a report or certification represented as full and true to the independent review committee by the manager or an entity related to the manager; or

*(b)* a report of a person whose profession lends credibility to a statement made by the person.

(4) A member of the independent review committee has complied with his or her duties under paragraph (1)(a) if the member has relied in good faith on

*(a)* a report or certification represented as full and true to the independent review committee by the manager or an entity related to the manager; or

*(b)* a report of a person whose profession lends credibility to a statement made by the person.

3.10. **Ceasing to be a member**

(1) An individual ceases to be a member of an independent review committee when

*(a)* the investment fund terminates;

*(b)* the manager of the investment fund changes, unless the new manager is an affiliate of the former manager; or

*(c)* there is a change of control of the manager of the investment fund.

(2) An individual ceases to be a member of an independent review committee if

*(a)* the individual resigns;

*(b)* the individual's term of office expires and the member is not reappointed;

*(c)* a majority of the other members of the independent review committee vote to remove the individual; or

*(d)* a majority of the securityholders of the investment fund vote to remove the individual at a special meeting called for that purpose by the manager.

(3) An individual ceases to be a member of the independent review committee if the individual is

*(a)* no longer independent within the meaning of section 1.4 and the cause of the member's non-independence is not temporary for which the member can recuse himself or herself;

*(b)* incapable or of unsound mind and has been so found by a court in Canada or elsewhere;

*(c)* bankrupt;

*(d)* prohibited from acting as a director or officer of any issuer in Canada;

*(e)* subject to any penalties or sanctions made by a court relating to provincial and territorial securities legislation; or

*(f)* a party to a settlement agreement with a provincial or territorial securities regulatory authority.

(4) If an individual ceases to be a member of the independent review committee due to a circumstance described in subsection (2), the manager must, as soon as practicable, notify the securities regulatory authority of the date and the reason the individual ceased to be a member.

(5) The notification referred to in subsection (4) is satisfied if it is made to the investment fund's principal regulator.

(6) The notice of a meeting of securityholders of an investment fund called to consider the removal of a member under paragraph (2)(d) must comply with the notice requirements set out in section 5.4 of Regulation 81-102 Mutual Funds, adopted by the Commission des valeurs mobilières du Québec pursuant to decision no. 2001-C-0209 dated May 22, 2001.

(7) For any member of the independent review committee who receives notice or otherwise learns of a meeting of securityholders called to consider the removal of the member under paragraph (2)(d),

*(a)* the member may submit to the manager a written statement giving reasons for opposing the removal; and

*(b)* the manager must, as soon as practicable, send a copy of the statement referred to in paragraph (a) to every securityholder entitled to receive notice of the meeting and to the member unless the statement is included in or attached to the notice documents required by subsection (6).

3.11. **Authority**

(1) An independent review committee has authority to

*(a)* request information it determines useful or necessary from the manager and its officers to carry out its duties;

*(b)* engage independent counsel and other advisors it determines useful or necessary to carry out its duties;

*(c)* set reasonable compensation and proper expenses for any independent counsel and other advisors engaged by the independent review committee; and

*(d)* delegate to a subcommittee of at least three members of the independent review committee any of its functions, except the removal of a member under paragraph 3.10(2)(c).

(2) If the independent review committee delegates to a subcommittee under paragraph (1)(d) any of its functions, the subcommittee must report on its activities to the independent review committee at least annually.

(3) Despite any other provision in this Regulation, an independent review committee may communicate directly with the securities regulatory authority with respect to any matter.

3.12. **Decisions**

(1) A decision by the independent review committee on a conflict of interest matter or any other matter that securities legislation requires the independent review committee to review requires the agreement of a majority of the independent review committee's members.

(2) If, for any reason, an independent review committee has two members, a decision by the independent review committee must be unanimous.

(3) An independent review committee with one member may not make a decision.

3.13. **Fees and expenses to be paid by the investment fund**

The investment fund must pay from the assets of its fund all reasonable costs and expenses reasonably incurred in the compliance of this Regulation.

3.14. **Indemnification and insurance**

(1) In this section, "member" means:

*(a)* a member of the independent review committee;

*(b)* a former member of the independent review committee; and

*(c)* the heirs, executors, administrators or other legal representatives of the estate of an individual in (a) or (b).

(2) An investment fund and manager may indemnify a member against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the person in respect of any civil, criminal, administrative, investigative or other proceeding in which the member is involved because of being or having been a member.

(3) An investment fund and manager may advance moneys to a member for the costs, charges and expenses of a proceeding referred to in subsection (2). The member must repay the moneys if the member does not fulfill the conditions of subsection (4).

(4) An investment fund and manager may not indemnify a member under subsection (2) unless

*(a)* the member acted honestly and in good faith, with a view to the best interests of the investment fund; and

*(b)* in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the member had reasonable grounds for believing that the individual's conduct was lawful.

(5) Despite subsection (2), a member referred to in that subsection is entitled to an indemnity from the investment fund in respect of all costs, charges and expenses reasonably incurred by the member in connection with the defence of any civil, criminal, administrative, investigative or other proceeding to which the member is subject because of the member's association with the investment fund as described in subsection (2), if the member seeking indemnity

*(a)* was not judged by the court or other competent authority to have committed any fault or omitted to do anything that ought to have been done; and

*(b)* fulfills the conditions set out in subsection (4).

(6) An investment fund and manager may purchase and maintain insurance for the benefit of any member referred to in subsection (2) against any liability incurred by the member in his or her capacity as a member.

3.15. **Orientation and continuing education**

(1) The manager and independent review committee must provide orientation consisting of educational or informational programs that enable a new independent review committee member to understand

*(a)* the role of the independent review committee and its members collectively; and

*(b)* the role of the individual member.

(2) The manager may provide a member of the independent review committee with educational or informational programs, as the manager considers useful or necessary, that enable the member to understand the nature and operation of the manager's and investment fund's businesses.

(3) The independent review committee may reasonably supplement the educational and informational programs provided to its members under this section.

**PART 4**
FUNCTIONS OF INDEPENDENT REVIEW COMMITTEE

4.1. **Review of matters referred by manager**

(1) The independent review committee must review and provide its decision under section 5.2 or under section 5.3 to the manager on a conflict of interest matter that the manager refers to the independent review committee for review.

(2) The independent review committee must perform any other function required by securities legislation.

(3) The independent review committee has the authority to choose whether to deliberate and decide on a matter referred to in subsection (1) and (2) in the absence of the manager, any representative of the manager and any entity related to the manager.

(4) Despite subsection (3), an independent review committee must hold at least one meeting annually at which the manager, any representative of the manager or any entity related to the manager are not in attendance.

(5) The independent review committee has no power, authority or responsibility for the operation of the investment fund or the manager except as provided in this section.

4.2. **Regular assessments**

(1) At least annually, the independent review committee must review and assess the adequacy and effectiveness of

*(a)* the manager's written policies and procedures required under section 2.2;

*(b)* any standing instruction it has provided to the manager under section 5.4;

*(c)* the manager's and the investment fund's compliance with any conditions imposed by the independent review committee in a recommendation or approval it has provided to the manager; and

*(d)* any subcommittee to which the independent review committee has delegated, under paragraph 3.11(1)(d), any of its functions.

(2) At least annually, the independent review committee must review and assess

*(a)* the independence of its members; and

*(b)* the compensation of its members.

(3) At least annually, the independent review committee must review and assess its effectiveness as a committee, as well as the effectiveness and contribution of each of its members.

(4) The review by the independent review committee required under subsection (3) must include a consideration of

*(a)* the independent review committee's written charter referred to in section 3.6;

*(b)* the competencies and knowledge each member should bring to the independent review committee;

*(c)* the level of complexity of the issues reasonably expected to be raised by members in connection with the matters under review by the independent review committee; and

*(d)* the ability of each member to contribute the necessary time required to serve effectively on the independent review committee.

4.3. **Reporting to the manager**

The independent review committee must as soon as practicable deliver to the manager a written report of the results of an assessment under subsection 4.2(1) and (2) that includes

*(a)* a description of each instance of a breach of any of the manager's policies or procedures of which the independent review committee is aware, or that it has reason to believe has occurred;

*(b)* a description of each instance of a breach of a condition imposed by the independent review committee in a recommendation or approval it has provided to the manager, of which the independent review committee is aware, or that it has reason to believe has occurred; and

*(c)* recommendations for any changes the independent review committee considers should be made to the manager's policies and procedures.

4.4. **Reporting to securityholders**

(1) An independent review committee must prepare, for each financial year of the investment fund and no later than the date the investment fund files its annual financial statements, a report to securityholders of the investment fund that describes the independent review committee and its activities for the financial year and includes

*(a)* the name of each member of the independent review committee at the date of the report, with

i. the member's length of service on the independent review committee;

ii. the name of any other fund family on whose independent review committee the member serves; and

iii. if applicable, a description of any relationship that may cause a reasonable person to question the member's independence and the basis upon which the independent review committee determined that the member is independent;

*(b)* the percentage of securities of each class or series of voting or equity securities beneficially owned, directly or indirectly, in aggregate, by all the members of the independent review committee of the investment fund

i. in the investment fund if the aggregate level of ownership exceeds 10 percent;

ii. in the manager; or

iii. in any person or company that provides services to the investment fund or the manager;

*(c)* the identity of the Chair of the independent review committee;

*(d)* any changes in the composition or membership of the independent review committee during the period;

*(e)* the aggregate compensation paid to the independent review committee and any indemnities paid to members of the independent review committee by the investment fund during the period;

*(f)* a description of the process and criteria used by the independent review committee to determine the appropriate level of compensation of its members and any instance when, in setting the compensation and expenses of its members, the independent review committee did not follow the recommendation of the manager, including

i. a summary of the manager's recommendation; and

ii. the independent review committee's reasons for not following the recommendation;

*(g)* if known, a description of each instance when the manager acted in a conflict of interest matter referred to the independent review committee for which the independent review committee did not give a positive recommendation, including

i. a summary of the recommendation; and

ii. if known, the manager's reasons for proceeding without following the recommendation of the independent review committee and the result of proceeding;

*(h)* if known, a description of each instance when the manager acted in a conflict of interest matter but did not meet a condition imposed by the independent review committee in its recommendation or approval, including

i. the nature of the condition;

ii. if known, the manager's reasons for not meeting the condition; and

iii. whether the independent review committee is of the view that the manager has taken, or proposes to take, appropriate action to deal with the matter; and

*(i)* a brief summary of any recommendations and approvals the manager relied upon during the period.

(2) The report required under subsection (1) must as soon as practicable

*(a)* be sent by the investment fund, without charge, to a securityholder of the investment fund, upon the securityholder's request;

*(b)* be made available and prominently displayed by the manager on the investment fund's, investment fund family's or manager's website, if it has a website;

*(c)* be filed by the investment fund with the securities regulatory authority; and

*(d)* be delivered by the independent review committee to the manager.

4.5. **Reporting to securities regulatory authorities**

(1) If the independent review committee is aware of an instance where the manager acted in a conflict of interest matter under subsection 5.2(1) but did not comply with a condition or conditions imposed by securities legislation or the independent review committee in its approval, the independent review committee must, as soon as practicable, notify in writing the securities regulatory authority.

(2) The notification referred to in subsection (1) is satisfied if it is made to the investment fund's principal regulator.

4.6. **Independent review committee to maintain records**

An independent review committee must maintain records, including

*(a)* a copy of its current written charter;

*(b)* minutes of its meetings;

*(c)* copies of any materials and written reports provided to it;

*(d)* copies of materials and written reports prepared by it; and

*(e)* the decisions it makes.

**PART 5**
CONFLICT OF INTEREST MATTERS

5.1. **Manager to refer conflict of interest matters to independent review committee**

(1) When a conflict of interest matter arises, and before taking any action in the matter, the manager must

*(a)* determine what action it proposes to take in respect of the matter, having regard to

i. its duties under securities legislation; and

ii. its written policies and procedures on the matter; and

*(b)* refer the matter, along with its proposed action, to the independent review committee for its review and decision.

(2) If a manager must hold a meeting of securityholders to obtain securityholder approval before taking an action in a conflict of interest matter, the manager must include a summary of the independent review committee's decision under subsection (1) in the notice of the meeting.

5.2. **Matters requiring independent review committee approval**

(1) A manager may not proceed with a proposed action under section 5.1 without the approval of the independent review committee if the action is

*(a)* an inter-fund trade as described in subsection 6.1(2) of this Regulation or a transaction as described in subsection 4.2(1) of Regulation 81-102 Mutual Funds;

*(b)* a transaction in securities of an issuer as described in subsection 6.2(1) of this Regulation; or

*(c)* an investment in a class of securities of an issuer underwritten by an entity related to the manager as described in subsection 4.1(1) of Regulation 81-102 Mutual Funds.

(2) An independent review committee must not approve an action unless it has determined, after reasonable inquiry, that the action

*(a)* is proposed by the manager free from any influence by an entity related to the manager and without taking into account any consideration relevant to an entity related to the manager;

*(b)* represents the business judgment of the manager uninfluenced by considerations other than the best interests of the investment fund;

*(c)* is in compliance with the manager's written policies and procedures relating to the action; and

*(d)* achieves a fair and reasonable result for the investment fund.

5.3. **Matters subject to independent review committee recommendation**

(1) Before a manager may proceed with a proposed action under section 5.1 other than those set out in subsection 5.2(1),

*(a)* the independent review committee must provide a recommendation to the manager as to whether, in the committee's opinion after reasonable inquiry, the proposed action achieves a fair and reasonable result for the investment fund; and

*(b)* the manager must consider the recommendation of the independent review committee.

(2) If the manager decides to proceed with an action in a conflict of interest matter that, in the opinion of the independent review committee after reasonable inquiry, does not achieve a fair and reasonable result for the investment fund under paragraph (1)(a), the manager must notify in writing the independent review committee before proceeding with the proposed action.

(3) Upon receiving the notification described in subsection (2), the independent review committee may require the manager to notify securityholders of the investment fund of the manager's decision.

(4) A notification to securityholders under subsection (3) must

*(a)* sufficiently describe the proposed action of the manager, the recommendation of the independent review committee and the manager's reasons for proceeding;

*(b)* state the date of the proposed implementation of the action; and

*(c)* be sent by the manager to each securityholder of the investment fund at least thirty days before the effective date of the proposed action.

(5) The investment fund must, as soon as practicable, file the notification referred to in subsection (4) with the securities regulatory authority upon the notice being sent to securityholders.

5.4. **Standing instructions by the independent review committee**

(1) Despite section 5.1, the manager is not required to refer a conflict of interest matter nor its proposed action to the independent review committee if the manager complies with the terms of a standing instruction that is in effect.

(2) For any action for which the independent review committee has provided a standing instruction, at the time of the independent review committee's regular assessment described in subsection 4.2(1),

*(a)* the manager must provide a written report to the independent review committee describing each instance that it acted in reliance on a standing instruction; and

*(b)* the independent review committee must

i. review and assess the adequacy and effectiveness of the manager's written policies and procedures on the matter or on that type of matter with respect to all actions permitted by each standing instruction;

ii. review and assess the manager's and investment fund's compliance with any conditions imposed by it in each standing instruction;

iii. reaffirm or amend each standing instruction;

iv. establish new standing instructions, if necessary; and

v. advise the manager in writing of all changes to the standing instructions.

(3) A manager may continue to rely on a standing instruction under subsection (1) until such time as the independent review committee notifies the manager that the standing instruction has been amended or is no longer in effect.

**PART 6**
EXEMPTED TRANSACTIONS

6.1. **Inter-fund trades**

(1) In this section

*(a)* "current market price of the security" means,

i. if the security is an exchange-traded security or a foreign exchange-traded security,

*(A)* the closing sale price on the day of the transaction as reported on the exchange upon which the security is listed or the quotation trade reporting system upon which the security is quoted, or

*(B)* if there are no reported transactions for the day of the transaction, the average of the highest current bid and lowest current ask for the security as displayed on the exchange upon which the security is listed or the quotation trade reporting system upon which the security is quoted, or

*(C)* if the closing sale price on the day of the transaction is outside of the closing bid and closing ask, the average of the highest current bid and lowest current ask for the security as displayed on the exchange upon which the security is listed or the quotation trade reporting system upon which the security is quoted; or

ii. for all other securities, the average of the highest current bid and lowest current ask determined on the basis of reasonable inquiry; and

*(b)* "market integrity requirements" means

i. if the security is an exchange-traded security, the purchase or sale

*(A)* is printed on a marketplace that executes trades of the security; and

*(B)* complies with the market conduct and display requirements of the marketplace, its regulation services provider and securities regulatory authorities; or

ii. if the security is a foreign exchange-traded security, the purchase or sale complies with the requirements that govern transparency and trading of foreign exchange-traded securities on the foreign exchange or foreign quotation and trade reporting system; or

iii. for all other securities, the purchase or sale is through a dealer, if the purchase or sale is required to be reported by a registered dealer under applicable securities legislation.

(2) The portfolio manager of an investment fund may purchase a security of any issuer from, or sell a security of any issuer to, another investment fund managed by the same manager or an affiliate of the manager, if, at the time of the transaction

*(a)* the investment fund is purchasing from, or selling to, another investment fund to which this Regulation applies;

*(b)* the independent review committee has approved the transaction under subsection 5.2(2);

*(c)* the bid and ask price of the security is readily available;

*(d)* the investment fund receives no consideration and the only cost for the trade is the nominal cost incurred by the investment fund to print or otherwise display the trade;

*(e)* the transaction is executed at the current market price of the security;

*(f)* the transaction is subject to market integrity requirements; and

*(g)* the investment fund keeps written records, including

i. a record of each purchase and sale of securities;

ii. the parties to the trade; and

iii. the terms of the purchase or sale

for five years after the end of the fiscal year in which the trade occurred, the most recent two years in a reasonably accessible place.

(3) The provisions of National Instrument 21-101 Marketplace Operation, adopted by the Commission des valeurs mobilières du Québec pursuant to decision no. 2001-C-0409 dated August 28, 2001, and Part 6 and Part 8 of National Instrument 23-101 Trading Rules, adopted by the Commission des valeurs mobilières du Québec pursuant to decision no. 2001-C-0411 dated

August 28, 2001, do not apply to a portfolio manager or portfolio adviser of an investment fund, or an investment fund, with respect to a purchase or sale of a security referred to in subsection (2) if the purchase or sale is made in accordance with that subsection.

(4) The inter-fund self-dealing investment prohibitions do not apply to a portfolio manager or portfolio adviser of an investment fund, or an investment fund, with respect to a purchase or sale of a security referred to in subsection (2) if the purchase or sale is made in accordance with that subsection.

(5) The dealer registration requirement does not apply to a portfolio manager of an investment fund, with respect to a purchase or sale of a security referred to in subsection (2) if the purchase or sale is made in accordance with that subsection.

(6) In subsection (5), "dealer registration requirement" has the meaning ascribed to that term in National Instrument 14-101 Definitions, adopted by the Commission des valeurs mobilières du Québec pursuant to decision no. 2001-C-0274 dated June 12, 2001.

6.2. **Transactions in securities of related issuers**

(1) An investment fund may make or hold an investment in the security of an issuer related to it, its manager, or an entity related to the manager, if

*(a)* at the time that the investment is made,

i. the independent review committee has approved the investment under subsection 5.2(2); and

ii. the purchase is made on an exchange on which the securities of the issuer are listed and traded; and

*(b)* no later than the time the investment fund files its annual financial statements, the manager of the investment fund files with the securities regulatory authority the particulars of the investment.

(2) The mutual fund conflict of interest investment restrictions do not apply to a mutual fund with respect to an investment referred to in subsection (1) if the investment is made in accordance with that subsection.

(3) In subsection (2), "mutual fund conflict of interest investment restrictions" has the meaning ascribed to that term in Regulation 81-102 Mutual Funds.

(4) In Québec, Section 236 of the Securities Regulation (R.Q. c. V-1.1, r.1) does not apply to a portfolio adviser or registered person acting under a management contract with respect to an investment referred to in subsection (1) on behalf of an investment fund, if the investment is made in accordance with that subsection.

**PART 7**
EXEMPTIONS

7.1. **Exemptions**

(1) The securities regulatory authority may grant an exemption from this Regulation, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

(3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 Definitions, opposite the name of the local jurisdiction.

7.2. **Existing exemptions, waivers or approvals**

Any exemption, waiver or approval under a provision of securities legislation that was effective before this Regulation came into force and that deals with the matters that this Regulation regulates, will expire one year after this Regulation comes into force.

**PART 8**
TRANSITION AND EFFECTIVE DATE

8.1. **Meaning of investment fund**

In Québec, the term "investment fund", wherever it occurs, means "unincorporated mutual fund" or "mutual fund".

8.2. **Transition**

(1) This Regulation does not apply to an investment fund until the earlier of

*(a)* the date on which the manager provides to the securities regulatory authority the notification referred to in subsection (4); and

*(b)* November 1, 2007.

(2) Despite subsection (1), before May 1, 2007, the manager must appoint the first members of the independent review committee under section 3.2 in compliance with this Regulation.

(3) Despite section 4.4, the independent review committee's first report to securityholders must be completed by the 120th day after the end of the first financial year of the investment fund to which this Regulation applies.

(4) A manager of an investment fund must notify the securities regulatory authority or regulator in writing if it intends to comply with this Regulation prior to the expiration of the transition period under subsection (1).

(5) The notification referred to in subsection (4) is satisfied if the notification is made to the investment fund's principal regulator.

8.3. **Effective date**

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

## APPENDIX A

CONFLICT OF INTEREST OR SELF-DEALING PROVISIONS

| Jurisdiction | Securities legislation reference |
|---|---|
| Alberta | Part 15 – Insider Trading and Self-Dealing of the Securities Act (Alberta) |
| British Columbia | Part 15 – Self-Dealing of the Securities Act (British Columbia) |
| Manitoba | Part XI – Insider Trading of the Securities Act (Manitoba) |
| Newfoundland and Labrador | Part XX – Insider Trading and Self-Dealing of the Securities Act (Newfoundland and Labrador) |
| New Brunswick | Part 10 – Insider Trading and Self-Dealing of the Securities Act (New Brunswick) |
| Nova Scotia | Sections 112 – 128 of the Securities Act (Nova Scotia) |
| Ontario | Part XXI – Insider Trading and Self-Dealing of the Securities Act (Ontario) |
| Québec | Section 236 of the Securities Regulation (Québec) |
| Saskatchewan | Part XVII – Insider Trading and Self-Dealing – Mutual Funds of the Securities Act (Saskatchewan) |

| Jurisdiction | Securities legislation reference |
|---|---|
| Alberta, British Columbia, Manitoba, Newfoundland and Labrador, New Brunswick, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and Yukon | Part 4 of Regulation 81-102 Mutual Funds |

## APPENDIX B

INTER-FUND SELF-DEALING CONFLICT OF INTEREST PROVISIONS

| Jurisdiction | Securities legislation reference |
|---|---|
| Alberta | Section 192(2)(b) of the Securities Act (Alberta)<br>Section 31(6) of ASC Rules |
| British Columbia | Section 127(1)(b) of the Securities Act (British Columbia) |
| Newfoundland and Labrador | Section 119(2)(b) of the Securities Act (Newfoundland and Labrador)<br>Section 103(6) of Reg. 805/96 |
| New Brunswick | Section 144(1)(b) of the Securities Act (New Brunswick)<br>Section 11.7(6) of Local Rule 31-501 Registration Requirements |
| Nova Scotia | Section 126(2)(b) of the Securities Act (Nova Scotia)<br>Section 32(6) of the General Securities Rules |
| Ontario | Section 118(2)(b) of the Securities Act (Ontario)<br>Section 115(6) of Reg. 1015 |
| Prince Edward Island | Section 38.1(6) of Securities Act Regulations |
| Québec | Section 236 of the Securities Regulation (Québec) |
| Saskatchewan | Section 127(2)(b) of the Securities Act (Saskatchewan)<br>Section 27(6) of Securities Regulations |

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# Draft Regulations

## Draft Regulation

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

**Occupational therapists**
**— Professional activities that may be engaged in by persons other than occupational therapists**
**— Amendments**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des ergothérapeutes du Québec, at its meeting held on 14 September 2006, adopted the "Regulation to amend the respecting professional activities that may be engaged in by persons other than occupational therapists.".

The Regulation was sent to the Office des professions du Québec which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which, pursuant to the same section, may approve it with or without amendment on the expiry of 45 days following this publication.

According to the Ordre des ergothérapeutes du Québec, the purpose of the proposed amendments is to allow students in occupational therapy other than those registered in a program of studies giving access to the permit issued by the Order to engage in the professional activities reserved for occupational therapists that are required to complete the following program of studies, on the terms and conditions determined in the Regulation:

(1) a program of studies leading to a diploma in occupational therapy issued by a Canadian university outside Québec; or

(2) a program of studies leading to a diploma in occupational therapy issued by an educational institution outside Canada that has entered into an agreement with an educational institution that has a program of studies leading to a diploma giving access to the permit issued by the Order.

According to the Order, the Regulation does not have any financial impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Christiane-L. Charbonneau, Director General and Secretary, Ordre des ergothérapeutes du Québec, 2021, avenue Union, bureau 920, Montréal (Québec) H3A 2S9; telephone: 514 844-5778 or 1-800 265-5778; fax: 514 844-0478.

Any person having comments to make on the text appearing below is asked to send them, before the expiry of the 45-day period, to the Chair of the Office des professions du Québec, 800, place D'Youville, 10e étage, Québec (Québec) G1R 5Z3. The comments will be sent by the Office to the Minister responsible for the administration of legislation respecting the professions and may also be sent to the professional order that adopted the Regulation, namely the Ordre des ergothérapeutes du Québec and to interested persons, departments and bodies.

GAÉTAN LEMOYNE,
*Chair of the Office des professions du Québec*

## Regulation to amend the Regulation respecting professional activities that may be engaged in by persons other than occupational therapists*

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h*)

**1.** The Regulation respecting professional activities that may be engaged in by persons other than occupational therapists is amended by replacing section 3 by the following:

"**3.** Students registered in an occupational therapy educational program may engage in, among the professional activities that may be engaged in by occupational therapists, those that are required to complete the program, provided that the students engage in the activities under the supervision of a clinical supervisor who is a member of the Order and the program

* The Regulation respecting professional activities that may be engaged in by persons other than occupational therapists was made by Order in Council 516-2004 dated 2 June 2004 (2004, *G.O.* 2, 1777) and has not been amended since that date.

(1) leads to a diploma giving access to the permit issued by the Order;

(2) leads to a diploma in occupational therapy issued by a Canadian university outside Québec; or

(3) leads to a diploma in occupational therapy issued by an educational institution outside Canada that has entered into an agreement on the terms and conditions of admission of a foreign student with an educational institution that has a program leading to a diploma giving access to the permit issued by the Order.".

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

7844

## Draft Regulation

An Act respecting the Québec correctional system
(2002, c. 24)

**Conditional release**

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 conditional release, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to implement the Act respecting the Québec correctional system which is to come into force on 5 February 2007. It includes rules of procedure for conditional release and applications for temporary absence in preparation for conditional release and for family visits.

To date, the draft Regulation has no financial impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Pierre Gagnon, Commission québécoise des libérations conditionnelles, 300, boulevard Jean-Lesage, bureau 1.32A, Québec (Québec) G1K 8K6; telephone: 418 646-8340, extension 110; fax: 418 643-7217.

Interested persons having comments to make on the draft Regulation are asked to send them in writing before the expiry of the 45-day period to Jacques P. Dupuis, Minister of Public Security, 2525, boulevard Laurier, 5e étage, Québec (Québec) G1V 2L2.

JACQUES P. DUPUIS,
*Minister of Public Security*

## Regulation respecting conditional release

An Act respecting the Québec correctional system
(2002, c. 24, ss. 160 and 193, 1st par., subpars. 27 to 29)

**CHAPTER I**
APPLICATION

**DIVISION I**
REGIONS

**1.** For the purposes of section 120 of the Act respecting the Québec correctional system (2002, c. 24), Québec is divided into 11 regions. The territory of the regions is the territory of the administrative regions in Schedule I of Order in Council 2000-87 dated 22 December 1987 concerning the revision of the boundaries of the administrative regions of Québec as they read at the time they apply, as follows:

(1) Region 1: administrative regions 01 (Bas-Saint-Laurent) and 11 (Gaspésie–Îles-de-la-Madeleine);

(2) Region 2: administrative region 02 (Saguenay–Lac-Saint-Jean);

(3) Region 3: administrative regions 03 (Capitale-Nationale) and 12 (Chaudière-Appalaches);

(4) Region 4: administrative regions 04 (Mauricie) and 17 (Centre-du-Québec);

(5) Region 5: administrative region 05 (Estrie);

(6) Region 6: administrative regions 06 (Montréal) and 13 (Laval);

(7) Region 7: administrative regions 15 (Laurentides) and 14 (Lanaudière);

(8) Region 8: administrative region 16 (Montérégie);

(9) Region 9: administrative region 07 (Outaouais);

(10) Region 10: administrative regions 08 (Abitibi-Témiscamingue) and 10 (Nord-du-Québec); and

(11) Region 11: administrative region 09 (Côte-Nord).

**DIVISION II**
INFORMATION PROVIDED TO INMATES

**2.** The Commission québécoise des libérations conditionnelles must provide the following information to a person eligible for conditional release:

(1) the general principles of the Act;

(2) the parole board:

i. its mandate;
ii. its powers;
iii. its duties;

(3) conditional release:

i. eligibility;
ii. criteria considered to render a decision;

(4) sittings:

i. types of sitting;
ii. timing of sittings;
iii. right to representation;
iv. steps;
v. number of votes required to make a decision;

(5) review:

i. definition;
ii. procedure;

(6) new examination:

i. definition;
ii. procedure;

(7) conditions of release;

(8) temporary absence in preparation for conditional release:

i. eligibility;
ii. criteria considered to render a decision;
iii. duration;
iv. new application;
v. renewal;

(9) temporary absence for a family visit:

i. eligibility;
ii. criteria considered to render a decision;
iii. duration and frequency;
iv. new application.

**CHAPTER II**
PROCEDURE

**DIVISION I**
APPLICATIONS FOR TEMPORARY ABSENCE

**3.** An application for a temporary absence in preparation for conditional release must contain

(1) the inmate's name;

(2) the inmate's date of birth;

(3) the inmate's record number;

(4) the reason supporting the temporary absence in preparation for conditional release;

(5) a description of the proposed temporary absence;

(6) any relevant document attesting to the measures taken or confirmations obtained from an organization; and

(7) an attestation from the correctional services that the inmate's proposal is consistent with the inmate's correctional intervention plan.

**4.** An inmate must make an application between the tenth day preceding the eligibility date for temporary absence in preparation for conditional release and the twenty-first day preceding the eligibility date for conditional release.

**5.** An application for temporary absence for a family visit must contain

(1) the inmate's name;

(2) the inmate's date of birth;

(3) the inmate's record number;

(4) the reason supporting the temporary absence for a family visit;

(5) a description of the proposed temporary absence including conditions such as the dates on which the inmate is to leave and return to the facility, duration of the absence, destination and transportation used;

(6) the name and address of the person to be visited; and

(7) an attestation from the correctional services that the person to be visited has been reached and has agreed to accommodate the inmate for the duration of the absence for a family visit, at the address and on the conditions stated in the application for temporary absence.

**DIVISION II**
SITTING OR EXAMINATION ON THE RECORD

**6.** The parole board is to inform the director of the correctional facility where the person is detained of the date and time of the sitting, within 14 days before the

date set in the case of conditional release, and within five days in the case of a temporary absence in preparation for conditional release.

The director is to so inform the inmate as soon as possible.

**7.** If, in accordance with section 160 of the Act, the parole board or one of its members reexamines the inmate's record, the parole board or the member has 21 days in the case of conditional release, and 10 days in the case of a temporary absence in preparation for conditional release or for a family visit, to maintain the decision to grant the temporary absence or conditional release and, if necessary, modify the conditions thereof or cancel the decision to grant the temporary absence or conditional release.

The time period begins on the date on which a notice to that effect issued by a member of or a person designated by the parole board is given to the inmate.

**8.** The parole board is to inform the director of the correctional facility where the person is detained of the date and place of the sitting held in accordance with section 160 of the Act within seven days before the date set in the case of conditional release, and within five days in the case of a temporary absence in preparation for release.

The director is to so inform the inmate as soon as possible.

In the case of a temporary absence for a family visit, the examination is on the record.

**9.** The warrant referred to in section 161 of the Act must state the name of the person to whom release is granted, the length of the release and the reason for which the warrant is issued. The warrant includes an order to arrest and take the person into custody and return the person to the correctional facility. The warrant is signed by the member of the parole board or the person designated by the parole board issuing the warrant.

**10.** The parole board is to inform the director of the correctional facility where the person concerned is detained of the date and place of the sitting held in accordance with section 163 of the Act within seven days before the date set in the case of conditional release, and within five days in the case of a temporary absence in preparation for conditional release.

The director is to so inform the inmate as soon as possible.

In the case of a temporary absence for a family visit, the examination is on the record by a member of the parole board.

**11.** An inmate may waive in writing the time period provided for in sections 6, 8 and 10 if the parole board so consents.

**12.** The director of the correctional facility where a person is detained must ensure that that person and the personnel members concerned are present on the date of the sitting and that the person's record is given to the parole board.

**13.** The parole board may sit even though the inmate refuses to appear.

**DIVISION III**
REVIEW

**14.** An application for review must contain the inmate's name, date of birth and record number, the decision to be reviewed and the reasons supporting review of the decision.

**DIVISION IV**
CERTIFICATE

**15.** A certificate of conditional release, of temporary absence in preparation for conditional release or for a family visit, duly completed, is given to the inmate when the inmate is released from the correctional facility.

The certificate includes the name of the person released, the conditions of release and the signature of a member or the secretary of the parole board. The same applies to a new certificate produced following a change in the conditions of the release or the place of residence of the person released.

**16.** This Regulation replaces the Regulation respecting the parole of inmates (R.R.Q., 1981, c. L-1.1, r.2).

**17.** This Regulation comes into force on 5 February 2007.

7848

## Draft Regulation

An Act respecting the Québec correctional system
(2002, c. 24; 2005, c. 44)

**Programs of activities for offenders**

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 programs of activities for offenders, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to implement the Act respecting the Québec correctional system which is to come into force on 5 February 2007. It includes the modifications made necessary by the trust status of the Fonds central de soutien à la réinsertion sociale.

To date, the draft Regulation has no financial impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Louise Lepage, Service du conseil à l'organisation, services correctionnels, Ministère de la Sécurité publique, 2525, boulevard Laurier, 11e étage, Québec (Québec) G1V 2L2; telephone: 418 644-7754; fax: 418 644-5645.

Interested persons having comments to make on the draft Regulation are asked to send them in writing before the expiry of the 45-day period to Jacques P. Dupuis, Minister of Public Security, 2525, boulevard Laurier, 5e étage, Québec (Québec) G1V 2L2.

JACQUES P. DUPUIS,
*Minister of Public Security*

## Regulation respecting programs of activities for offenders

An Act respecting the Québec correctional system
(2002, c. 24, s. 193, 1st par., subpars. 15 to 26; 2005, c. 44, s. 34)

**1.** A reintegration support fund is to establish a program of activities based on

(1) the specific characteristics of the correctional facility in which the program is established;

(2) the services, personnel, premises and facilities the fund manages or is authorized to use by the Minister of Public Security or the person designated by the Minister, or that may be available to the fund in the community;

(3) the skills of the inmates covered by the program;

(4) the number of persons to whom the program applies, distinguishing between persons held in the facility awaiting trial and persons serving a sentence;

(5) the nature of the activities, the possibilities of social reintegration they offer, in particular in terms of their educational value, the rate of participation they may achieve and their compatibility with the security in the facility;

(6) the duration and frequency of the activities in relation to the average stay of the inmates and the facility's rules of internal management;

(7) the cost of developing and operating the program; and

(8) the capacity of the fund to finance the program.

**2.** To implement a program of activities in a facility, a fund must

(1) establish a program of activities and submit it for approval to the Minister before 1 November of each year; the program must contain information on its objectives, the number of persons covered and the nature, duration and frequency of the activities planned;

(2) establish the annual operating budget and send it to the Minister with the program of activities; the annual operating budget must include information on anticipated costs, profit per activity, capital projects and proposed borrowings, and be sent with the agreements and contracts entered into or proposed with third persons; and

(3) implement the program of activities on 1 January of each year.

**3.** In establishing a program of activities, a fund must give priority to inmates as much for activities involving the production of goods and services as for planning, supervision and management activities.

The use of non-inmates must be warranted on grounds of security, lack of resources preventing fulfillment of contractual commitments, or inmates not having the specific skills needed.

**4.** In addition to the sums referred to in the third paragraph of section 75 of the Act respecting the Québec correctional system (2002, c. 24), the fund administered by a fund may be made up of

(1) proceeds from the sale of property belonging to the fund;

(2) sums loaned or given by another fund or by the Fonds central de soutien à la réinsertion sociale; and

(3) grants made to the fund.

**5.** A fund may financially assist inmates who do not receive any outside financial assistance.

Financial assistance may be granted to support a search for employment in the community or to promote participation in a program of activities. It may also be granted to assist an indigent.

A request for assistance must be made by the facility director.

Financial assistance may be granted in the form of an interest-free loan or a gift.

**6.** A member of the board of directors of a fund specially authorized for the purpose or the Minister, or another person designated by the board or the Minister, must deposit as soon as possible the sums collected for the fund or, as the case may be, the central fund, in a bank or a registered institution within the meaning of paragraph *b* or *e* of section 1 of the Deposit Insurance Act (R.S.Q., c. A-26).

Every payment from a fund must be made by cheque signed by two persons designated by the board of directors, one of whom must be a member of the board. For the central fund, cheques must be signed by two persons designated by the Minister.

Every investment of the sums referred to in the first paragraph belonging to a fund, except deposits in a bank or an institution referred to in that paragraph and the purchase of Québec or Canada savings bonds, requires the authorization of the Minister.

**7.** A contract referred to in paragraph 1 of section 87 of the Act must include

(1) the total or maximum amount;

(2) the number of hours of work required;

(3) its term and start and end dates;

(4) the obligations of third persons as employers; and

(5) the information sent to the fund for each inmate on the amount of work performed or the number of hours worked, the remuneration paid and the deductions made.

**8.** Borrowing by a fund exceeding $25,000 or raising the balance of borrowings to more than $25,000 must be authorized by the Minister.

A fund must ascertain from the Minister or another fund, as the case may be, that it may not obtain a loan from the central fund or that other fund before borrowing from another lender.

**9.** The Minister or the person designated by the Minister may, under a program of activities, permit a fund to use the services, personnel, premises and facilities of the facility when they are required for the program, provided that the facility director consents to such use and the cost and duration of use are set out in the agreement for use.

**10.** The facility director may not authorize an inmate in a facility to engage in activities without having considered

(1) the opinion of a health professional or one of the facility's correctional counsellors, in the case of a person with physical or mental health problems or drug or alcohol abuse problems; or

(2) the opinion of one of the facility's correctional counsellors, in the case of a person who may be a danger to himself or herself, to others or to the physical environment, or who is the subject of special protection or disciplinary measures or of a suspension of temporary absence or conditional release.

**11.** Inmates performing remunerated work under a program of activities are remunerated on a piece, lump sum or hourly, daily or weekly basis according to the program of activities.

The method of remuneration for inmates working outside the facility is the method agreed upon with their employer.

The method of remuneration for self-employed inmates is the net income from the sale of goods and services they produce.

Non-inmates performing duties under a program of activities may not receive remuneration greater than the remuneration paid by the Government for equivalent employment in the public service.

The fund must take out liability insurance for the persons referred to in the fourth paragraph.

**12.** In the case of liquidation of a fund, one or three liquidators must be appointed by the board of directors which is deemed to continue to exist for the purpose of the liquidation.

The services of the liquidator or liquidators are free of charge unless their remuneration has been previously determined by the board of directors.

The property of the fund is distributed as follows:

(1) the debts of the fund and the liquidation costs are paid first;

(2) property from gifts or legacies is returned, where applicable, to the donor or testator or their legal representatives in accordance with the provisions of the act constituting the gift or legacy; and

(3) any remaining assets are then distributed to the central fund.

At the end of the liquidation, the liquidator or liquidators must file with the Minister a liquidation report, the financial statements of the fund and the activities report for the fiscal year ending on the date of closing of the facility.

**13.** The Minister may dispose of the property other than sums making up the assets devolved to the central fund during liquidation by giving or selling the property to the funds of other facilities depending on their respective financial situation and needs in relation to their program of activities.

The Minister may dispose of the property referred to in the first paragraph as the Minister sees fit if the property is of no use to other funds.

**14.** In addition to the sums referred to in section 104 of the Act, the Fonds central de soutien à la réinsertion sociale is made up of

(1) the sums transferred to the fund at the time of the liquidation of a fund;

(2) the proceeds from the sale of property acquired by the central fund or the property transferred to it at the time of the liquidation of a fund; and

(3) grants made to the central fund.

**15.** The percentage used to calculate the amount that a fund must deduct from the remuneration owed to an inmate under the program of activities of a fund, for the purposes of section 91 of the Act, is fixed at 10%.

The percentage is calculated on remuneration after the deductions referred to in section 91 of the Act have been made.

**16.** The allowance that the facility director must give to an inmate, according to the second paragraph of section 91 of the Act, is determined at 50% of the amount paid by the fund to the facility director.

With the allowance received, an inmate may purchase items from the canteen for personal use or materials necessary to produce goods and services under the program of activities, or pay the cost of participating in the program.

Any sum owed to a fund by an inmate on the date of his or her release must be repaid out of the inmate's allowances or, if that is not possible, from sums credited to the inmate's savings account held in trust by the director.

**17.** Each fund must pay annually to the central fund the assessment determined by the Minister, which may not be less than 5% or more than 25% of the net revenues of the fund established by subtracting the sums used for financing its program of activities from the sums used to make up the fund.

**18.** This Regulation replaces the Regulation respecting programs of activities for confined persons made by Order in Council 1471-88 dated 28 September 1988 and the Community Work Regulation made by Order in Council 148-86 dated 19 February 1986.

**19.** This Regulation comes into force on 5 February 2007.

7849

## Draft Regulation

An Act respecting the Québec correctional system
(2002, c. 24)

### Regulation

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 under the Act respecting the Québec correctional system, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to implement the Act respecting the Québec correctional system which is to come into force on 5 February 2007. It governs in particular searches of inmates and visitors, and the processing of inmates' mail.

The draft Regulation has no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Louise Lepage, Service du conseil à l'organisation, services correctionnels, Ministère de la Sécurité publique, 2525, boulevard Laurier, 11e étage, Québec (Québec) G1V 2L2; telephone: 418 644-7754; fax: 418 644-5645.

Interested persons having comments to make on the draft Regulation are asked to send them in writing before the expiry of the 45-day period to Jacques P. Dupuis, Minister of Public Security, 2525, boulevard Laurier, 5e étage, Québec (Québec) G1V 2L2.

JACQUES P. DUPUIS,
*Minister of Public Security*

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## Regulation under the Act respecting the Québec correctional system

An Act respecting the Québec correctional system
(2002, c. 24, s. 67, 2nd par. and s. 193, 1st par., subpars. 1 and 3 to 12)

**CHAPTER I**
GENERAL

**DIVISION I**
APPLICATION

**1.** This Regulation applies to correctional facilities established under section 29 of the Act respecting the Québec correctional system (2002, c. 24). Working hours are between 8:30 a.m. and 4:30 p.m., excluding Saturday, Sunday and statutory holidays.

**DIVISION II**
POWERS OF THE FACILITY DIRECTOR

**2.** The facility director may exercise the following powers:

(1) conduct an investigation or have an investigation conducted, in particular in the case of death, attempted escape, assault or injury sustained by a personnel member or an inmate, or trade of goods, and report on the investigation to the Associate Deputy Minister of Correctional Services;

(2) interrupt or have the telephone conversation of an inmate interrupted if the facility director has reasonable grounds to believe that the inmate is committing an offence against a statute, is harassing a person or is making or receiving threats;

(3) authorize the giving or exchange of items among inmates;

(4) prepare and distribute a list of what constitutes authorized and unauthorized items and contraband within the facility;

(5) provide for the seizure of unauthorized items and contraband seized following searches in the correctional facility; and

(6) authorize the detention of a person without a warrant of committal in accordance with the Criminal Code (R.S.C. 1985, c. C-46) at the request of a peace officer.

**DIVISION III**
INMATES' PROPERTY

**3.** When a person is admitted to a correctional facility, the clothing and items in the person's possession are summarily examined. The property that an inmate is not authorized to keep in his or her possession must be stored in a secure place and measures must be taken to keep the property in good condition.

**4.** If an inmate receives property from the outside, the property must be forwarded to the inmate, unless the inmate is not authorized to keep the property in his or her possession, in which case it is returned to the sender or to the person who brought it to the facility.

If that is not possible, the property is kept as provided in section 3 and given to the inmate at the time of the inmate's release.

**DIVISION IV**
HYGIENE

**5.** An inmate must be able to shower or bathe at least twice a week and must have toiletries available for that purpose.

**DIVISION V**
CLOTHING

**6.** Every inmate not authorized to wear personal clothing or who does not own appropriate clothing must receive clean clothes in the inmate's size and adapted to the climate.

**7.** Every inmate must have the possibility of washing his or her clothes and underwear or having them washed at least once a week.

**8.** When an inmate has been authorized to leave the facility, the inmate may wear personal clothing or receive other clothing that does not identify the person as an inmate.

**DIVISION VI**
PHYSICAL EXERCISE

**9.** An inmate who is not working outdoors or who is not working outside the facility is entitled to go outdoors once a day for at least one hour, unless the inmate is confined in administrative segregation.

**DIVISION VII**
HEALTH CARE

**10.** An inmate whose state of health so requires must be transferred to a hospital centre.

**11.** An inmate may not be subjected to medical or scientific experiments that could affect the inmate's physical or mental integrity.

**12.** A health professional at the facility must submit a report to the facility director each time the health professional believes that the physical or mental health of an inmate has been or will be affected by the conditions of detention or by their extension.

**DIVISION VIII**
RELEASE

**13.** When an inmate is released and does not have any money, clothing or means of transportation to the inmate's domicile, the facility director is to provide money, clothing or transportation.

**14.** If an inmate does not have a domicile, the facility director must take the necessary measures to assist the inmate in finding one.

**15.** The facility director must give the inmate a written notice within seven days after the inmate is admitted to the facility informing the inmate of the term of imprisonment, the date on which the imprisonment ends, the remission the inmate may earn and, where applicable, the date of eligibility for temporary absence for reintegration purposes or in preparation for conditional release and for conditional release.

The facility director must also inform the inmate each time the discipline committee imposes a sanction consisting of non-allocation or forfeiture of days of remission.

**16.** A facility director who reexamines an inmate's record in accordance with section 67 of the Act has 16 working hours to maintain the decision to grant temporary absence and, if necessary, modify the conditions thereof, or cancel the decision to grant temporary absence. That time period begins on the date on which the facility director gives a notice to that effect to the inmate.

**17.** If a sentence to pay a fine or, failing payment, to serve a determined sentence has been imposed and the person serving the sentence decides to pay the fine after serving part of the sentence, the amount of the fine owing is calculated by

(1) dividing the total fine imposed by the total number of days of sentence;

(2) subtracting the number of days of sentence served and the number of days earned as remission from the total number of days of sentence;

(3) multiplying the number obtained under subparagraph 1 by the number obtained under subparagraph 2; and

(4) adding the total of the costs established in the warrant of committal to the number obtained pursuant to subparagraph 3.

Release is granted at the time the person serving a sentence pays the fine and the total of the costs.

**CHAPTER II**
SEARCHES

**DIVISION I**
TYPES OF BODY SEARCH

**18.** A non-intrusive search means a search of the clothed body by technical means, including the use of a walk-through metal detector, a portable detector or a sniffer dog. The search also includes a visual inspection of the open mouth and the insides of the nose and ears, the person running his or her fingers through his or her hair, and a manual search or a search by technical means of the items in the possession of the person searched who is requested to remove or surrender the items temporarily.

**19.** Frisk search means a search of the clothed body. It is a hand search carried out from head to foot, down front and rear of the body, around the legs and thighs, and inside the folds of the clothing, pockets and footwear. It also includes a visual inspection of the open mouth and the insides of the nose and ears, and the person running his or her fingers through his or her hair. The search may also include a search of the jacket or coat that the person has been requested to remove and the other effects the person has in his or her possession, such as a briefcase, a handbag and a wallet. If necessary, the person may be requested to lift, lower or open his or her outerwear for a visual inspection. There must be compliance with the following conditions:

(1) a frisk search of a female inmate must always be conducted by a female correctional officer;

(2) if, before or during a frisk search, a male inmate refuses to be searched by a female correctional officer, the search must be conducted by a male correctional officer to the extent possible and there is no urgency to act otherwise.

**20.** A strip search means a visual inspection of the naked body, the open mouth and the insides of the nose and ears. If necessary, the person must remove his or her dental prosthesis, hairpiece or other such device, display the soles of his or her feet, run his or her fingers through his or her hair, open hands, spread and lift arms, lift, in the case of women, the breasts, and in the case of men, the penis and testicles, and bend to allow the visual inspection of the rectum and vagina. The person being searched must allow visual inspection of all the folds of his or her body. All clothing and effects must also be searched.

Except in an emergency, the strip search must be conducted by a person of the same gender.

**21.** An inspection of body cavities is a search conducted by a physician that includes for a woman an inspection of the rectum and vagina and for a man an inspection of the rectum.

**22.** An x-ray is a search consisting of one or more x-rays of all or part of the human body taken by a member of the Ordre des technologues en radiologie du Québec to detect any foreign body.

**DIVISION II**
SEARCH OF PERSONS AND PREMISES

**23.** The following persons may be searched, in the cases and in the manner established by this Regulation:

(1) inmates;

(2) visitors;

(3) a member of the correctional services personnel; and

(4) any other person authorized to enter a correctional facility.

The search of a person must be conducted in a manner that respects human dignity and minimizes intrusion.

Personnel members called on to conduct searches must have received the necessary training.

Searches that may be conducted by a correctional officer may also be carried out by a manager in charge, if necessary.

**24.** The facility director may also order searches of all or part of the correctional facility, including cells, areas, exercise yards, the grounds and any vehicles that enter upon the property.

**DIVISION III**
SEARCHES OF INMATES

**25.** A correctional officer may frisk search an inmate in the following circumstances:

(1) the inmate is entering or leaving a correctional facility;

(2) the inmate is entering or leaving an institutional vehicle;

(3) the inmate is entering or leaving an area, workshop, activity room or exercise yard in the facility;

(4) the inmate is entering or leaving a solitary, administrative segregation or observation cell.

**26.** A correctional officer may strip search an inmate in the following circumstances:

(1) the inmate is entering or leaving a correctional facility;

(2) the inmate is entering or leaving an institutional vehicle;

(3) the inmate is entering or leaving a visiting area other than a secure area;

(4) the inmate is leaving an area, workshop, activity room or exercise yard in the facility where the inmate may have had access to contraband that the inmate could have hidden on his or her person;

(5) the inmate is entering or leaving a solitary, administrative segregation or observation cell.

**27.** A correctional officer may also frisk or strip search an inmate if

(1) there are reasonable grounds to believe that the inmate has in his or her possession an unauthorized item, contraband or evidence relating to a criminal offence and that the search is necessary to find the contraband or evidence;

(2) an escape or hostage taking is feared, or after a riot; or

(3) a situation is likely to trigger an emergency measure or the presence of contraband constitutes a clear and substantial danger to human life or safety or to the security of the facility.

The search must be authorized by the manager in charge, except in an emergency where the search must be the subject of a report by the correctional officer who conducted it justifying its necessity and the reason for the urgency.

**28.** A body cavity search may be conducted provided that it is authorized by the facility director if a correctional officer is satisfied that there are reasonable grounds to believe that an inmate is carrying contraband in a body cavity or has ingested contraband.

The search is possible only if the measure is necessary to detect and seize the contraband and the written consent of the inmate has been obtained.

The search must be conducted by a physician of the same gender as the inmate, except if the inmate agrees to the search being conducted by a physician of the opposite gender. A witness of the same gender as the person searched must also be present.

**29.** An x-ray of an inmate may be taken provided that it is authorized by the facility director on the request of a correctional officer who is satisfied that there are reasonable grounds to believe that an inmate is carrying contraband in a body cavity or has ingested contraband.

An x-ray is possible only if the measure is necessary to detect and seize the contraband and the written consent of the inmate has been obtained.

**DIVISION IV**
ADMINISTRATIVE SEGREGATION

**30.** If a correctional officer has reasonable grounds to believe that an inmate is in possession of contraband including drugs, weapons, narcotics or medicine not prescribed by a physician or a dentist, the officer may request that the manager in charge confine the inmate in administrative segregation.

**31.** The manager in charge must give the inmate an opportunity to make representations before confining the inmate in administrative segregation.

A manager in charge who decides to confine an inmate in administrative segregation must give the inmate the reasons for the decision in writing as soon as possible. The measure takes effect immediately.

**32.** The inmate may apply to the facility director for a review of the decision. The facility director must give the inmate an opportunity to make representations.

**33.** The facility director must confirm or set aside the decision of the manager in charge as soon as possible before the end of the administrative segregation.

If the facility director sets aside the decision, the administrative segregation ends immediately.

**34.** An inmate in administrative segregation must be placed in a cell where he or she remains alone and is not entitled during the administrative segregation to the minimum one hour per day outdoors.

**35.** Administrative segregation lasts 72 hours. It ends before that time if the inmate expels the contraband. It may also be extended once for a 24-hour period if the manager in charge has reasonable grounds to believe that the inmate has taken medicine to prevent expelling the contraband. In addition, a new administrative segregation measure may be imposed if an inmate has again ingested the contraband.

**DIVISION V**
SEARCHES OF VISITORS AND OTHER AUTHORIZED PERSONS

**36.** A correctional officer may submit a visitor to a non-intrusive or frisk search when the visitor is entering or leaving a correctional facility.

A person authorized to enter a correctional facility is considered to be a visitor for the purposes of this Division.

**37.** A correctional officer may strip search a visitor with the authorization of the facility director if the officer has reasonable grounds to believe that the visitor is in possession of contraband or evidence relating to a criminal offence.

**38.** The correctional officer must give the visitor an opportunity to immediately leave the facility before the search commences. A visitor who refuses to be searched is informed that he or she will not have access to the facility unless the manager in charge authorizes a secure visit.

**39.** A minor under 14 years of age may not be strip searched unless the person having parental authority has given written authorization.

In the absence of that consent, the child will not have access to the facility unless the manager in charge authorizes a secure visit.

**40.** A conspicuous warning must be posted at the entrance to the security perimeter of the correctional facility, at the visitor control point and in the area reserved for visits, stating that all visitors, children accompanying them, their personal effects and their vehicle may be searched.

**DIVISION VI**
SEARCH OF PERSONNEL MEMBERS

**41.** A correctional officer designated by the facility director may submit a personnel member to a non-intrusive search or frisk search when the personnel member is entering or leaving the correctional facility.

**42.** A personnel member designated by the facility director may submit another personnel member to a strip search if the facility director is satisfied that there are reasonable grounds to believe that the employee is carrying contraband or evidence relating to a criminal offence.

**43.** Access to the facility is prohibited to a personnel member who refuses to be searched.

**DIVISION VII**
SEARCHES OF CELLS

**44.** As part of a search program established by the facility director, correctional officers may search all or any part of the cells in the facility or in a particular area of the facility. The searches may be conducted at any time and as often as necessary.

The presence of two personnel members is required.

**45.** If a correctional officer believes on reasonable grounds that unauthorized items, contraband or evidence relating to an offence are in an inmate's cell, the officer, with the authorization of the manager in charge, may conduct a search of the cell and its contents.

**46.** Despite section 45, if a correctional officer believes on reasonable grounds that the time necessary to obtain the authorization would endanger human life or safety or the security of the facility or could result in the loss of evidence, the officer may search the cell without prior authorization. The officer must so inform the manager in charge as soon as possible and be able to justify the reasons for the decision.

**47.** The manager in charge may at any time request the search of a certain number of cells determined at random to detect the presence of unauthorized items or contraband and to counter trafficking.

**48.** A search of cells may be conducted if an emergency occurs in the facility or in any part of the facility.

**DIVISION VIII**
SEARCHES OF AREAS AND VEHICLES

**49.** The facility director may also order a correctional officer to conduct a search of areas, workshops, recreational areas such as sports areas, training rooms and other areas inside the facility. The director may also order the search of any other location or item that could conceal contraband, such as exercise yards and the facility grounds, and vehicles inside the facility's security perimeter. The searches may be conducted at any time and as often as necessary.

**CHAPTER III**
MAIL AND VISITS

**DIVISION I**
MAIL PROCESSING

**50.** The facility director or a personnel member designated by the facility director opens, inspects and may read mail sent to or by an inmate to determine whether its content could endanger the safety of a person or the security of the facility, interfere with the administration of justice or be used to commit an offence, or to ensure that it does not contain contraband or any other thing the inmate is prohibited or restricted from possessing in the facility.

Despite the foregoing, the facility director or personnel member may not open, inspect or read mail between an inmate and his or her attorney, a member of the National Assembly, a member of a legislative assembly, a member

of the House of Commons, the Commission des droits de la personne et des droits de la jeunesse, the Public Protector or the Police Ethics Commissioner.

**51.** Despite the second paragraph of section 50, the facility director or a personnel member designated by the facility director may,

(1) in the presence of the inmate and a personnel member, open the mail between the inmate and a person or a body referred to in the second paragraph of section 50 to determine whether its content could endanger the safety of a person or the security of the facility, interfere with the administration of justice or be used to commit an offence, or to ensure that it does not contain contraband or any other thing the inmate is prohibited or restricted from possessing in the facility;

(2) if the facility director or personnel member believes on reasonable grounds that the mail does not come from a person or a body referred to in the second paragraph of section 50, read the mail between an inmate and such a person to the extent necessary to ascertain the identity of the sender; and

(3) if the facility director or personnel member believes on reasonable grounds that the mail contains elements not protected by professional secrecy, read the mail between an inmate and his or her attorney to the extent necessary to examine those elements.

In the cases in subparagraphs 2 and 3 of the first paragraph, the facility director or personnel member may retain the mail until it is established that it comes from a person or a body referred to in the second paragraph of section 50 or that it is protected by professional secrecy.

**52.** The facility director or personnel member may refuse to forward mail to the addressee, and delete or seize the mail in whole or in part if the facility director believes on reasonable grounds that the content is likely to constitute a threat to a person or the facility, interfere with the administration of justice, be used in the commission of an offence or constitute a confession of crimes committed, or contains contraband or any other thing the inmate is prohibited or restricted from possessing in the facility.

**53.** The mail must be kept within the correctional facility in such manner that only authorized persons have access to it.

**54.** In the cases in the second paragraph of section 50 and in subparagraphs 2 and 3 of the first paragraph of section 51, the inmate must be informed as soon as possible in writing of the reasons justifying the reading of his or her mail or the refusal to forward it, or of the deletion or seizure of any part of the mail, and be given an opportunity to make representations, unless the notice is likely to adversely affect an on-going investigation, in which case the notice must be given to the inmate at the end of the investigation at which time the inmate must be given an opportunity to make representations.

Seized mail must be stored in a secure manner and be given to the inmate when the inmate is released.

**DIVISION II**
VISITS

**55.** An inmate is entitled to receive a visit from the inmate's

(1) spouse, including de facto spouse;

(2) father;

(3) mother;

(4) child;

(5) brother;

(6) sister; and

(7) attorney.

Other persons may also visit an inmate if authorized by the facility director when the visit is necessary or useful to settle urgent business, for a social or family reason or to facilitate the inmate's reintegration.

**56.** The following persons are authorized to visit an inmate or a correctional facility:

(1) the Minister of Public Security and the Deputy Minister of Public Security;

(2) the Associate Deputy Minister of correctional services;

(3) the Public Protector or his or her representative;

(4) a member of the Commission des droits de la personne et des droits de la jeunesse or his or her representative;

(5) the consul or ambassador of a foreign country with regard to a national of that country;

(6) a peace officer, probation officer, parole officer or immigration officer in the exercise of his or her functions;

(7) an employee or a member of the Commission québécoise des libérations conditionnelles; and

(8) a person duly authorized by the Associate Deputy Minister of correctional services or the facility director.

**57.** A visit may be refused in the following cases:

(1) an order of a Court or other administrative authority prohibits contact between the inmate and the visitor even if the order is to take effect only on the date of the inmate's release;

(2) the visitor refuses to submit to the rules of the facility or has refused to do so in the past;

(3) there are reasonable grounds to believe that the presence of the visitor in the facility will adversely affect the safety of the visitor, the security of the facility or the safety of persons in the facility;

(4) there are reasonable grounds to believe that a visit from the person will have a negative impact on the inmate's reintegration;

(5) there are reasonable grounds to believe that the purpose of the visit is related to the preparation or commission of a criminal offence or an offence against a statute in force in Québec;

(6) the inmate is the subject of disciplinary confinement or solitary confinement precluding visits, or of administrative segregation; or

(7) access to the correctional facility is not possible owing to an emergency.

**58.** Except if authorized by the facility director, a minor under 14 years of age may visit only one parent and must have a written authorization from the person having parental authority.

**59.** An inmate may not have more than one visitor at a time, except on request and adequate premises and a sufficient number of personnel members are available.

**60.** An authorized visitor must agree to comply with the rules of the facility, otherwise the visitor may be refused access. A visitor may be removed if the visitor does not comply with the rules of the facility or the visitor's conduct is not appropriate.

## CHAPTER IV
## COMPLAINT PROCESSING PROCEDURE

### DIVISION I
### RECEIPT OF COMPLAINTS

**61.** An inmate may file a written complaint on the form provided for that purpose by the facility on any issue that is not the subject of another remedy or review or appeal mechanism.

**62.** The complaint is examined by a manager designated by the facility director who, within two working days, must reply in writing to the inmate unless the correctional services have resolved the inmate's complaint. Reasons must be given with the reply.

If the manager dealing with the complaint believes on reasonable grounds that the complaint is frivolous or vexatious, the manager must inform the inmate in writing that the complaint is dismissed and that no review is possible.

### DIVISION II
### REEXAMINATION AND REVIEW

**63.** In all other cases, an inmate who is not satisfied with the reply received may apply for a reexamination to the facility director who must reply within five working days.

**64.** If the inmate is still not satisfied with the reply received from the facility director, the inmate may apply for a review to the person designated by the Associate Deputy Minister of correctional services who must reply within seven working days.

### DIVISION III
### TIME LIMITS

**65.** The time limits in this Chapter may be extended with the inmate's consent.

If a complaint is related to an emergency in which the inmate's life is in danger, the person dealing with the complaint must reply as soon as possible.

In the case of a collective complaint, only one case is examined and only one reply with reasons is given to all the complainants.

**66.** If the inmate who filed a complaint is transferred or released, an assessment is made by the person dealing with the complaint to determine whether the complaint is no longer necessary, in which case the file is closed.

**CHAPTER V**
DISCIPLINE

**DIVISION I**
RESPONSIBILITY OF INMATES

**67.** An inmate must act in a manner that is respectful towards other inmates and the personnel members, their property and the property of the facility.

An inmate breaches his or her responsibilities and commits a disciplinary offence if the inmate

(1) uses physical violence or insulting or threatening language or gestures aimed at other inmates, personnel members or any other person;

(2) alters or damages property of the facility, the reintegration support fund, an inmate, a personnel member or any other person;

(3) refuses to participate in mandatory activities;

(4) interferes with the conduct of activities, including the activities of the reintegration support fund, by purposely performing unsatisfactorily, creating conflicts with other inmates, personnel members or persons in charge of the activities or mocking, harassing, provoking or disturbing them in their work;

(5) is in possession of or uses or trades in unauthorized items or contraband, including alcoholic beverages, drugs, narcotics, non-prescription medicine, keys or any other item that may be considered as an offensive weapon such as a piece of glass, metal, wood or plastic;

(6) gives or exchanges items without the authorization of the facility director;

(7) commits an indecent act, including masturbating in public or soliciting, offering or engaging in sexual relations in public; or

(8) refuses to comply with the rules or directives of the facility.

**DIVISION II**
DISCIPLINARY OFFENCE REPORT

**68.** A correctional officer who becomes aware of a disciplinary offence or who is informed of such an offence must

(1) take the immediate measures necessary to rectify the situation, if possible;

(2) taking into consideration the criteria listed in section 72,

i. give a warning consisting of notifying the inmate that he or she has breached a rule or directive of the facility and commanding the inmate not to do so again; and

ii. complete a disciplinary offence report containing the inmate's name and date of birth, information on the offence and the names of witnesses;

(3) if the correctional officer believes that temporary measures in addition to the offence report must also be taken, inform the manager in charge so that he or she may take the necessary measures;

(4) record in the offence report any temporary measures taken; and

(5) sign and date the report.

The manager in charge must ensure that a copy of the report is immediately given to the inmate and that the name of the person who gave it to the inmate is on the report.

**69.** Temporary measures may include the loss of privileges, confinement or solitary confinement as described in subparagraphs 2 to 4 of the first paragraph of section 73, but may not be imposed for longer than 24 hours.

**DIVISION III**
DISCIPLINE COMMITTEE

**70.** The following rules apply to the discipline committee established in a correctional facility pursuant to section 40 of the Act:

(1) each offence must be examined in a fair and impartial manner;

(2) if a member of the committee has been involved in an offence, the member may not sit on the discipline committee that is to examine the offence and the facility director designates another person to replace the member;

(3) the discipline committee examines on a priority basis the situation of an inmate who is the subject of temporary measures;

(4) if the inmate refuses to appear before the discipline committee, the committee proceeds as usual, except for what cannot be done in the absence of the inmate; and

(5) if the members of the committee cannot reach a unanimous decision, a new sitting is held before a committee composed of two new members appointed by the facility director; the new sitting must be held within 16 working hours after the facility director has been informed that a decision cannot be reached. In the case of disagreement, the decision is made by the member to whom the facility director has given a casting vote.

**71.** In the exercise of its functions, the discipline committee must

(1) verify that the procedure established in this Regulation has been followed;

(2) convene the inmate in whose respect the disciplinary offence report was completed;

(3) explain the contents of the report to the inmate;

(4) hear the inmate's explanations;

(5) convene and hear any witness;

(6) permit the inmate to examine any witness;

(7) inform the inmate of its decision and, where applicable, of the sanction imposed;

(8) give a copy of the report of the sitting to the inmate within eight working hours after the sitting; and

(9) inform the person serving a sentence that the person will receive a notice of remission in the case of a sanction relating to remission or forfeiture.

The discipline committee's report must contain the inmate's name and date of birth, a summary of the sitting, the decision and reasons, the sanction and the time allowed to apply for a review.

A notice of remission must indicate the inmate's name, date of birth and record number, the total length of the sentence and the number of days of remission the inmate may earn.

**72.** In determining the sanction, the discipline committee must take into consideration

(1) the seriousness of the offence;

(2) the degree of premeditation;

(3) the inmate's awareness of committing an offence;

(4) the inmate's conduct since the beginning of imprisonment;

(5) the circumstances surrounding the offence, in particular the fact that there was provocation;

(6) the repetitive nature of the offence;

(7) the possible effects of the sanction on the inmate's subsequent behaviour; and

(8) the temporary measures taken following the offence.

**73.** If the discipline committee concludes that an offence was committed, it may impose one or a combination of the following sanctions:

(1) a reprimand consisting in the inmate being rebuked;

(2) loss of privilege consisting in the loss of a privilege the inmate had including television, radio or telephone privileges or participation in socio-cultural or sports activities, for up to a maximum of 15 days;

(3) confinement consisting in the obligation for the inmate to remain in a cell for up to a maximum of five days;

(4) solitary confinement consisting in the obligation for the inmate to remain in a cell in a separate area for up to a maximum of seven days;

(5) loss of remission days that the person serving a sentence could have earned for the month of imprisonment;

(6) forfeiture of days of remission standing to the person's credit.

In imposing any of those sanctions, the discipline committee may take into account the inmate's restitution for or repair of the damage caused to property of the facility, the reintegration support fund or a third person.

The discipline committee may also impose any of those sanctions as a suspended sanction which consists in determining the nature of the sanction but making its execution conditional on the commission of any offence within 30 days following the decision.

**74.** A sanction becomes enforceable at the time determined by the discipline committee.

**DIVISION IV**
RIGHT OF REVIEW

**75.** An inmate may, within eight working hours after receiving the report of the sitting before the discipline committee, apply to the facility director for a review of the decision or sanction.

If the decision of the discipline committee consists in forfeiture of more than 15 days of remission standing to the inmate's credit, the review application must be made to the person designated by the Minister pursuant to section 41 of the Act.

**76.** The application for review of the discipline committee's decision must indicate the inmate's name and date of birth, the date and nature of the disciplinary offence, the date and nature of the sanction and the reasons for the application.

**77.** On receiving a review application, the facility director or the person designated by the Minister must

(1) examine the application and the discipline committee's report;

(2) maintain, vary or cancel the discipline committee's decision or sanction; and

(3) give the inmate a copy of the decision with reasons within eight working hours after the day on which the review application is made.

**78.** For the purposes of the decision, the facility director or the person designated by the Minister may hear the inmate, a member of the discipline committee or any other person. The inmate must be heard if

(1) the sanction seems disproportionate to the offence or the supporting facts;

(2) the discipline committee did not comply with any of sections 70 to 73;

(3) there is an error in the discipline committee's report; or

(4) there is a new fact likely to modify the discipline committee's decision or sanction.

**79.** The procedure referred to in sections 70 to 78 must take place before the day or time scheduled for release.

**CHAPTER V**
FINAL

**80.** This Regulation replaces the Regulation respecting houses of detention (R.R.Q., 1981, c. P-26, r.1).

**81.** This Regulation comes into force on 5 February 2007.

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


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