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**Summary**

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## Regulations and other acts

Gouvernement du Québec

### O.C. 5-2007, 16 January 2007

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

#### Regulation

Regulation under the Act respecting the Québec correctional system

WHEREAS the second paragraph of section 67 and subparagraphs 1 and 3 of the first paragraph of section 193 of the Act respecting the Québec correctional system (2002, c. 24) provide among other things that the Government may, by regulation, establish standards respecting the administration and internal management of correctional facilities and the surveillance and security measures that must be taken in correctional facilities;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation under the Act respecting the Québec correctional system was published in Part 2 of the *Gazette officielle du Québec* of 15 November 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Public Security:

THAT the Regulation under the Act respecting the Québec correctional system, attached to this Order in Council, be made.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

### 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 DUTIES AND STANDARDS OF CONDUCT**

**3.** Correctional officers, probation officers, correctional counsellors and managers working with persons committed to the custody of the correctional services are to perform their duties in a manner that is respectful of inmates and of the principle that the loss of freedom as a result of confinement and sanctions imposed by the discipline committee are the only constraints that may be imposed on inmates.

In addition, the persons listed in the first paragraph may not obtain for an inmate any privilege that could not be granted to another inmate under the same circumstances.

### **DIVISION IV INMATES' PROPERTY**

**4.** 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.

**5.** 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 4 and given to the inmate at the time of the inmate's release.

### **DIVISION V HYGIENE**

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

### **DIVISION VI CLOTHING**

**7.** 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.

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

**9.** 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 VII PHYSICAL EXERCISE**

**10.** An inmate who is not working outdoors or who is not working outside the facility is entitled to walk or take physical exercise outdoors for one hour each day, unless the inmate is confined in administrative segregation.

### **DIVISION VIII HEALTH CARE**

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

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

**13.** 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 IX RELEASE**

**14.** 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.

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

**16.** 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.

**17.** 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.

**18.** 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

**19.** 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 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.

**20.** Frisk search means a search of the clothed body. It is a hand search carried out from head to foot, down the front and rear of the body, around the legs and

thighs, and inside the folds of the clothing, pockets and footwear. If necessary, the person may be requested to lift, lower or open his or her outerwear for a visual inspection.

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.

It may also include 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.

For the purposes of the first paragraph, there must be compliance with the following conditions:

(1) a frisk search of a female 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.

**21.** 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.

**22.** 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.

**23.** 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

**24.** 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.

**25.** 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

**26.** 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.

**27.** 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.

**28.** 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.

**29.** 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.

**30.** 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**

**31.** 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.

**32.** 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.

**33.** 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.

**34.** 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.

**35.** 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.

**36.** 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**

**37.** 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.

**38.** 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.

**39.** 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.

**40.** 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.

**41.** 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**

**42.** 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.

**43.** 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.

**44.** Access to the facility is prohibited to a personnel member who refuses to be searched.

#### **DIVISION VII SEARCHES OF CELLS**

**45.** 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.

**46.** 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.

**47.** Despite section 46, 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.

**48.** 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.

**49.** 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

**50.** 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

**51.** 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 Curator or the Police Ethics Commissioner.

**52.** Despite the second paragraph of section 51, 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 51 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 51, 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 51 or that it is protected by professional secrecy.

**53.** 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.

**54.** The mail must be kept within the correctional facility in such manner that only authorized persons have access to it.

**55.** In the cases in the second paragraph of section 51 and in subparagraphs 2 and 3 of the first paragraph of section 52, 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 to the inmate, or of the deletion or seizure of any part or all 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

**56.** 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;
- (7) attorney; and

(8) tutor, curator or mandatary as designated by the judgment instituting protective supervision or the mandate in anticipation of incapacity homologated by the court.

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.

**57.** 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 Public Curator or the Public Curator's representative;

(6) the consul or ambassador of a foreign country with regard to a national of that country;

(7) a peace officer, a probation officer, a officer, parole officer or immigration officer in the exercise of his or her functions;

(8) an employee or a member of the Commission québécoise des libérations conditionnelles; and

(9) a person duly authorized by the Associate Deputy Minister of correctional services or the facility director.

**58.** 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.

**59.** 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.

**60.** 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.

**61.** An authorized visitor must agree to comply with the rules of the facility, otherwise the visitor may be refused access. The rules must be posted in a place visible to the visitor at the entrance to the correctional facility's secure perimeter, at the visitor reception area and in the sector reserved for visits. 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

**62.** 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.

**63.** 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

**64.** 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.

**65.** 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

**66.** 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.

**67.** 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

**68.** 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

**69.** 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 73,

(a) 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

(b) 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.

The disciplinary offence report may also be made by the manager, the probation officer or the correctional counsellor who became aware of the disciplinary offence.

**70.** 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 74, but may not be imposed for longer than 24 hours.

## DIVISION III DISCIPLINE COMMITTEE

**71.** 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 discipline 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.

**72.** 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.

**73.** 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.

**74.** 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.

**75.** A sanction becomes enforceable at the time determined by the discipline committee.

#### **DIVISION IV** **RIGHT OF REVIEW**

**76.** 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.

**77.** 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.

**78.** 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.

**79.** 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 71 to 74;

(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.

**80.** The procedure referred to in sections 71 to 79 must take place before the day or time scheduled for release.

## CHAPTER V FINAL

**81.** This Regulation replaces the Regulation respecting houses of detention (R.R.Q., 1981, c. P-26, r.1).

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

7974

Gouvernement du Québec

### O.C. 6-2007, 16 January 2007

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

#### Programs of activities for offenders

Regulation respecting programs of activities for offenders

WHEREAS subparagraphs 15 to 26 of the first paragraph of section 193 of the Act respecting the Québec correctional system (2002, c. 24), amended by chapter 44 of the Statutes of 2005, provide among other things that the Government may, by regulation, fix criteria for the establishment of a program of activities and establish standards for its implementation, establish standards respecting the remuneration and other conditions of employment of persons exercising functions under a program of activities;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting programs of activities for offenders was published in Part 2 of the *Gazette officielle du Québec* of 15 November 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Public Security:

THAT the Regulation respecting programs of activities for offenders, attached to this Order in Council, be made.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

#### 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.

7972

Gouvernement du Québec

### **O.C. 7-2007, 16 January 2007**

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

#### **Conditional release**

Regulation respecting conditional release

WHEREAS section 160 and subparagraphs 27 to 29 of the first paragraph of section 193 of the Act respecting the Québec correctional system (2002, c. 24) provide among other things that the Government may, by regulation, determine the nature of the information the Commission québécoise des libérations conditionnelles is required to transmit to a person eligible for conditional release, determine the regions necessary for the appointment of the members and establish rules of procedure;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting conditional release was published in Part 2 of the *Gazette officielle du Québec* of 15 November 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS, the 45-day period has expired;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Public Security:

THAT the Regulation respecting conditional release, attached to this Order in Council, be made.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

### **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 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.

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

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