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NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 30
(2006, chapter 42)

An Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans

Introduced 14 June 2006
Passage in principle 14 November 2006
Passage 13 December 2006
Assented to 13 December 2006

Québec Official Publisher
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EXPLANATORY NOTES

The purpose of this bill is to improve the funding of pension funds in order to protect the pension benefits of plan members and beneficiaries. A further purpose of the bill is to enhance the governance of pension plans and better define the scope of the responsibilities of pension committee members and other persons involved in the administration of pension plans.

The bill introduces a number of measures dealing with the solvency of pension plans. It requires accelerated funding of any amendment to a pension plan whose cost causes the solvency of the plan to drop below a certain threshold determined by the bill. It also requires that a pension fund maintain a provision for adverse deviation to provide adequate coverage for the risks associated with market fluctuations. On the other hand, the bill offers some flexibility to employers by allowing them to use a letter of credit to fulfill part of their obligations as to the funding of a pension plan.

The bill also provides that any appropriation of the surplus assets of a pension plan to the funding of an amendment to the plan must be equitable both for the group of active members and for the group of non-active members and beneficiaries. Under the bill, the optional confirmation procedure already established by the Act as regards the employer's right to a contribution holiday becomes applicable to this type of appropriation of the plan's surplus assets.

In addition, the bill requires pension committees to establish and observe specific governance and operation standards. The bill contains additional rules to protect and compensate pension committee members in liability matters.

Bill 30

AN ACT TO AMEND THE SUPPLEMENTAL PENSION PLANS ACT, PARTICULARLY WITH RESPECT TO THE FUNDING AND ADMINISTRATION OF PENSION PLANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 14 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended

(1) by inserting the following subparagraph after subparagraph 16 of the second paragraph:

"(16.1) in the case of a plan to which the second paragraph of section 146.4 does not apply, the employer's right, if any, to appropriate all or part of the surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan;";

(2) by inserting "the third paragraph of" after "to which" in the first line of subparagraph 17 of the second paragraph.

2. Section 21.1 of the Act is amended by inserting "16.1 or" after "subparagraph" in the first line.

3. Section 24 of the Act is amended by striking out subparagraph 4 of the second paragraph.

4. Section 26 of the Act is amended by replacing "contributions" in the eleventh line of subparagraph 2 of the first paragraph by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions".

5. Section 39 of the Act is amended by replacing subparagraphs 1 and 2 of the first paragraph by the following subparagraphs:

"(1) in the case of an insured plan, the current service contribution as established in section 40;

"(2) in the case of an uninsured plan, the sum of the following amounts:

(*a*) the current service contribution determined in accordance with sections 138 and 139; and

(*b*) the amortization payment determined in respect of the funding deficiency or the sum of the amortization payments determined in respect of the solvency deficiencies, whichever is higher."

6. Section 39.1 of the Act is amended

(1) by replacing "sections 39 and 140" in the first line by "section 39";

(2) by replacing "sections 39 and 140" in the third line of paragraph 2 by "section 39".

7. Section 41 of the Act is amended

(1) by inserting ", less the portion the employer is relieved of paying under section 42.1," after "employer contribution" in the first line of the first paragraph;

(2) by inserting "any portion of the contribution the employer is relieved of paying under section 42.1 and" after "plus" in the eighth line of the third paragraph.

8. Section 42 of the Act is replaced by the following section:

"**42.** If the amortization period for an unfunded actuarial liability begins in the course of a fiscal year of the plan, the amortization payment determined for that year must be paid in as many monthly payments as there are months in the portion of the fiscal year included in the amortization period."

9. The Act is amended by inserting the following section after section 42:

"**42.1.** Under the conditions prescribed by regulation, an employer may, upon providing the pension committee with a letter of credit established in accordance with the regulations, be relieved of paying all or part of the portion of the employer contribution related to an amortization payment determined for a fiscal year of the plan in relation to the solvency deficiency.

However, employers who are parties to a multi-employer pension plan may not avail themselves of the provisions of the first paragraph."

10. Section 101 of the Act is amended by replacing "142" in the first line by "143".

11. Chapter X of the Act, comprising sections 116 to 146, is replaced by the following:

"**CHAPTER X**

"SOLVENCY AND FUNDING

"DIVISION I

"GENERAL PROVISIONS

"**116.** This chapter does not apply

(1) to an insured pension plan in respect of which the insurer has undertaken to pay all costs and satisfy all rights arising from the termination of the plan;

(2) to an uninsured pension plan under which the benefits to which the members and beneficiaries are entitled derive only and at all times from amounts credited to them; or

(3) to an uninsured pension plan under which the benefits to which the members and beneficiaries are entitled are either pension benefits and refunds that are insured at all times or benefits described in paragraph 2.

"**117.** For the purposes of this chapter, a defined benefit-defined contribution plan shall be considered to be a defined benefit plan.

"**118.** Every pension plan shall be the subject of an actuarial valuation

(1) at the date on which it becomes effective;

(2) at the end of each fiscal year; or

(3) whenever so required by the Régie, at the date fixed by the Régie.

The actuarial valuations carried out under the first paragraph must be complete actuarial valuations, although the valuations provided for in subparagraph 2 of that paragraph may be partial actuarial valuations if the pension plan is both solvent and funded at the end of the fiscal year. However, a plan must be the subject of a complete actuarial valuation not later than the date of the end of the last fiscal year of the plan occurring within three years after the date of the last complete actuarial valuation of the plan.

"**119.** The pension committee must transmit a report to the Régie on every actuarial valuation referred to in section 118

(1) within nine months after the date of the actuarial valuation in the case of an actuarial valuation required under subparagraph 2 of the first paragraph of that section; or

(2) within the time fixed by the Régie, which shall be at least 60 days, in the case of an actuarial valuation required under subparagraph 3 of the first paragraph of that section.

A report on an actuarial valuation not referred to in section 118 must be transmitted to the Régie within nine months after the date of the actuarial valuation.

"**120.** The funding of a pension plan must be based on an actuarial valuation report prepared at the request of the pension committee and transmitted to the Régie. Unless the report concerns a partial actuarial valuation carried out under the conditions set out in the second paragraph of section 118, it must refer to a complete actuarial valuation of the plan.

Except in the case provided for in section 121, an actuarial valuation report that has been transmitted to the Régie can be amended or replaced only at the request of or with the authorization of the Régie and subject to the conditions fixed by the Régie. If a report is amended or replaced, any unfunded actuarial liability determined by the valuation must be re-established and any actuarial certification required for the purposes of such valuation must be renewed.

"**121.** Any amendment to a pension plan having an impact on the funding of the plan must be considered for the first time not later than the latest of the following dates:

(1) the date of the last actuarial valuation of the plan, the date of which is not later than the date the amendment is made; or

(2) the date of the last actuarial valuation of the plan, the date of which is not later than the date the amendment becomes effective.

If the actuarial valuation report was transmitted to the Régie and an amendment which should have been considered under the first paragraph was not taken into account, the report must be amended or replaced.

"**122.** Every certification required for the purpose of a partial actuarial valuation must reflect the financial position of the plan at the date of the actuarial valuation, estimated on the basis, in particular, of the actual rate of return of the pension fund, changes in interest rates determined on a solvency basis and the contributions actually paid into the pension fund since the last complete actuarial valuation of the plan.

If a partial actuarial valuation pertains to the amendments to a pension plan, it is limited to the determination of the value of the additional obligations arising from any amendment considered for the first time in the valuation or to the determination, on a funding basis, of the variation in the current service contribution arising from the amendment. The determination of the value or of the variation must be based on the same assumptions and methods as were used for the most recent complete actuarial valuation, unless those assumptions and methods are not appropriate in view of the nature of the amendment made to the pension plan.

However, if the amendment to the pension plan increases the pensions already in payment and the additional obligations arising from the amendment are guaranteed by an insurer at the date on which the actuarial valuation report is prepared, the value of the obligations may be assumed to correspond to the premium paid to the insurer, discounted at the date of actuarial valuation according to the rate of return of the pension fund.

"**DIVISION II**

"SOLVENCY

"**123.** For the purpose of determining the solvency of a pension plan, the assets of the plan must be established according to their liquidation value or an estimate of that value and be reduced by the estimated amount of the administration costs to be paid out of the pension fund assuming that the pension plan is terminated on the valuation date.

The liabilities of the pension plan must be equal to the sum of the following values:

(1) the value of the obligations arising from the plan, assuming that the plan is terminated on that date; and

(2) the value of the obligations arising from any amendment to the plan considered for the first time at the date of the valuation, such value having been computed on the assumption that the effective date of the amendment is the valuation date.

A letter of credit provided by the employer under section 42.1 forms part of the assets of the plan for the purpose of determining its solvency. The amount of the letter, or the total amount of such letters, may in no case exceed 15% of the value of the liabilities of the plan.

"**124.** If the plan provides expressly that the amount of a member's pension must be established with reference to the progression of the member's remuneration after termination, the value of the pension must be established assuming that the plan is terminated in such circumstances that the benefits accrued to the member in respect of the pension must be estimated at their maximum value. If the plan provides for other obligations the value of which depends on the circumstances in which the plan is terminated, they must be included in the liabilities to the extent provided in the scenario used for that purpose by the actuary in charge of the valuation.

If the liabilities established in accordance with section 123 and with the first paragraph are less than the value of the obligations arising from the pension plan, assuming that the plan is terminated on the valuation date in such circumstances that the benefits accrued to the members must be estimated at their maximum value, the valuation report must also indicate the latter value.

"**125.** The liabilities of a pension plan under which refunds or benefits are guaranteed by an insurer must, for the purpose of determining the plan's solvency, include the value corresponding to those benefits, and the plan's assets must include an amount equal to that value.

"**126.** The values referred to in the second paragraph of section 123 and in section 124 are determined by applying sections 211 and 212 and subparagraph 1 of the second paragraph of section 212.1, with the necessary modifications. In the case of pensions already in payment, inasmuch as they are not guaranteed by an insurer at the valuation date, those values must be determined according to an estimation of the premium that an insurer would charge to guarantee the pensions in the 30-day period following the valuation date.

"**127.** For the purpose of determining the degree of solvency of a pension plan, the value of the plan's assets and that of its liabilities are both reduced by an amount representing the sum of the following values:

(1) the value of any additional voluntary contributions paid into the pension fund, with accrued interest;

(2) the value of the contributions paid into the pension fund under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan, with accrued interest; and

(3) the value of amounts received by the pension plan following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

The degree of solvency of the plan at the date of a complete actuarial valuation corresponds to the value of the assets, increased by the special amortization payment provided for in section 132 but reduced as provided in the first paragraph, over the value of the liabilities reduced in the same manner, expressed as a percentage.

"**128.** At the date of the actuarial valuation to which the pension plan is subject, a reserve must be established equal to the lesser of the following amounts:

(1) the amount of the actuarial gains determined in the valuation;

(2) the amount of the provision for adverse deviation calculated in accordance with the regulations.

The amount of the actuarial gains corresponds to the amount by which the plan's assets, increased by the value of the amortization payments required to amortize a solvency deficiency determined in a prior actuarial valuation and which are not eliminated under section 131, exceed the plan's liabilities, reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

"**129.** A pension plan is solvent if its assets are equal to or greater than its liabilities.

"**130.** A solvency deficiency includes

(1) the technical actuarial deficiency which, at the date of an actuarial valuation of the pension plan, corresponds to the amount by which the plan's liabilities, reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, exceed the sum of the plan's assets and the value of the amortization payments required to amortize a solvency deficiency determined in a prior actuarial valuation, which payments are not eliminated under section 131; the value of the amortization payments must be established using the same interest rate as the one used to establish the plan's liabilities; and

(2) the improvement unfunded actuarial liability which corresponds,

(*a*) if it is determined in a complete actuarial valuation, to the amount by which the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation exceeds the special amortization payment provided for in section 132; or

(*b*) if it is determined in a partial actuarial valuation, to the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

"**131.** If, at the date of an actuarial valuation, a plan's assets are equal to or greater than the plan's liabilities reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, any amortization payments remaining to be paid in connection with any technical actuarial deficiency determined in a prior actuarial valuation are eliminated.

If, at the date of an actuarial valuation, the plan's assets are equal to or greater than the plan's liabilities increased by the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128 and reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, any amortization payments remaining to be paid in connection with any improvement unfunded actuarial liability determined in a prior actuarial valuation are eliminated.

"**132.** If the actuarial valuation used to determine the value of the additional obligations arising from an amendment to the pension plan shows that the degree of solvency of the plan is less than 90%, a special amortization payment must be paid into the pension fund, payable in full on the day following the date of the valuation and equal to or greater than the lesser of:

(1) the amount that corresponds to the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation; and

(2) the amount to be funded to ensure that the degree of solvency of the plan is equal to 90%.

"**133.** The improvement unfunded actuarial liability determined in an actuarial valuation of the pension plan is reduced by the part of the value of the additional obligations arising from an amendment to the plan considered for the first time in the valuation that is paid for by appropriation of the plan's surplus assets.

If the liability is determined in a partial actuarial valuation, an actuary must certify in the valuation report that a complete actuarial valuation carried out at the date of the valuation would have allowed the establishment, in accordance with the third paragraph of section 146.1, of the amounts that could be appropriated to the payment of the value of the additional obligations arising from the amendment.

"**DIVISION III**

"FUNDING

"**134.** To determine the funding of a pension plan, the liabilities of the pension plan at the date of the valuation must be equal to the sum of the following values:

(1) the value of the obligations arising from the plan, given the service credited to the members; and

(2) the value of the obligations arising from any amendment to the plan considered for the first time at the date of the valuation, such value having been computed on the assumption that the effective date of the amendment is the valuation date.

A letter of credit provided by the employer under section 42.1 is not included in the assets of the plan for the purpose of determining its funding.

"**134.1.** A plan is funded if, at the date of the actuarial valuation, the value of its assets is equal to or greater than the value of its liabilities.

A plan is partially funded if the value of its assets, increased by the funding deficiency determined at the date of the actuarial valuation, is, at that date, equal to or greater than the value of its liabilities.

"**135.** If, at the date of an actuarial valuation of the pension plan, the plan's assets determined on a funding basis do not cover its liabilities determined on the same basis and reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation, an amount must be established at that date equal to the amount by which the liabilities thus reduced exceed the assets.

At the same date, an amount must also be established equal to the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

The funding deficiency corresponds to the sum of the amount established under the first paragraph and the amount established under the second paragraph. Any such deficiency is reduced by the amount which represents the part of the value of the obligations referred to in the second paragraph, if any, that is paid for by appropriation of the plan's surplus assets.

"**136.** The funding method used for an actuarial valuation must be consistent with generally accepted actuarial principles and be based on the assumption that the pension plan is perpetual.

The actuarial assumptions and methods used in verifying the funding of a plan must be suited, in particular, to the type of plan concerned, its obligations and the position of the pension fund.

"**137.** In addition to the other elements prescribed by regulation, an actuarial valuation must determine

(1) the current service contribution, expressed in currency or as a rate or percentage of the remuneration of active members estimated in the valuation, for the fiscal year or the part of the fiscal year of the pension plan that immediately follows the date of the valuation; and

(2) the value of the assets and the liabilities of the pension plan.

"**138.** The current service contribution must be equal to or greater than the value of the obligations arising from the pension plan in respect of credited service completed during the year or the part of a year referred to in paragraph 1 of section 137. The contribution may, however, be less if it is determined on the basis of a funding method that maintains the plan fully or partially funded at all times.

"**139.** The value of the obligations referred to in section 134 or 138, which, under the plan, are to increase according, in particular, to the progression of the members' remuneration, must include the estimated amount of the obligations when they become payable, assuming that contingencies based on actuarial assumptions as to survival, morbidity, mortality, employee turnover, eligibility for benefits or other factors will occur.

Furthermore, any pension benefit increase provided for by the plan which becomes effective after the benefits begin to be paid must be taken into account in determining the value of the plan's obligations.

"**DIVISION IV**

"AMORTIZATION OF UNFUNDED ACTUARIAL LIABILITIES

"**140.** Every unfunded actuarial liability must be amortized by dividing it into as many amounts as there are full months included in the amortization period.

"**141.** The monthly amortization payable for any fiscal year or any part of a fiscal year of the plan included in the amortization period must be established as a fixed amount at the date the unfunded actuarial liability is determined.

"**142.** The amortization period for an unfunded actuarial liability begins at the date of the actuarial valuation in which the unfunded liability is determined. It expires at the end of a fiscal year of the pension plan that ends

(1) no later than five years after the date of the valuation, if the liability is a solvency deficiency; or

(2) no later than 15 years after the date of the valuation, if the liability is a funding deficiency.

"**DIVISION V**

"CONDITIONS GOVERNING THE PAYMENT OF BENEFITS

"**143.** The value of any benefit to which a member or a beneficiary becomes entitled under a pension plan and which corresponds to the following amounts must be paid in full:

(1) additional voluntary contributions credited to the member's account, with accrued interest;

(2) member or employer contributions paid in respect of a member under terms in a defined benefit plan that are identical to those of a defined contribution plan, with accrued interest; and

(3) amounts credited to a member's account following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

The benefit provided for in section 69.1 and the periodic amounts payable as pension benefits must also be paid in full.

The value of any other benefit may be paid out of the pension fund only in proportion to the degree of solvency of the plan, up to 100%, as established in the last actuarial valuation report transmitted to the Régie.

"**144.** The actuary responsible for preparing the actuarial valuation report of the pension plan must determine whether the payment of the benefits that are transferable under an agreement referred to in section 106 could reduce the degree of solvency of the plan or, where that degree exceeds 100%, reduce it to a percentage lower than 100%.

If so, the payment of benefits is permitted only in the proportion fixed by the actuary to avoid such a consequence.

"**145.** The value of the benefits which, under section 143 or 144, cannot be paid may be paid up to 5% of the maximum pensionable earnings established under the Act respecting the Québec Pension Plan (chapter R-9) for the year during which the payment is to be made; the total amounts so paid since the last actuarial valuation may not, however, exceed 5% of the assets determined at the time of the actuarial valuation to ascertain the solvency of the pension plan.

"**145.1.** Despite the limits set in sections 143 to 145, the value of the benefits paid must be equal to or greater than the sum of the contributions paid by the member concerned and the amounts credited to the member's account following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

"**146.** The balance of the value of the benefits which, under the terms of sections 143 to 145.1, cannot be paid must be funded and paid within five years after the date of the initial payment or not later than the date on which the member concerned attains normal retirement age if that age is attained before the expiry of the five-year period."

12. The heading of Chapter X.1 of the Act is replaced by the following heading:

"APPROPRIATION OF SURPLUS ASSETS".

13. Sections 146.1 to 146.3 of the Act are replaced by the following sections:

"**146.1.** The surplus assets of a pension plan to which Chapter X applies may only be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan if, without reference to the value of those obligations, the actuarial valuation of the plan determines that, on a funding basis, there are surplus assets and, on a solvency basis, there are surplus assets that exceed the reserve established under section 128, if either of the following conditions are met:

(1) the value of the obligations referred to is paid in full by appropriation of the plan's surplus assets; and

(2) the maximum amount of surplus assets that may be appropriated to that payment of that value is used entirely for that purpose.

The maximum amount of surplus assets that may be appropriated for that purpose is determined in the valuation referred to in the first paragraph.

In the case of a complete actuarial valuation, the maximum amount of surplus assets is equal

(1) on a solvency basis, to the amount by which the plan's assets, reduced by the reserve provided for in section 128, exceed the plan's liabilities reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation;

(2) on a funding basis, to the amount by which the plan's assets exceed the plan's liabilities, the latter being reduced by the value of the additional obligations arising from any amendment to the plan considered for the first time in the valuation.

In the case of a partial actuarial valuation, the maximum amount of surplus assets is equal to the amounts given by the actuary who certifies that a complete actuarial valuation carried out at the date of the valuation would have allowed the establishment, in accordance with the third paragraph, of amounts equal to or greater than the amounts given.

"**146.2.** In the case of a pension plan other than a plan referred to in section 146.1, the surplus assets of the plan may be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan only to the extent that the amount appropriated for that purpose is limited to the portion of the assets that exceeds the value of the obligations arising from the plan, determined without reference to the additional obligations arising from the amendment and assuming that the plan is terminated.

"**146.3.** The surplus assets of a pension plan may only be appropriated to the payment of the value of the additional obligations arising from an amendment to the plan in a manner that is equitable for both the group of active members and the group of non-active members and beneficiaries. Anyone amending the plan must make sure this requirement is satisfied.

For the purposes of the first paragraph, the amount appropriated to the payment of the value of the additional obligations arising from an amendment to the plan is determined on a funding basis.

In order to ensure equitable treatment, the main elements to be taken into consideration are the evolution of the pension plan, any amendments made to it and the circumstances in which those amendments were made, the origin of the surplus assets concerned, the use made in the past of any surplus assets, the characteristics of the benefits provided for under the plan and the characteristics of the pensions being paid out.

"**146.3.1.** An employer who intends to appropriate the surplus assets of a pension plan to the payment of the value of the additional obligations arising from an amendment to the plan must inform the pension committee of those intentions before the committee applies for the registration of the amendment.

Before applying for the registration of the amendment, the pension committee must send every member and beneficiary of the plan a written notice containing the information provided for in the first paragraph of section 26 and informing them of the value of the additional obligations arising from the amendment and of the portion of that value to be paid by appropriation of the plan's surplus assets. The notice must also inform them that they may notify the pension committee in writing of their opposition to the proposed appropriation of the surplus assets within 30 days after the notice is sent or after the notice provided for in the third paragraph is published, whichever is later.

Unless all members and beneficiaries have been personally advised, the pension committee must also publish in a daily newspaper circulated in the region in Québec where the greatest number of active members reside a notice of the proposed amendment and of the proposed appropriation of the surplus assets. The notice must also inform those persons who have not received a personal notice and who believe they are a member or beneficiary who must be consulted that they may declare their status to the pension committee within 30 days after the publication and that, if they are able to establish their status, they are entitled to receive a copy of the notice provided for in the second paragraph and, if applicable, to notify the committee in writing of their opposition to the proposed appropriation of the surplus assets.

For the purposes of this Act, the notice given under this section is considered to be the notice given under section 26.

"**146.3.2.** Upon expiry of the time for expressing opposition, the pension committee must count the notices of opposition received from the group of active members and from the group of non-active members and beneficiaries. The committee must immediately inform the employer concerned and each of the plan members and beneficiaries of the results.

If 30% or more of the members of a group referred to in the first paragraph are opposed to the proposed appropriation of the surplus assets, it is presumed that the requirement set out in the first paragraph of section 146.3 has not been met with respect to that group. However, if fewer than 30% of the members of such a group are opposed to the appropriation, it is presumed that the requirement has been met with respect to that group.

"**146.3.3.** Sections 146.1 to 146.3.2 do not apply in the case of a pension plan to which the second paragraph of section 146.4 does not apply nor when an amendment confirming the employer's right to appropriate the plan's surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan has been made in accordance with section 146.5.

"**146.3.4.** The surplus assets of a pension plan to which Chapter X applies may only be appropriated to the payment of employer contributions if the actuarial valuation of the plan shows that

(1) on a solvency basis, assets exceed liabilities increased by the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128; or

(2) on a funding basis, assets exceed liabilities.

The maximum amount of surplus assets that may be appropriated to the payment of employer contributions is determined in the valuation referred to in the first paragraph.

In the case of a complete actuarial valuation, that amount is equal to the lesser of the following amounts:

(1) the surplus assets of the plan determined on a solvency basis, reduced by the reserve provided for in section 128; or

(2) the surplus assets of the plan determined on a funding basis.

In the case of a partial actuarial valuation, the amount corresponds to the amount given by the actuary who certifies that a complete actuarial valuation carried out at the date of the valuation would have allowed the establishment, in accordance with the third paragraph, of a maximum amount equal to or greater than the amount given.

"**146.3.5.** In the case of a pension plan other than a plan referred to in section 146.3.4,

(1) the assets of the plan may only be appropriated to the payment of employer contributions if they exceed the value of the obligations arising from the plan, assuming that the plan is terminated; and

(2) the maximum amount of surplus assets that may be appropriated for that purpose is limited to the portion of the assets that exceeds the value of the obligations arising from the plan, assuming that the plan is terminated.

"**146.3.6.** The appropriation of the surplus assets of a pension plan to the payment of employer contributions must cease

(1) in the case of a pension plan referred to in section 146.3.4, at the date of any actuarial valuation showing that there are no surplus assets determined on a funding basis, or that assets determined on a solvency basis no longer exceed liabilities increased by the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128; and

(2) in the case of a pension plan referred to in section 146.3.5, as soon as the condition set out in paragraph 1 of that section is no longer met."

14. The heading of Division II of Chapter X.1 of the Act is replaced by the following heading:

"CONFIRMATION OF CERTAIN EMPLOYER'S RIGHTS REGARDING THE APPROPRIATION OF SURPLUS ASSETS".

15. Section 146.4 of the Act is amended

(1) by replacing the first sentence by "The employer's right to appropriate all or part of the surplus assets of a pension plan to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions may be confirmed by an amendment made to the plan in accordance with section 146.5.";

(2) by adding the following paragraphs at the end:

"If an amendment referred to in the first paragraph is related to the appropriation of a plan's surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan, it may apply only to a pension plan effective on 31 December 2009 or to a pension plan resulting from the division after that date of a pension plan that was effective on that date.

In addition, if the amendment is related to the appropriation of a plan's surplus assets to the payment of employer contributions, it may apply only to a pension plan effective on 31 December 2000 or to a pension plan resulting from the division after that date of a pension plan that was effective on that date."

16. Section 146.5 of the Act is amended

(1) by replacing "employer contributions" in the second line of the first paragraph by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions";

(2) by inserting "written" after "give effect to a" in the third line of the first paragraph.

17. Section 146.6 of the Act is amended by replacing "employer contributions" at the end of subparagraph 1 of the first paragraph by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions".

18. Section 146.7 of the Act is amended by replacing "employer contributions" in the third and fourth lines by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions".

19. Section 146.9 of the Act is amended by replacing "employer contributions" in the second line of the second paragraph by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions".

20. The Act is amended by inserting the following sections after section 151:

"**151.1.** The pension committee is presumed to have acted with prudence where it acted in good faith on the basis of an expert's opinion.

"**151.2.** The pension committee may adopt internal by-laws establishing its rules of operation and governance. The committee ensures that they are complied with and reviews them regularly.

The internal by-laws determine, in particular,

(1) the duties and obligations of the committee members;

(2) the rules of ethics to which those persons are subject;

(3) the rules governing the appointment of the chair, vice-chair and secretary;

(4) the procedure for meetings and the frequency of meetings;

(5) the measures to be taken to provide professional development to committee members;

(6) the measures to be taken to ensure risk management;

(7) internal controls;

(8) the books and registers to be kept;

(9) the rules to be followed when selecting, remunerating, supervising or evaluating delegatees, representatives or service providers; and

(10) the standards that apply to the services rendered by the committee, namely the standards on communicating with plan members and beneficiaries.

In the event of a discrepancy between the text of the pension plan and the text of the internal by-laws as regards the operation and governance of the committee, the latter prevails. However, in the case of the following subjects, the internal by-laws prevail only if the text of the pension plan expressly so provides:

(1) the rules governing the appointment of the chair, vice-chair and secretary of the pension committee as well as their duties and obligations;

(2) quorum and the granting of a casting vote at committee meetings; and

(3) the proportion of committee members who must participate in a decision in order for it to be valid.

"**151.3.** The secretary of the pension committee or any other person appointed by the committee provides the committee members with the documents and information needed to administer the pension plan.

Committee members have access to all information on the plan and may obtain a copy of any document. However, they may not have access to personal information unless it is required in the performance of their duties."

21. Section 153 of the Act is amended by adding the following sentence: "The same applies to service providers and representatives who exercise a discretionary power belonging to the committee."

22. Section 154 of the Act is amended by adding the following paragraph:

"Service providers and representatives who exercise a discretionary power belonging to the pension committee are considered to be delegatees."

23. The Act is amended by inserting the following sections after section 154:

"**154.1.** The pension committee selects and hires the delegatees, representatives and service providers.

"**154.2.** Delegatees, representatives and service providers must submit reports on their work to the pension committee.

Delegatees, representatives and service providers must report to the pension committee in writing any situation noted in the normal course of their duties that might adversely affect the financial interests of the pension fund and that requires correction.

If the pension committee fails to take immediate corrective measures, the delegatee, representative or service provider must send a copy of the report to the Régie.

A person who, acting in good faith, sends a report to the committee or the Régie under the second or third paragraph may not be held liable.

"**154.3.** Delegatees, representatives and service providers must provide the pension committee with the documents and information they receive from government authorities and that call into question the conformity of the plan or its administration with this Act.

"**154.4.** Delegatees, representatives and service providers may not exclude or limit their liability. Any clause to that effect is null.

Any clause to that effect in a contract terminated or in effect on 13 December 2006 is null if it is abusive.

The abusive nature of such a clause is assessed, with the necessary modifications, with reference to the articles of the Civil Code on consumer contracts and contracts of adhesion."

24. Section 161 of the Act is amended by replacing "containing the information prescribed by regulation and accompanied with the prescribed attestations, certificates and documents" at the end of the first paragraph by "drawn up on the form it provides and accompanied by the attestations and documents prescribed by regulation".

25. Section 161.1 of the Act is repealed.

26. Section 162 of the Act is amended by adding the following sentence: "The cost of the professional development of committee members is an administration cost."

27. The Act is amended by inserting the following section after section 162:

"**162.1.** The pension committee compensates members who sustain a loss in the performance of their duties and who have committed no fault.

If a member has committed a fault other than a deliberate or gross fault and is covered by liability insurance, the committee may compensate up to the amount of the deductible. Before making a decision, the committee must take the adverse effect of the fault on the financial interests of the pension assets and other circumstances into consideration."

28. Section 170 of the Act is amended by adding the following paragraph at the end:

"In the event of a discrepancy between the internal by-laws and the investment policy as regards any matter mentioned in this section, the latter prevails."

29. Section 172 of the Act is amended by inserting the following paragraph after the first paragraph:

"For the purposes of the first paragraph, the letter of credit provided by an employer under section 42.1 is considered to be a security in which the assets of the pension plan are invested and whose book value is equal to the amount of the letter of credit."

30. Section 180 of the Act is amended by replacing "within their powers and on the recommendation of persons whose profession gives credence to their opinion" at the end of the third paragraph by "in good faith on the basis of an expert's opinion".

31. Section 195 of the Act is amended

(1) by replacing "subdivision 1 of Division II" in the second line of the second paragraph by "Division III";

(2) by replacing "an initial or improvement unfunded actuarial liability" in the fourth and fifth lines of that paragraph by "a funding deficiency";

(3) by replacing the first sentence of the fourth paragraph by the following sentence: "Furthermore, the Régie may not authorize such a division except where the plan into which a portion of the assets to be divided is to be transferred includes provisions which, in respect of the allocation of any surplus assets in case of termination and the employer's right to appropriate all or part of the surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions but, in the latter case, only if the plan from which the assets are to be transferred is a plan to which subparagraph 16.1 or 17 of the second paragraph of section 14 applies or which was amended in that respect under section 146.5, are identical as to their effects to the provisions of the plan from which such assets are to be transferred."

32. Section 196 of the Act is amended

(1) by inserting "16.1 or" after "subparagraph" in the second line of the fourth paragraph;

(2) by replacing "employer contributions" in the fourth and fifth lines of the fourth paragraph by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions";

(3) by replacing "employer contributions" in the third line of the fifth paragraph by "the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions".

33. Section 217 of the Act is amended by replacing the second sentence by the following sentence: "The rate of interest must be the rate mentioned in section 44 or 45 and which is applicable to the contributions paid under the plan if the amount due is due

(1) under a defined contribution plan;

(2) under provisions of the plan which relate to additional voluntary contributions;

(3) under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan;

(4) as member contributions that exceed the limits set under section 60; or

(5) as amounts credited to the plan following a transfer, even a transfer other than a transfer under Chapter VII."

34. Section 218 of the Act is replaced by the following section:

"**218.** Where an employer withdraws from a multi-employer pension plan or a pension plan is terminated, the amounts to which the members and beneficiaries affected are entitled shall be paid out in the following order:

(1) amounts corresponding to the following values, concurrently:

(*a*) the value of the additional voluntary contributions paid into the pension fund or to the insurer;

(*b*) the value of the member or employer contributions paid into the pension fund under provisions which, in a defined benefit plan, are identical to those of a defined contribution plan; and

(*c*) the value of amounts received by the pension plan following a transfer, even a transfer other than a transfer under Chapter VII;

(2) the value of other benefits, excluding those referred to in subparagraph 4, accrued under the plan and reduced under section 216;

(3) the value of any benefit reduction under section 216; and

(4) the value of benefits payable to members under pension plan terms granting them compensation for cessation of continuous employment due to technological or economic changes in the employer's enterprise or to the division, merger, alienation or closing down of the enterprise.

If the assets are insufficient for the full satisfaction of the rights that are collocated in the same rank, payment shall be made proportionately to the value of the benefits concerned.

The benefits referred to in the first and second paragraphs are the benefits accrued under the plan at the date of termination. The value of those benefits must be established at that date, and is increased by the interest calculated in accordance with section 217."

35. Section 230.7 of the Act is amended by replacing "second" in the sixth line of the first paragraph by "third".

36. Section 237 of the Act is amended by replacing the third paragraph by the following paragraphs:

"If no pension of the type to which the member is entitled under the pension plan is available on the market, the pension committee may, in order to have an insurer guarantee the pension, replace the characteristics of the pension that

make it unavailable on the market by similar characteristics that do not entail such a result.

The pension thus modified must, on the date payment begins, be of a value equal to that of the member's vested pension; however, if equal value cannot be attained because of the limits set under the Taxation Act, an amount equal to the difference between the value of the pension to which the member is entitled and the value of the modified pension must be paid to the member in a lump sum. These values must be established on the basis of the actuarial assumptions referred to in section 61."

37. The heading of Chapter XIV of the Act is replaced by the following heading:

"PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC".

38. Sections 241 and 242 of the Act are repealed.

39. Section 243 of the Act is replaced by the following section:

"**243.** A person concerned may contest a decision or order of the Régie before the Administrative Tribunal of Québec within 30 days of notification of the decision or order."

40. Section 244 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

"(2.1) specify the conditions under which an employer may provide the pension committee with a letter of credit, as well as the form, amount and terms of such a letter;";

(2) by inserting the following subparagraph after subparagraph 8 of the first paragraph:

"(8.0.1) determine the manner in which the provision for adverse deviation referred to in subparagraph 2 of the first paragraph of section 128 is calculated;";

(3) by replacing subparagraph 8.3 of the first paragraph by the following subparagraph:

"(8.3) determine which attestations, certificates and documents must accompany the annual statement referred to in section 161;";

(4) by replacing subparagraph 14 of the first paragraph by the following subparagraph:

"(14) prescribe the fees payable for the financing of expenses incurred by the Régie for the administration of this Act and the regulations and for any formality prescribed by this Act or the regulations, including fees which may be imposed as a penalty for a delay in carrying out such a formality or failure to provide within the time allotted any information or document provided for in this Act or required by the Régie;".

41. Section 248 of the Act is amended by striking out subparagraph 4 of the first paragraph.

42. Section 250 of the Act is amended by striking out the second paragraph.

43. Section 253 of the Act is amended by replacing "publish periodically a bulletin" in the first line by "periodically post a bulletin on its website,".

44. Section 257 of the Act is amended

(1) by replacing "41 to 43" in the second line of paragraph 1 by "41, 42, 43";

(2) by striking out "140," in the second line of paragraph 1.

45. Section 258 of the Act is amended by replacing "135, 142 to 144" in the first line of paragraph 1 by "143 to 145".

46. Sections 306 to 306.6 of the Act are repealed.

47. Section 306.9 of the Act is amended

(1) by inserting "a pension plan that comes into force after 31 December 2009 pertaining to the employer's right to appropriate all or part of the surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan and those of" after "provisions of" in the second line of the first paragraph;

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

"No amendment to a pension plan resulting from the division of a pension plan that was amended under section 146.5 in relation to the employer's right to appropriate all or part of the surplus assets to the payment of the value of the additional obligations arising from any amendment to the plan or to the payment of employer contributions may pertain to the subject of that amendment unless all the requirements set out in the first paragraph of section 146.5 and in section 146.6 are satisfied."

TRANSITIONAL AND FINAL PROVISIONS

48. Sections 118 to 142 of the Supplemental Pension Plans Act, enacted by section 11 of this Act, apply to actuarial valuations dated after 14 December 2009.

49. This section applies only for the purposes of the first actuarial valuation of a pension plan dated after 14 December 2009.

The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to a technical actuarial deficiency referred to in paragraph 1 of section 130 of the Supplemental Pension Plans Act, enacted by section 11 of this Act:

(1) the amortization amounts referred to in subparagraphs 2 and 3 of the second paragraph of section 137 of the Supplemental Pension Plans Act as they read before 1 January 2010, excluding those relating to an improvement unfunded actuarial liability, that were taken into account in the last complete actuarial valuation dated prior to 15 December 2009;

(2) the amortization amounts determined in the valuation referred to in subparagraph 1 for the purposes of section 140 of that Act as it read before 1 January 2010.

The amortization amounts, among the following, that remain to be paid at the date of the valuation are considered to be amortization payments relating to an improvement unfunded actuarial liability within the meaning of paragraph 2 of section 130 of the Supplemental Pension Plans Act, enacted by section 11 of this Act:

(1) the amortization amounts referred to in subparagraphs 1 and 2 of the second paragraph of section 137 of the Supplemental Pension Plans Act as they read before 1 January 2010, excluding those relating to a technical actuarial deficiency, that were taken into account in the last complete actuarial valuation dated prior to 15 December 2009;

(2) the amortization amounts related to an unfunded liability referred to in the third paragraph of section 130 of the Supplemental Pension Plans Act as it read before 1 January 2010, and determined, if applicable, in an actuarial valuation of the plan carried out in accordance with that section at a date subsequent to the valuation referred to in subparagraph 1; the amounts referred to in this subparagraph need not be taken into account if an actuary certifies in the report on the actuarial valuation referred to in the first paragraph that none of those amounts were required to ensure the solvency of the plan at the date they were determined.

If, at the date of the actuarial valuation referred to in the first paragraph, the value of the amortization payments relating to the technical actuarial deficiency and to the improvement unfunded actuarial liability referred to in the second and third paragraphs exceeds the amount to be funded to ensure the solvency of the plan at that date, the excess thus determined may serve to reduce the amortization payments remaining to be paid in connection with the technical actuarial deficiency and, if that deficiency is eliminated, with the improvement unfunded actuarial liability. If the excess is insufficient to eliminate the deficiency or the liability, the reduction is applied proportionately to each

amortization payment remaining to be paid. In addition, if there is more than one deficiency or liability of the same nature, the reduction is applied beginning with the earliest and ending with the most recent.

50. Sections 141 and 142 of the Supplemental Pension Plans Act, as they read before 1 January 2010, are replaced by the following sections:

"**141.** The degree of solvency of a pension plan is the proportion, expressed as a percentage, of the value of the assets of the plan over the value of its liabilities, both values having first been reduced by an amount representing the sum of the following values:

(1) the value of any additional voluntary contributions paid into the pension fund, with accrued interest;

(2) the value of the contributions paid into the pension fund under provisions that, in a defined benefit plan, are identical to those of a defined contribution plan, with accrued interest; and

(3) the value of amounts received by the pension plan following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

"**142.** The value of the benefits to which a member or a beneficiary becomes entitled under a pension plan and that corresponds to the following amounts must be paid in full:

(1) additional voluntary contributions credited to the member's account, with accrued interest;

(2) member or employer contributions paid in respect of a member under terms in a defined benefit plan that are identical to those of a defined contribution plan, with accrued interest; and

(3) amounts credited to a member's account following a transfer, even a transfer other than a transfer under Chapter VII, with accrued interest.

The benefit provided for in section 69.1 and the periodic amounts payable as pension benefits must also be paid in full.

The value of any other benefit may be paid out of the pension fund only in proportion to the degree of solvency of the plan, up to 100%, as established in the last actuarial valuation report transmitted to the Régie."

51. Section 27 applies even to matters pending before a court or an arbitrator on 14 June 2006.

52. Sections 37 to 39 apply to the decisions and orders rendered by the Régie from 13 December 2006.

53. In addition to the transitional provisions provided for by this Act, the Government may, by regulation made before 1 July 2010, make any other transitional provision concerning the administration of the Supplemental Pension Plans Act as amended by this Act or the administration of the Act respecting the funding of certain pension plans (2005, chapter 25).

Such a regulation is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1). Despite section 17 of that Act, it comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date specified in the regulation. However, once it is published and if it so provides, it may apply from any date not prior to 13 December 2006.

54. This Act comes into force on 1 January 2010; however,

(1) sections 27 and 51 have effect from 14 June 2006;

(2) section 20, except to the extent that it enacts section 151.2 of the Supplemental Pension Plans Act, sections 21 to 26, section 30, sections 33 to 39, paragraphs 3 and 4 of section 40 and sections 42, 43, 50, 52 and 53 come into force on 13 December 2006;

(3) section 20, insofar as it enacts section 151.2 of the Supplemental Pension Plans Act, and section 28 come into force on 13 December 2007.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 33
(2006, chapter 43)

An Act to amend the Act respecting health services and social services and other legislative provisions

Introduced 15 June 2006
Passage in principle 8 November 2006
Passage 13 December 2006
Assented to 13 December 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

This bill amends the Act respecting health services and social services in order to improve the accessibility of specialized and superspecialized medical services.

To that end, the bill provides for the implementation in hospital centres of a central mechanism for managing access to those services. The mechanism will include rules to be followed to enter a user on an access list, as well as the manner in which the estimated date on which services will be received is to be determined. The person responsible for the mechanism is to ensure that it operates properly, and the executive director of the institution is to report on its operation to the board of directors.

The Minister is authorized to issue directives in order to implement alternative access mechanisms for a specialized medical service if the Minister considers that the waiting time for that service is unreasonable. In such a case, the director of professional services is to make an alternative service proposal to the user concerned so that he or she may receive the service within a time the Minister considers reasonable.

The bill also creates a legal framework for carrying on medical activities in specialized medical centres. The operator of such a centre may provide in the centre all medical services necessary for the surgery specified by law, as well as any other specialized medical treatment that the Minister may determine by regulation. The bill provides for supervision of the quality and safety of the medical services provided in a specialized medical centre, in particular by requiring the operator of such a centre to hold a permit, to obtain accreditation and to appoint a medical director.

The bill also provides that, under certain conditions, an institution operating a hospital centre may be authorized to become associated with a medical clinic for the provision of specialized medical services to users of the institution.

The bill amends the Health Insurance Act to enable a person to enter into an insurance contract that covers the cost of the insured services required for the surgery specified by law or for other treatment determined by a regulation of the Government made after examination by the appropriate committee of the National Assembly.

The insurance contract must cover the cost of all services related to the surgery or treatment, which must be provided in a specialized medical centre where only physicians not participating in the health insurance plan practise. The Health Insurance Act is further amended to grant the Minister the power, in certain circumstances, to suspend the possibility for a physician to cease to participate in the health insurance plan.

The bill also amends the Hospital Insurance Act to maintain the prohibition against entering into an insurance contract that covers the cost of an insured hospital service.

Lastly, the bill contains consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

– Hospital Insurance Act (R.S.Q., chapter A-28);

– Health Insurance Act (R.S.Q., chapter A-29);

– Nurses Act (R.S.Q., chapter I-8);

– Medical Act (R.S.Q., chapter M-9);

– Act respecting health services and social services (R.S.Q., chapter S-4.2).

Bill 33

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 19 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), amended by section 20 of chapter 28 of the statutes of 2006, is again amended by replacing "of section 107.1, in the third paragraph of section 108, in sections 204.1 and" in the second and third lines of paragraph 7 by "of sections 78.1 and 107.1, in the fifth paragraph of section 108, in the third paragraph of section 185.1, in section 204.1, in the fourth paragraph of section 349.3, in sections 520.3.0.1 and".

2. The Act is amended by inserting the following section after section 78:

"**78.1.** The Government may claim from the operator of a specialized medical centre described in section 333.3 the cost of a preoperative, postoperative, rehabilitation or home care support service that must, under section 333.6, be received in the centre or from a private resource, if the service is provided by a public institution or a private institution under agreement prior to or following surgery or specialized medical treatment provided in that specialized medical centre.

At the Minister's request and after informing the user, an institution must communicate to the Minister any information contained in a user's record that is necessary for the purposes of proceedings under the first paragraph."

3. Section 91 of the Act, amended by section 31 of chapter 8 of the statutes of 2006, is again amended by adding the following paragraph:

"In the case of a hospital centre, the Minister may establish criteria allowing that centre to be designated as a regional or supraregional affiliated university centre."

4. Section 95 of the Act is amended

(1) by inserting "or a specialized medical centre described in section 333.1" after "facility" in the first line of the first paragraph;

(2) by replacing "facility" in the first line of the second paragraph by "consulting room or office";

(3) by inserting "directly or indirectly" after "without" in the fourth line of the second paragraph.

5. Section 108 of the Act is amended

(1) by inserting the following paragraphs after the first paragraph:

"However, prior authorization from the Minister is required to enter into an agreement with the operator of a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 or with a non-participating professional within the meaning of the Health Insurance Act (chapter A-29), or if the service covered by the agreement is an insured service that is considered non-insured under that Act.

Despite the first paragraph, an institution operating a hospital centre may not significantly modify the organization of the specialized medical services it provides in its facilities by entrusting them to a third party unless it enters into an agreement under section 349.3.";

(2) by replacing "The agreement" in the last paragraph by "An agreement under this section".

6. Section 108.1 of the Act is amended by replacing the second paragraph by the following paragraph:

"The second, sixth, seventh and eighth paragraphs of section 108 apply to such an agreement."

7. The Act is amended by inserting the following section after section 185:

"**185.1.** The organization plan of a hospital centre must also provide for a central mechanism for managing access to the specialized and superspecialized services of the centre's clinical departments. The mechanism must include specific rules to be followed to enter a user on the access list for the specialized or superspecialized services of a department, the manner in which the estimated date when services will be received is to be determined and communicated to the user and, should the services not be provided on that date, the alternative arrangements to be offered to the user, such as setting a new date to be agreed to by the user, seeing another physician in the department concerned or having recourse to another institution. The mechanism is implemented after consultation with the heads of the clinical departments concerned and the institution's council of physicians, dentists and pharmacists.

To ensure uniform management of access lists under the first paragraph, the Minister may determine the information to be collected and used by the institutions for the day-to-day management of their access lists. If the Minister so requires, this information must be communicated to the provider chosen under section 520.3.0.1, in the manner and within the time specified by the

Minister, so that the provider may retain and manage the information for each institution.

The organization plan must also identify the person responsible for the central access management mechanism. Under the authority of the director of professional services, that person shall see to it that each clinical department head concerned ensures the proper operation of the mechanism in the department. In addition, that person shall offer, to users unable to receive the services on the date communicated to them, the alternative arrangements specified in the mechanism. Finally, that person shall make any adjustments required by the Minister's directives under section 431.2.

The executive director shall report to the board of directors at least once every three months on the effectiveness of the central access management mechanism, in particular as regards waiting times calculated from the time users are entered on the access list referred to in the first paragraph to the time they receive the specialized or superspecialized services they require."

8. Section 189 of the Act is amended by inserting the following subparagraph after subparagraph 3 of the first paragraph:

"(3.1) ensuring that the rules and procedures of the central access management mechanism provided for in section 185.1 are observed in his department;".

9. Section 257 of the Act is amended by adding the following sentence at the end of the second paragraph: "During that period, the physician may not practise in a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3."

10. The Act is amended by inserting the following section after section 263.1:

"**263.2.** No public institution or private institution under agreement may, without having obtained prior authorization from the Minister, lease its facilities to a non-participating professional within the meaning of the Health Insurance Act (chapter A-29) or otherwise allow such a professional to use its facilities to provide medical services."

11. The Act is amended by inserting the following Title after section 333:

"**TITLE I.1**

"SPECIALIZED MEDICAL CENTRES

"**333.1.** In this Act, "specialized medical centre" means a place, outside a facility maintained by an institution, that is equipped for the provision by one or more physicians of medical services necessary for a hip or knee

replacement, a cataract extraction and intraocular lens implantation or any other specialized medical treatment determined by regulation of the Minister.

The regulation may specify that a type of surgery or other specialized medical treatment referred to in the first paragraph may be provided only in a centre described in section 333.3 and, in the case of a centre described in subparagraph 1 of the first paragraph of that section, only under an agreement under section 349.3.

The factors the Minister must take into account for the purpose of determining a specialized medical treatment include the risks generally associated with the treatment, the necessary personnel and equipment, and, if applicable, the type of anaesthesia normally used for and the length of stay usually required after the treatment.

Before making a regulation under the first paragraph, the Minister must consult the Collège des médecins du Québec.

"**333.2.** Only a physician who is a member of the Collège des médecins du Québec may operate a specialized medical centre. If the operator of the centre is a legal person or a partnership, more than 50% of the voting rights attached to the shares of the legal person or interests in the partnership must be held by physicians who are members of that professional order.

The affairs of a specialized medical centre operated by a legal person or a partnership must be administered by a board of directors or internal management board that includes a majority of physicians who are members of the Collège des médecins du Québec; such physicians must at all times form the majority of the quorum of the board of directors or internal management board.

A producer or distributor of a good or service related to health and social services who is not a physician described in the first paragraph may not hold, directly or indirectly, any shares of the legal person or any interest in the partnership operating a specialized medical centre if such a good or such a service may be required by the centre's clientele before, while or after a medical service is provided.

"**333.3.** A specialized medical centre may be operated only in the form of

(1) a specialized medical centre where only physicians subject to the application of an agreement under section 19 of the Health Insurance Act (chapter A-29) practise; or

(2) a specialized medical centre where only non-participating physicians within the meaning of that Act practise.

Depending on the form in which a specialized medical centre operates, its operator must ensure that the requirement of subparagraph 1 or 2 of the first paragraph is met.

"**333.4.** Within three years after the permit required under section 437 is issued, the operator of a specialized medical centre must have the services provided in the centre accredited by an accreditation body recognized by the Minister. The accreditation must subsequently be maintained at all times.

"**333.5.** The operator of a specialized medical centre must appoint a medical director. The medical director must be a member of the Collège des médecins du Québec.

The medical director is responsible for

(1) organizing the medical services provided in the centre;

(2) ensuring the quality and safety of those services;

(3) seeing that standard medical procedures for all surgery or other specialized medical treatment provided in the centre are established and complied with; and

(4) taking any other measure necessary for the proper operation of the centre.

"**333.6.** The operator of a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 must ensure that every person who has surgery or receives some other specialized medical treatment described in section 333.1 in the centre also receives in the centre all the preoperative and postoperative services normally associated with the surgery or treatment. The operator must also ensure that such a person receives all the rehabilitation services and home care support services needed for complete recovery, either in the specialized medical centre or from another private resource.

The obligations under the first paragraph also apply to the operator of a specialized medical centre described in subparagraph 1 of the first paragraph of section 333.3 with respect to specialized medical treatment described in section 333.1 and provided in the centre that is non-insured or considered non-insured under the Health Insurance Act (chapter A-29).

However, if surgery or other specialized medical treatment is provided under an agreement under the second paragraph of section 108 or under an alternative access mechanism implemented under section 431.2, the Minister may allow the obligations under this section not to apply.

"**333.7.** Only a physician who provides medical services necessary for surgery or any other specialized medical treatment described in section 333.1, or medical services described in section 333.6 that are associated with the surgery or treatment, may practise in a specialized medical centre.

The operator of a specialized medical centre must make sure the first paragraph is complied with, in accordance with the terms of the permit issued to the operator.

Nothing in this section prevents a physician who practises in a specialized medical centre from also carrying on in the centre the professional activities permitted in a private health facility.

"**333.8.** The Minister may request an advisory opinion from the Bureau of a professional order on the quality and safety of the professional services provided in a specialized medical centre by the members of the order.

The Minister may also require an advisory opinion from the Bureau of a professional order on the standards to be followed to improve the quality and safety of the professional services provided in such a centre by the members of the order."

12. The Act is amended by inserting the following subdivision after section 349:

"§3.1. — *Functions related to the services offered by associated medical clinics*

"**349.1.** With a view to improving the accessibility of specialized medical services and after consultation with the regional panel of heads of departments of specialized medicine, an agency may propose to the Minister that an institution in its area of jurisdiction that operates a hospital centre and consents to it be authorized to become associated with one of the following places for the provision, at that place, of certain specialized medical services to users of the institution:

(1) a private health facility;

(2) a laboratory governed by the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (chapter L-0.2); or

(3) a specialized medical centre described in subparagraph 1 of the first paragraph of section 333.3.

For the purposes of this subdivision, a place mentioned in the first paragraph is to be called an "associated medical clinic".

"**349.2.** Before accepting an agency's proposal, the Minister must be convinced that it will improve the accessibility of the specialized medical services concerned and will not affect the capacity of the public health and social services network, in particular as regards staffing requirements for the operation of that network. The Minister must also consider the increase in efficiency and effectiveness that will result from the proposal's implementation.

The Minister's decision to accept the agency's proposal must specify the procedure to be followed by the agency to determine which associated medical clinic offering specialized medical services has the best quality/cost ratio.

The second paragraph applies despite the Act respecting contracting by public bodies (2006, chapter 29).

"**349.3.** After completion of the procedure described in the second paragraph of section 349.2 and after obtaining the authorization of the Minister, the agency and any institution concerned must enter into an agreement with the operator of the associated medical clinic selected. The agreement must specify

(1) the nature of the specialized medical services to be provided under the agreement;

(2) the minimum and maximum number of specialized medical services that may be provided each year in the clinic, and how those services are to be distributed on a quarterly basis to ensure their continued availability;

(3) the unit amount to be paid by the agency to cover the costs related to each specialized medical service provided in the clinic, according to the nature of the service, and the terms of payment;

(4) the monitoring mechanisms that will allow the institution, or one of its boards, councils or committees determined in the agreement, to ensure the quality and safety of the medical services provided in the clinic;

(5) the fees, determined in accordance with section 349.6, that may be charged to users who receive a specialized medical service in the clinic, and the manner in which the user is to be informed of how to pay the fees;

(6) the bookkeeping and information system requirements with which the clinic operator is to comply, and the nature, form, content and frequency of the reports and information the operator is required to send to the other signatories and to the Minister; and

(7) a mechanism to resolve disputes regarding the interpretation or application of the agreement.

The services covered by the agreement are subject to the complaint examination procedure of the institution that refers users to the associated medical clinic or to the complaint examination procedure of the agency, as the case may be, and are subject to the Act respecting the Health and Social Services Ombudsman (chapter P-31.1).

The agreement has a maximum five-year term. The parties may not terminate the agreement before its expiry, or amend or renew it, without the Minister's authorization. To renew the agreement, a draft renewal agreement must be sent to the Minister at least six months before the agreement expires.

An institution that is party to the agreement may communicate information contained in a user's record to a physician providing specialized medical services specified in the agreement in the clinic if that communication is necessary for the provision of those services. Despite any inconsistent provision, once the specialized medical services have been provided, the physician may communicate to the institution any information contained in the patient's record that is necessary to ensure continuity of service by the institution.

"**349.4.** All physicians practising in an associated medical clinic must be subject to the application of an agreement under section 19 of the Health Insurance Act (chapter A-29).

"**349.5.** Despite section 22.0.0.1 of the Health Insurance Act (chapter A-29), no amount may be charged to a user who receives a specialized medical service in an associated medical clinic providing services under an agreement other than the fees that the institution that is party to the agreement would normally have charged for the provision of those services, provided, however, that the fees are specified in the agreement.

"**349.6.** To provide specialized medical services specified in an agreement in an associated medical clinic, a physician must have been appointed beforehand to practise in a hospital centre operated by an institution with which the clinic is associated, fully meet the requirements of the hospital centre according to the assessment of the director of professional services, and fulfil at all times the obligations attached to the privileges granted him.

The operator of an associated medical clinic must not allow a physician who fails to comply with this section to provide specialized medical services specified in the agreement in the clinic.

"**349.7.** On signing an agreement, the operator of an associated medical clinic must give the signatory institution a list of the physicians who are members of the institution's council of physicians, dentists and pharmacists and who are to provide specialized medical services in the clinic. The operator of the clinic must keep the list updated and inform the executive director of the institution without delay of any change to it.

The executive director shall ensure that the list is given to all members of the board of directors, and inform them of any change to it.

"**349.8.** Despite the third paragraph of section 349.3, an agency may terminate an agreement if it has reasonable grounds to believe that the quality or safety of the specialized medical services provided in the associated medical clinic is not satisfactory, or that the operator of the associated medical clinic or a physician who practises in the clinic has failed to comply with any of sections 349.4 to 349.7.

The Minister may request the agency to terminate an agreement if the Minister has reasonable grounds to believe that a situation described in the first paragraph exists.

Before terminating an agreement, the agency must give the institution and the operator of the associated medical clinic an opportunity to submit observations in writing.

"**349.9.** Despite the provisions of the Health Insurance Act (chapter A-29), an agreement under section 349.3 may cover insured services that are not considered insured services when provided outside a facility maintained by an institution if the agency considers that access difficulties exist with respect to those services in the institutions in its area of jurisdiction.

Furthermore, services provided by a physician under an agreement under section 349.3 are deemed, for the sole purposes of the physician's remuneration, to be provided in a facility of the institution that referred the user to the associated medical clinic."

13. Section 352 of the Act is amended by inserting ", specialized medical centres" after "institutions" in the sixth line.

14. Section 377 of the Act is amended by inserting " a specialized medical centre or" after "those who practise in" in the seventh line of the first paragraph.

15. Section 417.3 of the Act is amended by adding the following paragraph at the end:

"If there is a faculty of medicine in an agency's area of jurisdiction, the supervisory committee must also include a member appointed by the dean of the faculty of medicine as well as a family medicine resident acting as an observer."

16. Section 417.11 of the Act is amended by inserting "specialized medical centres and" after "provided in" in the fourth line of subparagraph 2 of the first paragraph.

17. The Act is amended by inserting the following section after section 431.1:

"**431.2.** If, after holding the appropriate consultations, the Minister considers that in light of generally recognized accessibility standards, the waiting time for a specialized medical service in Québec or in a particular region of Québec is unreasonable or about to become so, the Minister may, after obtaining the Government's consent, take any measure necessary to implement alternative access mechanisms, in accordance with the Minister's directives, so that the service concerned may be made otherwise accessible within a time the Minister considers reasonable.

The Minister may require that the institutions concerned or, if applicable, the provider chosen under section 520.3.0.1, supply, in the manner and within the time specified, the information collected under section 185.1 that is necessary for the Minister to assess whether the waiting time for a specialized medical service is unreasonable or about to become so. To that end, the Minister may also require that the provider produce statistics per institution or region or for all of Québec based on the information and supply them to the Minister. In no case may the information permit a user of an institution to be identified.

The Minister's directives may require every institution involved in the provision of the service concerned to adjust its central access management mechanism accordingly, and require agencies, in cooperation with the integrated university health networks, to review service corridors in order to otherwise facilitate access to the service concerned.

The person responsible for a hospital centre's central access management mechanism must notify the director of professional services on noting, after consulting the head of the clinical department concerned, that a user will not be able to receive a specialized medical service from the institution within a time the Minister considers reasonable. In that case, the director of professional services shall without delay make an alternative service proposal to the user within the framework of the medical care access system defined under subparagraph 3 of the first paragraph of section 417.11 and the service corridors established by the agency, so that the user may receive the required specialized medical service within a time the Minister considers reasonable.

Despite any inconsistent provision, the Minister may assume the cost of any service received in accordance with the Minister's directives in a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 or outside Québec."

18. Section 437 of the Act is amended

(1) by inserting ", or operate a specialized medical centre," after "rehabilitation centre" in the third line of the first paragraph;

(2) by inserting "or to operate a specialized medical centre" after "paragraph" in the second line of the second paragraph.

19. Section 438 of the Act is amended by replacing "or "reception centre"" in the fourth and fifth lines of the first paragraph by ", "reception centre" or "specialized medical centre" ".

20. Section 440 of the Act is amended

(1) by inserting "issued to an institution" after "permit" in the first line;

(2) by adding the following paragraph:

"The permit issued to the operator of a specialized medical centre shall state the form in which the centre is operated, the specialized medical treatments that may be provided in the centre, the address of the centre, and, if applicable, the number of beds available in the centre."

21. Section 441 of the Act is amended by replacing "in accordance with the regulations" in the second line of the first paragraph by "on the form prescribed by the Minister".

22. Section 442 of the Act is amended

(1) by replacing "A permit" by "The permit issued to an institution";

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

"The permit issued to the operator of a specialized medical centre is valid for a period of five years, and may be renewed for the same period."

23. The heading of Division III of Chapter II of Title II of Part III of the Act is amended by replacing "AND CANCELLATION" by ", CANCELLATION AND REFUSAL TO RENEW".

24. Section 446 of the Act is amended by replacing "of any holder who" in the first line by "issued to an institution if the permit holder".

25. The Act is amended by inserting the following section after section 446:

"**446.1.** The Minister may suspend, revoke or refuse to renew the permit issued to the operator of a specialized medical centre if

(1) the operator is in the situation described in paragraph 1, 3 or 4 of section 446;

(2) the operator has failed to have the services provided in the centre accredited within three years from the issue of the permit, or has subsequently failed to maintain that accreditation;

(3) in the opinion of the Bureau of a professional order, the quality or safety of the professional services provided in the centre by members of the order is not adequate; or

(4) the operator or medical director of the centre has failed to fulfil the obligations imposed by this Act."

26. Section 447 of the Act is amended by replacing the first paragraph by the following paragraph:

"**447.** If a permit holder operator is in the situation described in paragraph 2 of section 446 or in paragraph 2, 3 or 4 of section 446.1, the

Minister, instead of suspending, revoking or refusing to renew the permit, may order the holder to take the necessary remedial measures within the time set by the Minister."

27. Section 449 of the Act is amended

(1) by replacing "or cancelling" in the first line of the first paragraph by ", cancelling or refusing to renew";

(2) by replacing "or cancels" in the first line of the second paragraph by ", cancels or refuses to renew".

28. Section 450 of the Act is amended by replacing "or cancelled" in the first line by ", cancelled or not renewed".

29. The heading of Division III.1 of Chapter II of Title II of Part III of the Act is amended by adding "OF CERTAIN INSTITUTIONS" at the end.

30. Section 489 of the Act is amended

(1) by replacing "or any facility maintained by an institution" in the second last line of the first paragraph by ", any facility maintained by an institution, or any specialized medical centre";

(2) by inserting "or centre" after "facility" in subparagraph 1 of the second paragraph.

31. Section 505 of the Act, amended by section 177 of chapter 22 of the statutes of 2006, is again amended

(1) by striking out "the form and tenor of the application for a permit," in paragraph 21 and by replacing "the applicant" wherever it appears in that paragraph by "a permit applicant";

(2) by inserting the following paragraph after paragraph 21:

"(21.1) prescribe the fees payable for the issue or renewal of a specialized medical centre permit;".

32. The Act is amended by inserting the following section after section 520.3:

"**520.3.0.1.** The Minister may, by agreement, retain the services of an agency, body or other person for the purpose of keeping and managing, for each of the institutions to which section 185.1 applies, the information they collect under that section, extracting the information to be supplied to the Minister under section 431.2, and processing and managing that data for statistical purposes so the Minister may assess whether the waiting time for a specialized medical service is unreasonable or about to become so. The

agreement may authorize the provider to communicate the statistics to the agencies.

The agreement must stipulate that the provider has the same obligations towards the Minister and the institutions concerned, with respect to the information from users' records that is communicated to the provider by the institutions, as those set out in the second, third and fourth paragraphs of section 27.1."

33. Section 520.3.8 of the Act is amended by inserting ", a specialized medical centre within the meaning of the first paragraph of section 333.1" after "Québec" in the second line of subparagraph 2 of the first paragraph.

34. Section 520.7 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by inserting the following subparagraph after subparagraph 1 of the first paragraph:

"(1.1) contained in records kept by a physician practising in a specialized medical centre situated in that area of jurisdiction or, exceptionally, in the area of jurisdiction of the agencies specified by the Minister;".

35. Section 520.9 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by inserting ", in a specialized medical centre" after "facility" in the third line of subparagraph 6 of the first paragraph.

36. Section 520.14 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by replacing "operates" in subparagraph 1 of the fourth paragraph by "practises in a specialized medical centre or in";

(2) by replacing "private health facility operated by a physician referred to in subparagraph 1" in the last two lines of subparagraph 5 of the fourth paragraph by "specialized medical centre or a private health facility, as the case may be, in which a physician referred to in subparagraph 1 practises";

(3) by replacing "private health facility operated by a physician referred to in subparagraph 1" in the sixth line of subparagraph 6 of the fourth paragraph by "specialized medical centre or a private health facility, as the case may be, in which a physician referred to in subparagraph 1 practises".

37. Section 520.20 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by replacing "or dentist who operates" in the first line of paragraph 1 by "who practises in a specialized medical centre, a physician or dentist who practises in";

(2) by replacing "private health facility operated by a health and social service provider referred to in paragraph 1 or paragraph 5" in the last two lines of paragraph 4 by "specialized medical centre or a private health facility, as the case may be, in which a health and social service provider referred to in paragraph 1 or paragraph 5 practises";

(3) by replacing "operates" in the first line of paragraph 5 by "practises in";

(4) by replacing "private health facility operated by a health and social service provider referred to in paragraph 1 or paragraph 5" in the sixth and seventh lines of paragraph 10 by "specialized medical centre or a private health facility, as the case may be, in which a health and social service provider referred to in paragraph 1 or paragraph 5 practises".

38. Section 531 of the Act is amended by inserting ", 444" after "438" in the second line.

39. The Act is amended by inserting the following sections after section 531.1:

"**531.2.** An operator of a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 that allows a physician to whom the prohibition under the second paragraph of section 257 applies to practise in the centre is guilty of an offence and is liable, for each day that the offence continues, to a fine of $150 to $450 in the case of a natural person and $750 to $2,250 in the case of a legal person.

"**531.3.** An operator of a specialized medical centre that contravenes the first or second paragraph of section 333.2, the second paragraph of section 333.3, the first paragraph of section 333.5 or the second paragraph of section 333.7 is guilty of an offence and is liable to a fine of $325 to $1,500 in the case of a natural person and $700 to $7,000 in the case of a legal person.

A producer or distributor of a good or service related to health and social services that contravenes the third paragraph of section 333.2 is guilty of an offence and liable to the penalty set out in the first paragraph."

HOSPITAL INSURANCE ACT

40. Section 10 of the Hospital Insurance Act (R.S.Q., chapter A-28) is amended

(1) by replacing "personal injury" in the third line of subsection 1 by "injury";

(2) by replacing "right of action resulting therefrom is prescribed by three years" at the end of subsection 6 by "resulting right of action is prescribed

three years after the date on which the State became aware of the fact giving rise to it".

41. Section 11 of the Act is replaced by the following section:

"**11.** No insurer may enter into or maintain an insurance contract that includes coverage for the cost of an insured service furnished to a resident.

No person may establish or maintain an employee benefit plan that includes coverage for the cost of an insured service furnished to a resident.

An insurance contract or employee benefit plan inconsistent with the first or the second paragraph, as the case may be, that also covers other goods and services remains valid as regards those other goods and services, and the consideration provided for the contract must be adjusted accordingly unless the beneficiary of the goods and services agrees to receive equivalent benefits in exchange.

Nothing in this section prevents an insurance contract or an employee benefit plan that covers the excess cost of insured services rendered outside Québec from being entered into or established.

"Insurer" means a legal person holding a licence issued by the Autorité des marchés financiers that authorizes it to transact insurance of persons in Québec.

"Employee benefit plan" means a funded or unfunded uninsured employee benefit plan that provides coverage which may otherwise be obtained under a contract of insurance of persons.

An insurer or a person administering an employee benefit plan that contravenes the first or second paragraph is guilty of an offence and is liable to a fine of $50,000 to $100,000 and, for a subsequent offence, to a fine of $100,000 to $200,000."

HEALTH INSURANCE ACT

42. Section 15 of the Health Insurance Act (R.S.Q., chapter A-29) is replaced by the following sections:

"**15.** An insurer or a person administering an employee benefit plan may enter into or maintain an insurance contract, or establish or maintain an employee benefit plan, as the case may be, that includes coverage for the cost of an insured service furnished to a resident or temporary resident of Québec, only if

(1) the insurance contract or employee benefit plan does not cover any insured service other than the insured services required for a total hip or knee replacement, a cataract extraction and intraocular lens implantation or any other specialized medical treatment determined under section 15.1, and those

required for the provision of the preoperative, postoperative, rehabilitation and home care support services described in section 333.6 of the Act respecting health services and social services (chapter S-4.2);

(2) the insurance contract or employee benefit plan includes coverage for the cost of all insured services and all preoperative, postoperative, rehabilitation and home care support services referred to in subparagraph 1, subject to any applicable deductible amount; and

(3) the coverage applies only to surgery performed or any other specialized medical treatment provided in a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 of the Act respecting health services and social services.

An insurance contract or employee benefit plan inconsistent with subparagraph 1 of the first paragraph that also covers other goods and services remains valid as regards those other goods and services, and the consideration provided for the contract or plan must be adjusted accordingly unless the beneficiary of the goods and services agrees to receive equivalent benefits in exchange.

Nothing in this section prevents an insurance contract or an employee benefit plan that covers the excess cost of insured services rendered outside Québec or the excess cost of any medication of which the Board assumes payment from being entered into or established. Nor does anything in this section prevent an insurance contract or an employee benefit plan that covers the contribution payable by an insured person under the Act respecting prescription drug insurance (chapter A-29.01) from being entered into or established.

"Insurer" means a legal person holding a licence issued by the Autorité des marchés financiers that authorizes it to transact insurance of persons in Québec.

"Employee benefit plan" means a funded or unfunded uninsured employee benefit plan that provides coverage which may otherwise be obtained under a contract of insurance of persons.

An insurer or a person administering an employee benefit plan that contravenes the first paragraph is guilty of an offence and is liable to a fine of $50,000 to $100,000 and, for a subsequent offence, to a fine of $100,000 to $200,000.

"**15.1.** The Government may determine, among the specialized medical treatments determined by the Minister under the first paragraph of section 333.1 of the Act respecting health services and social services (chapter S-4.2), the specialized medical treatments that may be covered by an insurance contract or an employee benefit plan in accordance with section 15.

The Government may make a regulation under the first paragraph only after it has been examined by the appropriate committee of the National Assembly."

43. Section 18 of the Act is amended by replacing "injury or illness" in the third and fourth lines of subsection 1 by "injury".

44. The Act is amended by inserting the following section after section 22:

"**22.0.0.1.** A physician subject to the application of an agreement or a physician who has withdrawn who practises in a private health facility, or a physician subject to the application of an agreement who practises in a specialized medical centre within the meaning of the Act respecting health services and social services (chapter S-4.2) must post in public view, in the waiting room of the facility or centre where the physician practises, the tariff of fees for services, supplies or accessory costs prescribed or provided for in an agreement that the physician may charge an insured person, in accordance with the ninth paragraph of section 22, and the tariff of fees for medical services rendered by the physician that are non-insured services or services not considered insured services by regulation. Physicians who share a common waiting room may post a single notice.

No amount other than a fee posted in accordance with the first paragraph may be charged, directly or indirectly, to an insured person for a medical service received in a private health facility or a specialized medical centre.

An insured person from whom payment is demanded must be given an itemized invoice stating the tariff of fees for any accessory services, supplies or costs and for each non-insured medical service and each medical service not considered insured.

The notice posted under the first paragraph and the invoice must mention the remedy provided for in the first paragraph of section 22.0.1.

For the purposes of this section or any other provision of this Act, a non-insured service or a service not considered insured is deemed to remain such even if it is required before, during or after the provision of an insured service. This also applies to the accessory services, supplies and costs mentioned in the first paragraph.

A physician subject to the application of an agreement or a physician who has withdrawn who contravenes the first, third or fourth paragraph is guilty of an offence and is liable to a fine of $500 to $1,000 and, for a subsequent offence, to a fine of $1,000 to $2,000.

A person who contravenes the second paragraph is guilty of an offence and is liable to a fine of $1,000 to $2,500 and, for a subsequent offence, to a fine of $2,000 to $5,000."

45. The Act is amended by inserting the following sections after section 30:

"**30.1.** If the Minister considers that the quality or adequate supply of medical services offered in Québec or in a particular region of Québec by

professionals subject to the application of an agreement would be affected by an increase in the number of non-participating professionals engaged in the same kind of activities, the Minister may make an order suspending the possibility for professionals subject to the application of an agreement to become non-participating professionals and engage in the same kind of activities in Québec or in a particular region of Québec.

The Minister's order shall state the duration of the suspension, the type of activities and the region concerned, and the date on which the suspension comes into force, which may not be more than 30 days earlier than the date of the order. The order shall be made public by the Minister immediately and must be published in the *Gazette officielle du Québec*.

The suspension period may not exceed two years. If the Minister considers it necessary, the Minister may extend the suspension period in the same manner, provided each extension does not exceed two years.

Any notice of non-participation that would take effect during the suspension period is null.

"**30.2.** A regulation under section 30 is not subject to sections 8 and 17 of the Regulations Act (chapter R-18.1). The same applies for a ministerial order under section 30.1."

NURSES ACT

46. Section 1 of the Nurses Act (R.S.Q., chapter I-8) is amended by inserting the following paragraph after paragraph *f*:

"(*f.*1) "specialized medical centre": a specialized medical centre within the meaning of section 333.1 of the Act respecting health services and social services (chapter S-4.2);".

47. Section 11 of the Act is amended

(1) by inserting the following subparagraph after subparagraph *a* of the first paragraph:

"(*a.*1) shall advise the Minister of Health and Social Services, on its own initiative or at the Minister's request, on the quality and safety of nursing care provided in a specialized medical centre and on the standards to be followed to improve the quality and safety of such care;";

(2) by replacing "in subparagraph *a*" in the first and fifth lines of the second paragraph by "in subparagraphs *a* and *a.*1";

(3) by inserting "or with respect to the quality and safety of nursing care provided in specialized medical centres" after "institutions" in the third line of the second paragraph.

MEDICAL ACT

48. Section 1 of the Medical Act (R.S.Q., chapter M-9) is amended by inserting the following paragraph after paragraph *f*:

"(*f*.1) "specialized medical centre": a specialized medical centre within the meaning of section 333.1 of the Act respecting health services and social services (chapter S-4.2);".

49. Section 15 of the Act is amended by inserting the following paragraph after paragraph *a*:

"(*a*.1) on its own initiative or at the Minister's request, advise the Minister of Health and Social Services on the quality and safety of specialized medical treatments provided in a specialized medical centre, and the standards to be followed to improve the quality and safety of the treatments;".

50. Section 16 of the Act is amended

(1) by inserting "or *a*.1" after "*a*" in the first line;

(2) by inserting "or the quality and safety of the medical treatments provided in specialized medical centres" after "institutions" in the third line.

FINAL PROVISIONS

51. Section 30 of the Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, chapter A-29, r. 1) is amended by inserting "to the Minister, as well as" after "of every notice" in the second line.

52. Section 2 of the Règlement sur la tenue des dossiers, des cabinets ou bureaux des médecins ainsi que des autres effets (2005, G.O. 2, 895, in French) is amended by adding the following paragraph at the end of the French text:

"Pour l'application du présent règlement, un centre médical spécialisé au sens de l'article 333.1 de la Loi sur les services de santé et les services sociaux (L.R.Q., chapitre S-4.2) est assimilé à un cabinet de consultation."

53. Despite the coming into force of section 185.1 of the Act respecting health services and social services, enacted by section 7, an institution operating a hospital centre has until (*insert the date that is two years after the date of coming into force of this section*) to implement the central access management mechanism for all the specialized and superspecialized services of the hospital centre's clinical departments.

The mechanism must be implemented as and when priorities are determined by the Minister for each service and in accordance with the time limits the Minister sets.

54. Section 263.2 of the Act respecting health services and social services, enacted by section 10, applies from (*insert the date that is 180 days after the date of coming into force of section 263.2*) with respect to a non-participating professional who, on 15 June 2006, leases or uses the facilities of a public institution or a private institution under agreement for the provision of medical services.

55. A person or partnership that, on (*insert the date of coming into force of section 333.1 of the Act respecting health services and social services, enacted by section 11*), operates a private health facility that provides surgery described in section 333.1 of the Act respecting health services and social services must, on or before (*insert the date that is 180 days after the coming into force of section 333.1*) and in accordance with section 441 of that Act, obtain a permit authorizing the operation of a specialized medical centre.

56. Until the fee payable for the issue of a specialized medical centre permit is prescribed by a government regulation under paragraph 21.1 of section 505 of the Act respecting health services and social services, enacted by paragraph 2 of section 31, that fee is determined to be $500.

57. Sections 41 and 42 have effect from 9 June 2006, except the last paragraph of section 11 of the Hospital Insurance Act and the last paragraph of section 15 of the Health Insurance Act replaced by those sections.

58. The fifth paragraph of section 22.0.0.1 of the Health Insurance Act, enacted by section 44, is declaratory.

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

(1) the second paragraph of section 108 of the Act respecting health services and social services, enacted by section 5, the fifth paragraph of section 22.0.0.1 of the Health Insurance Act, enacted by section 44, and section 58, which come into force on 13 December 2006; and

(2) the first, second, third, fourth, sixth and seventh paragraphs of section 22.0.0.1 of the Health Insurance Act, enacted by section 44, which come into force on 13 June 2007.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 49

(2006, chapter 45)

An Act to amend the Forest Act and other legislative provisions and providing for special provisions applicable to the Territory of application of chapter 3 of the Agreement Concerning a New Relationship Between Le Gouvernement du Québec and the Crees of Québec for the Years 2006-2007 and 2007-2008

Introduced 15 November 2006
Passage in principle 30 November 2006
Passage 13 December 2006
Assented to 13 December 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

The main object of this bill is to establish new rules governing forest management activities in forests in the domain of the State.

Firstly, the bill grants the holder of a timber supply and forest management agreement the right to send, during a given year, a certain quantity of timber harvested in forests in the domain of the State to wood processing plants not referred to in the agreement. It also provides for other cases where changes in the destination of timber may be authorized by the Minister. The bill provides that, except in certain cases, an agreement holder may, with the authorization of the Minister, harvest an additional volume of timber in advance during a given year, specifying, however, that the average annual volume harvested during the period covered by the general forest management plan must not exceed the annual volume determined in the agreement for the management unit and the species or group of species concerned.

Secondly, as regards forest planning, the bill provides that the management strategies are determined by the Minister and that the decommissioning of road infrastructures and the restoration of forest productivity are to be planned in the five-year forest management activities program included in the general plan. Also, the bill specifically grants the Minister the power to decommission a road on land in the domain of the State with a view to sustainable development and integrated management of natural resources and lands in the domain of the State, or for any reason the Minister deems in the public interest.

The bill grants the Minister the power to delegate to a member of the personnel of the department the exercise of the powers conferred on the Minister under the Forest Act or a special Act relating to forest matters. It introduces changes to the financial assistance granted in the form of credit for carrying out a special forest management plan, to the process for recognizing the status of forest producer, to the functioning of regional agencies for private forest development and to the report on the state of Québec forests that the Minister is to submit to the National Assembly.

Lastly, special provisions applicable to the Territory of application of chapter 3 of the Agreement Concerning a New Relationship Between Le Gouvernement du Québec and the Crees of

Québec for the Years 2006-2007 and 2007-2008 are introduced in the bill to ensure that certain provisions provided for in chapter 3 of the agreement are applied. Amendments to the provisional regime applicable to timber supply and forest management agreements and consequential provisions are also provided for in the bill.

LEGISLATION AMENDED BY THIS BILL:

– Forest Act (R.S.Q., chapter F-4.1);

– Act respecting the Ministère des Ressources naturelles et de la Faune (R.S.Q., chapter M-25.2);

– Act to amend the Forest Act and other legislative provisions (2001, chapter 6).

Bill 49

AN ACT TO AMEND THE FOREST ACT AND OTHER LEGISLATIVE PROVISIONS AND PROVIDING FOR SPECIAL PROVISIONS APPLICABLE TO THE TERRITORY OF APPLICATION OF CHAPTER 3 OF THE AGREEMENT CONCERNING A NEW RELATIONSHIP BETWEEN LE GOUVERNEMENT DU QUÉBEC AND THE CREES OF QUÉBEC FOR THE YEARS 2006-2007 AND 2007-2008

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Forest Act (R.S.Q., chapter F-4.1) is amended by inserting "other than road maintenance" after "forest management activity".

2. Section 3 of the Act is amended by replacing "the installation and maintenance of infrastructures, the carrying out of silvicultural treatments including reforestation and the use of fire, the repression of" by "installing, improving, maintaining and closing infrastructures, carrying out silvicultural treatments including reforestation and the use of fire, suppressing".

3. Section 32 of the Act is amended by replacing "construction or improvement work on" by "work to construct, improve or decommission".

4. Section 35.10 of the Act is amended by replacing "is bound" in the third paragraph by "is liable", by inserting "and other forest management activities" after "the carrying out of the silvicultural treatments" in that paragraph and by inserting "and activities" after "the carrying out of the other treatments" in that paragraph.

5. The Act is amended by inserting the following section after section 43.1:

"**43.1.1.** An agreement holder may, with no further formality than that described in the third paragraph, send timber harvested during the year which, under the agreement, was intended for the agreement holder's wood processing plant to other processing plants operating under a timber supply and forest management agreement; the sum of the volumes of timber that may be sent to other processing plants during a given year may not exceed the volume of timber determined by regulation of the Government.

The sum of the volumes of timber from other wood processing plants operating under a timber supply and forest management agreement that are sent to the processing plant referred to in the agreement holder's agreement during a given year may not exceed the volume of timber determined by

regulation of the Government. Additional volumes of timber equal to the volumes of timber that the agreement holder may have sent to other processing plants under the first paragraph may be added to that volume.

The agreement holder must, beforehand, submit to the approval of the Minister any modification to the annual management plan, specifying the wood processing plant or plants to which the timber is to be sent and the volume of timber of the species or groups of species sent to each. After making sure the change in destination is in conformity with this section, the Minister shall approve the annual plan and modify the management permit accordingly.

Volumes of timber whose destination was changed under section 43.2 are not taken into account in calculating volumes of timber under this section."

6. Section 43.2 of the Act is amended by adding the following paragraph after the first paragraph:

"The Minister may also, on the request of an agreement holder, authorize the agreement holder to send part of the round timber harvested in the course of a year to a wood processing plant not referred to in the agreement to make up for an inadequate supply for that processing plant resulting from the economic context, if the Minister considers that transferring the timber will prevent the temporary closure or reduce the duration of the closure of the processing plant. The Minister may also, on the request of agreement holders, authorize exchanges of timber between two wood processing plants to reduce timber transportation costs. In making a decision, the Minister must take into account the impact the decision will have on the local and regional economy and on the marketing of timber from private forests."

7. Section 52 of the Act, replaced by section 42 of chapter 6 of the statutes of 2001, is amended by inserting "by the Minister" after "selected" in paragraph 3.

8. Section 53 of the Act, replaced by section 42 of chapter 6 of the statutes of 2001, is amended by inserting the following sentence after the first sentence: "It shall also identify, among the existing road infrastructures and the road infrastructures to be built, those to which access must be blocked or that must be decommissioned during the period covered by the general plan, and in the case of decommissioning, it shall state which roads or rights-of-way are to be returned to forest productivity."

9. Section 59.1 of the Act, enacted by section 46 of chapter 6 of the statutes of 2001 and amended by section 17 of chapter 16 of the statutes of 2003, is again amended

(1) by inserting "or for decommissioning road infrastructures and, where applicable, returning them to forest productivity" after "for the areas referred to in section 53" in the second sentence of subparagraph 1 of the first paragraph;

(2) by adding "or, under section 43.1.1, intended for other wood processing plants" at the end of subparagraph 5 of the first paragraph.

10. Section 60 of the Act, replaced by section 47 of chapter 6 of the statutes of 2001 and amended by section 19 of chapter 16 of the statutes of 2003, is again amended by replacing "the sylvicultural treatments" in subparagraph 1 of the first paragraph by "the silvicultural treatments and other forest management activities".

11. Section 70 of the Act, replaced by section 52 of chapter 6 of the statutes of 2001, is amended by replacing "for the processing plant mentioned in the agreement" in subparagraph 4 of the second paragraph by "for the processing plant referred to in the agreement or, under this Act, for another processing plant".

12. Section 79.2 of the Act is amended by adding the following paragraph after the first paragraph:

"Where financial assistance is granted in the form of credit and the credit exceeds the dues payable by the agreement holder, the excess of the credit over the dues payable is paid out to the holder by the Minister if the document attesting the financial assistance so states. However, the excess amount must in all cases be reduced by the unpaid contributions and assessments that the agreement holder owes respectively to the forestry fund or to a forest protection organization recognized by the Minister under this Act."

13. Section 86 of the Act is amended by replacing the first paragraph by the following paragraph:

"**86.** A forest management permit authorizes an agreement holder to harvest, in the management unit, during the period covered by the annual forest management plan and subject to the reductions made in accordance with the law, a volume of timber of one or several species up to the annual volume set in the agreement or the volume increased under this Act, and to carry out the other forest management activities set out in the annual plan."

14. The Act is amended by inserting the following section after section 92.0.1:

"**92.0.1.1.** During a year other than the last year of the period covered by the general forest management plan, and with the authorization of the Minister, an agreement holder may harvest in advance an additional volume of timber not exceeding 10% of the annual volume allocated under an agreement for the management unit and the species or group of species concerned. However, at no time may the sum of the additional volumes harvested in advance during such years exceed, for a management unit and the species or group of species concerned, 15% of the allocations mentioned in the agreement.

Despite the first paragraph, no agreement holder may harvest in advance an additional volume of timber if the Minister, during the year concerned, applies the reduction under section 46.1 or 79.1, or if the agreement holder has not previously, during that year, harvested all the timber possible under section 92.0.1.

During the last year of the period covered by the general plan, the Minister must adjust, where applicable, the management permit for that year to ensure that the average annual volume harvested by the agreement holder does not exceed, for the period covered by the general plan, the volume of timber allocated under the agreement for the management unit and species or group of species concerned."

15. Section 120 of the Act is amended

(1) by replacing "ownership of a forest area of not less than four hectares in a single block," in subparagraph 1 of the first paragraph by "ownership of a parcel of land or group of parcels of land that may constitute a unit of assessment within the meaning of section 34 of the Act respecting municipal taxation (chapter F-2.1) and whose total forest area is not less than four hectares,";

(2) by replacing the second sentence of the second paragraph by the following sentence: "The period covered by the certificate must correspond to that covered by the forest management plan, which cannot exceed 10 years."

16. The Act is amended by inserting the following section after section 124.10:

"**124.10.1.** In order to standardize the rules of ethics and professional conduct applicable to agency board members, the Minister may require that all, or one or more, agencies, make the amendments the Minister determines to their internal by-laws. The Minister may also require that an agency make the amendments the Minister determines to the provisions in its internal by-laws that deal with the quorum for meetings of the board if the Minister considers that the rules no longer facilitate the holding of meetings.

An agency to which the request is made must enact the amending by-law. The by-law comes into force on the date it is enacted by the board and need not be ratified by all the board members.

The Minister may enact the amending by-law if the agency delays unduly in doing so. The by-law then comes into force as soon as the chairman is notified."

17. Section 124.18 of the Act is amended by adding the following sentences at the end of the second paragraph: "The plan is available for consultation at the agency's head office or any other place determined by the agency. Any person or body may obtain a copy of all or part of the plan by paying the agency the cost of copying it."

18. Section 124.21.1 of the Act is replaced by the following section:

"**124.21.1.** On the request of the Minister, the agency must revise its protection and development plan, on the same conditions as when preparing its initial plan.

On the same conditions, the agency may revise its plan on its own initiative."

19. Section 124.36 of the Act is amended by adding the following paragraph after the second paragraph:

"The agency must publish its financial statements and its annual report of activities."

20. Section 172 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 6 of the first paragraph:

"(6.1) determine, for the purposes of the first and second paragraphs of section 43.1.1, the volume of timber that, during a given year, may be sent to wood processing plants not referred to in the holder's agreement and the volume of timber that, during a given year, may be sent from other wood processing plants to a wood processing plant referred to in a holder's agreement; these volumes of timber may be expressed as a percentage of the annual volumes set in the holder's agreement or be based on any other rule for calculating them determined by regulation of the Government;";

(2) by inserting the following subparagraph after subparagraph 18.3 of the first paragraph:

"(18.3.1) limit the total amount of all or part of the fees a person must pay during a given year for the examination, during that year, of the files opened under subparagraph 18.3;".

21. Section 176 of the Act is amended

(1) by replacing "to a destination other than the processing plant specified in the permit" by "to a destination other than the processing plant or processing plants specified in the permit";

(2) by adding the following paragraphs after the first paragraph:

"Every holder of a timber supply and forest management agreement who, contrary to section 43.1.1, sends to a processing plant specified in the permit that is not the plant referred to in the agreement, timber of a species or groups of species the holder was not authorized to send or that exceeds the volume determined in the agreement, or who sends to that plant timber that was not harvested during the year, is guilty of an offence and liable to a fine of

$40 to $200 for each cubic metre of timber sent to that plant in contravention of this section.

The following persons are guilty of an offence and liable to a fine of $40 to $200 for each cubic metre of timber exceeding the volumes referred to in the first or second paragraph of section 43.1.1:

(1) every holder of a timber supply and forest management agreement who, during a given year, sends volumes of timber in excess of the volume determined in the first paragraph of section 43.1.1 to wood processing plants not referred to in the agreement;

(2) every holder of a timber supply and forest management agreement who, during a given year, allows volumes of timber from other wood processing plants in excess of the volume determined in the second paragraph of that section to be sent to the wood processing plant referred to in the agreement."

22. Section 182 of the Act is amended by replacing "relating to the construction or improvement of a forest road" in paragraph 2 by "relating to the construction, improvement or decommissioning of a forest road".

23. Section 212 of the Act is amended by replacing the first paragraph by the following paragraph:

"**212.** During the year 2009, the Minister shall table in the National Assembly a report on the state of Québec forests covering the period between 1 April 2000 and 31 March 2008. Every five years thereafter, the Minister shall table in the National Assembly a report on the state of Québec forests covering the five-year period following the period covered by the previous report."

24. Section 256.1 of the Act is amended by replacing the second paragraph by the following paragraph:

"The Minister may also, in writing and to the extent the Minister determines, generally or specially delegate the exercise of the powers conferred on the Minister under this Act or a special Act relating to forest matters under the Minister's administration to a member of the personnel of the department or to the incumbent of a position. If the Minister delegates a power under which the Minister is required by law to hold consultations with other ministers in the exercise of that power, the delegate must hold the necessary consultations with the departments concerned and, if no agreement is reached, so inform the Minister."

25. The Act respecting the Ministère des Ressources naturelles et de la Faune (R.S.Q., chapter M-25.2) is amended by inserting the following section after section 11.2:

"**11.3.** Unless the law provides otherwise, the Minister may,with a view to sustainable development and integrated management of natural resources and lands in the domain of the State, or for any reason the Minister deems of public interest, decommission a road in the lands in the domain of the State."

26. Section 73 of the Act to amend the Forest Act and other legislative provisions (2001, chapter 6) is amended by replacing "only for the supply of the plant mentioned in the agreement" in the second paragraph of the section 86 it replaces by "only for the supply of the plants referred to in the agreement" and by replacing "the processing plant supplied" in the third paragraph of that section by "the processing plant or plants supplied".

27. Section 173 of the Act is amended by adding the following paragraph after the first paragraph:

"The annual report on the forest management activities carried out by the agreement holder between 1 April 2007 and 31 March 2008 must also state, in addition to the volume of round timber the agreement holder intended for the wood processing plant referred to in the agreement, the volume of round timber, by species or group of species determined in the agreement and by quality of timber, that the agreement holder, under the Forest Act, intended during that year for a wood processing plant not referred to in the agreement."

SPECIAL PROVISIONS APPLICABLE TO THE TERRITORY OF APPLICATION OF CHAPTER 3 OF THE AGREEMENT CONCERNING THE NEW RELATIONSHIP BETWEEN LE GOUVERNEMENT DU QUÉBEC AND THE CREES OF QUÉBEC FOR THE YEARS 2006-2007 AND 2007-2008

28. For the purposes of sections 3.55 to 3.59 of chapter 3 of the Agreement referred to in section 95.6 of the Forest Act (R.S.Q., chapter F-4.1), the Minister calculates, at 31 December 2006, the shortfall in the annual volume that needs to be made up to reach the annual volume of 350,000 cubic meters of timber set in section 3.59 of the Agreement.

29. The shortfall in the annual volume calculated by the Minister at 31 December 2006 must, if it cannot be made up otherwise under the Forest Act, be recovered from one or more holders of a timber supply and forest management agreement, determined by the Minister, that carry on their activities in the common areas located wholly or partly in the territory referred to in section 95.7 of the Forest Act, except Nabakatuk Forest Products Inc. and Société en commandite Scierie Opitciwan, the holders of the agreements registered as No. 34595031601 and No. 36699011101, respectively.

For that purpose, the Minister deducts from the 2006-2007 and 2007-2008 management permits of the agreement holder or agreement holders concerned a volume of timber belonging to the FSPL group of species (fir, spruce, grey pine and larch) that the Minister determines; the sum of the volumes to be recovered from the agreement holder or agreement holders must correspond to the shortfall in the annual volume referred to in section 28.

In exercising the discretionary power under this section, the Minister must try to avoid dispersing the timber allocations of Cree enterprises.

30. If a reduction cannot be applied to an agreement holder during the year 2006-2007, it is postponed until the following year and added to the reduction for 2007-2008.

31. For the purposes of sections 28 to 30, the Minister may require that the agreement holder or agreement holders concerned submit modifications to their 2006-2007 and 2007-2008 annual forest management plans within the time the Minister determines.

32. Financial compensation is granted to an agreement holder affected by the reduction who has carried on, as part of a plan approved by the Minister under the Forest Act, forest management activities that have not been credited for the payment of dues, if the agreement holder proves that he may no longer carry on such activities, either at the present time or in the future, owing to the application of sections 28 to 31.

Compensation is determined by the Government on the basis of the value of the activities concerned, and granted once the agreement holder has been given the opportunity to submit observations.

The application of sections 28 to 31 does not entitle the agreement holders to any other compensation.

FINAL PROVISIONS

33. For the purposes of the first paragraph of section 86 of the Forest Act enacted by section 13, a reference to a management unit in relation to a forest management activity carried on before 1 April 2008 is a reference to a common area.

34. Section 4, sections 7 to 11 and section 26 of this Act apply to forest management activities carried on after 31 March 2008.

35. This Act comes into force on 13 December 2006, except

(1) sections 7 to 9, which come into force on 31 March 2007;

(2) section 13, which comes into force on 1 April 2007;

(3) sections 10, 14 and 26, which come into force on 1 April 2008;

(4) section 11, which comes into force on 31 August 2009; and

(5) sections 5 and 21, which come into force on the date of coming into force of the first regulation made under subparagraph 6.1 of the first paragraph of section 172 of the Forest Act, enacted by paragraph 1 of section 20 of this Act.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 52
(2006, chapter 46)

An Act respecting the implementation of the Québec Energy Strategy and amending various legislative provisions

Introduced 14 November 2006
Passage in principle 23 November 2006
Passage 13 December 2006
Assented to 13 December 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

The main objective of this bill is to follow up on the measures announced in Québec's Energy Strategy made public on 4 May 2006. It amends the Act respecting the Agence de l'efficacité énergétique, providing that the members of the personnel be appointed in accordance with the staffing plan established by by-law of the agency. The Act broadens the scope of the agency's object by making it responsible for promoting the development of new energy technologies for all forms of energy and all sectors of activity and for preparing a comprehensive energy efficiency and new technologies plan.

The bill describes the process for preparing the comprehensive plan, a process in which energy distributors are to participate. It sets out the obligations of the distributors and grants new powers to the agency. The bill also introduces a reporting process for the plan in order to ensure that the funds allocated to energy efficiency and new energy technologies are used properly.

The bill amends the Act respecting the Régie de l'énergie in order to give the Régie new terms of reference. With regard to the comprehensive energy efficiency and new technologies plan, the bill provides that the Régie will approve the amounts to be used to finance programs under the plan and fix the annual amount energy distributors must allocate to energy efficiency and technological innovations. The bill also provides for the active participation of the Régie in the reporting process for the plan.

Furthermore, the bill provides for the financing of measures aimed at reducing greenhouse gas emissions and adapting to climate change. To that end, it grants the Régie the power to introduce an annual duty on fuel that distributors must pay into the Green Fund established under the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs. The bill also provides for new measures to ensure the reliability of electric power transmission in Québec.

The bill contains new measures on the pipeline distribution of biogas and syngas and the decentralized production of electric power.

Lastly, the obligation to maintain the delivery of electric power in winter despite non-payment of a bill is extended to all electric power distributors.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting the Agence de l'efficacité énergétique (R.S.Q., chapter A-7.001);

– Building Act (R.S.Q., chapter B-1.1);

– Act respecting the exportation of electric power (R.S.Q., chapter E-23);

– Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (R.S.Q., chapter M-15.2.1);

– Public Protector Act (R.S.Q., chapter P-32);

– Act respecting the Régie de l'énergie (R.S.Q., chapter R-6.01);

– Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1);

– Watercourses Act (R.S.Q., chapter R-13);

– Act respecting municipal and private electric power systems (R.S.Q., chapter S-41);

– Act respecting the leasing of water-powers of the Péribonca river to the Aluminum Company of Canada Limited (1984, chapter 19).

Bill 52

AN ACT RESPECTING THE IMPLEMENTATION OF THE QUÉBEC ENERGY STRATEGY AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE AGENCE DE L'EFFICACITÉ ÉNERGÉTIQUE

1. The Act respecting the Agence de l'efficacité énergétique (R.S.Q., chapter A-7.001) is amended by inserting the following division before Division I:

"**DIVISION 0.1**

"DEFINITIONS AND SCOPE

"**0.1.** For the purposes of this Act,

"diesel fuel" means a liquid mixture of hydrocarbons obtained from the refining of petroleum to supply diesel engines;

"electric power distributor" means Hydro-Québec when carrying on electric power distribution activities;

"energy distributor" means a distributor of electric power, natural gas or fuel;

"fuel" means gasoline, diesel fuel, heating oil or propane, but not aviation fuel, marine bunker fuel or renewable fuel content;

"fuel distributor" means

(1) a person that refines, manufactures, mixes, prepares or distils fuel in Québec, excluding hydrocarbons used as raw material by industries that transform hydrocarbon molecules through chemical and petrochemical processes;

(2) a person that brings or causes to be brought into Québec fuel contained in one or more receptacles with a total capacity of over 200 litres, except fuel contained in a fuel tank installed as standard equipment to supply the engine of a vehicle; and

(3) a person that, in a year, acquires 25 million litres or more of gasoline, diesel, heating oil or propane from a person described in paragraph 1 or 2;

"gasoline" means a liquid mixture of hydrocarbons obtained from the refining of petroleum mainly for use as spark ignition engine fuel;

"heating oil" means a liquid mixture of hydrocarbons obtained from the refining of petroleum and used for domestic, commercial, institutional or industrial heating;

"natural gas distributor" means a natural gas distributor as defined in section 2 of the Act respecting the Régie de l'énergie (chapter R-6.01);

"propane" means a liquid mixture of hydrocarbons obtained from the refining of petroleum or the processing of natural gas and used as spark ignition engine fuel or for such applications as cooking or domestic, commercial, institutional or industrial heating.

For the purposes of sections 24.2 and 24.3 and Division IV.1, municipal electric power systems governed by the Act respecting municipal and private electric power systems (chapter S-41) and the Coopérative régionale d'électricité de Saint-Jean-Baptiste de Rouville governed by the Act respecting the Coopérative régionale d'électricité de Saint-Jean-Baptiste de Rouville (1986, chapter 21) are deemed to be energy distributors."

2. Section 4 of the Act is replaced by the following section:

"**4.** The affairs of the agency shall be administered by a board of directors composed of

(1) not fewer than seven nor more than 10 members chosen from the sectors concerned appointed by the Government for a term not exceeding four years; and

(2) the president and chief executive officer of the agency appointed by the Government for a term not exceeding five years, who is an *ex officio* member of the board.

On expiry of their term of office, the members of the board of directors shall remain in office until replaced or reappointed.

Board members may be reappointed twice to serve in that capacity, for consecutive or non-consecutive terms."

3. Section 6 of the Act is amended

(1) by striking out the first sentence of the first paragraph and by replacing "director general" in the second and third sentences of the first paragraph by "president and chief executive officer";

(2) by inserting the following paragraph after the first paragraph:

"The Government shall fix the remuneration, employment benefits and other conditions of employment of the president and chief executive officer."

4. The Act is amended by inserting the following section after section 6:

"**6.1.** The offices of chair of the board of directors and of president and chief executive officer may not be held concurrently."

5. Section 10 of the Act is amended by replacing "director general" in the second paragraph by "president and chief executive officer".

6. Section 13 of the Act is replaced by the following section:

"**13.** The members of the personnel of the agency shall be appointed in accordance with the staffing plan established by by-law of the Board.

Subject to the provisions of a collective agreement, the Board shall determine by by-law the standards and scales of remuneration and the employment benefits and other conditions of employment of the members of its personnel in accordance with the conditions defined by the Government."

7. Section 14 of the Act is amended by replacing "director general" wherever it appears by "president and chief executive officer".

8. Section 16 of the Act is amended

(1) by inserting "and the development of new energy technologies" after "promote energy efficiency";

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

"The functions of the agency also include preparing the comprehensive energy efficiency and new technologies plan and ensuring its implementation and follow-up."

9. Section 17 of the Act is amended

(1) by adding "and new energy technologies" at the end of subparagraph 1 of the first paragraph;

(2) by adding "and new energy technologies" at the end of subparagraph 2 of the first paragraph;

(3) by inserting "or new energy technology" after "energy efficiency" in the first line of subparagraph 3 of the first paragraph and by adding "or new energy technologies" after "energy efficiency" at the end of that subparagraph;

(4) by inserting "or new energy technology" after "energy efficiency" in subparagraph 4 of the first paragraph;

(5) by adding "and new energy technologies" at the end of subparagraph 5 of the first paragraph;

(6) by replacing "administer energy efficiency programs" in subparagraph 6 of the first paragraph by "implement programs or actions promoting energy efficiency or new energy technologies";

(7) by adding "and new energy technologies" at the end of subparagraph 7 of the first paragraph;

(8) by adding the following subparagraph after subparagraph 7 of the first paragraph:

"(8) ensure the implementation of any measure promoting energy efficiency and new technologies and targeting the reduction of greenhouse gas emissions.";

(9) by inserting the following paragraph after the first paragraph:

"The agency may delegate the implementation of programs or actions promoting energy efficiency or new energy technologies and the implementation of measures targeting the reduction of greenhouse gas emissions in those fields.";

(10) by replacing "field of industrial, institutional, commercial or residential energy efficiency" in the second paragraph by "field of energy efficiency or new energy technologies".

10. Section 18 of the Act is amended

(1) by replacing everything after "participate financially" in paragraph 1 by "by granting a loan or a subsidy under a program promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions, or by providing financial support to research and development in those fields;";

(2) by replacing "an energy efficiency program" in paragraph 3 by "a program promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions and".

11. Section 19 of the Act is amended by replacing "Every energy efficiency program" by "A program promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions and".

12. Section 21 of the Act is repealed.

13. The Act is amended by inserting the following section after section 21:

"**21.1.** An energy distributor must send the agency any information or document the agency considers necessary for the application of this Act within the time limit the agency specifies."

14. The Act is amended by inserting the following division after section 22:

"**DIVISION II.1**

"COMPREHENSIVE ENERGY EFFICIENCY AND NEW TECHNOLOGIES PLAN

"§1. — *Preparation of the comprehensive plan*

"**22.1.** An electric power or natural gas distributor must establish and send the agency, within the time limit the agency specifies,

(1) its three-year energy efficiency targets for the various sectors of activity;

(2) a three-year projected timetable for reaching those targets; and

(3) its three-year energy efficiency priorities for reaching the targets.

The agency shall establish, within the same time limit, the three-year energy efficiency targets, projected timetable and priorities mentioned in the first paragraph that apply to fuels, new energy technologies or more than one form of energy.

Priorities must deal with the approaches to be taken to comply with the Government's energy efficiency policy directions.

"**22.2.** The agency must submit to the Government, for approval, the three-year energy efficiency targets, projected timetable and priorities established in accordance with section 22.1.

"**22.3.** If an electric power or natural gas distributor fails to comply with section 22.1, the agency shall establish the distributor's three-year energy efficiency targets, projected timetable and priorities, at the distributor's expense.

The agency, however, must give the distributor a 10-day written notice of default.

"**22.4.** Following government approval, the agency shall prepare a comprehensive three-year plan outlining all the actions proposed to promote a better use of energy and the development of new energy technologies. The plan must address all energy uses and cover all forms of energy over a 10-year period.

"**22.5.** The comprehensive plan must include, among other things:

(1) the Government's general energy policy directions and energy priorities;

(2) the three-year energy efficiency targets, projected timetables and priorities approved by the Government;

(3) the consultation report;

(4) a description of the regulatory or other proposals on energy efficiency and new energy technologies;

(5) a description of the programs and actions promoting energy efficiency, presented by deadline, form of energy and sector of activity;

(6) a description of the programs to support technological innovation;

(7) a description of the actions aimed at increasing awareness about energy efficiency and new energy technologies or providing information on or training or education in those fields;

(8) information on the savings that may result from the implementation of the programs and actions in the plan;

(9) the annual amount the agency and each energy distributor intend to allocate to programs and actions promoting energy efficiency and new energy technologies; and

(10) an estimate of the costs of carrying out the elements of the plan.

"**22.6.** For the purpose of preparing the comprehensive plan, the agency shall consult energy distributors, representatives of the fuel sector, representatives of energy users in the residential, commercial, institutional, industrial and transportation sectors, as well as the various groups interested in the promotion of energy efficiency and new energy technologies.

"**22.7.** An electric power or natural gas distributor must develop programs and actions consistent with the three-year energy efficiency targets, projected timetables and priorities approved by the Government, and send them to the agency within the time limit the agency specifies.

The electric power distributor must also send the agency a list of the energy efficiency projects it selected, in the course of a year, under the tender solicitation procedure referred to in section 74.1 of the Act respecting the Régie de l'énergie. The list must be included in the comprehensive plan.

"**22.8.** If an electric power or natural gas distributor fails to comply with section 22.7, the agency shall develop the programs and actions at the distributor's expense.

The agency, however, must give the distributor a 10-day written notice of default.

"**22.9.** The agency is responsible for the development of programs and actions promoting energy efficiency that target fuel or more than one form of energy and the development of the programs and actions promoting new energy technologies. In developing those programs and actions, the agency must take into account the opinions and comments collected during its consultations.

"**22.10.** A description of a program or action must include the measures to be carried out, their cost and a schedule for carrying them out. It must also identify either the agency or the energy distributor as being responsible for carrying out the measures.

"§2. — *Approval, amendments and follow-up*

"**22.11.** On the date set by the Minister, the agency shall submit the comprehensive plan to the Régie to obtain its approval of the elements of the plan mentioned in paragraphs 5 to 10 of section 22.5.

"**22.12.** The elements of the comprehensive plan mentioned in paragraphs 5 to 10 of section 22.5 may be amended by the agency or an electric power or natural gas distributor, with the authorization of the Régie and on the conditions it determines.

"**22.13.** The agency must prepare a new comprehensive plan at least once every three years on the same conditions as apply to the preparation of the initial plan.

The agency shall also revise the comprehensive plan annually so that it reflects the amendments resulting from the annual review of the programs and actions it contains and from the decisions taken by the Régie with respect to energy efficiency.

The agency shall send the Régie the revised comprehensive plan within 30 days after the date of revision.

"**22.14.** Once the Régie has approved it under section 22.11, the comprehensive plan must be available to the public.

"§3. — *Rules concerning energy distributors*

"**22.15.** An energy distributor must carry out the programs and actions for which it is responsible under the comprehensive plan.

If an energy distributor is unable to carry out a program or action within the time limit and in the manner specified in the comprehensive plan or if it finds that a program or action is not meeting its objectives, it must notify the agency.

The agency may, at the distributor's expense, carry out the programs and actions the distributor fails to carry out, after giving the distributor a 10-day written notice to that effect.

"**22.16.** In order to follow up on the programs and actions that must be carried out by an energy distributor, the agency may require that the distributor submit a status report on the steps taken and the results obtained within the framework of the comprehensive plan."

15. The heading of Division III of the Act is amended by striking out ", ACCOUNTS AND REPORTS".

16. Section 24 of the Act is amended by replacing "son budget" in the French text by "ses prévisions budgétaires".

17. The Act is amended by inserting the following after section 24:

"**24.1.** The agency may determine a tariff of fees for the use of the services it offers within the framework of a program or action promoting energy efficiency, new energy technologies or the reduction of greenhouse gas emissions.

"**24.2.** An energy distributor must pay an annual share to the agency, which is determined by the Régie in accordance with paragraph 3 of section 85.25 of the Act respecting the Régie de l'énergie.

The first paragraph applies to Hydro-Québec, despite section 16 of the Hydro-Québec Act (chapter H-5).

"**24.3.** The agency shall keep separate accounts for each energy distributor.

"**24.4.** The operations of the agency are funded with the sums from the shares paid under section 24.2, the fees it charges and the other monies it receives.

"**24.5.** The sums received by the agency under section 24.4 must be used exclusively for the purposes of this Act and to pay the obligations of the agency.

Any amount by which the agency's revenues exceed its expenditures in a fiscal year must be carried over to its subsequent annual budget.

"**DIVISION III.1**

"MANAGEMENT AND REPORTING

"**24.6.** Each year, the agency shall submit to the Régie, on the date set by the Régie, a progress report on the comprehensive plan and the use made of the sums received under section 24.2.

"**24.7.** The agency shall enter into a performance agreement with the Minister on the implementation of the comprehensive plan.

The agreement must contain

(1) a description of the role of the agency in the implementation of the plan;

(2) the part of the plan describing the objectives for each of the years of the agreement, the measures taken to meet the objectives, and the human, financial and material resources available; and

(3) the main indicators to be used in measuring results."

18. Section 25 of the Act is amended by adding the following paragraph:

"The activity report must include

(1) a statement of the results obtained, measured against the objectives fixed in the performance agreement;

(2) a follow-up on the comprehensive plan;

(3) the Régie's audit report on the progress made on the comprehensive plan; and

(4) a statement by the president and chief executive officer of the agency attesting to the reliability of the data and the monitoring mechanisms."

19. Section 26 of the Act is amended by replacing ", activity report and development plan" by "and the activity report".

20. Section 28 of the Act is amended by adding the following paragraph:

"The Auditor General may conduct a resource optimization audit of the agency without the prior concurrence required under the second paragraph of section 28 of the Auditor General Act (chapter V-5.01)."

21. Section 29 of the Act is repealed.

22. Section 31 of the Act is repealed.

23. The Act is amended by inserting the following division after section 31:

"**DIVISION IV.1**

"PENAL PROVISIONS

"**31.1.** An energy distributor that contravenes section 22.1, 22.7, 22.15, 22.16 or 24.2 is guilty of an offence and liable to a fine of $2,000 to $20,000 for a first offence and to a fine of $5,000 to $50,000 for a subsequent offence.

"**31.2.** An energy distributor that fails to provide information or a document referred to in section 21.1 or that provides false information is guilty of an offence and liable to a fine of $1,000 to $2,000 for a first offence and to a fine of $2,000 to $5,000 for a subsequent offence."

BUILDING ACT

24. Section 47 of the Building Act (R.S.Q., chapter B-1.1) is amended by inserting ", to the Société d'énergie de la Baie James" after "Québec" in the second paragraph.

ACT RESPECTING THE EXPORTATION OF ELECTRIC POWER

25. Section 2 of the Act respecting the exportation of electric power (R.S.Q., chapter E-23) is amended by inserting "or the construction of a wind farm on" after "in or over".

ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT DURABLE, DE L'ENVIRONNEMENT ET DES PARCS

26. Section 15.4 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (R.S.Q., chapter M-15.2.1), amended by chapter 3 of the statutes of 2006, enacted by section 26 of that Act, is amended by inserting the following paragraph after paragraph 3:

"(3.1) the sums paid under section 85.38 of the Act respecting the Régie de l'énergie (chapter R-6.01);".

PUBLIC PROTECTOR ACT

27. Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding the following paragraph after paragraph 5:

"(6) the Agence de l'efficacité énergétique."

ACT RESPECTING THE RÉGIE DE L'ÉNERGIE

28. Section 2 of the Act respecting the Régie de l'énergie (R.S.Q., chapter R-6.01) is amended by inserting ", except biogas and syngas" at the end of the definition of "natural gas".

29. Section 2.1 of the Act is amended by replacing "36, 44 and 85.1" by "36 and 44, Division I of Chapter VI.1".

30. Section 2.2 of the Act is amended by replacing ", 56 and 85.1" by "and 56".

31. Section 25 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the first paragraph:

"(2.1) when approving the financing of the comprehensive energy efficiency and new technologies plan and determining the annual amount provided for in paragraph 2 of section 85.25;".

32. Section 31 of the Act is amended by inserting the following subparagraph after subparagraph 4.1 of the first paragraph:

"(4.2) determine the annual amount each energy distributor must allocate to programs and actions promoting energy efficiency and new energy technologies, including those targeting more than one form of energy that are administered by the Agence de l'efficacité énergétique;".

33. The Act is amended by inserting the following section after section 32:

"**32.1.** The Régie may enter into an agreement in accordance with the law with another government or a department or body of such a government or with an international organization or a body of such an organization."

34. Section 36 of the Act is amended by inserting "or, when holding hearings under Chapter VI.2, any energy distributor" after "natural gas distributor" in the second paragraph.

35. Section 44 of the Act is amended by inserting ", an owner or operator referred to in paragraphs 1 to 4 of section 85.3" after "carrier" in subparagraph 1 of the first paragraph.

36. Section 47 of the Act is amended by inserting "refuse to provide any information or document required under this Act or" after "may" in the first line.

37. Section 48 of the Act is amended by adding the following sentence at the end of the second paragraph: "Applications filed by the electric power distributor or a natural gas distributor must include a document describing the impact a rate increase would have on low-income earners."

38. Section 49 of the Act is amended by inserting the following paragraph after the first paragraph:

"When fixing rates for the delivery of natural gas, the Régie must also consider the total annual amount a natural gas distributor must allocate to energy efficiency and new energy technologies."

39. Section 52.1 of the Act is amended by replacing "in the second paragraph" in the first paragraph by "in the second and third paragraphs".

40. Section 62 of the Act is amended

(1) by inserting the following sentence at the end of the first paragraph: "These rights do not prevent the electric power distributor from entering into a supply contract to meet the needs of an independent electric power distribution system.";

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

"Private electric power systems are the holders of exclusive distribution rights within the territory served on 13 December 2006 by their distribution system."

41. Section 72 of the Act is amended

(1) by replacing "Every holder" at the beginning of the first paragraph by "With the exception of private electric power systems, a holder";

(2) by replacing "energy efficiency measures" at the end of the first sentence of that paragraph by "the energy efficiency measures the holder proposes".

42. Section 73.1 of the Act is replaced by the following section:

"**73.1.** The electric power carrier must submit the technical requirements for connection to its system to the Régie for approval. If the Régie deems it useful for the purposes of section 85.17, it may request that an owner or operator referred to in section 85.14 submit the technical requirements for connection to its system to the Régie for approval."

43. Section 74.1 of the Act is amended

(1) by inserting "and energy efficiency projects" after "all sources of supply" in the first line of subparagraph 2 of the second paragraph;

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

"An energy efficiency project to which a tender solicitation applies under subparagraph 2 of the second paragraph must meet the stability, sustainability and reliability requirements that apply to conventional sources of supply.";

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

"For the purposes of this section, the promoter of an energy efficiency project is deemed to be an electric power supplier."

44. The Act is amended by inserting the following section after section 74.2:

"**74.3.** Despite sections 74.1 and 74.2, the electric power distributor may, under a program to purchase electric power from a renewable energy source, the conditions of which have been approved by the Régie, purchase electric power from a client whose production exceeds the client's own consumption or from a producer, without having to solicit tenders.

This section applies only to electric power produced at a facility whose maximum production capacity is set by government regulation."

45. The Act is amended by inserting the following sections after section 76:

"**76.1.** Unless a distribution agreement is entered into with the electric power distributor regarding the transfer to it of all or part of a client's load, a private electric power system is required to distribute electric power to every person served by the system.

This section does not apply to a private electric power system if, before 13 December 2006, its client entered into an agreement with the electric power distributor for the transfer of the client's load.

"**76.2.** No holder of exclusive electric power distribution rights may interrupt the delivery of electric power, between 1 December and 31 March, to the main residence of a client who is living there and whose heating system requires electric power, on the grounds that the client did not pay the bill on time or did not comply with the terms of the payment agreement. The electric power distributor's conditions of service apply to any holder of exclusive rights to distribute electric power, with the necessary modifications."

46. Section 80 of the Act is amended by inserting "and private" after "municipal" in the sixth paragraph.

47. Section 85.1 of the Act is amended by replacing "not subject to section 75" by "mentioned in section 2.1".

48. The Act is amended by inserting the following after section 85.1:

"**CHAPTER VI.1**

"ELECTRIC POWER TRANSMISSION

"**DIVISION I**

"RELIABILITY STANDARDS

"**85.2.** The Régie shall ensure that electric power transmission in Québec is carried out according to the reliability standards it adopts.

"**85.3.** This division applies to

(1) an owner or operator of a facility with a capacity of 44 kV or more connected to an electric power transmission system;

(2) an owner or operator of an electric power transmission system;

(3) an owner or operator of a production facility with a capacity of 50 megavolt amperes (MVA) or more connected to an electric power transmission system; and

(4) a distributor with a peak capacity of over 25 megawatts (MW), whose facilities are connected to an electric power transmission system.

"**85.4.** With the authorization of the Government, the Régie may enter into an agreement with a body that proves it has the expertise to establish or monitor the application of electric power transmission reliability standards, in order to

(1) develop electric power transmission reliability standards for Québec;

(2) carry out inspections or investigations under Division II of Chapter III as part of plans to monitor compliance with the reliability standards; or

(3) provide the Régie with opinions or recommendations.

The agreement must set out the method of establishing remuneration and the terms of payment for achieving its objects.

"**85.5.** The Régie shall designate, on the conditions it determines, a reliability coordinator for Québec.

"**85.6.** The reliability coordinator must file with the Régie

(1) the reliability standards proposed by a body that has entered into an agreement under section 85.4, as well as any variant or other standard the reliability coordinator considers necessary;

(2) an evaluation of the relevance and impact of the standards filed; and

(3) the identification of any owner or operator and any distributor referred to in section 85.3 that may be subject to the reliability standards.

"**85.7.** The Régie may request the reliability coordinator to modify a standard filed or submit a new one, on the conditions it sets. It shall adopt reliability standards and set the date of their coming into force.

The reliability standards may

(1) subject to section 85.10, provide for a schedule of sanctions, including financial penalties, that apply if standards are not complied with; and

(2) refer to reliability standards set by a standardization agency that has entered into an agreement.

"**85.8.** The reliability coordinator shall submit to the Régie a guide describing criteria to be taken into account in determining the sanction for non-compliance with a reliability standard.

"**85.9.** If a body mandated by the Régie under an agreement referred to in section 85.4 considers that an entity subject to a reliability standard does not comply with the standard, the body must give the entity at least 20 days to submit observations. The body shall then report to the Régie on its findings and may recommend the application of a sanction.

"**85.10.** After giving the entity referred to in section 85.9 the opportunity to be heard, the Régie shall determine if it has failed to comply with a reliability standard, impose, if appropriate, a sanction that may not exceed $500,000 a day, and set a deadline for payment.

A sanction referred to in the first paragraph may include a letter of reprimand to be made public in an appropriate manner or conditions for carrying on certain activities, set by the Régie.

"**85.11.** The financial penalties collected by the Régie for the purpose of ensuring the reliability of electric power transmission must be deposited in a separate account.

"**85.12.** The Régie may, on the conditions it sets, order an entity that fails to comply with a reliability standard to implement a compliance program within the time limit the Régie may specify.

"**85.13.** The reliability coordinator

(1) must submit to the Régie, for approval, a register identifying the owners, operators and distributors subject to the reliability standards adopted by the Régie;

(2) shall fulfil the duties devolved to the reliability coordinator under a reliability standard adopted by the Régie; and

(3) may, under a standard adopted by the Régie, provide operating guidelines.

"**DIVISION II**

"ELECTRIC POWER TRANSMISSION SERVICE CONTRACTS

"**85.14.** For the purposes of this division, "auxiliary carrier" means the owner or operator of an electric power transmission system or a facility with a capacity of 44 kV or more, connected to the electric power carrier's transmission system and capable of providing transmission services to a third party.

"**85.15.** At the request of the electric power carrier, an auxiliary carrier must negotiate the terms of an electric power transmission service contract with the carrier.

The contract must be submitted to the Régie for approval.

"**85.16.** Failing an agreement between the electric power carrier and the auxiliary carrier, one of the interested parties may request the Régie to fix the terms of an electric power transmission service contract.

"**85.17.** If the Régie decides not to approve an electric power transmission service contract or if one of the interested parties makes a request under section 85.16, the Régie fixes the contract terms it deems fair and reasonable.

In establishing the costs the auxiliary carrier is entitled to recover, the Régie takes the first or the fourth paragraph of section 49, or both of those provisions, into account.

"**85.18.** A decision rendered under section 85.17 is enforceable on the date specified in the decision and binds the parties until, at the request of one of the parties and after giving any consumer concerned the opportunity to submit observations, the Régie considers it appropriate to terminate or amend its decision.

"**DIVISION III**

"ACCESS TO ELECTRIC POWER TRANSMISSION FACILITIES

"**85.19.** For the purposes of this division, "accessible carrier" means the owner or operator of a facility with a capacity of 44 kV or more, or the owner or operator of an electric power transmission system.

"**85.20.** An application for connection to the facilities of an accessible carrier or of the electric power carrier must be submitted to the electric power carrier in accordance with its rates and conditions for the transmission service.

"**85.21.** Following an application for connection, the electric power carrier, jointly with the accessible carrier, shall carry out an economic and financial analysis of the connection proposals and submit it to the Régie.

"**85.22.** The electric power carrier must obtain the authorization required under section 73 from the Régie for the connection chosen.

"**85.23.** If the connection authorized by the Régie involves a connection to the facilities of the accessible carrier, that carrier must ensure open access to the facilities and negotiate an agreement to that effect with the electric power carrier in compliance with Division II of this chapter.

"**CHAPTER VI.2**

"COMPREHENSIVE ENERGY EFFICIENCY AND NEW TECHNOLOGIES PLAN

"**85.24.** The terms and expressions defined in section 0.1 of the Act respecting the Agence de l'efficacité énergétique (chapter A-7.001) apply to this chapter.

"**85.25.** Within the scope of the comprehensive energy efficiency and new technologies plan prepared under the Act respecting the Agence de l'efficacité énergétique, the Régie shall

(1) approve each year the total expenditures it considers necessary to adequately finance the comprehensive plan and the programs and actions it contains;

(2) establish the annual amount each energy distributor must allocate to programs and actions promoting energy efficiency and new energy technologies, including those that are administered by the agency and target more than one form of energy;

(3) determine the annual share each energy distributor must pay to the agency for the purposes of the regulation made under subparagraph 10 of the first paragraph of section 114; and

(4) send a notice of payment to each energy distributor and provide the agency with all the information needed to collect the shares.

"**85.26.** An electric power or natural gas distributor must submit its programs and actions promoting energy efficiency or new energy technologies to the Régie each year on the date the Régie determines.

The agency shall send to the Régie, at the same time as the comprehensive plan or on the date the Régie determines, the programs and actions promoting energy efficiency that target fuel or more than one form of energy and the programs and actions promoting new energy technologies.

"**85.27.** The total annual amount an energy distributor must allocate to energy efficiency and new energy technologies is equal to the following:

(1) the cost of the programs and actions to be carried out;

(2) the expenses referred to in section 36; and

(3) the annual share payable to the agency under section 24.2 of the Act respecting the Agence de l'efficacité énergétique.

"**85.28.** When establishing the annual amount for an electric power or natural gas distributor, the Régie must take into account the impact of that amount on the rates it fixes or on any rates applicable by the distributor.

"**85.29.** When establishing the annual amount for a fuel distributor, the Régie must

(1) evaluate the relative effect of that amount on the price per litre of fuel paid by consumers; and

(2) establish an annual amount for gasoline, diesel fuel, propane and heating oil.

"**85.30.** When approving the financing of programs and actions promoting energy efficiency or new energy technologies, the Régie must, in particular, ensure that the objectives set under those programs and actions are met.

"**85.31.** No later than 31 March of each year, a fuel distributor must file a registration statement with the Régie specifying

(1) the address of the establishment it intends to operate and the address of any other establishment it intends to have operated by a third party; and

(2) the volume of sales of fuel intended for consumption in Québec that was refined in Québec or brought into Québec during its preceding fiscal year and, where applicable, the volume of gasoline, diesel fuel, heating oil or propane acquired during its preceding fiscal year from a person described in subparagraph 1 or 2 of the definition of "fuel distributor" in section 0.1 of the Act respecting the Agence de l'efficacité énergétique, as well as any other information the Régie deems necessary for the purposes of this chapter, in the form prescribed by the Régie.

"**85.32.** The Régie shall audit the progress report the agency files on the comprehensive plan and the use made of the sums received under section 24.2 of the Act respecting the Agence de l'efficacité énergétique, and give the agency its audit report.

"**CHAPTER VI.3**

"FINANCING OF MEASURES TO REDUCE GREENHOUSE GAS EMISSIONS AND ADAPT TO CLIMATE CHANGE

"**85.33.** This chapter applies to

(1) a natural gas distributor;

(2) a person or partnership that brings fuel to Québec for the production of electric power; and

(3) a distributor of fuel, excluding hydrocarbons used as raw material by industries that transform hydrocarbon molecules through chemical and petrochemical processes.

For the purposes of this chapter, a person or partnership referred to in subparagraph 2 of the first paragraph is deemed to be a distributor.

"**85.34.** For the purposes of this chapter and section 114,

"diesel fuel" means a liquid mixture of hydrocarbons obtained from the refining of petroleum to supply diesel engines;

"fuel" means gasoline, diesel fuel, heating oil, propane, petroleum coke or coal, but not aviation fuel, marine bunker fuel or renewable fuel content;

"fuel distributor" means

(1) a person that refines, manufactures, mixes, prepares or distils fuel in Québec;

(2) a person that brings or causes to be brought into Québec fuel contained in one or more receptacles with a total capacity of over 200 litres, except fuel contained in a fuel tank installed as standard equipment to supply the engine of a vehicle;

(3) a person that, in a year, acquires 25 million litres or more of gasoline, diesel fuel, heating oil or propane from a person described in subparagraph 1 or 2; and

(4) a person that, in a year, acquires petroleum coke or coal from a person described in subparagraph 1 or 2;

"gasoline" means a liquid mixture of hydrocarbons obtained from the refining of petroleum mainly for use as spark ignition engine fuel;

"heating oil" means a liquid mixture of hydrocarbons obtained from the refining of petroleum and used for domestic, commercial, institutional or industrial heating;

"propane" means a liquid mixture of hydrocarbons obtained from the refining of petroleum or the processing of natural gas and used as spark ignition engine fuel or for such applications as cooking or domestic, commercial, institutional or industrial heating.

"**85.35.** The Government may, for the period and on the conditions it determines, set

(1) greenhouse gas emission reduction objectives;

(2) the overall financial investment to be made to meet greenhouse gas emission reduction objectives and to carry out measures arising from any government policy or strategy that is designed to fight climate change and that includes means of adapting to climate change.

"**85.36.** Taking into account the objectives and the overall financial investment, the Régie shall establish by regulation

(1) the rate and method of calculation of the annual duty payable by a distributor on the basis of the carbon dioxide (CO_2) emissions generated by the combustion of natural gas and fuel, the rate of interest on sums due and the penalties exacted for failure to pay; and

(2) the conditions on which distributors must pay the annual duty to the Green Fund established under section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs.

"**85.37.** A distributor referred to in section 85.33 must file with the Régie, on the date the Régie determines and in the form it prescribes, a statement specifying the volume of natural gas it distributed or the volume of sales of fuel intended for consumption in Québec that was refined in Québec or brought into Québec during its preceding fiscal year and, where applicable, the volume of gasoline, diesel fuel, heating oil, propane, petroleum coke or coal acquired during its preceding fiscal year from a person described in subparagraph 1 or 2 of the definition of "fuel distributor" in section 85.34 and any other information the Régie deems necessary for the purposes of this chapter.

"**85.38.** The Régie shall establish the amount each distributor concerned must pay under the regulation referred to in section 85.36 and give notice of it to the distributor and to the Minister of Sustainable Development, Environment and Parks.

The Minister shall collect the duties payable and deposit them in the Green Fund, along with any interest due or penalties.

"**85.39.** The Minister of Sustainable Development, Environment and Parks shall send the Government a report on the achievement of the objectives set, and on the use of the amounts paid under section 85.38. The report must be sent no later than 31 July each year, in the form and on the conditions set by the Government, if any. A copy of the report must be sent to the Régie on the same date."

49. Section 102 of the Act is amended

(1) by inserting ", including an energy distributor to which Chapter VI.2 applies, a person referred to in section 85.33 and an owner or operator referred to in paragraph 2 of section 85.3" after "Every distributor" in the first paragraph;

(2) by replacing "This section applies" in the third paragraph by "Section 85.38 and this section apply".

50. Section 112 of the Act, amended by section 50 of chapter 22 of the statutes of 2000, is again amended

(1) by replacing "or by a distributor, the terms and conditions of payment thereof and the interest rate on overdue amounts" in subparagraph 1 of the first paragraph by ", by an owner or operator referred to in paragraph 2 of section 85.3, by a person referred to in section 85.33 or by a distributor, including an energy distributor to which Chapter VI.2 applies, as well as the terms and conditions of payment, the rate of interest on sums due and the penalties exacted for failure to pay";

(2) by inserting the following subparagraph after subparagraph 2.2 of the first paragraph:

"(2.3) the maximum production capacity referred to in section 74.3, which may vary with the source of renewable energy;";

(3) by inserting "the classes of owners or operators referred to in paragraph 2 of section 85.3, or" after "electric power carrier," in the first sentence of the second paragraph;

(4) by inserting "a class of owners or operators referred to in paragraph 2 of section 85.3," after "electric power carrier," in the second sentence of the second paragraph;

(5) by adding the following paragraphs at the end:

"The amount of the penalty the Government may determine under subparagraph 1 of the first paragraph may not exceed 15% of the amount that should have been paid.

In cases where energy needs are to be supplied out of an energy block, a regulation may provide that only certain classes of suppliers may be invited to tender by the electric power distributor and that the quantity of electric power required under each supply contract may be limited."

51. Section 114 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph 8 of the first paragraph:

"(9) the rates, method of calculation and terms of payment of the annual duty on natural gas and fuel payable under Chapter VI.3, the rate of interest on sums due and the penalties exacted for failure to pay;

"(10) the method of calculation of the annual share payable to the agency by energy distributors under section 24.2 of the Act respecting the Agence de l'efficacité énergétique, the terms of payment, the rate of interest on sums due and the penalties exacted for failure to pay.";

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

"The rate, method of calculation and terms of payment referred to in subparagraphs 9 and 10 of the first paragraph may vary from one distributor or class of distributors to another. The Régie may also provide that a given provision of a regulation made under either of those subparagraphs is to become effective at different dates depending on whether it applies to electric power, natural gas, gasoline, diesel fuel, heating oil, propane or coal.

The amount of the penalty the Régie may determine under subparagraph 9 or 10 of the first paragraph may not exceed 15% of the amount that should have been paid."

52. Section 115 of the Act is amended by replacing "for approval" by ", which may approve them with or without amendments".

53. Section 116 of the Act is amended

(1) by inserting "or an owner or operator referred to in section 85.14" after "electric power carrier" in subparagraph 3 of the second paragraph;

(2) by adding the following subparagraph after subparagraph 6 of the second paragraph:

"(7) the electric power or natural gas distributor, if it contravenes the first paragraph of section 85.26."

54. Section 117 of the Act is amended by replacing "pursuant to section 85.1" in the third paragraph by "under section 85.1, 85.31 or 85.37".

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

55. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by inserting "The Agence de l'efficacité énergétique" in alphabetical order.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

56. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Conseil du trésor decisions 203812 dated 6 June 2006, 203919 dated 19 June 2006 and 204239 dated 12 September 2006, is again amended by inserting "the Agence de l'efficacité énergétique" in alphabetical order in paragraph 1.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

57. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1), amended by Conseil du trésor decisions 203812 dated 6 June 2006, 203919 dated 19 June 2006 and 204239 dated 12 September 2006, is again amended by inserting "the Agence de l'efficacité énergétique" in alphabetical order in paragraph 1.

WATERCOURSES ACT

58. Section 3 of the Watercourses Act (R.S.Q., chapter R-13), amended by section 17 of chapter 24 of the statutes of 2006, is again amended by adding the following paragraph at the end:

"Ownership of hydraulic power in the domain of the State is and always has been attached to ownership of the bed of the watercourses in the domain of the State. This paragraph is declaratory."

59. The Act is amended by inserting the following section after section 68:

"**68.1.** The operator of a private electric power system governed by the Act respecting municipal and private electric power systems (chapter S-41) that provides electric power it produces to a person that is not part of the system must pay the Minister of Natural Resources and Wildlife the charge fixed by government regulation.

This section does not apply to a Hydro-Québec electric power purchase program approved by the Régie under section 74.3 of the Act respecting the Régie de l'énergie (chapter R-6.01).

This section does not apply to an operator that, before 13 December 2006, was authorized by the Government to provide electric power to a person that is not part of its system."

ACT RESPECTING MUNICIPAL AND PRIVATE ELECTRIC POWER SYSTEMS

60. Section 17.1 of the Act respecting municipal and private electric power systems (R.S.Q., chapter S-41) is amended by adding the following paragraph at the end:

"The first paragraph applies to a person or partnership producing electric power for its own consumption."

ACT RESPECTING THE LEASING OF WATER-POWERS OF THE PÉRIBONCA RIVER TO THE ALUMINUM COMPANY OF CANADA LIMITED

61. Section 3 of the Act respecting the leasing of water-powers of the Péribonca river to the Aluminum Company of Canada Limited (1984, chapter 19) is amended by striking out "within twelve months preceding 1 January 2034" in the third paragraph.

62. The Act is amended by inserting the following section after section 4:

"**4.1.** All of the electric power produced by the company under the lease must be used to meet its industrial needs.

Any electric power not used for that purpose must be sold to and purchased by Hydro-Québec, at a price agreed on by the company and Hydro-Québec and approved by the Government."

TRANSITIONAL AND FINAL PROVISIONS

63. A distributor of biogas produced at a landfill site within the framework of a project authorized by the Régie before 13 December 2006 retains the exclusive distribution rights granted under section 63 of the Act respecting the Régie de l'énergie.

For the purposes of this Act as it applies to the rates and the conditions applicable to the supply, transmission or delivery of natural gas by a natural gas distributor, the biogas referred to in this section is considered to be natural gas.

64. A regulation made under section 58 of the Public Administration Act (R.S.Q., chapter A-6.01) applies to the agency until the agency adopts a policy on the terms of its contracts.

65. The director general of the Agence de l'efficacité énergétique shall remain in office until a president and chief executive officer is appointed by the Government under section 4 of the Act respecting the Agence de l'efficacité énergétique (R.S.Q., chapter A-7.001). The position of director general is abolished on the date the president and chief executive officer takes office.

66. An employee of the Agence de l'efficacité énergétique who is a permanent public servant on 1 April 2007 is entitled to be placed on reserve in the public service if the employee sends the agency a notice to that effect before 1 June 2007.

67. An employee of the Agence de l'efficacité énergétique who, on 1 April 2007, is a permanent public servant of the agency and governed by the Public Service Act (R.S.Q., chapter F-3.1.1) may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with that Act.

Section 35 of the Public Service Act applies to an employee who enters such a competition for promotion.

68. An employee referred to in section 67 who applies for a transfer or enters a competition for promotion may apply to the chairman of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on 1 April 2007, as well as the years of experience and the formal training acquired since.

If the employee is transferred following an application under section 67, the deputy minister of the department or chief executive officer of the body must assign to the employee a classification compatible with the assessment provided for in the first paragraph.

If promoted pursuant to section 67, the employee must be given a classification on the basis of the criteria provided for in the first paragraph.

69. Where some or all of the operations of the Agence de l'efficacité énergétique are discontinued or if there is a shortage of work, an employee referred to in section 67 is entitled to be placed on reserve in the public service with the classification the employee had on 1 April 2007.

In such a case, the chairman of the Conseil du trésor must establish the employee's classification on the basis of the criteria set out in the first paragraph of section 68.

70. An employee of the Agence de l'efficacité énergétique placed on reserve under section 66 or 69 remains in the employ of the agency until the chairman of the Conseil du trésor is able to assign the employee to a position in accordance with section 100 of the Public Service Act.

71. Subject to any remedy available under a collective agreement, an employee referred to in section 67 who is dismissed may bring an appeal under section 33 of the Public Service Act.

72. Any accredited association that represents the employees of the Agence de l'efficacité énergétique on 1 April 2007 continues to represent them and the collective agreements in force on that date continue to apply.

73. This Act comes into force on 13 December 2006, except sections 6 and 37, which come into force on 1 April 2007.

Coming into force of Acts

Gouvernement du Québec

O.C. 28-2007, 16 January 2007

An Act respecting the Conservatoire de musique et d'art dramatique du Québec (1994, c. 2)
An Act to amend the Act respecting the Conservatoire de musique et d'art dramatique du Québec (2006, c. 26)
— Coming into force of certain provisions

COMING INTO FORCE of certain provisions of the Act respecting the Conservatoire de musique et d'art dramatique du Québec and the Act to amend the Act respecting the Conservatoire de musique et d'art dramatique du Québec

WHEREAS the Act respecting the Conservatoire de musique et d'art dramatique du Québec (1994, c. 2) was assented to on 5 May 1994;

WHEREAS, under section 99 of the Act, its provisions will come into force on the date or dates set by the Government, with the exception of sections 1 to 5, 7 to 12, the first paragraph of section 13, and sections 17, 18, 81, 82 and 89 to 95 which came into force on 5 May 1994;

WHEREAS Order in Council 1000-94 dated 6 July 1994 set 1 November 1994 as the date of coming into force of section 28;

WHEREAS section 29 of the Act was amended by section 117 of the Public Administration Act (2000, c. 8) and Order in Council 734-2001 dated 20 June 2001 set 20 June 2001 as the date of coming into force of that section;

WHEREAS the Act to amend the Act respecting the Conservatoire de musique et d'art dramatique du Québec (2006, c. 26) was assented to on 15 June 2006;

WHEREAS, under section 21 of that Act, its provisions come into force on 15 June 2006, except those of sections 19 and 20, which come into force on the date to be set by the Government and those of sections 3 to 8, 10, 11, 13 and 16, which come into force on the date to be set by the Government for the coming into force of the provisions they amend;

WHEREAS it is expedient to set 31 March 2007 as the date of coming into force of section 6, the second paragraph of section 13, sections 14 to 16, 19 to 27, 52 to 54, 56 to 75, 77 to 80, 83 to 88 and 96 to 98 of the Act respecting the Conservatoire de musique et d'art dramatique du Québec;

WHEREAS it is expedient to set 1 September 2007 as the date of coming into force of sections 31 to 36 and 40 to 46 of that Act;

WHEREAS it is expedient to set 1 December 2007 as the date of coming into force of sections 37 to 39 and 47 to 51 of that Act;

WHEREAS it is expedient to set 31 March 2007 as the date of coming into force of sections 3, 4, 7, 8, 10, 11, 13, 16, 19 and 20 of the Act to amend the Act respecting the Conservatoire de musique et d'art dramatique du Québec;

WHEREAS it is expedient to set 1 September 2007 as the date of coming into force of sections 5 and 6 of that Act;

IT IS ORDERED, therefore, on the recommendation of the Minister of Culture and Communications:

THAT 31 March 2007 be set as the date of coming into force of section 6, the second paragraph of section 13, sections 14 to 16, 19 to 27, 52 to 54, 56 to 75, 77 to 80, 83 to 88 and 96 to 98 of the Act respecting the Conservatoire de musique et d'art dramatique du Québec (1994, c. 2);

THAT 1 September 2007 be set as the date of coming into force of sections 31 to 36 and 40 to 46 of that Act;

THAT 1 December 2007 be set as the date of coming into force of sections 37 to 39 and 47 to 51 of that Act;

THAT 31 March 2007 be set as the date of coming into force of sections 3, 4, 7, 8, 10, 11, 13, 16, 19 and 20 of the Act to amend the Act respecting the Conservatoire de musique et d'art dramatique du Québec (2006, c. 26);

THAT 1 September 2007 be set as the date of coming into force of sections 5 and 6 of that Act.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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Regulations and other acts

Gouvernement du Québec

O.C. 9-2007, 16 January 2007

An Act respecting the provision of health services by medical specialists
(2006, c. 16)

Cessation of effect of Division IV and section 22 of the Act respecting the provision of health services by medical specialists

WHEREAS the Act respecting the provision of health services by medical specialists (2006, c. 16) was assented to on 13 June 2006;

WHEREAS section 29 of the Act provides that Division IV and section 22 of the Act cease to have effect on 31 March 2010 or on an earlier date set by the Government;

WHEREAS it is advisable that Division IV and section 22 of the Act cease to have effect on 16 January 2007;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT Division IV and section 22 of the Act respecting the provision of health services by medical specialists (2006, c. 16) cease to have effect on 16 January 2007.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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Gouvernement du Québec

O.C. 15-2007, 16 January 2007

Environment Quality Act
(R.S.Q., c. Q-2)

Contaminated soil storage and contaminated soil transfer stations

Regulation respecting contaminated soil storage and contaminated soil transfer stations

WHEREAS, under subparagraphs *a*, *c* to *h*.2, *k* and *m* of the first paragraph of section 31, paragraphs 1 and 5 of section 31.69, sections 86, 109.1 and 124.1 of the Environment Quality Act (R.S.Q., c. Q-2), the Government may make regulations on the matters set forth therein;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, a draft of the Regulation respecting the storage of contaminated soils and contaminated soil transfer stations was published in Part 2 of the *Gazette officielle du Québec* of 30 June 2004 with a notice that it could be made by the Government on the expiry of 60 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments to take into account the comments received following that publication in the *Gazette officielle du Québec*;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation respecting contaminated soil storage and contaminated soil transfer stations, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting contaminated soil storage and contaminated soil transfer stations

Environment Quality Act
(R.S.Q., c. Q-2, s. 31, 1st par., subpars. *a*, *c* to *h*.2, *k* and *m*, s. 31.69, pars. 1 and 5, ss. 86, 109.1 and 124.1)

CHAPTER I
GENERAL

1. The purpose of this Regulation is to protect the environment against pollution related to the handling of contaminated soils.

It establishes rules for contaminated soil storage and the establishment, operation and closure of contaminated soil transfer stations.

Subject to section 4, the contaminated soils to which this Regulation applies are soils that contain contaminants in a concentration equal to or greater than the limit values in Schedule I. In addition, for the purposes of Chapter III, soils containing contaminants listed in Schedule III are also covered by this Regulation.

2. The following definitions apply to this Regulation.

"**Contaminated soil transfer station**" means any facility that receives contaminated soils to be stored temporarily before being transferred to a treatment site authorized under the Environment Quality Act (R.S.Q., c. Q-2) where they are to be totally or partially decontaminated. (*centre de transfert de sols contaminés*)

"**100-year flood line**" means the line that corresponds to the limit line of a flood likely to occur once every one hundred years. (*ligne d'inondation de récurrence de 100 ans*)

In addition, for the purposes of this Regulation,

(1) watercourse or body of water includes marshes and swamps but excludes intermittent watercourses;

(2) soil includes sediments extracted from a watercourse or body of water; and

(3) an increase in storage capacity is included in the enlargement of a storage site or a transfer station.

3. The provisions of this Regulation relating to the storage of contaminated soils do not operate to replace the provisions governing

(1) the treatment of contaminated soils;

(2) the landfilling of contaminated soils;

(3) the landfilling of residual materials;

(4) the final disposal of hazardous materials; or

(5) tailings areas.

4. The disposal of soils containing contaminants in a concentration lower than the limit values in Schedule I is prohibited on or in soils having a contaminant concentration lower than the contaminant concentration in the soils disposed of.

In addition, the soils may not be disposed of on or in land to be used for housing unless the soils are used as backfill in connection with land rehabilitation work in accordance with the Environment Quality Act and the contaminant concentration in the soils is equal to or lower than the contaminant concentration in the host soils.

This section does not, however, apply to soils disposed of on the site of origin or soils disposed of on the site of the source contamination activity.

5. Unless required for an authorized treatment, at no time may contaminated soils be mixed with clean soils or with soils or materials having a different contaminant concentration so that the overall contamination level would change and permit disposal of the soils in a less restrictive manner or, because of the mixing of soils having different contamination levels or different structures, decontamination would be made more difficult.

CHAPTER II
CONTAMINATED SOIL STORAGE

DIVISION I
GENERAL

6. Subject to section 11, a person who has soil excavation carried out may not store contaminated soils elsewhere than on the site of origin or of contamination.

In addition, no contaminated soils may be shipped by the person to a location in Québec other than a site legally authorized to receive such soils, namely

(1) a contaminated soil transfer station;

(2) a contaminated soil storage site;

(3) a contaminated soil treatment site;

(4) a contaminated soil landfill;

(5) a residual materials landfill;

(6) a site for the final disposal of hazardous materials; or

(7) tailings areas, but only if the soils are soils whose metal and metalloid contamination results from the activities of the enterprise responsible for the tailings area.

The operator or any other person responsible for a site listed in the second paragraph must issue a document to the person who had the soil excavation carried out certifying the receipt and quantity in weight of the contaminated soils. That latter person must keep the document for a minimum of two years and make it available to the Minister of Sustainable Development, Environment and Parks.

If the person who had the soil excavation carried out ships contaminated soils to a site listed in the second paragraph and the person is also the operator of the site, the person must, in lieu of the document referred to in the third paragraph, keep a logbook in which the soil excavation site and the quantity in weight of the contaminated soils shipped to the soil disposal site are entered. The person must keep the logbook for a minimum of two years and make it available to the Minister.

7. Soils containing volatile organic compounds in a concentration equal to or greater than the concentrations in Part III of Schedule II must not be handled without the necessary precautions having been taken to prevent a release of soil contaminants into the atmosphere.

8. A contractor who, within the same field of activities and in the normal course of the activities, is likely to contaminate small volumes of soil in various locations may recover, ship and store the soil on one of the contractor's sites or similar sites on the following conditions:

(1) the contractor must inform the Minister in writing of the situation referred to in this section and indicate the sites on which the soils are stored;

(2) the contractor must enter in a logbook the locations where soils were contaminated because of the operation of the contractor's enterprise, and the subsequent destination of the soils; the logbook must be kept and made available to the Minister for five years;

(3) the volume of soils excavated or stored must not exceed 50 m^3 per site;

(4) the soils must be placed in closed and leak-proof containers that must be placed on an impermeable surface protected from bad weather; and

(5) the maximum storage time is 180 days.

For the purposes of the first paragraph, "similar site" means any site the contractor goes to in the normal course of activities and for which the contractor has obtained a written authorization from the owner of the site to store contaminated soils on the conditions set out in subparagraphs 3 to 5 of the first paragraph.

9. Any person who, following an accidental spill, recovers contaminated soils for which the contamination level is unknown must inform the Minister and subparagraphs 3 to 5 of the first paragraph of section 8 then apply.

10. If, because of linear projects or area of the site, it is impossible to store contaminated soils on the site of origin, the authorization issued under the Environment Quality Act must indicate the sites where the soils may be stored and the storage conditions.

If contaminated soils are discovered unexpectedly and the authorization mentioned in the first paragraph does not cover the sites and storage conditions, or an authorization was not required under the Act, and it is impossible because of the linear projects or area of the site to store the soils on the sites of origin, the soils may be stored on another site on the following conditions:

(1) a notice must be given to the Minister not later than ten days after excavation of the soils; and

(2) the notice must contain the identity of the person who has the excavation carried out and the date of excavation, an estimate of the volume of soils stored, the sites where the soils are stored and the storage conditions.

The storage conditions must be such that the contaminated soils cannot contaminate the water, air or subjacent soils. In addition, the storage time may not exceed 180 days.

DIVISION II
STORAGE OF CONTAMINATED SOILS TO BE RECLAIMED

11. The storage, elsewhere than on the site of origin, of contaminated soils to be reclaimed is permitted only if all the concentrations of the substances contained in the soils are equal to or lower than the limit values in Schedule II and there is compliance with the requirements of this Division.

12. No person may establish, enlarge or operate a contaminated soil storage site without holding a certificate of authorization issued under section 22 of the Environment Quality Act.

The certificate is valid for five years and may be renewed on application to the Minister made not later than 180 days before the end of the five-year period.

Information or documents previously filed with the Minister in connection with an application need not be re-filed if the applicant attests to their current accuracy.

13. A contaminated soil storage site may not be established in the flood plain of a watercourse or a body of water within the 100-year flood line.

14. The quality of the soils that may be altered because of the storage site must be determined before the site commences operations, in reference to the contaminants likely to be present in the soils to be stored.

The concentration values determined before the site commences operations are to be used as intervention threshold values in the case of an accidental release into the environment and during final restoration of the site.

15. The quality of the groundwater that may be altered because of the storage site must be determined before the site commences operations, in reference to the contaminants likely to be present in the soils to be stored, and thereafter on an annual basis.

The concentration values determined before the site commences operations are to be used as intervention threshold values should concentration values be exceeded at the time of the annual analysis. For that purpose, section 58 applies, with the necessary modifications. During sampling, the groundwater piezometric level must also be measured. If the values are exceeded, section 60 applies.

16. Contaminated soils may be stored only on an impermeable floor capable of supporting the soils. The storage area must be laid out so that any run-off liquid is contained.

17. At least one observation well must be installed in the vicinity of the storage site, downstream of the storage site, so that groundwater quality can be monitored. If the volume of soils stored is to be greater than 1,000 m^3, the minimum number of wells is three, one upstream and two downstream.

The location of the wells on the land and in the ground must take hydrogeological conditions into account.

18. Dust dispersal control measures must be taken to limit the impacts from the transport and handling of soils in the vicinity of the storage site.

19. Every contaminated soil storage site must have, at the entrance,

(1) a conspicuous sign indicating that the site is a contaminated soil storage site, the name, address and telephone number of the operator and any other person responsible for the site, and, where applicable, the site's business hours; and

(2) a barrier or other device preventing access to the site outside business hours or in the absence of an authorized person.

20. The operator of a contaminated soil storage site must verify the acceptability of soils before they are received. For that purpose, the operator must, on the arrival of every incoming shipment of soil, request from the owner of the soil and enter in an operations logbook the site of origin of the soil, the date and quantity accepted and the concentration of the contaminants it contains.

The operator must also, for each batch of soil and for at least every 100 m^3 of contaminated soils accepted, take a single sample with a mass sufficient to make an analysis of all the contaminants among those listed in Schedule II likely to be present in the soils. The results of the analysis must also be entered in the logbook.

The logbook must make it possible at all times to locate the batches of soils received to allow sampling to be performed to verify their acceptability.

For outgoing soils, the operator must enter in the logbook the destination and quantity of the soils and the date on which they are shipped to the site or sites authorized to receive them.

The operator must keep the logbook and make it available to the Minister for five years after closure of the storage site.

21. The maximum volume of contaminated soils in storage at any time cannot exceed 20,000 m^3.

22. The maximum storage time for a specific batch of soils is 12 months.

23. Contaminated soils must be protected at all times from bad weather.

24. All run-off liquid from the contaminated soils must be recovered, analyzed and decontaminated if need be. For that purpose, the run-off liquid must be recovered in a leakproof tank protected from rainwater so as to enable determination of the contamination concentration before treatment or discharge.

No run-off liquid may be discharged into the environment unless it conforms to the values determined in the certificate of authorization.

25. The operator of a contaminated soil storage site must prepare an annual operations report containing a summary of the monitoring program, the results of the analyses under this Division, the data on the quantity of soil accepted, the nature and extent of contamination, the date of acceptance, the origin and destination of the soil and the quantity of outgoing contaminated soil and the date of shipping. The report must be sent to the Minister in January of each year.

26. The operation of a contaminated soil storage site is subject to a financial guarantee being furnished as provided in Division VIII of Chapter III.

27. The operator of a contaminated soil storage site must, 60 days before the site is to cease operations, send a notice to the Minister confirming the date of closure.

All contaminated soils must have been transferred by the operator to an authorized site listed in section 6 by the day of closure.

The operator must have a characterization study of the land performed within six months after operations have permanently ceased. The study must be sent to the Minister as soon as it is completed.

If the characterization study reveals the presence of contaminants in a concentration exceeding the values determined pursuant to section 14, the operator must take the necessary measures so that the contaminant concentration returns to values equal to or lower than those values. If, however, the values determined pursuant to section 14 were equal to or greater than the limit values in Schedule II, the operator must take the necessary measures to reduce the contaminant concentration to values lower than the values in that Schedule.

CHAPTER III
CONTAMINATED SOIL TRANSFER STATIONS

DIVISION I
GENERAL

28. A contaminated soil transfer station may accept only soils that are to undergo authorized treatment in Québec or elsewhere to partially or totally decontaminate them.

29. No contaminated soil transfer station may accept

(1) soils that contain one or more substances in a concentration equal to or greater than the limit values in Schedule III;

(2) soils that have a residual materials content exceeding 50%, on a volumetric basis, after segregation;

(3) soils that contain explosive or radioactive materials within the meaning of section 3 of the Regulation respecting hazardous materials made by Order in Council 1310-97 dated 8 October 1997;

(4) soils that contain a free liquid, according to a standard test carried out by a laboratory accredited by the Minister under section 118.6 of the Environment Quality Act; or

(5) residual materials or hazardous materials.

30. No soils containing one or more volatile organic compounds listed in Part III of Schedule III may be accepted by a contaminated soil transfer station unless they are confined in a closed and leakproof container so as to limit their handling and the dispersal of contaminants into the ambient air. The concentration of the compounds must be lower than the limit values in that Schedule.

31. The maximum volume of contaminated soils in storage at any given time cannot exceed 1,000 m^3.

32. The maximum storage time for any batch of soil is 30 days, except soils containing compounds listed in Part III of Schedule III whose containers must be shipped to a treatment centre authorized to receive them within 7 days after being accepted by the contaminated soil transfer station.

DIVISION II
CERTIFICATE OF AUTHORIZATION

33. No person may establish, enlarge or operate a contaminated soil transfer station without holding a certificate of authorization issued under section 22 of the Environment Quality Act.

34. Every application for a certificate of authorization must include the following information and documents, in addition to those required under section 22 of the Environment Quality Act and the Regulation respecting the application of the Environment Quality Act made by Order in Council 1529-93 dated 3 November 1993:

(1) identification of the contaminants present in the soils to be received at the transfer station and the maximum storage capacity;

(2) identification of the locations where gas is to be sampled for analysis, and the sampling frequency;

(3) an overall plan, to scale, indicating

(a) the operations site, including the siting of the building, equipment and surface water drainage system;

(b) the area occupied by the buffer zone required pursuant to section 41 and the area zoning; and

(c) the names and location of public thoroughfares, access roads both existing and proposed, watercourses and bodies of water within a radius of one kilometre and the location of the observation wells on the land and in the ground;

(4) a description of the observation wells and the surface water drainage system;

(5) a plan of the building including the location and description of the ventilation, gas treatment, recovery, water decontamination and floor waterproofing systems;

(6) the location of the soils in the building and identification of the batches of soils stored;

(7) the manner in which the soils are to be handled on being received and shipped to their treatment destination;

(8) the measures to be taken to prevent dust dispersal inside the building and in the vicinity of the site;

(9) the monitoring, maintenance and cleaning program for the equipment including the frequency of the work to be performed;

(10) the quality of the groundwater before the establishment of the transfer station as required by section 43;

(11) the monitoring and control elements required under Division V;

(12) the report of the observations made at the public meeting and a copy of the public notice published as required by section 36;

(13) the fees payable pursuant to the Environment Quality Act; and

(14) the financial guarantee required pursuant to section 63.

35. No person may establish, enlarge or operate a contaminated soil transfer station without being the owner of the land on which the transfer station and the systems necessary to operate the transfer station must be or are situated.

36. Every applicant for a certificate of authorization to establish or operate a contaminated soil transfer station must first inform the public of the proposed establishment or operation by means of a notice published in a newspaper circulated in the municipality where the transfer station is to be situated containing

(1) the designation of the land and the applicant's name and address;

(2) a summary of the project stating at a minimum the information required under paragraphs 1, 7, 8, 10 and 11 of section 34;

(3) the date, time and place in the municipality where the public information meeting will be held, which may not take place earlier than ten days after publication of the notice; and

(4) a statement that the full text of the document introducing the project referred to in subparagraph 2 may be examined at the office of the municipality.

A report of the observations made at the public meeting and a copy of the public notice published in the newspaper must be filed with the application for the certificate of authorization. The report must be made available for examination at the office of the municipality.

This section does not apply to a renewal of a certificate of authorization unless the renewal application involves an enlargement of or alteration to the transfer station.

37. A certificate of authorization issued under section 22 of the Environment Quality Act is valid for five years. To renew the certificate, an application must be filed with the Minister not later than 180 days before the end of the five-year period.

Information or documents previously filed with the Minister in connection with an application need not be re-filed if the applicant attests to their current accuracy.

DIVISION III
ESTABLISHMENT

38. The siting of a contaminated soil transfer station in the flood plain of a watercourse or body of water within the 100-year flood line is prohibited.

39. A contaminated soil transfer station must be sited at a minimum distance of one kilometre upstream of any surface water or groundwater collection facility if the facility is used for the production of spring water or mineral water within the meaning of the Regulation respecting bottled water (R.R.Q., 1981, c. Q-2, r.5), or for the supply of a waterworks system authorized under the Environment Quality Act.

The siting of a contaminated soil transfer station in the supply area of a spring water, mineral water or groundwater catchment site established in accordance with the Groundwater Catchment Regulation made by Order in Council 696-2002 dated 12 June 2002 is prohibited.

The distance prescribed by the first paragraph is measured from the inside limit of the buffer zone required under section 41 to be present on the perimeter of every contaminated soil transfer station.

40. A contaminated soil transfer station may not be sited in a zone susceptible to ground movement.

41. In order to preserve the isolation of the site, mitigate nuisances and allow for the implementation of necessary remedial measures, a buffer zone at least 50 m wide must be present on the perimeter of the contaminated soil transfer station. No watercourse or body of water may lie within the buffer zone.

42. The quality of the soils that may be altered by the transfer station must be determined before the site commences operations, in reference to the contaminants likely to be present in the soils to be accepted.

The concentration values determined before the site commences operations are to be used as intervention threshold values in the case of an accidental release into the environment and during closure of the site.

43. The quality of the site's groundwater and surface water must be determined before the establishment of the contaminated soil transfer station. For that purpose, the parameters to be measured and the substances to be analyzed are those determined before the transfer station is established, in reference to the contaminants likely to be present in the soils to be accepted at the transfer station. The values so obtained are to be used as intervention threshold values for the purposes of section 60.

44. In order to protect the air, water and soil from contamination, contaminated soils cannot be stored in a transfer station elsewhere than inside a building constructed in such manner as to protect its contents from alteration by water, snow, freezing or heat. The floor of the building must be of impermeable material not likely to be damaged by the nature of the contaminants present in the soils and be capable of supporting the soils. In addition, the storage area must be laid out so that any run-off liquid is contained.

The building must be ventilated so that it is maintained at all times under negative air pressure. The ventilation system must enable all the substances present in the gases and dust likely to be released from the building to be collected and sampled, and a gas treatment system must be installed so that all the substances discharged into the atmosphere comply with the ambient air standards at all times, at the limits of the property.

45. All run-off liquid from the soils must be recovered, analyzed and decontaminated if need be. No run-off liquid may be discharged into the environment unless it meets the values determined at the time the certificate of authorization is issued. For that purpose, the run-off liquid must be recovered in a leakproof tank protected from rainwater so that a determination of the contaminant concentration may be made before treatment or discharge.

46. The land on which the contaminated soil transfer station is sited must have a surface water drainage system capable of allowing the quality of the surface water to be monitored and preventing the surface water from coming into contact with the contaminated soils.

47. An observation well network must be installed on the perimeter of the site to monitor the quality of groundwater upstream and downstream of the contaminated soil transfer station. The minimum number of wells is three, one upstream and two downstream. The location of the wells on the land and in the ground must take hydrogeological conditions into account.

48. Every contaminated soil transfer station must have, at the entrance,

(1) a conspicuous sign indicating that the site is a contaminated soil transfer station, the name, address and telephone number of the operator and any other person responsible for the transfer station, and the transfer station's business hours; and

(2) a barrier or other device preventing access to the transfer station outside business hours or in the absence of an authorized person.

DIVISION IV
OPERATION

49. The operator of a contaminated soil transfer station must verify the acceptability of the soils before they are received. For that purpose, for every incoming shipment of soil, the operator must request from the owner of the soil and enter in an operations logbook

(1) the name and address of the owner of the soil and the name of the carrier;

(2) the quantity of soil expressed in metric tonnes;

(3) the nature of the contaminants present in the soil and their concentration value with the name of the laboratory that prepared the analysis reports;

(4) the origin of the soil; and

(5) the date on which the soil was accepted by the station.

The logbook must make it possible at all times to locate the batches of soils received to allow sampling to verify their acceptability.

50. The operations logbook and annexed documents referred to in the first paragraph of section 51 must be kept on the premises of the transfer station while the transfer station is in operation and be made available to the Minister. Following closure of the station, they must also be kept by the operator for five years and be made available to the Minister.

51. The operator must, before accepting contaminated soils, ascertain the nature and concentration values of the substances present in the soils, among those in Schedule III, by means of an analysis report comprising a number of representative samples making it possible to confirm whether the soils may be accepted. The analyses must be annexed to the operations logbook.

The data must be obtained from the owner of the soil and entered in the logbook. The sampling and analysis methodology, including the sampling method, must also be specified, as well as the number of samples required per unit of volume to ensure that the soils to be shipped to the transfer station arrive with the appropriate analysis reports attesting to their acceptability.

52. The operator must, for each batch of soil and for at least every 100 m^3 of contaminated soils accepted, take a single sample with a mass sufficient to make an analysis of all the contaminants among those listed in Schedule III likely to be present in the soils. The results of the analysis must be entered in the operations logbook referred to in section 49 and in the report prepared under section 61.

The logbook must make it possible at all times to locate the batches of soils received to allow sampling to verify their acceptability.

53. The operator of a contaminated soil transfer station must take the necessary measures to prevent dust dispersal inside the station and in the vicinity of the site.

54. The operator of a contaminated soil transfer station must, for every shipment of outgoing soils, enter the following in the operations logbook referred to in section 49:

(1) the quantity of outgoing soils;

(2) the destination of the soils; and

(3) the date of transfer.

55. The gas collection and treatment systems referred to in section 44, the water drainage system referred to in section 46 and the groundwater observation well network referred to in section 47 must be maintained in working order at all times.

DIVISION V
MONITORING AND CONTROL

56. The concentration of the substances present in the gases and the gas flow must be measured at the outlet of the building's gas collection and treatment system referred to in section 44. The substances that may be present in the gases must be determined at the time the transfer station is established, in reference to the contaminants present in the soils to be accepted by the station and the sampling frequency.

57. At least twice a year, in the spring and fall, the operator of a contaminated soil transfer station must take at least three grab samples from the water in the surface water drainage system. The samples must be analyzed for the parameters and substances determined pursuant to section 43 to determine their concentration.

58. At least twice a year, in the spring and fall, the operator of a contaminated soil transfer station must take one groundwater sample from each of the observation wells located on the perimeter of the site to quantify each of the parameters and substances determined pursuant to section 43 and have them analyzed to determine their concentration.

During sampling, the groundwater piezometric level must also be measured.

59. The surface water and groundwater samples taken pursuant to sections 57 and 58 must be analyzed within the required time and the analysis report must be annexed to the operations logbook and kept as provided in section 50.

60. Within 15 days after the day on which the operator becomes aware that the values determined as provided in section 43 have been exceeded, the operator must so inform the Minister in writing, indicating the measures the operator has taken or intends to take to remedy the situation and, where necessary, implement the measures.

DIVISION VI
REPORT

61. The operator of a contaminated soil transfer station must prepare an annual operations report containing a compilation of the data collected pursuant to

subparagraphs 2 to 5 of the first paragraph of section 49 and section 54 as regards the quantity of soil accepted, the nature and extent of contamination, the date of acceptance, the origin and destination of the soils and the quantity of contaminated soils transferred and the date of transfer.

The report must be be sent to the Minister in January of each year.

DIVISION VII
CLOSURE

62. The operator of a contaminated soil transfer station must, 60 days before the transfer station is to cease operations, send a notice to the Minister confirming the date of closure.

On the day of closure of the station, all contaminated soils must have been transferred by the operator to an authorized treatment centre so that no such soil is present in the building or on the surrounding land.

The operator of the transfer station must have a characterization study of the land performed within six months after operations have permanently ceased. The study must be sent to the Minister as soon as it is completed.

If the characterization study reveals the presence of contaminants in a concentration exceeding the values determined pursuant to section 42, the operator must take the necessary measures so that the contaminant concentration returns to values equal to or lower than those values. If, however, the values determined pursuant to section 42 were equal to or greater than the limit values in Schedule II, the operator must take the necessary measures to reduce the contaminant concentration to values lower than the values in that Schedule.

DIVISION VIII
FINANCIAL GUARANTEE

63. The operation of a contaminated soil transfer station is subject to the operator, or a third party on the operator's behalf, providing a financial guarantee to ensure the performance of the operator's obligations under the Environment Quality Act, regulations, an order or authorization during the period of operation and on closure.

The amount of the guarantee is fixed on the basis of $75 per metric tonne according to the maximum capacity of soils that may be stored at any given time.

64. The guarantee must be provided to the Minister of Sustainable Development, Environment and Parks in lawful money of Canada before the transfer station commences operations, in one of the following forms:

(1) cash, a bank draft or money order, postal money order or certified cheque made out to the Minister of Finance;

(2) bearer bonds issued or guaranteed by Québec, Canada or a Canadian province, the United States of America or one of its member States, the International Bank for Reconstruction or Development, a municipality or a school board in Canada, or a fabrique in Québec;

(3) a security or guarantee policy issued to the Minister of Finance with a stipulation of solidarity and renunciation of the benefits of discussion and division by a legal person authorized to stand security under the Bank Act (S.C. 1991, c. 46), the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01), the Act respecting insurance (R.S.Q., c. A-32) or the Act respecting financial services cooperatives (R.S.Q., c. C-67.3); or

(4) a letter of credit issued to the Minister of Finance by a bank or a financial services cooperative.

Subject to the term specified and section 66, the wording of a guarantee in the form of a security or guarantee policy or letter of credit must be to the effect that the guarantee is unconditional and irrevocable.

65. All sums of money, drafts, cheques, orders or bonds provided as a guarantee must be deposited with the Minister of Finance pursuant to the Deposit Act (R.S.Q., c. D-5) for the duration of the operations until the date of closure confirmed pursuant to section 62 or the date of revocation or transfer of the certificate of authorization, whichever occurs first.

66. A guarantee provided in the form of a security or a guarantee policy or a letter of credit must have a term of not less than 12 months. At least 60 days before the expiry of the guarantee, the proponent must send a renewal of the guarantee or any other guarantee that meets the requirements of sections 63 and 64 to the Minister of Sustainable Development, Environment and Parks.

The guarantee must also contain a clause setting the time period for filing a claim that alleges failure by the operator to perform obligations at not less than 12 months after the expiry of the guarantee or, as the case may be, its revocation, rescission or cancellation, whichever occurs first.

67. If the operator fails to perform an obligation and the default persists after a notice from the Minister to remedy the failure, the Minister may use the financial guarantee provided pursuant to this Chapter to pay expenses necessary for performance of the obligation. In such a case, the sums required to fulfil a financial guarantee provided under this Division become payable.

68. The guarantee is returned to the operator after the closure of the transfer station only if the Minister is satisfied that the operator has complied with all applicable provisions of this Regulation.

CHAPTER IV
OFFENCES

69. Every contravention of sections 14, 15, 17, 20, 23 to 25, the first and third paragraphs of section 27, sections 42, 43, 45 to 52, 56, the first paragraph of section 61 and the first and third paragraphs of section 62 renders the operator of the facility liable to a fine of

(1) $500 to $5,000 in the case of a natural person; and

(2) $1,000 to $20,000 in the case of a legal person.

Every contravention of the third and fourth paragraphs of section 6 renders the offender liable to the fine provided for in the first paragraph.

70. Every contravention of sections 7, 13, 18, 19, 26, 38 to 41, 53 to 55, 57 to 60, 63, 64 and 66 renders the operator of the facility liable to a fine of

(1) $2,000 to $15,000 in the case of a natural person; and

(2) $5,000 to $100,000 in the case of a legal person.

71. Every contravention of sections 16, 21, 22, the second and fourth paragraphs of section 27, sections 28 to 32, 44, the second and fourth paragraphs of section 62 and section 76 renders the operator of the facility liable to a fine of

(1) $10,000 to $25,000 in the case of a natural person; and

(2) $25,000 to $500,000 in the case of a legal person.

Every contravention of sections 4 and 5, the second paragraph of section 6, sections 8 to 12 and section 33 renders the offender liable to the fine provided for in the first paragraph.

72. Every person who introduces materials into a contaminated soil transfer station that under this Regulation cannot be accepted by the transfer station is liable to the fine provided for in section 71.

73. The fines prescribed by sections 69 to 72 are doubled for a second or subsequent offence.

CHAPTER V
MISCELLANEOUS

74. The analyses required pursuant to this Regulation must be carried out by a laboratory accredited by the Minister under section 118.6 of the Environment Quality Act.

75. The applications to obtain the certificate of authorization referred to in section 22 of the Environment Quality Act to establish, renew, enlarge or alter a storage site or a contaminated soil transfer station must be accompanied by payment, in cash, by bank or postal money order, or certified cheque made out to the Minister of Finance, of the fees set out in the following table:

Type of facility	Establishment	Renewal	Enlargement	Alteration without enlargement
Contaminated soil storage site	$1,348	$674	$1,348	$674
Contaminated soil transfer station	$1,348	$674	$1,348	$674

The fees are adjusted on 1 January of each year based on the percentage change in the Consumer Price Indexes for Canada, as published by Statistics Canada; the change is calculated by determining the difference between the average of the monthly indexes for the 12-month period ending on 30 September of the preceding year and the average of the monthly indexes for the same period of the second preceding year. The Minister is to publish the results of the adjustment in Part 1 of the *Gazette officielle du Québec* before 1 January of each year and, if the Minister considers it appropriate, give notice by any other means.

76. The operator of a storage site for contaminated soils to be reclaimed that is referred to in section 11 or of a contaminated soil transfer station in operation on 15 February 2007 in compliance with authorizations granted before that date must, not later than 15 August 2007,

(1) determine, for the purposes of sections 14, 15, 42 and 43, the quality of the water and soils; and

(2) have, for the purposes of sections 24, 45, 55 and 56, the authorizations amended.

77. Certificates of authorization to operate a contaminated soil storage site or transfer station issued under section 22 of the Environment Quality Act four years or more before 15 February 2007 cease to have effect on 15 February 2008. An operator of such a site or transfer station wishing to continue the operation of the site or transfer station after that date must file a renewal application with the Minister in accordance with section 12 or 37, not later than 15 August 2007.

78. The provisions of this Regulation apply to the immovables in a reserved area or an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., c. P-41.1).

79. Schedule II to the Regulation respecting the landfilling and incineration of residual materials[1] is amended by striking out "(NATO, 1988)" in the title.

80. This Regulation comes into force on the 15 February 2007.

SCHEDULE I
(ss. 1 and 4)

Contaminants	**Limit values mg/kg of soil (dry matter)**
I- METALS AND METALLOIDS	
Silver (Ag)	20
Arsenic (As)	30
Barium (Ba)	500
Cadmium (Cd)	5
Cobalt (Co)	50
Chromium (Cr)	250
Copper (Cu)	100
Tin (Sn)	50
Manganese (Mn)	1,000
Mercury (Hg)	2
Molybdenum (Mo)	10
Nickel (Ni)	100
Lead (Pb)	500
Selenium (Se)	3
Zinc (Zn)	500
II- OTHER INORGANIC COMPOUNDS	
Available bromide (Br^-)	50
Available cyanide (CN^-)	10
Total cyanide (CN^-)	50
Available fluoride (F^-)	400
III- VOLATILE ORGANIC COMPOUNDS	
Monocyclic aromatic hydrocarbons	
Benzene	0.5
Monochlorobenzene	1
1,2-Dichlorobenzene	1
1,3-Dichlorobenzene	1
1,4-Dichlorobenzene	1
Ethylbenzene	5
Styrene	5
Toluene	3
Xylenes	5
Chlorinated aliphatic hydrocarbons	
Chloroform	5
1,1-Dichloroethane	5
1,2-Dichloroethane	5
1,1-Dichloroethylene	5
1,2-Dichloroethylene (cis and trans)	5
Dichloromethane	5
1,2-Dichloropropane	5
1,3-Dichloropropylene (cis and trans)	5

[1] The Regulation respecting the landfilling and incineration of residual materials was made by Order in Council 451-2005 dated 11 May 2005 (2005, *G.O.* 2, 1182) and has not been amended since.

Contaminants	Limit values mg/kg of soil (dry matter)
1,1,2,2-Tetrachloroethane	5
Tetrachloroethylene	5
Carbon tetrachloride	5
1,1,1-Trichloroethane	5
1,1,2-Trichloroethane	5
Trichloroethylene	5
IV- PHENOLIC COMPOUNDS	
Non-chlorinated	
Cresol (ortho, meta, para)	1
2,4-Dimethylphenol	1
2-Nitrophenol	1
4-Nitrophenol	1
Phenol	1
Chlorinated	
Chlorophenol (-2, -3, or -4)	0.5
2,3-Dichlorophenol	0.5
2,4-Dichlorophenol	0.5
2,5-Dichlorophenol	0.5
2,6-Dichlorophenol	0.5
3,4-Dichlorophenol	0.5
3,5-Dichlorophenol	0.5
Pentachlorophenol (PCP)	0.5
2,3,4,5-Tetrachlorophenol	0.5
2,3,4,6-Tetrachlorophenol	0.5
2,3,5,6-Tetrachlorophenol	0.5
2,3,4-Trichlorophenol	0.5
2,3,5-Trichlorophenol	0.5
2,3,6-Trichlorophenol	0.5
2,4,5-Trichlorophenol	0.5
2,4,6-Trichlorophenol	0.5
3,4,5-Trichlorophenol	0.5
V- POLYCYCLIC AROMATIC HYDROCARBONS	
Acenaphthene	10
Acenaphthylene	10
Anthracene	10
Benzo(a)anthracene	1
Benzo(a)pyrene	1
Benzo(b+j+k)fluoranthene (combination or each)	1
Benzo(c)phenanthrene	1
Benzo(g,h,i)perylene	1
Chrysene	1
Dibenzo(a,h)anthracene	1
Dibenzo(a,i)pyrene	1
Dibenzo(a,h)pyrene	1
Dibenzo(a,l)pyrene	1
7,12-Dimethylbenzo(a)anthracene	1
Fluoranthene	10
Fluorene	10
Indeno(1,2,3-cd)pyrene	1
3-Methylcholanthrene	1
Naphthalene	5
1-Methylnaphthalene	1
2-Methylnaphthalene	1
1,3-Dimethylnaphthalene	1
2,3,5-Trimethylnaphthalene	1
Phenanthrene	5
Pyrene	10
VI- NON-CHLORINATED BENZENE COMPOUNDS	
2,4,6-Trinitrotoluene (TNT)	0.04
VII- CHLOROBENZENES	
Hexachlorobenzene	2
Pentachlorobenzene	2
1,2,3,4-Tetrachlorobenzene	2
1,2,3,5-Tetrachlorobenzene	2
1,2,4,5-Tetrachlorobenzene	2
1,2,3-Trichlorobenzene	2
1,2,4-Trichlorobenzene	2
1,3,5-Trichlorobenzene	2
VIII- POLYCHLORINATED BIPHENYLS (PCBs)	
Summation of the congeners	1

Contaminants	Limit values mg/kg of soil (dry matter)
IX- PESTICIDES	
Tebuthiuron	50
X- OTHER ORGANIC SUBSTANCES	
Acrylonitrile	1
Ethylene glycol	97
Formaldehyde	100
Dibutyl phthalate	6
XI- INTEGRATING PARAMETERS	
Petroleum hydrocarbons C_{10} to C_{50}	700
XII- DIOXINS AND FURANS	
Summation of chlorodibenzodioxins and chlorodibenzofurans expressed as 2,3,7,8-TCDD toxic equivalents (NATO scale, 1988)	1.5×10^{-5}

SCHEDULE II
(ss. 7, 11, 20, 27 and 62)

Contaminants	Limit values mg/kg of soil (dry matter)
I- METALS AND METALLOIDS	
Silver (Ag)	40
Arsenic (As)	50
Barium (Ba)	2,000
Cadmium (Cd)	20
Cobalt (Co)	300
Chromium (Cr)	800
Copper (Cu)	500
Tin (Sn)	300
Manganese (Mn)	2,200
Mercury (Hg)	10
Molybdenum (Mo)	40
Nickel (Ni)	500
Lead (Pb)	1,000
Selenium (Se)	10
Zinc (Zn)	1,500
II- OTHER INORGANIC COMPOUNDS	
Available bromide (Br^-)	300
Available cyanide (CN^-)	100
Total cyanide (CN^-)	500
Available fluoride (F^-)	2,000
III- VOLATILE ORGANIC COMPOUNDS	
Monocyclic aromatic hydrocarbons	
Benzene	5
Chlorobenzene (mono)	10
1,2-Dichlorobenzene	10
1,3-Dichlorobenzene	10
1,4-Dichlorobenzene	10
Ethylbenzene	50
Styrene	50
Toluene	30
Xylenes	50
Chlorinated aliphatic hydrocarbons	
Chloroform	50
1,1-Dichloroethane	50
1,2-Dichloroethane	50
1,1-Dichloroethylene	50
1,2-Dichloroethylene (cis and trans)	50
Dichloromethane	50
1,2-Dichloropropane	50
1,3-Dichloropropylene (cis and trans)	50
1,1,2,2-Tetrachloroethane	50
Tetrachloroethylene	50
Carbon tetrachloride	50
1,1,1-Trichloroethane	50
1,1,2-Trichloroethane	50
Trichloroethylene	50
IV- PHENOLIC COMPOUNDS	
Non-chlorinated	
Cresol (ortho, meta, para)	10
2,4-Dimethylphenol	10

Contaminants	Limit values mg/kg of soil (dry matter)
2-Nitrophenol	10
4-Nitrophenol	10
Phenol	10
Chlorinated	
Chlorophenol (-2, -3, or -4)	5
2,3-Dichlorophenol	5
2,4-Dichlorophenol	5
2,5-Dichlorophenol	5
2,6-Dichlorophenol	5
3,4-Dichlorophenol	5
3,5-Dichlorophenol	5
Pentachlorophenol (PCP)	5
2,3,4,5-Tetrachlorophenol	5
2,3,4,6-Tetrachlorophenol	5
2,3,5,6-Tetrachlorophenol	5
2,3,4-Trichlorophenol	5
2,3,5-Trichlorophenol	5
2,3,6-Trichlorophenol	5
2,4,5-Trichlorophenol	5
2,4,6-Trichlorophenol	5
3,4,5-Trichlorophenol	5
V- POLYCYCLIC AROMATIC HYDROCARBONS	
Acenaphthene	100
Acenaphthylene	100
Anthracene	100
Benzo(a)anthracene	10
Benzo(a)pyrene	10
Benzo(b+j+k)fluoranthene (combination or each)	10
Benzo(c)phenanthrene	10
Benzo(g,h,i)perylene	10
Chrysene	10
Dibenzo(a,h)anthracene	10
Dibenzo(a,i)pyrene	10
Dibenzo(a,h)pyrene	10
Dibenzo(a,l)pyrene	10
7,12-Dimethylbenzo(a)anthracene	10
Fluoranthene	100
Fluorene	100
Indeno(1,2,3-cd)pyrene	10
3-Methylcholanthrene	10
Naphthalene	50
1-Methylnaphthalene	10
2-Methylnaphthalene	10
1,3-Dimethylnaphthalene	10
2,3,5-Trimethylnaphthalene	10
Phenanthrene	50
Pyrene	100
VI- NON-CHLORINATED BENZENE COMPOUNDS	
2,4,6-Trinitrotoluene (TNT)	1.7
VII- CHLOROBENZENES	
Hexachlorobenzene	10
Pentachlorobenzene	10
1,2,3,4-Tetrachlorobenzene	10
1,2,3,5-Tetrachlorobenzene	10
1,2,4,5-Tetrachlorobenzene	10
1,2,3-Trichlorobenzene	10
1,2,4-Trichlorobenzene	10
1,3,5-Trichlorobenzene	10
VIII- POLYCHLORINATED BIPHENYLS (PCBs)	
Summation of the congeners	10
IX- PESTICIDES	
Tebuthiuron	3,600
X- OTHER ORGANIC SUBSTANCES	
Acrylonitrile	5
Ethylene glycol	411
Formaldehyde	125
Dibutyl phthalate	70,000
XI- INTEGRATING PARAMETERS	
Petroleum hydrocarbons C_{10} to C_{50}	3,500

Contaminants	Limit values mg/kg of soil (dry matter)
XII- DIOXINS AND FURANS	
Summation of chlorodibenzodioxins and chlorodibenzofurans expressed as 2,3,7,8-TCDD toxic equivalents (NATO scale, 1988)	7.5×10^{-4}

SCHEDULE III
(ss. 29, 30, 32, 51 and 52)

Contaminants	Limit values mg/kg of soil (dry matter)
I- METALS AND METALLOIDS	
Silver (Ag)	200
Arsenic (As)	250
Barium (Ba)	10,000
Cadmium (Cd)	100
Chromium (Cr)	4,000
Cobalt (Co)	1,500
Copper (Cu)	2,500
Tin (Sn)	1,500
Manganese (Mn)	11,000
Mercury (Hg)	50
Molybdenum (Mo)	200
Nickel (Ni)	2,500
Lead (Pb)	5,000
Selenium (Se)	50
Zinc (Zn)	7,500
II- OTHER INORGANIC COMPOUNDS	
Available bromide (Br^-)	1,500
Available cyanide (CN^-)	300
Total cyanide (CN^-)	5,900
Available fluoride (F^-)	10,000
III- VOLATILE ORGANIC COMPOUNDS	
Monocyclic aromatic hydrocarbons	
Benzene	100
Monochlorobenzene	60
1,2-Dichlorobenzene	60
1,3-Dichlorobenzene	60
1,4-Dichlorobenzene	60
Ethylbenzene	100
Styrene	100
Toluene	100
Xylenes	300
Chlorinated aliphatic hydrocarbons	
Bromodichloromethane	150
2-Chloro-1,3-butadiene	2.8
3-Chloropropylene	300
Chlorodibromomethane	150
Chloroethane	60
Chloroform	60
Chloromethane or methyl chloride	300
Vinyl chloride	60
1,2-Dibromo-3-chloropropane	150
1,1-Dichloroethane	60
1,2-Dichloroethane	60
1,1-Dichloroethylene	60
1,2-Dichloroethylene (cis and trans)	600
Dichloromethane	300
1,2-Dichloropropane	180
1,3-Dichloropropylene (cis and trans)	360
Dichlorodifluoromethane	72
Hexachlorobutadiene	56
Hexachloroethane	300
Pentachloroethane	60
1,1,1,2-Tetrachloroethane	60
1,1,2,2-Tetrachloroethane	60
Tetrachloroethylene	60
Carbon tetrachloride	60
1,1,1-Trichloroethane	60
1,1,2-Trichloroethane	60
1,2,3-Trichloropropane	300
Trichloroethylene	60
Trichlorofluoromethane	300

Contaminants	Limit values mg/kg of soil (dry matter)
IV- PHENOLIC COMPOUNDS	
Non-chlorinated	
Cresol (ortho, meta, para)	56
2,4-Dimethylphenol	140
2-Nitrophenol	130
4-Nitrophenol	290
Phenol	62
Chlorinated	
Chlorophenol (-2, -3, or -4)	57
2,3-Dichlorophenol	140
2,4-Dichlorophenol	140
2,5-Dichlorophenol	140
2,6-Dichlorophenol	140
3,4-Dichlorophenol	140
3,5-Dichlorophenol	140
p-Chloro-*m*-cresol	140
Pentachlorophenol	74
2,3,4,5-Tetrachlorophenol	74
2,3,4,6-Tetrachlorophenol	74
2,3,5,6-Tetrachlorophenol	74
2,3,4-Trichlorophenol	74
2,3,5-Trichlorophenol	74
2,3,6-Trichlorophenol	74
2,4,5-Trichlorophenol	74
2,4,6-Trichlorophenol	74
3,4,5-Trichlorophenol	74
V- POLYCYCLIC AROMATIC HYDROCARBONS	
Benzo(a)anthracene	34
Benzo(a)pyrene	34
Benzo(b+j+k)fluoranthene	136
Benzo(c)phenanthrene	56
Benzo(g,h,i)perylene	18
2-Chloronaphthalene	56
Chrysene	34
Dibenzo(a,h)anthracene	82
Dibenzo(a,h)pyrene	34
Dibenzo(a,i)pyrene	34
Dibenzo(a,l)pyrene	34
7,12-Dimethylbenzo(a)anthracene	34
Indeno(1,2,3-cd)pyrene	34
1-Methylnaphthalene	56
2-Methylnaphthalene	56
1,3-Dimethylnaphthalene	56
2,3,5-Trimethylnaphthalene	56
3-Methylcholanthrene	150
Naphthalene	56
Phenanthrene	56
VI- NON-CHLORINATED BENZENE COMPOUNDS	
2,6-Dinitrotoluene	280
2,4,6-Trinitrotoluene (TNT)	280
VII- CHLOROBENZENES	
Benzal chloride or dichloromethylbenzene	60
Hexachlorobenzene	100
4,4-Methylene bis(2-chloroaniline)	300
p-Chloroaniline or chloroaminobenzene	160
Pentachlorobenzene	100
Pentachloronitrobenzene	48
1,2,3,4-Tetrachlorobenzene	140
1,2,3,5-Tetrachlorobenzene	140
1,2,4,5-Tetrachlorobenzene	140
1,2,3-Trichlorobenzene	190
1,2,4-Trichlorobenzene	190
1,3,5-Trichlorobenzene	190
VIII- POLYCHLORINATED BIPHENYLS (PCBs)	
Summation of the congeners	50
IX- PESTICIDES	
Chlorinated	
2,4,5-T	79
2,4-D	100

Contaminants	Limit values mg/kg of soil (dry matter)
Aldrin	0.66
alpha-BHC or hexachlorocyclohexane	0.66
beta-BHC or hexachlorocyclohexane	0.66
delta-BHC or hexachlorocyclohexane	0.66
gamma-BHC or lindane or hexachlorocyclohexane	0.66
Barban	14
Chlordane (*alpha and gamma*)	2.6
Dieldrin	1.3
Endosulfan I	0.66
Endosulfan II	1.3
Endosulfan sulfate	1.3
Endrin	1.3
Endrin aldehyde	1.3
Heptachlor epoxide	0.66
Heptachlor	0.66
Formetanate hydrochloride	14
Isodrin	0.66
Kepone	1.3
Methoxychlor	1.8
o,p'-DDD	0.87
p,p'-DDD	0.87
o,p'-DDE	0.87
p,p'-DDE	0.87
o,p'-DDT	0.87
p,p'-DDT	0.87
Pronamide	15
Silvex or fenoprop	79
Thiodicarb	14
Toxaphene	26
Triallate	14
Non-chlorinated	
Aldicarb (*summation of Aldicarb, Aldicarb sulfone and Aldicarb sulfoxide*)	2.8
Bendiocarb	14
Benomyl	14
Butylate	14
Carbaryl	1.4
Carbendazim	14
Carbofuran	1.4
Carbofuran phenol	14
Carbosulfan	14
Dimetilan	14
Dinoseb	25
Disulfoton	62
EPTC	14
Famphur	150
Methiocarb	14
Methomyl	1.4
Metolcarb	14
Mexacarbate	14
Molinate	14
Oxamyl	2.8
Parathion	46
Methyl parathion	46
Pebulate	14
Phorate	46
Promecarb	14
Propham	14
Propoxur	14
Prosulfocarb	14
Thiophanate-methyl	14
Vernolate	14
A2213 or oxamyl oxime	14
X- OTHER ORGANIC SUBSTANCES	
Acrylonitrile	840
Diethyl phthalate	280
Dimethyl phthalate	280
Di-n-octyl phthalate	280
Hexachlorocyclopentadiene	24
Hexachloropropylene	300

Contaminants	Limit values mg/kg of soil (dry matter)
1,1,2-Trichloro-1,2,2-trifluoroethane	300
bis(2-chloroethyl)ether	60
bis(2-chloroethoxy)methane	72
bis(2-chloroisopropyl)ether	72
Butyl benzyl phthalate	280
XI- INTEGRATING PARAMETERS	
Petroleum hydrocarbons C_{10} to C_{50}	10,000
XII- DIOXINS AND FURANS	
Summation of chlorodibenzodioxins and chlorodibenzofurans expressed as 2,3,7,8-TCDD toxic equivalents (NATO scale, 1988)	0.005

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Gouvernement du Québec

O.C. 20-2007, 16 January 2007

An Act respecting the Pension Plan of Elected Municipal Officers
(R.S.Q., c. R-9.3)

Regulation
— Amendments

Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers

WHEREAS, under subparagraph 1 of the first paragraph of section 75 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., c. R-9.3), the Government may make a regulation to determine the rates of interest which must be fixed by regulation pursuant to the Act and, where that is the case, the rules governing the computation of the interest;

WHEREAS, under subparagraph 4 of the first paragraph of section 75 of the Act, the Government may make a regulation to determine the standards for calculating the actuarial value of a pension;

WHEREAS the Government made the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers by Order in Council 1742-89 dated 15 November 1989, which was last amended by the regulation made by Order in Council 1009-2005 dated 26 October 2005;

WHEREAS it is expedient to further amend the Regulation;

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 the application of the Act respecting the Pension Plan of Elected Municipal Officers was published in Part 2 of the *Gazette officielle du Québec* of 30 August 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS comments were made on the draft Regulation;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Regions:

THAT the Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers*

An Act respecting the Pension Plan of Elected Municipal Officers
(R.S.Q., c. R-9.3, s. 75, 1st par., subpars. 1 and 4)

1. The Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers is amended by replacing the part that precedes section 1 by the following:

* The Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers, made by Order in Council 1742-89 dated 15 November 1989 (1989, *G.O.* 2, 4153), was last amended by the regulation made by Order in Council 1009-2005 dated 26 October 2005 (2005, *G.O.* 2, 4834). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2006, updated to 1 September 2006.

"**DIVISION I**
ESTABLISHMENT OF RATES OF INTEREST

§1. Rate of interest based on the rates of return of certain funds".

2. Section 1 is amended by replacing "For the purposes" in the first paragraph by "For the purposes of the second paragraph of section 54.1".

3. The following subdivision is added after section 1:

"*§2. Rate of interest based on an external index*

1.1. For the purposes of the third paragraph of section 54.1 of the Act, the annual rate of interest is established as at 1 June of each year by computing the arithmetic mean, for the 12-month period ending on 31 December of the preceding year, of the nominal rates on Government of Canada marketable bonds (3-5 years) as compiled by Statistics Canada and published in the Bank of Canada's Banking and Financial Statistics (CANSIM Series V122485).".

4. Section 5 is replaced by the following:

"**5.** Interest, compounded annually, is computed at the rate established each year in accordance with section 1 until the date on which the refund application is received by the Commission, at the rate established as provided in section 1.1 and in force on that date, as of the day following that date until the date on which the refund is made.

Despite the first paragraph, if the event giving entitlement to the refund is the death of the member, the period of application of section 1.1 begins on the day following the date of death and if the event is the death of the beneficiary or the surviving spouse, the period begins on the first day of the month following the date of death.".

5. Division V is replaced by the following:

"**DIVISION V**
ACTUARIAL VALUE

9. For the purposes of this Division, the expression "CIA Standard" refers to section 3800 of the "Practice-Specific Standards for Pension Plans", Canadian Institute of Actuaries, Document 206036, April 2006, revised on 1 May 2006.

9.0.1. The actuarial value of the deferred annuity referred to in section 49 of the Act is determined using the following actuarial method and assumptions:

Actuarial method

The actuarial method is the "benefit allocation" method and the actuarial value corresponds to the sum of 80% of the actuarial value determined for a male and 20% of the actuarial value determined for a female.

Actuarial assumptions

(1) Mortality rates:

The mortality rates are those determined in accordance with the CIA Standard.

(2) Rate of interests:

For fully-indexed and non-indexed benefits:

The rate of interests are those determined in accordance with the CIA Standard.

For partially-indexed benefits:

The rate of interests are those determined according to the following formula:

((1+ rate of interest for a non-indexed benefit) / (1+ indexing rate for a partially-indexed benefit)) –1

The result must be rounded to the nearest multiple of 0.25%.

(3) Indexing rate:

(a) for a fully-indexed benefit according to the rate of increase in the pension index, the indexing rate is computed in the manner described in the CIA Standard;

(b) for a benefit indexed according to the excess of the rate of increase in the pension index (PI) over 3%, the indexing rate corresponds to the excess of the indexing rate computed in the manner provided in subparagraph *a* over 3%.

In order to take into account the inflation rate variations, the following additions are made to the results of effective indexing formulas for actuarial value computation purposes.

Inflation level	Addition to the result of the PI-3% formula	Adjusted indexing rate
0.5	0.1	0.1
1.0	0.1	0.1
1.5	0.3	0.3
2.0	0.5	0.5
2.5	0.7	0.7
3.0	1.0	1.0
3.5	0.8	1.3
4.0	0.6	1.6
4.5	0.5	2.0
5.0	0.4	2.4

(4) Turnover rate: Nil

(5) Disability rate: Nil

(6) Proportion of married persons at death:

Age	Male	Female
18 - 64 years old	85%	65%
65 -79 years old	80%	30%
80 - 109 years old	60%	10%
110 years old	0%	0%

(7) Age difference between spouses at death:

— the male spouse of the member is assumed to be one year older;

— the female spouse of the member is assumed to be four years younger.".

6. Section 9.2 is replaced by the following:

"**9.2.** A person may, for the purposes of Chapters VI.0.1, VI.0.2 and VI.0.3 of the Act, apply for redemption of service by sending the Commission a written notice specifying the period to be redeemed. After receiving the notice, the Commission must send the applicant a redemption proposal in which it determines the amount the applicant must pay.

For the purposes of Chapters VI.0.1 and VI.0.2 of the Act, the amount the applicant must pay is determined in accordance with Schedule II. For the purposes of Chapter VI.0.3 of the Act, that amount corresponds to the sum of the contributions the applicant would have paid under the plan in respect of the service the applicant wishes to redeem and the interest compounded annually, computed at the rate established each year in accordance with section 1 as of the midpoint of each year until the date on which the application for redemption is received.

The amount determined pursuant to the second paragraph is payable in cash not later than on the expiry date of the redemption proposal or by instalments spread over the maximum period prescribed by section 8. If the amount is paid by instalments, interest compounded annually is added at the rate established as provided in section 1.1 in force on the date on which the application for redemption is received and computed as of the expiry date of the redemption proposal made by the Commission.".

7. Section 9.3 is amended

(1) by replacing "re-determined" in the fourth paragraph by "determined" and by striking out "in relation to the value of the indexed pension credit and the age of the person";

(2) by replacing "re-determined in relation to the date of the decision" in the last paragraph by "determined on the date of the decision taking into account, for a redemption under under Chapter VI.0.1 or VI.0.2 of the Act, the value of the indexed pension credit and the age of the person on that date".

8. The title of Schedule II is replaced by "RATE APPLICABLE TO CERTAIN REDEMPTIONS UNDER SECTION 9.2".

9. 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. 21-2007, 16 January 2007

An Act respecting retirement plans for the mayors and councillors of municipalities
(R.S.Q., c. R-16)

General retirement plan for the mayors and councillors of municipalities
— Interest applicable

Regulation respecting interest applicable under the general retirement plan for the mayors and councillors of municipalities

WHEREAS, under subparagraph *a* of the first paragraph of section 42 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., c. R-16), the Government may make a regulation to determine the rates of interest for which the Act provides for the fixing by regulation and, as the case may be, the rules governing the computing of the interest;

WHEREAS, under the second paragraph of section 42 of the Act, a regulation under subparagraph *a* of the first paragraph of that section may determine periods relating to interest payable and determine a separate rate of interest for each period;

WHEREAS the Government made the Regulation respecting interest applicable under the general retirement plan for the mayors and councillors of municipalities by Order in Council 1008-2005 dated 26 October 2005, and the Regulation respecting the terms and conditions of application of the rate of interest applicable to the amounts paid for participation in the general plan (R.R.Q., 1981, c. R-16, r.4);

WHEREAS it is expedient to replace the Regulations;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation respecting interest applicable under the general retirement plan for the mayors and councillors of municipalities was published in Part 2 of the *Gazette officielle du Québec* of 30 August 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS comments were made on the draft Regulation;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Regions:

THAT the Regulation respecting interest applicable under the general retirement plan for the mayors and councillors of municipalities, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting interest applicable under the general retirement plan for the mayors and councillors of municipalities

An Act respecting retirement plans for the mayors and councillors of municipalities
(R.S.Q., c. R-16, s. 42, 1st par., subpar. *a* and 2nd par.)

DIVISION I
APPLICATION

1. For the purposes of subparagraph *a* of the first paragraph of section 42 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., c. R-16), the rates of interest are determined for each period in accordance with Division II and according to the periods in Division III. The interest is computed in accordance with the rules set out in the latter Division.

DIVISION II
ESTABLISHMENT OF THE RATE OF INTEREST

§1. Rate of interest based on the rates of return of the pension fund of the Pension Plan of Elected Municipal Officers

2. The annual rate of interest in this subdivision is established as at 1 June of each year by computing the geometric mean of the annual rates of return for the three-year period ending on 31 December of the year preceding the reference year, according to the formula in Schedule I.

The annual rate of return is the rate determined by the Caisse de dépôt et placement du Québec as at 31 December of each year for the specific fund of the pension plan established under the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., c. R-9.3), after subtracting the management expenses.

§2. Rate of interest based on an external index

3. The annual rate of interest in this subdivision is established as at 1 June of each year by computing the arithmetic mean, for the 12-month period ending on 31 December of the preceding year, of the nominal rates on Government of Canada marketable bonds (3-5 years) as compiled by Statistics Canada and published in the Bank of Canada's Banking and Financing Statistics (CANSIM Series V122485).

DIVISION III
COMPUTATION OF INTEREST

4. The amounts paid into the general plan bear interest, compounded annually, at the rate established each year as provided in section 2 as of the midpoint of the year in which they are paid to the Commission administrative des régimes de retraite et d'assurances until the date on which the refund application is received by the Commission, at the rate established as provided in section 3 and in force on that date, as of the day following that date until the date on which the refund is made.

Despite the first paragraph, if the event giving entitlement to the refund is the death of the member, the period of application of section 3 begins on the day following the date of death and if the event is the death of the beneficiary or the surviving spouse, the period begins on the first day of the month following the date of death.

5. For the purposes of section 4, the expression "amounts paid" includes the member's regular and additional contributions, the other amounts paid for redemption or transfer of past service, and the contributions of the municipality and the amounts the municipality paid for the redemption or transfer of past service.

6. This Regulation replaces the Regulation respecting the determination of the rate of interest applicable to the retirement plan for the mayors and councillors of municipalities, made by Order in Council 1008-2005 dated 26 October 2005, and the Regulation respecting the terms and conditions of application of the rate of interest applicable to the amounts paid for participation in the general plan (R.R.Q., 1981, c. R-16, r.4).

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

SCHEDULE I
(s. 2)

COMPUTATION OF THE RATE OF INTEREST

The formula for the computation of the rate of interest for the reference year is the following:

$$i_y = ((1+ T_{y-1}) (1 + T_{y-2}) (1 + T_{y-3}))^{1/3} - 1$$

where

T_{y-1} is the rate of return for the year preceding the reference year

T_{y-2} is the rate of return for the year occurring 2 years before the reference year

T_{y-3} is the rate of return for the year occurring 3 years before the reference year

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Gouvernement du Québec

O.C. 22-2007, 16 January 2007

An Act respecting retirement plans for the mayors and councillors of municipalities
(R.S.Q., c. R-16)

Computing pensions of mayors and councillors — Terms and conditions — Amendment

Regulation to amend the Regulation respecting terms and conditions for computing pensions of mayors and councillors

WHEREAS, under subparagraph *f* of the first paragraph of section 42 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., c. R-16), the Government may make a regulation to determine the terms and conditions for purposes of computing the pension prescribed by the Act;

WHEREAS the Government made the Regulation respecting terms and conditions for computing pensions of mayors and councillors (R.R.Q., 1981, c. R-16, r.6), amended by the regulation made by Order in Council 615-2002 dated 29 May 2002;

WHEREAS it is expedient to further amend the Regulation;

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 terms and conditions for computing pensions of mayors and councillors was published in Part 2 of the *Gazette officielle du Québec* of 30 August 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the Minister of Municipal Affairs and Regions received no comment on the draft Regulation within that period;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Regions:

THAT the Regulation to amend the Regulation respecting terms and conditions for computing pensions of mayors and councillors, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting terms and conditions for computing pensions of mayors and councillors*

An Act respecting retirement plans for the mayors and councillors of municipalities
(R.S.Q., c. R-16, s. 42, 1st par., subpar. *f* and 2nd par.)

1. The Regulation respecting terms and conditions for computing pensions of mayors and councillors is amended by replacing subparagraph *iv* of paragraph *b* of section 1 by the following:

"iv. interest, compounded annually, computed at the rate established each year in accordance with section 2 of the Regulation respecting interest applicable under the general retirement plan for the mayors and councillors of municipalities, made by Order in Council No. 21-2007 of 16 January 2007, that applies to the amounts referred to in subparagraphs *i*, *ii* and *iii* as of the midpoint of the year in which the amounts have been paid to the Commission administrative des régimes de retraite et d'assurances until the date of computing the pension.".

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

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* The Regulation respecting terms and conditions for computing pensions of mayors and councillors (R.R.Q., 1981, c. R-16, r.6) has been amended once, by the regulation made by Order in Council 615-2002 dated 29 May 2002 (2002, *G.O.* 2, 2598).

Gouvernement du Québec

O.C. 23-2007, 16 January 2007

An Act respecting the Pension Plan of Elected Municipal Officers
(R.S.Q., c. R-9.3)

Supplementary benefits plans for elected municipal officers
— Amendment

Amendment to the Supplementary benefits plans for elected municipal officers

WHEREAS the Government made the Supplementary benefits plans for elected municipal officers referred to in sections 76.4 and 80.1 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., c. R-9.3) by Order in Council 1440-2002 dated 11 December 2002;

WHEREAS it is expedient to amend the Supplementary benefits plans;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Amendment to the Supplementary benefits plans for elected municipal officers was published in Part 2 of the *Gazette officielle du Québec* of 30 August 2006 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the Minister of Municipal Affairs and Regions received no comment on the draft Amendment within that period;

WHEREAS it is expedient to make the Amendment to the Supplementary benefits plans for elected municipal officers without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Regions:

THAT the Amendment to the Supplementary benefits plans for elected municipal officers, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Amendment to the Supplementary benefits plans for elected municipal officers *

An Act respecting the Pension Plan of Elected Municipal Officers
(R.S.Q., c. R-9.3, ss. 76.4, 76.5 and 80.1)

1. The Supplementary benefits plans for elected municipal officers are amended in section 13 by replacing the second paragraph by the following:

"Any amount unpaid within the 30-day period bears interest, compounded annually, at the rate in Schedule VII to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), in force on the date of the statement and computed as of that date.".

2. The Amendment to the Supplementary benefits plans for elected municipal officers comes into force on the date of its publication in the *Gazette officielle du Québec*.

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* The Supplementary benefits plans for elected municipal officers, made by Order in Council 1440-2002 dated 11 December 2002 (2002, *G.O.* 2, 6540), have not been amended since they were made by the Government.

Gouvernement du Québec

O.C. 31-2007, 16 January 2007

An Act respecting parental insurance
(R.S.Q., c. A-29.011)

Conseil de gestion de l'assurance parentale
— Internal by-law No. 2
— Delegation of signing authority for certain documents

Internal by-law No. 2 respecting the delegation of signing authority for certain documents of the Conseil de gestion de l'assurance parentale

WHEREAS, under section 105 of the Act respecting parental insurance (R.S.Q., c. A-29.011), no document binds the Conseil de gestion or may be attributed to it unless it is signed by the president and director general or, to the extent determined in the internal by-laws of the Conseil de gestion, by a member of the board of directors or a member of the personnel;

WHEREAS, under section 107 of the Act, the internal by-laws of the Conseil de gestion may allow, subject to the conditions and on the documents specified therein, that a signature be affixed by means of an automatic device, that a signature be electronic, or that a facsimile of a signature be engraved, lithographed or printed. However, the facsimile shall have the same force as the signature itself only if the document is countersigned by the president and director general or, to the extent determined in the internal by-laws of the Conseil de gestion, by a member of the board of directors or a member of the personnel;

WHEREAS the second paragraph of section 107 of the Act provides that the by-laws may, however, for the documents they specify, prescribe that the facsimile has the same force as the signature itself, even though the document is not countersigned;

WHEREAS under section 108 of the Act, the internal by-laws of the Conseil de gestion require the approval of the Government;

WHEREAS the Conseil de gestion adopted Internal by-law No. 2 respecting the delegation of signing authority for certain documents of the Conseil de gestion de l'assurance parentale;

WHEREAS it is expedient to approve the Internal by-law;

IT IS ORDERED, therefore, on the recommendation of the Minister of Employment and Social Solidarity:

THAT Internal by-law No. 2 respecting the delegation of signing authority for certain documents of the Conseil de gestion de l'assurance parentale, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Internal by-law No. 2 respecting the delegation of signing authority for certain documents of the Conseil de gestion de l'assurance parentale

An Act respecting parental insurance
(R.S.Q., c. A-29.011, ss. 105, 107 and 108)

1. Documents signed under section 2 by the persons holding the positions hereinafter designated or, where applicable, by the person authorized to perform those duties or tasks on a temporary basis bind the Conseil de gestion de l'assurance parentale as if they had been signed by the president and director general pursuant to section 105 of the Act respecting parental insurance (R.S.Q., c. A-29.011).

2. The secretary and director of corporate affairs is authorized to sign any contract or agreement of any nature whatsoever entered into by the Conseil de gestion with a person, an association, a partnership, a body or the Government of Québec, a government department or a government body, for which the commitment of the Conseil de gestion does not exceed $100,000.

3. The signature of the president and director general or of the secretary and director of corporate affairs may be affixed by means of an automatic device or electronic process and a facsimile of such a signature may be engraved, lithographed or printed on cheques, drafts, payment authorizations, promissory notes, bonds, bills of exchange or other negotiable instruments and has the same force as the signature itself.

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

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Gouvernement du Québec

O.C. 33-2007, 16 January 2007

An Act respecting collective agreement decrees
(R.S.Q., c. D-2)

Automotive services industry
— Montréal
— Amendments

Decree to amend the Decree respecting the automotive services industry in the Montréal region

WHEREAS, under section 2 of the Act respecting collective agreement decrees (R.S.Q., c. D-2), the Government made the Decree to amend the Decree respecting the automotive services industry in the Montréal region (R.R.Q., 1981, c. D-2, r.46);

WHEREAS, under section 6.1 of the Act, the contracting parties to the Decree have petitioned the Minister of Labour for amendments to be made to the Decree;

WHEREAS, under section 2 and 6.1 of the Act, the Government may amend a collective agreement decree;

WHEREAS, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and sections 5 and 6.1 of the Act respecting collective agreement decrees, an amending draft Decree was published in Part 2 of the *Gazette officielle du Québec* of 23 August 2006 and, on the same date, in a French language newspaper and an English language newspaper, with a notice that it could be made by the Government on the expiry of the 45-day period following that publication;

WHEREAS no comment was made on the draft Decree;

WHEREAS it is expedient to make the draft Decree with amendments;

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

THAT the Decree to amend the Decree respecting the automotive services industry in the Montréal region, attached hereto, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Decree to amend the Decree respecting the automotive services industry in the Montréal region*

An Act respecting collective agreement decrees
(R.S.Q., c. D-2, ss. 2 and 6.1)

1. Section 1.01 of the Decree respecting the automotive services industry in the Montréal region is amended:

(1) by replacing paragraph (6) by the following:

"(6) "spouse": either of two persons who:

(a) are married or in a civil union and cohabiting;

(b) being of opposite sex or the same sex, are living together in a de facto union and are the father and mother of the same child;

(c) are of opposite sex or the same sex and have been living together in a de facto union for one year or more;";

(2) by adding the following after paragraph (20):

"(21) "week": a period of seven consecutive days from midnight at the beginning of a particular day to midnight at the end of the seventh day, according to the weekly pay period set by the employer and entered in the employer's registration system.".

2. Section 2.02 is replaced by the following:

"**2.02.** Territorial scope: This Decree applies to employees and employers exercising their trade or having their establishment on the territory of the following municipalities: Baie-d'Urfé, Beaconsfield, Boucherville, Brossard, Candiac, Châteauguay, Côte-Saint-Luc, Delson, Dollard-des Ormeaux, Dorval, Hampstead, L'Île Dorval, L'Île Perrot, Kirkland, La Prairie, Laval, Longueuil, Montréal, Montréal-Est, Montréal-Ouest, Mont-Royal, Notre-Dame-de-l'Île-Perrot, Pincourt, Pointe-Claire, Saint-Constant, Saint-Lambert, Sainte-Anne-de-Bellevue, Sainte-Catherine, Senneville, Terrasse-Vaudreuil, Varennes, Vaudreuil-Dorion and Westmount.".

3. Section 3.01 is amended:

(1) by inserting the words "in the same week" after the word "days" in paragraph 3;

(2) by inserting the words "in the same week" after the word "days" in paragraph 4.

4. Section 3.04 is replaced by the following:

"**3.04.** An employee is deemed to be at work in the following cases:

(1) while available to the employer at the place of employment and required to wait for work to be assigned;

(2) subject to section 3.03, during the break periods granted by the Act, the Decree and the employer;

(3) when travel is required by the employer;

(4) during any trial period or training required by the employer.".

5. Section 3.05 is amended by replacing the number "24" by the number "32".

6. The following is added after section 3.05:

"**3.06.** An employee may refuse to work:

(1) more than four hours after regular daily working hours or more than 14 working hours per 24 hour period, whichever period is the shortest or;

(2) for an employee whose daily working hours are flexible or non-continuous, more than 12 working hours per 24 hour period;

(3) more than 50 working hours per week.".

7. Section 5.02 is revoked.

8. The paragraph following the title of section 6.00 is struck out.

9. Section 6.01 is replaced by the following:

"**6.01.** The following days are statutory general holidays, regardless of the day of the week with which they coincide:

(1) 1 and 2 January;

(2) Good Friday or Easter Monday, at the option of the employer;

* The Decree respecting the automotive services industry in the Montréal region (R.R.Q., 1981, c. D-2, r.46) was last amended by the Regulation made by Order in Council No. 889-2001 dated 4 July 2001 (2001, *G.O.* 2, 4008). For previous amendments, please refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2006, updated to 1 September 2006.

(3) the Monday preceding 25 May;

(4) 1 July, or 2 July where the 1st falls on a Sunday;

(5) the first Monday in September;

(6) the second Monday in October;

(7) 25 and 26 December.".

10. Section 6.02 is replaced by the following:

"**6.02.** To be entitled to a statutory general holiday provided for in section 6.01, an employee must have worked on the last working day preceding the holiday and the first working day following that holiday, unless the employee is authorized to be absent in accordance with the Decree, with the Act or by his employer, or unless he is absent for a valid reason and receives no indemnity from the Commission de la santé et de la sécurité du travail.

An employee who was laid off for less than 20 days preceding or following 1 and 2 January as well as 25 and 26 December, or for less than 48 hours preceding or following the other holidays provided for in section 6.01, is entitled to a statutory general holiday provided for in 6.01 if he worked on the last working day preceding the holiday and the first working day following it.".

11. Section 6.03 is replaced by the following:

"**6.03.** The employer must pay to an employee who is entitled to a holiday provided for in section 6.01:

(1) an indemnity equal to 1/20 of the wages earned during the four complete weeks of pay preceding the week of the holiday, excluding overtime, where the holiday coincides with a non-working day for the employee;

(2) an indemnity equal to the remuneration he would have received if he had been at work, where the holiday coincides with a working day for the employee; however, for an employee credited with less than 20 days of uninterrupted service in the undertaking, the indemnity will be calculated in accordance with the terms and conditions of subparagraph 1.

However, for an employee provided for in the second paragraph of section 6.02, the indemnity is equal to 1/20 of the wages earned during the four complete pay weeks preceding his layoff.".

12. Section 6.07 is revoked.

13. Section 7.03 is amended by replacing the third paragraph by the following:

"An employee is also entitled, if he applies therefore, to an additional annual leave without pay equal to the number of days required to increase his annual leave to three weeks.

Such additional leave need not follow immediately a leave provided for in the first paragraph and, notwithstanding sections 7.07 and 7.10, it may not be divided, or be replaced by a compensatory indemnity.".

14. Section 7.06 is amended by replacing the second paragraph by the following:

"Notwithstanding the first paragraph, the employer may, at the request of the employee, allow the annual leave to be taken, in whole or in part, during the reference year.

In addition, if at the end of the 12 months following the end of a reference year, the employee is absent owing to sickness or accident or is absent or on leave for family or parental matters, the employer may, at the request of the employee, defer the annual leave to the following year. If the annual leave is not so deferred, the employer must pay the indemnity for the annual leave to which the employee is entitled.

Any period of salary insurance, sickness insurance or disability insurance interrupted by a leave taken in accordance with the first paragraph is continued, where applicable, after the leave, as if it had never been interrupted.".

15. Section 7.11 is amended by inserting the words "or paternity" after the word "maternity" in the first paragraph.

16. The following is added after section 7.12:

"**7.13.** No employer may reduce the annual leave of an employee or change the way in which the indemnity pertaining to it is computed, in comparison with what is granted to other employees performing the same tasks in the same establishment, for the sole reason that the employee usually works less hours each week.".

17. The title of Division 8.00 is replaced by the following:

"**Absences and Special Leaves**".

18. Section 8.04 is amended:

(1) by replacing the words "his wedding day" by the words "the day of his wedding or civil union" in the first paragraph;

(2) by replacing the words "the wedding day" by the words "the day of the wedding or civil union" in the second paragraph.

19. Section 8.05 is amended:

(1) by replacing the words "or the adoption of a child" by ", the adoption of a child or where there is a termination of pregnancy in or after the twentieth week of pregnancy" in the first paragraph;

(2) by adding "or a termination of pregnancy, as the case may be" at the end of the second paragraph.

20. The following are added after section 8.05:

"**8.06.** An employee may be absent from work, without pay, for 10 days per year to fulfil obligations relating to the care, health or education of the employee's child or the child of the employee's spouse, or because of the state of health of the employee's spouse, father, mother, brother, sister or one of the employee's grandparents.

The leave may be divided into days. A day may also be divided if the employer consents thereto.

The employee must advise the employer of his absence as soon as possible and take the reasonable steps within his power to limit the leave and the duration of the leave.

8.07. An employee who is credited with three months of uninterrupted service may be absent from work, without pay, for a period of not more than 26 weeks over a period of 12 months, owing to sickness or accident.

However, this section does not apply in the case of an employment injury within the meaning of the Act respecting industrial accidents and occupational diseases (A-3.001).

8.08. In the case provided for in section 8.07, an employee must advise the employer as soon as possible of an absence from work and give the reasons therefore.

8.09. An employee's participation in the group insurance and pension plans recognized in the employee's place of employment shall not be affected by the absence from work provided for in section 8.07, subject to regular payment of the contributions payable under those plans, the usual part of which is paid by the employer.

8.10. At the end of the absence provided for in section 8.07, the employer shall reinstate the employee in the employee's former position with the same benefits, including the wages to which the employee would have been entitled had the employee remained at work. If the position held by the employee no longer exists when the employee returns to work, the employer shall recognize all the rights and privileges to which the employee would have been entitled if the employee had been at work at the time the position ceased to exist.

Nothing in the first paragraph shall prevent an employer from dismissing, suspending or transferring an employee if, in the circumstances, the consequences of the sickness or accident or the repetitive nature of the absences constitute good and sufficient cause.

8.11. If the employer makes dismissals or layoffs that would have included the employee had the employee remained at work, the employee retains the same rights with respect to a return to work as the employees who were dismissed or laid off.

8.12. This division shall not grant to an employee any benefit to which the employee would not have been entitled if the employee had remained at work.

8.13. An employee who is credited with three months of uninterrupted service may be absent from work, without pay, for a period of not more than 12 weeks over a period of 12 months where he must stay with his child, spouse, the child of his spouse, his father, his mother, his brother, his sister or one of his grandparents because of a serious illness or a serious accident.

An employee must advise the employer as soon as possible of an absence from work and, at the employer's request, furnish a document justifying the absence.

However, if a minor child of the employee has a serious and potentially mortal illness, attested by a medical certificate, the employee is entitled to an extension of the absence, which shall end at the latest 104 weeks after the beginning thereof. Section 8.09, the first paragraph of section 8.10 and sections 8.11 and 8.12 apply, with the necessary modifications, to the employee's absence.".

21. Section 9.01 is replaced as follows:

"**9.01.** The minimum hourly wage rates are as follows:

Trades	As of January 31, 2007	As of January 31, 2008	As of January 31, 2009
Apprentice:			
1st year	$10.16	$10.67	$11.09
2nd year	$11.00	$11.55	$12.01
3rd year	$12.00	$12.60	$13.10
Journeyman:			
first class	$17.83	$18.72	$19.47
second class	$15.47	$16.24	$16.89
third class	$14.32	$15.04	$15.64
Parts clerk:			
level A	$13.56	$14.24	$14.81
level B	$12.78	$13.42	$13.96
level C	$11.43	$12.00	$12.48
level D	$11.00	$11.55	$12.01
Messenger:			
level A	$9.00	$9.45	$9.83
level B	$8.50	$8.93	$9.28
Dismantler:			
1st grade	$9.52	$10.00	$10.40
2nd grade	$10.16	$10.67	$11.09
3rd grade	$11.02	$11.57	$12.03
Washer	$8.59	$9.02	$9.38
Brake mechanic	$11.02	$11.57	$12.03
Semiskilled worker:			
1st grade	$9.52	$10.00	$10.40
2nd grade	$10.16	$10.67	$11.09
3rd grade	$11.02	$11.57	$12.03
Pump attendant	$8.00	$8.40	$8.74
Service attendant:			
1st grade	$9.08	$9.53	$9.92
2nd grade	$10.23	$10.74	$11.17
3rd grade	$11.66	$12.24	$12.73
Alignment and suspension specialist, trim man and automatic transmission mechanic:			
first class	$17.83	$18.72	$19.47
second class	$15.47	$16.24	$16.89
third class	$14.32	$15.04	$15.64.".

22. Sections 9.07 and 9.08 are replaced by the following:

"**9.07.** No employer may make deductions from wages unless he is required to do so pursuant to an Act, a regulation, a court order, a collective agreement, an order or decree or a mandatory supplemental pension plan.

The employer may make deductions from wages if the employee consents thereto in writing, for a specific purpose mentioned in the writing.

The employee may at any time revoke that authorization, except where it pertains to membership in a group insurance plan, or a supplemental pension plan. The employer shall remit the sums so withheld to their intended receiver.

9.08. Any gratuity or tip paid directly or indirectly by a patron to an employee who provided the service belongs to the employee of right and must not be mingled with the wages that are otherwise due to the employee. The employer must pay at least the prescribed minimum wage to the employee without taking into account any gratuities or tips the employee receives.

Any gratuity or tip collected by the employer shall be remitted in full to the employee who rendered the service. The words gratuity and tip include service charges added to the patron's bill but do not include any administrative costs added to the bill.

The employer may not impose an arrangement to share gratuities or a tip-sharing arrangement. Nor may the employer intervene, in any manner whatsoever, in the establishment of an arrangement to share gratuities or a tip-sharing arrangement. Such an arrangement must result solely from the free and voluntary consent of the employees entitled to gratuities or tips.

No employer may require an employee to pay credit card costs.".

23. Section 9.11 is replaced by the following:

"**9.11.** The provisions of the Decree must not be less than those provided for in the Act respecting labour standards. The minimum hourly wage rates provided for in the Decree must not be less than the rate the employee would receive if he were remunerated in accordance with the Regulation respecting labour standards (R.R.Q., 1981, c. N-1.1).

9.12. An employer is required to reimburse an employee for reasonable expenses incurred where, at the request of the employer, the employee must travel or undergo training.

9.13. No employer may remunerate an employee at a lower rate of wage than that granted to other employees performing the same tasks in the same establishment for the sole reason that the employee usually work less hours each week.".

24. Section 10.06 is replaced by the following:

"**10.06.** For each trade in which an employer employs journeymen, the employer is entitled to accept one apprentice per journeyman. Apprentices work the same hours and in the same building as journeymen.".

25. Section 12.01 is amended by inserting the word "absolutely" before the word "null".

26. Section 12.02 is amended by replacing the words "fortuitous event" by the words "superior force" in paragraph 4.

27. Section 13.00 is replaced by the following:

"**13.00. Special Clothing**

13.01. An employer requiring the wearing of a uniform or special clothing identified or not with the employer's establishment must supply it free of charge to an employee and cannot deduct any amount from the employee's wage or require an amount of money from the employee for the purchase, use or maintenance of that uniform or special clothing.".

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

7984

Draft Regulations

Draft Regulation

Building Act
(R.S.Q., c. B-1.1)

Construction Code
— 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 Regulation to amend the Construction Code, appearing below, may be approved by the Government, with or without amendment, on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to adopt the 20th Edition of the Canadian Electrical Code, Part I, to which amendments have been made to facilitate application, to adapt it to the specific needs of Québec and to keep abreast of technological changes.

The draft Regulation essentially adopts most of the new normative provisions in the 2006 edition of the Canadian Electrical Code, adds in various amendments specific to the needs of Québec determined after consultations with the stakeholders, and renews, with the necessary modifications, most of the Québec amendments made to the previous edition.

The matters dealt with in the draft Regulation will entail financial impacts on enterprises, including small and medium-sized businesses, in the amount of $400,000 spread over a period of four years, particularly for the increased electrocution protection requirements proposed. The financial impacts of the other measures should be minimal and will in all likelihood be set off by savings in maintenance and repair expense.

Further information may be obtained by contacting Gilbert Montminy, Régie du bâtiment du Québec, 800, place D'Youville, 15e étage, Québec (Québec) G1R 5S3; telephone: 418 643-1913; fax: 418 646-9280.

Any interested person having comments to make on the matter is asked to send them in writing before the expiry of the 45-day period to Daniel Gilbert, President and Chief Executive Officer, Régie du bâtiment du Québec, 545, boulevard Crémazie Est, 3e étage, Montréal (Québec) H2M 2V2.

LAURENT LESSARD,
Minister of Labour

Regulation to amend the Construction Code *

Building Act
(R.S.Q., c. B-1.1, ss. 173, 176, 176.1, 178, 179, 185, 1st par., subpars. 3, 6.2, 6.3, 7, 20, 21, 24, 29, 31, 36, 37 and 38 and s. 192)

1. The Construction Code is amended by replacing "dix-neuvième édition, norme CSA C22.1-02" in the first paragraph of section 5.01 by "vingtième édition, norme CSA-C22.1-06" and "Nineteenth Edition, CSA Standard C22.1-02" by "Twentieth Edition, CSA Standard C22.1-06".

2. Section 5.04 is amended

(1) by inserting the following before subparagraph 1 of paragraph 1:

"(0.1) by replacing the second paragraph of the definition "Object" by the following: "Compliance with the requirements of this Code and proper maintenance will ensure an essentially safe installation.";

(2) by replacing paragraph 3 by the following:

"(3) by replacing Rule 2-004 by the following:

"2-004 Declaration of Work

(1) An electrical contractor or owner-builder shall declare the construction work carried out to which Chapter V of the Construction Code applies to the Régie du bâtiment du Québec, except work specified in an application for a connection made to a public electricity distribution undertaking, or work of a power not exceeding 10 kW that does not require the replacement or addition of wiring.

* The Construction Code, approved by Order in Council 953-2000 dated 26 July 2000 (2000, *G.O.* 2, 4203), was last amended by the regulation approved by Order in Council 986-2006 dated 25 October 2006 (2006, *G.O.* 2, 3569). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2006, updated to 1 September 2006.

(2) The declaration shall contain the following information:

(a) the address of the work site;

(b) the name, address and telephone number of the person for whom the work is carried out;

(c) the name, address, telephone number and licence number of the electrical contractor or owner-builder;

(d) the dates scheduled for the beginning and end of the construction work;

(e) the nature and type of work, in particular the specific kind of work and a description of the powers to be installed; and

(f) the use of the building or installation and the number of stories and dwellings in the building.

(3) The declaration shall be made on the form provided for that purpose by the Board or on any other document containing the information required by Subrule (2).

(4) The declaration shall be sent to the Board not later than the twentieth day of the month following the date on which the work begins.";

(3) by replacing paragraph 5 by the following:

"(5) by replacing Rule 2-008 by the following:

"2-008 Levies and fees

(1) The levy which every electrical contractor shall pay annually to the Régie du bâtiment du Québec is $654.51 plus an amount corresponding to 2.5% of the contractor's payroll.

(2) For the purposes of this Rule, "payroll" means the total of payments made, before deductions, to journeymen and apprentice electricians carrying out construction work on an electrical installation, including hourly or piece-work wages, commissions, bonuses, pay for leave and any other form of remuneration. The payments made annually to a journeyman or apprentice electrician by an electrical contractor are presumed to be made to a person assigned to construction work on an electrical installation.

(3) The following payments are not included in the payroll:

(a) payments to a person who qualifies an electrical contractor for the issue of a licence because of his or her technical knowledge; and

(b) payments for construction work on an electrical installation at a hydroelectric power station at the time of the original construction.

(4) An electrical contractor renting the services of journeymen or apprentice electricians through a third party that does not hold a licence shall include the cost of those services in calculating the payroll.

(5) A journeyman or apprentice electrician who is a partner in a partnership is, for calculation of the payroll, presumed to receive annual wages of $30,808.92 for the electrical installation work he or she carries out for the partnership.

(6) The fixed amount of the levy to be paid under Subrule (1) is established in proportion to the number of months for which the licence is valid, a part of a month being considered a full month.

(7) In the case of voluntary abandon of a holder's licence, the validity period of the licence is deemed to have ended on the date on which the Board received a notice to that effect.

(8) An electrical contractor shall pay the levy under this Rule to the Board not later than:

(a) 31 May for a payroll calculated for the period from 1 January to 31 March of the current year;

(b) 31 August for a payroll calculated for the period from 1 April to 30 June of the current year;

(c) 30 November for a payroll calculated for the period from 1 July to 30 September of the current year;

(d) 28 February for a payroll calculated for the period from 1 October to 31 December of the preceding year.

(9) Each payment shall also include the applicable portion of the fixed amount of the levy. An electrical contractor shall provide with each payment a written statement indicating the portion of the payroll applicable to each journeyman or apprentice electrician identified by name. If a licence is issued to the electrical contractor during the year, the first statement and the first payment shall be made on the first date in Subrule (8) that is at least two months after the issue of the licence.

(10) If an electrical contractor fails to send the statement required under this Rule to the Board, or if the Board has reason to believe that the statement is inaccurate, the Board shall make an estimate of the contractor's payroll. In such a case, it is the contractor's responsibility to demonstrate that the estimate is inaccurate.

(11) If it is established that an electrical contractor's payroll differs from the amount used to establish the levy, the Board shall bill or credit, as the case may be, an amount equal to the difference between the amount levied and the amount calculated according to the actual payroll.

(12) The levy that an electrical owner-builder shall pay annually to the Board in accordance with Subrule (8) is $490.88, plus inspection fees of $129.81 for the first hour of inspection or fraction thereof and half that rate for each half-hour or fraction thereof of inspection in addition to the first hour; an amount of $61.08 for each trip related to the inspection shall be added to those fees.

(13) For approval of electrical equipment referred to in Rule 2-024 or 2-026 that is not already approved by an organization mentioned in Subrule (2)-028(1), approval fees are $129.81 for the first hour of approval or fraction thereof and half that rate for each half-hour of approval or fraction thereof in addition to the first hour; an amount of $61.08 for each trip related to the approval and $7.63 for each approval mark affixed by the Board shall be added to those fees.

(14) The fees payable under Subrules (12) and (13) shall be paid not later than 30 days after the billing date.";

(4) by replacing paragraph 7 by the following:

"(7) by replacing Rule 2-014 by the following:

"2-014 Plans and Specifications

(1) An electrical contractor or owner-builder shall not start construction work on an electrical installation to which Chapter V of the Construction Code applies unless plans and specifications have been prepared for the work if the installation requires a service line exceeding 200 kW.

(2) The plans and specifications referred to in Subrule (1) shall contain the following information:

(a) name and address of the person responsible for preparing them;

(b) type of building or electrical installation and the location of the work;

(c) location of the service line and distribution;

(d) the supply voltage and the single-line diagram of the service line and distribution;

(e) loads, protection characteristics and identification of the feeder and branch circuits at their respective panelboards;

(f) rated power of each apparatus;

(g) type and size of raceways;

(h) number and characteristics of conductors used in the raceways;

(i) cable characteristics;

(j) type of materials, accessories or apparatus installed in hazardous locations;

(k) size and location of grounding conductors;

(l) a description of all underground parts of the installation;

(m) for an addition to an existing electrical installation, all information on the part of the installation on which work is to be carried out and a list of the existing loads or of the maximum demand loads of the existing installation recorded for the last 12 months; and

(n) for an electrical installation exceeding 750 volts, the vertical and horizontal clearances of live parts and a description of the grounding and mechanical protection of live parts.";

(5) by replacing paragraph 9 by the following:

"(9) by replacing Rules 2-024 to 2-028 by the following:

"2-024 Approval of Electrical Equipment Used in an Electrical Installation or Intended to Consume Energy from an Electrical Installation

(1) The selling or renting of electrical equipment that has not been approved is prohibited.

(2) All electrical equipment used in an electrical installation shall be approved for the use for which it is intended. In addition, the use of equipment that has not been approved in an electrical installation or the permanent connection of such equipment to such an installation, is prohibited. However, for purposes of exhibition, presentation or demonstration, electrical equipment shall be permitted to be used without being approved if a notice containing the following warning in letters at least 15 mm high is posted: "NOTICE: This electrical equipment has not been approved for sale or rental as required by Chapter V – Electricity - of the Construction Code.".

(3) This Rule does not apply to electrical equipment of a power not exceeding 100 volt-amperes and of a voltage not exceeding 30 volts, with the exception of luminaries, thermostats with heat anticipators, electromedical devices and apparatus installed in a hazardous location.

2-026 Approval of a Prefabricated Building

A prefabricated building in which the electrical installation work was not carried out by an electrical contractor shall not be sold, rented, exchanged or acquired unless it has been approved.

2-028 Mark of Approval

(1) Electrical equipment or a prefabricated building that has received certification by one of the following organizations is considered to be approved:

(a) CSA International (CSA);

(b) Underwriters' Laboratories of Canada (ULC);

(c) Intertek Testing Services NA Ltd (WH, cETL);

(d) Underwriters' Laboratories Incorporated (cUL);

(e) Entela Canada Inc. (cEntela);

(f) Quality Auditing Institute (cQAI);

(g) MET Laboratories, Inc. (cMET);

(h) TUV Rheinland of North America Inc. (cTUV);

(i) TÜV Product Service, Inc. (cTÜV Product Service);

(j) QPS Evaluation Services (cQPS);

(k) FM Approvals (cFM);

(l) any other certification organization accredited by the Standards Council of Canada that has notified the Board of its accreditation and whose certification seal or label attests to compliance with Canadian standards.

(2) Electrical equipment bearing the label of an organization accredited by the Standards Council of Canada that has notified the Board of its accreditation attesting that, without being certified by an organization listed in Subrule (1), the equipment is recognized as complying with the requirements of Standard SPE-1000-99 Model Code for the Field Evaluation of Electrical Equipment or complying with the requirements of Standard C22.2 n° 125-M1984 Équipement électromédical and Standard C22.2 No. 125-M1984 Electromedical Equipment, published by the Canadian Standards Association, as amended or republished by that organization, is also considered to be approved.

(3) Notwithstanding Subrules (1) and (2), approval is not required for each of the components of electrical equipment if the equipment has received an overall approval.";

(6) by inserting the following after paragraph 10:

"(10.1) by replacing Rule 2-322 by the following:

"2-322 Electrical Equipment in the Vicinity of a Venting or Relief Discharge for Combustible Gas (see Appendix B)

(1) Arc-producing electrical equipment shall be installed at least 3 m from the discharge of a combustible gas relief device or vent.

(2) Notwithstanding Subrule (1), in the case of natural gas, the distance allowed shall be permitted to be 1 m.";

(7) by replacing paragraph 11 by the following:

"(11) by adding the following Subrule to Rule 4-022:

"(5) Notwithstanding Subrule (3), for underground consumer's services exceeding 600 A fed by parallel conductors, each neutral conductor shall be sized in accordance with Table 66.";

(8) by replacing paragraph 13 by the following:

"(13) by replacing Rule 6-104 by the following:

"6-104 Number of Consumer's Services permitted per Building

(1) The number of low-voltage consumer's services terminating at any one overhead supply service run shall be limited by the following factors:

(a) the total calculated load shall not exceed 600 A;

(b) the number of conductors connected to the supply service conductor shall not exceed four.

(2) In the case of a change to the electrical installation of a building with more than four conductors connected to one supply service conductor, replacement of the conductors shall be permitted provided that the total number of conductors is not increased and the total calculated load does not exceed 600 A.";

(9) by replacing paragraph 14 by the following:

"(14) by replacing "9 m" in Subrule (2) of Rule 6-112 by "8 m";";

(10) by replacing paragraph 15 by the following:

"(15) in Rule 6-206:

(1) by inserting "except in existing buildings" in item (c) of Subrule (1) after "less than 2 m";

(2) by deleting "where there is a deviation allowed in accordance with Rule 2-030," in item (d) of Subrule (1);

(3) by adding the following after Subrule (2):

"(3) Notwithstanding Subrule (1)(d), in the case of single dwellings, the service box shall be permitted to be a meter mounting device equipped with a combined breaker outside the building or on a post, provided that an associated branch circuit panelboard equipped with a main breaker of a rating equal to or lower than that of the meter mounting device is used inside the building. The service box shall:

(i) be weatherproof and specifically approved for that use;

(ii) be protected against mechanical damage if installed less than 2 m above ground;

(iii) be equipped with a lockable outside cover; and

(iv) supply only one feeder dedicated to the associated panelboard.";

(11) by inserting the following after paragraph 17:

"(17.1) in Rule 6-302, by replacing Subrule (2) by the following:

"(2) Except for an installation on an existing trestle, no portion of the conductors that is run on the supply side of the consumer's service head on outside building surfaces shall be permitted to be run as exposed wiring.";

(12) by replacing paragraph 20 by the following:

"(20) in Rule 8-106, by adding the following after Subrule (8):

"(9) The method of calculation in Subrule (8) shall be permitted to be used for the replacement of a service or feeder of an existing installation, with or without additional load.";

(13) by replacing subparagraph 2 of paragraph 22 by the following:

"(2) by inserting ", except automobile heater receptacles included in the basic load of each dwelling" after " 75%" in item (d) of Subrule (3).";

(14) by replacing subparagraph 2 of paragraph 25 by the following:

"(2) by replacing Subrules (3) to (5) by the following:

"(3) Service conductors or feeder conductors shall be considered to have a basic load of

(a) 1300 W for each of the first 30 duplex receptacles;

(b) 1100 W for each of the next 30 duplex receptacles;

(c) 900 W for each additional duplex receptacle.

(4) If the load is controlled, the ampacity of the service or feeder conductors shall:

(a) be determined in accordance with Subrule (3), considering only the maximum number of duplex receptacles that can be supplied simultaneously; or

(b) not be lower than 125% of the maximum current of the load controller.

(5) For the purposes of Subrules (3) and (4), two single receptacles are considered to be one duplex receptacle.";

(15) by deleting paragraph 31;

(16) by replacing paragraph 32 by the following:

"(32) by replacing Rule 12-312 by the following:

"12-312 Conductors Over Buildings

Only conductors entering a building shall be permitted to run over the building.";

(17) by replacing paragraph 34 by the following:

"(34) by inserting the following after Rule 12-506:

"12-507 Wiring Methods in Barns and Buildings Housing Livestock or Poultry

Non-metallic sheathed cable shall be protected from rodents by rigid conduits or electrical metallic tubing when they:

(a) are located less than 300 mm from any surface capable of giving support to rodents;

(b) notwithstanding item (a), are located on the side of structural elements less than 100 mm from the upper surface of the elements; or

(c) run through or are concealed in walls and floors.";

"(34.1) by deleting "metallic" in Subrule (1) of Rule 12-904;

"(34.2) by inserting the following after Rule 12-1122:

"12-1124 Split Straight Conduit

(1) In an existing installation located above ground, split straight conduits and split couplings shall be permitted to be used to repair a damaged part of a raceway provided that:

(a) both halves of each split conduit are notched or grooved to ensure the integrity of the assembly, and are glued;

(b) the assembly is connected at each end to the non-split rigid conduit with split couplings glued to the conduit;

(c) each coupling assembly is clamped at each end;

(d) non-removable stainless steel clamps are used; and

(e) the repair work does not damage the insulation of the raceway conductors.

(2) If the assembly mentioned in Subrule (1) exceeds 500 mm in length, additional non-removable stainless steel clamps spaced not more than 500 mm apart shall be installed.";

(18) by deleting paragraph 37;

(19) by replacing paragraph 39 by the following:

"(39) in Rule 18-010:

(1) by inserting "(1)" in the part preceding item (a) before "Class III";

(2) by adding the following Subrules:

"(2) For stationary woodworking machines, the vertical cylindrical volume centred around the dust-producing parts of the machine is a Class III, Division 1 location:

(a) if the machine is used for sanding, the radius and height of the cylindrical volume above the floor is 3.6 m if there is a dust collector or 9 m in all other cases; and

(b) for other types of machines, the radius and height of the cylindrical volume above the floor is 1.8 m if there is a dust collector or 4.5 m in all other cases.

(3) Sawmills where humidity is excessive are considered to be locations to which Section 22 applies.

(4) The dust collectors mentioned in Subrule (2) shall be connected to a dust removal system to avoid any accumulation within the cylindrical volume.";

(20) by replacing paragraph 40 by the following:

"(40) in Rule 18-302, by inserting "with rain-tight couplings and connectors" in Subrule (1) after "electrical metallic tubing";

(21) by deleting paragraph 41;

(22) by replacing paragraph 42 by the following:

"(42) in Rule 22-204, by replacing Subrule (5) by the following:

"(5) Non-metallic sheathed cables shall be installed in accordance with Rule 12-507.";

(23) by replacing paragraph 45 by the following:

"(45) in Rule 26-714:

(1) by adding "ground floor" before " single dwelling" in item (a);

(2) by replacing item (b) by the following:

"(b) At least one duplex receptacle shall be installed in each garage or carport of single dwellings.";

(24) by replacing paragraph 48 by the following:

"(48) in Rule 28-604, in Subrule (4), by replacing "is capable of being locked in the open position, and it can be demonstrated that location in accordance with Subrule (3) is clearly impracticable" by "and is capable of being locked in the open position"."";

(48.1) In Rule 30-320, in Subrule (3), by replacing item (b) by the following:

"(b) if the requirement of item (a) cannot be complied with, be protected by a Class A ground fault circuit interrupter and be installed inside the room without being located within the perimeter of the bath or shower.";

(48.2) By deleting Rules 30-500 to 30-510;";

(25) by replacing paragraph 53 by the following:

"(53) in Rule 32-000, by replacing Subrule (1) by the following:

"(1) This Section applies to the installation of fire pumps required by Chapter 1 of the Construction Code.";

(26) by replacing paragraph 66 by the following:

"(66) by inserting the following after Rule 62-500:

"Wire Mesh Heating Systems

62-600 Wire Mesh Heating Systems

Rules 62-602 to 62-606 apply to the supply and connection of wire mesh embedded in a concrete slab or concrete wall for heating, from the point of emergence of the wire mesh at the slab level. However, those rules do not apply to the wire mesh or to the part of busbars embedded in concrete.

62-602 Use

(1) Connection of wire mesh to the electrical supply if the wire mesh is installed in shower rooms, in or around swimming pools or in other locations involving similar hazards, is prohibited.

(2) If a wire mesh heating system produces electrical currents in metallic parts other than the mesh, the mesh shall be supplied only when those currents have been eliminated.

62-604 Other Conductors and Outlets in a Heated Slab

(1) Any other conductor shall be located at least 50 mm from the wire mesh and busbars and shall be considered to operate at an ambient temperature of 40° C.

(2) Any outlet to which a lighting fixture or other heat-producing equipment is likely to be connected shall be located at least 200 mm from the wire mesh.

62-606 Transformers for Wire Mesh Heating Systems

(1) Transformers supplying wire mesh heating systems shall have a grounded electrostatic shield between the primary and secondary windings.

(2) The secondary voltage of a transformer supplying a wire mesh heating system shall not exceed 30 V measured on the secondary side of a single-phase transformer or between two phases on the secondary side of a three-phase transformer.

(3) The conductors connected to the secondary side of a transformer supplying a wire mesh heating system do not require overcurrent protection.";

(27) by replacing paragraph 67 by the following:

"(67) in Rule 66-000, by deleting Subrule (2);

(67.1) by inserting the following after Rule 66-402:

"66-404 Receptacles

Receptacles with a CSA 5-15R configuration and those with a CSA 5-20RA configuration installed in itinerant midways, carnivals, fairs and festivals shall be protected by a Class A ground fault circuit interrupter.";

(28) by replacing paragraphs 68 and 68.1 by the following:

"(68) by inserting the following after Rule 66-504:

"Itinerant Rides

66-600 Bonding

(1) Notwithstanding Rules 66-200 and 66-202, an itinerant ride shall be permitted to be bonded by one of the following means:

(a) a loop-shaped copper conductor at least equal in size to that specified in Table 16, but not less than No. 6 AWG, installed so as to form a loop around the ride or around the group of rides connected to the supply system of those rides; the ends of the loop shall be connected to a block whose terminals are connected to the grounded neutral conductor of the supply system. The non-current- carrying parts of the supply system and of the rides connected to the system shall be connected to the loop-shaped conductor by means of a copper conductor at least equal in size to that specified in Table 16, but not less than No. 6 AWG;

(b) an insulated copper conductor, attached to the supply cable, at least equal in size to that specified in Table 16, but not less than No. 6 AWG.

66-602 Splitter

An itinerant ride shall be permitted to be connected to the supply system by means of a movable splitter provided that the splitter is water and dustproof and is raised at least 25 mm from the surface on which it is installed.

66-604 Live Bare Parts

The cover of a box containing live parts shall be screwed shut or key-locked. Failing that, the box shall be inaccessible to the public.

66-606 Supply

A receptacle used to supply an amusement ride shall be of the locking type or the equivalent. In addition, a receptacle that does not ensure the simultaneous disconnecting of all conductors shall be inaccessible to the public.";

"(68.01) in Rule 68-054, by replacing Subrules (2) to (4) by the following:

"(2) Except as permitted by Subrules (3) and (4), the installation of overhead wiring above a pool and its equipment such as a diving board, a platform, a tower or an observation platform, or above the adjacent area extending horizontally from the rim of the pool and its equipment, is prohibited.

(3) Insulated telecommunication cables, cable TV wires and cables with neutral support conductors with a maximum capacity of 750 V shall be permitted to be installed above a pool and its equipment or above the adjacent area extending horizontally from the rim of the pool and its equipment, provided that there is a minimum 5 m clearance measured radially from the outside edge of the pool, the maximum level of the pool water or its equipment.

(4) Conductors, other than those referred to in Subrule (3) with a maximum operating voltage of 50 kV phase-to-phase shall be permitted to be installed above a pool and its equipment or above the adjacent area extending horizontally from the rim of the pool and its equipment, provided that there is a minimum 7.5 m clearance measured radially from the outside edge of the pool, the maximum level of the pool water or its equipment.";

"(68.1) in Rule 68-304, by adding "see Appendix B" in the title after "Control";

(29) by replacing paragraph 72 by the following:

"(72) in Rule 72-110, by adding the following Subrules:

"(5) Each recreational vehicle lot equipped with sewers shall be provided with at least one receptacle of each type described in Subrule (1)(a) or (b) and (1)(c).

(6) Each recreational vehicle lot equipped with only one water outlet shall be provided with one receptacle of the type described in Subrule (1)(a) or (b).";

(30) by replacing paragraph 76 by the following:

"(76) by inserting the following table after Table 65:

"Table 66
(See Rule 4-022(6).)

Minimum Size of Neutral Conductors for Underground Consumer's Services Rated at More than 600 A and Fed by Parallel Conductors

Nominal Rating of Service Box Amperes	AWG Size of each Copper Neutral Conductor
601 to 1,200	0
1,201 to 2,000	00
2,001 and more	000

";

(31) in paragraph 77:

(1) by replacing "Disjoncteur différentiel" in the French text of subparagraph 1 by "Emplacement extérieur";

(2) by replacing "after the note "Circuit"" in subparagraph 2 by "in alphabetical order";

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

"(3.1) the following note after the note related to Rule 2-318 in Section 2:

"2-322 Flowmeters are not considered to be devices equipped with a vent or allowing the relief of combustible gas.

The distances prescribed are measured from the combustible gas relief device and not from the appliance. An appliance may be located near arc-producing equipment provided that an airtight conduit conveys the exhaust gas beyond the prescribed distances.";

(4) by replacing subparagraph 4 by the following:

"(4) in Rule 6-112 (4), by deleting

(1) "200 A or" in subparagraph a of the second paragraph;

(2) subparagraph b of the second paragraph;";

(5) by deleting subparagraph 5;

(6) by replacing subparagraph 7 by the following:

"(7) by inserting the following note after the note related to Rule 26-700 (11):

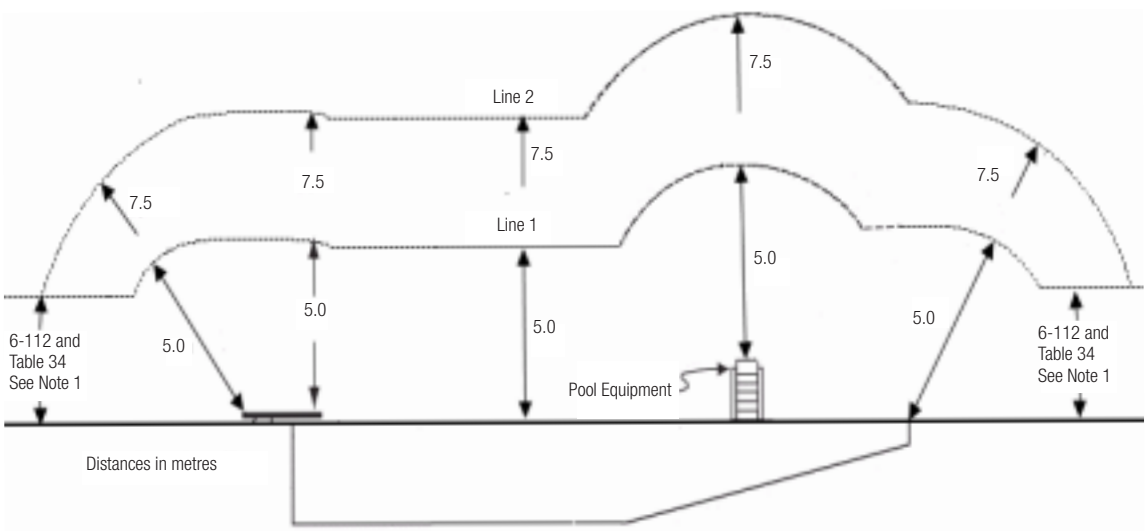
"26-710(e)(iv) It is understood from the expression "Unfinished" that even after the installation of the wall covering (gypsum, etc.), it may be impossible to find the appropriate location for the installation of the receptacles required by Rule 26-712(a), when partitions and usable wall space have not yet been delimited. A basement is not considered to be "a finished basement" if the foundation walls are finished but the ceiling is not finished or is partly finished. However, the installation of a duplex receptacle required under Rule 26-710(e)(iv) does not remove the requirement to install the receptacles for specific use already required by other rules of the Code.";

(7) by deleting subparagraph 8;

(8) by inserting the following after subparagraph 8:

"(8.1) in Rule 68-054, by replacing the note and the diagram by the following:

"The following sketch illustrates the minimum clearances for conductors over swimming pools. No conductor may be installed in the area located under line 1. In the area located above line 1, insulated telecommunications conductors and neutral supported cables operating at 750 V or less may be permitted (see Subrules (2) and (3)). Any other conductors operating at not more than 50 kV may be permitted above the area outlined by line 2 (see Subrules (2) and (4)).



Note1: Telecommunications and cable TV conductors shall be installed in accordance with the Canadian Electical Code, Part III.

";

(9) by replacing subparagraph 9 by the following:

"(9) by adding the following after the note related to Rule 68-068:

"68-304 If that requirement cannot be met, the control devices shall be installed as far away as possible from the bathtub and shower but not outside the room.".

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

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Draft Regulation

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

Speech therapists and audiologists — Professional activities that may be engaged in by persons other than speech therapists and audiologists

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the professional activities that may be engaged in by persons other than speech therapists and audiologists, made by the Bureau of the Ordre des orthophonistes et audiologistes du Québec, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days from this publication.

According to the Ordre des orthophonistes et audiologistes du Québec, the Regulation enables persons other than speech therapists and audiologists to engage, among the professional activities that may be engaged in by speech therapists and audiologists and on the terms and conditions set out in the Regulation, in the activities required to complete a program of studies leading to certain diplomas in speech therapy or audiology issued in Québec, outside Québec or outside Canada.

The Order advises that the Regulation will have no financial impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Louis Beaulieu, President and Director General of the Ordre des orthophonistes et audiologistes du Québec, 235, boulevard René-Lévesque Est, bureau 601, Montréal (Québec) H2X 1N8; telephone: 514 282-9123 or 1 888 232-9123; fax: 514 282-9541.

Any interested person having comments to make is asked to send them in writing 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 forwarded 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 made the Regulation, in this case the Ordre des orthophonistes et audiologistes du Québec, and to the persons, departments and bodies concerned.

GAÉTAN LEMOYNE,
Chair of the Office des professions du Québec

Regulation respecting the professional activities that may be engaged in by persons other than speech therapists and audiologists

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

1. A student may, on the conditions set out in section 3, among the professional activities that may be engaged in by the members of the Ordre des orthophonistes et audiologistes du Québec, engage in the activities required to complete a clinical practicum within the scope of a program of university studies leading to

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

(2) a master's degree in speech therapy or audiology issued by a Canadian university outside Québec;

(3) a diploma obtained at the master's level in speech therapy or audiology issued by a university outside Canada comprising a minimum of 36 credits out of the 48 credits of professional training in speech therapy or audiology and a minimum of 350 hours of clinical practicum and internship in speech therapy or audiology, as described in Schedule I of the Regulation respecting the standards for diploma equivalence or training equivalence for the issue of a permit by the Ordre des orthophonistes et audiologistes du Québec, approved by Order in Council 1141-98 dated 2 September 1998;

(4) a bachelor's degree in speech therapy or a bachelor's degree in audiology issued by the Université de Montréal; or

(5) a post-graduate degree in speech therapy issued by the Université de Montréal.

2. The applicant referred to in the second paragraph of section 9 or the third paragraph of section 10 of the Regulation respecting the standards for diploma equivalence or training equivalence for the issue of a permit by the Ordre des orthophonistes et audiologistes du Québec may, on the conditions set out in section 3, among the professional activities that may be engaged in by members of the Order, engage in the activities required to complete a clinical practicum to comply with the committee's request or complete the training that would allow the applicant to be granted an equivalence.

3. The student referred to in section 1 or the applicant referred to in section 2 may engage in the professional activities that the student or applicant is allowed to engage in on the condition that

(1) the student or applicant is listed in the Order's register; and

(2) the student or applicant engages in the activities under the supervision of a speech therapist or an audiologist in compliance with the rules applicable to members of the Order, in particular those relating to the code of ethics, records and offices, and the rules of practice of the profession of speech therapist or audiologist, including the Normes relatives à la compétence clinique de l'orthophoniste et de l'audiologiste, made by the Bureau of the Order on 3 February 1995, as amended.

The speech therapist or audiologist referred to in subparagraph 2 of the first paragraph is registered on a list established by the Order of members who

(1) have been practising for at least two years in the case of the supervision of a student referred to in section 1 and for at least five years in the case of the supervision of an applicant referred to in section 2;

(2) have not been the subject of any penalty imposed by the committee on discipline of the Order or by the Professions Tribunal; and

(3) have not been required to serve a refresher training period in accordance with the Regulation respecting refresher training periods for speech therapists and audiologists (R.R.Q., 1981, c. C-26, r.131) and whose right to practise has not been limited or suspended within the last five years.

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

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