

Gazette
officielle
DU Québec

Part

2

No. 9

28 February 2007

Laws and Regulations

Volume 139

Summary

Table of Contents
Coming into force of Acts
Regulations and other acts
Draft Regulations
Index

Legal deposit – 1st Quarter 1968
Bibliothèque nationale du Québec
© Éditeur officiel du Québec, 2007

All rights reserved in all countries. No part of this publication may be translated, used or reproduced for commercial purposes by any means, whether electronic or mechanical, including micro-reproduction, without the written authorization of the Québec Official Publisher.

Table of Contents

Page

Coming into force of Acts

104-2007	Director of Criminal and Penal Prosecutions, An Act respecting the... — Coming into force of certain provision	1045
117-2007	Health services and social services and other legislative provisions, An Act to amend the Act respecting... — Coming into force of sections 244 to 246 and 339	1045
157-2007	Election Act to encourage and facilitate voting, An Act to amend the... — Coming into force of certain provisions	1046
180-2007	Health services and social services and other legislative provisions, An Act to amend the Act respecting... — Coming into force of certain provisions	1046

Regulations and other acts

114-2007	Société de financement des infrastructures locales du Québec — Signing of certain documents	1049
135-2007	Environment Quality Act — Proposed schedules and schedules of contributions established under section 53.31.14 — Exclusion of the application of the Regulations Act	1051
136-2007	Approval of the 2005-2006 schedule of contributions prepared by Éco Entreprises Québec for the containers and packaging and printed matter classes	1052
159-2007	Supplemental Pension Plans Act — Exemption of certain categories of pension plans from the application of the Act (Amend.)	1064
193-2007	Waste water disposal systems for isolated dwellings (Amend.)	1073
	Cities and Towns Act — Appropriation to cover the expenditures relating the office staff	1074

Draft Regulations

	Collective agreement decrees, An Act respecting... — Comité conjoint des matériaux de construction — Levy	1077
	Collective agreement decrees, An Act respecting... — Comité conjoint des matériaux de construction — Use of unclaimed funds kept in trust	1078

Coming into force of Acts

Gouvernement du Québec

O.C. 104-2007, 14 February 2007

An Act respecting the Director of Criminal and Penal Prosecutions (2005, c. 34)

— Coming into force of certain provisions

COMING INTO FORCE of certain provisions of the Act respecting the Director of Criminal and Penal Prosecutions

WHEREAS the Act respecting the Director of Criminal and Penal Prosecutions (2005, c. 34) was assented to on 6 December 2005;

WHEREAS section 95 of the Act provides that its provisions come into force on the date or dates to be set by the Government;

WHEREAS, by Order in Council 53-2006 dated 1 February 2006, the provisions of sections 5 and 89 and the first paragraph of section 90 of the Act came into force on 1 February 2006, but solely for the purpose of permitting the application of the rules that relate to the selection and appointment of a Deputy Director;

WHEREAS, by Order in Council 237-2006 dated 29 March 2006, the provisions of sections 2 and 3 of the Act came into force on 1 April 2006, except for “During the year that precedes the end of the Director’s term or as soon as the office becomes vacant,” in section 3;

WHEREAS it is expedient to set the date of coming into force of all the other provisions of the Act, except section 89;

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

THAT 5 March 2007 be set as the date of coming into force of the first paragraph of section 1, sections 4, 6 to 8, 10 to 12, 18 and 22, as well as paragraph 2 of section 57 of the Act respecting the Director of Criminal and Penal Prosecutions (2005, c. 34);

THAT 15 March 2007 be set as the date of coming into force

— of section 5 and the first paragraph of section 90 of the Act, for all matters other than those contemplated by Order in Council 53-2006 dated 1 February 2006;

— of all the other provisions of the Act that are not already in force, except section 89.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

8022

Gouvernement du Québec

O.C. 117-2007, 14 February 2007

An Act to amend the Act respecting health services and social services and other legislative provisions (2005, c. 32)

— Coming into force of sections 244 to 246 and 339

COMING INTO FORCE of sections 244 to 246 and 339 of the Act to amend the Act respecting health services and social services and other legislative provisions

WHEREAS the Act to amend the Act respecting health services and social services and other legislative provisions (2005, c. 32) was assented to on 30 November 2005;

WHEREAS section 341 of the Act provides that the Act comes into force on 1 January 2006, except the provisions indicated in paragraphs 1 to 5 of that section;

WHEREAS it is expedient to set 14 February 2007 as the date of coming into force of sections 244 to 246 and 339 of the Act;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT sections 244 to 246 and 339 of the Act to amend the Act respecting health services and social services and other legislative provisions (2005, c. 32) come into force on 14 February 2007.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

8024

Gouvernement du Québec

O.C. 157-2007, 14 February 2007

An Act to amend the Election Act to encourage and facilitate voting (2006, c. 17)

— Coming into force of certain provisions

COMING INTO FORCE of certain provisions of the Act to amend the Election Act to encourage and facilitate voting

WHEREAS the Act to amend the Election Act (2006, c. 17) was assented to on 14 June 2006;

WHEREAS, under section 39 of the Act, it comes into force on 14 June 2006, except the provisions of sections 2, 3, 4 and 13, section 14 insofar as it enacts the words “and including particulars about voting in the advance poll and at the returning officer’s office” in the first paragraph of section 227, section 15 insofar as it enacts subparagraph 1 of the first paragraph and the second and third paragraphs of section 262, sections 263 to 280, section 297, the second paragraph of section 301.18 and sections 301.19 to 301.22, section 19 insofar as it enacts the words “and at the returning officer’s office” in the first paragraph of section 327 and sections 21 and 24, which come into force on the date or dates to be set by the Government. However, such a date may not be set before a recommendation to that effect is obtained from the Chief Electoral Officer, stating that all preparations needed for the implementation of those provisions have been made and that the provisions may therefore come into force;

WHEREAS the Chief Electoral Office has stated that all preparations needed for the coming into force of section 15 of the Act insofar as it enacts sections 301.19 to 301.22 have been made and that those provisions may therefore come into force as of 15 February 2007;

WHEREAS it is expedient to set the date of coming into force of section 15 of the Act insofar as it enacts sections 301.19 to 301.22;

WHEREAS section 15 of the Act, insofar as it enacts paragraph 3 of section 301.19 and section 301.21, makes reference to sections 204 and 263 enacted by sections 13 and 15 of the Act;

WHEREAS sections 13 and 15 of the Act insofar as they enact sections 204 and 263 are not in force;

WHEREAS it is expedient to set the date of coming into force of section 13 of the Act insofar as it enacts

section 204 and section 15 insofar as it enacts section 263 only for the purposes of the implementation of paragraph 3 of section 301.19 and section 301.21 enacted by section 15 of the Act;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Canadian Intergovernmental Affairs, Francophones within Canada, the Agreement on Internal Trade, the Reform of Democratic Institutions and Access to Information:

THAT the date of coming into force of section 15 of the Act to amend the Election Act to encourage and facilitate voting (2006, c. 17), insofar as it enacts sections 301.19 to 301.22, be set at 15 February 2007;

THAT the date of coming into force of section 13 of the Act insofar as it enacts section 204 and section 15 insofar as it enacts section 263 be set, only for the purposes of the implementation of paragraph 3 of section 301.19 and section 301.21 enacted by section 15 of the Act, at 15 February 2007.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

8031

Gouvernement du Québec

O.C. 180-2007, 21 February 2007

An Act to amend the Act respecting health services and social services and other legislative provisions (2006, c. 43)

— Coming into force of certain provisions

COMING INTO FORCE of certain provisions of the Act to amend the Act respecting health services and social services and other legislative provisions

WHEREAS the Act to amend the Act respecting health services and social services and other legislative provisions (2006, c. 43) was assented to on 13 December 2006;

WHEREAS section 59 of the Act provides that its provisions come into force on the date or dates to be set by the Government, except the provisions referred to in paragraph 1 of that section which came into force on 13 December 2006, and those referred to in paragraph 2 of that section which come into force on 13 June 2007;

WHEREAS it is expedient to set 1 March 2007 as the date of coming into force of sections 1, 3, 7, 8, 15, 17, 32 and 53 of the Act;

IT IS ORDERED , therefore, on the recommendation of the Minister of Health and Social Services:

THAT sections 1, 3, 7, 8, 15, 17, 32 and 53 of the Act to amend the Act respecting health services and social services and other legislative provisions (2006, c. 43) come into force on 1 March 2007.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

8033

Regulations and other acts

Gouvernement du Québec

O.C. 114-2007, 14 February 2007

An Act respecting the Société de financement des infrastructures locales du Québec
(R.S.Q., c. S-11.0102)

Signing of certain documents

Regulation respecting the signing of certain documents of the Société de financement des infrastructures locales du Québec

WHEREAS section 23 of the Act respecting the Société de financement des infrastructures locales du Québec (R.S.Q., c. S-11.0102) provides that a deed, document or writing is binding on and may be attributed to the Société only if it is signed by the chair, the vice-chair, the secretary or another person, but, in the latter case, only to the extent determined by regulation;

WHEREAS section 27 of the Act provides that regulations made under sections 23 to 26 are submitted to the Government for approval;

WHEREAS the Société de financement des infrastructures locales du Québec made the Regulation respecting the signing of certain documents of the Société de financement des infrastructures locales du Québec;

WHEREAS it is expedient to approve the Regulation;

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

THAT the Regulation respecting the signing of certain documents of the Société de financement des infrastructures locales du Québec, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting the signing of certain documents of the Société de financement des infrastructures locales du Québec

An Act respecting the Société de financement des infrastructures locales du Québec
(R.S.Q., c. S-11.0102, s. 23)

DIVISION I

SIGNING OF CERTAIN DOCUMENTS BY THE MINISTER OR OFFICERS OF THE MINISTÈRE DES AFFAIRES MUNICIPALES ET DES RÉGIONS

1. The signing of a document referred to in section 2, by the Minister or a person of the Ministère des Affaires municipales et des Régions referred to in that section, is binding on the Société de financement des infrastructures locales du Québec (hereinafter «SOFIL») and may be attributed to the Société to the extent that those persons act pursuant to a service agreement entered into between SOFIL and the Ministère des Affaires municipales et des Régions.

The first paragraph applies even if the person holds the position on an interim basis or is temporarily replacing a deputy minister or an assistant or associate deputy minister.

2. Section 1 applies to the signing by the Minister, the deputy minister, an assistant or associate deputy minister or the director of the branch responsible for programs related to infrastructures, of all documents concerning payment of financial assistance by SOFIL to the municipal bodies granted in conformity with the investment plan approved by the Government by Décret 104-2006 dated 28 February 2006, in accordance with section 8 of the Act respecting the Société de financement des infrastructures locales du Québec (R.S.Q., c. S-11.0102), and in conformity with the conditions of payment of financial assistance approved by the Government by Décret 1145-2005 dated 26 November 2005, in accordance with section 10 of the Act.

DIVISION II**SIGNING OF CERTAIN DOCUMENTS BY THE MINISTER OR OFFICERS OF THE MINISTÈRE DES TRANSPORTS**

3. The signing of a document referred to in section 4, by the Minister or a person of the Ministère des Transports referred to in that section, is binding on SOFIL and may be attributed to SOFIL to the extent that those persons act pursuant to a service agreement entered into between SOFIL and the Ministère des Transports.

The first paragraph applies even if the person holds the position on an interim basis or is temporarily replacing a deputy minister or an assistant or associate deputy minister.

4. Section 3 applies to the signing by the Minister, the deputy minister, an assistant or associate deputy minister or the director of the branch responsible for programs related to land transportation of persons or for programs related to local roads, of all documents concerning payment of financial assistance by SOFIL to the municipal bodies granted in conformity with the investment plan approved by the Government by Décret 104-2006 dated 28 February 2006, in accordance with section 8 of the Act respecting the Société de financement des infrastructures locales du Québec, and in conformity with the conditions of payment of financial assistance approved by the Government by Décret 1145-2005 dated 26 November 2005, in accordance with section 10 of the Act and the special conditions approved by the Minister of Transport.

DIVISION III**SIGNING OF CERTAIN DOCUMENTS BY OFFICERS OF THE MINISTÈRE DES FINANCES**

5. The signing of a document referred to in section 6, by a person of the Ministère des Finances referred to in that section, is binding on SOFIL and may be attributed to SOFIL to the extent that that person acts pursuant to a service agreement entered into between SOFIL and the Ministère des Finances.

The first paragraph applies even if the person holds the position on an interim basis or is temporarily replacing a deputy minister or an assistant or associate deputy minister.

6. Section 5 applies to the signing by

(1) the deputy minister or an assistant or associate deputy minister, of the documents referred to in paragraphs 2 to 5;

(2) the director of the branch responsible for cash management or for the management of funds and payments, of the documents pertaining to

(a) the opening of a trust bank account for the management of SOFIL investments;

(b) the opening of a securities trust account for the financial settlement and securities custody of SOFIL investments; and

(c) the transfer of funds from the SOFIL account to the consolidated fund or from the SOFIL securities trust account;

(3) the director of the branch responsible for treasury operations, of the documents pertaining to SOFIL investments to the extent that those investments are made in accordance with the investment policy adopted by the board of directors of SOFIL;

(4) the director of the branch responsible for back office services, of the documents pertaining to

(a) the confirmation of financial operations carried out by the branch responsible for treasury operations;

(b) bank settlements through the financial agent of the Ministère des Finances; and

(c) custody of the securities held by SOFIL; and

(5) the director of the branch responsible for financial resources, of the documents pertaining to

(a) the establishment of the SOFIL budgetary structure in the Government's accounting system;

(b) the entry in the Government's accounting system, at the beginning of each year, of amounts available for commitments;

(c) the authorization of persons designated by the Ministère des Affaires municipales et des Régions and the Ministère des Transports to conduct transactions in the Government's accounting system;

(d) the collection of SOFIL revenues and their entry in the Government's accounting system;

(e) the entry of SOFIL accounts receivable in the Government's accounting system;

(f) the issue of cheques to reimburse departments and bodies for the cost of services rendered to SOFIL pursuant to the instructions of the secretary of SOFIL; and

(g) the reimbursement of living and travel expenses of the members of the board of directors and the secretary of SOFIL in accordance with the provisions of Décret 2005-83 dated 30 November 1983.

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

8023

Gouvernement du Québec

O.C. 135-2007, 14 February 2007

Environment Quality Act
(R.S.Q., c. Q-2)

Exclusion of the proposed schedules and schedules of contributions established under section 53.31.14 of the Environment Quality Act from the application of the Regulations Act

WHEREAS subdivision 4.1 of Division VII of Chapter I of the Environment Quality Act (R.S.Q., c. Q-2) creates a regime to compensate municipalities for part of the costs for providing services to ensure the recovery and reclamation of residual materials;

WHEREAS the implementation of the regime, based on the principle of extended producer responsibility, relies mainly on the initiative and direct participation of intervening parties in the private sector and municipal sector, various elements of the regime are, under the Act, to be defined by contract between the unions of municipalities and bodies certified by RECYC-QUÉBEC to represent the enterprises and other persons concerned;

WHEREAS, under the regime, the certified bodies are to determine by agreement with the unions of municipalities the amount of the net costs of the municipal services to be compensated, and the criteria for the distribution of the sums among the municipalities;

WHEREAS section 53.31.13 of the Environment Quality Act allows the certified bodies to collect the contributions from the persons concerned to finance payment of compensation by the body to the municipalities;

WHEREAS section 53.31.14 of the Act entrusts the certified bodies with the responsibility of establishing a schedule to apportion between the persons concerned the amounts of their respective contributions and the schedule must be approved by the Government;

WHEREAS, under that section, the certified body must hold a special consultation of the persons concerned before establishing such a schedule and submitting it to the Government for approval;

WHEREAS RECYC-QUÉBEC must also, under section 53.31.15 of the Act, give an opinion to the Government on the advisability of approving the schedule of contributions proposed by a certified body;

WHEREAS, at the time the Government is preparing to approve a schedule of contributions, the agreement on the amount of the net costs of the municipal services that those contributions are intended to pay has already been negotiated and signed and, consequently, the publication of a proposed schedule under section 8 of the Regulations Act (R.S.Q., c. R-18.1) will not allow public participation to change the overall level of contributions on the basis of those costs;

WHEREAS, under paragraph 6 of section 3 of the Regulations Act (R.S.Q., c. R-18.1), the Government may determine by order the proposed regulations or regulations to which the Act does not apply;

WHEREAS it is expedient to exclude the schedules of contributions established under section 53.31.14 of the Environment Quality Act from the application of the Regulations Act;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks and the Minister of Justice:

THAT the Regulations Act (R.S.Q., c. R-18.1) does not apply to the proposed schedules or schedules of contributions established under section 53.31.14 of the Environment Quality Act (R.S.Q., c. Q-2).

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

8029

Gouvernement du Québec

O.C. 136-2007, 14 February 2007

Environment Quality Act
(R.S.Q., c. Q-2)

Approval of the 2005-2006 schedule of contributions prepared by Éco Entreprises Québec for the “Containers and Packaging” and “Printed Matter” Classes

WHEREAS sections 53.31.1 and following of the Environment Quality Act (R.S.Q., c. Q-2) establish a regime intended to compensate municipalities for part of the costs incurred for the services provided for the recovery and reclamation of residual materials;

WHEREAS, under section 53.31.13 of the Act, Éco Entreprises Québec, as a certified body for the “containers and packaging” and “printed matter” classes, may collect, from its members and from persons who or which, without being members, carry on activities similar to those carried on by the members in relation to the designated materials, the contributions necessary to remit the full amount of compensation and to indemnify the body for its management costs and other expenses incidental to the compensation regime;

WHEREAS, under section 53.31.14 of the Act, the contributions payable shall be established on the basis of a schedule of contributions to be approved by the Government, which may provide for exemptions and exclusions and specify the terms according to which the contributions are to be paid to the certified body;

WHEREAS, in accordance with the requirements of that section, Éco Entreprises Québec conducted a special consultation of the persons concerned before determining such a schedule and submitting it to the government for approval;

WHEREAS, under section 53.31.15 of the Act, RECYC-QUÉBEC shall give an opinion to the Government on the advisability of approving the schedule of contributions proposed by a certified body and a favourable opinion was given by RECYC-QUÉBEC as regards the 2005-2006 schedule of contributions prepared by Éco Entreprises Québec;

WHEREAS the payment of the contributions as compensation in the “Containers and Packaging” and “Printed Matter” classes will facilitate attainment of the objectives and time limits set out in the Politique québécoise de gestion des matières résiduelles 1998-2008;

WHEREAS it is expedient to approve the schedule of contributions prepared by Éco Entreprises Québec entitled “2005 and 2006 Rules Governing the Fee for “Containers and Packaging” and “Printed Matter” Classes”, attached to this Order in Council;

IT IS ORDERED, therefore, on the recommendation of the Minister for Sustainable Development, Environment and Parks:

THAT the schedule of contributions prepared by Éco Entreprises Québec entitled “2005 and 2006 Rules Governing the Fee for “Containers and Packaging” and “Printed Matter” Classes”, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

2005 and 2006 Rules Governing the Fee for “Containers and Packaging” and “Printed Matter” Classes

October 27, 2006

TABLE OF CONTENTS

Preamble

1. Definitions
 - 1.1 Definitions
2. Designation of persons subject to paying a contribution
 - 2.1 Targeted persons
 - 2.2 Exemptions
 - 2.3 Voluntary contributor
 - 2.4 Publication of the names of targeted persons
3. Designation of classes of materials requiring a contribution
 - 3.1 “Containers and packaging”: General definition
 - 3.2 “Containers and packaging” excluded from the contribution
 - 3.3 “Printed matter”: General definition
 - 3.4 “Printed matter” excluded from the contribution
4. Determination of contribution amounts
 - 4.1 Payable contribution
 - 4.2 Reference year for the calculation of the contribution
 - 4.3 Date, place and mode of payment of the contribution
 - 4.4 Penalties and interest
 - 4.5 Mode of payment
 - 4.6 Deadline for payments

5. Registration and reporting by targeted persons
 - 5.1 Registration and reporting by targeted persons
 - 5.2 Billing
 - 5.3 Audit of the materials report and records retention
6. Dispute resolution
 - 6.1 Procedure
7. Adjustments
 - 7.1 Adjustment clauses
8. Effective date and duration
 - 8.1 Effective date
 - 8.2 Duration

Appendix A: Contribution tables

Appendix B: Targeted person registration form

Appendix C: Materials report

PREAMBLE

The Environment Quality Act, R.S.Q., c. Q-2 provides for provisions with respect to the compensation to municipalities for the services that the latter offer to ensure the recovery and reclaim of residual materials designated in the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials, R.S.Q., c. Q-2, r.2.3. This regulation specifies the basic principles and main orientations regarding the contribution of the enterprises to the financing of recycling services.

Pursuant to section 53.31.5 of the act, a body certified by the Société québécoise de récupération et de recyclage is in charge of determining, by way of agreement with the municipal groupings, the total amounts of the net costs of the municipal services subject to compensation. The certified body shall remit to the Société québécoise de récupération et de recyclage the amount of the compensation owed to municipalities. In order to fulfill this obligation, the certified body may collect, from its members and from persons who or which, without being members, carry on similar activities to those carried on by the members in relation to the designated materials or classes of materials, the contributions necessary to remit the full amount of compensation and to indemnify the body for its management costs and other expenses incidental to the compensation regime.

From this approach, the certified body also has the responsibility to prepare and propose a schedule of contributions in conformity with the objectives of the act:

the proposed schedule of contributions must be approved by the Government, and is afterwards published in the *Gazette officielle du Québec*.

It is in this context that Éco Entreprises Québec (ÉEQ) was certified, on June 9, 2005, to represent enterprises that market “containers and packaging” and “printed matter” classes of materials, and collect from the latter monetary compensations that will be remitted to municipalities.

The act dictates a number of requirements guiding ÉEQ’s actions in the preparation of the schedule of contributions, of the enterprises, which are:

— The contributions payable must be established on the basis of a schedule of contributions that has been the subject of a special consultation of the “targeted persons”;

— The criteria taken into account to determine the schedule must evolve over the years in order to foster the accountability of the various classes of persons as regards the environmental consequences of the products they manufacture, market, distribute or commercialize or the materials they otherwise generate, having regard to the content of recycled materials, the nature of materials used, the volume of residual materials produced and their potential for recovery, recycling and other forms of reclamation.

As for the regulation, it specifies various aspects of the act: more particularly, it specifies the minimal framework applicable to the schedule of contributions namely by establishing certain exemptions to the benefit of certain persons in respect of certain materials or, conversely, by targeting persons that alone may be required to pay contributions in respect of certain materials.

Section 53.31.14 of the act states that the schedule of contributions may provide for exemptions and exclusions and may specify the terms according to which the contributions are to be paid to ÉEQ.

The schedule of contributions prepared and proposed by ÉEQ has been drafted in such a way as to include all the elements enabling a person to determine its liability, to understand the scope of his obligations, to determine the amount of the payable contribution. In order to reach all those clarity and conciseness goals in a sole document, ÉEQ has reproduced certain provisions of the act and the regulation, and also proposes a section inherent to the definitions of the wording used.

In the same concern for clarity, ÉEQ proposes explanatory guidelines to targeted persons that are available on its website at www.ecoentreprises.ca

ÉEQ favours alternative modes of dispute settlement that is mediation and arbitration, with respect to the quantity or determination of materials that must be taken into account in the report to be submitted.

During the time where ÉEQ is in possession of information that has been transmitted in the scope of the compensation regime, ÉEQ shall see that all agreed upon means are put in place to ensure the safety and confidentiality, and ensure the respect of all other obligations provided for by the act pertaining to the retention of this information.

The document hereunder constitutes the schedule of contributions proposed by ÉEQ for approval by the government.

1. DEFINITIONS

1.1 Definitions

In the Fee Schedule, unless the context indicates otherwise, the following words and expressions mean or refer to:

(a) “Classes of Materials”: classes of materials targeted by the Compensation Regime, i.e. “containers and packaging” and “printed matter” that are marketed and distributed in Québec and for which, for the purposes of the contribution, exclusions are prescribed under chapter 3 of the Fee Schedule;

(b) “Materials”: types of containers, packaging, or printed matter included in a Class of Materials and that are listed in Appendix A, table 1, column 3;

(c) “Act”: the Environment Quality Act, R.S.Q., c. Q-2, as amended from time to time;

(d) “Targeted Person”: a person obligated by the Compensation Regime and subject, for the purposes of the contribution, to exemptions and other terms prescribed under chapter 2 of the Fee Schedule;

(e) “First Supplier”: means a person who has a domicile or establishment in Québec and is the first to take title, or possession, or control, in Québec, of printed matter described in the Fee Schedule or a Product whose container or packaging is also described in the Fee Schedule;

(f) “Product”: good or service intended for consumers, whether sold or provided otherwise;

(g) “Compensation Regime”: the compensation regime prescribed by Chapter 1, Division VII, subdivision 4.1 of the Act and by the Regulation, as amended from time to time;

(h) “Regulation”: Regulation respecting compensation for municipal services provided to recover and reclaim residual materials, R.S.Q., c. Q-2, r.2.3, as amended from time to time;

(i) “Fee Schedule”: the present fee schedule, as amended from time to time, including its appendixes;

(j) “Brand”: means a mark that is used by a person for the purpose of distinguishing or so as to distinguish Products or services manufactured, sold, leased, hired or performed by the person from those manufactured, sold, leased, hired or performed by others, but does not include a certification mark within the meaning of section 2 of the Trade-marks Act, R.S.C., 1985, c. T-13;

(k) “Distinguishing Guise”: means the shaping of containers or packaging, the appearance of which is used by a person for the purpose of distinguishing or so as to distinguish Products manufactured, sold, leased, hired or performed by the person from those manufactured, sold, leased, hired or performed by others;

(l) “Name”: means the name under which any business is carried on, whether or not it is the name of a legal person, a partnership or an individual.

(m) “Written Media”: class of material defined in the Regulation, not targeted by the Fee Schedule, and represented by RecycleMédias.

2. DESIGNATION OF PERSONS SUBJECT TO PAYING A CONTRIBUTION

2.1 Targeted Persons

2.1.1 The persons referred to in sections 3 and 4 of the Regulation, that is the owners of a Brand, a Name or a Distinguishing Guise are the only ones who may be required to pay a contribution for:

1° Containers and packaging used for commercializing or marketing in Québec a Product or service under that Brand, Name or Distinguishing Guise;

2° Containers and packaging identified by that Brand, Name or Distinguishing Guise;

3° Materials included in the printed matter class identified by that Brand, Name or Distinguishing Guise.

2.1.2 However, if the owner has no domicile or establishment in Québec, the First Supplier in Québec of the Products, or the containers and packaging, or of the printed matter, other than the manufacturer, may be required to pay the contribution, whether or not that supplier is the importer.

2.1.3 The following special rules apply in respect of containers or packaging added at retail outlets, whether or not the containers or packaging are subject to section 2.1.1, paragraphs 1 and 2, and section 2.1.2 of the Fee Schedule:

1° The payment of a contribution may not be required from the manufacturer of those containers and packaging or of a person having added containers or packaging at a retail outlet, subject to paragraph 2; and

2° Where a retail outlet is supplied or operated as a franchise or a chain, under a banner name, or as part of another similar form of affiliation or group of businesses or establishments, the contribution for containers or packaging added at the retail outlet is payable by the franchisor, owner of the chain, banner or group, as the case may be, or if the franchisor, owner of the chain, banner or group has no domicile or establishment in Québec, by their representative in Québec, or where there is no representative, by the retailer.

2.2 Exemptions

2.2.1 As provided for in section 5 of the Regulation, the following are exempt from paying a contribution in respect of the containers and packaging in relation to which they are already required to take recovery or reclamation measures:

1° Persons who are already required under a regulation made under the Act to take measures or contribute financially towards measures to recover or reclaim containers or packaging;

2° Persons already required under a consignment system recognized under Québec law to take measures or contribute financially towards measures to recover or reclaim containers or packaging, such as beer and soft drink non-refillable containers;

3° Persons who are able to establish that they participate directly or contribute financially towards another system to recover and reclaim containers or packaging that operates on an established and regular basis in Québec, such as the program for the recovery of refillable beer bottles existing on November 24th, 2004.

2.3 Voluntary Contributor

2.3.1 Éco Entreprises Québec may accept that a third party whose domicile or establishment is outside Québec and who is the owner of a Brand, a Name or a Distinguishing Guise becomes a voluntary contributor, notably if that third party satisfies the conditions set out in the following sections.

2.3.2 Voluntary contributors may only act to fulfill obligations that, according to the Fee Schedule, with regard to their Products, containers and packaging or printed matter, would be the responsibility of the First Supplier, and therefore may not act to fulfill the obligations of Targeted Persons pursuant to section 2.1.1.

2.3.3 A third party may be recognized as a voluntary contributor after having concluded an agreement with Éco Entreprises Québec that will namely include the following conditions:

— Undertake to pay the contribution pursuant to the Fee Schedule;

— Enter into this agreement freely;

— Undertake to file reports pursuant to the terms described in chapter 5;

— Undertake to shoulder the previously described responsibilities for all First Suppliers in Québec;

— Undertake to abide by the Québec laws and agree that lawsuits be instituted in the Province of Québec, according to the Québec laws.

Such a third party who is recognized as a voluntary contributor thus becomes a Targeted Person with regard to the contribution.

2.3.4 Éco Entreprises Québec may decide to conclude the agreement provided under section 2.3.3 with a third party, whose domicile or establishment is in Canada, but outside Québec, and, without being owner of a Brand, a Name or a Distinguishing Guise, is its main distributor in Québec. Section 2.3.2 also applies to this third party.

2.3.5 The First Supplier and the voluntary contributor are jointly responsible for the obligations which they are subject to pursuant to the Fee Schedule.

2.4 Publication of the names of targeted persons

2.4.1 Éco Entreprises Québec shall make available to its members a list including the names of any person registered with Éco Entreprises Québec pursuant to section 5.1.1.

3. DESIGNATION OF CLASSES OF MATERIALS REQUIRING A CONTRIBUTION

3.1 “Containers and Packaging”: General Definition

3.1.1 As provided for in section 2 of the Regulation, the “containers and packaging” class includes all types of flexible or rigid materials, including paper, carton, plastic, glass or metal, used alone or in combination with other materials to contain, protect, wrap or present a product or a set of products at any stage in the movement of the Product or set of Products from the producer to the ultimate user or consumer, especially for their presentation.

3.2 “Containers and packaging” excluded from the contribution

3.2.1 The following containers and packaging are excluded from the contribution:

(a) Containers and packaging whose ultimate user is an industrial, commercial or institutional establishment and that are managed as residual materials by these establishments.

(b) As provided for in section 2 of the Regulation, tertiary or transport packaging, namely containers and packaging designed to facilitate the handling and transport of a number of sales units or grouped packaging, such as wood pallets and transport containers, in order to prevent physical handling and transport damage. However, containers and packaging likely to be used not only for such transportation but also for delivery of Products directly to ultimate consumers or recipients of the Products, including paper, carton, polystyrene protection or plastic film shall be included in this class.

(c) Containers and packaging sold as Products; for the purpose of this paragraph, the Products otherwise provided remain included.

(d) Long-life containers or packaging: are considered as such containers and packaging designed to accompany, protect or store a Product throughout its life when the Product is designed to last for five (5) years or more. Examples of long-life containers and packaging include, but are not limited to, compact disc cases, tool boxes, etc.

(e) Containers and packaging accompanying a Product destined to be used or consumed by a consumer at the site of distribution or sale of the Product when such containers or packaging are taken into charge on that same site. As an example, but not limited to, such

excluded containers and packaging would be those accompanying food in a restaurant, except those accompanying drive-thru and take-out orders.

3.3 “Printed matter”: General Definition

3.3.1 The “printed matter” class includes paper and other cellulosic fibres, whether or not they are used as a medium for text or images.

3.4 “Printed matter” excluded from the contribution

3.4.1 The following printed matter are excluded from the contribution:

(a) Printed matter whose ultimate user is an industrial, commercial or institutional establishment and that are managed as residual materials by these establishments;

(b) Books as well as Materials included in the Written Media class;

(c) Printed matter already included in the containers and packaging class;

(d) Papers and other cellulosic fibres sold as a Product, to the exception of publications not included in the Written Media class, blank printer paper, lined, cross-sectioned and blank paper, whether white or coloured, as well as notepads of all sizes that are however included. For the purpose of this paragraph, the Products provided free of charge remain included;

(e) Printed matter accompanying a Product destined to be used or consumed by a consumer at the site of distribution or sale of the Product when such printed matter is taken into charge on that same site. As an example, but not limited to, such excluded printed matter would be that accompanying food in a restaurant, except that accompanying drive-thru orders or that destined for take out.

4. DETERMINATION OF CONTRIBUTION AMOUNTS

4.1 Payable contribution

4.1.1 A Targeted Person that marketed Classes of Materials in the course of year 2004 must contribute for year 2005, if the latter is still in operation on December 31, 2005.

4.1.2 A Targeted Person that marketed Classes of Materials in the course of year 2005 must contribute for year 2006.

4.1.3 The contribution amount due for years 2005 and 2006 is determined for each Class of Materials. That amount is calculated by multiplying the quantity, in kilograms, of each Material in a Class of Materials by the rate applicable to that Material as indicated in the schedule of contributions presented in Appendix A, section 1 for the year 2005, and in Appendix A, section 2 for the year 2006, and then by adding all these amounts.

4.1.4 Subject to section 4.1.5, any Targeted Person who has marketed from January 1st to December 31st, 2004, a total weight of less than 10 tonnes of one or more Material or group of Materials, or whose gross sales, receipts, revenue or other inflows in Québec for the same period were less than \$1,500,000, may, at the Targeted Person's option, pay the contribution required under section 5.1.3 of the Fee Schedule or a lump sum established at \$280.

4.1.5 Any Targeted Person who has marketed, from January 1st to December 31st, 2004, a total weight of more than 10 tonnes of one or more Material or group of Materials and who wishes to avail himself of the lump sum payment option set at \$280 cannot avail himself of the provisions set out at section 5.1.8

4.2 Reference year for the calculation of the contribution

4.2.1 For the purpose of calculating the payable contribution for 2005, Materials that must be considered are those marketed in Québec from January 1st, 2004, to December 31st, 2004;

4.2.2 For the purpose of calculating the contribution due for 2006, Materials that must be considered are those marketed in Québec from January 1st, 2004, to December 31st, 2004; in the event that the Targeted Person did not conduct its activities for the entire 12 months of year 2004, Materials that must be considered are those marketed in Québec from January 1st, 2005, to December 31st, 2005.

4.3 Date, place and mode of payment of the contribution

4.3.1 The payable contribution for years 2005 and 2006 shall be paid to Éco Entreprises Québec by the Targeted Person within a period of 120 days following the effective date of the Fee Schedule. It shall be made in a single payment.

4.4 Penalties and interest

4.4.1 Pursuant to section 53.31.16 of the Act, any contribution owed to Éco Entreprises Québec that has not been paid by a Targeted Person by the deadline shall be subject to interest at the rate indicated in section 28 of the Act respecting the Ministère du Revenu, R.S.Q., c. M-31. The interests will be calculated daily on the unpaid amount of the contribution, as of the date on which the contribution becomes due, up to the payment date, at the above mentioned rate. Any changes to this rate will immediately bring a change to the payable interest rate pursuant to the present section.

4.4.2 In addition to interest applicable under section 4.4.1, any Targeted Person who has not paid the contribution within 210 days following the effective date of the Fee Schedule shall be subject to fees equal to a penalty of 10% of the contributions owed, this amount corresponding to costs incurred when Éco Entreprises Québec pursues a remedy to claim a sum it is owed.

4.4.3 Pursuant to section 53.31.16 of the Act, where Éco Entreprises Québec pursues a remedy to claim a sum it is owed, a penalty equal to 20% of the contribution is applicable.

4.5 Mode of payment

4.5.1 All contributions paid according to the Fee Schedule must be in Canadian legal currency.

4.6 Deadline for payments

4.6.1 Éco Entreprises Québec shall publish on its website all deadlines for the payment of contributions.

5. REGISTRATION AND REPORTING BY TARGETED PERSONS

5.1 Registration and reporting by targeted persons

5.1.1 All Targeted Persons shall register with Éco Entreprises Québec by submitting the information required in Appendix B of the Fee Schedule.

5.1.2 Subject to section 5.1.8, for purposes of establishing the amount of the contribution according to chapter 4, all Targeted Persons shall also submit a Materials report by transmitting to Éco Entreprises Québec the information required in Appendix C of the Fee Schedule, notably:

(a) A description of the methodology and data used to prepare the Targeted Person's registration form and Materials report;

(b) A description of excluded Materials that was not included in the Targeted Person's Materials report;

(c) A description of deducted Materials from the Targeted Person's Materials report as well as the number of kilograms or the percentage applied according to type of Materials;

(d) A list of Brands, Names and Distinguishing Guises that are covered in the Materials report;

(e) A declaration as to the accuracy of the information contained in the Targeted Person's Materials report.

5.1.3 Targeted Persons shall register and submit a Materials report for years 2005 and 2006.

5.1.4 A Targeted Person shall register no later than the 90th day following the effective date of the Fee Schedule.

5.1.5 A Targeted Person shall submit a Materials report no later than the 90th day following the effective date of the Fee Schedule.

5.1.6 Targeted Persons shall notify Éco Entreprises Québec of any change to information contained in the registration or the Materials report in the form of a notice of amendment within thirty (30) days of such change.

5.1.7 The registration, Materials report and notice of amendment shall be transmitted to Éco Entreprises Québec electronically, using the forms provided to this effect in Appendix B and available on Éco Entreprises Québec's website, and according to the submission procedures described on the site.

5.1.8 Targeted Persons who opted for lump sum payments established pursuant to section 4.1.4 can, aside from the procedure set out in section 5.1.7, choose to transmit the registration on paper. The registration shall, in this case, be personally signed by the person designated, by resolution, by the Targeted Person, and shall be submitted in one of the following manners: delivered in person to Éco Entreprises, by fax or by mail. This document shall be prepared using the form available on the Éco Entreprises Québec website at www.ecoentreprises.ca, or from the head office.

5.2 Billing

5.2.1 For each year of contribution, Éco Entreprises Québec sends Targeted Persons an invoice setting out the contribution. The invoice is sent by e-mail upon receipt of the submitted Materials report and on the basis of the information contained in it, before such Materials report has been reviewed and, in some cases, verified by Éco Entreprises Québec according to the procedure described in subdivision 5.3.

5.2.2 Any failure of registration, submission of Materials report or submission of incomplete, late or fraudulent Materials report gives rise to Éco Entreprises Québec of the possibility to compute the amount of the contribution payable by means of an estimate based on all elements in its possession, notably on the installation or activities of the Targeted Person, or by a recognized fixed-price estimate method, and without prejudice to any possible lawsuit.

5.3 Audit of the Materials report and Records retention

5.3.1 Notwithstanding the information and documents that the Targeted Person has to produce pursuant to Appendix C, Éco Entreprises Québec reserves the right to request the Targeted Person to provide complementary information such as data tables, audit reports, list of Brands reported, and list of Brands excluded from the Materials report and the allocation of percentages that were used by the Targeted Person to prepare its report.

5.3.2 Éco Entreprises Québec may review the Materials report submitted by a Targeted Person and require that the necessary corrections be later made by the Targeted Person. Éco Entreprises Québec may also decide to make the necessary corrections after having informed the Targeted Person. Following these corrections, a revised invoice determining the adjustment to the payable contribution will then be sent to the Targeted Person.

5.3.3 The amount of the adjustment to the payable contribution indicated in the revised invoice shall be paid to Éco Entreprises Québec by the Targeted Person within thirty (30) days of the issuance of the invoice. It shall be made in a single payment. In the case of a credit, Éco Entreprises Québec undertakes to apply the amount to the next invoice to be sent.

5.3.4 With regard to such revised invoice, any owed or unpaid contribution, at the deadline, by a Targeted Person to Éco Entreprises Québec, may be subject to interest pursuant to terms in section 53.31.16 of the Act, at the rate indicated in section 28 of the Act respecting the Ministère du Revenu, R.S.Q., c. M-31. The interests will be calculated daily on the unpaid amount of the contribution, starting from the date at which the contribution becomes due, up to the payment date, at the above mentioned rate. Any changes to this rate will immediately bring a change to the payable interest rate pursuant to the present section.

5.3.5 In addition to interest applicable according to section 5.3.4, a Targeted Person who does not pay the contribution indicated in the revised invoice within one hundred and twenty (120) days of receipt of the invoice shall be subject to fees equal to 10% of payable contributions, this amount corresponding to costs incurred by Éco Entreprises Québec for the claim of the sum it is owed.

5.3.6 Any Targeted person shall keep a record of all documents and other medium used to prepare the Materials Report for a period of at least five (5) years from the date of submission of the Materials report. Any Targeted person shall make those informations available for consulting and copying by Éco Entreprises Québec, during the normal business hours, and following a previous notice from Éco Entreprises Québec to that effect.

6. DISPUTE RESOLUTION

6.1 Procedure

6.1.1 In case of a dispute between the Targeted Person and Éco Entreprises Québec regarding the quantity or the qualification of Materials to be taken into account in the Materials report, Éco Entreprises Québec and the Targeted Person shall endeavour to resolve the dispute either through discussion among their respective representatives within thirty (30) days following the submission of a written notice of dispute, or by mutual agreement, which will be entered in writing.

6.1.2 Éco Entreprises Québec favours alternative modes of dispute settlement, that is mediation and arbitration, and with regard to the quantity or category of Materials that must be taken into account in the Targeted person's Materials report.

7. ADJUSTMENTS

7.1 Adjustment clauses

7.1.1 In cases where, for a particular Class of Materials, Éco Entreprises Québec accumulates over one year an amount that exceeds by five (5) % that necessary to pay the amount of the compensation required pursuant to the Compensation Regime and the amount to cover its management costs and other expenses, Éco Entreprises Québec shall grant the Targeted Person a credit on the payable contribution for the year following the finding of this surplus. This credit shall be distributed on a prorated basis according to amounts paid by Targeted Persons for the Class of Materials in question, and that for the year during which this surplus will have been accumulated.

7.1.2 In cases where, for a particular Class of Materials, Éco Entreprises Québec does not collect over one year the sufficient sum to pay the amount of the compensation required pursuant to the Compensation Regime as well as to cover its management costs and other expenses related to the Compensation Regime, Éco Entreprises Québec shall apply to the Targeted Persons an adjustment to the payable contribution the year following such a monetary shortfall. This adjustment shall be distributed on a prorated basis according to amounts paid by Targeted Persons for the Class of Materials in question and that for the year during which this deficit will have been accumulated.

8. EFFECTIVE DATE AND DURATION

8.1 Effective Date

8.1.1 The Fee Schedule shall be effective on the 15th day following its publication in the *Gazette officielle du Québec*, that is on March 15, 2007.

8.2 Duration

8.2.1 The Fee Schedule shall be valid for the 2005 and 2006 contribution years.

APPENDIX A
CONTRIBUTION TABLES

Section 1

Contribution Table – 2005

Table 1

Fee

For the period from March 1st, 2005, through December 31st, 2005¹

Classes of materials	Sub-classes of materials	Materials	Annualized contributions €/kg
Printed matter		• Inserts and circulars printed on newsprint paper	2.844
		• Catalogues and publications	7.796
		• Directories	7.796
		• Paper for general use	7.796
		• Other printed matter	7.796
Containers and packaging	Paperboard	• Corrugated carton	5.562
		• Boxboard and other paper packaging	5.562
		• Gable-top containers	7.024
		• Laminated of paper	7.024
		• Aseptic containers	7.024
	Plastics	• PET bottles	8.604
		• HDPE bottles	6.922
		• Laminates	11.912
		• Plastic HDPE and LDPE film	11.912
		• Polystyrene	11.912
		• Other rigid plastics	11.912
	Aluminium	• Aluminium containers for food and beverages	1.121
		• Other aluminium packaging	
	Steel	• Aerosol containers	3.531
		• Other steel containers	
Glass	• Clear glass	2.557	
	• Coloured glass	2.682	

¹ 2004 being the year of reference for the calculation of the contribution for years 2005 and 2006, the Targeted Persons are in the obligation, for the purpose of the application of divisions 4 and 5, and subject to section 4.2.2 in fine, of declaring the materials that were marketed in Québec for the 12 months comprised between January 1st, 2004 and December 31st, 2004. However, for year 2005, since the contribution is due as of March 1st, 2005 an annuity factor of 10/12 (0.833) is applied by Éco Entreprises Québec in order for this adjustment to be taken into account in the determination of the payable contribution for this year 2005.

Section 2

Contribution Table – 2006

Table 2

Fee

For the period from January 1st, 2006 through December 31st, 2006

Classes of materials	Sub-classes of materials	Materials	Annualized contributions ¢/kg
Printed matter		• Inserts and circulars printed on newsprint paper	2.891
		• Catalogues and publications	7.925
		• Directories	7.925
		• Paper for general use	7.925
		• Other printed matter	7.925
Containers and packaging	Paperboard	• Corrugated carton	5.654
		• Boxboard and other paper packaging	5.654
		• Gable-top containers	7.141
		• Laminated of paper	7.141
		• Aseptic containers	7.141
	Plastics	• PET bottles	8.748
		• HDPE bottles	7.037
		• Laminates	12.110
		• Plastic HDPE and LDPE film	12.110
		• Polystyrene	12.110
		• Other rigid plastics	12.110
	Aluminium	• Aluminium containers for food and beverages	1.145
		• Other aluminium packaging	
	Steel	• Aerosol containers	3.590
		• Other steel containers	
Glass	• Clear glass	2.600	
	• Coloured glass	2.727	

APPENDIX B
TARGETED PERSON REGISTRATION FORM

Company Information:

Name of the company
 Address
 Municipality
 Province / State
 Postal Code
 Company website
 Telephone
 Number
 Fax number

Primary Contact for the Company:

The company's primary contact is the person authorized to represent the company with regard to its compensation regime obligations.

Last name
 First name
 Title
 Telephone number at work
 E-mail

DISCLOSURE OF THE TARGETED PERSON:

Classification of your company with regard to the reference year

Submission qualification question

Obligation year	Civil year	Designated materials ultimately intended to consumers?		Gross sales, receipts, revenue less than \$1,5 million?		Quantity generated less than 10 tons?	
		Yes	No	Yes	No	Yes	No
2005	2004						
2006	2005						

APPENDIX C**MATERIALS REPORT (In kilograms)**

Category of materials	Sub-category of materials	Materials	Qty of materials marketed in Qc- kg	Annuity factor 2005 (10/12=.833)	Annuity factor 2006 (1)
Printed matter					
		• Inserts and circulars printed on newsprint paper		.833	1
		• Catalogues and publications		.833	1
		• Directories		.833	1
		• Paper for general use		.833	1
		• Other printed matter		.833	
Containers and packaging					
	Paperboard	• Corrugated carton		.833	1
		• Boxboard and other paper packaging		.833	1
		• Gable-top containers		.833	1
		• Laminated of paper		.833	1
		• Aseptic containers		.833	1
	Plastics	• PET bottles		.833	1
		• HDPE bottles		.833	1
		• Laminates		.833	1
		• Plastic HDPE and LDPE film		.833	1
		• Polystyrene		.833	1
		• Other rigid plastics		.833	1
	Aluminium	• Aluminium containers for food and beverages		.833	1
		• Other aluminium packaging			
	Steel	• Aerosol containers		.833	1
		• Other steel containers			
	Glass	• Clear glass		.833	1
		• Coloured glass		.833	1

Along with the registration form and Materials report, the Targeted Person shall provide:

(a) A description of the methodology and data used to prepare the Targeted Person's registration form and Materials report.

(b) A description of excluded Materials that were not included in the Targeted Person's Materials report as well as the number of kilograms or the percentage applied according to type of Materials.

(c) A list of Brands, Names and Distinguishing Guises that are covered in the Materials report.

(d) A declaration as to the accuracy of the information contained in the Targeted Person's Materials report.

Notwithstanding the above, Éco Entreprises Québec reserves the right to request from the Targeted Person complementary information (for example, data tables, audit reports, list of Brands reported and list of Brands excluded from the Materials report and the allocation of percentages) that were used by the Targeted Person to prepare its report.

8030

Gouvernement du Québec

O.C. 159-2007, 14 February 2007

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1)

Pension plans

**— Exemption of certain categories from the application of the Supplemental Pension Plans Act
— Amendments**

IN THE MATTER of the Regulation to amend the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act

WHEREAS in accordance with second paragraph of section 2 of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1), the Government may, by regulation and on the conditions it determines:

— exempt any pension plan or category of pension plan it designates from the application of all or part of the Act, particularly by reason of the special characteristics of the plan or category or by reason of the complexity of the Act in relation to the number of members in the plan;

— prescribe special rules applicable to the plan or category;

WHEREAS pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft regulation attached hereto was published in part 2 of the *Gazette officielle du Québec* on 25 October 2006 with a notice that it could be made by the Government upon expiry of a period of 45 days following that publication;

WHEREAS it is expedient to make the Regulation, with amendments to take into account comments made by interested parties;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Employment and Social Solidarity:

THAT the Regulation to amend the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act attached hereto be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act*

Supplemental Pension Plans Act
(R.S.Q., c. R-15.1, s. 2, 2nd para.)

1. The title of the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act is amended, in the English version, by inserting, after the word “application”, the words “of provisions”.

2. The first paragraph of section 10 is amended by:

(1) replacing, in subparagraph 5 the words “Bank of Canada Review under identification number B-14045” with the words “Bank of Canada Banking and Financial Statistics in series V122515”;

(2) replacing, in subparagraph 14 of the English version, the word “our” with the word “or”.

3. The first paragraph of section 33 of the Regulation is amended by replacing the words “adopted by the Council of the Canadian Institute of Actuaries on 13 July 1993, which are described in part D of section 2 and in section 3 of the Institute’s standard of practice concerning recommendations for the calculation of transfer values for registered pension plans” with the words “described in part D of section 3 and in section 4 of the standard of practice entitled “Standard of Practice for Determining Pension Commuted Values” confirmed by the Board of Directors of the Canadian Institute of Actuaries on 15 June 2004”.

4. Section 38 of the Regulation is amended, in the English version, by replacing the words “constituting optional ancillary contributions” with the words “constituting optional ancillary benefits”.

* The last amendments to the Regulation respecting the exemption of certain categories of pension plans from the application of the Supplemental Pension Plans Act, approved by Order in Council 1160-90, dated 8 August 1990 (*G.O.* 1990, 2, 2333), were made by the regulations made by Orders in Council 798-2006, dated 22 August 2006 (*G.O.* 2006, 2, 3019) and 1098-2006, dated 29 November 2006 (*G.O.* 2006, 2, 3937). For the preceding amendments, see *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2006, updated to 1 September 2006.

5. The Regulation is amended by adding the following division after section 64:

**“DIVISION X
MEMBER-FUNDED PENSION PLANS**

§1. General provisions

65. This division refers to a pension plan called a “member-funded pension plan”, which has the following characteristics:

(1) it is a defined benefit pension plan that sets in advance the employer contributions and the normal pension or their calculation method;

(2) it came into effect after 15 March 2007;

(3) it provides that the cost of the plan’s commitments, less the employer contribution fixed in the plan, is the sole responsibility of the plan’s active members;

(4) it contains a provision whose effect is to prevent the employer who is party to the plan, or in the case of a multi-employer plan, even not considered as such under section 11 of the Act, the employers jointly or any one of them, from directly or indirectly amending or terminating the plan unilaterally;

(5) it provides who may terminate the plan and under what conditions;

(6) it provides that the employer may, for the purpose of respecting taxation rules, appropriate surplus assets to the payment of the employer contribution;

(7) it may not contain provisions that, in a defined benefit pension plan, are identical to those of a defined contribution plan;

(8) it stipulates that the members and beneficiaries alone are entitled to any surplus assets determined upon termination of the plan and that such assets shall be distributed among them pro rata to the value of their benefits;

(9) it stipulates that the members and beneficiaries affected by the withdrawal of an employer party to a multi-employer plan have the same rights with respect to the surplus assets allocated to their benefits group as the members and beneficiaries affected by the termination;

(10) it provides a rule to determine the date of withdrawal of an employer party to a multi-employer plan.

66. The following plans are outside the scope of this division:

(1) a pension plan in which the remuneration used for the purpose of calculating a member’s pension corresponds to the average of his last remunerations;

(2) a pension plan in which the remuneration used for the purpose of calculating a member’s pension corresponds to his highest remunerations during a specified number of years;

(3) a pension plan under which the pension is automatically increased by using for its determination an index or rate provided for in the plan;

(4) an insured pension plan.

67. A member-funded pension plan may not be validly established by an amendment to a pension plan already in force whose purpose would be to convert such plan into a member-funded pension plan.

An amendment to a member-funded pension plan may not have the effect of converting such plan into a pension plan not belonging to that category of plans.

§2. Rules and conditions for exemptions

68. Member-funded pension plans are exempted from the following provisions of the Act:

— Pension plan — section 7;

— Establishment and effective date — subparagraph 16 of the second paragraph of section 14;

— Contributions — sections 37, 39, 41, 42 and 44;

— Refunds and pension benefits — sections 60, 60.1 and 78 as well as subparagraph 2 of the first paragraph of section 93;

— Transfers of benefits and assets — sections 101 and 106;

— Funding and solvency — sections 130 to 133, 140 and 142 to 146;

— Appropriation of surplus assets to the payments of employer contributions — sections 146.4 to 146.9;

— Division and merger — section 196, with the exception of the third paragraph;

— Liquidation of the benefits of members and beneficiaries — paragraphs 2 to 4 of section 200, section 207.5, the first paragraph of section 210.1, the second paragraph of section 224, sections 228 to 230, 230.1, 230.2 to 230.8 and 240.2.

69. The following provisions of the Act apply to a member-funded pension plan, with the changes mentioned below:

(1) section 38, by striking out the words “, as the case may be.”;

(2) section 61, by replacing the first paragraph with the following paragraph:

“**61.** The value of a member’s pension benefits shall be determined at the date of vesting, according to the actuarial assumptions and methods prescribed by regulation.”;

(3) section 69.1, by replacing subparagraph 3 of the first paragraph with the following paragraph:

“(3) the value assigned to his benefits for the purposes of their payment by supposing that he ceases to be an active member and exercises his right to the refund or transfer of his benefits on the date on which he applies for the payment of the benefit.”;

(4) section 81, by replacing the second paragraph with the following paragraph:

“The actuarially equivalent pension shall be determined on the basis of the actuarial assumptions referred to in section 61 that, on the date on which the member reached the normal retirement age, were used to determine the value of the pension benefits to which entitlement had been vested on that date.”;

(5) section 82.1, by replacing the third paragraph with the following paragraph:

“Values are established on the date on which payment of the disability pension is interrupted, according to the actuarial assumptions and methods referred to in section 61 that, on the said date, were used to determine the value of pension benefits.”;

(6) section 86, by replacing subparagraph 2 of the first paragraph with the following subparagraph:

“(2) if the member was not entitled to a pension before his death, the value to which he would have been entitled if he had ceased to be an active member on the day of his death for a reason other than his death and had then exercised his right to the refund or transfer of his benefits.”;

(7) section 98, by striking out the words “to which section 60 applies and” each time they appear in subparagraph *b* of subparagraph 2 and subparagraph 4 of the first paragraph;

(8) section 122, by adding, after the first paragraph, the following paragraphs:

“The funding method must also contain an assumption for the indexation of the pensions of all the plan’s members and beneficiaries on 1 January of each year, according to the increase in the seasonally unadjusted Consumer Price Index for Canada, published by Statistics Canada for each month during the 12-month period ending on 31 December of the preceding year, up to a maximum of 4%.

This requirement also applies to contributions used to redeem years of service.

The pension plan shall specify whether or not the pensions of all the retirees are insured by an insurer. Where they are insured, the plan shall indicate whether the assumption for indexation of the pensions applies only until retirement or continues to apply thereafter.

The pension committee that applies for registration of an amendment to provide that indexation of the pensions applies only until retirement, shall so inform the retirees by means of the notice provided for in paragraph 1 of section 26 of the Act.”.

(9) section 123, by inserting, in the second line of subparagraph 1, after the words “the valuation”, the words “or in the form of a fixed amount for each active member”;

(10) section 134, by replacing, each time that it appears in the first and third paragraphs, the number “133” with the number and words “91 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act”;

(11) the title of chapter X.1 and sections 146.1 to 146.3, by replacing, each time that it appears therein, the word “employer” with the word “member”;

(12) section 198:

(a) by replacing the second sentence of the second paragraph with the following sentence: “The date may not be later than the end of the fiscal year that follows the one in which a final contribution is required with respect to the members attached to the employer.”;

(b) by adding, after the third paragraph, the following paragraph: “The holder of an insured annuity purchased directly from an insurer following an employer’s withdrawal from a multi-employer plan ceases to be a member of the plan.”;

(13) section 202:

(a) by replacing, at the end of the second paragraph, the words “, with the authorization of and subject to the conditions determined by the Régie, at the date of the next full actuarial valuation of the plan” with the words “on the date and subject to the conditions fixed by the Régie”;

(b) by striking out the third paragraph;

(14) section 204, by replacing the first paragraph with the following paragraph:

“**204.** The person or body empowered to terminate the pension plan may do so only by means of a written termination notice sent to the affected members and beneficiaries, to every certified association representing members, to the employer, to the pension committee and, where applicable, to the insurer.”;

(15) section 212, by replacing, in the portion of the first paragraph that precedes subparagraph 1, the words “the pension benefits to which section 60 applies” with the words “pension benefits”;

(16) section 226, by inserting, in the first line, after the word “retirement”, the words “or upon the withdrawal of an employer who is party to a multi-employer pension plan”.

70. The member-funded pension plan is exempted from the application of section 52 of the Regulation respecting supplemental pension plans.

71. The following provisions of the aforementioned Regulation apply to the member-funded pension plan with the changes mentioned below:

(1) section 4:

(a) by replacing subparagraph 6 of the first paragraph with the following subparagraph:

“6° the member contribution required under the plan, if such contribution is greater than the contribution provided for in sections 79 and 92 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act.”;

(b) by replacing, in subparagraph 15 of the first paragraph, the words and numbers “sections 133, 134 or 140 of the Act” with the words and numbers “section 134 of the Act and sections 91 or 92 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act.”;

(c) by replacing subparagraph 19 of the first paragraph with the following:

“(19) a description of the contribution adjustments resulting from the application of the second paragraph of section 80 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act.”;

(d) by striking out the second paragraph;

(2) section 15.3:

(a) by replacing the first and second paragraphs with the following paragraph:

“**15.3.** Where the payment of the early benefit referred to in section 69.1 of the Act is made from pension plan benefits accumulated by the member that are not referred to in section 15.1, the pension committee shall determine, at the payment date, a pension amount equal to “M” in the following formula:

$$R \times \frac{P}{v} = M$$

“R” is equal to the normal pension that, determined according to the value of the member’s benefits at the payment date, would have been payable to the member at the normal retirement age in accordance with the conditions and characteristics provided for in the plan for such pension;

“p” is equal to the pension benefit paid;

“v” is equal to the value of the member’s benefits determined in accordance with subparagraph 3 of the first paragraph of section 69.1 of the Act.”;

(b) by replacing, each time that it appears in the third paragraph, the word “second” with the word “first”;

(3) section 48, by replacing the first paragraph with the following paragraph:

“Interest calculated at the rate of return obtained on the investment of the plan’s assets, less investment and administration costs, must be added to the amount granted to the spouse.”;

4° section 54, by replacing the first paragraph with the following:

“54. The pension committee must, where no pension is being paid to the member at the date of execution of the partition or transfer of pension amounts, determine at such date an amount equal to “M” in the following formula:

$$A \times \frac{c}{p} = M$$

“A” is equal to the normal pension that, determined according to the value of the member’s benefits at the date of execution of the partition or transfer, would have been payable to the member at the normal retirement age in accordance with the conditions and characteristics provided for in the plan for such pension;

“c” is equal to the sum that corresponds to the benefits granted to the spouse following the partition or transfer;

“p” is equal to the value taken into consideration for the purposes of the partition or transfer of the member’s benefits.

The pension committee must keep a record of that amount.”;

(5) section 56.0.3, by replacing the first paragraph with the following:

“56.0.3. Where the benefits attributed to the spouse are paid from the benefits of the member that are pension benefits within the meaning of section 33 and no pension is being paid to the member at the date on which the seizure is effected, the pension committee shall determine at that date a pension amount equal to “M” in the following formula:

$$R \times \frac{s}{v} = M$$

“R” is equal to the normal pension that, determined according to the value of the member’s benefits at the date on which the seizure is effected, would have been payable to the member at the normal retirement age in accordance with the conditions and characteristics provided for in the plan for such pension;

“s” is equal to the amount paid in execution of the seizure;

“v” is equal to the value of the member’s benefits taken into consideration for the purposes of the seizure.

The pension committee must keep a record of that amount.”;

(6) section 56.1:

(a) by striking out paragraphs 1 and 6;

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

It must also indicate:

(1) that the plan is exempted from several provisions of the Act;

(2) that the cost of the plan’s commitments, less the employer contribution, shall be borne by the plan’s active members;

(3) that the benefits of the members and beneficiaries of the plan may be indexed only if the plan is fully funded and solvent;

(4) that the accumulated surplus assets at the termination of the plan is entirely allocated to the plan’s members and beneficiaries and distributed among them pro rata to the value of their benefits.”;

(7) section 57, by replacing subparagraph 1 of the second paragraph with the following subparagraph:

“(1) the value of the member’s benefits at the end of that fiscal year as well as the value that he would have been able to transfer taking into account the plan’s degree of solvency at that date, accompanied with a mention that the information is provided for information purposes and that the value of the benefits is subject to large variations by reason in particular of fluctuations in interest rates, variations in the degree of solvency as well as the payment conditions of the pension benefits.”;

(8) section 58:

(a) by striking out subparagraph g of paragraph 4;

(b) by replacing paragraph (9) with the following paragraph:

“(9) the pension plan’s degree of solvency that would have been taken into account for payment of the member’s benefits if he had exercised his right to the refund or transfer of his benefits at the date on which he ceased to be an active member, accompanied with a mention that the plan was fully funded or partially funded, as the case may be, at the date of the last actuarial valuation of the entire plan.”;

(9) section 59, by replacing subparagraph 1 of the second paragraph with the following subparagraph:

“(1) the value, at the end of the fiscal year, of the member’s benefits as well as the value that he would have been able to transfer taking into account the plan’s degree of solvency at that date, accompanied with a mention that the information is provided for information purposes and that the values are subject to large variations by reason in particular of fluctuations in interest rates, variations in the degree of solvency as well as the payment conditions of the pension benefits;”;

(10) section 59.0.1, by striking out paragraph 6;

(11) section 59.0.2:

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

“(1) the degree of solvency of the pension plan determined at the earlier of the date of the last actuarial valuation of the whole plan or the date of the end of the last completed fiscal year of the plan, and, where the degree is less than 100%, the measures taken to bring it up to 100%.”;

(b) by replacing each time that they appear in subparagraph 5 of the first paragraph and in the second paragraph, the words “employer contribution” with the words “member contributions”.

72. For the purposes of partition, transfer and seizure of the member’s benefits, the value that must be considered to be the value of the member’s total benefits or the value of the benefits accumulated during marriage is equal to the product of the value determined in accordance with the pertinent provisions of sections 35.2, 37, 39 and 41 to 45 of the Regulation respecting supplemental pension plans multiplied by the plan’s degree of solvency at the date at which the member’s benefits are determined. Only the value resulting from the operation prescribed in this section must be indicated in the first part of the statement provided for in section 35 of the Regulation.

§3. *Specific rules*

73. The notice provided for in section 16 of the Act must mention that the cost of the plan’s commitments, less the employer contribution, will be borne by the plan’s active members.

74. The application for registration filed pursuant to section 24 of the Act must be accompanied with a written declaration from each certified association representing workers eligible for plan membership or active plan members acknowledging that such association, acting

on behalf of those it represents, gives its consent to the obligations incumbent on each such worker and member under, as the case may be, the plan or the amendment.

The first paragraph does not apply in the following cases:

(1) the pension committee attests that it has obtained the acknowledgment of each association and that the acknowledgment may, on request, be filed with the Régie;

(2) the amendment has been made mandatory by a new legislative or regulatory provision giving no latitude;

(3) the amendment results from the application of section 199 of the Act or section 94.

75. Subject to taxation rules, a pension plan may include, workers represented or not represented by a certified association.

A pension committee intending to apply for registration either of a plan or of an amendment that increases plan commitments shall give 40 days advance notice in writing to each non-represented worker.

The prior notice of an application for registration of a plan shall mention that the cost of the plan’s commitments, less the employer contribution, shall be borne by the plan’s active members, that the benefits of the members and beneficiaries may be indexed provided the plan is fully funded and solvent and that the accumulated surplus assets at the plan’s termination are, in whole, allocated to the members and beneficiaries of the plan and distributed among them pro rata to the value of their benefits. The prior notice of an application for registration of an amendment shall contain the information provided for in subparagraph 1 of the first paragraph of section 26 of the Act.

Such notices shall likewise inform the interested parties that they may, within 30 days following receipt of notice, make known, in writing, to the pension committee their opposition to the obligations incumbent on them under, as the case may be, the plan or the amendment.

The Régie may register a plan or an amendment only where the application for registration is accompanied with a written declaration from the pension committee attesting that less than 30% of the workers referred to in the first paragraph expressed their opposition in accordance with the third paragraph.

This section does not apply in the case of an amendment referred to in subparagraph 2 or 3 of the second paragraph of section 74.

76. The Régie may not register a pension plan referred to in this division or an amendment to such plan unless the report referred to in subparagraph 4 of the second paragraph of section 24 of the Act shows, as the case may be, that the pension plan for which an application for registration is made is fully funded and solvent on the date it comes into force or that the coming into force of the amendment for which an application for registration is made will not result in an insufficiency of assets in the fund of the plan that would prevent the plan from remaining fully funded and solvent.

This prohibition does not apply where the amendment is made necessary by the application of a new legislative or regulatory provision giving no latitude.

77. The member contribution is the contribution that an active member is required to pay with a concurrent contribution by the employer.

The employer contribution is the contribution that the employer is required to pay.

An additional voluntary contribution is a sum that a member contributes, without a concurrent contribution by the employer.

Additional voluntary contributions are, until retirement, credited to an account from which all other types of contributions are excluded.

78. The pension committee shall inform the active members of any change in the amount of the member contribution by providing to each member a written notice indicating the effective date of the change as well as the new contribution or the method for its calculation. The notice shall be provided no later than 30 days following the date on which collection of the new contribution begins.

79. An active member shall, in each fiscal year of the plan, pay the member contribution that, when added to the employer contribution and to the contributions of the other active members, is equal to the current service contribution determined in accordance with sections 124 and 125 of the Act.

A member's member contribution shall likewise include his share of any amortization amount determined in application of section 90 and of the sum payable to cover any amount determined pursuant to subparagraph 4 of the second paragraph of section 137 of the Act.

However, if the person or body who has the power to amend the plan so decides, the change in the member contribution related to an amortization amount deter-

mined in accordance with section 90 or in application of subparagraph 4 of the second paragraph of section 137 of the Act may be postponed, at the latest, to the date that is 12 months after the date of the actuarial valuation pertaining thereto. Where an increase is postponed, the sum of the contribution that would otherwise have been paid in the meanwhile, increased by the interest referred to in section 48 of the Act, may be divided uniformly over the remainder of the first five years which follow the valuation date.

80. The member contribution is paid in equal instalments, according to the periodicity provided for under the plan. However, if they relate to the current service contribution, such instalments may represent an hourly rate or a proportion of the remuneration. The rate or proportion shall be uniform unless it is established by reference to a variable authorized by the Régie.

Where the member contribution is not determined at the beginning of the fiscal year, the member shall, until an actuarial valuation report is transmitted to the Régie, continue to pay the contribution fixed for the preceding fiscal year. If the contribution so paid is less than what should have been paid according to the report, the portion still to be paid may be distributed uniformly over the period remaining until the date of the next actuarial valuation required in accordance with paragraph 3 of section 118 of the Act, plus, where applicable, the interest referred to in section 48. The amount of the contribution may also be adjusted if the contribution that should have been paid according to the report is less than what was paid.

81. The employer contribution shall be paid in as many equal monthly payments as there are months in the fiscal year of the plan, and not later than the last day of the month that follows each of these months. The monthly payments may, however, represent an hourly rate, a proportion of the remuneration or a percentage of the total payroll for the active members; the rate, proportion or percentage shall be uniform unless it is established by reference to a variable authorized by the Régie.

82. Every contribution bears interest, from the first day of the month that follows the month during which it should have been paid into the pension fund or to the insurer, at the rate of return derived from the investment of the plan assets, less investment expenses and administration costs, or, if the plan so provides and to the extent that the contribution relates to refunds or pension benefits that remain insured, at the monthly rate of return on personal five-year term deposits with chartered banks, as compiled by the Bank of Canada.

83. Where a member who ceases to be an active member exercises his right to a refund or to the transfer of his benefits the value of his benefits is equal to the greater of the following amounts:

(1) the value of the pension benefit to which he is entitled;

(2) the value of a pension payable to the member and determined in accordance with the second paragraph of section 60.1 of the Act.

The same rule shall apply to the member's spouse or assign who exercises his right to the benefit provided for in the first paragraph of section 86 of the Act.

Except in the event of plan termination or withdrawal of an employer party to a multi-employer plan, payment of benefits is calculated as the product of the value of the benefits thus determined multiplied by the plan's degree of solvency.

Such value may not be less than the following sums, with accrued interest:

(1) the sum of the amounts credited to the member following transfers, whether or not referred to in section 98 of the Act;

(2) the sums paid by the member under an option giving him entitlement to a benefit by reason of service in respect of a period of work during which no employer contribution was credited to him;

(3) the total of the contributions made by him.

All additional voluntary contributions shall be refunded, with interest, and without regard to the pension plans degree of solvency.

The second paragraph of section 5 of the Act not withstanding, the plan may not provide for provisions more advantageous than those provided for in this section.

84. The plan's degree of solvency taken into account for the purposes of applying section 83 is the most recent of the following: the degree as determined in the course of the last actuarial valuation of the plan, the degree established at the end of the plan's last complete fiscal year or the degree determined according to the periodicity provided for under the plan. The most recent degree of solvency shall be determined at the day on which the pension committee receives an application to exercise the rights referred to in section 83.

The pension committee shall establish or cause to be established the plan's degree of solvability at the end of each of the plan's fiscal years ending on a date other than the date of a valuation required pursuant to paragraph 3 of section 118 of the Act or at the date fixed in accordance with the established periodicity where such date precedes the ending date of a fiscal year provided for under the plan. For this purpose, the actuary responsible for preparing the report relating to an actuarial valuation required pursuant to paragraph 3 of section 118 of the Act shall define in the report a method which, taking into account the return obtained on the investment of the plan's assets and the change in the valuation rate, will allow the summary establishment of the degree of solvency at any time prior to the date of the next such valuation.

85. Except where an amendment has been made mandatory by the application of a new legislative or regulatory provision giving no latitude, a plan amendment that increases the plan's commitments may not come into force unless the plan remains fully funded and solvent once the commitments resulting from the amendment are taken into account.

86. A pension plan may, subject to section 85, be amended so that the pension of each of the members and beneficiaries is adjusted according to the rate of cumulative increase in the the seasonally unadjusted All-Items Consumer Price Index for Canada published by Statistics Canada for the 36-month period ending on the date of the last actuarial valuation of the whole plan or, if that date does not correspond to the end of a month, at the end of the month preceding that date. However, the annualized adjustment rate cannot be less than 0% or greater than 4%.

However, where the pension plan under which retirees' pensions are insured and the assumption thereunder for indexation of the pensions of the aggregate benefits of the members and beneficiaries of the plan is made on the basis of funding based on indexation of the pensions until retirement, the first paragraph applies only to the benefits of the non-retired members.

The amendment provided for in the first and second paragraphs may not come into force on a date prior to the date of the last actuarial valuation of the whole plan or more than one year later than the date of that valuation.

Except where an amendment provided for in the first and second paragraphs comes into force on the date of the last actuarial valuation of the whole plan or thereafter:

(1) no other amendment increasing the benefits of the members or beneficiaries may be made to the plan;

(2) no portion of the plan's surplus assets may be used to pay the member contributions.

The second paragraph of section 5 of the Act notwithstanding, no amendment may be made to the plan unless in conformity with the provisions of this section.

87. An amendment to a pension plan whose purpose is to adjust the members' and beneficiaries' benefits in accordance with the first and second paragraphs of section 86 applies to amounts determined in accordance with sections 15.3, 54 and 56.0.3 of the Regulation respecting supplemental pension plans.

88. Every period of a member's credited service shall be taken into account for the purposes of calculating the pension payable to the member.

89. Every sum transferred to the pension plan, even otherwise than under chapter VII of the Act, shall be converted, at the date of the transfer, into a normal pension amount, on the basis of the actuarial assumptions used to verify the plan's funding for the purposes of the plan's most recent actuarial valuation.

The value of benefits transferred out of the plan shall be determined in accordance with sections 83 and 84.

90. The amortization amounts to be paid in connection with an unfunded actuarial liability shall, for each fiscal year or part of a fiscal year of the pension plan included in the amortization period, be expressed either in the form of a uniform percentage of each active members remuneration as determined on the basis of the total anticipated payroll for the active members or in the form of a uniform sum for each active member determined on the basis of the anticipated number of active members.

For the application of the first paragraph, the provisions related to the total payroll and the number of active members are the same as those used to verify the plan's funding for the purposes of the last actuarial valuation of the plan.

91. Where the member contribution provided for under the plan is greater than that required pursuant to section 79, the excess thereof may serve to reduce, in the following order, the amounts remaining to be paid in connection with:

(1) any amount determined pursuant to subparagraph 4 of the second paragraph of section 137 of the Act;

(2) any technical actuarial deficiency.

(3) any improvement unfunded actuarial liability.

The reduction must, where applicable, be made at the time of the first actuarial valuation of the whole pension plan that follows the payment of excess contributions.

If the excess is insufficient to eliminate an unfunded liability or an amount referred to in the first paragraph, the reduction shall be applied proportionately to each amount remaining to be paid. In addition, if there is more than one liability or amount, the reduction shall be applied from the earliest to the most recent.

92. Any amount determined pursuant to subparagraph 4 of the second paragraph of section 137 of the Act shall, within five years after the date of the actuarial valuation, be paid into the pension fund by the active members.

Section 128 and the first and second paragraphs of section 129 of the Act as well as section 81 of the Regulation apply, with the necessary modifications and as the case may be, to the determination or payment of such amount. Unless the pension plan sets a higher interest rate, any amount so determined and not paid into the pension fund bears interest, from the last day of the month following that for which it should have been paid, at the rate of return of the pension fund.

Such amount may be used to reduce proportionately and in accordance with section 91 the amortization amounts which, five years after the date of the actuarial valuation, remain to be paid in respect of any actuarial deficiency.

93. Sections 236 et 237 of the Act apply to the benefits and pensions of the members and beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan.

94. Where, by reason of a decision concerning the certification of an employees' association or a decision of a given group of employees provided for under the pension plan, certain active members of a plan cease to meet the eligibility requirements fixed by the plan, the provisions of the Act and the regulations thereunder concerning the withdrawal of an employer that is party to a multi-employer pension plan apply, with the necessary modifications. In such case, the following are considered to be affected by the withdrawal:

(1) active members who cease to be employees eligible for membership in the plan by reason of the decision;

(2) non-active members who would have ceased to be employees eligible for membership in the plan if they had been active members on the date of the decision;

(3) beneficiaries whose benefits are derived from those of members who would have ceased to be eligible employees if they had been active members on the date of the decision.

However, where, by reason of the decision referred to in the first paragraph, the members referred to in this paragraph become eligible for another pension plan in the same category, the plan in which they cease to be active members must be the object of an amendment concerning the division of its assets and liabilities. If the person authorized under the plan to make such an amendment fails to do so within 30 days after the pension committee is informed of the decision, the committee must make it. The members and beneficiaries referred to in subparagraphs 1, 2 and 3 of the first paragraph must be included in the division.

95. The Régie may not authorize:

(1) the division of the assets and liabilities of a member-funded pension plan among several plans where one or more of those plans do not belong to that category;

(2) the merger of the assets and liabilities of a member-funded pension plan with those of a plan that does not belong to that category.

Where the assets and liabilities of a pension plan are divided and the plan was partially funded at the date of the division and where one or the other of the plans whose assets and liabilities are merged was partially funded at the date of the merger, the unfunded actuarial liability affecting any plan arising from such operation is considered to be a continuation of the unfunded liability previously determined and must be amortized within the period that remained for the amortization of such unfunded liability.”

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

8032

Gouvernement du Québec

O.C. 193-2007, 21 February 2007

Environment Quality Act
(R.S.Q., c. Q-2)

**Waste water disposal systems for isolated dwellings
— Amendment**

Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings

WHEREAS, under subparagraph *c* of the first paragraph of section 31, paragraphs *g* and *i* of section 46 and paragraph *c* of section 87 of the Environment Quality Act (R.S.Q., c. Q-2), the Government may make regulations on the matters mentioned therein;

WHEREAS the Regulation respecting waste water disposal systems for isolated dwellings (R.R.Q., 1981, c. Q-2, r.8) provides in Division XV.5 for the conditions on which the effluent of a tertiary waste water treatment system with disinfection or phosphorous removal and disinfection may be discharged into the environment;

WHEREAS, after consideration of the public health concerns expressed because of various problems associated with the maintenance of those treatment systems, the Government by Order in Council 853-2006 dated 20 September 2006 made the Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings to prohibit, from 4 October 2006 to 28 February 2007, the installation of tertiary treatment systems with disinfection or phosphorous removal and disinfection if the disinfection system is ultraviolet radiation and the system’s effluent is directly or indirectly discharged into ditches or certain watercourses;

WHEREAS a working group composed of representatives of the Fédération québécoise des municipalités, the Union des municipalités du Québec, the Ministère des Affaires municipales et des Régions, the Ministère de la Santé et des Services sociaux and the Ministère du Développement durable, de l’Environnement et des Parcs recommended maintaining the prohibition so long as an appropriate framework has not been set in place;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published, as provided for in section 8 of that Act, if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under sections 13 and 18 of that Act, the reason justifying the absence of prior publication and such a coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the absence of prior publication and such a coming into force of the Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings, attached to this Order in Council:

— the prohibition on the installation of tertiary treatment systems with disinfection or with phosphorous removal and disinfection using a disinfection system with ultraviolet radiation, the effluents of which are discharged directly or indirectly in ditches or in certain watercourses will cease to have effect on 1 March 2007;

— it is necessary for reasons of public health and environment quality preservation to extend that prohibition for four months to ensure an appropriate framework is set in place;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting waste water disposal systems for isolated dwellings*

Environment Quality Act
(R.S.Q., c. Q-2, s. 31, 1st par., subpar. c, s. 46,
pars. g and i and s. 87, par. c)

1. The Regulation respecting waste water disposal systems for isolated dwellings is amended by replacing “28 February” in section 96 by “30 June”.

2. This Regulation comes into force on 1 March 2007.

8037

M.O., 2007

Order of the Minister of Municipal Affairs and Regions dated 14 February 2007

Cities and Towns Act
(R.S.Q., c. C-19)

Appropriation to cover the expenditures relating to office staff

WHEREAS, under the first paragraph of section 114.4 of the Cities and Towns Act (R.S.Q., c. C-19), the mayor or a designated councillor, within the meaning of section 114.5 of the Act, of a municipality with a population of 100,000 or more may appoint a chief of staff and any other staff members necessary for the orderly administration of the mayor’s or the councillor’s office;

WHEREAS, under the third paragraph of section 114.4, the mayor of a borough of Ville de Montréal may also appoint a chief of staff and any other staff members necessary for the orderly administration of the mayor’s office;

WHEREAS, under the first paragraph of section 114.11 of the Cities and Towns Act, if the mayor or a designated councillor or a borough mayor exercised the power provided for in section 114.4 of the Act, the budget of the municipality or the budget of the borough must contain

* The Regulation respecting waste water disposal systems for isolated dwellings (R.R.Q., 1981, c. Q-2, r.8) was last amended by the regulation made by Order in Council 853-2006 dated 20 September 2006 (2006, *G.O.* 2, 3103). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2006, updated to 1 September 2006.

an appropriation to cover the expenditures relating to office staff and determined according to the standards, scales and other conditions set under section 114.6 of the Act;

WHEREAS, under the second paragraph of section 114.11 of the Cities and Towns Act, the appropriation may not exceed the amount determined by the Minister of Municipal Affairs and Regions or the amount that corresponds to the percentage, determined by the Minister, of the total of the other appropriations for operating expenses provided for in the budget and, if the Minister determines an amount and a percentage with regard to the same budget, the higher amount constitutes the applicable maximum;

WHEREAS, under the second paragraph of section 114.12 of the Cities and Towns Act, the Minister of Municipal Affairs and Regions may determine another way of sharing the total amount of the appropriation provided for in section 114.11 of the Act;

THEREFORE, the Minister of Municipal Affairs and Regions orders as follows:

1. The appropriation to cover the expenditures relating to office staff and determined according to the standards, scales and other conditions of employment set under section 114.6 of the Cities and Towns Act may not exceed the following:

(1) 0.10% of the total of the other appropriations for operating expenses provided for in the city's budget in the case of Ville de Montréal;

(2) in the case of the other municipalities with a population of 100,000 or more:

(a) 0.33% of the total of the other appropriations for operating expenses provided for in the municipality's budget when they are less than \$200,000,000;

(b) 0.32% of the total of the other appropriations for operating expenses provided for in the municipality's budget when they are at least \$200,000,000 and less than \$400,000,000;

(c) 0.31% of the total of the other appropriations for operating expenses provided for in the municipality's budget when they are at least \$400,000,000 and less than \$600,000,000;

(d) 0.30% of the total of the other appropriations for operating expenses provided for in the municipality's budget when they are at least \$600,000,000 and less than \$800,000,000;

(e) 0.29% of the total of the other appropriations for operating expenses provided for in the municipality's budget when they are at least \$800,000,000 and less than \$1,000,000,000;

(f) 0.28% of the total of the other appropriations for operating expenses provided for in the municipality's budget when they are at least \$1,000,000,000 and less than \$1,200,000,000; and so on;

(3) in the case of every borough of Ville de Montréal: the higher of \$100,000 and the amount that corresponds to 0.32% of the total of the other appropriations for operating expenses provided for in the borough's budget.

2. The mayor of Ville de Lévis is entitled to two-thirds of the total amount of the appropriation provided for in section 114.11 of the Cities and Towns Act and the balance is divided between the two designated councillors in proportion to the valid votes cast for the authorized party that designated each of them.

3. This Order replaces the Orders dated 7 October 2005 and 15 February 2006.

Québec, 14 February 2007

NATHALIE NORMANDEAU,
*Minister of Municipal Affairs
and Regions*

8034

Draft Regulations

Draft Regulation

An Act respecting collective agreement decrees
(R.S.Q., c. D-2)

Building materials and non-structural metalwork — Levy — Amendments

Notice is hereby given, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the “Regulation to amend the Levy Regulation of the Comité conjoint des matériaux de construction,” made by the Comité conjoint des matériaux de construction and the text of which appears below, may be submitted to the Government for approval upon the expiry of 45 days following this publication.

The purpose of the Regulation is to increase the levy required of employers and employees from 0.45% to 0.50% of the wages or total payroll. It should be noted that these amendments will affect the parties governed by the Decree respecting the non-structural metalwork industry in the Montréal region and the Decree respecting the building materials industry. The committee also aims to increase the weekly levy currently applicable to artisans from \$1.53 to \$2.06.

During the consultation period, the impact of the Regulation will be clarified. According to the 2005 annual report of the Comité conjoint des matériaux de construction, the two Decrees administered by the joint committee govern 201 employers, 15 artisans and 1,188 employees.

Further information may be obtained by contacting:

Mr. Patrick Bourassa
Direction des données sur le travail et des décrets
Ministère du Travail, 200, chemin Sainte-Foy, 5^e étage
Québec (Québec) G1R 5S1

Telephone: (418) 528-9738
Fax: (418) 644-6969
E-mail: patrick.bourassa@travail.gouv.qc.ca

Any interested person with comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec) G1R 5S1.

JULIE GOSSELIN,
Deputy Minister of Labour

Regulation to amend the Levy Regulation of the Comité conjoint des matériaux de construction*

An Act respecting collective agreement decrees
(R.S.Q., c. D-2, s. 22, 2nd par., subpar. i)

1. Section 2 of the Levy Regulation of the Comité conjoint des matériaux de construction is amended by replacing “0.45%” by “0.50%.”

2. Section 3 is amended by replacing “0.45%” by “0.50%.”

3. Section 4 is amended by replacing “1.53%” by “2.06%.”

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

8035

* The Levy Regulation of the Comité conjoint des matériaux de construction, approved by Decree No. 2626-85 dated 11 December 1985 (1985, *G.O.* 2, 4379) and suspended by the Regulations approved by Orders in Council No. 1631-90 dated 21 November 1990 (1990, *G.O.* 2, 2909) and 1184-92 dated 12 August 1992 (1992, *G.O.* 4307) was amended by the Regulation approved by Order in Council No. 568-98 dated 22 April 1998 (1998, *G.O.* 2, 1760).

Draft Regulation

An Act respecting collective agreement decrees
(R.S.Q., c. D-2)

Building materials and non-structural metalwork — Use of unclaimed funds kept in trust

Notice is hereby given, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the “Regulation respecting the use of unclaimed funds kept in trust by the Comité conjoint des matériaux de construction,” made by the Comité conjoint des matériaux de construction and the text of which appears below, may be submitted to the Government for approval upon the expiry of 45 days following this publication.

The purpose of the Regulation is to allow the Comité conjoint des matériaux de construction to use, for its general administration, part of the unclaimed funds kept in trust, subject to certain conditions. The funds that will be used must have remained unclaimed by the employees concerned within a three-year period from the time they became payable and if the steps taken by the joint committee to deliver these funds to them proved unsuccessful. It should be noted that the joint committee administers the Decree respecting the building materials industry and the Decree respecting the non-structural metalwork industry in the Montréal region.

During the consultation period, the impact of the Regulation will be clarified. According to the 2005 annual report of the Comité conjoint des matériaux de construction, the two Decrees administered by the joint committee govern 201 employers, 15 artisans and 1,188 employees.

Further information may be obtained by contacting:

Mr. Patrick Bourassa
Direction des données sur le travail et des décrets
Ministère du Travail, 200, chemin Sainte-Foy, 5^e étage
Québec (Québec) G1R 5S1

Telephone: 418 528-9738
Fax: 418 644-6969
E-mail: patrick.bourassa@travail.gouv.qc.ca

Any interested person with comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec) G1R 5S1.

JULIE GOSSELIN,
Deputy Minister of Labour

Regulation respecting the use of unclaimed funds kept in trust by the Comité conjoint des matériaux de construction

An Act respecting collective agreement decrees
(R.S.Q., c. D-2, s. 22, 2nd par., subpar. o)

1. The Comité conjoint des matériaux de construction may use unclaimed funds kept in trust to pay for its general administration expenses.

The funds that may be used are the amounts levied for statutory holidays, annual vacation and amounts levied following a claim for wages.

General administration expenses are those related to wages and fringe benefits paid to employees of the committee, to office, travel, communication, upgrading, advertising and subscription costs, to professional fees, to interest and banking costs, to insurance, taxes, rent, maintenance, repair and other general expenses related to the administration of the joint committee.

2. The joint committee may use up to a maximum amount of \$29,950 from the funds kept in trust, if they have remained unclaimed by the employees concerned for a three-year period from the time they became payable and if the steps taken by the joint committee to deliver those funds to them proved unsuccessful.

3. Where an employee claims funds that are owing to him and that have been used, the joint committee shall, on proof of his identity, deliver to the employee the amount of his claim from the other unclaimed funds kept in trust.

4. The joint committee must keep all information relating to the funds used under this Regulation. All amounts transferred to its administration fund must be specified in the annual report.

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

8036

Index

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

	Page	Comments
Appropriation to cover the expenditures relating the office staff (Cities and Towns Act, R.S.Q., c. C-19)	1074	N
Cities and Towns Act — Appropriation to cover the expenditures relating the office staff (R.S.Q., c. C-19)	1074	N
Collective agreement decrees, An Act respecting... — Comité conjoint des matériaux de construction — Levy (R.S.Q., c. D-2)	1077	Draft
Collective agreement decrees, An Act respecting... — Comité conjoint des matériaux de construction — Use of unclaimed funds kept in trust (R.S.Q., c. D-2)	1078	Draft
Comité conjoint des matériaux de construction — Levy (An Act respecting collective agreement decrees, R.S.Q., c. D-2)	1077	Draft
Comité conjoint des matériaux de construction — Use of unclaimed funds kept in trust (An Act respecting collective agreement decrees, R.S.Q., c. D-2)	1078	Draft
Director of Criminal and Penal Prosecutions, An Act respecting the... — Coming into force of certain provisions (2005, c. 34)	1045	
Éco Entreprises Québec — Approval of the 2005-2006 schedule of contributions for the containers and packaging and printed matter classes (Environment Quality Act, R.S.Q., c. Q-2)	1052	N
Election Act to encourage and facilitate voting, An Act to amend the... — Coming into force of certain provisions (2006, c. 17)	1046	
Environment Quality Act — Éco Entreprises Québec — Approval of the 2005-2006 schedule of contributions for the containers and packaging and printed matter classes (R.S.Q., c. Q-2)	1052	N
Environment Quality Act — Proposed schedules and schedules of contributions established under section 53.31.14 — Exclusion of the application of the Regulations Act (R.S.Q. c. Q-2)	1051	N
Environment Quality Act — Waste water disposal systems for isolated dwellings (R.S.Q., c. Q-2)	1073	M
Exemption of certain categories of pension plans from the application of the Act (Supplemental Pension Plans Act, R.S.Q., c. R-15.1)	1064	M
Health services and social services and other legislative provisions, An Act to amend the Act respecting... — Coming into force of certain provisions (2006, c. 43)	1046	

Health services and social services and other legislative provisions, An Act to amend the Act respecting... — Coming into force of sections 244 to 246 and 339	1045	
(2005 c. 32)		
Proposed schedules and schedules of contributions established under section 53.31.14 — Exclusion of the application of the Regulations Act	1051	N
(Environment Quality Act, R.S.Q. c. Q-2)		
Société de financement des infrastructures locales du Québec — Signing of certain documents	1049	N
(An Act respecting the Société de financement des infrastructures locales du Québec, R.S.Q., c. S-11.0102)		
Société de financement des infrastructures locales du Québec, An Act respecting the... — Société de financement des infrastructures locales du Québec — Signing of certain documents	1049	N
(R.S.Q., c. S-11.0102)		
Supplemental Pension Plans Act — Exemption of certain categories of pension plans from the application of the Act	1064	M
(R.S.Q., c. R-15.1)		
Waste water disposal systems for isolated dwellings	1073	M
(Environment Quality Act, R.S.Q., c. Q-2)		