

Gazette
officielle

DU
Québec

Part

2

No. 32

12 August 2009

Laws and Regulations

Volume 141

Summary

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Legal deposit – 1st Quarter 1968
Bibliothèque nationale du Québec
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Contents

Part 2 contains:

- (1) Acts assented to, before their publication in the annual collection of statutes;
- (2) proclamations of Acts;
- (3) regulations made by the Government, a minister or a group of ministers and of Government agencies and semi-public agencies described by the Charter of the French language (R.S.Q., c. C-11), which before coming into force must be approved by the Government, a minister or a group of ministers;
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- (6) rules of practice made by judicial courts and quasi-judicial tribunals;
- (7) drafts of the texts mentioned in paragraph 3 whose publication in the *Gazette officielle du Québec* is required by law before their adoption or approval by the Government.

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Subscriptions

Internet: www.publicationsduquebec.gouv.qc.ca

Printed:

Les Publications du Québec
Customer service – Subscriptions
1000, route de l’Église, bureau 500
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PROVINCE OF QUÉBEC

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 12 JUNE 2009

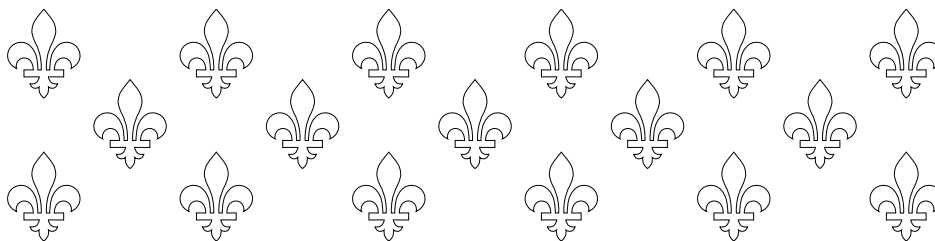
OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 12 June 2009

This day, at nine minutes past four o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

- 10 An Act to amend the Act respecting the Conseil des arts et des lettres du Québec
- 27 An Act to affirm the collective nature of water resources and provide for increased water resource protection
- 31 An Act to amend the Act respecting tourist accommodation establishments and other legislative provisions
- 47 An Act to amend the Act to ratify the Agreement concerning the building and operating of a hospital centre in the Kahnawake Territory
- 49 An Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions

To these bills the Royal assent was affixed by His Excellency the Lieutenant-Governor.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 10
(2009, chapter 20)

An Act to amend the Act respecting the Conseil des arts et des lettres du Québec

**Introduced 17 March 2009
Passed in principle 8 April 2009
Passed 11 June 2009
Assented to 12 June 2009**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

The purpose of this Act is to make the Conseil des arts et des lettres du Québec subject to the Act respecting the governance of state-owned enterprises and to include new, specially adapted governance rules in the council's constituting Act.

The new rules concern, among other things, the composition of the board of directors. This Act provides that the board is to consist of 15 members, including the chair of the board and the president and chief executive officer. It prescribes that at least eight of those members, including the chair, must qualify as independent directors in the opinion of the Government. It also separates the functions of the chair of the board and those of the president and chief executive officer of the Conseil des arts et des lettres du Québec and prescribes the rules of appointment for both positions.

New rules are to apply to the functioning of the board of directors, the establishment of committees under the board, and the disclosure and publication of information. This Act also provides that a majority of the members of the governance and ethics committee and the human resources committee established by the board, including the committee chair, must be independent directors.

Lastly, this Act contains transitional provisions and consequential amendments.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Conseil des arts et des lettres du Québec (R.S.Q., chapter C-57.02);
- Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02).

Bill 10

AN ACT TO AMEND THE ACT RESPECTING THE CONSEIL DES ARTS ET DES LETTRES DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE CONSEIL DES ARTS ET DES LETTRES
DU QUÉBEC

1. Section 5 of the Act respecting the Conseil des arts et des lettres du Québec (R.S.Q., chapter C-57.02) is replaced by the following sections:

“5. The council is administered by a board of directors consisting of 15 members, including the chair of the board and the president and chief executive officer. At least eight members, including the chair, must qualify as independent directors in the opinion of the Government.

After consultation with bodies that the Minister considers representative of the artistic and literary communities, the Government shall appoint the members of the board, other than the chair and the president and chief executive officer, taking into consideration the expertise and experience profiles approved by the board. At least three of the members must come from various regions of Québec, other than the Montréal and Capitale-Nationale regions. Members of the board are appointed for a term of up to four years, as follows:

(1) eleven members from the cultural fields in which the council is competent to act;

(2) two members from other fields of activity, whether cultural or not.

“5.1. The Government shall appoint the chair of the board of directors for a term of up to five years.

“5.2. On the recommendation of the board of directors, the Government shall appoint the president and chief executive officer, taking into consideration the expertise and experience profile established by the board.

The president and chief executive officer is appointed for a term of up to five years. The office of president and chief executive officer is a full-time position.

“5.3. If the board of directors does not recommend a candidate for the position of president and chief executive officer in accordance with section 5.2 within a reasonable time, the Government may appoint the president and chief executive officer after notifying the members of the board.

“5.4. If the president and chief executive officer is absent or unable to act, the board of directors may designate a member of the council’s personnel to exercise the functions of that position.

“5.5. The governance and ethics committee and the human resources committee established by the board of directors under section 19 of the Act respecting the governance of state-owned enterprises (chapter G-1.02) are composed in the majority of independent directors. The president and chief executive officer may not be a member of those committees, which must be chaired by an independent director.”

2. Section 6 of the Act is repealed.

3. Section 8 of the Act is amended by replacing “chairman shall be” in the first paragraph by “president and chief executive officer are”.

4. Sections 9 and 10 of the Act are repealed.

5. Section 11 of the Act is amended by striking out the second paragraph.

6. Section 12 of the Act is repealed.

7. Section 31 of the Act is amended

(1) by replacing “chairman” in the first paragraph by “chair of the board of directors, the president and chief executive officer of the council”;

(2) by replacing “chairman of the council” in the second paragraph by “chair of the board or the president and chief executive officer”.

8. The Act is amended by replacing “chairman” wherever it appears in sections 32, 40, 41 and 42 by “chair”.

9. The Act is amended by inserting the following section after section 35:

“35.1. The council must also provide the Minister with any information the Minister may require concerning the council.”

ACT RESPECTING THE GOVERNANCE OF STATE-OWNED ENTERPRISES

10. Schedule I to the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) is amended by inserting “Conseil des arts et des lettres du Québec” in alphabetical order.

TRANSITIONAL AND FINAL PROVISIONS

11. The requirements relating to the number of independent directors on the board of the Conseil des arts et des lettres du Québec and to the independence of the chair provided in the first paragraph of section 5 of the Act respecting the Conseil des arts et des lettres du Québec (R.S.Q., chapter C-57.02), enacted by section 1 of this Act, and the requirements provided in section 5.5 of the Act respecting the Conseil des arts et des lettres du Québec, enacted by that same section, and in the second paragraph of section 19 of the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) apply as of the date set by the Government. That date must be set as soon as possible and the provisions referred to in this section are to apply not later than 14 December 2011.

The same applies to the requirement that the audit committee include a member of a professional order of accountants as set out in the second paragraph of section 23 of the Act respecting the governance of state-owned enterprises.

12. The Government may, in accordance with the Act respecting the governance of state-owned enterprises, determine that a member of the board of directors of the Conseil des arts et des lettres du Québec in office on 11 June 2009 has the status of independent director.

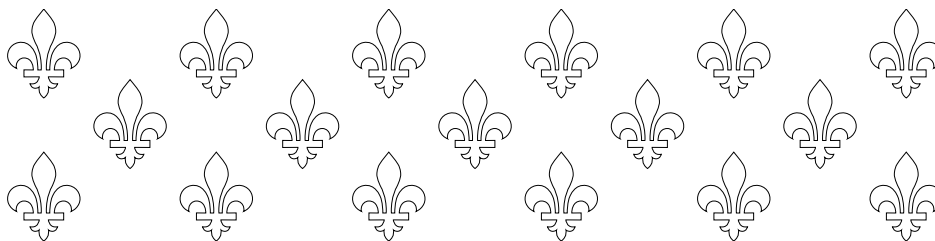
13. A member of the board of directors of the Conseil des arts et des lettres du Québec in office on 11 June 2009 who has not obtained the status of independent director under section 12 of this Act may, despite section 5.5 of the Act respecting the Conseil des arts et des lettres du Québec, enacted by section 1 of this Act, and section 19 of the Act respecting the governance of state-owned enterprises, be a member of a committee referred to in section 19 of the Act respecting the governance of state-owned enterprises until the number of independent directors on the board has reached the number set in section 5 of the Act respecting the Conseil des arts et des lettres du Québec enacted by section 1 of this Act.

14. The members of the board of directors of the Conseil des arts et des lettres du Québec in office on 11 June 2009 continue in office on the same terms, for the unexpired portion of their term, until they are replaced or reappointed.

The chairman of the council continues in office on the same terms, for the unexpired portion of the term, as president and chief executive officer.

The chairman also exercises the functions of chair of the board until that office is filled in accordance with section 5.1 of the Act respecting the Conseil des arts et des lettres du Québec enacted by section 1 of this Act.

15. This Act comes into force on 12 June 2009.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 27
(2009, chapter 21)

**An Act to affirm the collective nature of
water resources and provide for increased
water resource protection**

**Introduced 18 March 2009
Passed in principle 8 April 2009
Passed 11 June 2009
Assented to 12 June 2009**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

The object of this Act is, firstly, to confirm the legal status of water: both surface water and groundwater are a collective resource that is part of the common heritage of the Québec nation. It recognizes the right of every natural person to have access to safe drinking water and sets out certain principles, including the duty to prevent damage to water resources and repair any such damage. A civil action is created that will allow the Attorney General to require the reparation of any ecological damage to water resources through such measures as restoration to the original state and payment of financial compensation.

This Act also defines water governance rules that are based on concerted, integrated management within the hydrologic units designated by the Minister of Sustainable Development, Environment and Parks, including the St. Lawrence River Basin, and take into account the principles of sustainable development. It sets out the conditions under which water master plans and the integrated management plan for the St. Lawrence are to be developed and updated.

As well, this Act establishes a new water withdrawal authorization scheme that increases water resource protection. The new scheme recognizes the need to give priority to satisfying the needs of the population but also to reconcile ecosystem needs and the needs of economic activities. Except as otherwise determined, the term of water withdrawal authorizations is 10 years. The Minister and the Government are empowered to order the limitation or cessation of a water withdrawal that presents a serious risk for public health or aquatic ecosystems, without compensation from the State.

This Act also provides for the implementation in Québec of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement. It prohibits the transfer out of the St. Lawrence River Basin of water withdrawn from the Basin, except as set out in this Act. In addition, new or increased water withdrawals from the Basin are to be subjected to new rules for the reinforcement of water resource protection and management, under the conditions defined by this Act.

This Act incorporates into the Environment Quality Act the prohibition provided in the Water Resources Preservation Act against transferring water out of Québec. Moreover, it makes the lifting of that prohibition by the Government, for any reason in the public interest, subject to public consultation.

Lastly, it sets out transitional measures applicable to existing water withdrawals.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting administrative justice (R.S.Q., chapter J-3);
- Environment Quality Act (R.S.Q., chapter Q-2).

LEGISLATION REPEALED BY THIS ACT:

- Water Resources Preservation Act (R.S.Q., chapter P-18.1).

Bill 27

AN ACT TO AFFIRM THE COLLECTIVE NATURE OF WATER RESOURCES AND PROVIDE FOR INCREASED WATER RESOURCE PROTECTION

AS water is indispensable to life and is a vulnerable and exhaustible resource;

AS water resources are part of the common heritage of the Québec nation, and it is important to preserve water and improve water management to meet the needs of present and future generations;

AS water is for everyone's use and must be accessible in the quantity and quality required to meet every individual's essential needs;

AS the State, as custodian of the interests of the nation in water resources, must be vested with the powers required to protect and manage those resources;

AS the funds required for water governance must be made available to the State through such measures as the establishment of royalties for water, management, use and sanitation;

AS, on 13 December 2005, Québec, Ontario and eight U.S. Great Lake states signed the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement, which was approved by the National Assembly on 30 November 2006, and it is important to amend the Environment Quality Act to ensure the implementation of the Agreement;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

WATER, A COLLECTIVE RESOURCE

1. Being of vital interest, both surface water and groundwater, in their natural state, are resources that are part of the common heritage of the Québec nation.

As set out in article 913 of the Civil Code, their use is common to all and they may not be appropriated except under the conditions defined by that article.

2. Under the conditions and within the limits defined by the law, it is the right of every natural person to have access to water that is safe for drinking, cooking and personal hygiene.

3. The protection, restoration, improvement and management of water resources are of general interest and further sustainable development.

The Minister of Sustainable Development, Environment and Parks may take action to promote public access to the St. Lawrence River and other bodies of water or watercourses, particularly to allow any person to travel on them in accordance with the conditions set out in article 920 of the Civil Code.

DIVISION II

PRINCIPLES

§1. — User pays principle

4. The costs related to water resource use, including protection, restoration, improvement and management costs, are to be borne by users under the conditions defined by law and on the basis of environmental, social and economic consequences and the polluter pays principle.

§2. — Prevention principle

5. Every person has a duty, under the conditions defined by law, to prevent or at least limit the damage the person may cause to water resources and to thus join in the effort to protect water resources.

§3. — Reparation principle

6. Every person must repair the damage the person causes to water resources, under the conditions defined by law.

§4. — Principles of transparency and participation

7. Under the conditions and within the limits defined by law, every person has a right of access to any information on water resources that is held by public authorities and a right to participate in public decision-making that affects those resources.

DIVISION III

ACTION FOR DAMAGE TO WATER RESOURCES

8. If damage to water resources, including impairment of their physical, chemical or biological properties, ecological functions or quantitative status, is caused by a person or through a person's fault or illegal act, the Attorney

General may institute an action against that person, in the name of the State as custodian of the interests of the nation in water resources, with a view to obtaining one or more of the following:

- (1) restoration of the water resources to their original state or a state similar to their original state;
- (2) reparation through compensatory measures;
- (3) reparation by payment of compensation in a lump sum or otherwise.

For the purposes of this section, “original state” means the state of the water resources and of their ecological functions as it would have existed had the damage not occurred, determined on the basis of the best available information.

The obligation to make reparation for damage to water resources or their ecological functions caused through the fault or illegal act of two or more persons is solidary.

9. For the purposes of an action for damage to water resources, the Government may make regulations determining

- (1) the conditions applicable to restoration to the original state or a state similar to the original state and to reparation through compensatory measures; and

- (2) the elements to be considered and the scales or methods to be used in assessing or determining damage to water resources, including impairments of the ecological functions performed by water for the benefit of other natural resources and the public, and in determining the compensation payable for such damage.

10. Compensation obtained as a result of an action brought under this division is to be paid into the Green Fund established by section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (R.S.Q., chapter M-30.001) to finance water governance measures, including water protection and development measures and measures to ensure there is an adequate quality and quantity of water in a sustainable development perspective.

11. An action for damage to water resources is prescribed 10 years after the date on which the Minister becomes aware of the damage.

DIVISION IV**WATER GOVERNANCE**

12. In this division, “the St. Lawrence” means, in addition to the St. Lawrence River, the St. Lawrence Estuary and the Gulf of St. Lawrence.

13. Water resource management in the hydrologic units designated under subparagraph 2 of the first paragraph of section 14 must be based on a concerted, integrated strategy, particularly in the hydrologic unit of outstanding significance that is the St. Lawrence.

This integrated, concerted management must reflect sustainable development principles such as those set out in section 6 of the Sustainable Development Act (R.S.Q., chapter D-8.1.1).

14. For the purposes of section 13, the Minister of Sustainable Development, Environment and Parks may

(1) establish major directions for concerted, integrated water resource management;

(2) identify and describe hydrologic units, including watersheds, sub-watersheds and groups of watersheds, for all or part of the territory of Québec on the basis of such criteria as

(a) the area of the hydrologic units;

(b) the territorial limits of Québec, the administrative regions or the regional county municipalities, as the case may be;

(c) the population density;

(d) the past co-operation, cohesion and harmony between the various users and stakeholders; and

(e) the environmental, social and economic homogeneity of development activities;

(3) for each of the hydrologic units referred to in subparagraph 2 that the Minister specifies, provide, on the conditions determined by the Minister and subject to subparagraph 4, either

(a) for the creation of a body whose mission is to develop and update a water master plan and facilitate and monitor its implementation, ensuring balanced representation, within that body, of users and of stakeholders from such sectors as the government, Native, municipal, economic, environmental, agricultural and community sectors, or

(b) in exceptional circumstances, for the designation of a body to pursue that mission in conjunction with users and stakeholders;

(4) for the St. Lawrence hydrologic unit, provide on the conditions determined by the Minister or agreed between the Minister and any government authority concerned,

(a) for the establishment of governance mechanisms to ensure, for all or part of the St. Lawrence, co-operation between users and stakeholders in various sectors, and the planning and harmonization of measures for the protection and efficient use of water resources and water-dependent natural resources; and

(b) for the creation or designation, as the main component of these governance mechanisms, of a body to develop and update an integrated management plan for the St. Lawrence and to promote and monitor its implementation, ensuring balanced representation, within the body, of users and stakeholders in various sectors;

(5) prescribe rules governing the operation and financing of a body created or designated under subparagraph 3 or 4 and of governance mechanisms established under subparagraph 4;

(6) specify the elements that must be dealt with in a water master plan or an integrated management plan for all or part of the St. Lawrence, including the state of waters and water-dependent natural resources, the identification of water uses and an assessment of their effects, an inventory of zones of ecological interest and of ecologically fragile or degraded zones, measures to protect and restore the qualitative or quantitative status of waters, and an evaluation of the economic and financial means required to implement the plan; and

(7) determine conditions for developing, updating and monitoring the implementation of a water master plan or an integrated management plan for all or part of the St. Lawrence, such as informing the public and enlisting its participation, obtaining the Minister's approval of the plan, and submitting status reports to the Minister on the plan's implementation.

When creating or designating a body under this section, the Minister must publish, particularly in the region concerned and in any appropriate manner, a notice identifying the body and containing a brief description of its mission.

15. After approving a water master plan or an integrated management plan for all or part of the St. Lawrence, the Minister must publish, particularly in the region concerned and in any appropriate manner, a notice announcing the approval and mentioning where the plan may be consulted or a copy obtained.

The Minister must also send a copy of the plan to all government departments and bodies and to the regional county municipalities, metropolitan communities and local municipalities whose territory is situated, in whole or in part, in the hydrologic unit to which the plan applies so they will take the plan into consideration when exercising their powers and duties under the law in the water sector or any other sector affecting water.

DIVISION V

BUREAU DES CONNAISSANCES SUR L'EAU

16. A water knowledge branch to be known as the Bureau des connaissances sur l'eau is established within the Ministère du Développement durable, de l'Environnement et des Parcs.

The Bureau's mission is to set up, and ensure the technical coordination of, an information system for the collection of data on water resources, aquatic ecosystems and water uses in the hydrologic units referred to in subparagraph 2 of the first paragraph of section 14, and to conserve and disseminate the data, with a view to supporting learning requirements in the water sector and providing the public with the most complete, reliable and up-to-date information possible.

The municipalities and Native communities and every department, body, educational or research institution or group whose mission, functions or activities relate in whole or in part to the water sector may, by invitation or at their request, be associated with the development of the information system.

17. Not later than (*insert the date occurring five years after the date of coming into force of this section*) and every five years after that, the Bureau must send the Minister a report on the state of water resources and aquatic ecosystems.

The report is to be made available to the public within 30 days after it is sent to the Minister.

DIVISION VI

AMENDING PROVISIONS

ENVIRONMENT QUALITY ACT

18. The heading of Division V of Chapter I of the Environment Quality Act (R.S.Q., chapter Q-2) is replaced by the following heading:

“WATER RESOURCE PROTECTION AND MANAGEMENT”.

19. The Act is amended by inserting the following after the heading of Division V of Chapter I:

“31.74. In this division, “water withdrawal” or “withdrawal” means the taking of surface water or groundwater by any means. Water withdrawals by means of the following works are excluded from that definition except for the purposes of sections 31.85 and 31.86 and subdivisions 2 and 3:

- (1) works used for the impounding of water;
- (2) works used for the diversion of water to produce hydroelectric power; and
- (3) other works used for the production of hydroelectric power.

“§1. — Withdrawal of surface water or groundwater

“31.75. Withdrawals are subject to the authorization of the Minister or, in the cases prescribed by a regulation made under section 31.9, of the Government.

However, the following withdrawals are exempted from authorization:

(1) a withdrawal with a maximum flow rate of less than 75,000 litres per day, unless

(a) it is intended to supply water to the number of persons the Government determines by regulation;

(b) the water is to be sold or distributed as spring water or mineral water or used as such in the manufacture, preservation or processing of products within the meaning of the Food Products Act (chapter P-29); or

(c) the water is withdrawn from the St. Lawrence River Basin to be transferred out of the Basin in accordance with subdivision 2;

(2) a temporary, non-recurring withdrawal for emergency-response, humanitarian or civil protection purposes; and

(3) any other withdrawal determined by regulation of the Government.

“31.76. The Minister’s power of authorization under this subdivision must be exercised so as to ensure the protection of water resources, particularly by fostering sustainable, equitable and efficient management of the resources in light of the precautionary principle and the effects of climate change.

In addition, every decision in the exercise of the Minister’s power of authorization must give priority to satisfying public health, sanitation, civil protection and drinking water supply needs. Every such decision must also aim to reconcile

- (1) the protection needs of aquatic ecosystems; and
- (2) the needs of agriculture, aquaculture, industry, energy production and other human activities, including recreation and tourism.

“31.77. When making a decision in the exercise of powers under this subdivision, the Minister shall take into account, in addition to specifically environmental impacts, the consequences of the withdrawal under consideration

- (1) for the water use rights of other persons or municipalities in the short, medium and long terms;
- (2) for the availability and distribution of water resources, with a view to satisfying or reconciling current and future needs of different water uses;
- (3) for the foreseeable development of rural and urban areas, particularly as regards the objectives of the land use planning and development plan of any regional county municipality or metropolitan community affected by the withdrawal, and for the balance that must be maintained between different water uses; and
- (4) for the economic development of a region or municipality.

The Minister shall also take into account any observations received from the public with respect to the water withdrawal under consideration.

“31.78. Sections 31.76 and 31.77, with the necessary modifications, apply to the Government when it exercises its power of authorization under sections 31.5 and 31.6 with respect to a water withdrawal that is subject to the environmental assessment procedure provided for in Division IV.1.

In addition, if it considers it necessary for greater protection of the environment, including aquatic ecosystems and wetlands, the Government may, when authorizing such a water withdrawal, prescribe requirements different from those prescribed by regulation of the Government.

A water withdrawal authorized by the Government is exempted from the authorization of the Minister required under section 31.75.

“31.79. When issuing, renewing or amending a water withdrawal authorization, the Minister may, after considering the elements listed in section 31.77, prescribe any condition, restriction or prohibition the Minister considers appropriate for the purposes mentioned in section 31.76. The condition, restriction or prohibition may be different from what is prescribed by regulation of the Government if the Minister considers it necessary for greater protection of the environment, including aquatic ecosystems and wetlands.

The Minister may also refuse to issue or renew an authorization, or, on the Minister's own initiative, modify the conditions to which it is subject, in order to serve the public interest.

However, the person concerned must be given prior notice of the Minister's intended decision under the first or second paragraph, including reasons, and an opportunity to present observations.

“31.80. A condition, restriction or prohibition imposed under section 31.79 may concern

(1) the withdrawal site and the quantity of water that may be withdrawn as well as the quantity and quality of the water that must be returned to the environment after use;

(2) the facilities, works or work related to the withdrawal;

(3) the use of the water withdrawn;

(4) measures to prevent, limit or remedy environmental damage;

(5) the control and monitoring of the effects of the withdrawal on the environment;

(6) measures to ensure the conservation and efficient use of the water withdrawn and to reduce the quantity of water consumed, lost or not returned to the environment after use, taking into account, among other things, the best economically feasible practices or economically available technologies and the particularities of the equipment, facilities and processes involved;

(7) measures to prevent, limit or remedy interference with the water use rights of other persons or municipalities; and

(8) the reports that must be made to the Minister setting out, among other things, the actual or potential impacts of the withdrawal or consumptive use of the water, and the results produced by the measures prescribed under paragraphs 6 and 7.

“31.81. The term of a water withdrawal authorization issued by the Minister is 10 years.

However, the Minister may issue or renew an authorization for a shorter or longer term to serve the public interest or in the cases prescribed by regulation of the Government. If the Minister decides on a term shorter than 10 years, the person concerned must be given prior notice of the Minister's intended decision, including reasons, and an opportunity to present observations.

This section does not apply to a water withdrawal authorization for the supply of drinking water to a waterworks system operated by a municipality.

“31.82. In addition to the information that must be sent to the Minister under a regulation of the Government, the Minister may require a person applying for the issue, renewal or amendment of a water withdrawal authorization to provide any additional study or expert evaluation the Minister considers necessary to make a decision.

“31.83. The holder of a water withdrawal authorization must inform the Minister as soon as possible of any change that affects the information or documents provided when the authorization was issued, renewed or amended, rendering them inaccurate or incomplete.

The holder must similarly inform the Minister of the permanent cessation of a water withdrawal, and comply with any measures the Minister imposes to prevent or remedy environmental damage or interference with the rights of other users. Such a cessation entails the authorization’s revocation by operation of law unless the Minister maintains the authorization in force at the holder’s request for the period and on the conditions the Minister determines.

“31.84. All water withdrawal authorizations are transferable. A transferee must, however, inform the Minister of the transfer within 30 days after it is made.

“31.85. If, based on new or additional information that becomes available after a water withdrawal authorization is issued under this Act or any other Act or following a reassessment of existing information on the basis of new or additional scientific knowledge, the Minister is of the opinion that the water withdrawal presents a serious risk for public health or aquatic ecosystems, the Minister may order the cessation or limitation of the water withdrawal, on the conditions specified, for a period of not over 30 days.

However, in the case of a water withdrawal authorized by the Minister, the order may also permanently modify the conditions to which the authorization is subject or direct that the withdrawal cease permanently.

The person concerned must be given prior notice of the Minister’s intended order, including reasons, and an opportunity to present observations. However, in urgent circumstances, the Minister is exempted from these prior obligations and the person concerned may, within the time specified, present observations for a review of the order.

The information on which the Minister’s order is based must be made available to the public.

An order issued under this section entails no compensation from the State and prevails over any inconsistent provision of an Act, by-law, regulation or order in council.

“31.86. On a recommendation of the Minister based on information described in the first paragraph of section 31.85, the Government may

(1) modify, for the period specified or permanently, the conditions under which a water withdrawal authorized under an Act or order is to be made; or

(2) direct that the withdrawal cease for the period specified or permanently.

An order of the Government under this section entails no compensation from the State.

“31.87. The facilities, works and work required for water withdrawals authorized by the Government or the Minister under this subdivision are exempted from the application of section 22.

“§2. — Special provisions applicable to water withdrawals from the St. Lawrence River Basin

“31.88. The purpose of this subdivision is to ensure the implementation in Québec of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement (the “Agreement”) entered into on 13 December 2005 by Québec and Ontario and the U.S. states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.

This subdivision and the regulations under it are to be construed in a manner consistent with the Agreement.

The text of the Agreement is to be published in the *Gazette officielle du Québec*.

“31.89. For the purposes of this subdivision,

“**consumptive use**” means that portion of water withdrawn or impounded from the St. Lawrence River Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into a product, or other processes;

“**St. Lawrence River Basin**” or “**Basin**” means the part of Québec in which all waters flow towards the St. Lawrence River upstream from Trois-Rivières, excluding the Saint-Maurice river watershed and the Bécancour river, and which is described on the map shown in Schedule 0.A and any other paper or electronic map the Minister may prepare to determine its boundaries more precisely.

Paper maps showing the boundaries of the Basin prepared by the Minister under this subdivision are to be published in the *Gazette officielle du Québec*. Electronic ones are to be made available to the public in the manner determined by the Minister.

“31.90. No water withdrawn from the St. Lawrence River Basin may be transferred out of the Basin, except as set out below and in section 31.91.

This prohibition does not apply to water withdrawals, from the outset made for purposes of transfer out of the Basin, that were authorized before (*insert the date of coming into force of this section*) or, if not authorized, were lawfully commenced before that date. Unless it is increased under the conditions defined by sections 31.91 to 31.93, the quantity of water derived from such a withdrawal must not, however, exceed the quantity authorized at that date or, if there is no authorization or the authorization does not determine a maximum quantity, the capacity of the withdrawal system at that date.

Nor does this prohibition apply to water withdrawn

(1) to be marketed for human consumption, if packaged within the Basin in containers of 20 litres or less;

(2) to be used within the Basin in the manufacture, preservation or processing of products;

(3) to supply vehicles, including vessels and aircraft, whether for the needs of persons or animals being transported or for ballast or other needs related to the operation of the vehicles; or

(4) for humanitarian, civil protection or emergency-response purposes provided the withdrawal is temporary and non-recurrent.

“31.91. In addition to the conditions prescribed by sections 31.92 and 31.93 and those the Government or the Minister may prescribe under other provisions of this Act, a transfer out of the St. Lawrence River Basin resulting from a new withdrawal from the Basin, or an increased transfer out of the Basin resulting from such a withdrawal or a withdrawal existing on (*insert the date of coming into force of section 31.90*), may be authorized under the following conditions:

(1) all water transferred out of the Basin is intended to supply a waterworks system serving all or part of the population of a local municipality whose territory is either

(a) partly within the Basin; or

(b) both wholly outside the Basin and wholly within a regional county municipality whose territory is partly within the Basin; and

(2) all water transferred out of the Basin is to be returned to the Basin, with preference to the direct St. Lawrence River tributary stream watershed from which it was withdrawn, if applicable, less an allowance for consumptive use. No water from outside the Basin may be added to complete the quantity of water returned to the Basin unless

(a) it is part of a water supply or waste water treatment system that combines water from inside and outside the Basin;

(b) it is treated to meet applicable water quality or discharge standards and to prevent the introduction of invasive species into the Basin; and

(c) it maximizes the portion of water from within the Basin and minimizes the portion from outside the Basin.

For the purposes of this section, “new withdrawal” means any water withdrawal authorized after (*insert the date of coming into force of section 31.90*).

The Minister shall publish in the *Gazette officielle du Québec* a list of the local municipalities and regional county municipalities whose territory is partly within the Basin for the purposes of subparagraphs *a* and *b* of subparagraph 1 of the first paragraph.

“31.92. If it involves an average of 379,000 litres or more per day, or a lesser quantity determined by regulation of the Government, that is intended to supply a waterworks system serving a municipality described in subparagraph *a* of subparagraph 1 of the first paragraph of section 31.91, a transfer out of the St. Lawrence River Basin resulting from a new or increased water withdrawal described in that section may be authorized only if it meets the following conditions:

(1) the transfer cannot be reasonably avoided or diminished through the conservation and efficient use of existing water supplies;

(2) the quantity of water to be transferred is reasonable having regard to the water’s intended use;

(3) the transfer would result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water-dependent natural resources of the Basin; and

(4) the transfer is subject to water conservation measures determined by regulation of the Government, or by the Minister under other provisions of this Act.

If a transfer out of the Basin under the first paragraph would result in a consumptive use of an average of 19 million litres or more per day, it is also subject to review by the Great Lakes–St. Lawrence River Water Resources Regional Body established by the Agreement.

“31.93. A transfer out of the St. Lawrence River Basin resulting from a new or increased water withdrawal described in section 31.91 that is intended to supply a waterworks system serving a municipality described in subparagraph *b* of subparagraph 1 of the first paragraph of that section may be authorized only if it meets the conditions set out below and the conditions prescribed in subparagraphs 1 to 4 of the first paragraph of section 31.92:

(1) there is no water supply alternative within the watershed in which the local municipality concerned is situated that is reasonably accessible and able to satisfy its drinking water needs;

(2) the quantity of water transferred will not endanger the integrity of the Basin ecosystem; and

(3) the transfer was reviewed by the Great Lakes–St. Lawrence River Water Resources Regional Body.

“31.94. If, under section 31.92 or 31.93, an application for authorization is subject to review by the Great Lakes–St. Lawrence River Water Resources Regional Body, the Minister must, after so informing the applicant,

(1) notify the Regional Body and each of the parties to the Agreement;

(2) send the Regional Body the application record containing all the documents or information provided by the applicant as well as the Minister’s opinion on the compliance of the application with the conditions prescribed by sections 31.91 to 31.93 and those set out in the Agreement; and

(3) at the request of the Regional Body or one of the parties to the Agreement, provide any additional document or information the Regional Board or the party may consider necessary for review of the application for authorization.

The Minister must also inform the public that the application for authorization is subject to review by the Regional Body.

After reviewing the application for authorization as set out in the Agreement and its own rules of procedure, the Regional Body shall issue a declaration on the compliance of the application with the conditions set out in the Agreement. The declaration is sent to the Minister and made available to the public in the manner the Regional Body determines.

In making a decision with respect to the application for authorization, the Minister or the Government, as the case may be, shall take into account the Regional Body’s declaration.

“31.95. If it involves an average quantity or consumptive use of 379,000 litres or more per day or a quantity or consumptive use determined by regulation of the Government and is not for transfer out of the St. Lawrence River Basin, a new withdrawal from the Basin, an increase in a new withdrawal or an increase in a withdrawal existing on (*insert the date of coming into force of this section*) may be authorized only if it meets the conditions set out below and the conditions prescribed by the Government or the Minister under other provisions of this Act:

(1) all water withdrawn is to be returned to the Basin, with preference to the direct St. Lawrence River tributary stream watershed from which it was derived, if applicable, less an allowance for consumptive use;

(2) the quantity of water withdrawn or consumed would result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters of the Basin or on water-dependent natural resources in the Basin;

(3) the withdrawal or consumptive use is subject to water conservation measures determined by regulation of the Government, or by the Minister under other provisions of this Act; and

(4) the quantity of water withdrawn or consumed is reasonable having regard, among other things, to

(a) the water's intended use;

(b) the measures implemented for the conservation and efficient use of water, including water from existing water supplies;

(c) the balance between economic, social and environmental development;

(d) the foreseeable impacts on the environment and on other uses, and the measures for avoidance or mitigation of such impacts; and

(e) the supply potential of the water source and other interconnected water sources.

For the purposes of this section, "new withdrawal" means any water withdrawal authorized after (*insert the date of coming into force of this section*).

This section does not apply to water withdrawn for the purposes mentioned in subparagraphs 3 and 4 of the third paragraph of section 31.90.

“31.96. In order to determine whether an application for authorization for an increased water withdrawal from the St. Lawrence River Basin is subject to the requirements of section 31.92 or 31.95 in light of the quantity of water withdrawn or consumed that it involves, any quantity of water withdrawn or consumed under an authorization granted for the same withdrawal during the 10 years preceding the application must be included.

“31.97. If an application for authorization pertains to a water withdrawal described in section 31.95 that involves an average consumptive use of 19 million litres or more per day, the Minister must, after informing the applicant, give each party to the Agreement a notice of the application and an opportunity to present observations.

The Minister shall provide a response to each party to the Agreement that has presented observations.

“31.98. Even if an application for authorization that pertains to a water transfer out of the St. Lawrence River Basin described in section 31.91 or 31.92 or to a water withdrawal described in section 31.95 or 31.97 is not, under those sections, subject to review by the Great Lakes–St. Lawrence River Water Resources Regional Body, simple notice of the application may be given to the Regional Body by the Minister, or the application may be reviewed by the Regional Body if

(1) the Minister considers it appropriate and so requests; or

(2) a majority of the members of the Regional Body are of the opinion that such a review is warranted owing to the application’s significance for the parties to the Agreement or to its potentially precedent-setting nature.

Section 31.94 applies to such a review, which, however, is to be undertaken only after consulting the applicant.

“31.99. The Minister must notify to the Great Lakes–St. Lawrence River Water Resources Regional Body and to each of the parties to the Agreement, by registered or certified mail, every decision of the Minister or the Government with respect to an application for authorization that has been reviewed by the Regional Body.

The Minister must also notify to each of the parties to the Agreement every decision with respect to an application for authorization concerning a water transfer out of the Basin described in section 31.92 or a new or increased water withdrawal described in section 31.95.

“31.100. A party to the Agreement may, in accordance with article 33 of the Code of Civil Procedure (chapter C-25), contest a decision of the Government referred to in section 31.99 before the Superior Court for non-compliance with the Agreement, subject to the following provisions:

(1) the proceeding must be brought before the court of the place where the person concerned is domiciled or the main offices of the municipality concerned are located, as the case may be, within 30 days of notification of the decision; and

(2) the party bringing the proceeding is dispensed from giving security as required by article 65 of that Code.

A party to the Agreement may contest a decision of the Minister referred to in section 31.99 before the Administrative Tribunal of Québec for non-compliance with the Agreement, within 30 days after notification of the decision. Sections 98.1 to 100 apply, with the necessary modifications.

“31.101. The Minister may implement water conservation and efficiency programs that are based on the objectives set by the Great Lakes–St. Lawrence River Water Resources Regional Body in order to

- (1) improve the waters and water-dependent natural resources of the Great Lakes–St. Lawrence River Basin;
- (2) protect and restore the hydrologic and ecosystem integrity of that basin;
- (3) retain the quantity of surface water and groundwater;
- (4) ensure sustainable use of the waters; and
- (5) promote the efficient use of water.

The objects of these programs are to include

- (1) promoting the sustainable management of all withdrawals from the Basin, particularly new or increased withdrawals described in section 31.95 that involve an average quantity or consumptive use of 379,000 litres or more per day or a quantity or consumptive use determined by regulation of the Government;
- (2) ensuring the enforcement of sections 31.91 to 31.95, which set conditions applicable to water transfers out of the Basin and new or increased withdrawals from the Basin; and
- (3) making sure that measures prescribed or recommended for all Basin water users to ensure water conservation and efficiency are regularly reviewed and updated to adjust to the actual and potential impacts of the cumulative effects of past, present and reasonably foreseeable future withdrawals and consumptive uses and of climate change on the Basin ecosystem.

The Minister shall annually assess the results achieved under the programs implemented under this section. On *(insert the date occurring 12 months after the date of coming into force of this section)* and every five years after that, the Minister shall send the Regional Body a report describing the programs and their results.

“31.102. The Minister must conduct an assessment of the cumulative impacts of water withdrawals and consumptive uses in the St. Lawrence River Basin on the Basin ecosystem, particularly on the waters and water-dependent natural resources of the Basin, in accordance with the requirements of the Agreement. The assessment must be conducted in coordination with the assessments that the other parties to the Agreement are required to conduct within the Great Lakes–St. Lawrence River Basin.

The assessment must evaluate the application of the prevention principle and the precautionary principle as well as the effects of past and reasonably foreseeable future withdrawals and consumptive uses, the effects of climate change and any other factor that may significantly damage the Basin's aquatic ecosystems.

The assessment prescribed by this section must be done every five years. It must also be done each time the incremental losses to the Great Lakes–St. Lawrence River Basin reach an average of 190 million litres per day in excess of the quantity at the time of the last assessment, or each time one or more of the parties to the Agreement so request.

“31.103. The Minister shall make public each of the assessments conducted under sections 31.101 and 31.102 and invite members of the public to present observations in writing on what actions should be taken to maintain or reinforce water resource protection, management or restoration within the St. Lawrence River Basin, including observations on whether to review legislative, regulatory or other measures and the water conservation and efficiency programs established to implement the Agreement in Québec.

After considering observations received from members of the public, the Minister shall make public the actions that the Minister or the Government intends to take in response to the assessment.

“31.104. The Government may, by regulation, prescribe any measure it considers necessary for the carrying out of this subdivision and the Agreement.

In particular, the Government may make regulations

(1) defining terms contained in sections 31.88 to 31.103 that are not defined;

(2) prescribing the average quantities or consumptive uses per day in excess of which the conditions prescribed in sections 31.92 and 31.95 are applicable to water transfers out of the Basin or to new or increased withdrawals or consumptive uses within the Basin; and

(3) specifying the manner in which quantities of water are to be determined for the purposes of sections 31.92 to 31.97, particularly the manner of calculating average quantities of water transferred out of the Basin, withdrawn or consumed per day in a given period.

“§3. — Prohibition against water transfers out of Québec

“31.105. As of 21 October 1999, no water withdrawn in Québec may be transferred out of Québec.

However, subject to subdivision 2, this prohibition does not apply to water withdrawn

- (1) to serve in the production of hydroelectric power;
- (2) to be marketed for human consumption, if packaged in Québec in containers of 20 litres or less;
- (3) to supply drinking water to establishments, institutions or dwellings situated in a boundary area; or
- (4) to supply vehicles, including vessels and aircraft, whether for the needs of persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

“31.106. The Government may, for emergency-response or humanitarian reasons or any other reason considered to be in the public interest, lift the prohibition set out in section 31.105 and allow the transfer of water out of Québec, subject to section 31.107 and to subdivision 2 and the other provisions of this Act that set out conditions for the authorization of water withdrawals.

The prohibition may be lifted in relation to one specific case or several cases.

The Government’s decision must state why the prohibition is being lifted.

“31.107. The lifting of the prohibition set out in section 31.106 for any reason in the public interest is subject to public consultation, of which notice must be given by the Minister, particularly in the region concerned and in any appropriate manner, at least 30 days in advance.

The notice must contain a brief description of the planned water transfer out of Québec, the reason for it, the places where the public may consult or obtain information on the planned transfer, including its impact on the environment and on other users, and the particulars of the consultation as determined by the Minister.

“31.108. Not later than 31 December 2011 and every five years after that, the Minister must submit to the Government a report on the carrying out of this subdivision and the advisability of maintaining it in force or amending it.

The report is tabled in the National Assembly within 15 days after the report is submitted or, if the Assembly is not sitting, within 15 days of resumption.

“§4. — Waterworks, sewers and water treatment”.

20. Section 32 of the Act is amended by replacing “a water supply intake or” in the first paragraph by “install”.

21. The Act is amended by inserting the following before section 46:

“§5. — *Regulatory powers*”.

22. Section 46 of the Act is amended

(1) by replacing “regulate the tapping of groundwater according to” in paragraph *s* by “regulate withdrawals of surface water or groundwater, in particular on the basis of”;

(2) by replacing subparagraphs 1 and 2 of paragraph *s* by the following subparagraphs:

“(1) determine, for the purposes of paragraph 1 of section 31.75, the number of persons to whom water is supplied in excess of which the withdrawal for that purpose is subject to the authorization of the Minister despite the withdrawal’s maximum flow rate of less than 75,000 litres per day;

“(2) in the cases and under the conditions specified, exempt water withdrawals from the application of all or some of the provisions of subdivision 1 or the regulations under this paragraph;

“(2.1) in the cases and under the conditions specified, subject water withdrawals that are exempted from the authorization of the Minister to the issue of a permit by the municipality in which the withdrawal site is located;

“(2.2) prohibit, in all or part of Québec, water withdrawals intended to satisfy the water needs of one or more classes of use specified in the regulations and provide that such a prohibition has effect even with respect to applications for authorization made before the prohibition came into force and not yet decided by the Minister or the Government;

“(2.3) determine, for the purposes of subdivisions 1 and 2, the cases in and conditions under which two or more existing or planned water withdrawals are deemed to constitute a single withdrawal owing to the hydrologic interconnection of the waters concerned, the distance between the withdrawal sites or the intended use of the water;

“(2.4) prescribe standards respecting the quantity and quality of the surface water or groundwater that may be withdrawn or that must be returned to the environment after use and the conditions of such return, the use of the water withdrawn and the preservation of aquatic ecosystems and wetlands;

“(2.5) prescribe standards respecting the installation and maintenance of equipment or devices for determining the quantity and quality of the water withdrawn or returned to the environment;

“(2.6) determine the measures or plans that the holder of a water withdrawal authorization must implement to ensure the conservation and efficient use of the water withdrawn, and prescribe how such a holder must report to the Minister on the results obtained;

“(2.7) prescribe water allocation rules that reconcile the needs or interests of the various classes of users;”;

(3) by replacing “water collection” in subparagraphs 3 and 3.1 of paragraph *s* by “water withdrawal”;

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

“(4) prescribe what documents and information a person making or planning to make a water withdrawal must send the Minister, including studies or reports on the actual or potential individual or cumulative impacts of the withdrawal or planned withdrawal on the environment, other users and public health, and how they are to be sent, and determine what documents or information is public and must be made available to the public;”.

23. Section 96 of the Act is amended by adding the following paragraphs at the end:

“Any condition, restriction or prohibition imposed by the Minister under section 31.79, 31.80 or 31.81 when issuing, renewing or amending a water withdrawal authorization may also be contested by the municipality or person concerned before the Tribunal.

However, when assessing the facts or the law, the Tribunal may not substitute its assessment of the public interest for that made by the Minister in making a decision under section 31.79 or 31.81.”

24. Section 106 of the Act is amended by inserting “31.84,” before “68,” in the first paragraph.

25. Section 106.1 of the Act is amended by adding the following subparagraphs at the end of the second paragraph:

“(f) makes a water withdrawal without the authorization of the Government or the Minister, as the case may be, in contravention of Division IV.1 or section 31.75; or

“(g) contravenes the prohibition against water transfers prescribed by section 31.90 or 31.105.”

26. The Act is amended by inserting the following section after section 112:

“112.0.1. Penal proceedings for the contravention of a provision of a regulation made under this Act that is enforceable by a municipality may be brought by the municipality if the offence is committed in its territory. Such proceedings are brought before the competent municipal court, if any.

Any fine imposed as a result of the proceedings belongs to the municipality.

The costs awarded in relation to proceedings instituted before a municipal court belong to the municipality under the jurisdiction of that court, except the part of the costs remitted to another prosecuting party by the collector under article 345.2 of the Code of Penal Procedure (chapter C-25.1) and the costs paid to the defendant or imposed on the prosecuting municipality under article 223 of that Code.”

27. Section 117 of the Act is amended by inserting the following paragraph after the first paragraph:

“A person who considers that his right to access to water that is safe for drinking, cooking and personal hygiene is compromised by a water withdrawal may also request the Minister to make an inquiry.”

28. Section 118.3.2 of the Act is amended by inserting “31.85,” after “31.49,” in paragraph 1.

29. Section 118.5 of the Act is amended

(1) by inserting “31.75,” after “31.6,” in subparagraph *a* of the first paragraph;

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

“(n.1) all studies or expert evaluations and all reports required under this Act or the regulations for the purpose of determining the impact of a withdrawal or planned withdrawal of water on the environment, other users or public health;”.

30. The Act is amended by inserting Schedule 0.A, appearing at the end of this Act, before Schedule A.

ACT RESPECTING ADMINISTRATIVE JUSTICE

31. Schedule III to the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by replacing “section 96” in paragraph 3 by “sections 31.100 and 96”.

DIVISION VII

REPEALING PROVISION

32. The Water Resources Preservation Act (R.S.Q., chapter P-18.1) is repealed.

DIVISION VIII

TRANSITIONAL PROVISIONS

33. Water withdrawal authorizations issued by the Minister of Sustainable Development, Environment and Parks before (*insert the date of coming into force of this section*) under section 32 of the Environment Quality Act (R.S.Q., chapter Q-2) or any other provision of that Act or the regulations are, as of that date, deemed to have been issued under new section 31.75 of that Act.

Consequently, unless they specify a shorter term and subject to the last paragraph of section 31.81 of that Act and to any regulation of the Government providing for a longer term, such authorizations are valid for 10 years as of the date mentioned above and are renewable.

The second paragraph is also applicable, with the necessary modifications, to water withdrawal authorizations issued by the Government before (*insert the date of coming into force of this section*) under section 31.5 or 31.6 of that Act.

34. Water withdrawals that are being lawfully made on (*insert the date of coming into force of this section*) and for which no authorization has been issued under the Environment Quality Act may continue under the same conditions for 10 years following that date, or for a longer period corresponding to the term set by regulation of the Government for authorizations to which such water withdrawals would be subject under the new provisions of that Act. On the expiry of that period, however, continuation of the withdrawals is subject to an authorization issued in accordance with those new provisions.

However, water withdrawals being made by a municipality on (*insert the date of coming into force of this section*) to supply a waterworks system operated by the municipality may continue after the expiry of the period mentioned in the first paragraph without the authorization of the Minister.

Water withdrawals referred to in the first or second paragraph may not be increased without an authorization issued in accordance with the new provisions mentioned above.

35. A regulation of the Government is to be made not later than (*insert the date occurring five years after the date of coming into force of this section*) to set the time limits, prior to the expiry of the period mentioned in section 33 or 34, within which persons who are making water withdrawals covered by either of those sections are required to apply to the Minister for an authorization or an authorization renewal for those withdrawals. The time limits may vary according to such factors as the quantity of water withdrawn and the intended use of the water.

Section 109.1 of the Environment Quality Act, with the necessary modifications, applies for the purpose of determining the applicable penalties in the case of the contravention of a provision of a regulation made under this section.

36. The contravention of section 34 makes the offender liable to the penalties prescribed by section 106.1 of the Environment Quality Act.

37. The first paragraph of section 109.1.1 and sections 109.1.2, 109.2, 110, 110.1, 112, 114 and 115 of the Environment Quality Act, with the necessary modifications, apply to a contravention of section 34 or a regulation made under section 35.

38. The application of sections 33 and 34 entails no compensation from the State even if it shortens the period during which the water withdrawals concerned may continue.

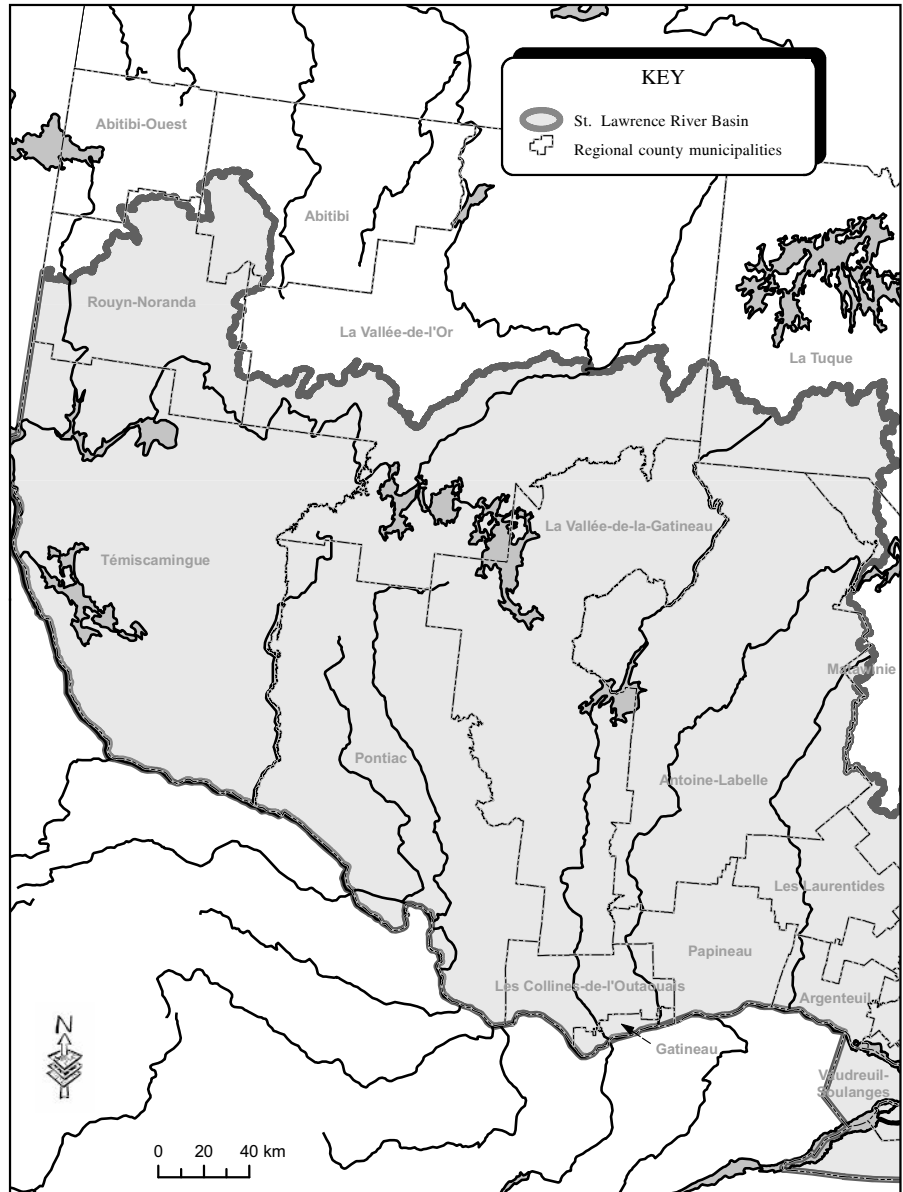
DIVISION IX

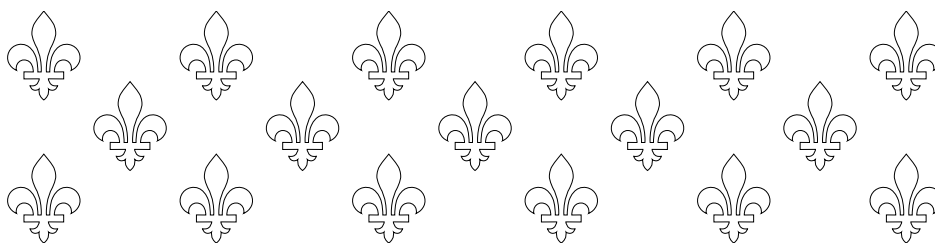
FINAL PROVISIONS

39. This Act applies to the Government, government departments, and bodies that are mandataries of the State.

40. The Minister of Sustainable Development, Environment and Parks is responsible for the administration of this Act.

41. The provisions of this Act come into force on the date or dates to be set by the Government, except paragraph 1 of section 22, subparagraph 2.5 of paragraph *s* of section 46 of the Environment Quality Act, enacted by paragraph 2 of section 22, and paragraph 4 of section 22, which come into force on 12 June 2009.





NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 31
(2009, chapter 22)

**An Act to amend the Act respecting
tourist accommodation establishments
and other legislative provisions**

**Introduced 5 May 2009
Passed in principle 19 May 2009
Passed 12 June 2009
Assented to 12 June 2009**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

This Act amends the Act respecting tourist accommodation establishments in order to streamline the classification certification process for tourist accommodation establishments and allow the Government to exempt all or part of an area or of a municipality from the Act or certain of its provisions.

The Act also makes outfitting operations, formerly governed by the Act respecting the conservation and development of wildlife, subject to the Act respecting tourist accommodation establishments.

Lastly, the Act contains a consequential amendment to the Tobacco Act.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Act respecting tourist accommodation establishments (R.S.Q., chapter E-14.2);
- Tobacco Act (R.S.Q., chapter T-0.01).

Bill 31

AN ACT TO AMEND THE ACT RESPECTING TOURIST ACCOMMODATION ESTABLISHMENTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING TOURIST ACCOMMODATION ESTABLISHMENTS

1. Section 6 of the Act respecting tourist accommodation establishments (R.S.Q., chapter E-14.2) is amended by replacing the second paragraph by the following paragraph:

“The application for a classification certificate must be filed with the Minister under the conditions prescribed by regulation of the Government.”

2. Section 7 of the Act is amended

(1) by replacing “costs” in the second paragraph by “fees, payable by the applicant,”;

(2) by replacing “exempt classes of establishments from certain provisions of this Act” in the third paragraph by “exempt a class of establishment or all or part of an area or of a municipality from this Act or certain of its provisions”.

3. Section 8 of the Act is amended by adding the following paragraphs:

“The Minister may issue provisional classification certificates to allow a person to operate a tourist accommodation establishment in respect of which the application for a classification certificate has not yet been processed. The form of provisional classification certificates is determined by regulation of the Government.

The conditions for obtaining a classification certificate and the conditions that must be complied with by certificate holders are determined by regulation of the Government.”

4. Section 9 of the Act is amended by adding the following paragraph:

“A provisional classification certificate is valid for up to 12 months.”

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

“10.1. Any mention of a tourist accommodation establishment’s classification in an advertisement for that establishment must be in conformity with the classification assigned by the Minister.”

6. Section 11 of the Act is amended

(1) by replacing “or” in paragraph 2 by a comma;

(2) by inserting “or the Act respecting the conservation and development of wildlife (chapter C-61.1)” after “(chapter P-40.1)” in that paragraph.

7. Section 11.1 of the Act is amended

(1) by replacing “, cancel or refuse to renew” in the introductory sentence by “or cancel”;

(2) by replacing “or” in paragraph 2 by a comma;

(3) by inserting “or the Act respecting the conservation and development of wildlife (chapter C-61.1)” after “(chapter P-40.1)” in that paragraph.

8. Section 12 of the Act is amended by replacing “a classification certificate or suspending, cancelling or refusing to renew” by “or before suspending or cancelling”.

9. Section 15 of the Act is amended by replacing “, cancelled or not renewed” in paragraph 2 by “or cancelled”.

10. Section 30 of the Act is replaced by the following section:

“30. The classification certificate of a tourist accommodation establishment, other than a provisional classification certificate, must be kept posted in public view in the places determined by regulation of the Government throughout the period of operation of the establishment.”

11. Section 31 of the Act is repealed.

12. Section 32 of the Act is amended by replacing “a tourist information office” in the first paragraph by “a tourist welcome and information site”.

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

“32.1. The Minister may suspend or cancel an authorization given under section 32 if the authorized person no longer meets the conditions prescribed. In such a case, sections 12 to 14 and 15 apply with the necessary modifications.”

14. Section 37 of the Act is amended by replacing “30 or 31” in paragraph 5 by “10.1 or 30”.

15. Section 38 of the Act is amended by replacing “contravenes a provision of the first paragraph or of section 32 is guilty of an offence and” in the second paragraph by “is guilty of an offence under the first paragraph or under section 32”.

16. Section 39 of the Act is amended by replacing “contravenes” by “is guilty of an offence under”.

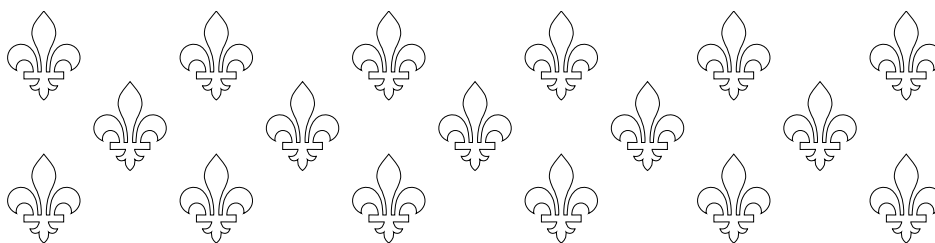
ACT RESPECTING THE CONSERVATION AND DEVELOPMENT OF WILDLIFE

17. Sections 78.3 and 78.4 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) are repealed.

TOBACCO ACT

18. Section 2 of the Tobacco Act (R.S.Q., chapter T-0.01) is amended by striking out “Act respecting the conservation and development of wildlife (chapter C-61.1) or the” in paragraph 8.

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



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 47
(2009, chapter 23)

**An Act to amend the Act to ratify the
Agreement concerning the building and
operating of a hospital centre in the
Kahnawake Territory**

**Introduced 13 May 2009
Passed in principle 28 May 2009
Passed 12 June 2009
Assented to 12 June 2009**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

The object of this Act is to provide for the ratification and coming into force of the Agreement for the financing of expansion and renovation of the Kateri Memorial Hospital Centre building, entered into on 8 May 2009 between the Mohawks of Kahnawake and the Gouvernement du Québec.

Accordingly, the Act amends the Act to ratify the Agreement concerning the building and operating of a hospital centre in the Kahnawake Territory and introduces consequential amendments to it.

LEGISLATION AMENDED BY THIS ACT:

- Act to ratify the Agreement concerning the building and operating of a hospital centre in the Kahnawake Territory (1984, chapter 13).

Bill 47

AN ACT TO AMEND THE ACT TO RATIFY THE AGREEMENT CONCERNING THE BUILDING AND OPERATING OF A HOSPITAL CENTRE IN THE KAHNAWAKE TERRITORY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The title of the Act to ratify the Agreement concerning the building and operating of a hospital centre in the Kahnawake Territory (1984, chapter 13) is amended by replacing “the Agreement concerning the building and operating of a” by “various agreements concerning a”.

2. The Act is amended by inserting the following section after section 1:

“**1.1.** The Agreement for the financing of expansion and renovation of the Kateri Memorial Hospital Centre building, entered into on 8 May 2009 between the Mohawks of Kahnawake and the Gouvernement du Québec and tabled in the National Assembly on 13 May 2009 as Sessional Paper No. 330-20090513, is also ratified and put into force.”

3. Section 2 of the Act is amended

(1) by replacing “contemplated in the Agreement” in paragraph 1 by “referred to in the 1984 Agreement”;

(2) by inserting the following paragraph after paragraph 1:

“(1.1) to provide the funds required for the expansion and renovation of the hospital centre building, provided for in the 2009 Agreement;”.

4. Section 3 of the Act is amended by replacing “the Agreement” at the end of the first paragraph by “the 1984 Agreement or the 2009 Agreement”.

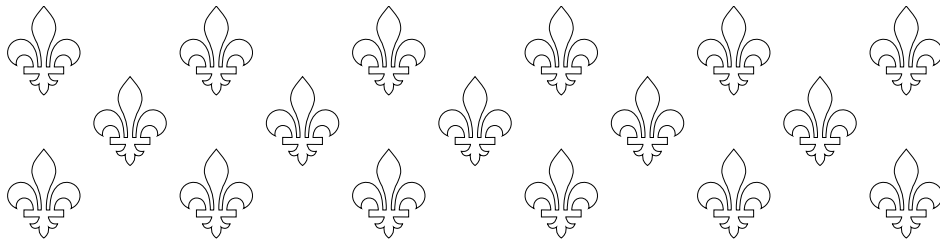
5. Section 4 of the Act is amended

(1) by replacing “contemplated in the Agreement” by “referred to in the Agreements mentioned in sections 1 and 1.1”;

(2) by replacing “S-5” by “S-4.2”.

6. Section 5 of the Act is amended

- (1) by replacing “Social Affairs” by “Health and Social Services”;
 - (2) by replacing “contemplated in the Agreement” by “referred to in the Agreements mentioned in sections 1 and 1.1”;
 - (3) by replacing “council” by “agency”;
 - (4) by replacing “de la Montérégie regional” by “Montérégie”.
- 7.** Section 6 of the Act is amended by replacing “the Agreement” by “the Agreements mentioned in sections 1 and 1.1”.
- 8.** Section 7 of the Act is amended by inserting “as regards the Agreement mentioned in section 1” after “Act”.
- 9.** Section 8 of the Act is amended by replacing “Social Affairs” by “Health and Social Services”.
- 10.** This Act comes into force on 12 June 2009.



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 49
(2009, chapter 24)

**An Act respecting the representation
of family-type resources and certain
intermediate resources and the
negotiation process for their group
agreements, and amending various
legislative provisions**

**Introduced 13 May 2009
Passed in principle 3 June 2009
Passed 12 June 2009
Assented to 12 June 2009**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

This Act establishes a system for the representation of family-type resources and certain intermediate resources to whom the Act respecting health services and social services applies, and the negotiation process for their group agreements.

This Act prescribes the rules and conditions that must be met so that the Commission des relations du travail may grant recognition to an association to represent the resources in dealings with the Minister. It provides that representation units may be formed for two distinct groups of resources attached to a public institution: the first includes foster families and intermediate resources for children that are operated by natural persons at their principal place of residence and take in a maximum of nine users, and the second includes foster homes and intermediate resources for adults that are operated in the same manner.

It sets out a procedure for the recognition of resource associations, along with the implications for recognized associations, such as the power to negotiate group agreements for these resources and the obligation to uphold their rights.

This Act defines the subject matter that may be included in a group agreement, the procedures to be followed by the Minister and the association in negotiating an agreement and the applicable mediation and dispute-settlement mechanisms. In certain cases, it provides for rights of recourse to the Commission des relations du travail, or to an arbitrator according to the procedure determined by the parties in the agreement. It also contains penal provisions.

This Act gives the Government the power to establish, by regulation, a protective re-assignment plan for persons who operate a resource, and to determine its conditions and mechanics as well as how it is to be funded and managed. The plan is to be administered by the Commission de la santé et de la sécurité du travail.

It amends the Act respecting health services and social services to authorize the representation of other intermediate resources by a body, and the negotiation and conclusion of an agreement by the

Minister to determine the general conditions under which such resources may operate and provide for their level of funding and various related measures.

Lastly, this Act contains consequential and transitional measures.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting parental insurance (R.S.Q., chapter A-29.011);
- Labour Code (R.S.Q., chapter C-27);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting health services and social services (R.S.Q., chapter S-4.2).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the participation of Indians in the Québec Pension Plan (Order in Council 1020-2007, 2007, G.O. 2, 3499).

Bill 49

AN ACT RESPECTING THE REPRESENTATION OF FAMILY-TYPE RESOURCES AND CERTAIN INTERMEDIATE RESOURCES AND THE NEGOTIATION PROCESS FOR THEIR GROUP AGREEMENTS, AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE

1. This Act applies to family-type resources within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) and to intermediate resources within the meaning of that Act provided, in the latter case, that the natural person operating the resource

(1) takes in, at his or her principal place of residence, a maximum of nine users referred by one or more public institutions; and

(2) even in the temporary absence of users, maintains his or her principal place of residence as a residence for such users.

This Act also applies to the associations that represent such resources.

2. This Act does not apply to persons a resource referred to in section 1 hires directly to provide assistance or act as a replacement on a temporary basis.

An intermediate resource who provides services through a legal person, even if the resource controls that legal person, is excluded from the application of this Act.

CHAPTER II

RIGHT OF ASSOCIATION

DIVISION I

RECOGNITION OF A RESOURCE ASSOCIATION

3. A resource to whom this Act applies has the right to belong to the resource association of that resource's choice and to participate in the formation, activities and management of such an association.

4. A resource association is entitled to recognition by the Commission des relations du travail established by section 112 of the Labour Code (R.S.Q., chapter C-27) if

(1) it is a professional syndicate within the meaning of the Professional Syndicates Act (R.S.Q., chapter S-40) or an association whose object is similar to that of such a syndicate;

(2) it meets the conditions set out in this Act as to the representation of resources that are attached to a public institution and are part of one of the two following groups:

(a) foster families and intermediate resources for children; or

(b) foster homes and intermediate resources for adults; and

(3) it meets the other conditions set out in this Act.

5. A resource association may only be recognized if its by-laws

(1) provide for the right of its members to participate in meetings and to vote;

(2) require that its financial statements be disclosed to its members each year and that copies be given free of charge to any member who requests them; and

(3) require that any election to an office within the association be by secret ballot of its members.

6. For the purposes of the recognition of a resource association, only one person may sign a membership form and vote on behalf of a given resource.

To determine the specific character of a resource that takes in both adults and children, the greater number of recognized places assigned to one of the clientele is the deciding factor. If an equal number of places is assigned to two clientele, the resource chooses the group of resources it wishes to belong to.

If a resource is bound to more than one public institution, the combined number of places used by the institutions must be taken into account to determine whether the resource meets the requirement of subparagraph 1 of the first paragraph of section 1 regarding the maximum of nine users the resource may take in.

7. No person may use intimidation or threats to induce someone to become a member, refrain from becoming a member or cease to be a member of a resource association.

8. No person may, in any manner, seek to dominate or hinder the formation or activities of a resource association.

9. A complaint relating to section 7 or 8 must be filed with the Commission within 30 days after the alleged contravention comes to light.

10. An application for recognition of a resource association is made in the form of a written document addressed to the Commission and identifying the group of resources attached to a public institution it wishes to represent; the application must be sent together with duly dated membership forms. On receipt of the application, the Commission sends a copy to the Minister and to the institution concerned along with any information it considers appropriate.

The application must be authorized by a resolution of the association and be signed by representatives specially mandated for that purpose.

Within 20 days after receiving a copy of the application, the Minister sends to the Commission and the association a list of the names and contact information of all resources attached to the public institution named in the application.

The Commission may, by any means it considers appropriate, make a copy of the application available to the public for consultation.

11. An application for recognition must be accompanied by up-to-date documents evidencing the establishment of the association, a certified copy of its by-laws and a list of its members.

To be considered a member of an association, a resource must, on or before the date on which the application for recognition is filed,

- (1) be attached to the public institution named in the application;
- (2) have signed, and not revoked, a duly dated membership form; and
- (3) have personally paid the initiation fee, set by the association, within the 12 months preceding the date on which the association's application for recognition is filed.

12. Recognition may be applied for

(1) at any time with regard to a group of resources attached to a public institution for which no association is recognized;

(2) 12 months after the date on which an association was recognized, if no group agreement has been reached and provided no dispute is under arbitration and no concerted pressure tactics permitted under this Act are being used;

(3) nine months after the date on which a group agreement expired, if a subsequent agreement has not been reached and provided no dispute is under arbitration and no concerted pressure tactics permitted under this Act are being used;

(4) from the ninetieth to the sixtieth day prior to the date of expiry or renewal of a group agreement whose term is three years or less; and

(5) from the one hundred and eightieth to the one hundred and fiftieth day prior to the expiry or renewal of a group agreement whose term is more than three years and, where such term so allows, during the period extending from the one hundred and eightieth to the one hundred and fiftieth day prior to the sixth anniversary of the signing or renewal of the group agreement and every second anniversary thereafter, except where such a period would end within 12 months of the one hundred and eightieth day prior to the expiry or renewal of the group agreement.

13. The filing of an application for recognition with respect to a group of resources without a recognized association renders inadmissible any other application filed after the date of the first filing.

For the purposes of the first paragraph, an application is deemed to have been filed on the day it is received by one of the offices of the Commission.

14. If an application for recognition is rejected by the Commission or withdrawn, no further application may be filed for a period of three months except in the case of an application inadmissible under section 13.

15. The Commission grants recognition if it is satisfied that the membership of the applicant association comprises an absolute majority of the resources who are attached to the public institution named in the application and are part of any of the two groups referred to in paragraph 2 of section 4, and that the other conditions set out in this Act have been met.

If between 35% and 50% of those resources are members of the association, the Commission holds a secret ballot to ensure that the association is truly representative. The Commission grants recognition to the association if it obtains an absolute majority of the votes of the resources attached to the institution and meets the other conditions set out in this Act.

16. If two or more associations seek recognition to represent the same group of resources attached to a public institution and the membership of one of them comprises an absolute majority of the resources in the group concerned, the Commission grants recognition to that association provided it meets the other conditions set out in this Act.

If none of the associations meet the requirements of the first paragraph, but at least one of them has a membership comprising between 35% and 50% of the resources in the group concerned, the Commission holds a secret ballot to ensure that the association is truly representative.

Only the association or associations whose membership comprises at least 35% of the resources concerned and the association of resources already recognized, if any, are to appear on the ballot. The Commission grants recognition to the association that obtains the most votes provided the resources who participate in the vote constitute the absolute majority of the resources and the other conditions set out in this Act are met.

17. The Commission makes its decision within 60 days of receiving an application and notifies the applicant; a copy of the decision is sent to the Minister.

If granted, recognition takes effect on the date of notification.

18. The Commission may not grant recognition to an association if it is established to the Commission's satisfaction that section 7 or 8 has been contravened by that association.

The Commission may, on its own initiative, investigate any alleged contravention of either of those sections, and when ruling on an application for recognition, the Commission may, on its own initiative, invoke non-compliance.

19. A resource's membership in a resource association may not be revealed by anyone during recognition or recognition revocation proceedings, except to the Commission, a member of its personnel, or the judge of a court to which an action under Title VI of Book V of the Code of Civil Procedure (R.S.Q., chapter C-25) relating to a recognition is referred. These persons and any other person who becomes aware of a person's membership in such an association are bound to secrecy.

20. A recognized resource association represents all the resources in the representation unit. It has the following rights and powers:

(1) to defend and promote the economic, social, moral and professional interests of the resources;

(2) to cooperate with any organization pursuing similar interests;

(3) to research or study any subject likely to have an impact on the economic and social situation of the resources;

(4) to set the amount of dues payable by the resources; and

(5) to negotiate and sign a group agreement in accordance with this Act.

21. A recognized resource association notifies the Minister in writing of the amount it has set as dues and of any subsequent modification. Within 30 days after receiving such notification, the amount of the dues is withheld from the remuneration paid to the resources represented by the association. The total amount of the dues withheld is remitted to the association each month.

22. A recognized resource association must not act in bad faith or in an arbitrary or discriminatory manner, or exhibit serious negligence towards any resources, whether or not they are members of the association.

23. A resource who believes that an association has contravened section 22 may lodge a complaint with the Commission within six months after the occurrence of the alleged contravention.

If the Commission is of the opinion that the association has contravened section 22, it may authorize the resource to submit the complaint to an arbitrator appointed by the Minister of Labour for a decision in accordance with the disagreement arbitration procedure provided for in the group agreement or, in the absence of such a procedure, in accordance with the procedure provided for in section 56. The association pays the expenses incurred by the resource.

24. If a complaint is referred to an arbitrator under section 23, the Minister may not allege the association's non-observance of the procedure or the time periods provided for in the group agreement for the settlement of disagreements.

25. At the Commission's request, a recognized resource association must send a list of its members to the Commission, in the form and within the time determined by the Commission.

The association must also, at the Commission's request, send a copy of any change in its constitution or by-laws to the Commission.

26. The Minister or a resource association whose membership comprises at least 35% of the resources in the same group attached to a public institution may, within the time periods specified in paragraphs 2 to 5 of section 12, ask the Commission to verify whether a recognized association still exists or still meets the conditions for recognition under this Act.

The Commission notifies the parties of the result of the verification and allows them to present observations within 10 days after receiving such notification.

27. The Commission revokes the recognition of any association that has ceased to exist or no longer meets the conditions set out in this Act and, if appropriate, grants recognition to another association.

A newly recognized association is subrogated by operation of law in all rights and obligations resulting from a group agreement that is binding on another association and in force. It is bound by the agreement as though it were named in it and becomes a party to any proceeding relating to the group agreement in the place and stead of the former association.

28. When the Commission revokes a recognition, it notifies the association and the Minister. The revocation takes effect on the date of notification and entails the forfeiture of any rights and advantages the association may have enjoyed under this Act or a group agreement.

29. At any time, at the request of an interested party, the Commission may decide whether a person is a resource to whom this Act applies or a member of an association or belongs to the representation unit, or any other question that may arise while an association is recognized.

DIVISION II

MODIFICATION WITH RESPECT TO A PUBLIC INSTITUTION

30. If the Minister authorizes the amalgamation or a change in the legal structure of the public institution with respect to which a resource association has been recognized or has filed an application for recognition, the Minister notifies the association or associations concerned in writing.

The recognized association continues to represent the resources attached to the original public institution until the Commission rules on the representativeness of the association given the new public institution concerned.

Upon such ruling, the Commission may

(1) grant or amend a recognition; or

(2) recognize the resource association whose membership comprises an absolute majority of the resources attached to the new public institution, or hold a secret ballot under section 16 and grant recognition to the association that obtains the most votes in accordance with that section.

Despite the second paragraph of section 27, the group agreement that is binding on the association recognized for the group of resources attached to the new public institution applies, as of the date on which it is recognized, to all the resources.

The Commission revokes the recognition of any resource association that no longer meets the conditions set out in this Act.

31. At the request of an interested party, the Commission may rule on any question relating to the applicability of section 30 and resolve any difficulty arising from its application and effects, in the manner it considers the most appropriate.

DIVISION III

GROUP AGREEMENTS

32. The Minister may, with the authorization of the Conseil du trésor and on the conditions the Minister determines, negotiate and sign a group agreement with a recognized resource association or group of such associations.

A group of recognized associations is a union, federation, confederation, legal person, labour body or other organization which a recognized resource association joins, belongs to or is affiliated with.

For the purpose of negotiating a group agreement, the recognized association or the group of associations to which it belongs designates a person to act as bargaining agent.

33. The subjects covered in the group agreement may include the following:

(1) the modes and scale of remuneration for the services delivered by the resources to which the agreement applies and of special remuneration for such resources, taking into account the classification established by the Minister under section 303 of the Act respecting health services and social services, as well as the various measures and the terms and conditions applicable to the payment of the remuneration;

(2) the amounts intended to provide the resources with access to programs and services that meet their needs, in particular with regard to plans in such areas as employment benefits, health, safety, training and professional development;

(3) the terms and conditions applicable to days of leave for resources;

(4) the procedure for settling disagreements as to the interpretation or application of the provisions of the group agreement; and

(5) the setting up of committees to determine the mechanics of the different programs.

34. The remuneration referred to in paragraph 1 of section 33 is determined as follows:

(1) the parties determine what constitutes, for a full service load carried by a resource, a remuneration comparable to the remuneration of persons engaging in analogous activities. To this end, the parties identify jobs in related sectors of activity and adopt an appropriate evaluation methodology;

(2) the parties determine a rate structure such that the net remuneration of a resource with a full service load is equitable in relation to the annual salary for the jobs evaluated, taking into account, among other things, the number of days worked and the benefits available to resources under any other Act;

(3) to establish the net remuneration, reasonable operating expenses incurred in the delivery of services and the compensation provided for in subparagraphs *b* and *c* of paragraph 4 must be subtracted from the remuneration; what constitutes reasonable operating expenses for a resource with a full service load is determined by the parties;

(4) the daily remuneration paid to the resource must comprise

(a) an integrated, overall percentage to stand in lieu of monetary compensation for days of leave equivalent to those paid under the Act respecting labour standards (R.S.Q., chapter N-1.1) and the National Holiday Act (R.S.Q., chapter F-1.1);

(b) financial compensation to offset the difference between the rate of the premium or contribution applicable to a self-employed worker under the plans established by the Act respecting parental insurance (R.S.Q., chapter A-29.011) and the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), and the rates applicable to an employee under those plans; and

(c) financial compensation so that a resource may enjoy coverage under the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001).

35. The group agreement must provide for the payment, according to the terms and conditions agreed by the parties, of compensation to a resource for loss of income and other benefits sustained because of a suspension or revocation of recognition subsequently contested before and annulled by the Administrative Tribunal of Québec under section 305.1 of the Act respecting health services and social services.

36. Provided the parties to the group agreement have agreed on terms applicable to a cessation of services, the resource may obtain benefits equivalent to days of unpaid leave under the Act respecting labour standards,

according to the reason for and the length of the absence and taking into account all the circumstances and the relevant provisions of the Act respecting health services and social services.

37. A group agreement may not deal with

(1) a rule, standard or measure to which the resources to whom the group agreement applies are already subject under the Act respecting health services and social services, the Youth Protection Act (R.S.Q., chapter P-34.1) or the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1) or their regulations;

(2) subjects exclusive to a specific agreement referred to in section 55; or

(3) the exercise of the powers and responsibilities referred to in sections 62 and 63.

38. A group agreement signed by a group of recognized associations is binding on each member association or affiliated association, including any new member association or affiliated association.

A group agreement applies to all resources represented by the association that is bound by the agreement. It also applies to any new resource who becomes attached to the public institution.

A group agreement is binding on all the public institutions to which those resources are attached.

39. The Minister or recognized resource association or group of such associations may initiate negotiations for a group agreement by giving the other party at least 30 days' written notice of a meeting for the purpose of negotiating a group agreement.

A party that is already bound by a group agreement may give such notice within the 90 days preceding the expiry of the agreement.

40. The parties must begin to negotiate at the time set out in the notice and carry on the negotiations with diligence and good faith.

41. During group agreement negotiations, the Minister must consult each association of institutions that has as members institutions to which the resources are attached. The Minister may invite an association to attend negotiation sessions.

For the purposes of this section, "association of institutions" means the Association québécoise d'établissements de santé et de services sociaux (AQESSS), the Association des centres jeunesse du Québec, the Fédération québécoise des centres de réadaptation en déficience intellectuelle, the Association des établissements de réadaptation en déficience physique du

Québec, the Association des centres de réadaptation en dépendance du Québec, as well as any other association the Minister deems to be representative of institutions within the meaning of the Act respecting health services and social services that use the services of the resources to whom this Act applies.

42. A party may request that the Minister of Labour designate a mediator.

43. The mediator attempts to bring the parties to an agreement.

The parties must attend all meetings to which they are convened by the mediator.

44. The mediator has 60 days in which to bring the parties to an agreement. The Minister of Labour may, at the mediator's request, extend the mediation period by a maximum of 30 days.

45. If the mediation period expires without an agreement, the mediator gives to the parties and the Minister of Labour a report specifying the matters that have been agreed on and those that are still in dispute, including any comments the mediator may have. This report is made public by the Minister of Labour.

46. The parties may jointly request that the Minister of Labour submit a dispute to an arbitrator. They agree beforehand on the limits within which the arbitrator is to render a decision. Sections 75 to 93, 103 and 139 to 140 of the Labour Code apply, with the necessary modifications.

47. A group agreement must have a set term of at least one year and, if it is a first agreement, of no more than three years.

If a fixed and definite term is not stipulated in the agreement, the agreement is deemed to be in force for one year.

48. A group agreement continues to apply after it expires until a new agreement comes into force.

49. The signing of a group agreement may occur only after being authorized in a secret ballot by a majority vote of the members of the recognized association who participated in the ballot.

The signing of a group agreement by a group of recognized associations may occur only after being authorized in a secret ballot by a majority vote of the members of the associations of the group who participated in the ballot.

50. A group agreement takes effect only on the filing of two duplicate originals or two true copies of the agreement and its schedules with the Minister of Labour. The same holds for any subsequent amendment to the agreement.

The filing has retroactive effect to the date stipulated in the agreement for its coming into force or, failing such a date, to the date the agreement was signed.

51. A group agreement is not invalidated by the nullity of one or more of its provisions.

52. A recognized resource association may exercise any recourse available under the group agreement to the resources it represents without having to establish an assignment of the claim of the resource concerned.

53. Any concerted pressure tactic which deprives a user of a service to which the user is entitled or diminishes the quality of such a service during the term of a collective agreement is prohibited.

At any other time, such pressure tactics may only be used if

(1) 90 days have elapsed since the receipt of the notice required under section 39;

(2) the pressure tactics have been authorized in a secret ballot by a majority vote of the members of the recognized association who participate in the ballot or, if the negotiations involve a group of associations, by a majority vote of the members of the associations in the group who participate in the ballot; and

(3) the recognized association or group of associations sends the Minister and the Conseil des services essentiels established by section 111.0.1 of the Labour Code written notice of the pressure tactics it is contemplating at least 15 days before resorting to them.

The Conseil des services essentiels may, on its own initiative or at the request of an interested person, exercise its powers under the Labour Code in order to enforce this section if, in its opinion, a pressure tactic is being used in contravention of the first paragraph or a pressure tactic used in accordance with the second paragraph is compromising or is likely to compromise the health or safety of a user.

54. A resource may not be penalized solely for lawfully using pressure tactics not prohibited under section 53 or for acting on any other right conferred by this Act.

Any complaint relating to the first paragraph must be filed with the Commission within 30 days after the alleged contravention comes to light.

55. A specific agreement between a public institution and a resource to whom a group agreement applies may not contravene the provisions of the group agreement. It must pertain exclusively to the number of recognized

places assigned to the resource, the type of users that may be referred to the resource, the identification of the guarantors of the parties for the purpose of their business relationship, and its term.

A specific agreement may not be transferred. It does not come under section 108 of the Act respecting health services and social services nor is it subject to the Act respecting contracting by public bodies (2006, chapter 29).

A public institution that has signed a specific agreement may not amend it, terminate it before its expiry or prevent its renewal without the authorization of the agency concerned.

DIVISION IV

SETTLEMENT OF DISAGREEMENTS

56. Any disagreement on the interpretation or application of a group agreement must be settled according to the procedure provided for in the agreement.

If no procedure is provided for or if the agreement provides for arbitration, the disagreement must be submitted to an arbitrator. Sections 100 to 100.9, 100.11, paragraphs *a*, *c*, *d*, *e* and *g* of section 100.12, sections 100.16 to 101.9 and 139 to 140 of the Labour Code apply, with the necessary modifications.

57. Rights and recourses under a group agreement are prescribed six months after the date on which the cause of the action occurred. Recourse to the disagreement settlement procedure interrupts prescription.

CHAPTER III

MISCELLANEOUS PROVISIONS

58. The Government may, by regulation, establish a protective re-assignment plan for persons operating a resource to whom this Act applies, determine its requirements and mechanics and the rights and obligations of the parties involved, as well as the powers and duties of the Commission de la santé et de la sécurité du travail established by section 137 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) and of the Commission des lésions professionnelles established by section 367 of the Act respecting industrial accidents and occupational diseases.

The Government may also, by regulation, determine how the plan is to be funded and managed.

Such a plan is administered by the Commission de la santé et de la sécurité du travail.

59. The provisions of the Labour Code respecting the Commission des relations du travail, its commissioners and its labour relations officers apply, with the necessary modifications, to any application that lies within the purview of the Commission under this Act. Likewise, the provisions of the Code and its regulations that set out rules of procedure, evidence and practice apply to any application the Commission may receive.

60. Failure to comply with section 49 only gives rise to the application of Chapter IV.

61. The group representation and negotiation process established by this Act is complete and applies to the exclusion of any other process.

62. No provision of this Act or of a group agreement may restrict or affect the powers and responsibilities conferred by the Act respecting health services and social services and its regulations on public institutions, health and social services agencies or the Minister, nor restrict or affect the jurisdiction conferred on the Administrative Tribunal of Québec by that Act.

63. No provision of this Act or a group agreement may restrict or affect the powers and responsibilities

(1) of a health and social services agency with regard to the recognition of resources to whom the agreement applies;

(2) of a public institution with regard to recruiting and evaluating such resources;

(3) of a public institution with regard to the clinical and professional services required by the users referred to such resources; or

(4) of an institution with regard to controlling the quality of the services delivered to the users referred to such resources and with regard to making sure, by means of monitoring visits, that the intervention plan developed for those users is being followed.

The exercise of such powers and responsibilities does not result in the legal subordination of the resources to the public institution or the health and social services agency.

64. With the authorization of the Conseil du trésor, the Minister may make any element of an agreement between the Minister and a recognized resource association or a group of such associations applicable to a resource who is not represented by a recognized association.

However, the remuneration for the services provided by the resource remains the remuneration determined by the Minister under subparagraph 2 of the third paragraph of section 303 of the Act respecting health services and social services.

CHAPTER IV

PENAL PROVISIONS

65. Any person, association or group that fails to comply with a decision of the Commission des relations du travail is guilty of an offence and is liable to a fine of \$1,000 to \$14,000 and of \$2,000 to \$28,000 for a second or subsequent conviction.

66. Any person, association or group that contravenes section 7 is guilty of an offence and liable to a fine of \$2,000 to \$30,000.

67. Any person, association or group that contravenes section 8 is guilty of an offence and liable to a fine of \$1,000 to \$14,000.

68. A resource association that contravenes section 25 is guilty of an offence and liable to a fine of \$500 to \$5,000.

69. A resource association or group of such associations that contravenes section 49 is guilty of an offence and liable to a fine of \$500 to \$5,000.

70. Any person, association or group that declares, instigates or participates in pressure tactics contrary to section 53 is guilty of an offence and liable to the following fines for each day the tactics continue:

(1) \$75 to \$225 in the case of a resource or a person who assists or replaces a resource;

(2) \$800 to \$10,400 in the case of an officer, employee, director, agent or advisor of a resource association or a group of such associations; and

(3) \$7,000 to \$126,000 in the case of a resource association or a group of such associations.

71. If a resource association or a group of such associations contravenes any of sections 65, 66 and 68 to 70, the officer or representative of the association or group who authorized, permitted or consented to the commission of the offence is a party to the offence and liable to the fines provided for in those sections. In the case of a second or subsequent conviction, the fines are doubled.

CHAPTER V

AMENDING PROVISIONS

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

72. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

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

“**family-type resource**” means a family-type resource to whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions (2009, chapter 24) applies;

“**intermediate resource**” means an intermediate resource to whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions applies;”;

(2) by adding the following paragraph at the end of the definition of “worker”:

“(5) a natural person if that person acts as a family-type resource or an intermediate resource.”

73. Section 18 of the Act is amended by inserting “, family-type resources, intermediate resources” after “domestics” in the first paragraph.

ACT RESPECTING PARENTAL INSURANCE

74. Section 3 of the Act respecting parental insurance (R.S.Q., chapter A-29.011) is amended by inserting “or as a family-type resource or intermediate resource” after “from a business” in subparagraph 2 of the first paragraph.

75. Section 6 of the Act is amended

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

“(3) the premium rate applicable to a self-employed worker, a family-type resource or an intermediate resource.”;

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

“For the purposes of the first paragraph, “employee”, “employer”, “self-employed worker”, “family-type resource” and “intermediate resource” have the meanings assigned by section 43.”

76. Section 20 of the Act is amended by inserting “or as a family-type resource or intermediate resource” after “from a business” in the first paragraph.

77. Section 21 of the Act is amended by inserting “or as a family-type resource or intermediate resource” after “from a business” in the third paragraph.

78. Section 22 of the Act is amended by inserting the following paragraph after paragraph 2:

“(3) the insurable earnings as a family-type resource or intermediate resource, which correspond to the person’s net remuneration within the meaning of section 43.”

79. Section 37 of the Act is amended by inserting “or correspond to the person’s net remuneration” after “from a business”.

80. Section 43 of the Act is amended, in the first paragraph,

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

““family-type resource” means a family-type resource to whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions (2009, chapter 24) applies;

“intermediate resource” means an intermediate resource to whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions applies;

“net remuneration” of a person for a year means the aggregate of all amounts each of which is the amount by which an amount the person receives in the year as remuneration referred to in subparagraphs 1 or 2 of the third paragraph of section 303 of the Act respecting health services and social services (chapter S-4.2) exceeds the part of that amount which, under a group agreement governing the payment of the remuneration, or if there is no such agreement, under a ministerial order under subparagraph 2 of the third paragraph of that section 303, is attributable to the total of

(1) the reasonable operating expenses incurred in providing services as a family-type resource or as an intermediate resource; and

(2) the aggregate of the financial compensations referred to in subparagraphs *b* and *c* of paragraph 4 of section 34 of the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions;”;

(2) by replacing “or the person’s business income for the year” in the definition of “work income” by “the person’s business income for the year or the person’s net remuneration for the year”.

81. Section 49 of the Act is amended by replacing “or the business income of a self-employed worker” by “, the business income of a self-employed worker or the net remuneration of a family-type resource or an intermediate resource”.

82. Section 53 of the Act is replaced by the following section:

“53. Every self-employed worker, family-type resource and intermediate resource resident in Québec at the end of a year is required, for that year, to pay the premium determined under Division III, in the manner set out in that division.”

83. Section 54 of the Act is amended by replacing “or a self-employed worker” by “, a self-employed worker, a family-type resource or an intermediate resource”.

84. Section 55 of the Act is amended by replacing “or a self-employed worker” by “, a self-employed worker, a family-type resource or an intermediate resource”.

85. Section 56 of the Act is replaced by the following section:

“56. For the purposes of sections 50, 51, 53, 66, 68 and 72, if an employee, a person referred to in section 51, a self-employed worker, a family-type resource or an intermediate resource dies or ceases to be resident in Canada in a year, the time immediately before the death or cessation of residence is deemed to be the end of that year.”

86. Section 66 of the Act is amended

(1) by inserting “, a family-type resource or an intermediate resource” after “a self-employed worker” in the portion of section 66 before paragraph 1;

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

“(1) the worker’s or resource’s total business income and net remuneration for the year; and”;

(3) by inserting “or resource’s” after “the worker’s” in subparagraph *a* of paragraph 2;

(4) by inserting “or resource” after “the worker” in subparagraph *b* of paragraph 2.

87. Section 67 of the Act is amended by inserting “, a family-type resource or an intermediate resource” after “a self-employed worker” in the first paragraph.

88. Section 94 of the Act is amended by inserting “or whose income corresponds to their net remuneration” after “from a business” in subparagraph 4 of the first paragraph.

LABOUR CODE

89. Schedule I to the Labour Code (R.S.Q., chapter C-27) is amended by adding the following paragraph after paragraph 26:

“(27) sections 9, 10, 23, 26, 29, 31, 54 and 127 of the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions (2009, chapter 24).”

TAXATION ACT

90. Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 6 of chapter 5 of the statutes of 2009 and by section 25 of chapter 15 of the statutes of 2009, is again amended by inserting “, or a regulation under such a law,” after “another jurisdiction” in the definition of “public compensation plan”.

91. Section 489 of the Act is amended by replacing the portion of paragraph c.2 before subparagraph i by the following:

“(c.2) an amount received by an individual as remuneration referred to in subparagraph 1 or 2 of the third paragraph of section 303 of the Act respecting health services and social services (chapter S-4.2) or an Order in Council made under the Act respecting health services and social services for Cree Native persons (chapter S-5), where”.

ACT RESPECTING ADMINISTRATIVE JUSTICE

92. Section 25 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by inserting “12.0.1,” after “11,” in the second paragraph.

93. Section 3 of Schedule I to the Act is amended by inserting the following paragraph after paragraph 12:

“(12.0.1) proceedings under section 305.1 of the Act respecting health services and social services;”.

ACT RESPECTING THE MINISTÈRE DU REVENU

94. Section 93.1.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended

(1) by replacing “or to the business income of a self-employed worker” in the second and third lines of the second paragraph by “to the business income of a self-employed worker or to the net remuneration of a family-type resource or intermediate resource”;

(2) by replacing “self-employed earnings” in the tenth line of the second paragraph by “self-employed earnings or earnings as a family-type resource or an intermediate resource”.

95. Section 93.2 of the Act is amended

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

“(h) an assessment under the Act respecting the Québec Pension Plan relating to self-employed earnings or earnings as a family-type resource or an intermediate resource;”;

(2) by replacing paragraph *h.3* by the following paragraph:

“(h.3) an assessment relating to the eligible wages of a person referred to in section 51 of the Act respecting parental insurance, the business income of a self-employed worker or the net remuneration of a family-type resource or intermediate resource, issued for the purposes of Chapter IV of that Act;”.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE
DU QUÉBEC

96. Section 37.9 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5) is amended by replacing paragraphs *c.1* and *d* by the following paragraphs:

“(c.1) the individual files with the Minister, for the year, a return in respect of the individual's qualified wages, if the individual is for that year a person to whom section 51 of the Act respecting parental insurance (chapter A-29.011) applies, in respect of the individual's business income or in respect of the individual's net remuneration, for the purposes of Chapter IV of that Act;

“(d) the individual files with the Minister, for the year, a return of the self-employed earnings of the individual or of the earnings of the individual as a family-type resource or an intermediate resource for the purposes of the Act respecting the Québec Pension Plan (chapter R-9); or”.

ACT RESPECTING THE QUÉBEC PENSION PLAN

97. Section 1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended

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

“(h) “worker”: an individual engaged in self-employment, a family-type resource, an intermediate resource or an employee;”;

(2) by replacing paragraph *l* by the following paragraph:

“(l) “contributor”: a worker who has made a contribution as an employee, self-employed worker, a family-type resource or an intermediate resource, or an individual to whom unadjusted pensionable earnings have been allotted following a partition provided for in section 102.1 or 102.10.3;”;

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

“(w) “family-type resource”: a family-type resource to whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions (2009, chapter 24) applies;

“(x) “intermediate resource”: an intermediate resource to whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions applies.”

98. Section 3 of the Act is amended by adding the following paragraph at the end:

“(k) subject to section 53, employment as a family-type resource or intermediate resource.”

99. The Act is amended by inserting the following section after section 8:

“8.1. The provisions of this Act with respect to the contributions of a family-type resource or an intermediate resource for a year apply to persons who are resident in Québec at the end of the year for the purposes of the Taxation Act (chapter I-3), unless they are resident therein only with respect to paragraph *a* of section 8 of the above-mentioned Act.

For the purposes of the first paragraph, if a person dies or ceases to be resident in Canada in a year, the time immediately before the death or cessation of residence is deemed to be the end of that year.”

100. Section 47 of the Act is amended by adding the following paragraph at the end:

“The earnings of a worker as a family-type resource or an intermediate resource for a year are the aggregate of all amounts each of which is the amount by which an amount the worker receives in the year as remuneration referred to in subparagraphs 1 or 2 of the third paragraph of section 303 of the Act respecting health services and social services (chapter S-4.2) exceeds the part of that amount which, under a group agreement governing the payment of the remuneration, or if there is no such agreement, under a ministerial order under subparagraph 2 of the third paragraph of that section 303, is attributable to the total of

(a) the reasonable operating expenses incurred in providing services as a family-type resource or as an intermediate resource; and

(b) the aggregate of the financial compensations referred to in subparagraphs *b* and *c* of paragraph 4 of section 34 of the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions (2009, chapter 24).”

101. Section 47.1 of the Act is amended by adding the following paragraph:

“The amount that is earnings as a family-type resource or an intermediate resource determined for a year under section 47, in respect of a worker who is an Indian, within the meaning of the Indian Act, is to be reduced by the part of that amount that constitutes property situated on a reserve, within the meaning assigned by section 725.0.1 of the Taxation Act.”

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

“48.1. The pensionable earnings of a worker as a family-type resource or an intermediate resource for a year are the worker’s earnings as such a resource, excluding income referred to in subparagraphs *a* and *b* of the second paragraph of section 45.

Nevertheless, for a year in which a worker reaches 18 years of age or in which a disability pension ceases to be payable to him under this Act or under a similar plan, his pensionable earnings as a family-type resource or an intermediate resource are equal to the amount obtained by multiplying the amount of earnings as such a resource by the proportion that the number of months after the day preceding his eighteenth birthday or after the disability pension ceases bears to 12.

Also, for a year in which a disability pension is payable to a worker under this Act or a similar plan, his pensionable earnings as a family-type resource or an intermediate resource are equal to the amount obtained by multiplying the amount of earnings as such a resource by the proportion that the number of months prior to the first month which, by reason of a disability of the worker, is excluded from the worker’s contributory period under subparagraph *a* of the second paragraph of section 101 bears to 12.”

103. Section 51 of the Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the aggregate of his pensionable salary and wages, pensionable self-employed earnings and pensionable earnings as a family-type resource or an intermediate resource, minus his personal exemption for the year;”

104. Section 53 of the Act is amended by replacing the portion before paragraph *b* by the following:

“**53.** A self-employed worker, a family-type resource or an intermediate resource shall for each year make a contribution equal to the product of the rate of contribution for the year and the lesser of the following amounts:

(a) the amount for the year of the aggregate of his pensionable self-employed earnings and pensionable earnings as a family-type resource or an intermediate resource, minus the amount by which his personal exemption exceeds the aggregate of the amounts already deducted on account of his personal exemption for the year under this Act or under a similar plan; and”.

105. Section 74 of the Act is amended by inserting “and earnings as a family-type resource or an intermediate resource” after “self-employed earnings”.

106. Section 76 of the Act is amended by inserting “and earnings as a family-type resource or an intermediate resource” after “self-employed earnings”.

107. Section 77 of the Act is amended by inserting “or earnings as a family-type resource or an intermediate resource” after “self-employed earnings”.

108. Section 98 of the Act is amended, in the first paragraph,

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

“(a) the aggregate of

(1) his pensionable salary and wages;

(2) his pensionable earnings from self-employment, in the case of a worker who is not exempt under section 54; and

(3) his pensionable earnings as a family-type resource or an intermediate resource;”;

(2) by inserting “and earnings as a family-type resource or an intermediate resource” after “self-employed earnings” in subparagraph 1 of subparagraph *b*.

109. Section 184 of the Act is amended by adding “or earnings as a family-type resource or an intermediate resource” at the end.

110. Section 200 of the Act is amended by inserting “or earnings as a family-type resource or an intermediate resource” after “self-employed earnings”.

111. Section 203 of the Act is amended by inserting “or earnings as a family-type resource or an intermediate resource” after “self-employed earnings” in the third paragraph.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

112. Section 302 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by replacing the first paragraph by the following paragraph:

“**302.** An intermediate resource is a resource that is operated by a natural person as a self-employed worker or by a legal person or a partnership and is recognized by an agency for the purpose of participating in the maintenance of users otherwise registered for a public institution’s services in the community or in their integration into the community by providing them with a living environment suited to their needs, together with the support or assistance services required by their condition.”

113. Section 302.1 of the Act is repealed.

114. Section 303 of the Act is amended

(1) by striking out the second paragraph;

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

“The remuneration for each type of service listed in the classification established under the first paragraph is determined

(1) in accordance with the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions (2009, chapter 24) in the case of intermediate resources represented by an association recognized under that Act;

(2) by the Minister, with the authorization of the Conseil du trésor and on the conditions it determines, in the case of intermediate resources to whom that Act applies but who are not represented by an association recognized under that Act; or

(3) in accordance with section 303.1, in the case of intermediate resources to whom that Act does not apply.”

115. Sections 303.1 and 303.2 of the Act are replaced by the following sections:

“**303.1.** The Minister may, with the authorization of the Conseil du trésor and on the conditions it determines, enter into an agreement with one or more bodies representing intermediate resources, other than those to

whom the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions applies, on the following subjects:

(1) minimum and specific conditions for the delivery of services by those intermediate resources;

(2) the modes and scale of remuneration for those services, taking into account the classification established by the Minister under section 303 as well as various measures, terms and conditions applicable to the payment of the remuneration;

(3) the funding, implementation and maintenance of programs and services that meet the needs of all resources the body represents, particularly with regard to training and professional development;

(4) the setting up of a joint committee either to ensure the administrative follow-up of the agreement, the provision of adequate training and professional development to maintain existing resources and renew them, or for any other purpose deemed useful or necessary by the parties.

Such an agreement is binding on the agencies, the institutions and all intermediate resources covered by the agreement, whether or not they are members of the body that entered into the agreement.

If no agreement is entered into under this section, the mode and scale of remuneration for the services, as well as the various measures, terms and conditions applicable to the payment of the remuneration are determined by the Minister, with the authorization of the Conseil du trésor and subject to the conditions it determines.

“303.2. A body is considered representative of the intermediate resources referred to in section 303.1 if the membership of that body includes, on a Québec-wide scale, both resources for children or resources for adults and either a minimum of 20% of the total number of such resources throughout Québec or the number of resources required to meet the needs of at least 30% of the total number of users of such resources throughout Québec.

The same applies to a group of bodies representing such intermediate resources who intervene only on a local or regional scale, provided that the bodies as a group ensure the same representation as that required under the first paragraph.

A representative body must provide the Minister, on request, with up-to-date documents evidencing its establishment, and the name and address of each of its members.

A group must provide up-to-date documents evidencing its constitution, the names and addresses of the bodies it represents and the name and address of each member of each of those bodies.

When a representative body is a group of bodies, the group alone is authorized to represent each of the member bodies.

For the purposes of section 303.1, an intermediate resource may not be a member of more than one representative body other than a group.”

116. Section 304 of the Act is amended

(1) by replacing “ensure professional follow-up” in paragraph 2 by “ensure the professional follow-up of the users referred to the resources”;

(2) by adding the following at the end of paragraph 4: “, in particular with regard to group agreements entered into under the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions or under section 303.1.”

117. The Act is amended by inserting the following sections after section 305:

“**305.1.** An intermediate resource whose recognition is suspended or revoked by an agency may contest that decision before the Administrative Tribunal of Québec within 60 days after being notified of the decision.

“**305.2.** An agency whose decision is contested is a party to the proceeding within the meaning of section 101 of the Act respecting administrative justice (chapter J-3) and must, among other things, send the documents and information referred to in the first paragraph of section 114 of that Act to the secretary of the Tribunal within 30 days after receiving a copy of the motion.

“**305.3.** The intermediate resource may, during the proceeding, be assisted or represented by the resource association recognized for the representation unit to which the resource belongs or by the representative body of which the resource is a member.”

118. Section 306 of the Act is amended by inserting “of the users” after “follow-up”.

119. Section 307 of the Act is amended by inserting “referred to in section 303.1” after “intermediate resource” in the first paragraph.

120. Section 312 of the Act is amended by replacing “home” in both paragraphs by “principal place of residence”.

121. Section 314 of the Act is amended by replacing “302.1 to 308” by “303, 304 to 306 and 308”.

REGULATION RESPECTING THE PARTICIPATION OF INDIANS IN THE QUÉBEC PENSION PLAN

122. Section 3 of the Regulation respecting the participation of Indians in the Québec Pension Plan, made by Order in Council 1020-2007 (2007, G.O. 2, 3500), is amended by inserting “or the earnings as a family-type resource or an intermediate resource” after “self-employed earnings”.

CHAPTER VI

TRANSITIONAL PROVISIONS

123. An existing contract between a public institution and a resource to whom this Act applies remains in force until the coming into force of an agreement signed under section 32, and ceases to have effect on that date, except for elements it comprises which the parties may include in a specific agreement referred to in section 55.

To that end, all rules, compensation rates or scales, agreements determining the general conditions, terms and conditions under which activities are carried out and services are delivered by the resources, as well as all other elements determined under the legislative provisions introduced in the Act respecting health services and social services (R.S.Q., chapter S-4.2) by the Act to amend the Act respecting health services and social services (2003, chapter 12) are applicable until the date mentioned in the first paragraph.

This section applies, with the necessary modifications, to the resources to whom this Act applies but who are not represented by a recognized association, until the elements mentioned in section 64 come into force.

124. An existing contract between a public institution and an intermediate resource to whom this Act does not apply remains in force until the coming into force of an agreement signed under section 303.1 of the Act respecting health services and social services, as replaced by section 115, and ceases to have effect on that date.

To that end, the second paragraph of section 123 also applies until that date.

125. Subject to sections 126 and 127, any certification granted to an association representing resources under the Labour Code (R.S.Q., chapter C-27), any pending petition for certification and any resulting recourses brought by such an association or by a resource before the Commission des relations du travail are without effect.

126. A certification granted under the Labour Code before 18 December 2003 with respect to resources to whom this Act applies is deemed to be a recognition granted under this Act. The Commission des relations du travail grants such recognition and amends the description of the bargaining unit to adapt it to the representation groups provided for in this Act. The Commission only includes resources to whom this Act applies in each representation group. If the certified institution has since been amalgamated or divided, or if its legal structure has otherwise been modified, the Commission applies section 45 and, with the necessary modifications, section 46 of the Labour Code.

127. A petition for certification filed with the Commission des relations du travail before 12 June 2009 with respect to resources to whom this Act applies is dealt with by the Commission in accordance with the Labour Code. For that sole purpose, the resources are considered employees within the meaning of the Labour Code. The Commission grants such recognition and amends the description of the bargaining unit referred to in the petition to adapt it to the representation groups provided for in this Act. The Commission only includes resources to whom this Act applies in each representation group.

128. Until the premium rate set by regulation of the Conseil de gestion de l'assurance parentale under subparagraph 3 of the first paragraph of section 6 of the Act respecting parental insurance (R.S.Q., chapter A-29.011), as amended by paragraph 1 of section 75, becomes applicable to family-type resources and intermediate resources, the premium rate that applies to those resources for the purpose of calculating the premium payable under section 66 of that Act is the rate set by regulation of the Conseil de gestion de l'assurance parentale that applies to self-employed workers.

129. The Government may, by regulation made before 12 June 2010, enact any other transitional provision or measure for the carrying out of this Act.

Such a regulation is not subject to the publication requirement of section 8 of the Regulations Act (R.S.Q., chapter R-18.1) or to the requirement of section 17 of that Act as regards its date of coming into force.

However, if the regulation so provides, it may apply from a date not prior to 12 June 2009.

130. A regulation made before 12 June 2010 for the purposes of section 58 of this Act may have a shorter publication period than required under section 11 of the Regulations Act, but not shorter than 20 days.

Such a regulation is not subject to the requirement of section 17 of that Act as regards its date of coming into force.

CHAPTER VII**FINAL PROVISIONS**

131. The Act respecting labour standards (R.S.Q., chapter N-1.1) and the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) do not apply to the resources to whom this Act applies.

However, sections 40 to 48 of the Act respecting occupational health and safety apply until the first regulation under section 58 comes into force.

132. The Commission de l'équité salariale established by the Pay Equity Act (R.S.Q., chapter E-12.001) may not receive a complaint filed by a resource to whom this Act applies.

133. The Minister of Health and Social Services is responsible for the administration of this Act.

134. Sections 131 and 132 have effect from 13 May 2009.

135. The provisions of this Act come into force on the date or dates to be set by the Government, except sections 1 to 31, 53, 54, 58, 59, 61 to 63, 65 to 68, 70, 71, 89, 112 to 118, 120, 121, 123 to 127 and 129 to 134, which come into force on 12 June 2009.

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

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