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Laws and Regulations

Volume 142

Summary

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- (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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Regulations and other Acts

Gouvernement du Québec

O.C. 77-2010, 3 February 2010

An Act respecting immigration to Québec
(R.S.Q., c. I-0.2)

Selection of foreign nationals

— Amendment

Regulation to amend the Regulation respecting the selection of foreign nationals

WHEREAS the Government may, by regulation, govern the matters set forth in subparagraphs *a*, *b* to *b.2*, *c* to *c.3*, *f*, *f.2* and *g* of the first paragraph of section 3.3 of the Act respecting immigration to Québec (R.S.Q., c. I-0.2);

WHEREAS the Government made the Regulation respecting the selection of foreign nationals (R.R.Q., 1981, c. M-23.1, r.2);

WHEREAS an earthquake occurred in Haiti on 12 January 2010;

WHEREAS it is expedient to provide for temporary special conditions that will govern the sponsorship of foreign nationals who are victims of that earthquake;

WHEREAS it is expedient to make a transitional provision for the sponsorship of earthquake victims whose sponsorship application was being processed;

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

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

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

WHEREAS, in the opinion of the Government, the urgency due to the following circumstances justifies the absence of publication and such coming into force:

— the disaster caused by the earthquake that occurred in Haiti on 12 January 2010 requires that special temporary provisions be made as soon as possible to facilitate the immigration of foreign nationals from Haiti;

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Immigration and Cultural Communities:

THAT the Regulation to amend the Regulation respecting the selection of foreign nationals, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the selection of foreign nationals^{*}

An Act respecting immigration to Québec
(R.S.Q., c. I-0.2, s. 3.3, 1st par., subpars. *a*, *b* to *b.2*, *c* to *c.3*, *f*, *f.2* and *g*)

1. The Regulation respecting the selection of foreign nationals is amended by adding the following after section 68:

“DIVISION XI VICTIMS OF EARTHQUAKE IN HAITI

69. This Division applies to the selection of persons who were severely and personally affected by the earthquake that occurred in Haiti on 12 January 2010.

It applies to an application for a selection certificate filed with the Minister before 31 December 2010 by an earthquake victim belonging to the family class or the class of foreign nationals who are in a particularly distressful situation referred to in subparagraph *i* of paragraph *c* of section 18.

* The Regulation respecting the selection of foreign nationals (R.R.Q., 1981, c. M-23.1, r.2) was last amended by the regulation made by Order in Council 1289-2009 dated 2 December 2009 (2009, *G.O.* 2, 4088). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 November 2009.

70. In the case of an earthquake victim belonging to the family class, the undertaking required from a sponsor may be given solidarity with another person residing in Québec and, where applicable, the sponsor's spouse or *de facto* spouse.

In the case of an application being processed on 17 February 2010, a sponsor who does not have the minimum gross annual income required may join another person and, where application, that person's spouse or *de facto* spouse in order to solidarily give the undertaking required.

The conditions applicable to sponsors provided for in section 23 and Division III apply to those persons. Despite the foregoing, the total of their income is used to determine if they have the minimum gross annual income required to provide for the basic needs of the sponsored person and family members whether or not they accompany him or her.

71. In the case of an earthquake victim belonging to the class of foreign nationals who are in a particularly distressful situation referred to in subparagraph *i* of paragraph *c* of section 18, the Minister may issue a selection certificate by taking into account, in addition to the items in section 27, the fact that the foreign national is the subject of an undertaking given for 5 years by a Québec resident at least 18 years of age of whom the foreign national is the brother, sister or non-dependent child.

That undertaking may be given solidarily with another person residing in Québec and, where applicable, that person's spouse or *de facto* spouse.

The conditions applicable to sponsors provided for in subparagraphs *b* to *b.5* of the first paragraph of section 23, the second paragraph of section 23 where applicable, paragraphs *e* and *f* of section 28.1 and sections 42, 44, 45 and 46.1 to 46.3 apply to those persons. Despite the foregoing, the total of those persons' income is used to determine if they have the minimum gross annual income required to provide for the basic needs of the sponsored person and family members whether or not they accompany him or her.

The fees to be paid for an application for an undertaking referred to in this section are the fees provided for in section 55.

72. Despite section 22, an application for a selection certificate made by a foreign national referred to in this Division is processed as a priority."

2. This Regulation comes into force on 17 February 2010.

9694

M.O., 2010

Order number V-1.1-2010-02 of the Minister of Finance, January 31, 2010

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

CONCERNING the Regulation 23-102 respecting use of client brokerage commissions and the Regulation to repeal Policy Statement Q-20 Use by dealers of brokerage commissions as payment for goods or services other than order execution services ("Soft Dollar" Deals)

WHEREAS subparagraphs 1, 3, 8, 9, 26 and 34 of section 331.1 of the Securities Act (R.S.Q., c. V-1.1), amended by section 138 of chapter 58 of the statutes of 2009, stipulate that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those paragraphs;

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

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

WHEREAS the draft Regulation 23-102 respecting Use of Client Brokerage Commissions as Payment for Order Execution Services of Research Services was published in the *Bulletin de l'Autorité des marchés financiers*, volume 5, no. 1 of January 11, 2008;

WHEREAS on December 23, 2009, by the decision no. 2009-PDG-0198, the *Autorité des marchés financiers* made Regulation 23-102 respecting use of client brokerage commissions;

WHEREAS the Policy Statement Q-20 Use by dealers of brokerage commissions as payment for goods or services other than order execution services ("Soft Dollar" Deals) was adopted pursuant to decision no. 2001-C-0253 dated June 12, 2001 (*Bulletin hebdomadaire* vol. 32, no. 25, dated June 22, 2001);

WHEREAS there is cause to repeal this regulation;

WHEREAS the draft Regulation to repeal Policy Statement Q-20 Use by dealers of brokerage commissions as payment for goods or services other than order execution services (“Soft Dollar” Deals) was published in the *Bulletin de l’Autorité des marchés financiers*, volume 3, no. 29 of July 21, 2006;

WHEREAS, by the decision no. 2009-PDG-0199 dated December 23, 2009, the *Autorité des marchés financiers* made the Regulation to repeal Policy Statement Q-20 Use by dealers of brokerage commissions as payment for goods or services other than order execution services (“Soft Dollar” Deals);

WHEREAS there is cause to approve those regulations without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation 23-102 respecting use of client brokerage commissions and the Regulation to repeal Policy Statement Q-20 Use by dealers of brokerage commissions as payment for goods or services other than order execution services (“Soft Dollar” Deals) appended hereto.

January 31, 2010

RAYMOND BACHAND,
Minister of Finance

Regulation 23-102 respecting Use of client brokerage commissions

Securities Act
(R.S.Q., c. V-1.1, s. 331.1, par. (1), (3), (8), (9), (26) and (34); 2009, c. 58, s. 138)

PART 1 DEFINITIONS

1.1. Definitions

In this Regulation,

“affiliated entity” has the meaning ascribed to it in section 1.3 of Regulation 21-101 respecting Market-place Operation;

“client brokerage commissions” means brokerage commissions paid for out of, or charged to, a client account or investment fund managed by the adviser;

“managed account” has the meaning ascribed to it in section 1.1 of Regulation 31-103 respecting Registration Requirements and Exemptions;

“order execution goods and services” means

(a) order execution; and

(b) goods or services to the extent that they are directly related to order execution;

“research goods and services” means

(a) advice relating to the value of a security or the advisability of effecting a transaction in a security,

(b) an analysis, or report, concerning a security, portfolio strategy, issuer, industry, or an economic or political factor or trend, and

(c) a database, or software, to the extent that it supports goods or services referred to in paragraphs a and b.

1.2. Interpretation – Security

For the purposes of this Regulation,

(a) in Alberta, British Columbia, New Brunswick and Saskatchewan, “security” includes an exchange contract; and

(b) in Québec, “security” includes a standardized derivative.

1.3. Interpretation – Adviser

For the purposes of this Regulation, “adviser” means

(a) a registered adviser; or

(b) a registered dealer that carries out advisory functions but is exempt from registration as an adviser.

PART 2 APPLICATION

2.1. Application

This Regulation applies to an adviser or a registered dealer in relation to a trade in a security if brokerage commissions are charged by a dealer for an account, or portfolio, over which the adviser has discretion to make investment decisions without requiring the express consent of the client, including, for greater certainty,

(a) an investment fund; and

(b) a managed account.

PART 3 COMMISSIONS ON BROKERAGE TRANSACTIONS

3.1. Advisers

(1) An adviser must not direct any brokerage transactions involving client brokerage commissions to a dealer in return for the provision of goods or services by the dealer or a third party, other than any of the following:

- (a) order execution goods and services;
- (b) research goods and services.

(2) An adviser that directs any brokerage transactions involving client brokerage commissions to a dealer, in return for the provision of any order execution goods and services or research goods and services by the dealer or a third party, must ensure that:

(a) the goods or services are to be used to assist with investment or trading decisions, or with effecting securities transactions, on behalf of the client or clients; and

(b) a good faith determination is made that the client or clients receive reasonable benefit considering both the use of the goods or services and the amount of client brokerage commissions paid.

3.2. Registered Dealers

A registered dealer must not accept, or forward to a third party, client brokerage commissions, or any portion of those commissions, in return for the provision to an adviser of goods or services by the dealer or a third party, other than any of the following:

- (a) order execution goods and services;
- (b) research goods and services.

PART 4 DISCLOSURE OBLIGATIONS

4.1. Disclosure

(1) An adviser must provide the following disclosure to a client if any brokerage transactions involving the client brokerage commissions of that client have been or might be directed to a dealer in return for the provision of any good or service by the dealer or a third party, other than order execution:

(a) before the adviser opens a client account or enters into a management contract or a similar agreement to advise an investment fund,

i. a description of the process for, and factors considered in, selecting a dealer to effect securities transactions, including whether receiving goods or services in addition to order execution is a factor, and whether and how the process may differ for a dealer that is an affiliated entity;

ii. a description of the nature of the arrangements under which order execution goods and services or research goods and services might be provided;

iii. a list of each type of good or service, other than order execution, that might be provided; and

iv. a description of the method by which the determination in paragraph 3.1(2) *b* is made; and

(b) at least annually,

i. the information required to be disclosed under paragraph *a* other than subparagraph *a iii*;

ii. a list of each type of good or service, other than order execution, that has been provided;

iii. the name of any affiliated entity that provided any good or service referred to in subparagraph *ii*, separately identifying each affiliated entity and each type of good or service provided by each affiliated entity; and

iv. a statement that the name of any other dealer or third party that provided a good or service referred to in subparagraph *ii*, if that name was not disclosed under subparagraph *iii*, will be provided to the client upon request.

(2) An adviser must maintain a record of the name of any dealer or third party that provided a good or service, other than order execution under section 3.1, and must provide that information to the client upon request.

PART 5 EXEMPTION

5.1. Exemption

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

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

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

PART 6

EFFECTIVE DATE AND TRANSITION

6.1. Effective Date

This Regulation comes into force on June 30, 2010.

6.2. Transition

On or before December 31, 2010, an adviser must provide to a client, if the client was a client on June 30, 2010, the disclosure required under paragraph 4.1 (1) *a* or *b*.

Regulation to repeal policy statement Q-20 use by Dealers of Brokerage Commissions as Payment for Goods or Services Other than Order execution Services (“Soft Dollar” Deals)*

Securities Act

(R.S.Q., c.V-1.1, s. 331.1, pars. (1), (8), (16) and (34);
2009, c. 58, s. 138)

1. Policy Statement Q-20 Use by Dealers of Brokerage Commissions as Payment for Goods or Services Other than Order Execution Services (“Soft Dollar” Deals) is repealed.

2. This Regulation comes into force on June 30, 2010.

9688

* Policy Statement Q-20 Use by Dealers of Brokerage Commissions as Payment for Goods or Services Other than Order Execution Services (“Soft Dollar” Deals), was adopted pursuant to Decision No. 2001-C-0253 dated June 12, 2001 and published in the weekly Bulletin of the *Commission des valeurs mobilières du Québec* Volume XXXII, No. 25, dated June 22, 2001, and has not been amended since its adoption.

Draft Regulations

Draft Regulation

Forest Act
(R.S.Q., c. F-4.1)

Forest royalties — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting forest royalties, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to encourage holders of timber supply and forest management agreements to hold certification or to resort to certified silvicultural enterprises for the carrying out of non-commercial silvicultural treatments and to certified tree markers for the carrying out of marking work in partial cuts.

The carrying out of non-commercial silvicultural treatments by certified enterprises will improve the conditions of employment of workers and the enterprises' code of practice and will favour the retention of workers. Likewise, resorting to certified tree markers will favour judicious marking decisions, which as a result will make it possible to reach the expected yield, to preserve vigorous standing trees and to properly apply the development strategy.

The draft Regulation is also intended to allow the updating of the value of silvicultural treatments during the year so as to take into account the greater fluctuation in fuel prices.

In that context, the draft Regulation provides that non-commercial silvicultural treatments will have to be carried out by a silvicultural enterprise holding a certificate of qualification issued by the Bureau de normalisation du Québec under the certification program for the management practices of silvicultural enterprises. Tree marking will also have to be carried out by a person holding a certificate of conformity, issued by the BNQ, under the certification program to recognize the skills required for the trade of tree marker. A certificate holder will therefore be eligible for a credit applicable to the payment of dues.

Lastly, the draft Regulation sets the date on which the value of silvicultural treatments is to be fixed and provides for a mechanism to adjust during the year the unit rate used to determine the amount of dues to be paid in exchange for timber harvested and the value of silvicultural treatments. The draft Regulation also revokes the definition of the word "parcel" since its use has become obsolete.

The draft Regulation will have no impact on the public and little impact on enterprises and their employees.

Further information on the draft Regulation may be obtained by contacting Jean-Pierre Adam, Direction du développement et de la coordination, Ministère des Ressources naturelles et de la Faune, 880, chemin Sainte-Foy, 7^e étage, Québec (Québec) G1S 4X4; telephone: 418 627-8666, extension 4375; fax: 418 644-8133; e-mail: jean-pierre.adam@mrfn.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Richard Savard, Associate Deputy Minister for Forêt Québec, Ministère des Ressources naturelles et de la Faune, 880, chemin Sainte-Foy, 10^e étage, Québec (Québec) G1S 4X4.

NATHALIE NORMANDEAU,
Minister of Natural Resources and Wildlife

Regulation to amend the Regulation respecting forest royalties*

Forest Act
(R.S.Q., c. F-4.1, s. 172, 1st par., subpars. 1 and 3)

1. The Regulation respecting forest royalties is amended by replacing section 2 by the following:

"2. In order to determine a unit rate fixed by the Minister under the first paragraph of section 72 of the Forest Act (R.S.Q., c. F-4.1), the stumpage value of standing timber shall be calculated on 1 April of

* The Regulation respecting forest royalties, made by Order in Council 372-87 dated 18 March 1987 (1987, *G.O.* 2, 1099), was last amended by the regulation made by Order in Council 56-2008 dated 31 January 2008 (2008, *G.O.* 2, 622). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 November 2009.

each year in each forest tariffing zone, by species or group of species and quality of timber, according to the parity technique applicable in property assessment, by comparing the timber to similar timber for which the selling price is known. The value is expressed in dollars per cubic metre.

The unit rates are adjusted every 3 months according to the rate of increase in forest product price indexes.

The Minister of Natural Resources and Wildlife is to publish the reference unit rates for the stumpage value of standing timber and the results of the quarterly adjustment in Part 1 of the *Gazette officielle du Québec* and may also ensure wider publicity by any other means.”.

2. The heading of subdivision 1 of Division II is replaced by the following:

“§1. *Silvicultural treatments and other activities to protect or develop forest resources admitted as payment of dues*”.

3. The following sections are inserted after the heading of subdivision 1 of Division II:

10.1. For the purposes of this Division, a forest management sector is a part of the forest area measuring a maximum of 250 ha to which a silvicultural treatment is applied in a given year.

10.2. The value of the silvicultural treatments mentioned in Schedule II, which are accepted by the Minister and admitted as payment of dues, is attributed to the agreement holder provided that the marking work was carried out by a person holding a certificate of conformity or the apprenticeship card for the trade of tree marker issued by the Bureau de normalisation du Québec under the certification program BNQ 9800-911 “Reconnaissance des compétences – Métier de materleur en milieu forestier”.

For the purposes of the first paragraph, a person holding the apprenticeship card for the trade of tree marker must be supervised by a person holding a certificate of qualification of tree marker and recognized as a journeyman under that certification program.

10.3. The value of non-commercial silvicultural treatments, which are accepted by the Minister and admitted as payment of dues, is attributed to the agreement holder provided that the work was carried out by an enterprise holding a certificate of qualification or the apprenticeship card for the trade of tree marker issued by the Bureau de normalisation du Québec under the certification program “Pratiques de gestion des entreprises sylvicoles”.

“Non-commercial silvicultural treatments” means site preparation, planting, reinforcement planting in naturally regenerated stands, enrichment planting, mechanical release treatment, precommercial thinning, pruning, pine seeding, fertilization and forest drainage.”.

4. Section 11.4 is amended

(1) by replacing “annually” in the first paragraph by “on 1 April of each year”;

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

“Those values are adjusted every 3 months according to the rate of increase in a fuel price index.

The Minister of Natural Resources and Wildlife is to publish the value of silvicultural treatments and other forest development activities and the results of the quarterly adjustment in Part 1 of the *Gazette officielle du Québec* and may also ensure wider publicity by any other means.”.

5. Section 14 is revoked.

6. Schedule II attached to this Regulation is added after Schedule I.

7. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except section 10.3, introduced by section 3, which will come into force on 1 September 2010.

SCHEDULE II

(s.10.2)

SILVICULTURAL TREATMENTS REQUIRING THE CARRYING OUT OF MARKING WORK BY A PERSON HOLDING A CERTIFICATE OF QUALIFICATION OR THE APPRENTICESHIP CARD FOR THE TRADE OF TREE MARKER

	White cedar	Poplar	White birch	Birch	Oak	Intermediary tolerant hardwood	Pine	Maple	Hemlock	Tolerant hardwood	Mixed white birch-softwood	Mixed poplar-softwood	Mixed red maple-softwood	Mixed softwood-birch (H)	Mixed softwood-intermediary tolerant hardwood (H)	Mixed softwood-maple (H)	Mixed softwood-tolerant hardwood (H)	
Silvicultural treatments																		
Selection cutting	X							X	X	X							X	X
Selection and sanitation cutting	X							X	X	X							X	X
Preselection cutting								X	X	X							X	X
Preselection and sanitation cutting								X	X	X							X	X
Selection cutting for maple sap and wood production								X										
Selection cutting by patches				X	X	X								X	X			
Selection cutting and sanitation by patches				X	X	X								X	X			
Selection and regeneration cutting by parquets				X	X	X								X	X			
Selection cutting for single tree and group of trees				X	X	X								X	X			
Selection cutting and sanitation for single tree and group of trees				X	X	X								X	X			
Selective thinning				X	X	X								X	X			
Spreading commercial thinning				X										X				
Commercial thinning		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Commercial thinning for other purposes		X	X								X	X	X	X	X			
Progressive seed cutting			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Improvement cutting	X																	

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

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