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**Part**

**2**

**No. 30**

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**Laws and Regulations**

Volume 142

**Summary**

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**PROVINCE OF QUÉBEC**

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 4 JUNE 2010

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## OFFICE OF THE LIEUTENANT-GOVERNOR

*Québec, 4 June 2010*

This day, at forty-six minutes past eleven o'clock in the morning, His Excellency the Lieutenant-Governor was pleased to sanction the following bill:

- 83 An Act to provide a framework for mandatory state financing of certain legal services

To this bill the Royal assent was affixed by His Excellency the Lieutenant-Governor.



**PROVINCE OF QUÉBEC**

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 4 JUNE 2010

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## OFFICE OF THE LIEUTENANT-GOVERNOR

*Québec, 4 June 2010*

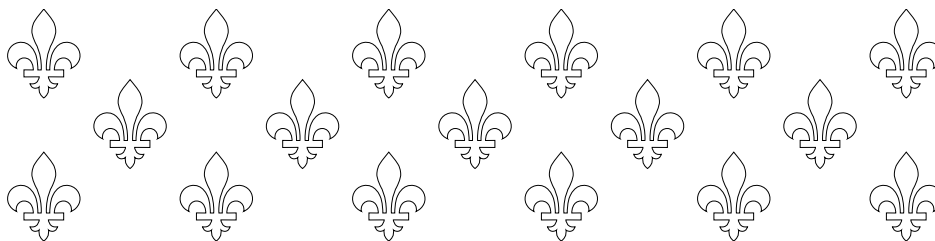
This day, at ten minutes past one o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

- 105 An Act respecting the adoption of Haitian children who arrived in Québec between 24 January and 16 February in the aftermath of the 12 January 2010 earthquake
- 390 An Act to proclaim Ukrainian Famine and Genocide (Holodomor) Memorial Day

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







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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 83  
(2010, chapter 12)

**An Act to provide a framework for  
mandatory state financing of certain  
legal services**

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**Introduced 10 February 2010  
Passed in principle 11 March 2010  
Passed 2 June 2010  
Assented to 4 June 2010**

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**Québec Official Publisher  
2010**

**EXPLANATORY NOTES**

*This Act amends the Legal Aid Act in order to create a framework for the legal services provided accused persons involved in certain long and complex trials and those provided when certain court orders concerning the designation of counsel are made under the Criminal Code.*

*To that end, the management of the provision of the legal services provided in such cases is entrusted to the Commission des services juridiques and to regional legal aid centres, the pool of advocates available to render the services is increased, a new tariff of fees applicable to those services is established, and rules are drawn up for determining the contribution and guarantees that may be required of certain accused persons and for recovering, in certain cases, the cost of the services rendered.*

**LEGISLATION AMENDED BY THIS ACT:**

- Legal Aid Act (R.S.Q., chapter A-14).

**REGULATION AMENDED BY THIS ACT:**

- Regulation respecting legal aid (Order in Council 1073-96 dated 28 August 1996).

## **Bill 83**

### **AN ACT TO PROVIDE A FRAMEWORK FOR MANDATORY STATE FINANCING OF CERTAIN LEGAL SERVICES**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** The title of the Legal Aid Act (R.S.Q., chapter A-14) is replaced by the following title:

“ACT RESPECTING LEGAL AID AND THE PROVISION OF CERTAIN OTHER LEGAL SERVICES”.

**2.** The Act is amended by inserting the following after the title:

#### **“CHAPTER I**

##### **“SCOPE AND DEFINITIONS**

**“0.1.** This Act establishes a legal aid system in Chapter II and provides for certain other legal services in Chapter III.

For those purposes, the Act provides in Chapter II for the establishment and operation of bodies that are to render legal services under this Act, and in Chapter IV for the implementation of Chapters II and III.”

**3.** The Act is amended by striking out the following before section 1:

#### **“DIVISION I**

##### **“INTERPRETATION”.**

**4.** Section 1 of the Act is amended by striking out paragraphs *a*, *b* and *i*.

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

**“CHAPTER II**

**“LEGAL AID SYSTEM**

**“DIVISION I**

**“DEFINITIONS**

**“1.0.1.** For the purposes of this chapter, unless the context indicates otherwise, the following words mean:

(1) “recipient”: a person who receives legal aid;

(2) “person”: a natural person or group of natural persons or a non-profit legal person whose members are natural persons financially eligible for legal aid.”

**6.** Section 3 of the Act is amended by replacing “Act” by “chapter”.

**7.** Section 3.1 of the Act is amended by replacing “established by this Act” by “established by this chapter”.

**8.** Section 3.2 of the Act is amended by replacing “For the purposes of this Act, the” by “The”.

**9.** Section 4.5 of the Act is amended

(1) by replacing “Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1)” in paragraph 2 by “Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1)”;

(2) by replacing “Extradition Act (Revised Statutes of Canada, 1985, chapter E-23) or the Fugitive Offenders Act (Revised Statutes of Canada, 1985, chapter F-32)” in paragraph 5 by “Extradition Act (Statutes of Canada, 1999, chapter 18)”.

**10.** Section 4.10 of the Act is amended by replacing “Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1)” in subparagraph *b* of paragraph 1 by “Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1)”.

**11.** Section 5 of the Act is amended

(1) by adding “, and expenses of the advocate or notary” at the end of subparagraph *a* of the first paragraph;

(2) by inserting “and expenses” after “fees” in subparagraph *c* of the first paragraph.

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

**“6.** Subject to the regulations, the fees and expenses of an advocate or notary not in the employ of a centre or of the Commission, whose services have been retained by the centre or the Commission on behalf of a recipient, and the fees and expenses of a stenographer or bailiff acting on behalf of a recipient shall be paid by the centre or the Commission, whichever granted legal aid to the recipient, in accordance with the tariffs established by the regulations.”

**13.** Section 22 of the Act is amended

(1) by replacing “Act” in paragraph *a* by “chapter”;

(2) by replacing “Act” in paragraph *d.1* by “chapter”.

**14.** Section 22.1 of the Act is amended by replacing the first paragraph by the following paragraph:

**“22.1.** The Commission shall publish, in particular so as to facilitate a coherent application of this chapter and the regulations, a periodic bulletin containing general or special information concerning the application of this chapter and the regulations. The bulletin may also report the decisions made under this chapter.”

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

**“23.1.** Section 24 of the Public Service Act (chapter F-3.1.1) applies, with the necessary modifications, with regard to an advocate or a notary in the full-time employ of the Commission.

**“23.2.** No deed, document or writing binds the Commission or can be attributed to it unless signed by the chairman, the secretary or an employee of the Commission, and then only to the extent determined by regulation of the board of directors.

However, the signature of an advocate or a notary in the employ of the Commission binds the Commission in all cases where it relates to the performance of the professional duties of the advocate or notary on behalf of a recipient.”

**16.** Section 32 of the Act is amended by replacing both occurrences of “Act” by “chapter”.

**17.** Section 32.2 of the Act is repealed.

**18.** The Act is amended by replacing the heading of subdivision 6 of Division V by the following heading:

**“DIVISION V.1**

**“PROFESSIONAL SERVICES”.**

**19.** Section 50 of the Act is amended

(1) by replacing “Act” in the first paragraph by “chapter”;

(2) by replacing “subdivision” in the second paragraph by “division”.

**20.** Section 59 of the Act is replaced by the following section:

**“59.** An advocate in the full-time employ of a centre or the Commission shall exercise the functions of office exclusively for the centre or, if applicable, for the Commission, except in exceptional cases with the approval of the centre or the Commission and in accordance with the regulations.”

**21.** Section 60 of the Act is amended by inserting “or the Commission” after “legal aid centre” in the first paragraph.

**22.** Section 61 of the Act is amended

(1) by inserting “or the Commission” after “of a centre” in the first paragraph;

(2) by replacing “to such centre” in the first paragraph by “to the centre or, if applicable, to the Commission”;

(3) by replacing “centre which employs him” in the second paragraph by “centre that employs him or the Commission”.

**23.** The Act is amended by inserting the following section after section 61:

**“61.1.** In a penal or criminal case that is expected to be long and complex owing, among other things, to the anticipated length of the trial, the number of accused, the number and nature of the accusations, the nature of the evidence, the time required to hear the preliminary motions, whether announced or anticipated, as mentioned in the minutes of the pre-hearing conference or the court record, or owing to the length of the investigation leading to the laying of charges, only the Commission shall decide whether a recipient may benefit from the professional services of an advocate in accordance with sections 83.3 to 83.7 and 83.9 to 83.12, and, if so, what the fee structure applicable to the advocate’s services is to be.

Sections 56 and 57 do not apply for the purposes of this section.”

**24.** Section 67 of the Act is amended by inserting “or the Commission” after “legal aid centre” in subparagraphs 1 and 2 of the second paragraph.

**25.** Section 74 of the Act is amended by inserting “or the Commission” after “legal aid centre” in subparagraphs 1 and 2 of the third paragraph.

**26.** The heading of Division VII of the Act is amended by striking out “AND TARIFFS OF FEES”.

**27.** Section 80 of the Act is amended

(1) by replacing “Act and” in the introductory clause by “chapter, unless the context requires a different meaning,”;

(2) by replacing “Act” in subparagraphs *b.1* and *e* of the first paragraph by “chapter”;

(3) by inserting “, for the purposes of this Act,” after “determine” in subparagraphs *g* and *m* of the first paragraph, after “establish” in subparagraph *i* of the first paragraph, after “prescribe” in subparagraph *k* of the first paragraph, and after “fix” in subparagraph *j* of the first paragraph;

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

“(p) determine the cases where, despite this chapter, the fees and expenses of advocates and notaries not in the employ of a centre or the Commission, whose professional services are retained on behalf of a recipient, are paid by the centre or the Commission;”;

(5) by adding the following subparagraphs after subparagraph *t* of the first paragraph:

“(u) determine how an advocate or notary must report to the Commission under this Act concerning the fees and expenses relating to the legal services rendered, when the report must be made, and the exceptional cases in which no such report is required;

“(v) determine the rules applicable to the payment of fees and expenses by the Commission, including the date on which prescription of a claim relating to a statement of fees and expenses payable by a centre or the Commission under this Act begins to run.”;

(6) by replacing “were rendered by an advocate or notary in the employ of a legal aid centre or by an advocate or notary not in the employ of a legal aid centre” in the second paragraph by “were rendered by an advocate or notary in the employ of a legal aid centre or the Commission or by an advocate or notary not in the employ of a legal aid centre or the Commission”;

(7) by replacing “, *q*, *r*, *s* and *t*” in the third paragraph by “and *q* to *v*”;

(8) by inserting “under this chapter” after “regulations” in the fourth paragraph.

**28.** Sections 80.1, 80.2 and 81 of the Act are repealed.

**29.** Division VIII of the Act, comprising sections 82 and 82.1, is repealed.

**30.** The Act is amended by inserting the following after section 83:

### “CHAPTER III

#### “PROVISION OF CERTAIN LEGAL SERVICES OTHER THAN LEGAL AID

**“83.1.** In addition to the functions and duties assigned to it by Chapter II, the Commission des services juridiques must see that legal services are provided to the accused in a penal or criminal trial whose right to the services of a State-remunerated advocate, arising from their constitutional right to a fair trial, has been recognized by a court order.

The Commission must also see that such services are provided if a court order concerning the designation of counsel has been made under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), in particular under section 486.3 or 672.24, subsections 8 to 8.2 of section 672.5, section 684 or section 694.1 of that Code.

**“83.2.** The principles set out in section 3.2 apply with the necessary modifications to the management and provision of legal services under this chapter, regardless of the financial eligibility of the persons concerned.

Sections 60 and 61 apply in respect of a service rendered by an advocate under this chapter, with the necessary modifications.

**“83.3.** The Commission, in collaboration with the regional centres, shall take the necessary measures to ensure the coherent application of this chapter.

**“83.4.** A director general must notify the Commission without delay on being informed of facts referred to in section 61.1 or 83.1. In the case described in section 61.1, the director general’s notice may include a recommendation, which is not binding on the Commission.

The Commission shall inform the director general of any similar fact it is aware of.



**“83.5.** The director general of the regional centre serving the place where a proceeding or trial is being or is to be held shall exercise the functions assigned to the director general under Chapter II.

**“83.6.** The director general must entrust the provision of legal services to an advocate not in the employ of a regional centre if a person to whom section 61.1 or 83.1 applies chooses that particular advocate and the advocate agrees to provide professional services to that person for the fee determined by the Commission under the first paragraph of section 83.12.

Failing that, the director general must make available the professional services of an advocate in the employ of the regional centre.

This section does not apply if a court order has been made under section 486.3 of the Criminal Code.

**“83.7.** Subject to section 83.8, if a person to whom section 61.1 or 83.1 applies has not chosen any particular advocate under section 52 or 83.6 or the advocate does not agree to provide professional services in accordance with the regulations and the director general is not able to make available the professional services of an advocate in the employ of the regional centre, the director general shall call upon the Commission, which must procure for the person the professional services of

(1) an advocate not in the employ of a regional centre or the Commission, who agrees to provide professional services for the fee determined by the Commission under the first paragraph of section 83.12;

(2) an advocate in the employ of the Commission; or

(3) an advocate in the employ of a regional centre, with whom the regional centre has entered into a loan of services agreement in accordance with section 83.11.

As far as possible, a recipient may select the advocate of the recipient's choice.

Despite the first paragraph, the Commission may, by way of exception, enter into a professional services contract with an advocate not in the employ of a regional centre or the Commission, if the advocate's expertise is required for the Commission to satisfy its duties under the first paragraph of section 83.1 or if such a contract will ensure efficient management of services and resources.

**“83.8.** For the purposes of an order made under section 486.3 of the Criminal Code, the selection of counsel must alternate, insofar as possible, between an advocate referred to in subparagraph 1 of the first paragraph of section 83.7 and an advocate referred to in the second paragraph of section 83.6 or in subparagraph 2 or 3 of the first paragraph of section 83.7.

**“83.9.** Subject to the regulations, an advocate who provides professional services under this chapter must personally carry out all the essential aspects of those services.

**“83.10.** The Commission shall draw up and keep up to date, for all of Québec, a list of the advocates described in subparagraph 1 of the first paragraph of section 83.7 and send a copy of it to each regional centre.

The Commission shall make the list available to the public.

**“83.11.** The director general of the regional centre serving the place where a proceeding or trial is being or is to be held may enter into an agreement with the director general of another regional centre providing for the loan of the services of a member of the personnel of their respective centres.

The Commission is party to the agreement.

The agreement may also provide for the loan of the services of a member of the personnel of the Commission, or the assignment to a regional centre of an advocate bound to the Commission by a professional services contract.

**“83.12.** In the cases described in the first paragraph of section 83.6 and subparagraph 1 of the first paragraph of section 83.7, the Commission shall determine, under the tariff applicable under section 83.21, the fee payable to the advocate of a person to whom section 61.1 or the first paragraph of section 83.1 applies.

The Commission shall establish, by regulation, the main criteria on which a decision under the first paragraph is to be based, having regard to the circumstances of the matter. The regulation is subject to the approval of the Government, which may approve it with or without amendment.

The Commission must notify the director general of its decision without delay.

The Commission’s decision is not subject to review by the committee formed under paragraph *k* of section 22.

**“83.13.** An accused person described in the first paragraph of section 83.1 is required to pay the amount of the contribution that the person has undertaken to pay. The person is also required to provide any guarantee the person has undertaken to provide.

Guarantees are established in favour of the Commission.

**“83.14.** An accused person described in the first paragraph of section 83.1 must pay the contribution to the person’s advocate if the advocate is not in the employ of a regional centre or the Commission.

The entire contribution that an accused person described in the first paragraph of section 83.1 has undertaken to pay must be used by an advocate referred to in the first paragraph of section 83.6 or in subparagraph 1 of the first paragraph of section 83.7, in keeping with the fee determined by the Commission under the first paragraph of section 83.12, before the advocate may claim other fees from the Commission.

**“83.15.** An accused person described in the first paragraph of section 83.1 must pay the contribution to the Commission if the person’s advocate is in the employ of a centre or the Commission.

**“83.16.** An accused person described in the first paragraph of section 83.1 who, owing to a false declaration, should not have benefited from certain legal services under this chapter, is required to repay the cost of those legal services to the Commission.

For the purposes of the first paragraph, when the services rendered are rendered by an advocate referred to in subparagraph 2 or 3 of the first paragraph or in the third paragraph of section 83.7, they are deemed to have been paid under the first paragraph of section 83.12, in keeping with the fee determined by the Commission.

**“83.17.** The Government may, by regulation, determine what the cost of the legal services referred to in section 83.16 includes.

**“83.18.** The Commission may, by regulation,

(1) determine the cases in which the fees and expenses of advocates not in the employ of a centre or the Commission, whose services are retained following an order under section 83.1, are paid by a centre or by the Commission;

(2) determine the form and content of the document confirming entitlement to legal services under this chapter;

(3) determine the place where a person wishing to obtain legal services must send an application and prescribe rules in that regard; and

(4) determine the manner in which the list provided for in section 83.10 is drawn up and kept up to date, as well as the information it must contain.

The regulations of the Commission are subject to the approval of the Government, which may approve them with or without amendment.

**“CHAPTER IV****“COMMON PROVISIONS****“DIVISION I****“GENERAL PROVISIONS**

**“83.19.** Subject to a collective agreement, the Commission des services juridiques shall determine, by by-law, the standards and scales of remuneration of its personnel and the personnel of the regional centres in accordance with the conditions defined by the Government.

**“83.20.** For the purposes of the Pay Equity Act (chapter E-12.001), the Commission and the regional centres are deemed to be a single enterprise and the Commission is considered to be the employer of the employees of the regional centres.

Despite section 11 of the Pay Equity Act, there may be only one pay equity plan for all the employees of the Commission and the regional centres.

**“83.21.** With the approval of the Conseil du trésor, the Minister may enter into an agreement with the bodies authorized to represent notaries, advocates, bailiffs or stenographers concerning the tariffs of fees applicable for the purposes of this Act as well as a procedure for the settlement of disputes and the matters to which the procedure may apply. The agreement has force of law, takes effect on the date of its publication in the *Gazette officielle du Québec*, and ceases to have effect on the date specified in the agreement.

Failing an agreement under the first paragraph, the Minister, with the approval of the Conseil du trésor, may make a regulation concerning the matters that may be covered by an agreement and specifying the date on which the regulation ceases to have effect.

A tariff of fees set under this section may include, to the extent it prescribes, a flat fee for all the legal services provided under a single mandate. It may determine the maximum amount of fees that may be paid under this Act to the same professional in the course of a period specified by the tariff and beyond which fees paid to the professional are to be reduced, in respect of each mandate, in the proportion specified by the tariff. The provisions of the tariff of fees pertaining to the maximum amount of fees that may be paid to the same professional may vary according to the class of professionals to which they apply. The tariff may also specify who may determine the fee payable for a service not included in the tariff or, in certain cases, excess fees payable, and set the conditions under which that determination may be made.

The tariff of fees may determine travel compensation and other eligible expenses or specify who may determine them, or refer to the applicable regulation or directive.

An agreement or regulation remains in force after the date on which it ceases to have effect until it is replaced by a new agreement or regulation.

A new agreement or regulation may be retroactive to a date not prior to the date on which the replaced instrument was to cease to have effect. If an amendment is made while an instrument is in effect, it may be retroactive to a date not prior to the instrument's initial effective date.

**“83.22.** The Commission may make an agreement with an association of experts as to the fees and expenses to which experts are entitled when acting under this Act. The agreement applies throughout Québec.

If no such agreement has been made with an association, a regional centre or a group of regional centres may make an agreement with an association of experts or with individuals who agree to act as expert witnesses. The agreement applies throughout Québec or in the regions specified in the agreement.

If an agreement has been made, a centre may not, except where no expert to which the agreement applies is able to act, pay fees or expenses for expert testimony in excess of those stipulated in the agreement.

In the absence of an agreement or if no expert to whom the agreement applies is able to act, the director general shall set the amount of the fees and expenses payable to experts.

## **“DIVISION II**

### **“PENAL PROVISIONS**

**“83.23.** A person is guilty of an offence and is liable to a fine of not less than \$800 and not more than \$10,000 in the case of a natural person and of not less than \$2,500 and not more than \$62,000 in the case of a legal person who knowingly makes a false or misleading statement or knowingly transmits a document containing false or misleading information so as to

- (1) become or remain eligible for legal aid under Chapter II;
- (2) make a family member eligible or remain eligible for that legal aid; or
- (3) help another person to obtain legal aid to which that person is not entitled.

**“83.24.** An advocate or notary who receives a sum of money or any other advantage not provided for by this Act, in contravention of section 60 or the second paragraph of section 61, is guilty of an offence and is liable to a fine of not less than \$2,000 and not more than \$32,000.

**83.25.** An advocate or notary described in the first paragraph of section 61 who fails to remit to the centre or the Commission that employs the advocate or notary the fees and expenses collected pursuant to a judgment or transaction is guilty of an offence and is liable to a fine of not less than \$2,000 and not more than \$32,000.

**83.26.** A person who refuses or neglects to supply any information or document requested under section 64 is guilty of an offence and is liable to a fine of not less than \$500 and not more than \$5,000 in the case of a natural person, and of not less than \$1,500 and not more than \$30,000 in the case of a legal person.”

**31.** This Act is amended by replacing the headings of Division IX by the following headings:

**“DIVISION III**

**“MISCELLANEOUS PROVISIONS”.**

**CONSEQUENTIAL, TRANSITIONAL AND FINAL PROVISIONS**

**32.** The Regulation respecting legal aid, enacted by Order in Council 1073-96 dated 28 August 1996, is amended by inserting the following section before section 1:

**“0.1.** This Regulation applies to persons eligible for legal aid under Chapter II of the Act respecting legal aid and the provision of certain other legal services (R.S.Q., c. A-14).”

**33.** Section 1 of the Regulation is amended by replacing “81 of that Act” by “83.21 of that Act and, in the case of a recipient to whom section 61.1 of the Act respecting legal aid and the provision of certain other legal services applies, in accordance with any determination made by the Commission des services juridiques under the first paragraph of section 83.12 of that Act”.

**34.** In any other Act, a reference to the Legal Aid Act (R.S.Q., chapter A-14) or to any of its provisions becomes a reference to the Act respecting legal aid and the provision of certain other legal services or to the corresponding provision of that Act.

The same applies to any regulation, order in council, order or document, unless the context indicates otherwise.

**35.** Provided they are made in the year 2010, the first regulation made under subparagraphs *u* and *v* of the first paragraph of section 80 of the Act respecting legal aid and the provision of certain other legal services and the first regulation made under section 83.17 of that Act are not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1). Despite section 17 of that Act, the regulations come into

force on the date of their publication in the *Gazette officielle du Québec* or on any later date set in the regulations and their provisions may have effect from any date not prior to 4 June 2010.

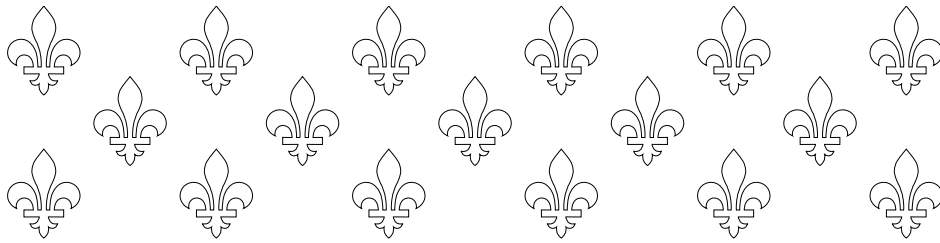
**36.** Provided they are made in the year 2010, the first regulation made under subparagraph *c, d, e, g, i, j, k, m, n* or *p* of the first paragraph of section 80 of the Act respecting legal aid and the provision of certain other legal services after the coming into force of this section, the first regulation made under the second paragraph of section 83.12 and the first regulation made under section 83.18 of that Act are made by the Government and are not subject to the publication requirement set out in section 8 of the Regulations Act. Despite section 17 of that Act, the regulations come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date set in the regulations and their provisions may have effect from any date not prior to 4 June 2010.

**37.** Provided it is made in the year 2010, the first regulation made under the second paragraph of section 83.21 of the Act respecting legal aid and the provision of certain other legal services may be enacted even if it is not published in the *Gazette officielle du Québec*.

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







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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 105  
(2010, chapter 13)

**An Act respecting the adoption of Haitian  
children who arrived in Québec between  
24 January and 16 February in the  
aftermath of the 12 January 2010  
earthquake**

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**Introduced 13 May 2010  
Passed in principle 20 May 2010  
Passed 4 June 2010  
Assented to 4 June 2010**

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**Québec Official Publisher  
2010**

**EXPLANATORY NOTES**

*This Act provides for the adoption of Haitian children who arrived in Québec between 24 January and 16 February in the aftermath of the 12 January 2010 earthquake and for whom arrangements were already underway at that time for their adoption by persons domiciled in Québec.*

## Bill 105

### AN ACT RESPECTING THE ADOPTION OF HAITIAN CHILDREN WHO ARRIVED IN QUÉBEC BETWEEN 24 JANUARY AND 16 FEBRUARY IN THE AFTERMATH OF THE 12 JANUARY 2010 EARTHQUAKE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** This Act applies to Haitian children for whom arrangements for adoption by persons domiciled in Québec were underway at the time of the 12 January 2010 earthquake and who meet the following conditions:

(1) they were authorized by the Prime Minister of Haiti to leave the country to be adopted;

(2) an attestation of the absence of any grounds for objection to their adoption was issued by the Minister of Health and Social Services under section 71.8 of the Youth Protection Act (R.S.Q., chapter P-34.1); and

(3) they arrived in Québec during the period beginning on 24 January and ending on 16 February 2010.

**2.** By the operation of this Act, subject to the issue of an adoption certificate under section 4, a child described in section 1 is adopted, as of 4 June 2010, by the persons designated as the adoptive parents in the child's adoption file that is kept by the Minister under paragraph 3 of section 71.4 of the Youth Protection Act.

The adoption produces the same effects as an adoption judgment rendered in Québec.

**3.** To obtain an adoption certificate from the Minister for the child entrusted to them, the persons designated as the adoptive parents in the child's adoption file kept by the Minister must send to the Minister, not later than 2 September 2010,

(1) the application form provided for that purpose, duly completed;

(2) a declaration made before a witness stating the name they have chosen for the child; and

(3) any other relevant document the Minister may require.

**4.** The Minister may only issue an adoption certificate if all the required information and documents have been provided and the following conditions are met:

(1) the applicants are the adoptive parents designated in the child's adoption file kept by the Minister; and

(2) the child meets the conditions set out in section 1.

For that purpose, the Minister may allow the applicants to complete their application, or make a summary investigation.

**5.** An adoption certificate is issued within 45 days of the receipt of a duly completed application.

The certificate includes the name of the adoptive parents, the child's original name and the name chosen for the child, and the effective date of the adoption.

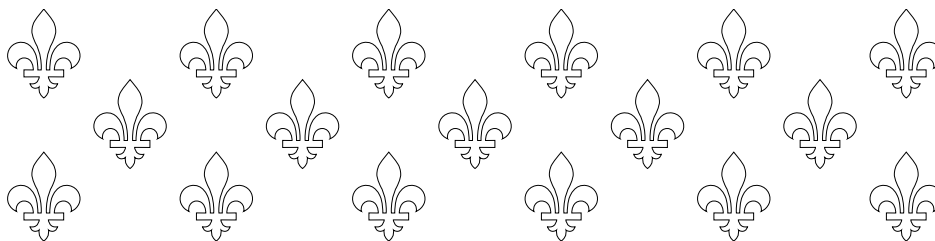
**6.** The Minister notifies to the director of civil status every adoption certificate issued by the Minister, accompanied by the declaration containing the name chosen for the child.

The director of civil status draws up the child's act of birth on the basis of the documents notified by the Minister.

**7.** The Minister may issue a corrected adoption certificate to replace one that contains inaccurate information. The new certificate is substituted for the original certificate, and the substitution is noted on the original certificate.

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

**9.** This Act comes into force on 4 June 2010.



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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 390  
(2010, chapter 14)

**An Act to proclaim Ukrainian Famine  
and Genocide (Holodomor) Memorial  
Day**

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**Introduced 25 November 2009  
Passed in principle 2 June 2010  
Passed 4 June 2010  
Assented to 4 June 2010**

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**Québec Official Publisher  
2010**

**EXPLANATORY NOTES**

*The purpose of this Act is to proclaim the fourth Saturday in November in each year Ukranian Famine and Genocide (Holodomor) Memorial Day.*

## **Bill 390**

### **AN ACT TO PROCLAIM UKRAINIAN FAMINE AND GENOCIDE (HOLODOMOR) MEMORIAL DAY**

AS the Holodomor is the name given to the great famine and genocide that occurred in Ukraine in 1932 and 1933;

AS millions of Ukrainians perished as victims of a famine deliberately induced by the Soviet regime under Joseph Stalin;

AS the forced collectivization of agriculture imposed by the Soviet regime under Joseph Stalin resulted in the death of millions among the other peoples of the former Soviet Union;

AS the President of Ukraine issued a Presidential Decree on 26 November 1998 establishing the fourth Saturday in November as a National Day of Remembrance for the victims of this mass atrocity;

AS, in recent years, a number of countries have in various ways acknowledged the Holodomor in Ukraine as historical fact;

AS there is a Ukrainian community in Québec;

AS Quebecers are committed to defending democratic values and human rights and as they reject intolerance;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** The fourth Saturday in November in each year is proclaimed Ukrainian Famine and Genocide (Holodomor) Memorial Day.
- 2.** For greater certainty, Ukrainian Famine and Genocide (Holodomor) Memorial Day is not a legal holiday or a non-juridical day.
- 3.** This Act comes into force on 4 June 2010.





## Regulations and other Acts

M.O., 2010

**Order of the Minister of Education,  
Recreation and Sports dated 11 July 2010**

Education Act  
(R.S.Q., c. I-13.3)

CONCERNING the Regulation to amend the Regulation respecting teaching licences

THE MINISTER OF EDUCATION, RECREATION AND SPORTS,

CONSIDERING section 456 of the Education Act (R.S.Q., c. I-13.3), which allows the Minister of Education, Recreation and Sports to establish, by regulation, a classification of teaching licences, the nature and term of such licences, and the requirements and procedure applicable to their issuance or renewal, as the case may be, including the documents and information to be furnished;

CONSIDERING the publication of a draft Regulation to amend the Regulation respecting teaching licences in Part 2 of the *Gazette officielle du Québec* of 10 March 2010, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) with a notice that it could be made on the expiry of 45 days following that publication;

CONSIDERING that the draft Regulation was submitted before passage to the Conseil supérieur de l'éducation for preliminary examination in accordance with section 458 of the Education Act;

CONSIDERING that the 45-day period required by law has expired;

CONSIDERING that it is expedient to make the above-mentioned draft Regulation with amendments;

ORDERS AS FOLLOWS:

The Regulation to amend the Regulation respecting teaching licences, attached to this Minister's Order, is hereby made.

Québec, 11 July 2010

MICHELLE COURCHESNE,  
*Minister of Education,  
Recreation and Sports*

**Regulation to amend the Regulation  
respecting teaching licences**

Education Act  
(R.S.Q., c. I-13.3, s. 456)

**1.** The Regulation respecting teaching licences (R.R.Q., c. I-13.3, r. 2) is amended in section 1 by inserting "in general education" after "provisional teaching authorizations".

**2.** The following is inserted after section 1:

**1.1.** To be recognized for the purposes of this Regulation, training must successfully have been completed in an institution that is a member of the Association of Universities and Colleges of Canada or be recognized by the competent authority of a Canadian province or territory, or of a State."

**3.** Section 2 is amended

(1) by replacing the part preceding the second paragraph by the following:

"A teaching diploma may be issued only to a person who is a Canadian citizen within the meaning of the Citizenship Act (R.S.C. 1985, c. C-29) or a permanent resident within the meaning of the Immigration and Refugee Protection Act (S.C. 2001, c. 27).

The other teaching licences may be issued or renewed to a person who also meets any of the following conditions:";

(2) by striking out the last two paragraphs.

**4.** Section 2.1 is amended

(1) by replacing " , valid for 2 years," in the first paragraph by "in general education";

(2) by adding "comprising 60 credits" at the end of the first paragraph;

(3) by striking out the last paragraph.

**5.** Section 3 is amended

(1) by replacing “Québec by the competent authority of the province, territory or” in paragraph 2 by “Canada, by the competent authority of the”;

(2) by inserting “subject to conditions” after “teaching licence” in paragraph 3;

(3) by striking out “and has obtained a bachelor’s degree” at the end of paragraph 3;

(4) by replacing paragraph 4 by the following:

“(4) holds a teaching licence issued outside Canada by the competent authority of the State in which the person received training in education and, on that basis, obtained a teaching licence subject to conditions, issued in Canada, outside Québec, by the competent authority of the province or territory;

(5) holds a bachelor’s or master’s degree listed in Schedule II and is not a Canadian citizen or a permanent resident.”.

**6.** Section 4 is amended by inserting “or an equivalent program in Canada, outside Québec, leading to a teaching licence subject to conditions” after the figure “III” at the end of the first sentence.

**7.** Section 5 is amended by inserting “or master’s” after “bachelor’s”.

**8.** Section 6 is amended

(1) by striking out “, outside Canada,” in the operative part of paragraph 2;

(2) by replacing paragraphs 3 and 4 by the following:

“(3) holds a teaching licence not subject to conditions, obtained in Canada, outside Québec by the competent authority of the province or territory in which the person received training in education;

(4) holds a teaching licence issued outside Canada by the competent authority of the State in which the person received training in education and, on that basis, obtained a teaching licence not subject to conditions, issued in Canada, outside Québec, by the competent authority of the province or territory; or

(5) has obtained a teaching permit after having met the requirements of paragraph 3 or 4 of section 3 and

(a) has successfully completed the probationary period, if the teaching permit provides that the issue of a teaching diploma is conditional on the successful completion of a probationary period;

(b) has met the requirements of subparagraphs a and b of paragraph 2 of this section, if the teaching permit provides that the issue of a teaching diploma is conditional on the successful completion of additional training.”.

**9.** Section 7 is replaced by the following:

“7. A teaching diploma may be issued

(1) to the holder of a teaching permit issued pursuant to section 4 who

(a) has successfully completed the probationary period, if the teaching permit provides that the issue of a teaching diploma is conditional on the successful completion of a probationary period;

(b) meets the requirements of subparagraphs a and b of paragraph 2 of section 6, if the teaching permit provides that the issue of a teaching diploma is conditional on the successful completion of additional training;

(2) to a person who has successfully completed a training program listed in Schedule III and the probationary period;

(3) to a person who has successfully completed the Kativik-McGill University teacher training program comprising 60 credits; or

(4) to the holder of a teaching licence not subject to conditions, issued in Canada, outside Québec, who has successfully completed a teacher training program equivalent to those listed in Schedule III.

The holder of a teaching diploma issued pursuant to subparagraph 1, 2 or 4 may teach only in an institution of the Cree School Board or Kativik School Board.

The holder of a teaching diploma issued pursuant to subparagraph 3 may teach only in an institution of the Kativik School Board.”.

**10.** Section 8 is amended by inserting “and that the position may be filled only by the holder of a teaching licence” after “licence is required” at the end of paragraph 2.

**11.** Section 10 is amended by replacing “42” by “45”.

**12.** The following is inserted after section 10:

“10.1. A teaching authorization for vocational training may also be issued to a person who is not a Canadian citizen or a permanent resident, who holds a bachelor’s degree listed in Schedule V and who meets the requirements of paragraphs 1 and 3 of section 8.”.

**13.** Section 11 is amended by replacing “Québec by the competent authority of the province, territory or” by “Canada by the competent authority of the”

**14.** The following is inserted after section 11:

“**11.1.** A teaching permit may be issued to the holder of a teaching licence subject to conditions, issued in Canada, outside Québec, by the competent authority of the province or territory in which the holder received training in education, who meets the requirements of paragraphs 1 and 3 of section 8.

**11.2.** A teaching permit may be issued to the holder of a teaching licence subject to conditions, issued in Canada, outside Québec, by the competent authority of the province or territory concerned and obtained on the basis of a teaching licence issued outside Canada by the competent authority of the State in which the person received training in education; the person must also meet the requirements of paragraphs 1 and 3 of section 8.”

**15.** Section 13 is amended by adding the following paragraphs at the end:

“(3) has obtained a teaching permit after meeting the requirements of section 11.1 or 11.2 and has successfully completed

(a) the probationary period, if the permit provides that the issue of a teaching diploma is conditional on the successful completion of a probationary period; and

(b) a course on the school system of Québec offered as part of a university teacher training program listed in Schedule V or an equivalent course given by Télé-université du Québec, if the permit provides that the issue of a diploma is conditional on the successful completion of an equivalent course on the school system of the province or territory concerned; or

(4) holds a teaching licence not subject to conditions, issued in Canada, outside Québec, by the competent authority of the province or territory in which the person received training in education and meets the requirements of paragraphs 1 and 3 of section 8;

(5) holds a teaching licence issued outside Canada by the competent authority of the State in which the person received training in education and, on that basis, obtained a teaching licence subject to conditions, issued in Canada, outside Québec, by the competent authority of the province or territory, and meets the requirements of subparagraphs *a* and *b* of paragraph 3, and paragraphs 1 and 3 of section 8.”

**16.** Section 26 is amended by adding the following sentence at the end:

“The Minister informs the person who was holding the expired permit or provisional teaching authorization of its expiry, and the person’s employer.”

**17.** The following is inserted after section 26:

“**26.1.** Subject to section 32, the holder of a teaching permit issued on the basis of a teaching licence obtained outside Québec may not obtain a teaching diploma pursuant to an interprovincial or international agreement on labour mobility to which Québec is a party, if the permit holder has failed the probationary period or, as the case may be, the second probationary period.”

**18.** The following is inserted after section 28:

“**28.1.** A teaching diploma may not be issued, pursuant to an interprovincial or international agreement on labour mobility to which Québec is a party, to the holder of a teaching permit issued on the basis of a teaching licence issued outside Québec, unless the person has passed the examination provided for in section 28.”

**19.** The following is inserted after the heading “TERM OF TEACHING LICENCES” in Division II of Chapter II:

“**28.2.** A provisional teaching authorization in general education is valid for 2 school years from the beginning of the school year in which it is issued.”

**20.** The following is inserted after section 29:

“**29.1.** A provisional teaching authorization expires as soon as the holder is expelled from a required teacher training program or fails a second period of practical training included in that program.”

**21.** The following is inserted after the heading “TEACHING LICENCES REQUIRING TEACHER TRAINING IN GENERAL EDUCATION” in Division II of Chapter III:

“**33.1.** A provisional teaching authorization issued under section 2.1 may be renewed for 2-year periods if its holder has earned at least 12 additional credits in the program referred to in that section before each renewal.”

**22.** Section 34 is amended

(1) by inserting “or 5” after “paragraph 1” in the first paragraph;

(2) by replacing “1 year” in the second paragraph by “1-year periods”.

**23.** Section 35 is amended by replacing “paragraph 2 or 3” by “paragraph 2”.

**24.** Section 36 is replaced by the following:

“**36.** A teaching permit issued under paragraph 3 or 4 of section 3 may be renewed for 5-year periods if the holder

(1) has earned at least 12 credits in education in a teacher training program listed in Schedule II directly related to the program underlying the permit, including at least 6 credits in didactics, at least 3 credits in evaluation of learning achievement and at least 3 credits in intervention with handicapped students or students with social maladjustments or learning disabilities, if the permit provides that the issue of a teaching diploma is conditional on that number of credits;

(2) has successfully completed a course on the school system of Québec offered as part of a university teacher training program listed in Schedule V or an equivalent course given by Télé-université du Québec, if the permit provides that the issue of a teaching diploma is conditional on the successful completion of that course.

However, the renewal period is limited to 1-year periods if the holder must serve a second probationary period, provided that the holder has earned, before each renewal, in a Québec university, at least 6 of the credits referred to in subparagraph 1 of the first paragraph.”

**25.** Section 38 is amended by inserting “issued pursuant to section 9 or 10” after “teaching authorization for vocational training” in the part preceding paragraph 1.

**26.** The following is inserted after section 38:

“**38.1.** A teaching authorization for vocational training issued pursuant to section 10.1 may be renewed for 5-year periods.”

**27.** Section 39 is amended by replacing “section 11” by “section 11, 11.1 or 11.2”.

**28.** Section 40 is amended

(1) by striking out “and the person’s valid selection certificate issued under the Act respecting immigration to Québec (R.S.Q., c. I-0.2)” in subparagraph *b* of paragraph 4;

(2) by striking out “and the person’s valid selection certificate issued under the Act respecting immigration to Québec” in subparagraphs *c* and *d* of paragraph 4;

(3) by replacing paragraph 9 by the following:

“(9) in the case of an application for the issue of a teaching permit or teaching diploma by the holder of a teaching licence issued outside Québec, a certified copy of the person’s transcript and diplomas on the basis of which the person’s teaching licence was issued, a certified copy of that teaching licence and a document attesting to its validity and any conditions and limits attached to it;”;

(4) by striking out paragraph 10;

(5) by replacing “paragraph 11 or 12” in paragraph 13 by “paragraph 9, 11 or 12”.

**29.** The following is inserted after section 41:

“**41.1.** The information and documents provided pursuant to sections 40 and 41 and written in a language other than French or English must be accompanied by their French or English translation. The translation must be attested to by a certified translator.”

**30.** Section 42 is amended by replacing paragraphs 4, 5 and 6 by the following:

“(4) the language in which the holder has passed the examination provided for in section 27 or 28;

(5) in the case of a teaching licence requiring teacher training in general education,

(a) the title of the training program on which the teaching licence is based, unless it was issued on the basis of a teaching licence issued by a competent authority in Canada, outside Québec, in which case, the teaching licence must state the title of the teacher training program equivalent, if applicable, to the programs provided for in Schedule II;

(b) the name of the Québec university or, if the training was received outside Québec, the name of the province, territory or State in which the program was successfully completed, except in the case of a provisional teaching authorization;

(6) in the case of a teaching licence requiring teacher training in vocational training,

(a) the name of the sector of activities listed in Schedule IV that relates to the training program in support of the licence, unless the licence was issued on the basis of a teaching licence issued by a competent authority in Canada, outside Québec, in which case, the teaching licence must state the name of a sector of activities equivalent, if applicable, to the sectors provided for in Schedule IV;

(b) the name of the Québec university or the province, territory or State in which the program was successfully completed, except in the case of a provisional teaching authorization;”.

**31.** The following is inserted after section 44:

“**44.1.** A teaching permit issued under paragraph 2 or 3 of section 3 or section 11 before 12 August 2010, on the basis of a teaching licence issued in Canada, outside Québec, may, to be renewed or converted into a teaching diploma as the holder may choose, remain subject to the provisions applicable upon its issue or be subject to the provisions applicable as of 12 August 2010.”.

**32.** Section 45 is struck out.

**33.** Section 46 is amended

(1) by replacing “Despite section 1, until 30 September 2012” at the beginning of the part preceding paragraph 1 by “Until 30 September 2016”;

(2) by replacing “in 1 or 2” in subparagraph *a* of paragraph 1 by “in not more than 2”;

(3) by replacing “special education teaching” in subparagraph *b* of paragraph 1 by “education, concentration in special education”;

(4) by adding “and that the position may be filled only by the holder of a teaching licence” at the end of paragraph 2.

**34.** Section 48 is amended

(1) by replacing “Despite section 1, until 30 September 2012” at the beginning of the part preceding paragraph 1 by “Until 30 September 2016”;

(2) by adding “and that the position may be filled only by the holder of a teaching licence” at the end of paragraph 2.

**35.** Section 49 is amended

(1) by inserting “or 48” after “section 46”;

(2) by replacing “that section” at the end by “the section concerned”.

**36.** Section 50 is amended

(1) by replacing “2012” at the beginning by “2016”;

(2) by replacing “in 1 or 2” in paragraph 1 by “in no more than 2”;

(3) by inserting “and that the position may be filled only by the holder of a teaching licence” after “licence is required” at the end of paragraph 2.

**37.** Section 65 is amended

(1) by replacing “2012” at the beginning by “2016”;

(2) by inserting “and that the position may be filled only by the holder of a teaching licence” after “licence is required” at the end of paragraph 3.

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

9989



## Draft Regulations

### Draft Regulation

Financial Administration Act  
(R.S.Q., c. A-6.001)

#### Rounding off of adjusted fees

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the rounding off of adjusted fees, appearing below, may be made by the Minister of Finance on the expiry of 45 days following this publication.

The draft Regulation determines the rules to be followed to round off the fees adjusted under sections 83.3 and 83.4 of the Financial Administration Act. It also provides for the postponement of the adjustment applicable for a given year to fees lower than \$5.00.

Further information on the draft Regulation may be obtained by contacting Richard Masse, Director, Direction de l'analyse, de la prévision des dépenses et de la tarification, Ministère des Finances, 12, rue Saint-Louis, étage B, Québec (Québec) G1R 5L3; telephone: 418 644-7946; fax: 418 646-6217; e-mail: richard.masse@finances.gouv.qc.ca

Any person wishing to comment on the matter is requested to submit written comments within the 45-day period to the Minister of Finance, 12, rue Saint-Louis, 1<sup>er</sup> étage, Québec (Québec) G1R 5L3.

RAYMOND BACHAND,  
*Minister of Finance*

### Regulation respecting the rounding off of adjusted fees

Financial Administration Act  
(R.S.Q., c. A-6.001, s. 83.5, 2nd par.; 2010, c. 20, s. 51)

**1.** The fees adjusted in accordance with section 83.3 or 83.4 of the Financial Administration Act (R.S.Q., c. A-6.001) are rounded off in the manner prescribed in the subparagraph below that applies depending on the result of the adjustment:

(1) if the result is less than \$10, it is rounded to the nearest multiple of \$0.05;

(2) if the result is equal to or greater than \$10 but less than \$25, it is rounded to the nearest multiple of \$0.10;

(3) if the result is equal to or greater than \$25, but less than \$100, it is rounded to the nearest multiple of \$0.25;

(4) if the result is equal to or greater than \$100, it is rounded to the nearest multiple of \$1.00.

The result of an adjustment that is equidistant from two multiples must be rounded to the higher of the two.

**2.** The adjustment of a fee less than \$5.00 is postponed to the year in which the total of the adjustment rates applicable to each of the years for which adjustment is postponed will increase the fee by \$0.05.

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

9996

### Draft Regulation

Professional Code  
(R.S.Q., c. C-26)

#### Chartered accountants — Code of Ethics — 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 Code of Ethics of Chartered Accountants, which has been adopted by the Board of Directors of the Ordre des comptables agréés du Québec, may be submitted to the government, which may approve it with or without amendment upon the expiry of 45 days following this publication.

The main purpose of this Regulation is to amend the Code of Ethics of Chartered Accountants in order to replace the independence rules included therein with a dynamic reference to the independence rules contained in the Harmonized Rules of Professional Conduct of the Canadian CA profession's Public Trust Committee of the Canadian Institute of Chartered Accountants.

The draft Regulation also amends a number of provisions in the Code of Ethics to ensure that the terminology contained therein is consistent with that included in the International Financial Reporting Standards and the Canadian Auditing Standards. The draft Regulation also provides a transitional rule respecting the application of the new independence standards for members who perform audit engagements for reporting issuers.

The Order advises that the Regulation will have no impact on enterprises, including SMEs.

Further information may be obtained by contacting Mre Christiane Brizard of the Ordre des comptables agréés du Québec, 680, rue Sherbrooke Ouest, 18<sup>e</sup> étage, Montréal (Québec) H3A 2S3; telephone: 514 288-3256 or 1 800 363-4688; fax: 514 843-8375.

Any interested person having comments to make is asked to send them, before the expiry of the 45-day period, to the President of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. These comments may also be forwarded by the Office to the professional order that adopted the regulation, as well as to the persons, departments and agencies concerned.

JEAN PAUL DUTRISAC,  
*Chair of the Office des  
professions du Québec*

## Regulation to amend the Code of Ethics of Chartered Accountants\*

Professional Code  
(R.S.Q., c. C-26, s. 87)

**1.** Section 1 of the Code of Ethics of Chartered Accountants of Quebec is amended:

(1) by inserting the words “that are not intended solely for internal management purposes,” after the words “compilation engagements” in subsection (1) of the third paragraph;

(2) by replacing subsection (2) of the third paragraph with the following:

“(2) public accountancy services, other than compilation engagements that are not intended solely for internal management purposes, and other assurance services within the meaning of the Canadian Institute of Chartered Accountants Handbook;”.

**2.** Section 11 of the Code is amended as follows:

(1) by inserting the following words after “Professional Code”: “and those that may be determined pursuant to the second paragraph of section 152 of the Professional Code”;

(2) by inserting the following words in subsection (2) after “company”: “within which he practices his profession”;

(3) by replacing subsection (3) with the following:

“(3) is in one of the situations contemplated in subsection (2) and fails to inform the Ordre without delay;”.

**3.** Section 19 of the Code is amended as follows:

(1) by replacing, in the first paragraph, the words “, rules, and guidance and guidelines” with “or rules”;

(2) by replacing, in the second paragraph, the words “result in a fair presentation in accordance with generally accepted accounting principles” with “comply with the standards or rules contemplated in the first paragraph”;

(3) by removing the third paragraph.

**4.** Section 19.1 of the Code is amended as follows:

(1) by replacing, in the first paragraph, the words “presented fairly in accordance with generally accepted accounting principles” with “in accordance with the standards or rules contemplated in section 19”;

(2) by replacing, in the second paragraph, the words “presented fairly” with “in accordance with these standards or rules”;

(3) by removing, in the fourth paragraph, the words “under the standards, rules, and guidance and guidelines set out”.

**5.** Section 19.2 of the Code is amended as follows:

(1) by replacing, in the first paragraph, the words “generally accepted accounting principles” with “the standards or rules contemplated in section 19”, and the words “presented fairly in accordance with these principles” with “in accordance with these standards or rules”;

\* The most recent amendments to the Code of Ethics of Chartered Accountants, approved by Order in Council 58-2003 of January 22, 2003 (2003, *G.O.* 2, 861), were made by the Regulation approved by Order in Council 712-2005 of August 3, 2005 (2005, *G.O.* 2, 3341) and by section 212 of Chapter 11 of the 2008 Statutes of Quebec. For prior amendments, see the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2010, updated to April 1, 2010.



(2) by replacing, in the second paragraph, the words “presented fairly” with “in accordance with these standards or rules”.

**6.** Section 19.3 of the Code is replaced by the following:

“**19.3.** A member who prepares or approves, in whole or in part, financial statements intended solely for an enterprise’s internal management purposes is dispensed from having to satisfy the obligations set out in sections 19 and 19.2.”.

**7.** Section 22.1 of the Code is replaced by the following:

“**22.1.** A member who is responsible for issuing a report or an opinion in the practice of public accountancy, other than compilation engagement reports that are not intended solely for internal management purposes, shall include his name or permit number on such report or opinion.”.

**8.** Section 24 in the French version of the Code is amended by replacing, after the word “société”, the word “de” by the word “dans”.

**9.** Sections 25.1 and 25.2 of the Code are revoked.

**10.** Section 34 of the Code is replaced by the following:

“**34.** A member shall not sign, prepare, produce or even associate his name with any letter, attestation, opinion, report, statement, representation, financial statement or other document, which he knows, or should know, contains false or misleading information, out of complacency or without ensuring that such documents are in compliance with good practices or current scientific knowledge.”.

**11.** Subdivision 1 of Chapter I, Division II.1 of the Code, including section 36.3, and Subdivision 2 of this Division, including sections 36.5 and 36.6, are revoked.

**12.** Section 36.4 of the Code is amended by the addition of the following paragraph at the end of the section:

“The member shall comply with the independence standards provided for in Rule 204 of the Harmonized Rules of Professional Conduct adopted on April 13, 2010 by the Public Trust Committee of the Canadian Institute of Chartered Accountants and any subsequent

amendments thereto. These standards are disclosed in a publication sent by the Ordre to all its members and in an electronic document available to all on the Ordre’s website.”.

**13.** Subdivision 3 of Chapter 1, Division II.1 of the Code, including sections 36.7 to 36.11, is revoked.

**14.** Section 60.1 of the Code is amended by the addition of the following sentence at the end of the section: “The member may not communicate with the plaintiff without the prior written permission of the Syndic or Assistant Syndic.”.

**15.** Section 61 of the Code is replaced by the following:

“**61.** In all circumstances, a member shall ensure the accuracy and integrity of the information he provides to the Ordre. The member shall, at all times, honour his commitments to the Ordre in respect of the supervision of the practice of the profession.”.

**16.** Section 62 of the Code is amended as follows:

(1) by replacing the first paragraph with the following:

“Before practicing the profession in a new place of business or joining a partnership, joint-stock company or organization that offers professional services to the public, or before undertaking to practice public accountancy, a member shall notify the Ordre in writing and indicate the name of the partnership, joint-stock company or organization within which the member will be practicing.”;

(2) by removing the words “the Secretary of” from the second paragraph.

**17.** Section 75 of the Code is amended as follows:

(1) by replacing, in the first paragraph, the words “an official mark of the Canadian Institute of Chartered Accountants” by “a certification mark of the Canadian Institute of Chartered Accountants and an official mark of the Ordre”;

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

“A member who uses the graphic symbol of the Ordre in advertisements shall ensure that it complies with the one approved by the Ordre.”;

(3) by adding, in the third paragraph after the words “does not comply with”, the words “the conditions for using these marks and”.

**18.** A member who performs an audit engagement, has primary responsibility for the engagement or is on the engagement team or a team within a network partnership or joint-stock company, for a client that is a mutual fund or a reporting issuer not subject to the definition of “listed enterprise” set out in section 36.3 as approved by Order in Council 779-2004 of August 10, 2004, is in compliance with the independence rule contemplated in section 36.4, as amended by section 12, if the member complies with the requirements of sections 36.4 to 36.11 as approved by Order in Council 779-2004 during the period that covers the client’s two subsequent fiscal years beginning on or after (*insert date of coming into force of the regulation*).

A member who acts as the engagement quality control reviewer on an audit engagement for a client referred to in the first paragraph, during the period specified in the first paragraph, is in compliance with the independence rule set out in section 36.4, as amended by section 12, if the member respects paragraph 4 of section 36.9 as approved by the 2004 Order in Council.

A member who is responsible for decision-making on auditing, accounting and reporting matters that affect the performance of the audit engagement for a client referred to in the first paragraph, or who maintains regular contact with the audit committee or management of this client or who provides, during the period of the audit engagement, more than ten hours of assurance services in connection with the annual financial statements or the interim financial information of the client, or who is responsible for an audit engagement for a subsidiary of the client, is in compliance with, for the period specified in the first paragraph, the independence rule contemplated in section 36.4, as amended by section 12, if the member complies with paragraph 5 of section 36.9, as approved by the 2004 Order in Council.

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

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## Draft Regulation

Professional Code  
(R.S.Q., c. C-26)

### Psychologists — Practice within a partnership or a joint-stock company

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the practice of the profession of psychologist within a partnership or a joint-stock company, made by the Ordre des psychologues du Québec, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation contains specific provisions to set the terms and conditions authorizing the carrying on of professional activities by psychologists within a limited liability partnership or a joint-stock company in accordance with Chapter VI.3 of the Professional Code (R.S.Q., c. C-26), in particular as regards the management of the partnership or joint-stock company and the holding of shares or units.

In accordance with Chapter VI.3 of the Professional Code, the conditions proposed include the obligation to subscribe liability insurance for the partnership or joint-stock company to cover faults or negligence on the part of the psychologists in carrying on their professional activities within the partnership or joint-stock company. The psychologists must also provide the Order with the required information on the partnership or joint-stock company and keep it up-to-date.

The Ordre des psychologues du Québec foresees no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Édith Lorquet, legal adviser at the Ordre des psychologues du Québec, 1100, avenue Beaumont, bureau 520, Ville Mont-Royal (Québec) H3P 3H5; telephone: 514 738-1881 or 1 800 363-2644; fax: 514 738-8838.

Any interested person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chair of the Office des professions du Québec, 800, place D’Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The comments will be sent by the Office to the Minister of Justice; they may also be sent to the professional order that made the Regulation and to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,  
*Chair of the Office des  
professions du Québec*

## Regulation respecting the practice of the profession of psychologist within a partnership or a joint-stock company

Professional Code

(R.S.Q., c. C-26, s. 93, pars. *g* and *h*, and s. 94, par. *p*)

### CHAPTER I GENERAL

**1.** Psychologists are authorized to carry on their professional activities within a limited liability partnership or a joint-stock company within the meaning of Chapter VI.3 of the Professional Code (R.S.Q., c. C-26), subject to the conditions provided for in this Regulation.

If any of those conditions, or any condition set out in Chapter VI.3 of the Professional Code, is no longer met, the psychologist must, within 15 days after he or she becomes aware of the non-compliance, take the necessary measures to comply, failing which, the psychologist is no longer authorized to carry on activities within the partnership or joint-stock company.

**2.** Psychologists may carry on their professional activities within a partnership or joint-stock company if the following conditions are met:

(1) more than 50% of the voting rights attached to the company shares or partnership units are held:

(a) by psychologists, persons legally authorized to practise the profession outside Québec or other professionals governed by the Professional Code;

(b) by legal persons, partnerships or joint-stock companies, or any other enterprises whose voting rights attached to shares or partnership units are held entirely by one or more of the persons referred to in subparagraph *a*;

(c) by trusts where the trustees are one or more of the persons mentioned in subparagraph *a*; or

(d) at the same time by persons, enterprises or trusts referred to in subparagraphs *a*, *b* or *c*;

(2) a majority of the directors of the board of directors of the joint-stock company, the partners or, if applicable, the directors appointed by the partners to manage the affairs of the limited liability partnership are the persons referred to in subparagraph *a* of subparagraph 1 of the first paragraph; they must constitute the majority of the quorum of the board of directors or internal management board.

Psychologists must ensure that those conditions appear in the articles of the joint-stock company or in the written contract of the limited liability partnership and that the documents also provide that the partnership or joint-stock company is constituted for the purposes of carrying on professional activities.

**3.** Where a psychologist carries on professional activities within a joint-stock company, the income derived from the professional services rendered within and on behalf of the company belongs to the company, unless it has been agreed otherwise.

### CHAPTER II PROFESSIONAL LIABILITY COVERAGE

**4.** Psychologists carrying on professional activities within a partnership or joint-stock company must furnish and maintain, for the partnership or company, by means of an insurance or suretyship contract, or by joining a group plan contract entered into by the Order, security against the professional liability of the partnership or company that may arise from fault on the part of the psychologists in carrying on professional activities within the partnership or joint-stock company.

**5.** The security must include:

(1) an undertaking by the insurer or surety to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the psychologist pursuant to the Règlement sur l'assurance de la responsabilité professionnelle des membres de l'Ordre des psychologues du Québec, approved by the Office des professions du Québec on 8 February 2001 (2001, *G.O.* 2, 1456), any sum that the partnership or joint-stock company may be legally bound to pay to a third person on a claim filed during the coverage period and arising from fault on the part of the psychologist in carrying on professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer or surety to take up the cause of the partnership or joint-stock company and defend it in any action against it and to pay, in addition to the amounts covered by the security, all legal costs of actions against the partnership or joint-stock company, including the costs of the inquiry and defence and interest on the amount of the security;

(3) an undertaking that the security extends to all claims submitted in the 5 years after the date on which a psychologist in the partnership or joint-stock company dies, withdraws from the partnership or joint-stock company or ceases to be a member of the Order, in order to maintain coverage for the partnership or joint-stock company for fault on the part of the psychologist while carrying on professional activities within the partnership or joint-stock company;

(4) an amount of at least \$1,000,000 per claim and \$3,000,000 for all claims filed against the partnership or joint-stock company within a 12-month coverage period; and

(5) an undertaking by the insurer or surety to provide the secretary of the Order with a 30-day notice of intent to cancel the insurance or suretyship contract, to amend a condition of this section or not to renew the contract.

**6.** The suretyship contract must be with a bank, savings and credit union, trust or insurance company domiciled in Canada and having and maintaining sufficient property in Québec to meet the coverage required under this Chapter.

The institution referred to in the first paragraph must undertake to provide the coverage in accordance with the conditions set out in this Chapter and must waive the benefit of division and discussion.

### CHAPTER III COMMUNICATION OF INFORMATION

**7.** If more than one psychologist carries on professional activities within a partnership or joint-stock company referred to in section 1, one representative must be designated to satisfy the terms and conditions in sections 8 to 10 on behalf of the partnership or joint-stock company.

The representative is also mandated to reply to requests made, pursuant to this Regulation, by a syndic, an inspector, an investigator or any other representative of the Order and provide, where applicable, any other document the psychologists are required to submit. The representative is also mandated to receive all forms of communications from the Order addressed to the partnership or joint-stock company.

The representative must be a psychologist and carry on professional activities in Québec within the partnership or joint-stock company.

The representative must ensure the accuracy of the information provided to the Order.

**8.** Psychologists who wish to carry on professional activities within a partnership or joint-stock company must, before carrying on those activities, provide the Order with

(1) the declaration referred to in section 9, with the fees set by the board of directors of the Order;

(2) a written document from a competent authority certifying that the partnership or joint-stock company is covered by security in compliance with Chapter II;

(3) if the psychologist carries on professional activities within a joint-stock company, a written document from a competent authority certifying the existence of the joint-stock company;

(4) a written document from a competent authority certifying that the partnership or joint-stock company is duly registered in Québec;

(5) a written document from a competent authority certifying that the partnership or joint-stock company has an establishment in Québec;

(6) where applicable, a certified true copy of the declaration to the competent authority stating that the general partnership has been continued as a limited liability partnership;

(7) an irrevocable written authorization from the partnership or joint-stock company within which the psychologist carries on professional activities allowing a person, committee, disciplinary body or tribunal referred to in section 192 of the Professional Code to require disclosure of and obtain any document listed in section 11 from any person or to obtain a copy of such a document;

(8) a written document certifying that the shares or units held and the rules of administration of the partnership or joint-stock company comply with the conditions set out in this Regulation; and

(9) a written undertaking from the partnership or joint-stock company that its shareholders having voting rights, its partners, directors and officers, as well as the members of its staff who are not psychologists are aware of and comply with the Code of ethics of psychologists.

A psychologist is exempt from satisfying those conditions if a representative of the partnership or joint-stock company within which the psychologist is to practise has already satisfied the conditions.

**9.** The declaration referred to in subparagraph 1 of the first paragraph of section 8 must be made on the form supplied by the Order and contain the following information:

(1) the psychologist's name, home address and professional address, and status within the partnership or joint-stock company;

(2) the partnership or joint-stock company name and any other names used in Québec by every partnership or joint-stock company within which the psychologist carries on professional activities and the business number assigned by the competent authority;

(3) the legal form of the partnership or joint-stock company;

(4) if the psychologist carries on professional activities within a limited liability partnership, the address of the establishments of the partnership in Québec, specifying the address of the principal establishment; and

(5) if the psychologist carries on professional activities within a joint-stock company, the address of the head office of the company and of its establishments in Québec.

**10.** To retain the right to carry on professional activities within a partnership or joint-stock company, a psychologist or representative must

(1) immediately inform the Order of any amendment or cancellation of the insurance coverage required by Chapter II, the striking off, dissolution, assignment of property, bankruptcy, voluntary or forced liquidation of the partnership or joint-stock company or any other cause likely to prevent the partnership or joint-stock company from carrying on its activities and any change in the information given in the declaration referred to in section 9 that is contrary to the conditions set out in section 2; and

(2) update, before 31 March of each year, the declaration prescribed in section 9 and pay the fees fixed by the board of directors.

#### CHAPTER IV ADDITIONAL INFORMATION

**11.** The documents for which the psychologist must obtain an authorization from the partnership or joint-stock company to communicate or obtain copies pursuant to subparagraph 7 of the first paragraph of section 8 are the following:

(1) if the psychologist carries on professional activities within a joint-stock company,

(a) an up-to-date register of the articles and by-laws of the joint-stock company;

(b) an up-to-date register of the securities of the joint-stock company;

(c) an up-to-date register of the shareholders of the joint-stock company;

(d) an up-to-date register of the directors of the joint-stock company;

(e) any shareholders' agreement and voting agreement, and amendments;

(f) the declaration of registration of the joint-stock company and any update; and

(g) the names and home addresses of the company's principal officers;

(2) if the psychologist carries on professional activities within a limited liability partnership,

(a) the declaration of registration of the partnership and any update;

(b) the partnership contract and amendments;

(c) an up-to-date register of the partners of the partnership;

(d) if applicable, an up-to-date register of the directors of the partnership; and

(e) the names and home addresses of the partnership's principal officers.

#### CHAPTER V TRANSITIONAL AND FINAL PROVISIONS

**12.** Psychologists who carry on professional activities within a joint-stock company constituted for that purpose before the date of coming into force of this Regulation must comply with the Regulation not later than one year after that date.

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

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## Erratum

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### Act 2010

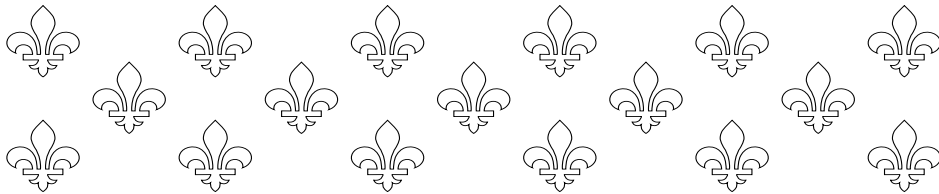
#### Bill 84

An Act to amend the Act respecting the Régie de l'énergie as regards the reliability of electric power transmission

*Gazette officielle du Québec*, Part 2, July 14, 2010, Volume 142, No. 28, page 1997.

On page 1997, Bill 84 should read :

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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

## Bill 84

(2010, chapter 8)

### **An Act to amend the Act respecting the Régie de l'énergie as regards the reliability of electric power transmission**

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**Introduced 10 March 2010**

**Passed in principle 20 April 2010**

**Passed 19 May 2010**

**Assented to 21 May 2010**

## **EXPLANATORY NOTES**

*This Act proposes that every user of an electric power transmission system under an electric power transmission service agreement be required to comply with the applicable reliability standards, and that Québec's reliability coordinator be subject to the power of inspection and investigation of the Régie de l'énergie.*

*In addition, it enables the Régie de l'énergie, when an inspection or an inquiry has revealed that a failure to comply with a reliability standard is seriously compromising the reliability of electric power transmission, to order that measures be taken to correct the situation.*

*Lastly, it broadens the Government's regulatory power to determine the maximum capacity of an electric power production facility that is eligible under a Hydro-Québec Distribution electric power purchase program by allowing that capacity to vary not only with the source of renewable energy, but also with the class of customers or producers.*

## **LEGISLATION AMENDED BY THIS ACT:**

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



## Bill 84

### AN ACT TO AMEND THE ACT RESPECTING THE RÉGIE DE L'ÉNERGIE AS REGARDS THE RELIABILITY OF ELECTRIC POWER TRANSMISSION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 44 of the Act respecting the Régie de l'énergie (R.S.Q., chapter R-6.01) is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) at any reasonable hour, enter the establishment or upon the property of the electric power carrier, of an entity described in section 85.3, of a distributor or of the reliability coordinator;”.

**2.** Section 85.3 of the Act is amended by adding the following paragraph at the end:

“(5) a person who uses an electric power transmission system under an electric power transmission service agreement with the electric power carrier or with any other carrier in Québec.”

**3.** Section 85.6 of the Act is amended by replacing paragraph 3 by the following paragraph:

“(3) particulars identifying every entity described in section 85.3.”

**4.** Section 85.12 of the Act is amended by replacing “program” by “plan”.

**5.** The Act is amended by inserting the following section after section 85.12:

**“85.12.1.** If an inspection or an inquiry reveals that an entity is in non-compliance with a reliability standard and is thus seriously compromising the reliability of electric power transmission, the Régie may order that measures be taken, at once or within the time it specifies, in order to correct the situation.”

**6.** Section 85.13 of the Act is amended

(1) by replacing “owners, operators and distributors subject” in paragraph 1 by “entities that are subject”;

(2) by replacing “guidelines” in paragraph 3 by “directives”.

**7.** Section 112 of the Act is amended by adding “or the class of customers or producers specified” at the end of subparagraph 2.3 of the first paragraph.

**8.** This Act comes into force on 21 May 2010.

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

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