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Summary

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PROVINCE OF QUÉBEC

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 10 DECEMBER 2010

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 10 December 2010

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

71 An Act to amend the Highway Safety Code and other legislative provisions (*modified title*)

114 An Act to increase the powers of oversight of the Chief Electoral Officer

118 An Act respecting the financing of political parties

123 An Act respecting the amalgamation of the Société générale de financement du Québec and Investissement Québec

125 An Act to facilitate organ and tissue donation

126 An Act to tighten the regulation of educational childcare

128 An Act to enact the Money-Services Businesses Act and to amend various legislative provisions (*modified title*)

129 An Act to amend various provisions respecting supplemental pension plans, particularly concerning payment options in the event of an employer's insolvency

131 An Act to amend the Act respecting the Régie du logement and various Acts concerning municipal affairs

228 An Act concerning Coopérative de Transport Maritime et Aérien, association coopérative

230 An Act respecting Ville de Sept-Îles and Ville de Fermont

231 An Act respecting Dixville Home Inc.

232 An Act respecting Municipalité régionale de comté des Appalaches

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

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 71
(2010, chapter 34)

An Act to amend the Highway Safety Code and other legislative provisions

Introduced 3 December 2009
Passed in principle 11 March 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act amends the Highway Safety Code to prohibit holders of a driver's licence who are 21 years of age or under from driving a road vehicle if they have any alcohol in their body. It provides for an immediate 24-hour licence suspension for bus, minibus or taxi drivers whose blood alcohol concentration is equal to or less than 80 mg of alcohol in 100 ml of blood. The same suspension is provided for in the case of drivers of a heavy vehicle carrying goods whose blood alcohol concentration is between 50 and 80 mg of alcohol in 100 ml of blood.

Administrative sanctions relating to alcohol-impaired driving are introduced for repeat offenders and multiple repeat offenders, including an immediate 90-day road vehicle seizure, a lifelong alcohol ignition interlock device requirement and a prohibition from registering and driving a vehicle.

Fines are doubled for speeding in a roadwork zone. Variable speed limits are authorized on autoroutes according to the circumstances and the time of day. Certain traffic rules are modified, in particular those governing the crossing of roadways by pedestrians. Also worthy of note is that municipalities are given the power to authorize cycling against the traffic on a one-way lane.

Certain fines are raised, and an immediate 7-day licence suspension and vehicle seizure are introduced for street racing with another vehicle, or for riding on, or holding on to, the outside of a vehicle in motion or for tolerating such a practice. For a second or subsequent offence, the suspension and seizure periods are increased to 30 days.

The Act contains various other provisions relating to certain specific situations as well as consequential, technical and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

– Automobile Insurance Act (R.S.Q., chapter A-25);

– Highway Safety Code (R.S.Q., chapter C-24.2);

– Tobacco Tax Act (R.S.Q., chapter I-2);

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

– Act to amend the Highway Safety Code and the Regulation respecting demerit points (2007, chapter 40);

– Act to again amend the Highway Safety Code and other legislative provisions (2008, chapter 14).

REGULATION AMENDED BY THIS ACT:

– Tariff for the purposes of section 194 of the Highway Safety Code, enacted by Order in Council 414-2004 dated 28 April 2004 (2004, G.O. 2, 1341A).

Bill 71

AN ACT TO AMEND THE HIGHWAY SAFETY CODE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

HIGHWAY SAFETY CODE

1. Section 4 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended by replacing "pursuant to sections 209.1, 209.2, 209.2.1 and 328.2" in the definition of "pound" by "by a peace officer on behalf of the Société".

2. Section 31.1 of the Code is amended by replacing "third paragraph" in the third paragraph by "second paragraph".

3. Section 59 of the Code is amended by replacing "the fourth or sixth paragraph of section 31.1" in the first paragraph by "the third or fifth paragraph of section 31.1".

4. Section 73 of the Code is amended by adding the following paragraph after the second paragraph:

"If the assessment is carried out in an alcohol and drug rehabilitation centre or in a hospital centre offering alcohol and drug rehabilitation services, it must be carried out by a person authorized by that centre according to the rules established by agreement between the Société and the centre and between the Société and the Association des centres de réadaptation en dépendance du Québec."

5. Section 76.1.1 of the Code is amended

(1) by replacing "as soon as allowed under the order" by ", unless the court orders otherwise, as soon as the minimum absolute prohibition period under the Criminal Code expires";

(2) by inserting ", for having a high blood alcohol concentration level" after "alcohol-related offence".

6. Section 76.1.3 of the Code is replaced by the following section:

"**76.1.3.** A new driver's licence issued to a person referred to in section 76.1.2 who has passed a comprehensive assessment or a maintenance assessment provided for in section 76.1.4.1 is subject to driving a road vehicle

mandatorily equipped with an alcohol ignition interlock device approved by the Société for either one or two years, depending on whether, during the 10 years before the cancellation or suspension, the person incurred no cancellation or suspension for an alcohol-related offence, for having a high blood alcohol concentration level or for refusing to provide a breath sample, or one such cancellation or suspension."

7. Section 76.1.4 of the Code is amended by replacing "when it is an alcohol-related offence and the person's blood alcohol concentration level at the time of the offence exceeded 160 mg in 100 ml of blood" by "having a high blood alcohol concentration level".

8. The Code is amended by inserting the following section after section 76.1.4:

"**76.1.4.1.** In order to obtain a new licence, a person is exempted from the comprehensive assessment provided for in sections 76.1.2 and 76.1.4 if, between the date of the offence and that of the conviction, the person establishes by means of a health assessment under section 73 and paragraph 4 of section 109 that the person's relationship with alcohol and drugs does not compromise the safe operation of a road vehicle corresponding to the class of licence concerned. However, the person must undergo an assessment to verify whether the status of the person's relationship with alcohol and drugs has been maintained.

A health assessment that has not been completed by the date of conviction may be continued after that date with a view to obtaining an exemption under the first paragraph.

A person who fails the maintenance assessment provided for in the first paragraph must undergo the comprehensive assessment provided for in sections 76.1.2 and 76.1.4."

9. Section 76.1.5 of the Code is replaced by the following section:

"**76.1.5.** A new licence issued to a person referred to in section 76.1.4 who has passed a comprehensive assessment or a maintenance assessment provided for in section 76.1.4.1 is subject to driving a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société for either two or three years, depending on whether, during the 10 years before the cancellation or suspension, the person incurred no cancellation or suspension for an alcohol-related offence or for having a high blood alcohol concentration level, or one cancellation or suspension for an alcohol-related offence."

10. Section 76.1.6 of the Code is replaced by the following section:

"**76.1.6.** The new licence and every subsequent licence issued to the person during the person's life is subject to driving a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société if the cancellation or suspension was incurred

(1) for an alcohol-related offence and, during the 10 years before the cancellation or suspension, the person incurred

(*a*) more than one cancellation or suspension for an alcohol-related offence; or

(*b*) both a cancellation or suspension for an alcohol-related offence and a cancellation or suspension for having a high blood alcohol concentration level or for refusing to provide a breath sample; or

(2) for having a high blood alcohol concentration level or for refusing to provide a breath sample and, during the 10 years before the cancellation or suspension, the person incurred

(*a*) more than one cancellation or suspension for an alcohol-related offence; or

(*b*) a cancellation or suspension for having a high blood alcohol concentration level or for refusing to provide a breath sample."

11. Section 76.1.7 of the Code is amended

(1) by replacing paragraph 4 by the following paragraph:

"(4) "alcohol-related offence" means any offence under section 253 or subsection 2, 2.1, 3 or 3.1 of section 255 of the Criminal Code in respect of which there is no court decision stating that the offender's blood alcohol concentration level at the time of the offence exceeded 160 mg of alcohol in 100 ml of blood;";

(2) by adding the following paragraph after paragraph 4:

"(5) "having a high blood alcohol concentration level" means any offence under section 253 or subsection 2, 2.1, 3 or 3.1 of section 255 of the Criminal Code in respect of which there is a court decision stating that the offender's blood alcohol concentration level at the time of the offence exceeded 160 mg of alcohol in 100 ml of blood."

12. Section 76.1.8 of the Code is amended by replacing "or 76.1.4" by ", 76.1.4 or 76.1.4.1".

13. Section 76.1.9 of the Code is amended

(1) by replacing "and 76.1.4" by ", 76.1.4 and 76.1.4.1";

(2) by replacing "the Fédération québécoise des centres de réadaptation pour personnes alcooliques et autres toxicomanes" by "the Association des centres de réadaptation en dépendance du Québec".

14. Section 81 of the Code is amended

(1) by striking out "health" in paragraph 1;

(2) by replacing "or 76.1.4" in paragraphs 1 to 3 by ", 76.1.4 or 76.1.4.1";

(3) by inserting "or of a person authorized by an alcohol and drug rehabilitation centre" after "designate by name" in paragraph 3.

15. Section 83 of the Code is amended by replacing "or 76.1.4" in paragraph 2 by ", 76.1.4 or 76.1.4.1".

16. Section 89 of the Code is amended by replacing "within 90 days of" by "during the six months after".

17. Section 98.1 of the Code is repealed.

18. Section 139 of the Code is replaced by the following section:

"**139.** Every person who contravenes the first paragraph of section 102 or fails to comply with a condition attached to the person's licence under section 98, other than the operation of a road vehicle mandatorily equipped with an alcohol ignition interlock device or the conditions for its use, is liable to a fine of $100 to $200.

The holder of a licence to drive a road vehicle mandatorily equipped with an alcohol ignition interlock device who fails to comply with that requirement or with the conditions for the use of the device is liable to a fine of $1,500 to $3,000."

19. Section 141 of the Code is amended by adding the following paragraph:

"Despite the first paragraph, a person who, after a period of licence cancellation or suspension of the right to obtain a licence for an alcohol-related offence under section 180, operates a road vehicle without holding a licence is liable to a fine of $1,500 to $3,000."

20. Section 143 of the Code is amended by replacing "or 191.2" by ", 191.2, 202.4 or 202.5".

21. Section 143.1 of the Code is amended by replacing "and 191.2" by "and 191.2 and subparagraph 2 of the first paragraph of section 202.4".

22. Section 144 of the Code is amended by replacing "pursuant to section 180" by "under section 180, subparagraph 1 of the first paragraph of section 202.4 or section 202.5".

23. The Code is amended by replacing the heading of Title V by the following heading:

"SANCTIONS".

24. Section 182 of the Code is amended by replacing "conditional release" by "a conditional".

25. Section 190 of the Code is amended

(1) by striking out "health" in paragraph 1;

(2) by replacing "or 76.1.4" in paragraphs 1 to 3 by ", 76.1.4 or 76.1.4.1";

(3) by inserting "or of a person authorized by an alcohol and drug rehabilitation centre" after "designate by name" in paragraph 3.

26. Section 191 of the Code is amended by replacing "or 76.1.4" by ", 76.1.4 or 76.1.4.1".

27. The Code is amended by inserting the following sections after section 202:

"**202.0.1.** If a person is convicted of an alcohol-related offence committed with a road vehicle and, during the 10 years before that conviction, was convicted at least twice of an alcohol-related offence or at least once for an offence relating to a high blood alcohol concentration level, for refusing to provide a breath sample or for failing to stop at the scene of an accident, the Société must

(1) prohibit any road vehicle registered in the name of the person from being put or put back into operation; and

(2) refuse to register any road vehicle in the person's name except if, on the day the vehicle was transferred or leased or in the 10 preceding days, the transferor or lessor had obtained confirmation from the Société, pursuant to section 611.1, that there were no grounds under this Code to prevent the transfer or leasing of the vehicle.

The Société must take the same measures if it receives a notice of conviction for an offence relating to a high blood alcohol concentration level, for refusing to provide a breath sample or for failing to stop at the scene of an accident with respect to a person who was convicted at least once, during the 10 years before that conviction, of one of those offences or of an alcohol-related offence.

The prohibition on putting or putting back into operation a road vehicle registered in the name of a person described in the first paragraph and the refusal to register a road vehicle in the person's name do not apply

(1) if the vehicle must be driven by a third party on the person's behalf as part of the person's business operations; or

(2) if the vehicle is equipped with an alcohol ignition interlock device approved by the Société, and the person has been issued a licence to drive a vehicle mandatorily equipped with such a device.

The measures prescribed in the first paragraph take effect as soon as the Société receives the notice of conviction from the clerk of a court of justice, and are lifted when the person obtains a driver's licence that is not restricted to the operation of a road vehicle mandatorily equipped with an alcohol ignition interlock device approved by the Société.

"**202.0.2.** No person who is subject to the measures prescribed in section 202.0.1 may acquire or lease a road vehicle.

"**202.0.3.** For the purposes of section 202.0.1,

(1) "failing to stop at the scene of an accident" means an offence under section 249.1 or subsection 1, 1.2 or 1.3 of section 252 of the Criminal Code;

(2) "alcohol-related offence" means an offence under section 253 or subsection 2, 2.1, 3 or 3.1 of section 255 of the Criminal Code in respect of which there is no court decision stating that the offender's blood alcohol concentration level at the time of the offence exceeded 160 mg of alcohol in 100 ml of blood;

(3) "high blood alcohol concentration level" means an offence under section 253 or subsection 2, 2.1, 3 or 3.1 of section 255 of the Criminal Code in respect of which there is a court decision stating that the offender's blood alcohol concentration level at the time of the offence exceeded 160 mg of alcohol in 100 ml of blood; and

(4) "refusing to provide a breath sample" means an offence under subsection 5 of section 254 or subsection 2.2 or 3.2 of section 255 of the Criminal Code."

28. Section 202.2 of the Code, amended by section 35 of chapter 40 of the statutes of 2007, is again amended

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

"(2) the holder of a moped or farm tractor licence only who has held that licence for less than five years and is 22 years of age or older;";

(2) by adding the following subparagraph after subparagraph 3 of the first paragraph:

"(4) the holder of a driver's licence who is 21 years of age or younger."

29. The Code is amended by inserting the following sections after section 202.2.1, enacted by section 18 of chapter 29 of the statutes of 2002:

"**202.2.1.1.** In addition to persons who are subject to section 202.2, no person may drive or have the care or control of a bus, minibus or taxi if there is any alcohol in the person's body.

"**202.2.1.2.** As for heavy vehicles other than those referred to in section 202.2.1.1, no person may drive or have the care or control of such a heavy vehicle with a blood alcohol concentration level equal to or in excess of 50 mg of alcohol in 100 ml of blood.

The prohibition does not apply to

(1) a combination of road vehicles having a net mass of over 3,000 kg consisting of a passenger vehicle drawing a camping trailer or a tent-trailer;

(2) a motor home; or

(3) a heavy vehicle having a net mass of 3,000 kg or less not requiring the display of safety marks under a regulation made under section 622."

30. Section 202.3 of the Code is amended by inserting ", 202.2.1.1 or 202.2.1.2" after "202.2" in the first paragraph.

31. Section 202.4 of the Code is amended

(1) by striking out "or 202.2.1" in subparagraph 2 of the first paragraph;

(2) by adding the following subparagraphs after subparagraph 2 of the first paragraph:

"(3) for 24 hours, the licence of any person who is subject to the prohibition under section 202.2.1.1 and drives or has the care or control of a road vehicle to which the prohibition is applicable

(*a*) if a screening test conducted under section 202.3 or in accordance with the Criminal Code reveals the presence of any alcohol in the person's body; or

(*b*) if the person's blood alcohol concentration level is shown, by a breath test conducted by means of an approved instrument in accordance with the Criminal Code, to be equal to or less than 80 mg of alcohol in 100 ml of blood;

"(4) for 24 hours, the licence of any person not described in subparagraph 1 who is subject to the prohibition under section 202.2.1.2 and drives or has the care or control of a road vehicle to which the prohibition is applicable

(*a*) if, during a screening test conducted under section 202.3 or in accordance with the Criminal Code, the screening device shows a blood alcohol concentration level equal to or in excess of 50 mg of alcohol in 100 ml of blood; or

(*b*) if the person's blood alcohol concentration level is shown, following a breath test conducted by means of an approved instrument in accordance with the Criminal Code, to be equal to or in excess of 50 mg of alcohol in 100 ml of blood.";

(3) by adding the following paragraph:

"The suspension imposed on a person who is subject to the prohibition under section 202.2.1.1 or 202.2.1.2 applies only with respect to vehicles to which that prohibition is applicable."

32. Section 202.6 of the Code is amended by replacing "section 202.4" by "section 202.1.4, 202.1.5 or 202.4".

33. Section 209.1 of the Code is amended by adding the following paragraphs:

"The holder of a probationary licence or a driver's licence authorizing the operation of a road vehicle mandatorily equipped with an alcohol ignition interlock device who drives a road vehicle that is not equipped with such a device or who does not comply with the conditions for the use of the device established by the Société is also subject to this section.

The same applies to a person referred to in section 76.1.12 if the person drives or has the care or control of a road vehicle without complying with the conditions specified in that section."

34. Section 209.2 of the Code, amended by section 22 of chapter 14 of the statutes of 2008, is again amended by replacing "and 328.1" by ", 328.1, 422.1 and 434.2".

35. Section 209.2.1 of the Code is amended

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

"(1) has a blood alcohol concentration level that is shown, by a breath test carried out by means of an approved instrument in accordance with the Criminal Code, to be in excess of 160 mg of alcohol in 100 ml of blood and if the person's licence was not cancelled for an alcohol-related offence, for a high blood

alcohol concentration level, for refusal to give a breath sample or for failure to stop at the scene of an accident during the 10 years before the seizure; or

"(2) fails to comply with the peace officer's demand under section 254 of the Criminal Code without a reasonable excuse and if the person's licence was not cancelled for an alcohol-related offence, for a high blood alcohol concentration level, for refusal to give a breath sample or for failure to stop at the scene of an accident during the 10 years before the seizure.";

(2) by adding the following paragraph:

"This section applies on public highways, on highways under the administration of or maintained by the Ministère des Ressources naturelles et de la Faune, on private roads open to public vehicular traffic and on land occupied by shopping centres or other land where public traffic is allowed."

36. The Code is amended by inserting the following sections after section 209.2.1:

"**209.2.1.1.** On behalf of the Société, a peace officer shall immediately seize and impound a road vehicle for 90 days at the owner's expense if the person driving or having the care or control of the vehicle

(1) has a blood alcohol concentration level that is shown, by a breath test carried out by means of an approved instrument in accordance with the Criminal Code, to be in excess of 80 mg of alcohol in 100 ml of blood and if the person's licence was cancelled for an alcohol-related offence, for a high blood alcohol concentration level, for refusal to give a breath sample or for failure to stop at the scene of an accident during the 10 years before the seizure; or

(2) fails to comply with the peace officer's demand under section 254 of the Criminal Code without a reasonable excuse and if the person's licence was cancelled for an alcohol-related offence, for a high blood alcohol concentration level, for refusal to give a breath sample or for failure to stop at the scene of an accident during the 10 years before the seizure.

The second and third paragraphs of section 209.2.1 apply to a seizure under this section.

"**209.2.1.2.** Any seizure of a road vehicle under this Code is for 90 days if a measure provided for in section 202.0.1 was imposed, at any time during the 10 years before the seizure, on the person driving or having the care or control of the road vehicle.

"**209.2.1.3.** For the purposes of sections 209.2.1 and 209.2.1.1, the cancellation of a licence also includes the suspension of the right to obtain one under section 180, and the definitions in section 202.0.3 apply."

37. Section 209.11 of the Code is amended

(1) by replacing subparagraphs *c* and *d* of subparagraph 2 of the first paragraph by the following subparagraph:

"(*c*) could not reasonably have foreseen, in the case of a seizure under section 209.2.1 or 209.2.1.1, that the driver would commit the offence that gave rise to the seizure.";

(2) by striking out the second and third paragraphs.

38. The Code is amended by inserting the following section after section 209.11:

"**209.11.1.** When a road vehicle is seized on two or more grounds, the owner may recover the vehicle by proving that all the conditions for recovering the vehicle applicable to the situation are met. A judge with exclusive jurisdiction over any of the grounds for the seizure may rule on the merits of all of them.

A judge of the Court of Québec has exclusive jurisdiction over an application for release from seizure under sections 422.5 and 434.6."

39. Section 209.14 of the Code is replaced by the following section:

"**209.14.** Sections 209.11, 209.12 and 209.13 must not be interpreted as preventing the Société from authorizing the recovery of a vehicle by its owner, on payment of the towing and impounding costs incurred by the custodian, provided the owner proves to the Société that the conditions set out in section 209.11 are met.

If a vehicle driven by its owner is seized under section 209.2.1 or 209.2.1.1, recovery of the vehicle may only be authorized if the owner proves to the Société that he did not commit the offence that gave rise to the seizure and pays the costs referred to in the first paragraph.

If the vehicle is seized on two or more grounds none of which is under the exclusive jurisdiction of a judge of the Court of Québec, recovery of the vehicle may only be authorized if the owner proves to the Société that all the conditions for recovering the vehicle that are applicable to the situation are met.

The refusal by the Société to authorize recovery of the vehicle under the second paragraph may be contested before the Administrative Tribunal of Québec, according to the terms set out in sections 202.6.11 and 202.6.12.

The rules set out in sections 202.6.3 to 202.6.5 and 202.6.7 to 202.6.10 apply, with the necessary modifications, to an application for the recovery of a vehicle made under this section."

40. Section 209.17 of the Code is amended by replacing "the period of seizure" by "a period of seizure".

41. Section 209.18 of the Code is amended by replacing "$2,500" in the first paragraph by "$3,000".

42. Section 209.19 of the Code is amended by replacing "$2,500" in the first paragraph by "$3,000".

43. Section 209.22.2 of the Code is repealed.

44. Section 210 of the Code is amended

(1) by striking out ", except trailers and semi-trailers whose net mass does not exceed 900 kg," in the first paragraph;

(2) by adding the following sentence at the end of the first paragraph: "However, trailers and semi-trailers whose net mass does not exceed 900 kg and detachable axles are not required to be provided with such a number."

45. Section 232 of the Code is amended

(1) by striking out "amber" in paragraph 4;

(2) by striking out "red" in paragraph 5;

(3) by adding the following paragraph:

"Any equipment or object placed on a bicycle that blocks a prescribed reflector must be provided with a reflector that complies with the first paragraph."

46. Section 245 of the Code is replaced by the following section:

"**245.** Every trailer or semi-trailer operated without an independent brake system that can stop the vehicle if the trailer or semi-trailer becomes separated from the towing vehicle must be equipped with a chain, a cable or any other sufficiently solid safety device installed so that the trailer or semi-trailer and the towing vehicle would remain attached were the coupling device to break.

The towing vehicle must carry the necessary equipment for attaching the chain, cable or safety device of the trailer or semi-trailer."

47. Section 246 of the Code is replaced by the following section:

"**246.** Every motorcycle or moped must be equipped with at least one brake system acting on the front and rear wheels.

The brake system must be sufficiently powerful to stop the vehicle quickly in case of emergency and to hold it stationary."

48. Section 250.2 of the Code is amended

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

"No person may repair a module after the air bag has deployed or a seat belt with a pretensioner that has been activated. No person other than a person authorized by the manufacturer of the vehicle concerned may reprogram or repair an air bag or seat belt electronic control module.";

(2) by adding the following paragraph:

"The Société may, on the conditions it determines, exempt a person from the prohibitions of this section, except the prohibition to repair an air bag module and the prohibition to repair a seat belt."

49. Section 250.3 of the Code is replaced by the following section:

"**250.3.** No person may remove or cause to be removed an air bag module installed in a road vehicle, or render it inoperative except by means of a device installed by the manufacturer of the vehicle before its sale to the first user. The prohibition does not apply if the air bag module must be removed or rendered inoperative for the purpose of adapting a road vehicle for a handicapped person.

The Société may, on the conditions it determines and for reasons of safety, exempt a person from the prohibition."

50. Section 328 of the Code is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

"(1) of less than 60 km/h or more than 100 km/h on autoroutes, unless

(*a*) an illuminated, variable message signal shows the minimum or maximum rate of speed authorized on a certain part of the autoroute, according to the circumstances and the time of day, such as weather conditions or rush-hour; or

(*b*) a special permit authorizing the use of an outsized vehicle requires that the vehicle be driven at a lower speed;".

51. Section 328.1 of the Code is amended

(1) by replacing "to any person who" in the portion of the first paragraph before subparagraph 1 by "of any person who";

(2) by inserting "or off-highway vehicle" after "road vehicle" in subparagraphs 1, 2 and 3 of the first paragraph;

(3) by inserting "or more" after "100 km/h" in subparagraph 3 of the first paragraph.

52. Section 328.2 of the Code is amended

(1) by inserting "road" before "vehicle";

(2) by adding the following paragraph:

"Sections 209.3 to 209.10 apply to the seizure, with the necessary modifications."

53. Section 328.3 of the Code is amended by replacing the second paragraph by the following paragraph:

"The second paragraph of section 209.11 and sections 209.11.1 and 209.12 to 209.15 apply to the seizure, with the necessary modifications."

54. Section 328.4 of the Code is amended by replacing the second paragraph by the following paragraph:

"The first paragraph of section 202.6.3, sections 202.6.4 and 202.6.5, the second paragraph of section 202.6.6, sections 202.6.7 and 202.6.9 to 202.6.12 and section 209.11.1 apply to the seizure, with the necessary modifications."

55. Section 328.5 of the Code is amended

(1) by adding the following sentence at the end of the first paragraph: "This paragraph applies, under the same conditions, to the driver of an off-highway vehicle.";

(2) by replacing "subparagraph 1" in the first paragraph by "subparagraph 1, 2 or 3";

(3) by adding ", as applicable" at the end of the first paragraph.

56. Section 329 of the Code is amended by replacing "subparagraph 5" in the first paragraph by "subparagraphs 1 and 5".

57. Section 395 of the Code is replaced by the following section:

"**395.** No person shall drive a road vehicle in which the seat belt or an air bag provided for the driver or for the seat occupied by a passenger is missing or has been modified or rendered inoperative."

58. Section 401 of the Code is amended

(1) by replacing "in which" in the first paragraph by "carrying";

(2) by replacing "a taxi driver" at the end of the first sentence of the second paragraph by "taxi, bus or minibus drivers in the performance of their duties".

59. Section 408 of the Code is amended by replacing "a white signal or a flashing pedestrian light" by "a steady, white signal representing a walking figure, or a flashing pedestrian light".

60. The Code is amended by inserting the following sections after section 422:

"**422.1.** A peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the licence issued under section 61 of any person driving a road vehicle in contravention of section 422.

If the person does not hold a licence or holds a licence issued by another administrative authority, the peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the person's right to obtain a learner's licence, a probationary licence or a driver's licence.

The suspension period is increased to 30 days in the case of a person who was convicted of an offence under section 422 during the 10 years before the suspension.

"**422.2.** The driver of a road vehicle whose licence or right to obtain a licence is suspended under section 422.1 may obtain the lifting of the suspension by a judge of the Court of Québec acting in chambers in civil matters after proving that he was not driving the vehicle in a race with another vehicle or for a wager or a stake.

"**422.3.** Sections 202.6.1 and 202.7, the second paragraph of section 209.11 and section 209.12 apply, with the necessary modifications, to the licence suspension under section 422.1.

"**422.4.** In the case of a person who contravenes section 422, the peace officer, on behalf of the Société and at the owner's expense, shall immediately seize the road vehicle and impound it for seven days if the person was not convicted of an offence under section 422 during the 10 years before the licence suspension under section 422.1, or for 30 days if the person was convicted of such an offence during that period.

Sections 209.3 to 209.10 apply to the seizure, with the necessary modifications.

"**422.5.** The owner of the road vehicle seized may, on the authorization of a judge of the Court of Québec acting in chambers in civil matters, recover his vehicle

(1) if he could not reasonably have foreseen that the driver would drive the vehicle in a race with another vehicle or for a wager or a stake, or had not consented to the driver being in possession of the vehicle; or

(2) if he was the driver and was not driving the vehicle in a race with another vehicle or for a wager or a stake.

If the person obtains the release of the seizure under the first paragraph, the Société lifts the suspension of the licence or of the right to obtain a licence imposed under section 422.1.

The second paragraph of section 209.11 and sections 209.11.1, 209.12, 209.13 and 209.15 apply, with the necessary modifications."

61. Section 434 of the Code is replaced by the following section:

"**434.** No person may hang on to, or be pulled or pushed by, a moving road vehicle, and no driver may tolerate such a practice."

62. The Code is amended by inserting the following sections after section 434:

"**434.0.1.** No person may hang on to, or be pulled or pushed by, a moving power-assisted bicycle, and no cyclist may tolerate such a practice.

"**434.1.** Sections 433 and 434 apply on public highways, on highways under the administration of or maintained by the Ministère des Ressources naturelles et de la Faune, on private roads open to public vehicular traffic and on land occupied by shopping centres or other land where public traffic is allowed.

"**434.2.** A peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the licence issued under section 61 of any person who contravenes section 433 or 434.

If the person does not hold a licence or holds a licence issued by another administrative authority, the peace officer shall immediately suspend, on behalf of the Société and for a period of seven days, the person's right to obtain a learner's licence, a probationary licence or a driver's licence.

The suspension period is increased to 30 days in the case of a person who was convicted of an offence under section 433 or 434 during the 10 years before the suspension.

"**434.3.** A person, other than the driver, whose licence or right to obtain a licence is suspended under section 434.2 may obtain the lifting of the suspension by a judge of the Court of Québec acting in chambers in civil matters after proving that he did not contravene section 433 or 434.

The driver of a road vehicle whose licence or right to obtain a licence is suspended under section 434.2 may obtain the lifting of the suspension by a judge of the Court of Québec acting in chambers in civil matters after proving that he did not tolerate the contravention of section 433 or 434.

"**434.4.** Sections 202.6.1 and 202.7, the second paragraph of section 209.11 and section 209.12 apply, with the necessary modifications, to a licence suspension under section 434.2.

"**434.5.** In the case of a person who contravenes section 433 or 434, the peace officer, on behalf of the Société and at the owner's expense, shall immediately seize the road vehicle and impound it for seven days if the person was not convicted of an offence under section 433 or 434 during the 10 years before the licence suspension under section 434.2, or for 30 days if the person was convicted of such an offence during that period.

Sections 209.3 to 209.10 apply to the seizure, with the necessary modifications.

"**434.6.** The owner of the road vehicle seized may, on the authorization of a judge of the Court of Québec acting in chambers in civil matters, recover his vehicle

(1) if he was not one of the offenders and could not reasonably have foreseen that a person would contravene section 433 or 434; or

(2) if he was one of the offenders, other than the driver, and establishes that he did not contravene section 433 or 434;

(3) if he was the driver of the vehicle and did not tolerate the contravention of section 433 or 434.

If the person obtains the release of the seizure under the first paragraph, the Société lifts the suspension of the licence or of the right to obtain a licence imposed under section 434.2.

The second paragraph of section 209.11 and sections 209.11.1, 209.12, 209.13 and 209.15 apply, with the necessary modifications."

63. Section 437.1 of the Code is amended by replacing the first paragraph by the following paragraph:

"**437.1.** No person may draw a trailer or semi-trailer without using an appropriate coupling device. Furthermore, the lights and brake system and the

chain, cable or other safety device on the trailer or semi-trailer must be connected to the towing vehicle and be in proper working condition. The safety device of a trailer or semi-trailer that is not equipped with an independent brake system must, in addition, be installed in such a way that the trailer or semi-trailer follows the path of the towing vehicle and the drawbar would not touch the ground were the coupling device to break."

64. Section 444 of the Code is amended

(1) by replacing "feux de piétons" in the first paragraph in the French text by "feux pour piétons";

(2) by replacing "a white signal" in the second paragraph by "a steady, white signal representing a walking figure";

(3) by replacing "an orange signal" in the third paragraph by "a steady, orange hand signal";

(4) by adding the following paragraph:

"When facing a flashing signal with a countdown display, a pedestrian may only start crossing the roadway if he is able to reach the other sidewalk or the safety zone before the signal changes to the orange hand signal."

65. Section 445 of the Code is amended by replacing "feux de piétons" in the French text by "feux pour piétons".

66. Section 451 of the Code is replaced by the following section:

"**451.** A pedestrian must cross the roadway perpendicularly to its axis. A pedestrian may cross the roadway diagonally only if authorized to do so by a peace officer or school crossing guard, or by a sign or signal.

An exclusive pedestrian phase, that is, an interval during which the light signals at an intersection allow protected pedestrian crossing in all directions, is a sign or signal authorizing pedestrians to cross the roadway diagonally."

67. Section 473 of the Code is amended

(1) by inserting "Subject to the conditions the Government may set by regulation," at the beginning of the third paragraph;

(2) by replacing "road vehicle that levels, clears or marks the roadway of a public highway" in the third paragraph by "public utility vehicle";

(3) by adding the following paragraph:

"For the purposes of the third paragraph, a public utility vehicle is a road vehicle designed and equipped to provide essential services to a community,

including a vehicle used for the maintenance of public highways and of parks, for garbage collection or for the maintenance of a power distribution system."

68. Section 474 of the Code is amended

(1) by inserting the following sentence after the second sentence of the third paragraph: "If the equipment extends beyond the front of the vehicle, the light must be amber.";

(2) by replacing "If the equipment extends" in the third paragraph by "If part of the equipment extends";

(3) by inserting ", as the case may be," after "precede or follow the vehicle" in the third paragraph;

(4) by inserting the following paragraphs after the third paragraph:

"The equipment is considered to extend beyond the tool vehicle when it has a point or a sharp edge that extends by at least 30 cm beyond the front or the rear of the vehicle. The starting point for measuring the part of the equipment that extends beyond the front or the rear of the tool vehicle is the end of the mast or boom to which the fork, bucket or other tool is attached.

No person may drive a tool vehicle on a public highway unless the vehicle's equipment is in a retracted position.";

(5) by replacing "The third paragraph does not" in the last paragraph by "The third and fifth paragraphs do not".

69. Section 487 of the Code is amended

(1) by replacing "Subject to section 492, every" by "Every";

(2) by replacing "except where that space is obstructed or when he is about to make a left turn" by "except when about to make a left turn, when travel against the traffic is authorized or in cases of necessity."

70. Section 492 of the Code is repealed.

71. Section 497 of the Code is replaced by the following section:

"**497.** Subject to a by-law adopted by a municipality, no person may, in residential areas where the speed limit is 50 km/h or less, conduct snow-removal operations on a public highway with a snowblower whose net mass exceeds 900 kg except under the supervision of a person walking in front of the vehicle."

72. Section 506 of the Code, amended by section 100 of chapter 14 of the statutes of 2008, is again amended

(1) by replacing "426 to 436" in the first paragraph by "428 to 432, 435, 436";

(2) by replacing "480 to 482" in the first paragraph by "480, 481, 482";

(3) by striking out the second paragraph.

73. The Code is amended by inserting the following section after section 509.2:

"**509.3.** Every person who contravenes section 434.0.1 commits an offence and is liable to a fine of $300 to $500."

74. Section 510 of the Code is amended

(1) by inserting "426, 427," after "423," in the first paragraph;

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

"Every driver of a bus or minibus used for the transportation of school children who contravenes section 426 is guilty of an offence and is liable to a fine of $200 to $375 and, in the case of a second or subsequent offence, to a fine of $250 to $750."

75. Section 512 of the Code is replaced by the following section:

"**512.** Every person who contravenes section 327, 422, 433 or 434 is guilty of an offence and is liable to a fine of $1,000 to $3,000.

Every driver of a road vehicle who contravenes the second paragraph of section 468 is guilty of an offence and is liable to a fine of $700 to $2,100."

76. The Code is amended by inserting the following section after section 514:

"**514.1.** Every person who drives a road vehicle that has been impounded under section 328.2, 422.4 or 434.5 is guilty of an offence and is liable to a fine of $600 to $2,000."

77. Section 516 of the Code is amended by adding the following paragraph:

"Every person who

(1) drives a road vehicle at a speed of 39 km/h or less over the posted speed limit in a zone where the maximum authorized speed limit is 60 km/h or less,

(2) drives a road vehicle at a speed of 49 km/h or less over the posted speed limit in a zone where the maximum authorized speed limit is over 60 km/h but not over 90 km/h or

(3) drives a road vehicle at a speed of 59 km/h or less over the posted speed limit in a zone where the maximum authorized speed limit is over 90 km/h

is liable to double the fine set out in the first paragraph for an offence under section 303.2."

78. Section 516.1 of the Code is amended by inserting "or more" after "100 km/h" in subparagraph 3 of the first paragraph.

79. Section 517.1 of the Code is amended by adding the following paragraph:

"Subparagraph 6 of the first paragraph applies only if the axle load or the total loaded mass exceeds the normally authorized load limit, that is, the load limit permitted in the absence of restrictions determined under section 419 or under a special permit."

80. Section 519.15.3 of the Code is amended

(1) by replacing "and is in proper working order," in the first paragraph by ", is in proper working order and allows the programming data to be read";

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

"Moreover, an operator may not allow a heavy vehicle to be driven if it is fitted with any form of technology that allows it to travel at a speed exceeding 105 km/h despite the activation of a speed limiter or that makes it possible to conceal the programming data allowing such a speed to be attained."

81. Section 519.21.2 of the Code is amended by replacing "519.12, 519.67.1, 519.70 and 519.73" by "519.70, 519.71 and 638.1".

82. Section 521 of the Code, amended by section 59 of chapter 2 of the statutes of 2004 and section 72 of chapter 14 of the statutes of 2008, is again amended by inserting "detachable axles, vehicles having a net mass of 4,000 kg or less that originally had an open truck box and a tailgate and that are registered as passenger vehicles within the meaning of the registration regulations, sport utility vehicles having a net mass of 4,000 kg or less," after "except" in subparagraph 5 of the first paragraph.

83. Section 552 of the Code is amended by inserting ", 76.1.4.1" after "76.1.4" in the first paragraph.

84. Section 588 of the Code is amended by striking out ", 519.56" in the first paragraph.

85. Section 592.3 of the Code is amended

(1) by replacing "is deemed to be the owner of the vehicle" in the first paragraph by "or a person who borrows a courtesy vehicle from a garage operator or a test vehicle from a dealer is deemed to be the owner of the vehicle";

(2) by inserting "or lent" after "rented out" in the second paragraph;

(3) by inserting "or borrower" after "renter" in the second paragraph.

86. The heading of Division III of Chapter II of Title X of the Code is replaced by the following heading:

"PROCEEDINGS BY MUNICIPALITY OR NATIVE ENTITY".

87. Section 597 of the Code is amended

(1) by adding ", excluding any part of the territory covered by an agreement entered into under the second paragraph" at the end of the first paragraph;

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

"Likewise, where an agreement has been entered into for that purpose with the Government, penal proceedings for such an offence may be instituted

(1) by a Native community, represented by its band council, if the offence is committed in the territory assigned to that community and in respect of which a police service agreement has been entered into under section 90 of the Police Act (chapter P-13.1);

(2) by a Cree community, represented by its band council, if the offence is committed in a part of the territory described in section 102.6 of that Act and specified in the agreement;

(3) by the Naskapi Village, if the offence is committed in the territory described in section 99 of that Act;

(4) by the Cree Regional Authority, if the offence is committed in the territory described in section 102.6 of that Act, excluding any part of the territory covered by an agreement entered into with a Cree community under this paragraph;

(5) by the Kativik Regional Government, if the offence is committed in the territory referred to in section 369 of the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1)."

88. Sections 601.1 and 621 of the Code are amended by replacing "community" by "entity".

89. Section 622 of the Code is amended by inserting the following subparagraph after subparagraph 6 of the first paragraph:

"(6.1) set rules for the training of persons working in the dangerous substances transportation industry;".

90. Section 624 of the Code is amended by striking out subparagraph 20 of the first paragraph.

91. Section 626 of the Code, amended by section 100 of chapter 14 of the statutes of 2008, is again amended

(1) by adding the following subparagraphs after subparagraph 15 of the first paragraph:

"(16) permit bicycles to travel against the traffic, under the conditions it determines, on all or part of a one-way traffic lane of a public highway it maintains, provided such permission is clearly shown by signs or signals at the intersections of the traffic lane;

"(17) authorize, on all or part of a road it maintains, the supervisor in front of a snowblower to travel in a road vehicle.";

(2) by adding the following paragraph:

"Any by-law or ordinance under subparagraph 17 shall, within 15 days after it is passed, be sent to the Minister of Transport, accompanied by a report describing and illustrating the highways and parts of highways where the supervisor in front of a snowblower is authorized to travel in a road vehicle. The report must state what inspections were carried out to ensure that the authorization does not compromise public safety. The by-law or ordinance comes into force 90 days after it is passed unless it is the subject of a notice of disallowance published by the Minister in the *Gazette officielle du Québec*."

92. Section 636.3 of the Code is amended

(1) by striking out "by a highway controller" in the first paragraph;

(2) by replacing "an impounded road vehicle" in the third paragraph by "a road vehicle impounded by a highway controller".

93. Section 648 of the Code is amended by replacing "Native community" by "Native entity".

94. Section 648.2 of the Code is amended

(1) by replacing "Native community" in the first paragraph by "Native entity having entered into an agreement under the second paragraph of section 597";

(2) by replacing "communities" in the second paragraph by "entities".

95. Section 660 of the Code is amended by replacing "The suspension ends one year after the date of coming into force of the requirement established by section 66.1 to have successfully completed a driving course." in the first paragraph by "The suspension ends on 16 January 2012."

AUTOMOBILE INSURANCE ACT

96. Section 6 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by striking out the second paragraph.

97. Section 62 of the Act is replaced by the following section:

"**62.** The death of a victim by reason of an accident gives entitlement to the following compensation:

(1) the lump sum death benefit provided for in Division II; and

(2) the reimbursement, to the person who is entitled to the death benefit provided for in subparagraph 1, of the expenses incurred by the person to receive up to 15 hours of psychological treatment, on the conditions and up to the maximum amounts set out for such treatment in the regulation under paragraph 15 of section 195.

This section applies to the extent that the victim complies with the rules set out in sections 7 to 11."

TOBACCO TAX ACT

98. Section 15.0.1 of the Tobacco Tax Act (R.S.Q., chapter I-2) is amended

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

"**15.0.1.** Despite section 72 of the Act respecting the Ministère du Revenu (chapter M-31), penal proceedings for an offence under section 14.3 may be instituted by a local municipality if the offence was committed within its territory, excluding any part of the territory covered by an agreement entered into under the second paragraph. Such proceedings may be brought before the competent municipal court.";

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

"Likewise, where an agreement has been entered into for that purpose with the Government, penal proceedings for such an offence may be instituted

(1) by a Native community, represented by its band council, if the offence is committed in the territory assigned to that community and in respect of which a police service agreement has been entered into under section 90 of the Police Act (chapter P-13.1);

(2) by a Cree community, represented by its band council, if the offence is committed in a part of the territory described in section 102.6 of that Act and specified in the agreement;

(3) by the Naskapi Village, if the offence is committed in the territory described in section 99 of that Act;

(4) by the Cree Regional Authority, if the offence is committed in the territory described in section 102.6 of that Act, excluding any part of the territory covered by an agreement entered into with a Cree community under this paragraph;

(5) by the Kativik Regional Government, if the offence is committed in the territory referred to in section 369 of the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1).”

ACT RESPECTING ADMINISTRATIVE JUSTICE

99. Section 25 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by inserting “2.1.2,” after “2.1.1,” in the second paragraph.

100. Section 119 of the Act is amended by adding the following paragraph:

“(8) a proceeding under section 209.14 of the Highway Safety Code following a decision to deny recovery of a road vehicle.”

101. Section 3 of Schedule I to the Act is amended by inserting the following paragraph after paragraph 2.1.1:

“(2.1.2) proceedings under section 209.14 of the Highway Safety Code;”.

ACT TO AMEND THE HIGHWAY SAFETY CODE AND THE REGULATION RESPECTING DEMERIT POINTS

102. Section 31 of the Act to amend the Highway Safety Code and the Regulation respecting demerit points (2007, chapter 40) is amended by replacing the first paragraph of proposed section 191.2 that it replaces by the following paragraphs:

“**191.2.** If the number of demerit points entered in the file of a person who holds a learner’s licence, probationary licence, moped licence or farm tractor licence is equal to or greater than the number prescribed by regulation under paragraph 9.3 of section 619, the Société cancels the licence, or suspends the person’s right to obtain a licence the person does not hold, if the person

(1) is the holder of a learner's licence without being or having been the holder of a driver's licence;

(2) is the holder of a probationary licence;

(3) has been the holder of a moped licence or farm tractor licence for less than five years; or

(4) is the holder of a restricted licence issued following the cancellation of a probationary licence.

If the person has held a moped or farm tractor licence only, the person may not claim, for the purposes of subparagraph 1 of the first paragraph, to have been the holder of a driver's licence.

The suspension provided for in the first paragraph also applies to a person who has never been the holder of a driver's licence or who has held a moped or farm tractor licence only for less than five years.

If a person is the holder of a learner's licence or probationary licence, the person may not invoke, to elude the application of the first paragraph, the fact of having been the holder of a moped or farm tractor licence for five or more years."

ACT TO AGAIN AMEND THE HIGHWAY SAFETY CODE AND OTHER LEGISLATIVE PROVISIONS

103. Section 20 of the Act to again amend the Highway Safety Code and other legislative provisions (2008, chapter 14) is repealed.

TARIFF FOR THE PURPOSES OF SECTION 194 OF THE HIGHWAY SAFETY CODE

104. Section 1 of the Tariff for the purposes of section 194 of the Highway Safety Code, enacted by Order in Council 414-2004 dated 28 April 2004 (2004, G.O. 2, 1341A) is amended by replacing "Native community" by "Native entity".

FINAL PROVISIONS

105. On the date of coming into force of section 18 of chapter 29 of the statutes of 2002,

(1) sections 202.2.1.1 and 202.2.1.2 of the Highway Safety Code (R.S.Q., chapter C-24.2), enacted by section 29, are repealed;

(2) section 202.3 of the Code is amended by striking out ", 202.2.1.1 or 202.2.1.2";

(3) section 202.4 of the Code is amended

(*a*) by replacing "202.2.1.1" in subparagraph 3 of the first paragraph by "202.2.1", and by replacing "under section 202.2.1.1 or 202.2.1.2" in the fourth paragraph by "under section 202.2.1";

(*b*) by striking out subparagraph 4 of the first paragraph;

(4) the second paragraph of section 202.4 of the Code, enacted by section 20 of chapter 29 of the statutes of 2002, is repealed.

106. On the date of coming into force of paragraph 3 of section 3 of chapter 39 of the statutes of 2005, as regards subparagraph *a* of paragraph 3 of section 2 of the Act respecting owners, operators and drivers of heavy vehicles (R.S.Q., chapter P-30.3), section 202.2.1.2 of the Highway Safety Code, enacted by section 29, is amended

(1) by replacing subparagraph 1 of the second paragraph by the following subparagraph:

"(1) a combination of road vehicles, consisting of a passenger vehicle drawing a camping trailer or tent-trailer, having a total combined gross vehicle weight rating of 4,500 kg or more;";

(2) by replacing "having a net mass of 3,000 kg or less" in subparagraph 3 of the second paragraph by "having a gross vehicle weight rating of 4,500 kg or more".

107. On the date of coming into force of paragraph 3 of section 1 of chapter 14 of the statutes of 2008,

(1) section 202.2.1.1 of the Highway Safety Code, enacted by section 29, is amended by striking out ", minibus";

(2) section 401 of the Highway Safety Code, amended by section 58, is amended by replacing ", bus or minibus" in the second paragraph by "or bus".

108. The provisions of this Act come into force on 10 December 2010, except

(1) section 95, which comes into force on 17 January 2011;

(2) sections 57, 59, 63 to 65, 67 to 69, 79, 80 and 92, which come into force on 9 January 2011;

(3) section 51 as regards paragraph 2, section 55, section 62 as regards section 434.0.1 of the Highway Safety Code, section 72 as regards

paragraphs 1 and 3, and sections 73 to 75 and 77, which come into force on 10 March 2011; and

(4) section 4, section 5 as regards paragraph 2, sections 6 to 12, section 13 as regards paragraph 1, sections 14, 15, 17 to 23, 25 to 39, 41, 42, 53, 54, 60 and 61, section 62 as regards sections 434.1 to 434.6 of the Highway Safety Code, sections 66, 71, 76 and 83, section 91 as regards subparagraph 17 of the first paragraph and the fifth paragraph of section 626 of the Highway Safety Code, and sections 99 to 102, which come into force on 30 June 2012, unless the Government sets an earlier date or earlier dates for the coming into force of those provisions.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 114
(2010, chapter 35)

An Act to increase the powers of oversight of the Chief Electoral Officer

Introduced 6 October 2010
Passed in principle 2 November 2010
Passed 9 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act amends the Election Act and other legislative provisions to increase the powers of oversight of the Chief Electoral Officer.

Under the new provisions, a framework governing the payment of contributions to authorized entities, whether political parties, party authorities, independent Members or independent candidates, is introduced into the Election Act. Any contribution of $100 or more intended for an authorized entity is to be paid to the Chief Electoral Officer for remittal to the entity concerned. The amount of contributions that must be made by means of a cheque or other negotiable instrument is reduced to $100, and the name of every contributor and the amount of the contribution are to be made public.

Prescription for penal proceedings is set at five years, or ten years in the case of certain offences, from the date the offence was committed. The period for keeping the receipts and other vouchers used to prepare the financial reports of authorized entities, and the declarations, invoices, receipts and other vouchers on which returns of election expenses are based is also increased to five years. The powers of the Chief Electoral Officer are more specifically defined with regard to the financial affairs of authorized entities. The same measures are introduced into the Act respecting elections and referendums in municipalities and the Act respecting school elections.

The Act respecting elections and referendums in municipalities is amended to provide that municipalities with a population of 5,000 or less are to send to the Chief Electoral Officer at the latter's request a list of persons who made an election contribution of more than $100.

Lastly, the Act respecting the Ministère du Revenu is amended to allow the Chief Electoral Officer to have access to information contained in a tax record for verification, examination and inquiry purposes.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);

– Act respecting school elections (R.S.Q., chapter E-2.3);

– Election Act (R.S.Q., chapter E-3.3);

– Taxation Act (R.S.Q., chapter I-3);

– Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

Bill 114

AN ACT TO INCREASE THE POWERS OF OVERSIGHT OF THE CHIEF ELECTORAL OFFICER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ELECTION ACT

1. Section 91 of the Election Act (R.S.Q., chapter E-3.3) is amended

(1) by replacing "to each" in the first paragraph by "for the benefit of each";

(2) by replacing "to one or another" in the first paragraph by "for the benefit of one or another".

2. Section 93 of the Act is replaced by the following section:

"**93.** A contribution shall be paid to no one except the Chief Electoral Officer for the benefit of an authorized entity.

However, a cash contribution of less than $100 or a contribution described in the second or third paragraph of section 91 may be paid or made to the official representative of the authorized entity or the persons designated in writing by the official representative in accordance with section 92."

3. The Act is amended by inserting the following section after section 93:

"**93.1.** As soon as the Chief Electoral Officer receives a contribution, the Chief Electoral Officer shall inform the authorized entity for whose benefit the contribution has been paid.

Not later than 30 working days after a contribution is cashed, the Chief Electoral Officer shall post on the Chief Electoral Officer's website the name of the elector, the city and postal code of the elector's domicile, the amount paid and the name of the authorized party, the authorized independent Member or the authorized independent candidate for whose benefit the contribution was paid."

4. Section 95 of the Act is amended

(1) by replacing "over $200" by "$100 or more";

(2) by striking out "or a transfer of funds to an account held by the official representative of the authorized entity for which it is intended" at the end.

5. Section 96 of the Act is amended by replacing the first paragraph by the following paragraph:

"**96.** For every contribution paid in accordance with section 93, the Chief Electoral Officer shall issue a receipt annually to the contributor."

6. Section 97 of the Act is replaced by the following section:

"**97.** The cheque or order of payment must be made to the order of the Chief Electoral Officer and specify the authorized entity for whose benefit it is made."

7. Section 99 of the Act is replaced by the following section:

"**99.** The contributions cashed by the Chief Electoral Officer for the benefit of an authorized entity are deposited in a single account held by the official representative of the authorized party, authorized independent Member or authorized independent candidate, as applicable, at a Québec branch of a bank, trust company or financial services cooperative.

The contributions paid for the benefit of a party authority may, however, be deposited in another single account held for that purpose by the official representative of the authorized party.

The contributions described in the second paragraph of section 93 and the funds collected in accordance with this division must be deposited at a Québec branch of a bank, trust company or financial services cooperative.

Any contribution made by means of a cheque or order of payment without sufficient funds may be recovered by the Chief Electoral Officer out of the contributions deposited under the first paragraph."

8. Section 100 of the Act is amended by replacing the first paragraph by the following paragraph:

"**100.** The Chief Electoral Officer shall return to the contributor any contribution or part of a contribution made contrary to this division. For that purpose, the authorized entity must, as soon as the fact is known, remit such a contribution to the Chief Electoral Officer."

9. The Act is amended by inserting the following section after the heading of Division V of Chapter II of Title III:

"**112.1.** The Chief Electoral Officer shall have access to all books, accounts and documents pertaining to the financial affairs of the authorized entities.

At the request of the Chief Electoral Officer, an authorized entity must furnish any information required for the purposes of this division within 30 days."

10. Section 113 of the Act is amended by replacing the first paragraph by the following paragraph:

"**113.** The official representative of every authorized party must, not later than 30 April each year, submit to the Chief Electoral Officer a financial report for the preceding fiscal year in the form prescribed by the Chief Electoral Officer. The report must include a balance sheet, an income statement and a cash flow statement prepared in accordance with generally recognized accounting principles."

11. Section 114 of the Act is amended

(1) by striking out paragraph 4;

(2) by replacing paragraph 5 by the following paragraph:

"(5) the number of electors having paid a contribution and the total sum of contributions."

12. Section 115 of the Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

"(3) the name and full domiciliary address of each elector having paid one or more contributions and the total amount of those contributions;".

13. Section 118 of the Act is amended

(1) by replacing "two years" by "five years";

(2) by striking out "the receipts issued for contributions received as well as";

(3) by replacing "sections 90 and 95" by "section 90, the second paragraph of section 93 and sections 95 and 95.1".

14. Section 126 of the Act is amended by striking out the third paragraph.

15. Section 414 of the Act is amended in the third paragraph in the French text

(1) by inserting "d'une succursale québécoise" after "compte";

(2) by striking out "ayant un bureau au Québec".

16. Section 436 of the Act is amended by replacing "two years" in the first paragraph by "five years".

17. Section 487 of the Act is amended by inserting the following paragraph after paragraph 3:

"(3.1) receive, and verify the compliance of, the contributions of electors and remit them to the authorized entity concerned;".

18. Section 569 of the Act is amended by replacing the second paragraph by the following paragraph:

"Such proceedings are prescribed five years after the date the offence was committed. However, proceedings relating to an offence under section 551.1 or 553.1, paragraph 1 or 3 of section 554, paragraph 3 of section 555, paragraph 4 of section 556 or section 557 or 558 are prescribed 10 years after the date the offence was committed."

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

19. Section 368 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by adding the following paragraph at the end:

"At the request of the Chief Electoral Officer, parties or candidates must furnish any information required for the purposes of this chapter within 30 days."

20. Section 436 of the Act is amended by replacing "over $100" in the first paragraph by "$100 or more".

21. Section 480 of the Act is amended

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

"(2) the total amount of contributions of less than $100 and the number of contributors;";

(2) by replacing paragraph 5 by the following paragraph:

"(5) the total amount of contributions of $100 or more and the number of contributors."

22. Section 481 of the Act is amended by replacing "the sum of which exceeds $100" in subparagraph 3 of the first paragraph by "totalling $100 or more".

23. The heading of Division VII of Chapter XIII of Title I of the Act is replaced by the following heading:

"KEEPING AND TRANSMISSION OF DOCUMENTS BY THE TREASURER".

24. Section 500 of the Act is amended by replacing "$100 or less" by "less than $100".

25. Section 501 of the Act is amended

(1) by inserting the following paragraph before the first paragraph:

"**501.** The treasurer shall keep the reports, returns, invoices, receipts and other vouchers necessary to ascertain compliance with sections 430 and 436 for five years after they are received.";

(2) by replacing "two years" in the first paragraph by "five years".

26. Section 512.4.1 of the Act is amended by replacing "more than $100" in the first paragraph by "$100 or more".

27. Section 513.1 of the Act is amended

(1) by replacing "more than $100" in the second paragraph by "$100 or more";

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

"The treasurer shall send the lists received in accordance with this section to the Chief Electoral Officer, at the request of and in the manner prescribed by the Chief Electoral Officer."

28. Section 612 of the Act is amended by replacing "over $100" in paragraph 2 by "$100 or more".

29. Section 648 of the Act is replaced by the following section:

"**648.** Penal proceedings for an offence referred to in section 647 are prescribed five years after the date the offence was committed. However, proceedings relating to an offence under any of sections 586 to 588 and 589 to 594 are prescribed 10 years after the date the offence was committed."

30. Section 659 of the Act is amended by replacing "$100 or less" in the second paragraph by "less than $100".

ACT RESPECTING SCHOOL ELECTIONS

31. Section 206.3 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by adding the following paragraphs at the end:

"The Chief Electoral Officer shall have access to all books, accounts and documents relating to the financial affairs of candidates.

At the request of the Chief Electoral Officer, candidates must provide any information required for the purposes of this chapter within 30 days."

32. Section 206.23 of the Act is amended by replacing "over $100" by "$100 or more".

33. Section 209 of the Act is amended by replacing "amounting to more than $100" in the second paragraph by "totalling $100 or more".

34. Section 209.1 of the Act is amended

(1) by replacing "$100 or less" in paragraph 2 by "less than $100";

(2) by replacing "over $100" in paragraph 4 by "$100 or more".

35. Section 209.7 of the Act is amended by replacing "$100 or less" by "less than $100".

36. Section 209.8 of the Act is amended

(1) by inserting the following paragraph before the first paragraph:

"**209.8.** The director general of the school board shall keep the reports, returns and other documents required by this chapter for five years following their receipt.";

(2) by replacing "two years" in the first sentence by "five years".

37. Section 219.9 of the Act is amended by replacing "exceeding $100" in paragraph 2 by "of $100 or more".

38. Section 223.4 of the Act is replaced by the following section:

"**223.4.** Penal proceedings for an offence under this chapter are prescribed five years after the date the offence was committed. However, proceedings relating to an offence under any of paragraphs 1 to 4.1 of section 212, paragraph 4 of section 213, paragraphs 1, 2, 3, 4 and 10 of section 214, paragraphs 1 and 3 of section 215 and sections 216, 217 and 219 are prescribed 10 years after the date the offence was committed."

39. Section 282 of the Act is amended by replacing "$100 or less" in the sixth paragraph by "less than $100".

TAXATION ACT

40. Section 776 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing "to the official representative" in subparagraph *b* of the first paragraph by "for the benefit".

ACT RESPECTING THE MINISTÈRE DU REVENU

41. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting the following subparagraph after subparagraph *w* of the second paragraph:

"(*x*) the Chief Electoral Officer, in respect of verifications, examinations and inquiries under the Election Act (chapter E-3.3), the Referendum Act (chapter C-64.1), the Act respecting elections and referendums in municipalities (chapter E-2.2) and the Act respecting school elections (chapter E-2.3). A request for information by the Chief Electoral Officer is subject to the rules provided in section 69.0.0.6."

42. Section 69.6 of the Act is amended by replacing "*i* or *s*" by "*i*, *s* or *x*".

43. Section 69.8 of the Act is amended by replacing "*i* and *s*" in the first paragraph by "*i*, *s* and *x*".

FINAL PROVISION

44. With the exception of sections 18, 29, 38 and 41 to 43, which come into force on 10 December 2010, this Act comes into force on 1 May 2011, unless the Government sets an earlier date for its coming into force.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 118
(2010, chapter 36)

An Act respecting the financing of political parties

Introduced 20 October 2010
Passed in principle 30 November 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act introduces several measures concerning the financing of political parties. It increases the allowance paid to political parties authorized under the Election Act.

The Act changes the way in which tax credits for political contributions are applied and increases the thresholds for computing tax credits at the municipal level.

Lastly, the Act introduces a few other measures of a more technical nature.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);

– Act respecting school elections (R.S.Q., chapter E-2.3);

– Election Act (R.S.Q., chapter E-3.3);

– Taxation Act (R.S.Q., chapter I-3).

Bill 118

AN ACT RESPECTING THE FINANCING OF POLITICAL PARTIES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ELECTION ACT

1. Section 82 of the Election Act (R.S.Q., chapter E-3.3) is amended

(1) by replacing "$0.50" by "$0.82";

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

"The amount provided in the first paragraph is adjusted on 1 January each year according to the change in the average Consumer Price Index for the preceding year, based on the index established for the whole of Québec by Statistics Canada. If the amount computed on the basis of the index includes a decimal, the decimal is rounded off to the higher digit if it is equal to or greater than 5 and, if not, to the lower digit. The Chief Electoral Officer shall publish the results of the adjustment in the *Gazette officielle du Québec*."

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

"However, a contribution or part of a contribution made contrary to this division need not be remitted to the Chief Electoral Officer if five years have elapsed since the contribution was made."

3. Section 127 of the Act is amended

(1) by replacing "House leader" in the first paragraph by "leader of the party in the House";

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

"If there is no leader of the party in the House, the Member designated by the leader of the party loses the right to sit and to vote, in accordance with the first paragraph."

4. Section 442 of the Act is amended

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

"If there is no leader of the party in the House, the Member designated by the leader of the party loses the right to sit and to vote, in accordance with the first paragraph.";

(2) by replacing "or the leader of the party in the House" in the second paragraph by ", the leader of the party in the House or the Member referred to in the second paragraph".

5. The Act is amended by inserting the following section after section 566:

"**566.1.** If the leader of a political party, another of its officers, its official representative, a delegate of its official representative, its official agent or a deputy of its official agent commits, allows or tolerates an offence under this Act, the political party is presumed to have committed the same offence."

6. Section 569 of the Act is amended by adding the following sentence at the end of the first paragraph: "Section 18 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) does not apply to the Chief Electoral Officer."

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

7. Section 440 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by adding the following paragraph after the second paragraph:

"However, a contribution or part of a contribution made contrary to this chapter need not be remitted to the contributor if five years have elapsed since the contribution was made."

8. Section 638 of the Act is replaced by the following section:

"**638.** If the leader of a political party, another of its officers, its official representative, a delegate of its official representative, its official agent or a deputy of its official agent commits, allows or tolerates an offence under this Act, the political party is presumed to have committed the same offence.

The first paragraph applies, with the necessary modifications, to a ticket."

9. Section 647 of the Act is amended by adding the following paragraph at the end:

"Section 18 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) does not apply to the Chief Electoral Officer."

ACT RESPECTING SCHOOL ELECTIONS

10. Section 206.26 of the Act respecting school elections (R.S.Q., chapter E-2.3) is replaced by the following section:

"**206.26.** Every contribution made contrary to this chapter shall, not later than 30 days after the fact is known, be returned to the contributor.

Despite the first paragraph, if the contributor cannot be found or has been convicted of contravening any of sections 206.19 to 206.21 and 206.23, the contribution or the amount at which it is evaluated shall be remitted to the director general of the school board to be deposited into the general fund of the school board.

However, a contribution or part of a contribution made contrary to this chapter need not be remitted to the contributor if five years have elapsed since the contribution was made."

11. Section 223.3 of the Act is amended by adding the following paragraph at the end:

"Section 18 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) does not apply to the Chief Electoral Officer."

TAXATION ACT

12. Section 776 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing the first paragraph by the following paragraph:

"**776.** An individual who is an elector may deduct from the tax otherwise payable by the individual for a taxation year under this Part an amount equal to the aggregate of

(*a*) in relation to any contribution of money made by the individual in the taxation year to the official representative of a party or independent candidate authorized to receive such a contribution under the Act respecting elections and referendums in municipalities (chapter E-2.2), the aggregate of

i. 85% of the lesser of $50 and the aggregate of all amounts each of which is such a contribution, and

ii. 75% of the amount by which $50 is exceeded by the lesser of $200 and the aggregate described in subparagraph i; and

(*b*) in relation to any contribution of money made by the individual in the taxation year for the benefit of a political party, party authority, independent Member or independent candidate authorized to receive such a contribution under the Election Act (chapter E-3.3), the aggregate of

i. 85% of the lesser of $100 and the aggregate of all amounts each of which is such a contribution, and

ii. 75% of the amount by which $100 is exceeded by the lesser of $400 and the aggregate described in subparagraph i."

FINAL PROVISION

13. This Act comes into force on 10 December 2010, except section 12, which comes into force as of the 2011 taxation year.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 123
(2010, chapter 37)

An Act respecting the amalgamation of the Société générale de financement du Québec and Investissement Québec

Introduced 28 October 2010
Passed in principle 17 November 2010
Passed 9 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act provides for the amalgamation of the Société générale de financement du Québec and Investissement Québec and their continuance as Investissement Québec, a joint stock company, whose mission is, among other things, to contribute to the prosperity of Québec in accordance with the Government's economic policy.

The Company is to provide financial services, administer financial assistance programs and carry out any other mandate it is given by the Government. It may also establish subsidiaries to exercise its activities as a provider of services. The powers given to the Company and its subsidiaries, as well as the restrictions to those powers, are described.

The Company is prohibited from acquiring control of another legal person or a partnership without the Government's authorization. As well, the limit beyond which the Company's participation in a legal person or a partnership requires the authorization of the Minister is set.

The Government is given the power to develop financial assistance programs and determine one-time financial assistance, to be administered by the Company, for the realization of projects that are of major economic significance for Québec. It may also give the Company any other mandate.

Rules are introduced with regard to the Company's responsibilities in the administration of assistance programs and the carrying out of the mandates it receives from the Government. The Government's responsibility with regard to these programs and mandates is established.

The Economic Development Fund is established to administer these programs and carry out these mandates. The sums that make up the Fund and the sums that can be taken out of it, in particular the remuneration paid to the Company to administer the programs and carry out the mandates, are specified.

The rules for the organization and operation of the Company, including the composition of its board of directors, are defined and it is established that the Act respecting the governance of state-owned

enterprises applies to the Company. The rules relating to the financing of the Company, to the preparation of its strategic plan, to its accounts and to its reports are also defined.

La Financière du Québec is dissolved.

Technical, consequential and transitional amendments are made to implement the amalgamation of the Société générale de financement du Québec and Investissement Québec and the dissolution of La Financière du Québec.

LEGISLATION AMENDED BY THIS ACT:

– Financial Administration Act (R.S.Q., chapter A-6.001);

– Act respecting assistance for the development of cooperatives and non-profit legal persons (R.S.Q., chapter A-12.1);

– Act respecting assistance for tourist development (R.S.Q., chapter A-13.1);

– Act to promote the capitalization of small and medium-sized businesses (R.S.Q., chapter A-33.01);

– Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02);

– Taxation Act (R.S.Q., chapter I-3);

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

– Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);

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

– Act respecting Québec business investment companies (R.S.Q., chapter S-29.1);

– Act to implement certain provisions of the Budget Speech of 30 March 2010, reduce the debt and return to a balanced budget in 2013-2014 (2010, chapter 20).

REGULATION AMENDED BY THIS ACT:

– Regulation respecting the selection of foreign nationals (R.R.Q., chapter I-0.2, r. 4).

LEGISLATION REPLACED BY THIS ACT:

– Act respecting Investissement Québec and La Financière du Québec (R.S.Q., chapter I-16.1);

– Act respecting the Société générale de financement du Québec (R.S.Q., chapter S-17).

Bill 123

AN ACT RESPECTING THE AMALGAMATION OF THE SOCIÉTÉ GÉNÉRALE DE FINANCEMENT DU QUÉBEC AND INVESTISSEMENT QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

CONSTITUTION

1. A joint stock company to be known as "Investissement Québec" is constituted.

The Company is a mandatary of the State.

2. The property of the Company forms part of the domain of the State, but the execution of the obligations of the Company may be levied against its property.

The Company binds none but itself when it acts in its own name, except when it administers a program or carries out a mandate referred to in Division III of Chapter II.

3. The head office of the Company is located in the territory of Ville de Québec; the Company may, however, move its head office to any other place with the approval of the Government.

Notice of the location of the head office is published in the *Gazette officielle du Québec.*

CHAPTER II

MISSION AND ACTIVITIES

DIVISION I

MISSION

4. The mission of the Company is to contribute to the economic development of Québec in accordance with the economic policy of the Government. Its goal is to stimulate the growth of investments and support employment in all regions of Québec.

In order to carry out its mission, the Company supports the creation and development of enterprises of all sizes through adapted financial solutions and investments, in a complementary fashion with its partners. In accordance with the mandate it is given by the Government, the Company conducts foreign investment prospecting and carries out strategic interventions.

5. In pursuing its mission, the Company

(1) provides financial services;

(2) administers any financial assistance programs developed by the Government under this Act or designated by the Government; and

(3) carries out any mandate it is given by the Government.

6. The Company may establish any subsidiary whose object is limited to exercising activities the Company itself can exercise. The same applies to a subsidiary.

The subsidiary has the same powers as the Company in exercising its activities, unless its constituting act withdraws or restricts those powers. The subsidiary exercises its activities in accordance with the provisions of this Act that apply to it.

The establishment of a subsidiary by the Company or one of its subsidiaries must be authorized by the Government, on the conditions it determines, except if the purpose of the subsidiary is a special investment or financing.

7. For the purposes of this Act, a legal person or a partnership controlled by the Company is a subsidiary of the Company.

A legal person is controlled by the Company when the Company holds, directly or through legal persons the Company controls, more than 50% of the voting rights attached to the equity securities of the legal person or is in a position to elect a majority of its directors.

A limited partnership is controlled by the Company when the Company or a legal person the Company controls is the general partner of the partnership; any other partnership is controlled by the Company when the Company holds, directly or through legal persons the Company controls, more than 50% of the equity securities.

8. The Company and its subsidiaries may not, without the Government's authorization, by themselves or jointly in groups of two or more, acquire control of a legal person or a partnership.

The Company and its subsidiaries may not, without the Minister's authorization, acquire, by themselves or jointly in groups of two or more, more

than 30% of the equity securities of a partnership or equity securities of a legal person carrying more than 30% of the voting rights.

The first and second paragraphs do not apply when the acquisition of control or the acquisition of equity securities results from the establishment of a subsidiary. Nor does the second paragraph apply to the acquisition of equity securities valued at less than $10,000,000.

The Government or, as the case may be, the Minister may subject the authorization to conditions.

DIVISION II

FINANCIAL SERVICES

9. The Company determines the range of financial services it will offer enterprises.

The following financial services must be included:

(1) loans and suretyships;

(2) investment; and

(3) technical services, in particular in the field of financial analysis, credit arrangement and portfolio management.

The services offered by the Company may include any other financial service, in accordance with the policy directions provided for in its strategic plan.

10. In establishing what financial services it offers, the Company tries to complement the services offered by other public bodies, financial institutions in the private sector and other partners.

The Company offers enterprises seed capital and development capital, among other things.

11. The financial services of the Company are available to profit-seeking enterprises as well as cooperatives and other social economy enterprises.

12. The Company may

(1) acquire equity securities issued by a legal person or a partnership;

(2) acquire any other securities; and

(3) acquire a right of ownership in the assets of an enterprise.

The Company may not invest more than 2.5% of the net value of its assets without the Government's authorization.

The acquisition of a right of ownership of more than 30% of the net value of the assets of an enterprise must be authorized by the Minister; when that right applies to more than 50% of the net value of the assets of the enterprise, the acquisition must be authorized by the Government.

The Government or, as the case may be, the Minister may subject the authorization to conditions.

The third paragraph does not apply if the acquisition of a right of ownership in the assets of an enterprise results from the acquisition of equity securities of a partnership, if that acquisition is authorized under section 8 or if such an authorization is not required under that section.

13. The board of directors of the Company must adopt an investment policy that establishes

(1) return on investment targets;

(2) risk tolerance limits; and

(3) qualifying assets.

14. The Company acts in a complementary fashion with its partners when making investments and makes those investments under normal conditions of profitability, in particular, given the mission of the Company, the nature of the financial service offered, the average cost of government loans and the economic spinoff expected from them.

15. The Company may invest in any group of persons or assets whose object is to finance enterprises, whatever its legal form, grant loans to the group, and guarantee the payment of the principal and interest of its loans and the performance of its other obligations.

16. The Company may make a financial service dependent on the conditions or on compliance with the contractual obligations it determines.

The Company may also require a surety or financial compensation for the risk associated with a financial service.

17. If an enterprise fails to comply with the conditions on which the Company's financial service is granted or to fulfil its obligations towards the Company, the Company may either suspend the financial service or terminate it.

For the same reasons, the Company may increase or reduce its obligations towards the enterprise, change the terms of those obligations, or take any other step it considers necessary to preserve its rights.

DIVISION III

PROGRAMS, OTHER MANDATES AND THE ECONOMIC DEVELOPMENT FUND

§1. — *Programs and other mandates*

18. The Company must administer the financial assistance programs developed by the Government, as well as any other financial assistance program the Government may indicate.

19. When the Government gives it the mandate to do so, the Company must grant and administer any one-time financial assistance the Government determines for the realization of projects that are of major economic significance for Québec.

20. The Company must advise the Minister on any matter the latter submits to it in connection with business investment, development or financing.

21. The Company must carry out any other mandate given to it by the Government.

22. When administering a financial assistance program or carrying out a mandate given to it by the Government, the Company has, in addition to the powers conferred on it under this division, the powers conferred on it by this Act to provide financial services, unless the Government restricts or withdraws those powers.

However, when carrying out a mandate given to it by the Government, the Company may not change the amount of financial assistance determined by the Government or the terms of the assistance, if the costs borne by the Government would increase as a result.

23. The Government is responsible for the financial assistance programs administered by the Company, for the financial assistance granted by the Company in carrying out its mandate, for the other mandates it gives the Company, and for the revenues and losses of the Economic Development Fund.

The Company answers to the Government, however, for the administration of these programs and for the mandates the Government gives it to carry out.

The Company is required to comply with the Minister's directives in administering the financial assistance programs and carrying out the mandates given to it by the Government.

The Company keeps a detailed register of the directives it receives under this section during a fiscal year; the register is made public when the Company's report of its activities for that year is laid before the National Assembly.

24. The Company provides the Minister with any information relating to the administration of the financial assistance programs and the carrying out of the mandates given to it by the Government, according to the form, content and timetable determined by the Minister.

§2. — *Economic Development Fund*

25. The Economic Development Fund is established within the Ministère du Développement économique, de l'Innovation et de l'Exportation.

The Fund is to be dedicated to administering and paying any financial assistance provided under a program developed or designated by the Government and any financial assistance granted by the Company in carrying out a mandate it is given by the Government, and to carrying out any other mandate the Government gives the Company.

26. The Fund is to be made up of the following sums:

(1) the revenues and other sums collected by the Company under the financial assistance programs developed or designated by the Government or in carrying out a mandate it is given by the Government;

(2) the sums paid into the Fund by a minister out of the appropriations allocated for that purpose by Parliament;

(3) the sums paid into the Fund by the Minister of Finance under sections 29 and 30;

(4) the gifts, legacies and other contributions paid into the Fund to further the achievement of its objects;

(5) the value of the securities and other assets acquired with the sums making up the Fund; and

(6) the revenues generated by the assets making up the Fund.

27. After consultation with the Company, the Government sets a remuneration, for the Company, it deems reasonable for the administration by the Company of the financial assistance programs the Government develops or designates under this Act, and for the carrying out by the Company of the mandates given to it by the Government.

The Company takes the remuneration out of the Fund.

When setting the Company's remuneration, the Government takes into account the revenue from the investment of the sums paid to the Company or to one of its subsidiaries under the Regulation respecting the selection of foreign nationals (R.R.Q., chapter I-0.2, r. 4).

The Government determines, in the same manner, the other sums allocated to the administration of the financial assistance programs and the carrying out of the mandates it gives the Company that the Company may take out of the Fund.

The Government may set the conditions on which that remuneration and those sums may be taken out of the Fund. The Minister then ensures compliance with the conditions set by the Government.

The Government may delegate the powers conferred on it by this section to the Minister.

28. The Company may take out of the Fund the sums needed to pay the financial assistance provided under a program developed or designated by the Government or the sums needed to pay the financial assistance granted by the Company in carrying out a mandate the Government gives it.

29. The Company may, as manager of the Fund, borrow from the Minister of Finance sums taken out of the Financing Fund established under the Act respecting the Ministère des Finances (R.S.Q., chapter M-24.01).

Any amount paid into the Economic Development Fund under the terms of such a loan is repayable out of that Fund.

30. The Minister of Finance may, with the authorization of the Government and subject to the conditions it determines, advance to the Economic Development Fund sums taken out of the Consolidated Revenue Fund.

At the request of the Minister of Finance and subject to the conditions the Minister determines, the Company advances to the Consolidated Revenue Fund, on a short-term basis, any part of the sums paid into the Economic Development Fund that is not required for its operations.

Any advance paid to a fund is repayable out of that fund.

31. The management of the sums that make up the Fund is entrusted to the Company. The sums are credited to the Company and deposited with the financial institutions the Company determines.

The books of account of the Fund are kept by the Company. The accounts of the Fund are separate from any other account.

The Company has the powers provided by sections 79 and 80 of the Financial Administration Act (R.S.Q., chapter A-6.001) necessary for the sound and efficient management of the Fund.

32. Any surplus accumulated by the Fund is paid into the Consolidated Revenue Fund on the dates and to the extent determined by the Government.

33. Sections 20, 21, 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act apply to the Fund, with the necessary modifications.

For the purposes of those provisions, the Company replaces the Minister referred to in them.

Fund management procedures are determined by the Conseil du trésor.

34. The books and accounts of the Fund are audited every year by the Auditor General.

The fiscal year of the Fund ends on 31 March.

35. Despite any provision to the contrary, the Minister of Finance must, in the event of a deficiency in the Consolidated Revenue Fund, pay out of the Economic Development Fund the sums required for the execution of a judgment against the State that has become res judicata.

CHAPTER III

ORGANIZATION AND OPERATION

36. The Company is administered by a board of directors consisting of 15 members, including the chair and the president and chief executive officer.

37. The Government appoints the members of the board of directors, other than the chair and the president and chief executive officer, based on the expertise and experience profiles approved by the board.

Board members are appointed for a term of up to four years.

38. The Government appoints the chair of the board of directors for a term of up to five years.

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

40. A vacancy on the board of directors is filled in accordance with the rules of appointment to the board.

Absence from the number of board meetings determined in the by-laws of the Company, in the cases and circumstances specified, constitutes a vacancy.

41. Board members other than the president and chief executive officer receive no remuneration except in the cases, on the conditions and to the extent determined by the Government. They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

42. On the recommendation of the board of directors, the Government appoints the president and chief executive officer based on the expertise and experience profile approved by the board.

The president and chief executive officer is appointed for a term of up to five years.

The board determines the remuneration and other conditions of employment of the president and chief executive officer in keeping with the parameters set by the Government.

43. If the board of directors does not recommend a candidate for the position of president and chief executive officer in accordance with section 42 within a reasonable time, the Government may appoint the president and chief executive officer after notifying the board members.

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

45. The quorum at meetings of the board of directors is the majority of its members, including the president and chief executive officer or the chair.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the chair of the meeting has a casting vote.

46. The members of the board of directors may waive notice of a meeting. The attendance of the members at a meeting of the board constitutes a waiver of notice, unless the members are present for the sole purpose of contesting the legality of the meeting.

47. The board of directors of the Company may sit anywhere in Québec.

48. Unless otherwise provided in the by-laws, the members of the board of directors may, if all consent, participate in a meeting of the board by means of equipment enabling all participants to communicate directly with one another.

In such a case, they are deemed to be present at the meeting.

49. A written resolution, signed by all the members of the board of directors entitled to vote on that resolution, has the same value as if adopted during a meeting of the board of directors.

A copy of the resolution must be kept with the minutes of meetings of the board of directors or other equivalent record book.

50. The minutes of a meeting of the board of directors, approved by the board and certified true by the chair of the board, the president and chief executive officer or any other person so authorized by the by-laws, are authentic, as are the documents and copies emanating from the Company or forming part of its records if signed or certified true by one of those persons.

51. No act or document binds the Company or may be attributed to it unless it is signed by the chair of the board of directors, the president and chief executive officer or, to the extent determined in the by-laws of the Company, by another member of the Company's personnel.

The by-laws may provide for subdelegation and outline the mechanics of it.

Unless otherwise provided in the by-laws, a signature may be affixed on a document by any means.

52. The Company may, in its by-laws, determine a framework of operation for the board of directors, establish an executive committee or any other committee, and delegate the exercise of its powers to such a committee.

The by-laws may also provide for the delegation of the powers of the board of directors to a member of the Company's personnel.

53. In addition to the committees it must establish under the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02), the board of directors must establish a risk management committee.

The committee must include one member with accounting expertise and another with financial expertise.

At least one committee member must be a member of one of the professional orders of accountants governed by the Professional Code (R.S.Q., chapter C-26).

54. The risk management committee must make sure that a risk management process is put in place.

Paragraph 4 of section 24 of the Act respecting the governance of state-owned enterprises does not apply to the Company's audit committee.

55. The secretary and the other members of the Company's personnel are appointed in accordance with the staffing plan established by the board of directors.

Subject to the provisions of a collective agreement, the Company determines the standards and scales of remuneration and the employment benefits and other conditions of employment of the members of its personnel in accordance with the conditions defined by the Government.

56. A member of the Company's personnel who has a direct or indirect interest in an enterprise causing the personnel member's personal interest to conflict with that of the Company must, on pain of forfeiture of office, disclose the interest in writing to the president and chief executive officer.

57. If a member of the Company's personnel is sued by a third party for an act carried out in the exercise of the functions of office, the Company assumes the person's defence and pays any damages awarded as compensation, unless the person committed a gross fault or a personal fault separable from those functions.

In penal or criminal proceedings, however, the Company pays the defence costs of a member of its personnel only if the person is acquitted or if the Company judges that the person acted in good faith.

58. The Company fulfils the obligations set out in section 57 of this Act and in sections 10 and 11 of the Act respecting the governance of state-owned enterprises in respect of any person who acted at its request as a director of a legal person of which the Company is a shareholder or a creditor.

59. Sections 142, 159 to 162, 179 and 184, subparagraph *b* of paragraph 2 of section 185 and sections 188 and 189 of the Companies Act (R.S.Q., chapter C-38) do not apply to the Company.

No by-law of the Company is subject to ratification by the shareholder.

CHAPTER IV

FINANCING

60. The authorized capital of the Company is $4,000,000,000 divided into 4,000,000 shares of a par value of $1,000 each.

Only the Minister of Finance may subscribe shares in the Company.

61. After the board of directors of the Company has made its offer, the Minister of Finance may, with the authorization of the Government, subscribe shares in the Company.

62. Following a reduction in the share capital of the Company and a corresponding reimbursement of capital to the Minister of Finance pursuant to the Act respecting the reduction of the share capital of legal persons established in the public interest and of their subsidiaries (R.S.Q., chapter R-2.2.1), the Minister of Finance is authorized to subscribe, with the authorization of the Government and subject to the conditions it determines, shares of the Company the value of which may not exceed the amount of the reimbursement.

63. The shares of the Company are allotted to the Minister of Finance and form part of the domain of the State.

The Minister of Finance pays, out of the Consolidated Revenue Fund, the par value of the shares allotted to the Minister of Finance; the certificates are then issued.

64. The dividends paid by the Company are set by the Government.

65. The Company may not, without the authorization of the Government,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or in contravention of the terms determined by the Government;

(3) acquire, hold or dispose of securities or other assets in excess of the limits or in contravention of the terms determined by the Government; or

(4) accept a gift or legacy to which a charge or condition is attached.

The amounts, limits and terms determined under this section may also apply to the group formed by the Company and its subsidiaries or to one or more members of that group.

This section does not apply to the contracts or other commitments entered into by the Company in administering a financial assistance program or carrying out a mandate given it by the Government.

66. The Government may, subject to the conditions and procedures it determines,

(1) guarantee the payment of the principal and interest of any loan contracted by the Company or one of its subsidiaries and the performance of their obligations;

(2) make any commitment in relation to the realization or financing of a project of the Company or one of its subsidiaries;

(3) authorize the Minister of Finance to advance to the Company or one of its subsidiaries any amount considered necessary for the pursuit of its mission.

The sums required for the purposes of this section are taken out of the Consolidated Revenue Fund.

67. In accordance with the policy directions set out in its strategic plan, the Company may determine a tariff of administrative, standby and professional fees for the financial services it provides to enterprises.

68. Except for the activities the Company may finance out of the Economic Development Fund, the Company finances its operations out of the revenue it derives from the financial services it offers to enterprises, the fees it charges and the other monies to which it is entitled.

CHAPTER V

STRATEGIC PLAN, ACCOUNTS AND REPORTS

69. The Company establishes, according to the form, content and timetable determined by the Government, a strategic plan that must include its range of financial services, its investment policy and the activities of its subsidiaries.

The Minister submits the strategic plan to the Government for approval, after consultation with the Minister of Natural Resources and Wildlife and the Minister of Agriculture, Fisheries and Food and other ministers as regards the sectors of activity under their respective responsibility.

70. The Minister lays the strategic plan of the Company before the National Assembly within 15 days after approval of the plan or, if the National Assembly is not sitting, within 15 days of resumption.

The competent parliamentary committee of the National Assembly examines the plan and for that purpose hears the representatives designated by the Company.

After the competent committee has examined the plan, the Government specifies any amendments the Company must make.

The Minister lays the amended plan before the National Assembly.

71. A strategic plan approved by the Government applies until it is replaced by another plan that has been so approved.

72. The fiscal year of the Company ends on 31 March.

73. Within 30 days after the beginning of its fiscal year, the Company sends its annual financial forecasts to the Minister of Finance and the Minister.

74. Not later than 30 June each year, the Company must file its financial statements and a report of its activities for the preceding fiscal year with the Minister.

The financial statements and report must contain all the information required by the Minister. The report must also contain the information the directors are required to provide annually to the shareholders under the Companies Act.

75. The Company must in addition give the Minister any information he or she requires concerning the Company and its subsidiaries.

76. The Minister lays the report and financial statements of the Company before the National Assembly within 15 days of receiving them or, if the Assembly is not sitting, within 15 days of resumption.

77. The books and accounts of the Company are audited jointly every year by the Auditor General and an external auditor appointed by the Government. The remuneration of the external auditor is paid out of the revenues of the Company. The joint report must accompany the Company's report of its activities.

The Auditor General's report on the Economic Development Fund must be submitted with the report of activities.

78. The Auditor General may conduct a value-for-money audit of the Company and its subsidiaries, including the Economic Development Fund, without the prior concurrence required under the second paragraph of section 28 of the Auditor General Act (R.S.Q., chapter V-5.01).

CHAPTER VI

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

79. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by striking out "Investissement Québec".

80. Schedule 3 to the Act is amended

(1) by striking out "Société générale de financement du Québec";

(2) by inserting "Investissement Québec" in alphabetical order.

ACT RESPECTING ASSISTANCE FOR THE DEVELOPMENT OF COOPERATIVES AND NON-PROFIT LEGAL PERSONS

81. Section 5 of the Act respecting assistance for the development of cooperatives and non-profit legal persons (R.S.Q., chapter A-12.1) is replaced by the following section:

"**5.** The body designated by the Government administers any financial assistance program established under this Act. It advises undertakings on their financing."

82. Section 7 of the Act is amended by replacing "make an application therefor to La Financière du Québec in the form determined by La Financière du Québec" by "apply for it to the body designated under section 5 in the manner determined by the body".

83. Section 8 of the Act is amended by replacing "La Financière du Québec" by "the body designated under section 5".

84. Section 10 of the Act is amended by replacing "La Financière du Québec" by "The body designated under section 5".

85. Section 12 of the Act is amended by replacing "La Financière du Québec" by "the body designated under section 5".

86. Section 13 of the Act is amended by replacing "La Financière du Québec" by "the body designated under section 5".

ACT RESPECTING ASSISTANCE FOR TOURIST DEVELOPMENT

87. Section 1 of the Act respecting assistance for tourist development (R.S.Q., chapter A-13.1) is amended by replacing the definition of "the Société" by the following definition:

""the Société" means the body designated by the Government;".

ACT TO PROMOTE THE CAPITALIZATION OF SMALL AND MEDIUM-SIZED BUSINESSES

88. Section 1 of the Act to promote the capitalization of small and medium-sized businesses (R.S.Q., chapter A-33.01) is amended by replacing "La Financière du Québec" by "the body designated by the Government".

89. Section 3 of the Act is amended by replacing "La Financière du Québec" in the third paragraph by "the body designated under section 1".

90. Section 4 of the Act is amended by replacing "La Financière du Québec" by "the body designated under section 1".

91. Section 5 of the Act is amended

(1) by replacing "La Financière du Québec" in the introductory clause by "the body designated under section 1";

(2) by replacing "elle" in paragraph 1 in the French text by "il".

92. Section 6 of the Act is amended by replacing "La Financière du Québec" by "the body designated under section 1".

93. Section 7 of the Act is amended

(1) by replacing "La Financière du Québec" in the first paragraph by "The body designated under section 1";

(2) by replacing "La Financière du Québec" in the second paragraph by "The body designated under section 1".

94. Section 8 of the Act is amended by replacing "La Financière du Québec" by "the body designated under section 1".

95. Section 11 of the Act is amended by replacing "La Financière du Québec" in paragraph 3 by "the body designated under section 1".

96. Section 12 of the Act is amended

(1) by replacing "La Financière du Québec" in the first paragraph by "The body designated under section 1";

(2) in the second paragraph,

(*a*) by replacing "La Financière du Québec" in the introductory clause by "the body designated under section 1";

(*b*) by replacing "La Financière du Québec" in subparagraph *a* of subparagraph 1 by "the body".

97. Section 13 of the Act is amended by replacing "La Financière du Québec" by "The body designated under section 1".

98. Section 14 of the Act is amended by replacing "La Financière du Québec" in the first paragraph by "The body designated under section 1".

99. Section 15 of the Act is amended by replacing "La Financière du Québec" in paragraph 2 by "the body designated under section 1".

100. Section 17 of the Act is amended

(1) by replacing "La Financière du Québec" in the first paragraph by "The body designated under section 1";

(2) by replacing "La Financière du Québec" in the second paragraph by "the body designated under section 1".

101. Section 18 of the Act is amended by replacing "La Financière du Québec or" by "The body designated under section 1 or" and "La Financière du Québec grants" by "the body grants".

102. Section 19 of the Act is amended

(1) by replacing "La Financière du Québec" in the introductory clause by "The body designated under section 1";

(2) by replacing "granted by La Financière du Québec" in paragraph 2 by "the body grants".

103. Section 20 of the Act is amended

(1) by replacing "La Financière du Québec" wherever it appears by "the body designated under section 1";

(2) by replacing "elle" in paragraph 8 in the French text by "il".

ACT RESPECTING THE GOVERNANCE OF STATE-OWNED ENTERPRISES

104. Section 15 of the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) is amended by striking out ", the Société générale de financement du Québec" in paragraph 15.

105. Schedule I to the Act is amended by striking out "Société générale de financement du Québec".

TAXATION ACT

106. Section 21.20.9 of the Taxation Act (R.S.Q., chapter I-3) is amended by striking out paragraph *g*.

107. Section 965.29 of the Act is amended by replacing "Investissement Québec" in subparagraph ii of paragraph *b*.2 and in paragraph *c* by "the body designated under section 1 of the Act respecting Québec business investment companies".

108. Section 965.34 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of the Act respecting Québec business investment companies (chapter S-29.1)".

109. Section 1049.4 of the Act is amended by replacing "Investissement Québec" in subparagraph *b* of the second paragraph by "the body designated under section 1 of that Act".

110. Section 1049.6 of the Act is amended by replacing "Investissement Québec" in the introductory clause by "the body designated under section 1 of that Act".

111. Section 1049.9 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of that Act".

112. Section 1049.9.1 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of that Act".

113. Section 1049.10 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of that Act".

114. Section 1049.10.1 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of that Act".

115. Section 1049.11 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of that Act".

116. Section 1049.11.1 of the Act is amended by replacing "by Investissement Québec under paragraph 3 of section 13.2 of the Act respecting Québec business investment companies" in paragraph *a* by "under paragraph 3 of section 13.2 of the Act respecting Québec business investment companies by the body designated under section 1 of that Act".

117. Section 1049.11.1.2 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1 of that Act".

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

118. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended

(1) by striking out "La Financière du Québec" in paragraph 1;

(2) by inserting ", in respect of employees who were members of this plan on 31 March 2011" after "Investissement-Québec" in paragraph 1.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

119. Schedule II to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by striking out "La Financière du Québec" in paragraph 1.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

120. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended

(1) by striking out "La Financière du Québec" in paragraph 1;

(2) by inserting ", in respect of employees who participated in this plan on 31 March 2011" after "Investissement Québec" in paragraph 1.

ACT RESPECTING QUÉBEC BUSINESS INVESTMENT COMPANIES

121. Section 1 of the Act respecting Québec business investment companies (R.S.Q., chapter S-29.1), amended by section 709 of chapter 52 of the statutes of 2009, is again amended

(1) by replacing "Investissement Québec" in the first sentence of the first paragraph by "the body designated by the Government";

(2) by replacing "Investissement Québec" in the second sentence of the first paragraph by "that body".

122. Section 3.2 of the Act is amended

(1) by replacing "request of Investissement Québec" by "request of the body designated under section 1";

(2) by replacing "furnish to Investissement Québec" by "furnish to the body".

123. Section 4 of the Act is amended

(1) by replacing "Investissement Québec" in the first paragraph by "The body designated under section 1";

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

"For that purpose, the body may require the production of any document it considers likely to enlighten it as to the advisability of registering a company."

124. Section 5 of the Act is amended

(1) by replacing "Investissement Québec" in the second paragraph by "the body designated under section 1";

(2) by replacing "Investissement Québec" in the last paragraph by "the body".

125. Section 6 of the Act is amended by replacing "Investissement Québec" by "The body designated under section 1".

126. Section 7 of the Act is amended by replacing "Investissement Québec" by "The body designated under section 1".

127. Section 9 of the Act is amended

(1) by replacing "Investissement Québec" by "The body designated under section 1";

(2) by replacing "where it" by "when the body".

128. Section 10 of the Act is amended by replacing "Investissement Québec" by "The body designated under section 1".

129. Section 12 of the Act is amended

(1) by replacing "Investissement Québec" in the first paragraph by "the body designated under section 1";

(2) by replacing "Investissement Québec" in subparagraph 6 of the third paragraph by "the body designated under section 1".

130. Section 12.1 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1".

131. Section 13.1 of the Act is amended

(1) by replacing "Investissement Québec may" in the first paragraph by "The body designated under section 1 may" and "of Investissement Québec" in that paragraph by "of the body";

(2) by replacing "Investissement Québec" in the introductory clause of the second paragraph by "the body";

(3) by replacing "Investissement Québec" in subparagraph 1 of the second paragraph by "the body".

132. Section 13.2 of the Act is amended

(1) by replacing "Investissement Québec" in the introductory clause by "the body designated under section 1";

(2) by replacing "Investissement Québec" in paragraph 2 in the French text by "il".

133. Section 13.3 of the Act is amended

(1) by replacing "Investissement Québec" by "the body designated under section 1";

(2) by replacing "Investissement Québec" in the French text by "ce dernier".

134. Section 14 of the Act is amended by replacing "Investissement Québec" by "the body designated under section 1".

135. Section 15 of the Act is amended by replacing "Investissement Québec" in the first paragraph by "The body designated under section 1".

136. Section 15.0.1 of the Act is amended by replacing "Investissement Québec" in the second paragraph by "the body designated under section 1".

137. Section 16 of the Act is amended by replacing subparagraph 7 of the first paragraph by the following subparagraph:

"(7) determine tariffs of duties and fees payable to the body it designates under section 1 for any act performed by that body under this Act;".

138. Section 17 of the Act is amended by replacing "Act respecting Investissement Québec and La Financière du Québec (chapter I-16.1)" by "Act respecting the amalgamation of the Société générale de financement du Québec and Investissement Québec (2010, chapter 37)".

ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET SPEECH OF 30 MARCH 2010, REDUCE THE DEBT AND RETURN TO A BALANCED BUDGET IN 2013-2014

139. Section 1 of the Act to implement certain provisions of the Budget Speech of 30 March 2010, reduce the debt and return to a balanced budget in 2013-2014 (2010, chapter 20) is amended in paragraph 2 of the definition of "body"

(1) by striking out "and the Société générale de financement";

(2) by inserting "the subsidiaries of Investissement Québec that, before 1 April 2011, were" after "except".

REGULATION RESPECTING THE SELECTION OF FOREIGN NATIONALS

140. Section 34.1 of the Regulation respecting the selection of foreign nationals (R.R.Q., chapter I-0.2, r. 4) is amended

(1) by replacing "Investissement Québec or one of its subsidiaries and which will be, in Québec, the foreign national's mandatary with the Minister and

Investissement Québec or one of its subsidiaries" in the first paragraph by "one of the subsidiaries of Investissement Québec and that will be, in Québec, the foreign national's mandatary with the Minister and the subsidiary";

(2) in the third paragraph,

(*a*) by replacing "Investissement Québec or one of its subsidiaries" in subparagraph *a* by "one of the subsidiaries of Investissement Québec";

(*b*) by replacing subparagraph i of subparagraph *a* by the following subparagraph:

"(i) the Programme des immigrants investisseurs pour l'aide aux entreprises adopted by Order in Council 701-2000 dated 7 June 2000 (2000, G.O. 2, 3896, in French only) and amended by Order in Council 872-2001 dated 4 July 2001 (2001, G.O. 2, 5470, in French only), Order in Council 674-2004 dated 30 June 2004 (2004, G.O. 2, 3513, in French only), Order in Council 29-2005 dated 26 January 2005 (2005, G.O. 2, 692, in French only), Order in Council 603-2008 dated 11 June 2008 (2008, G.O. 2, 3944, in French only) and Order in Council 983-2010 dated 17 November 2010 (2010, G.O. 2, 4707, in French only) or any program established to replace it;";

(*c*) by replacing "Investissement Québec or one of its subsidiaries" in subparagraph *b* by "one of the subsidiaries of Investissement Québec";

(*d*) by replacing "Investissement Québec or one of its subsidiaries" in subparagraph *d* by "one of the subsidiaries of Investissement Québec".

141. Section 38 of the Regulation is amended by replacing "Investissement Québec or one of its subsidiaries" in paragraph *c* by "one of the subsidiaries of Investissement Québec".

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

DIVISION I

AMALGAMATION

142. The Société générale de financement du Québec and Investissement Québec are amalgamated on 1 April 2011.

As of that date, these legal persons are continued as the Company constituted under section 1 and their patrimonies are joined together to form the patrimony of that Company.

143. The rights of Investissement Québec and the rights and obligations of the Société générale de financement du Québec become rights and obligations of the Company and the latter becomes, without continuance of suit, a party

to any proceeding to which Investissement Québec and the Société générale de financement du Québec were parties.

144. The obligations of Investissement Québec become obligations of the Company, except those determined by the Government, which become obligations of the Minister or the Minister of Finance in the case of debts owed to a financial institution or related to a financial instrument or contract designated by the Government.

The Minister or the Minister of Finance becomes, without continuance of suit, a party to any proceeding Investissement Québec was party to with respect to the obligations that Minister assumes.

The liability resulting from the obligations that become obligations of the Minister becomes a liability of the Economic Development Fund.

145. The debts of Investissement Québec that become debts of the Minister of Finance are the debts referred to in section 10 of the Financial Administration Act (R.S.Q., chapter A-6.001).

The Minister of Finance may pay out of the Economic Development Fund any sum that corresponds to a sum taken out of the Consolidated Revenue Fund for the payment of the debts.

146. The amalgamation involves, by operation of law, the conversion of the shares issued by the Société générale de financement du Québec into shares of the Company.

The certificates for the shares thus converted are issued to the Minister of Finance immediately.

DIVISION II

ADMINISTRATION PRIOR TO AMALGAMATION

147. When appointing the first members of the board of directors of the Company, other than the chair and the president and chief executive officer, the Government takes into account the expertise and experience profiles approved by the respective boards of Investissement Québec and the Société générale de financement du Québec.

148. From the time it is formed, the board of directors of the Company exercises the functions of the board of Investissement Québec and the board of the Société générale de financement du Québec.

149. The term of the Investissement Québec and the Société générale de financement du Québec board members in office at the time the Company's board of directors is formed ends at that time without compensation.

150. The Government appoints the first president and chief executive officer of the Company.

151. The president and chief executive officer of the Company takes office on 1 January 2011 or on any later date determined by the Government. The president and chief executive officer exercises, from the date he or she takes office, the functions of president and chief executive officer of Investissement Québec and of the Société générale de financement du Québec.

152. From the moment the Company's president and chief executive officer takes office, the terms of office of the president and chief executive officer of Investissement Québec and of the president and chief executive officer of the Société générale de financement du Québec end, with no compensation other than the compensation provided for in section 22 of the Règles concernant la rémunération et les autres conditions de travail des titulaires d'un emploi supérieur à temps plein, enacted by Order in Council 450-2007 (2007, G.O. 2, 2723, in French only).

153. The Company's board of directors must implement an amalgamation plan before the amalgamation of Investissement Québec and the Société générale de financement du Québec. The plan must include details of the arrangements necessary to complete the amalgamation and to provide for the management and operation of the Company.

The plan must take into account, in particular, the human, financial, material and informational resources of Investissement Québec and the Société générale de financement du Québec.

154. The Company's board of directors may, prior to the amalgamation, enter into any contract it considers necessary to ensure the amalgamation of Investissement Québec and the Société générale de financement du Québec and foster the soundness of its activities and operations. For these purposes, the board may make any necessary financial commitment for the amount and for the term it considers appropriate.

155. The Company's board of directors must, prior to the amalgamation, establish the Company's staffing plan referred to in section 55.

156. Prior to the amalgamation, the Company's board of directors establishes the Company's first strategic plan. The plan covers a period of two years.

The strategic plan of the Société générale de financement du Québec and that of Investissement Québec apply to the Company until they are replaced by the first strategic plan approved by the Company.

157. The rights and obligations resulting from the acts of the Company's board of directors with respect to the organization of the Company prior to the amalgamation are rights and obligations of Investissement Québec, unless the

board provides expressly that those rights and obligations are rights and obligations of the Société générale de financement du Québec.

158. The last annual report required under section 17 of the Act respecting the Société générale de financement du Québec (R.S.Q., chapter S-17) covers a 15-month period ending 31 March 2011.

The current fiscal year of the Société générale de financement du Québec ends on 31 December 2010. Its last fiscal year begins on 1 January 2011 and ends on 31 March 2011.

The Company must file the report and its financial statements no later than 30 September 2011.

DIVISION III

PROGRAMS AND OTHER MANDATES

159. Unless otherwise provided in this division, any program administered by Investissement Québec under section 27 of the Act respecting Investissement Québec and La Financière du Québec (R.S.Q., chapter I-16.1) or by one of its subsidiaries referred to in section 36 of that Act continues to apply until it is replaced or revoked by the Government.

The same applies to the instruments governing the following forms of financial assistance:

(1) assistance granted and administered by Investissement Québec or one of its subsidiaries in accordance with a mandate given it by the Government under section 28 of that Act;

(2) assistance granted by Investissement Québec or one of its subsidiaries in exercising a power assigned to it by the Government under section 29 of that Act; and

(3) assistance granted under a financial assistance program or a mandate provided for by the Act respecting the Société de développement industriel du Québec (R.S.Q., chapter S-11.01).

160. Unless otherwise provided in this division, the rights of Investissement Québec resulting from the programs and the forms of financial assistance described in section 159 become rights of the Minister.

The same applies to the rights resulting from the following forms of financial assistance:

(1) assistance granted and administered under section 5 of the Act respecting assistance for the development of cooperatives and non-profit legal persons (R.S.Q., chapter A-12.1); and

(2) assistance granted under section 10 or 11 of the Act respecting assistance for tourist development (R.S.Q., chapter A-13.1).

The sums and assets of Investissement Québec related to the forms of financial assistance listed in the second paragraph become sums and assets of the Economic Development Fund.

161. The first paragraph of section 160 does not apply to the rights of Investissement Québec in the shares issued by any of its subsidiaries established with a view to granting or administering a program or a form of financial assistance listed in section 159 or 160. However, it does apply to the rights of Investissement Québec in the shares issued by the following subsidiaries:

(1) 9037-6179 Québec inc.;

(2) 9071-2076 Québec inc.; and

(3) 9109-3294 Québec inc.

162. The rights of Investissement Québec resulting from the programs listed below, or from any program replaced by those programs, become rights of the Company:

(1) the Programme favorisant le financement de l'entreprenariat collectif, established by Order in Council 374-2002 dated 27 March 2002 (2002, G.O. 2, 2802, in French only), amended by Order in Council 315-2004 dated 31 March 2004 (2004, G.O. 2, 1966, in French only); and

(2) the Programme d'aide au financement des entreprises, approved by Order in Council 841-2000 dated 28 June 2000 (2000, G.O. 2, 4955, in French only), amended by Order in Council 899-2001 dated 31 July 2001 (2001, G.O. 2, 6073, in French only), by Order in Council 1487-2001 dated 12 December 2001 (2002, G.O. 2, 178, in French only), by Order in Council 315-2004 dated 31 March 2004 (2004, G.O. 2, 1966, in French only), by Order in Council 681-2005 dated 29 June 2005 (2005, G.O. 2, 3752, in French only) and by Order in Council 729-2008 dated 25 June 2008 (2008, G.O. 2, 4284, in French only).

From the date set by the Government, no applications for financial assistance may be submitted under these programs.

The programs continue to apply to any financial assistance granted under them, until the expiry of the assistance. The Company may not modify these financial assistance programs.

Any losses or shortfalls resulting from assistance granted under the programs listed in the first paragraph before the date set under the second paragraph are obligations of the Company for the duration of the programs.

163. Before 31 March 2016, the Government must include in the Company's remuneration any compensation it deems reasonable for the losses and shortfalls referred to in the fourth paragraph of section 162.

The losses and shortfalls suffered are evaluated on the date of the amalgamation. The evaluation may be revised until 31 March 2016, when the Government sets the Company's remuneration.

The Government is not bound to pay the Company any other sum as compensation for these losses and shortfalls.

164. The rights of Investissement Québec resulting from investments made in accordance with section 35 of the Act respecting Investissement Québec and La Financière du Québec, or from a loan or a guarantee referred to in that section, become rights of the Minister, except the rights resulting from the investments, loans or guarantees referred to in the following Orders in Council:

(1) Order in Council 532-2010 dated 23 June 2010 (2010, G.O. 2, 3095, in French only);

(2) Order in Council 955-2009 dated 2 September 2009 (2009, G.O. 2, 4931, in French only);

(3) Order in Council 476-2008 dated 14 May 2008 (2008, G.O. 2, 2961, in French only); and

(4) Order in Council 1171-2004 dated 15 December 2004 (2005, G.O. 2, 55, in French only).

Each of these Orders in Council, and any other made under section 35 of the Act respecting Investissement Québec and La Financière du Québec, is validated to the extent that it authorizes Investissement Québec or its subsidiaries to invest in any group other than an investment company; the Orders in Council continue to apply until they are replaced or revoked by the Government.

165. The administration of programs, forms of financial assistance and investments for which the rights of Investissement Québec become rights of the Minister is deemed to be a mandate given to the Company under section 21.

The administration of the economic projects support program referred to in Order in Council 273-2008 dated 19 March 2008 (2008, G.O. 2, 1645, in French only) is also deemed to be a mandate given to the Company under section 21. The Company administers the program as though it were part of the strategic support for investment program referred to in Order in Council 907-2004 dated 30 September 2004 (2004, G.O. 2, 4478, in French only).

DIVISION IV

LA FINANCIÈRE DU QUÉBEC

166. La Financière du Québec is dissolved. Its rights become rights of the Company except the rights resulting from the forms of assistance listed in the second paragraph of section 160.

The obligations of La Financière du Québec become obligations of the Company, except those determined by the Government, which become obligations of the Minister; the Minister becomes, without continuance of suit, a party to any proceeding to which La Financière du Québec was party with respect to those obligations.

The liability resulting from the obligations that become obligations of the Minister becomes a liability of the Economic Development Fund.

DIVISION V

HUMAN RESOURCES

167. An employee of the Company who, when hired, before 1 April 2011, by Investissement Québec or La Financière du Québec, was a permanent public servant may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

168. Section 35 of the Public Service Act applies to an employee referred to in section 167 who enters a competition for promotion to a position in the public service.

169. An employee referred to in section 167 who applies for a transfer or enters a competition for promotion may require from the chair of the Conseil du trésor an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on the date on which the employee ceased to be a public servant, as well as the experience and formal training acquired in the course of employment with Investissement Québec, La Financière du Québec or the Company.

If an employee is transferred subsequent to the application of the first paragraph, the deputy minister of the department or the chief executive officer of the body assigns to the employee a classification in keeping with the assessment under the first paragraph.

If an employee is promoted under section 167, the employee's classification must take account of the criteria set out in the first paragraph.

170. If some or all of the operations of the Company are discontinued, an employee referred to in section 167 is entitled to be placed on reserve in the

public service with the classification the employee had on the date on which the employee left the public service.

In such a case, the chair of the Conseil du trésor establishes, where applicable, the employee's classification, taking account of the criteria set out in the first paragraph of section 169.

171. A person who is placed on reserve under the first paragraph of section 170 remains in the employ of the Company until the chair of the Conseil du trésor is able to place the person in accordance with section 100 of the Public Service Act.

172. Subject to any remedy available under a collective agreement, an employee referred to in section 167 whose employment is terminated or who is dismissed may bring an appeal under section 33 of the Public Service Act.

DIVISION VI

REGISTERS AND OTHER DOCUMENTS

173. A declaration by the Company or the Minister in an application for registration in the register of personal and movable real rights or the land register, stating that the Company or the Minister is the holder of the rights which the application concerns and which were formerly registered in favour of Investissement Québec, La Financière du Québec or the Société générale de financement du Québec, is sufficient to establish with the registrar the quality of the Company or the Minister as the holder of those rights.

An application for registration in the land register must be made in the form of a notice. In addition to the provisions of this section and the requirements of the regulation made under Book IX of the Civil Code, the notice must indicate the legislative provision under which it is given; the notice does not require attestation and may be presented in a single copy.

174. The files, records and other documents of Investissement Québec, La Financière du Québec and the Société générale de financement du Québec become files, records and other documents of the Company.

175. Unless otherwise indicated by the context, in any document, a reference to the Act respecting Investissement Québec and La Financière du Québec (R.S.Q., chapter I-16.1), the Act respecting the Société générale de financement du Québec (R.S.Q., chapter S-17) or any of their provisions is a reference to this Act or to the corresponding provision of this Act, if any.

176. Unless otherwise indicated by the context, in any document, a reference to Investissement Québec, La Financière du Québec or the Société générale de financement du Québec is a reference to the Company.

DIVISION VII

OTHER PROVISIONS

177. The Government may, by a regulation made before 1 January 2012, enact any other transitional measure required for the carrying out of this Act.

A regulation made under the first paragraph is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1) and comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date set in the regulation. The regulation may also, if it so provides, apply from any date not prior to 1 January 2011.

178. Before 30 June 2011, the board of directors of the Company must submit to the Government the policy aimed at reducing expenses required by section 15 of the Act to implement certain provisions of the Budget Speech of 30 March 2010, reduce the debt and return to a balanced budget in 2013-2014 (2010, chapter 20).

179. The appropriations granted to the Minister of Economic Development, Innovation and Export Trade for the purposes of the economic projects support program referred to in Order in Council 273-2008 dated 19 March 2008 (2008, G.O. 2, 1645, in French only) are, to the extent determined by the Government, allocated to the Economic Development Fund.

DIVISION VIII

FINAL PROVISIONS

180. This Act replaces the Act respecting Investissement Québec and La Financière du Québec (R.S.Q., chapter I-16.1) and the Act respecting the Société générale de financement du Québec (R.S.Q., chapter S-17).

181. This Act may be cited as the Act respecting Investissement Québec.

182. The Minister of Economic Development, Innovation and Export Trade is responsible for the administration of this Act.

183. This Act comes into force on 1 April 2011, except sections 36 to 38, section 41, the second and third paragraphs of section 42 and sections 44 to 50, 54, 55, 69, 70, 147 to 157 and 177, which come into force on 1 January 2011, and sections 158 and 182, which come into force on 31 December 2010.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 125
(2010, chapter 38)

An Act to facilitate organ and tissue donation

Introduced 11 November 2010
Passed in principle 30 November 2010
Passed 8 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act amends the Act respecting the Régie de l'assurance maladie du Québec so that a person may, at any time after applying to be registered with the Régie de l'assurance maladie du Québec ("the Board"), authorize in writing, on a form provided by the Board, the post-mortem removal of organs or tissues for transplant. The information the Board collects on the consent form is specified, as is the information that must be included on the form or in an accompanying notice for the person's benefit.

In addition, the Board must establish and update a consent registry for post-mortem organ and tissue removal. The Board must, on request, send the information collected using the consent form to organizations that coordinate organ or tissue donations and are designated for that purpose by the Minister of Health and Social Services.

The Act respecting labour standards is amended so that persons who are absent from work to make an organ or tissue donation for transplant retain their employment status.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting labour standards (R.S.Q., chapter N-1.1);

– Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);

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

LEGISLATION REPLACED BY THIS ACT:

– Act to facilitate organ donation (2006, chapter 11).

Bill 125

AN ACT TO FACILITATE ORGAN AND TISSUE DONATION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

1. Section 2 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5), amended by section 20 of chapter 8 of the statutes of 2008, is again amended by inserting the following paragraph after the third paragraph:

"The Board shall establish and update a consent registry for the post-mortem removal of organs and tissues, for use by organizations that coordinate organ or tissue donations and are designated by the Minister of Health and Social Services under section 2.0.11."

2. The Act is amended by inserting the following sections after section 2.0.7:

"**2.0.8.** For the purposes of the fourth paragraph of section 2, a person may, at any time after applying to be registered with the Board under section 9 of the Health Insurance Act (chapter A-29), authorize in writing, on a consent form provided by the Board for that purpose, the post-mortem removal of the person's organs or tissues for transplant, as permitted under article 43 of the Civil Code of Québec.

Consent may be revoked at any time, in writing, using the form provided by the Board for that purpose.

"**2.0.9.** The consent form authorizing the removal of organs or tissues, or the accompanying notice, must inform the person concerned

(1) that consent will be acted upon for the purposes of a transplant;

(2) that the information appearing on the consent form may be sent, on request, to an organization that coordinates organ or tissue donations and is designated on the list drawn up by the Minister and published on the Board's website;

(3) that consent may be revoked at any time, in writing, using the form provided by the Board for that purpose; and

(4) that the Board will not solicit the person's consent again if the person has already given it.

"**2.0.10.** The Board shall use the consent form to obtain the following information:

(1) the person's freely given consent to the post-mortem removal of organs or tissues;

(2) the signature of the person concerned and, if the person is under 14 years of age, the signature of the holder of parental authority or tutor authorizing the person to give consent;

(3) the date of each signature; and

(4) any other identification information the Board requires in the exercise of its functions relating to the consent registry for the post-mortem removal of organs and tissues.

The Board shall enter the information collected using the consent form in the registry established under the fourth paragraph of section 2.

For the purposes of this section, the Board may use the identification information obtained for the carrying out of the Health Insurance Act (chapter A-29), despite the second paragraph of section 67 of that Act.

"**2.0.11.** The Minister shall draw up a list of organizations that coordinate organ or tissue donations to which the Board may send information collected using the consent form. The list is published on the Board's website.

"**2.0.12.** The Board must, on request, send the information collected using a consent form to an organization designated by the Minister under section 2.0.11."

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

3. Section 204.1 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is replaced by the following section:

"**204.1.** When informed of the imminent or recent death of a potential organ or tissue donor, the director of professional services of an institution operating a general and specialized hospital shall diligently

(1) verify, with one of the organizations that coordinate organ or tissue donations and are designated by the Minister under section 2.0.11 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), whether the potential donor's consent for the post-mortem removal of organs or tissues is recorded in the consent registries established by the Ordre professionnel des notaires du Québec and the Régie de l'assurance maladie du Québec, in order

to determine the donor's last wishes expressed in this regard in accordance with the Civil Code of Québec; and

(2) send to such an organization, if the consent has been given, any necessary medical information concerning the potential donor and the organs or tissues that may be removed.

The director of professional services is informed of the imminent or recent death of a potential organ or tissue donor in accordance with the procedure established by the institution."

ACT RESPECTING LABOUR STANDARDS

4. Section 70 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing "accident" in the third paragraph by "an organ or tissue donation for transplant, an accident".

5. Section 74 of the Act is amended by replacing "or accident" in the second paragraph by ", an organ or tissue donation for transplant or an accident".

6. The heading of Division V.0.1 of Chapter IV of the Act is replaced by the following heading:

"ABSENCES OWING TO SICKNESS, AN ORGAN OR TISSUE DONATION FOR TRANSPLANT, AN ACCIDENT OR A CRIMINAL OFFENCE".

7. Section 79.1 of the Act is amended by replacing "or accident" in the first paragraph by ", an organ or tissue donation for transplant or an accident".

8. Section 89 of the Act is amended by replacing "accident" in paragraph 6 by "an organ or tissue donation for transplant, an accident".

FINAL PROVISIONS

9. This Act replaces the Act to facilitate organ donation (2006, chapter 11).

10. This Act comes into force on 28 February 2011.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 126
(2010, chapter 39)

An Act to tighten the regulation of educational childcare

Introduced 4 November 2010
Passed in principle 23 November 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act introduces various measures to tighten the regulation of educational childcare.

To that end, the conditions that apply to the directors of a legal person who holds a day care centre permit are made applicable to the legal person's shareholders. The Minister of Families is granted the power to suspend, revoke or refuse to renew a day care centre permit if shares that carry 10% or more of the voting rights in the legal person who holds the permit have been transferred. Moreover, stricter conditions are introduced for the issue and maintenance of day care centre permits.

Certain limitations are introduced with respect to the services provided by the same childcare provider. The maximum number of facilities in which a childcare centre may provide educational childcare is set at five. The number of day care centre permits that may be issued to the same person, or to related persons, for the delivery of subsidized childcare is also limited to five. Moreover, the maximum number of subsidized childcare spaces that may be granted to the same permit holder, or to permit holders who are related persons, is set at 300.

Under the new provisions, the Minister of Families is to determine needs and priorities in the area of subsidized childcare spaces after consulting with the advisory committee concerned, the make-up and functions of which are defined in the Educational Childcare Act. The Minister is to allocate subsidized spaces on the recommendation of the advisory committee and consult the advisory committee before re-allocating subsidized spaces. Furthermore, all recommendations of advisory committees are to be made public by the Minister.

As well, a regime of administrative penalties is established for permit holders or recognized home childcare providers who contravene certain provisions of the Act or the regulations, subject to their right to contest the imposition of a penalty before the Administrative Tribunal of Québec.

The new legislation also doubles the fines that may be imposed on other persons who offer or provide childcare services in contravention of the law. Lastly, it provides that administrative

measures may be taken against them, including an order prohibiting them from offering or providing childcare under conditions that could compromise the health or safety of the children.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (R.S.Q., chapter C-52.2);

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

– Educational Childcare Act (R.S.Q., chapter S-4.1.1).

REGULATION AMENDED BY THIS ACT:

– Educational Childcare Regulation (R.R.Q., chapter S-4.1.1, r. 2).

Bill 126

AN ACT TO TIGHTEN THE REGULATION OF EDUCATIONAL CHILDCARE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATIONAL CHILDCARE ACT

1. Section 3 of the Educational Childcare Act (R.S.Q., chapter S-4.1.1) is amended

(1) by inserting ", directly or indirectly," before "holds" in subparagraph *d* of paragraph 2;

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

"(3) a natural person who, directly or indirectly, holds voting shares of a legal person not listed on a Canadian stock exchange is a shareholder."

2. Section 6 of the Act is amended by inserting ", personally or through another," after "No person may".

3. Section 8 of the Act is amended

(1) by replacing "one or more" in paragraph 1 by "a maximum of five";

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

"However, in exceptional circumstances, the Minister may authorize the holder of a childcare centre permit to provide educational childcare in more than five facilities."

4. Section 17 of the Act is amended

(1) by inserting "or shareholder" after "director" in the first paragraph;

(2) by inserting "or new shareholder" after "director" in the second paragraph.

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

"**25.1.** A permit holder may not entrust the administration or management of the permit holder's facility to a third party who is a legal person."

6. Section 26 of the Act is amended

(1) by replacing "or a director of the applicant" in paragraphs 2 and 3 by "or a director or a shareholder of the applicant";

(2) by replacing paragraph 4 by the following paragraph:

"(4) the applicant or a director or a shareholder of the applicant was convicted of an offence under section 6 in the two years preceding the application or, in the case of a second or subsequent offence, in the five years preceding the application;";

(3) by replacing paragraph 5 by the following paragraph:

"(5) the applicant or a director or a shareholder of the applicant held a permit that was revoked or not renewed under paragraph 4 or 5 of section 28 in the five years preceding the application;";

(4) by inserting the following paragraph after paragraph 5:

"(5.1) the applicant or a director or a shareholder of the applicant was convicted of an offence under section 108.2 in the five years preceding the application;".

7. The Act is amended by inserting the following section after section 28:

"**28.1.** When shares that carry 10% or more of the voting rights in a legal person holding a day care centre permit are transferred, the Minister may suspend, revoke or refuse to renew the permit of the permit holder if the new shareholder

(1) meets the description of paragraph 4, 5 or 5.1 of section 26;

(2) is the holder of another day care centre permit in relation to which the Minister has cancelled or reduced the subsidy or suspended payment in whole or in part under section 97; or

(3) already holds shares that carry 10% or more of the voting rights in another legal person holding a day care centre permit in relation to which the Minister has cancelled or reduced the subsidy or suspended payment in whole or in part under section 97.

The Minister must suspend, revoke or refuse to renew the permit for any of the reasons set out in subparagraphs 1 to 3 of the first paragraph if a transfer of shares by the shareholder was effected through two or more transactions which resulted in the evasion of this section."

8. The Act is amended by inserting the following division after section 81:

"**DIVISION V**

"ORDERS

"**81.1.** If a statement of offence is served on a person who offers or provides childcare services in contravention of section 6, the Minister or a person authorized by the Minister must, if of the opinion that the health or safety of the children may have been or could be compromised, issue an order prohibiting the person concerned from offering or providing childcare under conditions that could compromise the health or safety of the children.

"**81.2.** On issuing the order, the Minister or the person authorized by the Minister must notify it to the person concerned and inform the person of his or her right to contest it before the Administrative Tribunal of Québec within 60 days."

9. Section 93 of the Act is amended by replacing the first paragraph by the following paragraphs:

"**93.** The Minister determines the number of subsidized childcare spaces annually. After determining needs and priorities, the Minister allocates the spaces among permit applicants, permit holders and home childcare coordinating offices.

Before allocating new spaces, the Minister determines needs and priorities after consulting with the advisory committee concerned established under section 101.1. The Minister allocates the spaces according to those needs and priorities and on the recommendation of the advisory committee.

Before allocating new spaces in Native communities, the Minister consults those communities only."

10. The Act is amended by inserting the following sections after section 93:

"**93.1.** In no case may a childcare centre permit holder be allocated more than 300 subsidized childcare spaces.

The same applies to a person who holds two or more day care centre permits or related persons who hold two or more day care centre permits.

"**93.2.** In no case may the same person, or related persons, hold more than five day care centre permits for the delivery of subsidized childcare."

11. Section 94 of the Act is amended

(1) by inserting ", after consulting with the advisory committee concerned established under section 101.1" after "may" in the first paragraph;

(2) by striking out "Likewise," at the beginning of the second paragraph.

12. The Act is amended by inserting the following section after section 94:

"**94.1.** A day care permit applicant who is a legal person having obtained the authorization of the Minister to develop subsidized childcare spaces may not, except for exceptional reasons and with the Minister's authorization, enter into an agreement concerning the sale or transfer of all or some of the legal person's shares to a new shareholder or concerning the amalgamation, consolidation or merging of the legal person with another legal person before the issue of its permit.

A person who acts for a third party or for a legal person before it is constituted may not obtain the authorization of the Minister to develop subsidized childcare spaces."

13. The Act is amended by inserting the following section after section 94.1:

"**94.2.** Before allocating new subsidized childcare spaces or re-allocating subsidized childcare spaces, the Minister makes public the recommendations of the advisory committees established under section 101.1."

14. The Act is amended by inserting the following after section 101:

"**DIVISION III**

"SPACE ALLOCATION ADVISORY COMMITTEE

"**101.1.** The Minister creates an advisory committee for every territory the Minister determines.

The functions of each committee are

(1) to advise the Minister on the needs and priorities with respect to the allocation of new spaces;

(2) to analyze all proposed projects and making recommendations to the Minister on the allocation of new spaces; and

(3) to advise the Minister before the Minister re-allocates spaces under the first paragraph of section 94.

"**101.2.** Each committee is composed of five members, as follows:

(1) one person designated by the regional conference of elected officers;

(2) one person designated by the health and social services agency;

(3) one person designated by the school boards in the territory concerned;

(4) one person designated by the body most representative of the childcare centres in the territory concerned; and

(5) one person designated by the body most representative of the day care centres in the territory concerned which provide subsidized childcare.

The persons designated under subparagraphs 4 and 5 of the first paragraph must work or reside in the territory of the advisory committee concerned.

The Minister may also ask up to two other bodies, including a family community body, to designate one other person each to sit on the committee.

"**CHAPTER VII.1**

"ADMINISTRATIVE PENALTIES

"**101.3.** A person designated by the Minister for that purpose may impose an administrative penalty on a permit holder or a recognized home childcare provider after ascertaining that the permit holder or recognized home childcare provider has failed to comply with any of the provisions of sections 78, 86 and 86.1.

The designated person may also impose an administrative penalty after ascertaining that a permit holder has failed to comply with a non-compliance notice given under section 65 with respect to the contravention of any of sections 13, 14, 16 and 20.

The amount of the administrative penalty is $500.

"**101.4.** The Government may provide, in a regulation under this Act, that a failure to comply with a provision of the regulation may result in an administrative penalty being imposed by the person designated by the Minister. Such a regulation may also specify, or give the calculation methods to be used to determine, the amount of the administrative penalty, which may vary according to the degree to which standards have been infringed.

The amount of such an administrative penalty may not exceed the amount set out in section 101.3.

"**101.5.** If a failure to comply for which an administrative penalty is imposed continues for more than one day, it constitutes a new failure to comply for each day it continues.

"**101.6.** The administrative penalty imposed on a person may not be in addition to penal proceedings instituted against the person for a contravention of the same provision and on the basis of the same facts.

"**101.7.** The imposition of an administrative penalty is prescribed one year after the date of the failure to comply.

"**101.8.** The person designated by the Minister imposes an administrative penalty on a person by notification of a notice stating the amount of the administrative penalty, the reasons it is imposed, and the right of the party concerned to have the matter reviewed by the Minister and, subsequently, to contest the matter before the Administrative Tribunal of Québec. The notice must also include information on the procedure for recovery of the amount owing, in particular with regard to a possible deduction from any future subsidies in accordance with section 100 or to the issue of a recovery certificate under section 101.15 and its effects.

The amount owing bears interest at the rate determined under section 28 of the Act respecting the Ministère du Revenu (chapter M-31), from the 30th day after notification of the notice.

Prescription is interrupted as of the date of notification of the notice.

"**101.9.** The person concerned may apply for a review of the decision, in writing, within 30 days after notification of the notice.

"**101.10.** The Minister designates the persons responsible for reviewing decisions with regard to the imposition of administrative penalties. They must not come under the same administrative authority as the person imposing administrative penalties.

"**101.11.** After giving the person concerned an opportunity to submit observations and produce documents to complete the record, the person responsible for reviewing the decision renders a decision on the basis of the record. The person may confirm, quash or vary the decision under review.

"**101.12.** The application for review must be dealt with promptly. If the review decision is not rendered within 30 days after receipt of the application or, as applicable, of the expiry of the time requested by the applicant to submit observations or produce documents, any interest on the administrative penalty is suspended pending the decision.

"**101.13.** The review decision must be written in clear and concise terms, with reasons given, must be notified to the applicant and must state that the applicant may contest the decision before the Administrative Tribunal of Québec.

"**101.14.** The Minister may enter into an agreement with the person for payment of the amount owing as an administrative penalty. Such an agreement, or the payment of an amount owing, does not constitute, for the purpose of penal proceedings, a recognition of the facts giving rise to it.

"**101.15.** If the administrative penalty is not paid or the agreement entered into for payment of the administrative penalty is not adhered to, the Minister may, at the expiry of the time for applying for a review of the decision, of the time for contesting the review decision before the Administrative Tribunal of Québec or of 30 days after the decision of the Tribunal confirming all or part of the Minister's decision, either issue a recovery certificate or make a deduction from any future subsidies in accordance with section 100.

However, a recovery certificate may be issued or a deduction made before the expiry of the time referred to in the first paragraph if the Minister believes that the debtor is attempting to evade payment.

A recovery certificate must state the debtor's name and address and the amount of the debt.

"**101.16.** Once a recovery certificate has been issued, any refund owed to a debtor by the Minister of Revenue may, in accordance with section 31 of the Act respecting the Ministère du Revenu (chapter M-31), be withheld for payment of the amount due shown on the certificate.

The withholding of a refund under the first paragraph interrupts prescription.

"**101.17.** On the filing of the recovery certificate at the office of the competent court, together with a copy of the final decision stating the amount of the debt, the decision becomes enforceable as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

"**101.18.** The debtor is required to pay a recovery charge in the cases, under the conditions and in the amount determined by government regulation.

"**101.19.** The Minister may, by agreement, delegate to another department or body all or some of the powers relating to the recovery of administrative penalties owing to the Minister under this Act or the regulations.

"**101.20.** The Minister keeps a register concerning the administrative penalties imposed on persons under this Act or the regulations.

The register must contain the following information:

(1) the date the administrative penalty was imposed;

(2) the nature of the failure for which the administrative penalty was imposed, and the date and place it occurred and, if applicable, the name of the facility;

(3) if the offender is a legal person, the person's name and address;

(4) if the offender is a natural person, the person's name and the name of the municipality in whose territory the person resides;

(5) the amount of the administrative penalty; and

(6) any other information the Minister considers to be of public interest.

The information contained in the register is public information. However, it may not be made public until the expiry of the time for applying for a review of the decision, of the time for contesting the review decision before the Administrative Tribunal of Québec, or of 30 days after the final decision of the Tribunal confirming all or part of the review decision, as applicable."

15. The Act is amended by inserting the following sections after section 105:

"**105.1.** An order made under section 81.1 by the Minister or a person authorized by the Minister may be contested by the person concerned before the Administrative Tribunal of Québec within 60 days after notification of the order.

"**105.2.** A review decision rendered by a person designated by the Minister which confirms the imposition of an administrative penalty under this Act or the regulations may be contested by the person concerned before the Administrative Tribunal of Québec within 60 days after notification of the review decision.

When rendering its decision, the Administrative Tribunal of Québec may make a ruling with respect to interest accrued on the administrative penalty while the matter was pending before the Tribunal."

16. Section 106 of the Act is amended by adding the following paragraphs after paragraph 30:

"(31) specify which provisions of a regulation give rise to the imposition of an administrative penalty, and specify, or give the calculation methods to be used to determine, the amount of the penalty;

"(32) determine the cases in which and the conditions under which a debtor is required to pay a recovery charge for an administrative penalty and prescribe the amount of the charge."

17. The Act is amended by inserting the following sections at the beginning of Chapter XI:

"**108.1.** A person that contravenes section 6 is guilty of an offence and is liable to a fine of $1,000 to $10,000.

"**108.2.** A person named in an order issued under section 81.1 that, at any time in the two years following notification of the order or a conviction under this section, refuses or fails to comply with the order or in any way prevents or hinders its execution is guilty of an offence and is liable to a fine of $5,000 to $50,000."

18. Section 109 of the Act is amended by striking out "6,".

19. Sections 118 and 119 of the Act are amended by replacing "109" by "108.1".

20. Section 120 of the Act is amended

(1) by inserting "at the expense of the person in charge of the facility" after "immediately";

(2) by inserting "even" before "before";

(3) by replacing "109" at the end by "108.1";

(4) by adding the following paragraph:

"The Minister must, in the same manner, have the children evacuated if the Minister considers that their health and safety may have been or could be compromised."

ACT RESPECTING THE FORFEITURE, ADMINISTRATION AND APPROPRIATION OF PROCEEDS AND INSTRUMENTS OF UNLAWFUL ACTIVITY

21. Schedule 1 to the Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (R.S.Q., chapter C-52.2) is amended by inserting the following in alphabetical order:

"— Educational Childcare Act (chapter S-4.1.1), but only as regards offences under sections 108.1 and 108.2 of that Act;".

ACT RESPECTING ADMINISTRATIVE JUSTICE

22. Section 119 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by inserting the following paragraph after paragraph 5:

"(5.0.1) a proceeding under section 105.1 of the Educational Childcare Act (chapter S-4.1.1) which pertains to an order prohibiting a person from offering or providing childcare services under conditions that could compromise the health or safety of the children;".

23. Section 3 of Schedule I to the Act is amended by replacing "section 104" in paragraph 8 by "section 104, 105.1 or 105.2".

EDUCATIONAL CHILDCARE REGULATION

24. Section 2 of the Educational Childcare Regulation (R.R.Q., chapter S-4.1.1, r. 2) is amended

(1) by inserting "and its shareholders," after "directors" in the first paragraph;

(2) by inserting "or shareholder" after "director" in the second paragraph;

(3) by replacing "if the applicant maintains his or her application" in the second paragraph by "if he or she maintains his or her candidacy or interest".

25. Section 6 of the Regulation is amended by replacing the second paragraph by the following paragraph:

"In the case of a change of director or shareholder, a permit holder must, within 60 days of the change, provide one of the attestations referred to in section 2 in respect of the new director or the new shareholder."

26. Section 10 of the Regulation is amended by inserting "or shareholder" after "director" in paragraph 11.

27. Section 11 of the Regulation is amended

(1) by inserting "and each shareholder" after "board of directors" in paragraph 4;

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

"(5) the name and the address of the residence of each related person who is a permit holder."

28. Section 51 of the Regulation is amended by adding the following paragraph at the end:

"(11) show that the natural person was not convicted of an offence under section 108.2 of the Act during the two years preceding the application."

29. The Regulation is amended by inserting the following after section 123:

"**CHAPTER IV.1**

"ADMINISTRATIVE PENALTIES

"**123.1.** A person designated by the Minister for that purpose may impose an administrative penalty after ascertaining that a permit holder has failed to

comply with a non-compliance notice issued under section 65 of the Act for a contravention of any of sections 6, 21, 30 to 43 and 100 to 121.

The amount of the administrative penalty is $250."

TRANSITIONAL AND FINAL PROVISIONS

30. Despite paragraph 1 of section 8 of the Educational Childcare Act (R.S.Q., chapter S-4.1.1), amended by section 3, a childcare centre may provide educational childcare solely in the facilities stated on its permit issued before 10 December 2010 or the facilities authorized by the Minister before that date.

31. Section 28.1 of that Act, enacted by section 7, applies to a transfer of shares in a legal person holding a day care centre permit that occurs on or after 4 November 2010.

32. Despite section 93.1 of the Educational Childcare Act, enacted by section 10, a person who holds one or more permits, or permit holders who are related persons, may keep the subsidized childcare spaces stated on those permits issued before 4 November 2010, or the spaces authorized by the Minister before that date, subject to an examination of the legality of the granting of those subsidized childcare spaces.

However, a legal person who holds two or more permits may not keep the spaces described in the first paragraph if an agreement is entered into concerning the sale or transfer of all or some of the legal person's shares to a new shareholder or concerning the amalgamation, consolidation or merger of the legal person with another legal person.

33. Despite section 93.2 of the Educational Childcare Act, enacted by section 10, a permit holder, or permit holders who are related persons, may keep the day care centre permits issued before 4 November 2010, or the day care centre permits for subsidized childcare spaces authorized by the Minister before that date, subject to an examination of the legality of the granting of those subsidized childcare spaces.

However, a legal person who holds permits described in the first paragraph may not keep the permits described in the first paragraph if an agreement is entered into concerning the sale or transfer of all or some of the legal person's shares to a new shareholder or concerning the amalgamation, consolidation or merger of the legal person with another legal person.

34. This Act comes into force on 10 December 2010, except section 14 to the extent that it enacts sections 101.3 to 101.20 of the Educational Childcare Act, sections 15 and 23 to the extent that they refer to section 105.2 of that Act, and section 29, which come into force on the date or dates to be set by the Government, which date or dates may not be after 15 October 2011.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 128
(2010, chapter 40)

An Act to enact the Money-Services Businesses Act and to amend various legislative provisions

Introduced 10 November 2010
Passed in principle 23 November 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

First, this Act enacts the Money-Services Businesses Act. The new Act requires that persons operating automated teller machines or offering such services as currency exchange, funds transfer, the issue or redemption of travellers' cheques, money orders or bank drafts, or cheque cashing, obtain a licence from Québec's financial markets authority, the Autorité des marchés financiers, and disclose information about their directors, officers and associates and certain types of lenders they deal with. Persons already governed by certain other laws are not, however, subject to the requirements of the new Act.

The Money-Services Businesses Act confers the responsibility for its administration and enforcement on the Authority. It also gives police forces certain powers, including, in the case of the Sûreté du Québec, the power to issue security clearance reports. These reports essentially consist in criminal background checks on the key figures in a money-services business and will provide the Authority with all the information it needs to decide whether or not to issue a licence.

Various legislative amendments are introduced. More specifically,

(1) the Act respecting financial services cooperatives is amended to require that the annual report of the Mouvement des caisses Desjardins include a statement of the remuneration paid to the Mouvement's five most highly remunerated officers, and to allow the Mouvement to comply with new international accounting standards;

(2) the Real Estate Brokerage Act is amended to allow brokers acting on behalf of an agency to engage in brokerage activities within a business corporation;

(3) the Business Corporations Act is amended to make various technical adjustments; and

(4) the Act respecting the legal publicity of enterprises is amended to make trusts carrying on a commercial enterprise in Québec subject to the registration requirement, and to make terminological and technical amendments for greater consistency.

This Act contains consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2);

– Act respecting financial services cooperatives (R.S.Q., chapter C-67.3);

– Real Estate Brokerage Act (R.S.Q., chapter C-73.2);

– Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1);

– Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1);

– Business Corporations Act (2009, chapter 52).

LEGISLATION REPEALED BY THIS ACT:

– Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (R.S.Q., chapter I-8.01).

LEGISLATION ENACTED BY THIS ACT:

– Money-Services Businesses Act (2010, chapter 40, Schedule I).

Bill 128

AN ACT TO ENACT THE MONEY-SERVICES BUSINESSES ACT AND TO AMEND VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

MONEY-SERVICES BUSINESSES ACT

1. The Money-Services Businesses Act, the text of which appears in Schedule I, is enacted.

CHAPTER II

LEGISLATIVE AMENDMENTS MAINLY CONCERNING THE FINANCIAL SECTOR

DIVISION I

FINANCIAL SECTOR

ACT RESPECTING FINANCIAL SERVICES COOPERATIVES

2. Section 63 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended by adding "or on those issued by the federation to a member referred to in subparagraph 4 of the first paragraph of section 46" at the end.

3. Section 87 of the Act is amended

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

"The following may also be allocated to the reserve, as determined by by-law of the federation:

(1) any asset or liability that is unrealized, is subject to market fluctuations and, according to the applicable accounting principles and standards, would otherwise be added to the surplus earnings to be allocated;

(2) the variation in the value of the assets and liabilities described in subparagraph 1, determined according to the applicable accounting principles;

(3) any other element, with the authorization of the Authority.";

(2) in the second paragraph,

(*a*) by replacing "cette caisse" in the portion before subparagraph 1 in the French text by "la caisse";

(*b*) by adding the following subparagraph after subparagraph 2:

"(3) the realization of any element allocated to the reserve."

4. The Act is amended by inserting the following section after section 87:

"**87.1.** A federation may, by by-law, establish a reserve to which the elements referred to in the second paragraph of section 87 are to be allocated.

The federation may draw upon the reserve to increase the surplus earnings it may apportion after realizing an element allocated to the reserve."

5. Section 227 of the Act is amended

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

"(2.1) the director general of the credit union;";

(2) by striking out ", save that the director general of the credit union can be a member of the board of directors" in paragraph 3.

6. Section 253.1 of the Act is amended by striking out ", excluding the director general of the credit union" in the first paragraph.

7. Section 364 of the Act is amended by adding the following paragraph at the end:

"For the purposes of subparagraph 3 of the first paragraph, a service may be developed or provided by a legal person or partnership controlled by the federation."

8. Section 365 of the Act is amended by replacing "paragraph 3" by "subparagraph 3 of the first paragraph".

9. Section 366 of the Act is amended by inserting "or, if applicable, a legal person or partnership controlled by the federation" after the first occurrence of "the federation".

10. Section 420 of the Act is amended by inserting the following paragraph after the first paragraph:

"The fund may also be used to purchase capital shares or investment shares already issued by the federation to a member described in subparagraph 4 of the first paragraph of section 46. Shares so purchased cannot be resold except to a member described in that subparagraph."

11. Section 424 of the Act is amended by adding the following subparagraph after subparagraph 5 of the first paragraph:

"(6) a statement of the compensation, bonuses and any other form of remuneration received by the group's five most highly compensated officers."

ACT RESPECTING THE DISCLOSURE OF THE COMPENSATION RECEIVED BY THE EXECUTIVE OFFICERS OF CERTAIN LEGAL PERSONS

12. The Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (R.S.Q., chapter I-8.01) is repealed.

ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

13. Section 97 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) is amended by inserting "and, if applicable, a legal person or partnership controlled by the federation" after "the federation of which they are members" in the first paragraph.

DIVISION II

OTHER SECTORS

REAL ESTATE BROKERAGE ACT

14. Section 3 of the Real Estate Brokerage Act (R.S.Q., chapter C-73.2) is amended by replacing paragraph 6 by the following paragraph:

"(6) chartered administrators who engage in a brokerage transaction, other than a transaction described in section 23, as an ancillary activity in the course of their real estate management function;".

15. Section 4 of the Act is amended by replacing "A person" in the fourth paragraph by "Subject to Division IV of Chapter II, a person".

16. The Act is amended by inserting the following division after Division III of Chapter II:

"**DIVISION IV**

"BROKERAGE ACTIVITIES WITHIN A BUSINESS CORPORATION

"**22.1.** A broker acting on behalf of an agency may carry on brokerage activities, in accordance with the terms, conditions and rules set out in the Organization's regulations, within a business corporation which the broker controls.

The business corporation is solidarily liable with the broker for the performance of the obligations imposed by this Act and for any fault committed by the broker.

"**22.2.** The civil liability insurance provided by an insurance fund to a broker who carries on brokerage activities within a business corporation must also designate the business corporation as an insured.

If no insurance fund exists, the civil liability insurance the broker must take out, or the security or guarantee in lieu of insurance the broker must give, must also designate the business corporation as an insured.

"**22.3.** A broker who carries on brokerage activities within a business corporation must ensure that its directors, executive officers and employees comply with this Act.

"**22.4.** A broker may not invoke decisions or acts of the business corporation within which the broker carries on activities, or its status as a legal person, to justify a contravention of this Act or the regulations or to limit or exclude the broker's personal responsibility.

"**22.5.** Subject to special authorizations from the Organization, a broker acting on behalf of an agency may carry on brokerage activities in Québec within a business corporation constituted under an Act other than an Act of the Parliament of Québec if the broker meets all the other conditions prescribed in this chapter.

The personal liability of the broker, including that relating to the obligations of the corporation, continues to be governed by the laws of Québec for all matters concerning brokerage activities carried on in Québec, as if the corporation had been constituted under an Act of the Parliament of Québec.

"**22.6.** The remuneration relating to the services provided by a broker while carrying on brokerage activities within a business corporation belongs to the corporation."

17. Section 38 of the Act is replaced by the following section:

"**38.** The Organization may suspend, revoke, or impose restrictions or conditions on a licence if the licence holder or, in the case of a broker, the business corporation within which the broker carries on brokerage activities,

(1) has previously had a licence revoked, suspended or made subject to restrictions or conditions by the discipline committee, by a body in Québec responsible for overseeing and monitoring real estate brokerage, or by such a body in another province or State;

(2) has made an assignment of property or been placed under a receiving order pursuant to the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);

(3) has previously been convicted by a court of law of an offence or act which, in the Organization's opinion, is brokerage-related, or has pleaded guilty to such an offence or act; or

(4) has been assigned a tutor, curator or adviser."

18. Section 46 of the Act is amended by striking out "prévoir" in paragraph 10.1 in the French text.

19. Section 52 of the Act is amended

(1) by replacing "establish an insurance fund" in the first paragraph by "establish an insurance fund made up of premiums and the income they generate,";

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

"The provisions of the Act respecting insurance (chapter A-32) that apply to professional orders and insurance funds established under the Professional Code (chapter C-26) apply, with the necessary modifications, to the Organization and to an insurance fund established by it."

20. Section 58 of the Act is amended by striking out "and various groups in the socioeconomic sector" in the first paragraph.

21. Section 63 of the Act is amended by inserting ", a statement that the broker carries on brokerage activities within a business corporation, the name of the business corporation" after "the name of the agency the broker represents" in the second paragraph.

22. Section 74 of the Act is amended by adding "and, if applicable, those of business corporations within which brokers carry on brokerage activities" at the end.

23. Section 78 of the Act is amended by inserting ", or, if applicable, the establishment of the business corporation within which the broker carries on

brokerage activities," after "concerned" in subparagraph 1 of the first paragraph.

24. Section 88 of the Act is amended by inserting ", the business corporation within which a broker carries on brokerage activities" after "Canadian court finding a broker".

ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

25. Section 3 of the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1) is amended

(1) by replacing "who operate a sole proprietorship" in paragraph 2 by "and trusts who operate an enterprise";

(2) by striking out "ou" in paragraph 3 in the French text.

26. The heading of Chapter II of the Act is replaced by the following heading:

"ENTERPRISE REGISTER".

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

"**12.** The registrar keeps the enterprise register."

28. Section 13 of the Act is amended by inserting "fiducie," after "personne," in the French text.

29. Section 17 of the Act is amended

(1) by striking out "particularly" in subparagraph 4 of the first paragraph;

(2) by replacing "partnership or group of persons, particularly" in subparagraph 7 of the first paragraph by "trust, partnership or group of persons,";

(3) by inserting "trust," after "person," in subparagraph 8 of the first paragraph and by striking out "particularly" in that subparagraph;

(4) by inserting "or to a trust registered under the name of the settlor, trustee or beneficiary" after "given name" in the third paragraph.

30. Section 18 of the Act is amended by inserting ", trust" after "or any person".

31. Section 21 of the Act is amended, in the first paragraph,

(1) by inserting "de personnes" after "société" in subparagraph 3 in the French text;

(2) by adding the following subparagraph:

"(8) trusts operating a commercial enterprise in Québec, other than a trust administered by a registered registrant."

32. Section 25 of the Act is amended by inserting ", trust" after "person".

33. Section 33 of the Act is amended

(1) by inserting "and by which the registrant is identified, either" after "Québec" in subparagraph 2 of the first paragraph;

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

"(3) the registrant's juridical form; and";

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

"(1.1) the title of and reference to the statute under which the registrant was constituted;

"(1.2) the name of the State, province or territory in which the registrant was constituted;

"(1.3) the registrant's date of constitution;";

(4) by replacing subparagraph 3 of the second paragraph by the following subparagraph:

"(3) the date of entry into office and the date of cessation of office of the persons referred to in subparagraphs 2 and 6;";

(5) by adding the following paragraphs:

"For the purposes of subparagraph 4 of the first paragraph, if not expressly designated in the statute or act by which it was constituted, the domicile of the trust is the location of its principal establishment in Québec.

For the purposes of subparagraph 1.3 of the second paragraph, the date of constitution of a trust is the date on which the trustee, or the first trustee in the case of two or more trustees, accepts the office of trustee."

34. Section 35 of the Act is amended by striking out paragraph 1.

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

"**35.1.** The registration declaration of a trust must also contain, if applicable,

(1) the statute, designated in the constituting act, under which it is governed; and

(2) the object pursued by the trust."

36. Section 36 of the Act is amended by replacing ", in the case of a partnership or legal person constituted in Québec, whose registration has been cancelled ex officio by the registrar" in the second paragraph by "whose registration is cancelled if the cancellation may be revoked under subdivision 3 of Division III".

37. Sections 41 and 45 of the Act are amended by replacing "35" in the first paragraph by "35.1".

38. Section 46 of the Act is amended by inserting "or a trust" after "sole proprietorship" in the first paragraph, and by replacing "35" in that paragraph by "35.1".

39. Sections 47 and 48 of the Act are amended by inserting "or a trust" after all occurrences of "legal person".

40. Section 49 of the Act is amended by replacing "35" by "35.1".

41. Section 61 of the Act is amended by inserting "trust," after "registration of a".

42. Section 84 of the Act is amended by replacing "who is a legal person" by "who is a legal person or trust".

43. Section 97 of the Act is amended by replacing "informs the registrant of the cancellation" in the second paragraph by "records the cancellation in the register and informs the registrant".

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

(1) by inserting "for identification" after "by the registrant" in subparagraph 2;

(2) by striking out "the registrant's status as a natural person operating an enterprise or" in subparagraph 3;

(3) by replacing "in subparagraph 2 of the second paragraph of section 33" in subparagraph 7 by "in subparagraphs 6 and 10";

(4) by inserting "trust or" after "pursued by the" in subparagraph 13;

(5) by striking out "as a legal person" in subparagraph 14;

(6) by adding the following subparagraph after subparagraph 16:

"(17) the statute, designated in the trust deed, under which the trust is governed."

45. Section 101 of the Act is amended by replacing "a government department or body for the purposes set out in any of subparagraphs 1 to 3, 5 and 8 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)" in the second paragraph by "a person or a body referred to in any of subparagraphs 1 to 3 and 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or section 67 or 68 of that Act, for the purposes set out in those provisions".

46. Section 107 of the Act is amended by replacing "charges prescribed by regulation of the Government" by "fee set out in this Act".

47. Section 108 of the Act is amended

(1) by inserting "trust," after "person," in the first paragraph;

(2) by replacing "a legal person" and "the legal person" in the third paragraph by "a legal person or trust" and "the legal person or trust", respectively.

48. Section 117 of the Act is amended

(1) by inserting "trust," after "person," in the first paragraph;

(2) by inserting "trust," after "person," in the fourth paragraph.

49. Section 119 of the Act is amended by inserting "trust," after "natural person," in the first paragraph.

50. Section 121 of the Act is amended by replacing ", 5 and 8 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)" in subparagraph 2 of the third paragraph by "or 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or section 67 or 68 of that Act".

51. Section 149 of the Act is amended by replacing "35" in paragraph 2 by "35.1".

52. Section 150 of the Act is amended by inserting "trust," after "person," in paragraph 3.

53. Section 151 of the Act is amended by striking out "and certifying" in paragraph 4.

54. Section 159 of the Act is amended by replacing "A person guilty of an offence" in the first paragraph by "An offender" and by replacing "in the case of a legal person" in that paragraph by "in other cases".

55. Section 161 of the Act is amended by inserting ", administrator of the property of others," after "director" in the first paragraph.

56. Section 287 of the Act is amended

(1) by striking out paragraph 2;

(2) by inserting the following paragraph after paragraph 4:

"(4.1) the information required under paragraph 6 of section 35;";

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

"Despite any other provision of this Act, a registrant is required to declare the information required under subparagraph 3 of the second paragraph of section 33 only if the date of entry into office or the date of cessation of office occurs after 13 February 2011."

57. Section 299 of the Act is amended by replacing "18" in the second paragraph by "8".

58. Schedule I to the Act is amended

(1) by inserting ", trust" after "operating for profit" under the heading "Registration declaration";

(2) by inserting ", trust" after "operating for profit" under the heading "Annual registration fee".

BUSINESS CORPORATIONS ACT

59. Section 2 of the Business Corporations Act (2009, chapter 52) is amended by replacing "any group of persons or properties, endowed with juridical personality or not" in the definition of "group" by "any legal person, any group of persons or any group of properties".

60. Section 27 of the Act is amended by striking out the second paragraph.

61. Section 32 of the Act is amended by inserting "mentioned in section 31" after "corporation's records" in the first paragraph.

62. Section 34 of the Act is amended by replacing "referred to in this section" in the third paragraph by "referred to in the first paragraph".

63. Section 52 of the Act is amended by adding the following paragraph at the end:

"Par value shares may not be issued for a consideration less than their par value."

64. Section 65 of the Act is amended

(1) by replacing "that the corporation is constituted under" in the first paragraph by "that the corporation is governed by";

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

"Furthermore, the existence of a unanimous shareholder agreement must be clearly stated on the share certificates, or, in the case of uncertificated shares, notice of its existence must be given without delay to the shareholder."

65. Section 66 of the Act is amended by striking out the third paragraph.

66. Section 72 of the Act is amended by replacing "at the time of issue" in paragraph 2 by "immediately before the redemption".

67. Section 118 of the Act is amended by replacing "articles of amendment" in paragraph 14 by "an amendment to the articles".

68. Section 120 of the Act is amended by replacing "a director" by "directors".

69. Section 121 of the Act is amended by replacing "expert competence or" in paragraph 2 by "expert competence and".

70. Section 148 of the Act is amended by replacing "all the shareholders" by "the shareholders entitled to vote".

71. Section 160 of the Act is amended by adding the following paragraph at the end:

"Furthermore, the corporation may not indemnify a person referred to in section 159 if the court determines that the person has committed an intentional or gross fault. In such a case, the person must repay to the corporation any moneys advanced."

72. Section 178 of the Act is amended by replacing "meeting" in the second paragraph by "meetings".

73. Section 184 of the Act is amended by striking out "secret".

74. Section 185 of the Act is amended by replacing "that an entry to that effect has been made" by "an entry to that effect" and by replacing "is" by "constitute".

75. Section 215 of the Act is amended by adding "that restricts, in whole or in part, the powers of the directors" at the end.

76. Section 218 of the Act is amended

(1) by striking out "by its existence being stated or a reference to the agreement being noted on the share certificate or otherwise," in the second paragraph;

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

"The person is presumed not to have been aware of the unanimous shareholder agreement if its existence is not stated on the share certificate or, in the case of uncertificated shares, if the person was not given notice of its existence."

77. Section 223 of the Act is amended by striking out "Even" in the first paragraph.

78. Section 281 of the Act is amended by inserting "all" before "cancelled" in subparagraph 3 of the second paragraph.

79. Section 287 of the Act is amended by replacing "that amalgamated" by "who voted for or consented to an amalgamation" and by replacing "des dettes de la société issue de la fusion subsistant" in the French text by "des dettes de cette société subsistant".

80. Section 289 of the Act is amended by replacing "constituting instrument" in the second paragraph by "incorporation document".

81. Section 373 of the Act is amended by replacing "there is only one class of shares" in the second paragraph by "all the shares held by the shareholders are of the same class".

82. The Act is amended by inserting the following section after section 373:

"**373.1.** Despite section 93, non fully paid shares also confer the right to demand a repurchase."

83. Section 379 of the Act is amended by adding the following paragraphs at the end:

"However, in the case of a shareholder holding non-fully paid shares, the corporation must subtract the unpaid portion of the shares from the repurchase price offered or, if it cannot pay the full repurchase price offered, the maximum amount that it can legally pay for those shares.

The repurchase notice must mention the subtraction and show the amount that can be paid to the shareholder."

84. Section 445 of the Act is amended

(1) by replacing both occurrences of "affiliate" by "subsidiary";

(2) by replacing "a corporation or any of its subsidiaries" by "a corporation or a corporation that is one of its subsidiaries".

85. Section 451 of the Act is amended by replacing "or setting aside" in subparagraph 8 of the first paragraph by ", setting aside or annulling".

86. Section 513 of the Act is amended by striking out paragraph 3.

87. Section 556 of the Act, and the heading before it, are repealed.

88. The Act is amended by inserting the following section after section 715:

"**715.1.** A company constituted under the Mining Companies Act (R.S.Q., chapter C-47) must, before 14 February 2016, send articles of continuance to the enterprise registrar in accordance with this Act. Otherwise, it is dissolved as of that date."

89. Section 724 of the Act is amended

(1) by replacing "section 215" by "sections 215 and 216";

(2) by inserting "and the names and domiciles of the persons who have assumed the powers of the board of directors" after "unanimous shareholder agreement".

90. Section 727 of the Act is amended by replacing the first paragraph by the following paragraph:

"**727.** The Government may, by a regulation made before 14 February 2012, enact any other transitional measure necessary for the carrying out of this Act."

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

91. Any director general who is a member of the board of directors of a credit union may remain in office until his or her term expires.

92. In any other Act, including any Act amended by this Act, and in any regulation, by-law or other document, unless the context indicates otherwise and with the necessary modifications, "register of sole proprietorships, partnerships and legal persons" is replaced by "enterprise register".

93. This Act comes into force on 10 December 2010, except

(1) sections 15 to 17, 21 to 24, paragraph 1 of section 25, section 28, paragraphs 2 to 4 of section 29 except where paragraphs 2 and 3 of that section cause "particularly" to be struck from subparagraphs 7 and 8 of the first paragraph of section 17 of the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1), section 30, paragraph 2 of section 31, section 32, paragraph 5 of section 33, sections 35, 37 to 42, paragraphs 4 and 6 of section 44 and sections 47 to 49, 51, 52 and 58, which come into force on the date or dates to be set by the Government; and

(2) paragraph 2 of section 25, sections 26 and 27, paragraph 1 of section 29 and paragraphs 2 and 3 of that section where they cause "particularly" to be struck from subparagraphs 7 and 8 of the first paragraph of section 17 of the Act respecting the legal publicity of enterprises, paragraph 1 of section 31, paragraphs 1 to 4 of section 33, sections 34, 36 and 43, paragraphs 1 to 3 and 5 of section 44 and sections 45, 46, 50, 53 to 57, 59 to 89 and 92, which come into force on 14 February 2011.

SCHEDULE I
(*Section 1*)

MONEY-SERVICES BUSINESSES ACT

CHAPTER I

SCOPE AND INTERPRETATION

1. This Act applies to any person or entity who operates a money-services business for remuneration.

The following services are considered to be money services:

(1) currency exchange;

(2) funds transfer;

(3) the issue or redemption of traveller's cheques, money orders or bank drafts;

(4) cheque cashing; and

(5) the operation of automated teller machines, including the leasing of a commercial space intended as a location for an automated teller machine if the lessor is responsible for keeping the machine supplied with cash.

2. This Act does not apply to the National Assembly, to the Gouvernement du Québec or any other government in Canada, to a department or an agency of those governments or to a municipality or a metropolitan community or an agency of a municipality or a metropolitan community.

Nor does it apply to persons or entities who, whether as money-services businesses or mandataries of such businesses, offer money services as part of their activities if those activities are governed by the Act respecting insurance (R.S.Q., chapter A-32), the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3), the Derivatives Act (R.S.Q., chapter I-14.01), the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01), the Securities Act (R.S.Q., chapter V-1.1), except persons or entities who are subject to that Act only as reporting issuers, the Bank Act (Statutes of Canada, 1991, chapter 46), the Cooperative Credit Associations Act (Statutes of Canada, 1991, chapter 48), the Canadian Payments Act (Revised Statutes of Canada, 1985, chapter C-21) or the Payment Clearing and Settlement Act (Statutes of Canada, 1996, chapter 6, s. 162, Sch.).

CHAPTER II
LICENCES

DIVISION I
ISSUE

3. A person or entity operating a money-services business for remuneration must hold a licence of the appropriate class.

4. Licences of one or more of the following classes are issued by the Autorité des marchés financiers (the Authority):

(1) currency exchange;

(2) funds transfer;

(3) the issue or redemption of traveller's cheques, money orders or bank drafts;

(4) cheque cashing; and

(5) the operation of automated teller machines.

The lessor of a commercial space intended as a location for an automated teller machine must be licensed to operate automated teller machines if the lessor is responsible for keeping the machine supplied with cash.

5. A licence application must be filed together with the fee determined by regulation and filed by the director, officer or partner of the money-services business who is acting as the business's respondent for the purposes of this Act.

The respondent must

(1) be 18 years of age or over;

(2) not be under tutorship, curatorship or advisership;

(3) be domiciled in Québec or have a place of business or a place of work in Québec; and

(4) meet any other condition set by regulation.

If the money-services business is not constituted under the laws of Québec and does not have its head office or an establishment in Québec, it must appoint a respondent in Québec who meets the requirements of the second paragraph. Such a respondent need not be a director, an officer or a partner of the business but must be able to properly exercise a respondent's functions with the Authority.

The money-services business must give such a respondent access, at the business's head office and in all its establishments, to the information and documents needed to exercise the respondent's functions.

6. When filing a licence application, a money-services business must provide

(1) a document describing its legal structure together with a list containing the name, date of birth, if applicable, domiciliary address and telephone number of each of its officers, directors or partners and branch managers, of any person or entity who directly or indirectly owns or controls the money-services business, of each of its employees working in Québec, stating the employee's functions, and of any other person specified by regulation;

(2) a list containing the name, date of birth, if applicable, domiciliary address and telephone number of each of its mandataries and of each of the officers of its mandataries who are responsible for the money services offered on behalf of the money-services business;

(3) a list of the financial institutions with which it deals;

(4) a list containing the name, date of birth, if applicable, domiciliary address and telephone number of each of its lenders other than the financial institutions referred to in subparagraph 3 and, if a lender is not a natural person, of each of its officers, directors or partners, along with the documents evidencing the loans;

(5) its business plan, its financial statements for the last fiscal year, a list of its establishments and, if applicable, the name of its subsidiaries and the names of its parent company and all subsidiaries of its parent company; and

(6) any other document with respect to any person specified by regulation.

The money-services business must also, for every natural person mentioned in the first paragraph, provide a copy of photo identification issued by a government or a government department or agency and showing the person's name and date of birth.

A money-services business applying for a licence only for the class relating to the operation of automated teller machines must, for the purposes of subparagraph 1 of the first paragraph, provide information concerning only those of its employees whose functions are related to the operation of automated teller machines. The business need not provide the business plan or financial statements required under subparagraph 5 of the first paragraph.

7. When a money-services business files a licence application, the Authority sends a notice to the Sûreté du Québec and the police force in the local municipal territory where the money-services business plans to offer money services and

encloses the information the Sûreté du Québec needs in order to issue a security clearance report.

8. Within 30 days after receiving the notice from the Authority, the Sûreté du Québec sends the Authority a security clearance report for the money-services business and for each of the persons referred to in subparagraphs 1 and 2 of the first paragraph of section 6 who exercise their functions in Québec, except employees of the money-services business whose functions are not related to the money services offered. Only one security clearance report is required for a person or entity referred to in both subparagraphs 1 and 2 of the first paragraph of section 6.

A security clearance report must also be issued for each of the lenders of the money-services business other than the financial institutions referred to in subparagraph 3 of the first paragraph of section 6, and for any other person specified by the Authority.

The security clearance report must state whether or not the person concerned has previous convictions and is of good moral character. For that purpose, it must specify whether there are grounds for the Authority to refuse to issue a licence under paragraph 1 of section 11 that relate to the applicant's moral character, or under paragraph 4 or 5 of that section or under section 13, the first paragraph of section 15 or section 16, to the extent that those provisions do not refer to paragraph 6 of section 11 or to paragraph 1 of section 12.

9. The Sûreté du Québec or a police force may object to the issue of a licence within 30 days after receiving notice of it under section 7. The objection must be filed in writing and include reasons.

Likewise, the Sûreté du Québec or the police force may at any time request that a licence be suspended or revoked.

10. When a request is filed with the Authority under section 9, the Authority asks the Bureau de décision et de révision established under section 92 of the Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2) to call the interested persons and entities to a hearing.

Not less than 10 days before the hearing is to be held, the Bureau sends the persons and entities a notice, by registered or certified mail or by personal service, of the hearing date, place and time.

Once the hearing has been held, the Bureau addresses its recommendations to the Authority.

DIVISION II

DECISIONS REGARDING LICENCES

11. The Authority refuses to issue a licence to a money-services business if it

(1) does not meet the requirements of this Act and, in particular, is not of good moral character as determined under section 23;

(2) has made an assignment of property or is insolvent or bankrupt;

(3) has had its right to operate revoked by a Canadian or foreign money-services regulator in the last 10 years;

(4) has, in the last 10 years, been convicted of or pleaded guilty to a penal or indictable offence under Part II.1, IV, IX, X, XII, XII.2 or XIII of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence under the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19), other than an offence under subsection 1 of section 4 of that Act, unless a pardon has been obtained;

(5) has entered into a contract for the loan of money with a lender, other than a financial institution referred to in subparagraph 3 of the first paragraph of section 6, who or one of whose officers, directors or partners has, in the last 10 years, been convicted of or pleaded guilty to an indictable offence in connection with the activities carried on by the lender, or an indictable offence under sections 467.11 to 467.13 of the Criminal Code, unless a pardon has been obtained; or

(6) has, in the last 10 years, been convicted by a foreign court of or pleaded guilty before a foreign court to an offence which, if committed in Canada, could have resulted in criminal or penal proceedings under any Part of the Criminal Code or of the Act referred to in paragraph 4, unless a pardon has been obtained.

12. The Authority may refuse to issue a licence to a money-services business, if the money-services business

(1) has been convicted of or pleaded guilty to an offence under this Act or an offence under any of the Acts listed in Schedule 1 to the Act respecting the Autorité des marchés financiers or any similar legislation of a Canadian province or territory or of another jurisdiction, a fiscal law, the Corruption of Foreign Public Officials Act (Statutes of Canada, 1998, chapter 34), the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22), subsection 1 of section 4 of the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or the Export and Import Permits Act (Revised Statutes of Canada, 1985, chapter E-19), unless a pardon has been obtained;

(2) has had its right to operate suspended or conditions or restrictions imposed on it by a Canadian or foreign money-services regulator; or

(3) has entered into a contract for the loan of money with a lender, other than a financial institution referred to in subparagraph 3 of the first paragraph of section 6, who or one of whose officers, directors or partners has, in the last 10 years, been convicted of or pleaded guilty to an indictable offence under a fiscal law.

13. The Authority refuses to issue a licence to a money-services business if one of its officers, directors, partners or branch managers, a person or entity who directly or indirectly owns or controls the money-services business or any other person specified by regulation, is in any of the situations described in paragraphs 1 to 4 and 6 of section 11.

14. The Authority may refuse to issue a licence to a money-services business if one of its officers, directors, partners, branch managers or any other person specified by regulation

(1) has made an assignment of property or is an undischarged bankrupt;

(2) is under tutorship, curatorship or advisership;

(3) is not 18 years of age or over;

(4) has been convicted of or pleaded guilty to an offence under any of the Acts referred to in paragraph 1 of section 12, unless a pardon has been obtained;

(5) served in any of those capacities with a money-services business in the 12 months preceding its bankruptcy and the bankruptcy occurred less than three years before the person's appointment;

(6) served in any of those capacities with a money-services business whose right to operate has, in the last three years, been revoked, suspended or made subject to conditions or restrictions by a Canadian or foreign money-services regulator; or

(7) has served in any of those capacities with a money-services business in the 12 months preceding the cessation of its activities if, in the Authority's opinion, the cessation is attributable to unlawful acts or practices.

15. The Authority may refuse to issue a licence to a money-services business if a person or an entity who directly or indirectly owns or controls the money-services business has been convicted of or pleaded guilty to an offence under any of the Acts referred to in paragraph 1 of section 12, unless a pardon has been obtained.

The same applies if that person or entity has directly or indirectly owned or controlled another money-services business in any situation described in paragraphs 5 to 7 of section 14.

16. The Authority may refuse to issue a licence to a money-services business if one of its employees whose functions are related to the money services offered by the money-services business is in a situation described in paragraph 1, 4 or 6 of section 11 or paragraph 1 of section 12.

17. The Authority suspends or revokes the licence of a money-services business on a ground specified in section 11 or 13.

Based on any other grounds specified in this Act, the Authority requests the Bureau de décision et de révision to suspend or revoke the licence of a money-services business. The Authority may also request the Bureau to impose an administrative penalty on the money-services business, which may not exceed $200,000 for each offence.

18. Before suspending or revoking a licence, the Authority may order the money-services business concerned to take the necessary corrective measures within the time the Authority specifies.

19. Before refusing to issue a licence or suspending or cancelling a licence, the Authority must notify the money-services business concerned in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., chapter J-3) and allow the business at least 10 days to submit observations and provide additional documents to complete the file.

The Authority may make a decision without complying with that prior obligation if urgent action is required or to prevent irreparable harm. In such a case, the money-services business concerned may, within the time specified in the decision, submit written observations and provide additional documents to the Authority for the purposes of a review of the decision.

20. Notice of a decision relating to a licence must be given to the Ministère du Revenu, the Sûreté du Québec and the police force in the local municipal territory where the money-services business concerned operates.

21. A money-services business whose licence has been suspended by the Authority may have the suspension lifted if it takes the necessary corrective measures within the time specified by the Authority.

If the money-services business fails to take the necessary corrective measures within the time specified, the Authority must revoke the licence.

CHAPTER III

OBLIGATIONS OF MONEY-SERVICES BUSINESSES

DIVISION I

GENERAL OBLIGATIONS

22. A money-services business must pay the fees determined by regulation.

23. A money-services business, and the persons or entities referred to in subparagraph 1, 2 or 4 of the first paragraph of section 6, must be of good moral character and show the integrity needed to carry on their activities and perform their functions.

A lack of good moral character is determined in light of such factors as the connections the persons or entities referred to in the first paragraph maintain with a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or with any other person or entity who engages in money laundering for criminal activities or in trafficking in a substance included in any of Schedules I to IV to the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19). It is also determined in light of any other event of such a nature as to affect the validity of the licence or give the Authority cause to act under any of sections 11 to 17.

24. A money-services business must ensure that its officers, directors, partners and employees comply with this Act.

25. A money-services business must notify the Authority without delay of any change likely to affect the validity of its licence or give the Authority cause to act under any of sections 11 to 17.

26. A money-services business must inform the Authority in writing, within the time prescribed by regulation, of any change in the information that it has filed with the Authority, including any change in the lists required under section 6.

27. If a change to be reported under section 25 or under section 26 affects the security clearance report issued for a money-services business or any other person or entity referred to in section 8, a new background check must be conducted so that a new report can be issued. The same applies if the Authority otherwise becomes aware of such a change.

28. A money-services business must verify the identity of its customers and, as part of its business dealings, the identity of its other co-contracting parties, in the cases and in the manner prescribed by regulation.

29. A money-services business must maintain and update the following records and registers:

(1) a register of the transactions it has conducted containing, among other things, customer identification information;

(2) the records needed to identify its sources of liquidity;

(3) an accounting register containing a balance sheet and an income statement;

(4) a register of accounts and bank reconciliation reports;

(5) a record containing the name, domiciliary address and telephone number, and function of each of its officers, directors, partners and employees; and

(6) any other record or register prescribed by regulation.

The records and registers must be kept in Québec and be readily available to the Authority. If they are kept by another person, such as a mandatary or a goods or services provider, who provides a service to the money-services business, they must be available to the Authority as if they were kept at the head office or an establishment of the money-services business.

However, a money-services business whose head office is situated outside Québec may keep its records and registers outside Québec, but the information they contain must be available for inspection, in an appropriate medium, at an establishment of the money-services business in Québec or in any other place designated by the Authority, and the money-services business must provide technical assistance to facilitate inspection of the information.

The records and registers must be maintained in such a manner so as to allow auditing.

30. A money-services business must keep the customer information it has on file for six years after the information is gathered.

31. A money-services business must, in the manner prescribed by regulation, notify the Authority of a financial transaction if there is reasonable cause to believe that the transaction or its purpose constitutes an offence under this Act or may give the Authority cause to act under any of sections 11 to 16.

A money-services business who notifies the Authority under the first paragraph does not incur any civil liability as a result.

32. A money-services business or any person or entity who provides a money-services business with goods or services related to the design or operation of systems providing access to funds through automated teller machines or point-of-sale terminals for the purposes of the money-services

business's activities must, on the Authority's request and within the time the Authority specifies, provide any information or document the Authority considers relevant for the purposes of this Act.

33. A money-services business must file with the Authority the reports, documents and statements prescribed by this Act, in the form and within the time specified by regulation.

DIVISION II

CESSATION OF ACTIVITIES

34. A money-services business wishing to cease its activities must, 15 days before the projected cessation date, apply to the Authority for the withdrawal of its licence.

The Authority may impose such conditions as it may determine on the withdrawal of the licence.

35. A money-services business that ceases its activities or whose licence is revoked must hand its records, books and registers over to the Authority, which determines how it will dispose of them.

However, the records, books and registers may be disposed of otherwise with the authorization of the Authority.

The Authority notifies the Ministère du Revenu, the Sûreté du Québec and the police force in the local municipal territory concerned that the money-services business has ceased its activities. It must also notify them before the money-services business's records, books and registers are disposed of.

CHAPTER IV

FUNCTIONS AND POWERS OF AUTORITÉ DES MARCHÉS FINANCIERS

DIVISION I

GENERAL PROVISIONS

36. The Authority established under section 1 of the Act respecting the Autorité des marchés financiers exercises the functions and powers assigned to it by this Act.

37. The Authority may, by an agreement entered into under section 33 of the Act respecting the Autorité des marchés financiers, allow the communication of any personal information to facilitate the administration or enforcement of this Act, of fiscal, criminal or penal legislation or of any similar legislation outside Québec.

38. The Authority may, without the consent of the money-services business or the person or entity concerned, communicate any information, including personal information, to a police force if there is reasonable cause to believe that the money-services business, person or entity has committed or is about to commit a criminal or penal offence under an Act enforceable in or outside Québec in relation to this Act or against the Authority or one of its employees, and that the information is required for the purposes of the investigation.

The Authority may also, without the consent of the money-services business or the person or entity concerned, communicate any information, including personal information, to the Minister of Revenue if there is reasonable cause to believe that the money-services business, person or entity has committed or is about to commit an offence that may have an impact on the administration or enforcement of a fiscal law.

39. In a case not provided for in section 38, the Authority may, with the authorization of a judge of the Court of Québec, communicate any information, including personal information, to a police force without the consent of the person concerned.

The application for authorization must be made in writing and contain a sworn statement that there is reasonable cause to believe that the information may serve to prevent, detect or repress the commission of an indictable offence that has been or is about to be committed against an Act applicable in or outside Québec.

The application and the record pertaining to the hearing are confidential. The clerk of the Court of Québec must take the necessary measures to preserve their confidentiality.

The judge to whom the application for authorization is made shall hear the application outside the presence of the person concerned and in camera. The judge may make any order to preserve the confidentiality of the application, the record and personal information. The record must be sealed and kept in a place not open to the public.

40. In addition to the situations described in section 41.2 or 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), a police force may communicate any information to the Authority for the purposes of this Act without the consent of the money-services business, person or entity concerned if the money-services business, person or entity is a member of a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or participates or has participated in the activities of such a criminal organization, whether or not the money-services business, person or entity has been convicted in relation to such participation.

41. The Authority may, by a motion, apply to a judge of the Superior Court for an injunction in respect of any matter relating to this Act.

The motion for an injunction is a proceeding in itself.

The procedure prescribed in the Code of Civil Procedure (R.S.Q., chapter C-25) applies, except that the Authority cannot be required to give security.

42. The Authority may, on its own initiative and without notice, intervene in any proceeding relating to a provision of this Act.

A motion by the Authority under this section is filed in the district in which the residence or principal establishment of the person or entity concerned is situated or, if the person or entity has no residence or establishment in Québec, in the district of Montréal.

43. The Authority may, on its own initiative or on the request of an interested person, take any steps to ensure compliance with this Act.

It may, in particular, require that the respondent of a money-services business be replaced or require changes to any document prepared under this Act.

44. The Authority may make policy statements relating to the administration of this Act.

The policy statements set out how the Authority intends to exercise its discretionary powers for the purposes of this Act.

DIVISION II

INSPECTIONS AND INVESTIGATIONS

45. The Authority may, in accordance with Chapter III of Title I of the Act respecting the Autorité des marchés financiers, inspect the affairs of a money-services business in order to verify compliance with this Act, or conduct an investigation into any matter relating to this Act.

In addition, the Authority may, on its own initiative or on request, conduct an investigation

(1) to repress any contravention of the legislation adopted by another legislative authority to regulate money services; and

(2) within the scope of an agreement entered into under the second paragraph of section 33 of the Act respecting the Autorité des marchés financiers.

46. The Authority or its appointed agent may require any person or entity or the officers, directors, partners or employees of a person or entity to submit to examination under oath.

47. No person called on to testify in the course of an investigation or being examined under oath may refuse to answer or refuse to produce a document on the grounds that the person might, by doing so, be incriminated or exposed to a penalty or to civil proceedings, subject to the Canada Evidence Act (Revised Statutes of Canada, 1985, chapter C-5).

48. The Authority may require the communication or delivery of any document that is relevant to an investigation. It may return documents to those who provided them or otherwise decide how documents are to be disposed of.

A person who has provided documents to the Authority may inspect them or copy them at the person's own expense, by arrangement with the Authority.

49. The Sûreté du Québec or any police force may at any reasonable hour enter an establishment governed by this Act to verify whether the money-services business holds a licence or to verify any other thing that may affect the validity of the licence or give the Authority cause to act under any of sections 11 to 17.

DIVISION III

CONSERVATORY MEASURES

50. The Authority may, for the purposes or in the course of an investigation, request the Bureau de décision et de révision

(1) to order a person or entity not to dispose of funds, securities or other property in their possession; and

(2) to order the person or entity to refrain from withdrawing funds, securities or other property on deposit with or under the control or in the safekeeping of any other person.

Such an order is effective for a renewable period of 120 days from the time the person or entity concerned is notified.

51. The person or entity concerned must be notified at least 15 days before any hearing during which the Bureau de décision et de révision is to consider an application for the renewal of an order under this division. The Bureau may grant the application if the person or entity concerned has not requested to be heard or has failed to establish that the reasons for the initial order have ceased to exist.

52. A person or entity named in an order made under this division who has put a safety deposit box at the disposal of a third person or has allowed a third person to use a safety deposit box must immediately notify the Authority.

On the Authority's request, the person or entity must open the safety deposit box in the presence of an agent of the Authority, draw up an inventory of the contents in triplicate, and give one copy to the Authority and another to the person or entity actually or potentially under investigation.

53. An order made under this division that names a Canadian financial institution applies only to the agencies or branches specified.

54. A person or entity directly affected by an order made under this division, if in doubt as to the application of the order to particular funds, securities or other property, may apply to the Bureau de décision et de révision for clarification.

55. The Authority may publish an order made under this division in the register of personal and movable real rights.

56. In addition to any measure imposed in an order made under this division, the Bureau de décision et de révision may require the person or entity named in the order to repay to the Authority the costs incurred in connection with the inspection or investigation that established non-compliance with a provision of this Act, according to the tariff set by regulation.

57. The Bureau de décision et de révision may prohibit a person from acting as a director or officer of a money-services business on the grounds set out in article 329 of the Civil Code or if a penalty has been imposed on the person under this Act.

The prohibition imposed by the Bureau de décision et de révision may not exceed five years.

The Bureau de décision et de révision may, at the request of the person concerned, lift the prohibition on such conditions as it considers appropriate.

DIVISION IV

MONEY-SERVICES BUSINESS REGISTER

58. The Authority maintains a public register of licence-holding money-services businesses containing the following information concerning each money-services business:

(1) its name and its licence number;

(2) the class of the licence it holds; and

(3) contact information for its head office and each of its establishments.

59. The Authority may require that a money-services business communicate any information needed to maintain the register.

CHAPTER V

REGULATORY POWERS

60. The Authority may make regulations determining

(1) the fees and tariffs payable for any formality required by this Act and for the services provided by the Authority, and payment terms and time limits;

(2) the form and content of licence applications;

(3) documents and persons for the purposes of the first paragraph of section 6;

(4) the time limit and procedure for informing the Authority of any change in the information filed with the Authority by a money-services business, including any change to the lists and other documents provided;

(5) the nature, form and content of the books, registers and records that a money-services business must maintain and rules relating to their preservation, use and destruction;

(6) which money-services businesses must provide security for the performance of their obligations, and the amount and form of the security;

(7) time limits for the purposes of this Act;

(8) the cases and manner in which the identity of a customer or a co-contracting party must be verified for the purposes of section 28;

(9) the manner in which notification of a financial transaction is to be given for the purposes of section 31; and

(10) the nature, form and content of the reports, documents and statements required to be filed under section 33.

61. A regulation of the Authority under this Act must be submitted for approval to the Minister, who may approve it with or without amendment.

However, a regulation of the Authority under paragraph 1 of section 60 must be submitted for approval to the Government, which may approve it with or without amendment.

A draft of a regulation referred to in the first paragraph may not be submitted for approval and the regulation may not be made before 30 days have elapsed since the publication of the draft in the Authority's bulletin. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec*

or on any later date specified in the regulation. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (R.S.Q., chapter R-18.1) do not apply to the regulation.

The Minister may make a regulation referred to in the first paragraph if the Authority fails to make such a regulation within the time determined by the Minister.

The Government may make a regulation referred to in the second paragraph if the Authority fails to make such a regulation within the time determined by the Government.

62. Regulatory provisions made under this chapter may vary according to the class of licence to which they apply.

CHAPTER VI

MISCELLANEOUS PROHIBITIONS

63. No person may make any representation that the Authority has passed upon the merits of a money-services business or its conduct.

64. No person may represent that the person holds a licence under this Act unless the representation is true.

65. No person may act as nominee for another person or for an entity.

CHAPTER VII

PENAL PROVISIONS

66. A person who

(1) in any manner makes a misrepresentation to the Authority or another person or entity when pursuing activities governed by this Act,

(2) hinders or attempts to hinder a person acting on behalf of the Authority,

(3) hinders or attempts to hinder an inspector or an investigator, refuses to provide an inspector or an investigator with information or a document the inspector or investigator is entitled to require or examine, or conceals or destroys a document or property relevant to an inspection or investigation,

(4) acts as nominee, uses the name of another person or an entity who holds a licence or uses that person's or entity's licence number to operate a money-services business,

(5) contravenes a decision of the Authority or the Bureau de décision et de révision,

(6) fails to provide information or documents required under this Act, or

(7) fails to appear after summons, refuses to testify or refuses to communicate or deliver a document or thing required by the Authority or an appointed agent of the Authority, in the course of an investigation or inspection,

is guilty of an offence.

A person who contravenes any subparagraph of the first paragraph is liable to a fine of not less than $5,000 nor more than $50,000 in the case of a natural person and not less than $15,000 nor more than $200,000 in the case of a legal person or an entity.

67. A person who contravenes any of sections 3, 22 to 35 and 63 to 65 is guilty of an offence and liable to a fine of not less than $5,000 nor more than $50,000 in the case of a natural person and not less than $15,000 nor more than $200,000 in the case of a legal person or other entity.

If the offender is a money-services business whose licence has been suspended or revoked under section 17, it is liable to an additional fine of not less than $10,000 nor more than $100,000.

68. A money-services business that has entered into a contract for the loan of money with a lender, other than a financial institution, who or one of whose officers, directors or partners, in the 10 years preceding the loan, was convicted of or pleaded guilty to an indictable offence in connection with the activities carried on by the lender or an indictable offence under sections 467.11 to 467.13 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) is guilty of an offence and liable to a fine of not less than $15,000 nor more than $150,000 in the case of a natural person and not less than $45,000 nor more than $450,000 in the case of a legal person or other entity.

69. A person or entity who helps or, by encouragement, advice or consent or by an authorization or order, induces another person or entity to commit an offence under this Act is guilty of an offence.

A person or entity found guilty under this section is liable to the same penalty as prescribed for the offence committed by the other person or entity.

70. In the case of a second or subsequent offence, the minimum and maximum fines prescribed in this Act are doubled.

71. The contravention of a regulation made under this Act constitutes an offence that is subject to the same provisions as offences under this Act.

72. Penal proceedings for an offence under this Act may be instituted by the Authority.

73. When the Authority takes charge of the prosecution, the fine imposed by the court belongs to the Authority.

74. Penal proceedings for an offence under any of sections 3, 22 to 35 and 66 to 69 are prescribed five years from the date on which the investigation record relating to the offence was opened.

A certificate of the secretary of the Authority stating the date on which the investigation record was opened constitutes conclusive proof of that date in the absence of any evidence to the contrary.

75. The Authority may recover its investigation costs from any person found guilty of an offence under this Act, according to the tariff set by regulation.

The Authority prepares a statement of costs and presents it to a judge of the Court of Québec after giving the interested parties five days' prior notice of the date of presentation.

The judge taxes the costs. The judge's decision may be appealed with leave of a judge of the Court of Appeal.

CHAPTER VIII

ADMINISTRATION OF THE ACT

76. The costs incurred by the Government for the administration of this Act, as determined each year by the Government, are borne by the Authority.

The charges payable for the issue of a security clearance report must be determined by an agreement between the Authority and the Sûreté du Québec, as allowed under the second paragraph of section 51 of the Police Act (R.S.Q., chapter P-13.1).

77. A document issued by the Authority to attest the issue of a licence, the filing of a document, the time when facts having given rise to proceedings came to the knowledge of the Authority and any other matter relating to the administration of this Act constitutes proof of its content in any proceeding without further proof of the signature or authority of the signatory.

78. The Authority may appoint any expert whose assistance it considers useful for the administration of this Act.

CHAPTER IX

AMENDING PROVISIONS

79. Section 93 of the Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2) is amended by inserting "the Money-Services Businesses Act (2010, chapter 40, Schedule I)," after "the Act respecting the distribution of financial products and services (chapter D-9.2)," in the first paragraph.

80. Section 94 of the Act is amended by inserting "the Money-Services Businesses Act (2010, chapter 40, Schedule I)," after "the Act respecting the distribution of financial products and services (chapter D-9.2),".

81. Section 115.1 of the Act is amended by replacing "or the marketing" by ", regulating money-services businesses or supervising the marketing".

CHAPTER X

TRANSITIONAL AND FINAL PROVISIONS

82. A person or entity who, on (*insert the date of coming into force of section 3*), operates a money-services business for which a licence is required under this Act must, within six months after that date, file an application for a licence of the appropriate class in accordance with this Act. The person or entity may continue operating their money-services business until the Authority renders a decision on the licence application.

The business plan referred to in subparagraph 5 of the first paragraph of section 6 need not be submitted with the application.

83. Not later than (*insert the date that occurs five years after the coming into force of section 1*) and subsequently every five years, the Minister must report to the Government on the carrying out of this Act and on the advisability of maintaining or amending it.

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

84. The Authority is responsible for the administration of this Act.

85. The Minister of Finance is responsible for the carrying out of this Act, except sections 8 and 9, section 49 and the second paragraph of section 76, the carrying out of which is under the responsibility of the Minister of Public Security.

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

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 129
(2010, chapter 41)

An Act to amend various provisions respecting supplemental pension plans, particularly concerning payment options in the event of an employer's insolvency

Introduced 9 November 2010
Passed in principle 7 December 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act introduces various amendments to the Supplemental Pension Plans Act.

The application of the provisions relating to payment options in the event of insufficient assets, currently applicable in the event of the withdrawal of an employer from a multi-employer pension plan or the termination of a plan, is extended to cases where the employer who is a party to a plan is subject to an order or judgment under the Companies' Creditors Arrangement Act, Part III of the Bankruptcy and Insolvency Act or the Winding-up Act.

The Régie is given the power to extend by a maximum of five fiscal years the period of administration of any pension it pays, if it considers that circumstances justify it. The Régie is also given the power to order the division of a pension plan governed both by the Supplemental Pension Plans Act and by an Act of a legislative body other than the Parliament of Québec if it considers it is necessary to protect the rights of Québec members or beneficiaries of the pension plan.

Moreover, an employer party to a multi-employer pension plan may avail itself of the provisions of the Supplemental Pension Plans Act relating to the use of a letter of credit.

Also, a provision of the Charter of Ville de Montréal is amended in order to take into account the repeal of certain provisions of the Supplemental Pension Plans Act by chapter 42 of the statutes of 2006.

Some of the amortization payments to be paid into the pension plans listed in Schedule A are suspended until 31 March 2011.

Lastly, the Act contains consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

– Charter of Ville de Montréal (R.S.Q., chapter C-11.4);

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

Bill 129

AN ACT TO AMEND VARIOUS PROVISIONS RESPECTING SUPPLEMENTAL PENSION PLANS, PARTICULARLY CONCERNING PAYMENT OPTIONS IN THE EVENT OF AN EMPLOYER'S INSOLVENCY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

SUPPLEMENTAL PENSION PLANS ACT

1. Section 42.1 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by striking out the second paragraph.

2. The Act is amended by inserting the following section after section 195:

"**195.1.** In addition, where a pension plan is governed both by this Act and by an Act of a legislative body other than the Parliament of Québec, the Régie may, if it considers it is necessary to protect the rights of the members and beneficiaries subject to this Act, order the division of the assets and liabilities of the plan, on the date, within the time and on the conditions it fixes, so that the assets pertaining to those members and beneficiaries are transferred to another pension plan.

The order is issued to the person or body who may amend the pension plan involved, to the person or body who administers the plan and to the person or body who may establish a pension plan for the members and beneficiaries mentioned in the first paragraph. The rights of those members and beneficiaries are established on the date of the division and according to the provisions of the plan that are registered and in force on that date."

3. Section 230.0.0.1 of the Act is amended

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

"(1) the pension plan is amended to allow for the withdrawal of a participating employer or it is terminated;

"(1.1) the employer who is a party to the plan is bankrupt or subject to an order or judgment under the Companies' Creditors Arrangement Act (Revised Statutes of Canada, 1985, chapter C-36), Part III of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3) or the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11);";

(2) by replacing "but prior to 1 January 2012" in paragraph 2 by "and the date of the employer's bankruptcy or the date of the order or the judgment referred to in paragraph 1.1";

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

"(2.1) the date the employer withdraws or the plan terminates is prior to 1 January 2012, or, if it is after 31 December 2011, the employer is still, on the date of the withdrawal or termination, subject to an order or judgment referred to in paragraph 1.1 dated prior to 1 January 2012;";

(4) by adding the following paragraph after paragraph 3:

"(4) the assets necessary to pay the benefits are not likely to be recovered."

4. The Act is amended by inserting the following section after section 230.0.0.11:

"**230.0.0.12.** The Régie may, before the expiry of the time limit set under the first paragraph of section 230.0.0.9, extend its administration with respect to the pensions it pays to the members and beneficiaries referred to in section 230.0.0.4 if it considers that circumstances justify it, in particular if the volume of the pensions that must be guaranteed by an insurer cannot be absorbed by the market.

However, the administration by the Régie, after having been extended one or more times, may not be extended beyond the end of the tenth fiscal year of the pension plan that follows the fiscal year during which the Régie began exercising the powers of the pension committee with respect to those members and beneficiaries.

When it extends its administration, the Régie must inform the members and beneficiaries as well as the Government."

CHARTER OF VILLE DE MONTRÉAL

5. Section 37.1 of Schedule C to the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is amended

(1) by replacing "the pension plans referred to in section 135.1 of that Act may have retroactive effect from any date that it determines" in the first paragraph by "the following pension plans, registered with the Régie des rentes du Québec, may have retroactive effect to any date that it determines:

(1) the Régime de retraite des contremaîtres de la Ville de Montréal, registered under number 27693;

(2) the Régime de retraite des fonctionnaires de la Ville de Montréal, registered under number 27543;

(3) the Régime de retraite des professionnels de la Ville de Montréal, registered under number 28739;

(4) the Régime de retraite des cadres de la Ville de Montréal, registered under number 27542;

(5) the Régime de retraite des employés manuels de la Ville de Montréal, registered under number 27494;

(6) the Régime de retraite des pompiers de la Ville de Montréal, registered under number 22503";

(2) by striking out "in sections 135.1 to 135.5 and 306.2 to 306.6 of the Supplemental Pension Plans Act and" in the second paragraph.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

6. The obligation to pay an amortization payment for the fiscal years ending on 31 December 2009 or on 31 December 2010 of a pension plan listed in Schedule A, which payment was suspended by an order under the Companies' Creditors Arrangement Act (Revised Statutes of Canada, 1985, chapter C-36), is deferred to 31 March 2011.

7. In the cases where, following an order issued by the Régie des rentes du Québec before 9 November 2010, an employer amends the notice of termination to move the date of termination of the plan to a date prior to the date initially set in the notice, subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act applies with respect to the members who would have been entitled to the payment of a pension had the termination date not been changed, as though section 230.0.0.2 of that Act had applied to them on the termination date.

8. Subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act does not apply to a plan referred to in section 230.0.0.1 of that Act, amended by section 3, if the date of the order or judgment under the Companies' Creditors Arrangement Act, Part III of the Bankruptcy and Insolvency Act or the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11) is prior to 10 December 2010 and if the payment of the members' and beneficiaries' benefits has already begun on that date.

9. The Government may, by regulation, make any transitional and consequential provision necessary for the carrying out of this Act.

Such a regulation is not subject to the publication requirement or the requirement as regards its date of coming into force set out in sections 8 and 17 of the Regulations Act and may, if it so provides, have retroactive effect to

a date that is prior to the date of its publication but not prior to 31 December 2008.

10. This Act comes into force on 10 December 2010. However, section 5 has effect from 1 January 2010.

SCHEDULE A
(*Section 6*)

24239 Régime de retraite applicable aux employés syndiqués de la Compagnie Abitibi-Consolidated du Canada

101793 Régime de retraite applicable aux employés non-syndiqués de Abitibi-Consolidated inc.

30064 Pension Plan for Executive Employees of Abitibi-Consolidated Inc.

22112 Régime complémentaire de retraite des employés syndiqués de la Compagnie Abitibi-Consolidated du Canada — Division Pâtes et papier — Secteur Clermont

27066 Régime complémentaire de retraite des employés syndiqués de la Compagnie Abitibi-Consolidated du Canada — Division Pâtes et papier — Secteur Amos

22322 Régime complémentaire de retraite des employés syndiqués de la Compagnie Abitibi-Consolidated du Canada — Division Pâtes et papier — Secteur Baie-Comeau

30670 Régime de retraite des employés (1988) de Bowater Produits forestiers du Canada inc./Employees Retirement Plan (1988) of Bowater Canadian Forest Products Inc.

5839 Régime de retraite des employés (1946) de Bowater Produits forestiers du Canada inc./Employees Retirement Plan (1946) of Bowater Canadian Forest Products Inc.

31383 Régime de retraite des salariés non syndiqués (1995) de Bowater Produits forestiers du Canada inc.

31384 Régime de retraite des salariés syndiqués (1994) de Bowater Produits forestiers du Canada inc.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 131
(2010, chapter 42)

An Act to amend the Act respecting the Régie du logement and various Acts concerning municipal affairs

Introduced 11 November 2010
Passed in principle 3 December 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

EXPLANATORY NOTES

This Act amends the Act respecting the Régie du logement to give the board jurisdiction over any matter relating to setting rent, changing other conditions of a lease or revising rent, both in first instance and during the review process, and to grant the board powers to curb abuse of procedure.

The Cities and Towns Act, the Municipal Code of Québec, the Act respecting the Communauté métropolitaine de Montréal, the Act respecting the Communauté métropolitaine de Québec and the Act respecting public transit authorities are amended to remove employment contracts from the list of contracts that must be published by means of the electronic tendering system approved by the Government for the purposes of the Act respecting contracting by public bodies. Various provisions of these laws concerning the rules for awarding contracts are also amended.

The Municipal Powers Act is amended to allow two or more municipalities to jointly operate an enterprise that produces electricity at a wind farm or a hydro-electric power plant situated in the territory of only one or some of those municipalities.

The Act respecting elections and referendums in municipalities is amended to require municipal council members to include any loans they have granted in the statement of their financial interests and to declare any significant changes to the information contained in the statement. The sending of certain information to the Minister of Municipal Affairs, Regions and Land Occupancy also becomes mandatory.

The Act respecting the exercise of certain municipal powers in certain urban agglomerations and the Act respecting the Société de l'assurance automobile du Québec are amended to allow the urban agglomeration council of Ville de Montréal to levy a tax on passenger vehicles registered in the name of a person whose address corresponds to a place situated in the urban agglomeration, and to grant the Société the power to enter into an agreement with the city with respect to the collection of the tax.

The Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire and the Act respecting the Ministère du Développement économique, de l'Innovation et de

l'Exportation are amended to make regional conferences of elected officers and local development centres subject to provisions relating to, among other things, the rules governing the awarding of contracts.

The Act respecting Northern villages and the Kativik Regional Government is amended to provide that northern villages must prepare and adopt their annual budget between 15 November and 31 December and send a copy of the budget to the Minister of Municipal Affairs, Regions and Land Occupancy within 60 days after the budget is adopted.

The Municipal Ethics and Good Conduct Act is amended in order to require each municipality to send a copy of its code of ethics and conduct for elected municipal officers to the Minister of Municipal Affairs, Regions and Land Occupancy, and to specify the procedure applicable during an inquiry by the Commission municipale du Québec into a violation of such a code.

The Charter of Ville de Montréal and the Act respecting public transit authorities are amended so that certain loans of the Société de transport de Montréal will be contracted from now on by Ville de Montréal. The Charter is also amended to remove the possibility for qualified voters of the city to waive referendums with respect to urban planning.

Modifications are made to the duration of certain property assessment rolls.

Lastly, various technical and transitional amendments are made.

LEGISLATION AMENDED BY THIS ACT:

– Charter of Ville de Montréal (R.S.Q., chapter C-11.4);

– Cities and Towns Act (R.S.Q., chapter C-19);

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01);

– Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02);

– Municipal Powers Act (R.S.Q., chapter C-47.1);

– Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);

– Act respecting the exercise of certain municipal powers in certain urban agglomerations (R.S.Q., chapter E-20.001);

– Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (R.S.Q., chapter M-22.1);

– Act respecting the Ministère du développement économique, de l'Innovation et de l'Exportation (R.S.Q., chapter M-30.01);

– Act respecting the Régie du logement (R.S.Q., chapter R-8.1);

– Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);

– Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011);

– Act respecting public transit authorities (R.S.Q., chapter S-30.01);

– Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1);

– Act to amend various legislative provisions concerning municipal affairs (2001, chapter 68);

– Act respecting Ville de Percé, Ville d'Amos and Ville de Rouyn-Noranda (2009, chapter 73);

– Municipal Ethics and Good Conduct Act (2010, chapter 27).

Bill 131

AN ACT TO AMEND THE ACT RESPECTING THE RÉGIE DU LOGEMENT AND VARIOUS ACTS CONCERNING MUNICIPAL AFFAIRS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHARTER OF VILLE DE MONTRÉAL

1. Schedule C to the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is amended by inserting the following section after section 121:

"**121.1.** At the request of the board of directors of the Société de transport de Montréal, the executive committee may, in accordance with section 121, make a loan ordered by a by-law of the transit authority under section 123 of the Act respecting public transit authorities (chapter S-30.01) and over which the city has jurisdiction under section 158.2 of that Act.

The proceeds of the loan are paid to the transit authority to serve the purposes set out in the by-law ordering the loan.

From the time of the payment, the transit authority is in debt to the city, under repayment terms identical to those of the loan contracted by the city, for the sums required by the city to repay the loan, including the interest and other related fees. For that purpose, the transit authority may issue evidences of indebtedness to the city and establish a sinking fund."

2. Schedule C to the Charter is amended by inserting the following section after section 162:

"**162.1.** Subparagraph 3 of the second paragraph of section 532 of the Act respecting elections and referendums in municipalities (chapter E-2.2) does not apply to a by-law referred to in section 136.0.1 or 136.1 of the Act respecting land use planning and development (chapter A-19.1)."

CITIES AND TOWNS ACT

3. Section 477.5 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by adding the following sentence at the end of the first paragraph: "However, employment contracts need not be included in the list."

4. Section 573.3 of the Act is amended by replacing the second paragraph by the following paragraph:

"If a professional services contract for the drawing up of plans and specifications was the subject of a call for tenders, sections 573.1 and 573.3.0.2 do not apply to a contract entered into with the designer of those plans and specifications for

(1) their adaptation or modification for the carrying out of the work for the purposes for which they were prepared; or

(2) the supervision of the work related to such modification or adaptation or, within the scope of a fixed-price contract, related to an extension of the duration of the work."

5. Section 573.3.1.2 of the Act is amended by inserting the following paragraph after the fourth paragraph:

"Not later than 30 days after the day on which the policy or any resolution amending the policy is adopted, the clerk must send a certified copy of it to the Minister of Municipal Affairs, Regions and Land Occupancy."

MUNICIPAL CODE OF QUÉBEC

6. Article 938 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing the second paragraph by the following paragraph:

"If a professional services contract for the drawing up of plans and specifications was the subject of a call for tenders, articles 938 and 938.0.2 do not apply to a contract entered into with the designer of those plans and specifications for

(1) their adaptation or modification for the carrying out of the work for the purposes for which they were prepared; or

(2) the supervision of the work related to such modification or adaptation or, within the scope of a fixed-price contract, related to an extension of the duration of the work."

7. Article 938.1.2 of the Code is amended by inserting the following paragraph after the fourth paragraph:

"Not later than 30 days after the day on which the policy or any resolution amending the policy is adopted, the secretary-treasurer must send a certified copy of it to the Minister of Municipal Affairs, Regions and Land Occupancy."

8. Article 961.3 of the Code is amended by adding the following sentence at the end of the first paragraph: "However, employment contracts need not be included in the list."

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

9. Section 105.2 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01) is amended by adding the following sentence at the end of the first paragraph: "However, employment contracts need not be included in the list."

10. Section 112.4 of the Act is amended by replacing the second paragraph by the following paragraph:

"If a professional services contract for the drawing up of plans and specifications was the subject of a call for tenders, the second paragraph of section 106 and section 112.2 do not apply to a contract entered into with the designer of those plans and specifications for

(1) their adaptation or modification for the carrying out of the work for the purposes for which they were prepared; or

(2) the supervision of the work related to such modification or adaptation or, within the scope of a fixed-price contract, related to an extension of the duration of the work."

11. Section 113.2 of the Act is amended by inserting the following paragraph after the fourth paragraph:

"Not later than 30 days after the day on which the policy or any resolution amending the policy is adopted, the secretary of the Community must send a certified copy of it to the Minister."

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

12. Section 98.2 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02) is amended by adding the following sentence at the end of the first paragraph: "However, employment contracts need not be included in the list."

13. Section 105.4 of the Act is amended by replacing the second paragraph by the following paragraph:

"If a professional services contract for the drawing up of plans and specifications was the subject of a call for tenders, the second paragraph of section 99 and section 105.2 do not apply to a contract entered into with the designer of those plans and specifications for

(1) their adaptation or modification for the carrying out of the work for the purposes for which they were prepared; or

(2) the supervision of the work related to such modification or adaptation or, within the scope of a fixed-price contract, related to an extension of the duration of the work."

14. Section 106.2 of the Act is amended by inserting the following paragraph after the fourth paragraph:

"Not later than 30 days after the day on which the policy or any resolution amending the policy is adopted, the secretary of the Community must send a certified copy of it to the Minister."

MUNICIPAL POWERS ACT

15. Section 17.1 of the Municipal Powers Act (R.S.Q., chapter C-47.1) is amended by adding the following paragraph at the end:

"If the enterprise is operated jointly under the first paragraph with another municipality or a band council, it need not be operated in the territory of all of those operators."

16. Section 111 of the Act is amended by adding the following paragraph at the end:

"If the enterprise is operated jointly under the first paragraph with another municipality or a band council, it need not be operated in the territory of all of those operators."

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

17. Section 357 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended

(1) by inserting "and the loans he has granted to persons other than his immediate family members," after "financial institution" in the second paragraph;

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

"For the purposes of the second paragraph, an immediate family member of the council member is the council member's spouse within the meaning of the Interpretation Act (chapter I-16) or a dependent child of the council member or the council member's spouse."

18. Section 359 of the Act is amended by inserting "in writing the Minister of Municipal Affairs, Regions and Land Occupancy," after "shall notify" in the third paragraph.

19. The Act is amended by inserting the following sections after section 360:

"**360.1.** The member of the council notifies the clerk or secretary-treasurer in writing of any significant change to the information contained in his statement, referred to in section 357 or 358, within 60 days after the change is made. The clerk or secretary-treasurer reports the change to the council at the next regular sitting.

Failure to notify the clerk or secretary-treasurer within the time prescribed is an aggravating factor for the purposes of section 26 of the Municipal Ethics and Good Conduct Act (2010, chapter 27) if a rule of the code of ethics and conduct has been violated with respect to an interest that is the subject of the change.

"**360.2.** Not later than 15 February of each year, the clerk or secretary-treasurer must send the Minister of Municipal Affairs, Regions and Land Occupancy a list of the members of the council of the municipality who have filed a statement, referred to in section 357 or 358, with the council since the last list was sent, and those who have not."

ACT RESPECTING THE EXERCISE OF CERTAIN MUNICIPAL POWERS IN CERTAIN URBAN AGGLOMERATIONS

20. Section 118.79 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (R.S.Q., chapter E-20.001) is amended by inserting "Chapter I.1 of this Title and" after "subject to" in the fourth paragraph.

21. The Act is amended by inserting the following after section 118.82.1:

"**CHAPTER I.1**

"FINANCING OF SHARED PASSENGER TRANSPORTATION

"**118.82.2.** For the purpose of financing all or part of the expenditures incurred by the central municipality in the exercise of its powers with respect to shared passenger transportation, the urban agglomeration council may, by a by-law and for any fiscal year referred to in the second paragraph, exercise the powers under Division III of Chapter IV of the Charter of Ville de Montréal (chapter C-11.4) to levy a tax on any passenger vehicle registered in the name of a person whose address entered in the register held by the Société de l'assurance automobile du Québec under section 10 of the Highway Safety Code (chapter C-24.2) corresponds, at any time during the fiscal year concerned, to a place situated in the urban agglomeration. The by-law is subject to the right of objection under section 115.

A tax under the first paragraph may apply with respect to a fiscal year only if an agreement for the collection of the tax has been entered into with the

Société de l'assurance automobile du Québec under section 151.12 of the Charter of Ville de Montréal.

"Passenger vehicle" means any such vehicle within the meaning of the Regulation respecting road vehicle registration enacted by Order in Council 1420-91 dated 16 October 1991 (1991, G.O. 2, 4111)."

22. Section 118.95 of the Act is amended by replacing "or 118.81" by ", 118.81 or 118.82.2".

23. Section 118.96 of the Act is amended by replacing "or 118.81" in paragraph 1 by ", 118.81 or 118.82.2".

ACT RESPECTING THE MINISTÈRE DES AFFAIRES MUNICIPALES, DES RÉGIONS ET DE L'OCCUPATION DU TERRITOIRE

24. The Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (R.S.Q., chapter M-22.1) is amended by inserting the following section after section 21.12:

"**21.12.1.** Sections 477.4 to 477.6 and 573 to 573.3.4 of the Cities and Towns Act (chapter C-19) apply, with the necessary modifications, to a regional conference of elected officers, which is deemed to be a municipal body for the purposes of any by-law under section 573.3.0.1 or 573.3.1.1 of that Act.

The following modifications are among those applicable for the purposes of the first paragraph: if the regional conference of elected officers does not have a website, the entry and hyperlink referred to in the second paragraph of section 477.6 of the Cities and Towns Act must be posted on another website determined by the regional conference of elected officers. The regional conference of elected officers gives public notice of the address of the website at least once a year; the notice must be published in a newspaper in the territory represented by the regional conference of elected officers.

This section does not apply to the Kativik Regional Government or the Cree Regional Authority."

ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT ÉCONOMIQUE, DE L'INNOVATION ET DE L'EXPORTATION

25. The Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., chapter M-30.01) is amended by inserting the following section after section 94:

"**94.1.** Sections 477.4 to 477.6 and 573 to 573.3.4 of the Cities and Towns Act (chapter C-19) apply, with the necessary modifications, to a local development centre, which is deemed to be a local municipality for the purposes of any by-law under section 573.3.0.1 or 573.3.1.1 of that Act.

The following modifications are among those applicable for the purposes of the first paragraph: if the local development centre does not have a website, the entry and hyperlink referred to in the second paragraph of section 477.6 of the Cities and Towns Act must be posted on another website determined by the local development centre. The local development centre gives public notice of the website address at least once a year; the notice must be published in a newspaper in the territory of every regional county municipality served by the local development centre."

ACT RESPECTING THE RÉGIE DU LOGEMENT

26. Section 9.8 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended by adding the following paragraph after the first paragraph:

"They are also vested with all the powers necessary for the performance of their duties; they may, in particular, make any order they consider appropriate to safeguard the rights of the parties."

27. The Act is amended by inserting the following sections after section 63:

"**63.1.** The parties must ensure that all the applications or motions they present are, in terms of the costs and time required, proportionate to the nature and ultimate purpose of the application or to the complexity of the dispute; the same applies to the commissioner when authorizing an application or issuing an order.

"**63.2.** The board may, on a motion or ex officio after allowing the interested parties to be heard, dismiss a proceeding it considers improper or dilatory or make it subject to certain conditions.

If the board finds that a party is making improper use of a proceeding to prevent the execution of a board decision, it may also prohibit that party from presenting an application before the board except with the authorization of and subject to the conditions determined by the chairman or any other person designated by the chairman."

28. Section 90 of the Act is amended

(1) by replacing "concerning an application the sole object of which is the fixing or revision of the rent" in the first paragraph by "when the object of the application for a review is the fixing of the rent, the changing of another condition of the lease or the revision of the rent";

(2) by replacing "the fixing or revision of the rent" in the second paragraph by "the fixing of the rent, the changing of another condition of the lease or the revision of the rent".

29. Section 91 of the Act is amended by replacing subparagraph 1 of the second paragraph by the following subparagraph:

"(1) the object of which is the fixing of the rent, the changing of another condition of the lease or the revision of the rent;".

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

30. Section 23 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is amended by replacing "to 4.75% of such salary" by "to the rate of contribution determined in the regulation made under section 65 and subparagraph 5 of the first paragraph of section 75".

ACT RESPECTING THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

31. Section 2 of the Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011) is amended

(1) by replacing "or a department or body of the Government" in paragraph *g* of subsection 1 by "a department or body of the Government or Ville de Montréal";

(2) by inserting ", as well as any tax," after "public transit" in paragraph *g* of subsection 2.

ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

32. Section 92.2 of the Act respecting public transit authorities (R.S.Q., chapter S-30.01) is amended by adding the following sentence at the end of the first paragraph: "However, employment contracts need not be included in the list."

33. Section 101.1 of the Act is amended by replacing the second paragraph by the following paragraph:

"If a professional services contract for the drawing up of plans and specifications was the subject of a call for tenders, the second paragraph of section 93 and section 101 do not apply to a contract entered into with the designer of those plans and specifications for

(1) their adaptation or modification for the carrying out of the work for the purposes for which they were prepared; or

(2) the supervision of the work related to such modification or adaptation or, within the scope of a fixed-price contract, related to an extension of the duration of the work."

34. Section 103.2 of the Act is amended by inserting the following paragraph after the fourth paragraph:

"Not later than 30 days after the day on which the policy or any resolution amending the policy is adopted, the secretary must send a certified copy of it to the Minister of Municipal Affairs, Regions and Land Occupancy."

35. The Act is amended by inserting the following section after section 158.1:

"**158.2.** Within the scope of its powers under paragraph 2 of section 19 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001), Ville de Montréal has exclusive jurisdiction to contract, in its own name, a loan ordered by the board of directors of the Société de transport de Montréal under the first paragraph of section 123.

The loan is made by the executive committee of the city in accordance with section 121.1 of Schedule C to the Charter of Ville de Montréal (chapter C-11.4).

However, a loan ordered for the purposes of an investment that is the object of a government subsidy is made with the Minister of Finance by the transit authority itself for the subsidized party; the Minister takes the sums loaned out of the Financing Fund established under the Act respecting the Ministère des Finances (chapter M-24.01)."

ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

36. Section 209 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) is amended

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

"**209.** The budget must be adopted by the council not later than 31 December at a special meeting called for that purpose.";

(2) by replacing "in the month of January following its adoption" in the second paragraph by "within 60 days after its adoption by the council";

(3) by replacing the third paragraph by the following paragraph:

"If the council is not able to adopt the budget within the applicable period, it shall set the date of the meeting at which the budget is to be adopted. As soon as possible after the adoption of the resolution by which the council sets the date, the secretary shall send a certified true copy to the Minister."

ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING MUNICIPAL AFFAIRS

37. Section 223 of the Act to amend various legislative provisions concerning municipal affairs (2001, chapter 68) is repealed.

ACT RESPECTING VILLE DE PERCÉ, VILLE D'AMOS AND VILLE DE ROUYN-NORANDA

38. The Act respecting Ville de Percé, Ville d'Amos and Ville de Rouyn-Noranda (2009, chapter 73) is amended by striking out "rental" wherever it appears in the English text.

MUNICIPAL ETHICS AND GOOD CONDUCT ACT

39. The Municipal Ethics and Good Conduct Act (2010, chapter 27) is amended by inserting the following section before section 14:

"**13.1.** Not later than 30 days after the day on which the code of ethics and conduct, the revised code of ethics and conduct or a by-law amending either code is adopted, the clerk or the secretary-treasurer must send a certified copy of it to the Minister of Municipal Affairs, Regions and Land Occupancy."

40. Section 14 of the Act is amended

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

"**14.** If a municipality has failed to fulfill its obligation to have a code of ethics and conduct or to adopt a revised code of ethics and conduct within the time specified in section 13, the Minister may, without further formality, make any regulation that is required to remedy the failure; the regulation is deemed to be a by-law adopted by the council of the municipality.";

(2) by striking out the second paragraph.

41. Section 24 of the Act is replaced by the following section:

"**24.** The Commission holds its inquiry in camera. It allows the council member whose conduct is under examination to present a full and complete defence. In particular, it gives the council member the opportunity to make representations and, if the member so requests, to be heard

(1) first, on whether or not the council member violated a rule of the code of ethics and conduct; and

(2) second, after the Commission presents its conclusion on the matter with reasons, on the sanction that could be imposed on the council member."

TRANSITIONAL AND FINAL PROVISIONS

42. The decisions of the Régie du logement rendered before 10 December 2010 that declare a party prohibited from instituting another proceeding before the board may not be invalidated.

43. Cases pending before the Court of Québec concerning an application that, under section 90 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), as amended by section 28, falls under the jurisdiction of the board are transferred to and processed by the board as though the application had been made in accordance with the first paragraph of that section.

The board must give priority to those cases.

44. The property assessment roll of Ville de Saint-Sauveur, in force since the beginning of the fiscal year 2009, remains in force until the end of the fiscal year 2012. The latter year is considered to be the third year of application of that roll.

For the purpose of determining for which fiscal years the roll following the roll referred to in the first paragraph must be drawn up in accordance with section 14 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), the roll referred to in that paragraph is deemed to have been drawn up for the fiscal years 2010, 2011 and 2012.

45. The property assessment roll of Municipalité de Wentworth-Nord and that of Municipalité de Saint-Adolphe-d'Howard, which will come into force on 1 January 2012, will remain in force until the end of the fiscal year 2013. The fiscal year 2013 is considered to be the third year of application of those rolls.

For the purpose of determining for which fiscal years the rolls following the rolls referred to in the first paragraph must be drawn up in accordance with section 14 of the Act respecting municipal taxation, the rolls referred to in that paragraph are deemed to have been drawn up for the fiscal years 2011, 2012 and 2013.

46. The first list sent in accordance with section 360.2 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2), enacted by section 19, concerns the period beginning on 15 February 2010.

47. In the case of a regional conference of elected officers or a local development centre, sections 573 to 573.3.4 of the Cities and Towns Act (R.S.Q., chapter C-19) apply to any contract for which the awarding process began after 1 April 2011.

48. In the case of a regional conference of elected officers or a local development centre and despite section 62 of the Act to amend various legislative provisions principally with regard to the awarding process for

contracts made by municipal bodies (2010, chapter 1), section 477.4 of the Cities and Towns Act applies to any contract for which the awarding process began after 1 April 2011.

49. Despite section 64 of the Act to amend various legislative provisions principally with regard to the awarding process for contracts made by municipal bodies, the contract management policy of any regional conference of elected officers or local development centre must be adopted not later than 1 December 2011.

50. This Act comes into force on 10 December 2010.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 228
(Private)

An Act concerning Coopérative de Transport Maritime et Aérien, association coopérative

Introduced 4 November 2010
Passed in principle 10 December 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

Bill 228

(Private)

AN ACT CONCERNING COOPÉRATIVE DE TRANSPORT MARITIME ET AÉRIEN, ASSOCIATION COOPÉRATIVE

AS Coopérative de Transport Maritime et Aérien, association coopérative (the Cooperative) was constituted on 28 May 1944 for the purpose of providing Îles-de-la-Madeleine with transportation services;

AS the Cooperative is governed by the Cooperatives Act (R.S.Q., chapter C-67.2);

AS the Cooperative provides ferry services to the community of Îles-de-la-Madeleine and to the general public as well as cruise services and water and ground freight transportation services;

AS the Cooperative supports development efforts in the community of Îles-de-la-Madeleine in compliance with the rules of cooperative action set out in section 4 of that Act;

AS it is expedient to prescribe special provisions applicable to the governance and business of the Cooperative;

AS it is expedient to exempt the Cooperative from its obligation under that Act to carry on 50% of its total business with its members;

AS it is difficult for the Cooperative to determine the exact proportion of business it carries on with its members given that it serves both the community of Îles-de-la-Madeleine and the general public;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Coopérative de Transport Maritime et Aérien, association coopérative (the Cooperative) carries on its business for the benefit of its community, Îles-de-la-Madeleine, through subsidiaries in which it directly or indirectly holds shares.

2. To ensure its sound governance, the Cooperative must include at least 50 members from its community and its board of directors must be composed of at least seven directors.

3. The Cooperative may not allot rebates to its members and the interest paid on preferred shares issued to members is limited to a maximum rate of 10%.

4. No employee of the Cooperative or of any subsidiary in which it directly or indirectly holds shares may be elected as a director.

5. Neither the obligation imposed by section 128.1 of the Cooperatives Act (R.S.Q., chapter C-67.2) as to the proportion of business a cooperative must carry on with its members, nor section 128.2 of that Act, apply to the Cooperative.

6. This Act comes into force on 10 December 2010.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 230
(Private)

An Act respecting Ville de Sept-Îles and Ville de Fermont

Introduced 9 November 2010
Passed in principle 10 December 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

Bill 230

(Private)

AN ACT RESPECTING VILLE DE SEPT-ÎLES AND VILLE DE FERMONT

AS it is in the interest of Ville de Sept-Îles and Ville de Fermont that they be granted certain powers so that they may participate in the construction of dwellings to alleviate the housing shortage in their territories and promote their economic development;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Despite the Municipal Aid Prohibition Act (R.S.Q., chapter I-15), Ville de Sept-Îles and Ville de Fermont may, by by-law, adopt a housing program. Under the program, they may provide assistance for the construction of dwellings.

2. The program may, among other things, determine the nature of the financial assistance that may be granted.

3. The eligibility period for the program may not extend beyond 31 December 2020.

4. The total amount of financial assistance granted by a town, in the form of a subsidy or tax credit, may not exceed $3,000,000. A town may, by by-law approved by the Minister of Municipal Affairs, Regions and Land Occupancy, increase that amount or extend the duration of the program.

5. The municipal council sets the terms and conditions of the program.

6. To secure the performance of the obligations of beneficiaries under the program, protect the value of an immovable covered by the program and ensure its conservation, a town may, among other things, require a hypothec or other real right.

7. In the report made by the mayor under section 474.1 of the Cities and Towns Act (R.S.Q., chapter C-19) on the financial position of the town, the mayor must include a statement on the implementation of the housing program referred to in section 1. The mayor must specify the number of applications filed during the preceding fiscal year and, for each beneficiary, the nature and amount of the financial assistance granted and the number of dwellings concerned.

8. This Act comes into force on 10 December 2010.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 231
(Private)

An Act respecting Dixville Home Inc.

Introduced 11 November 2010
Passed in principle 10 December 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

Bill 231

(Private)

AN ACT RESPECTING DIXVILLE HOME INC.

AS Dixville Home Inc. is a public institution constituted as a legal person on 22 March 1965 under Part III of the Companies Act (R.S.Q., 1964, chapter 271) and its mission is to operate a rehabilitation centre of the class of rehabilitation centres for mentally impaired persons or persons with a pervasive developmental disorder, in accordance with section 84 and paragraph 1 of section 86 of the Act respecting health services and social services (R.S.Q., chapter S-4.2);

AS Dixville Home Inc. is a legal person designated by the Minister of Health and Social Services under section 139 of the Act respecting health services and social services;

AS, by a deed registered on 23 July 1974 at the registry office of the registration division of Coaticook under number 49703, Dixville Home Inc. acquired the immovable designated as lot 143 of the cadastre of the village of Dixville in the registration division of Coaticook;

AS, contrary to section 44 of the Act respecting health services and social services (1971, chapter 48) applicable at the time, Dixville Home Inc. failed to obtain the authorization of the Lieutenant-Governor in Council to acquire the lot, and its deed of acquisition is therefore null under section 48 of that Act;

AS, by a deed registered on 20 November 1986 at the registry office of the registration division of Coaticook under number 65784, Dixville Home Inc. acquired the immovable designated as lot 109 of the cadastre of the village of Dixville in the registration division of Coaticook;

AS, contrary to section 72 of the Act respecting health services and social services (R.S.Q., chapter S-5) applicable at the time, Dixville Home Inc. failed to obtain the authorization of the Government or consult the regional council concerned to acquire the lot, and its deed of acquisition is therefore null under section 75 of that Act;

AS Dixville Home Inc. acquired the immovables to carry out the mission of the institution and used them for that purpose for many years;

AS Dixville Home Inc. wishes to sell the two immovables but the absence of the authorizations required at the time it acquired the immovables prevents it from claiming that its titles of ownership are valid;

AS it is in the interest of Dixville Home Inc. that its failure to obtain the required authorizations at the time it acquired the immovables, and the resulting defects of title affecting them, be remedied;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Despite sections 44 and 48 of the Act respecting health services and social services (1971, chapter 48) applicable at the time, the deed of sale registered under number 49703 at the registry office of the registration division of Coaticook, by which Dixville Home Inc. acquired the immovable designated as lot 143 of the cadastre of the village of Dixville in the registration division of Coaticook, may not be annulled on the grounds that the authorization of the Lieutenant-Governor in Council was not obtained, and no allegation of irregularity or illegality may be raised against the right of ownership of Dixville Home Inc. in the immovable.

2. Despite sections 72 and 75 of the Act respecting health services and social services (R.S.Q., chapter S-5) applicable at the time, the deed of sale registered under number 65784 at the registry office of the registration division of Coaticook, by which Dixville Home Inc. acquired the immovable designated as lot 109 of the cadastre of the village of Dixville in the registration division of Coaticook, may not be annulled on the grounds that the authorization of the Government was not obtained or the regional council concerned was not consulted, and no allegation of irregularity or illegality may be raised against the right of ownership of Dixville Home Inc. in the immovable.

3. This Act must be registered at the registry office of the registration division of Coaticook and the appropriate entries registered against lots 143 and 109 of the cadastre of the village of Dixville in the registration division of Coaticook.

4. This Act comes into force on 10 December 2010.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-NINTH LEGISLATURE

Bill 232
(Private)

An Act respecting Municipalité régionale de comté des Appalaches

Introduced 7 December 2010
Passed in principle 10 December 2010
Passed 10 December 2010
Assented to 10 December 2010

Québec Official Publisher
2010

Bill 232

(Private)

AN ACT RESPECTING MUNICIPALITÉ RÉGIONALE DE COMTÉ DES APPALACHES

AS Municipalité régionale de comté des Appalaches wishes to hold an immovable in divided co-ownership, in particular to establish its office in it;

AS it is in the interest of Municipalité régionale de comté des Appalaches that it be granted certain powers;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Municipalité régionale de comté des Appalaches may hold an immovable situated on lots 4 154 508 and 4 158 073 of the cadastre of Québec in divided co-ownership, in particular to establish its office in it.

2. The declaration of co-ownership must provide, in the by-laws of the immovable, that the regional county municipality must be represented on the board of directors of the syndicate for as long as the municipality holds a fraction of the immovable described in section 1.

The director representing the regional county municipality is appointed by the council of the municipality from among its members.

3. Articles 935 to 938.4 and 961.2 to 961.4 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) apply to the awarding of contracts by the directors or the general meeting of the co-owners of the immovable for as long as Municipalité régionale de comté des Appalaches holds a fraction of the immovable described in section 1, to the extent that the portion of the proposed expenditure chargeable to the regional county municipality, taking into account the fractions it holds, attains or exceeds the amounts specified in those articles.

For the purposes of the articles mentioned in the first paragraph, any contract referred to in that paragraph is deemed to be a contract entered into by Municipalité régionale de comté des Appalaches.

4. Any decision made by the directors or the general meeting of the co-owners that involves an expenditure of $25,000 or more for the regional county municipality must, to be binding on the regional county municipality, be approved by its council.

5. This Act comes into force on 10 December 2010.

Regulations and other Acts

Gouvernement du Québec

O.C. 21-2011, 19 January 2011

Business Corporations Act
(2009, c. 52)

Enact transitional measures for the carrying out of the Act

Regulation to enact transitional measures for the carrying out of the Business Corporations Act

WHEREAS the Business Corporations Act (2009, c. 52) was assented to on 4 December 2009;

WHEREAS section 727 of the Act, amended by section 90 of the Act to enact the Money-Services Businesses Act and to amend various legislative provisions (2010, c. 40), provides that the Government may, by a regulation made before 14 February 2012, enact any other transitional measure necessary for the carrying out of that Act;

WHEREAS the second paragraph of that section provides that such a regulation is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS it is expedient to make the Regulation to clarify certain transitional provisions of the Business Corporations Act;

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

THAT the Regulation to enact transitional measures for the carrying out of the Business Corporations Act, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to enact transitional measures for the carrying out of the Business Corporations Act

Business Corporations Act
(2009, c. 52, s. 727; 2010, c. 40, s. 90)

1. In the articles or by-laws or in the unanimous agreement of the shareholders of a company constituted, continued or resulting from an amalgamation under Part IA of the Companies Act (R.S.Q., c. C-38), a reference to a provision of that Act must be interpreted as a reference to the corresponding provision of the Business Corporations Act (2009, c. 52).

2. The by-laws made under section 91 of the Companies Act, except the by-laws made under paragraph *d* of subsection 2 of that section, and the by-laws referred to in section 726 of the Business Corporations Act, constitute the internal by-laws of a business corporation, until those by-laws are amended, repealed or replaced.

3. A company constituted, continued or resulting from an amalgamation under Part I of the Companies Act may not, at the time of its continuance under section 715 of the Business Corporations Act, make any amendment that affects the rights, conditions, privileges or restrictions attaching to issued shares without obtaining the consent of at least two-thirds of all the shareholders whose rights are affected by the amendment, whether or not they are eligible to vote.

The first paragraph does not apply in the case of an increase of the share capital or the number of shares of the company.

4. This Regulation comes into force on 14 February 2011.

1284

Draft Regulations

Draft Regulation

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

Declaration of water withdrawals
— Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, that the Regulation to amend the Regulation respecting the declaration of water withdrawals, appearing below, may be made by the Government on the expiry of 60 days following this publication.

The draft Regulation prescribes the regulatory provisions required to complete the legislative provisions introduced by chapter 21 of the Statutes of 2009 and whose purpose is to implement in Québec the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement entered into on 13 December 2005 between Québec and Ontario and the American States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.

For that purpose, the draft Regulation determines the standards of declaration of water withdrawals which will be used to establish the reference volumes of water necessary to implement the Agreement.

The draft Regulation also sets the standards of the annual declaration of water withdrawals to which withdrawers that withdraw water in the territory of the St. Lawrence River Basin will be subject and whose withdrawal capacity reaches or exceeds a volume of 379,000 litres per day, or that transfer water out of the Basin.

The adoption of new regulatory standards governing the declaration will entail costs for those that will be required to have the quantities of water consumed estimated by a professional. The estimate, however, is required only once to establish the reference volumes of water. Costs also are expected for the estimate of the volumes of water discharged for withdrawers having the capacity to withdraw 379,000 litres or more per day, as well as for withdrawers that transfer water and that do not already have measuring equipment in place.

Further information on the draft Regulation may be obtained by contacting Yvon Maranda, Direction des politiques de l'eau, Ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 8e étage, boîte 42, Québec (Québec) G1R 5V7; telephone: 418 521-3885, extension 4117; fax: 418 644-2003, or e-mail: yvon.maranda@mddep.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 60-day period to the Minister of Sustainable Development, Environment and Parks, édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 30e étage, Québec (Québec) G1R 5V7.

PIERRE ARCAND,
Minister of Sustainable Development, Environment and Parks

Regulation to amend the Regulation respecting the declaration of water withdrawals*

Environment Quality Act
(R.S.Q., c. Q-2, s. 31.104, s. 46, par. *s*, subpars. 2.5 and 4, and s. 109.1)

1. The Regulation respecting the declaration of water withdrawals is amended by inserting the following after the title of the Regulation:

"**TITLE I**
GENERAL".

2. Section 1 is amended by inserting the following after the first paragraph:

"In addition, this Regulation, with a view to ensuring a better protection of the St. Lawrence River Basin water resources, provides for the implementation in Québec of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement, referred to in section 31.88 of the Environment Quality Act (R.S.Q., c. Q-2).".

* The Regulation respecting the declaration of water withdrawals, made by Order in Council 875-2009 dated 12 August 2009 (2009, *G.O.* 2, 3147), has not been amended since it was made.

3. Section 2 is replaced by the following:

"**2.** Unless indicated otherwise in the provisions of Title II of this Regulation, the following definitions apply to all the provisions of this Regulation:

"existing withdrawal" means a withdrawal that was authorized on or before (*insert the date of coming into force of section 31.90 of the Environment Quality Act*) or, if not authorized, was lawfully commenced on or before that date; (*prélèvement existant*)

"measuring equipment" means a water meter or other device designed to continuously measure and record a volume of water; (*équipement de mesure*)

"new withdrawal" means a withdrawal that was authorized after (*insert the date of coming into force of section 31.90 of the Environment Quality Act*); (*nouveau prélèvement*)

"professional" means a professional within the meaning of section 1 of the Professional Code (R.S.Q., c. C-26) whose professional order governs the exercise of a professional activity referred to in this Regulation. This definition also includes any person legally authorized to practise that activity in Québec; (*professionnel*)

"St. Lawrence River Basin" means the drainage basin whose territory is described in section 31.89 of the Environment Quality Act; (*Bassin du fleuve Saint-Laurent*)

"transfer" means the transporting of bulk water from the St. Lawrence River Basin to another basin by any means, including a waterworks system, a pipeline, a conduit or any other main, and any type of tank truck. Diverting the direction of a watercourse flow is deemed to be a transfer. Packaging water for commercial purposes in containers having a capacity exceeding 20 litres is also deemed to be a transfer; (*transfert*)

"water withdrawal" or "withdrawal" means the taking or diverting of surface water or groundwater by any means, to the exclusion of water withdrawals by means of works referred to in any of paragraphs 1 to 3 of section 31.74 of the Environment Quality Act, regardless of whether the water is returned or not to the environment where it was withdrawn; (*prélèvement d'eau*) (*prélèvement*)

"waterworks system" or "distribution system" means mains, a system of mains or a facility or equipment used to collect, store or supply water intended for human consumption; (*système d'aqueduc*)

"withdrawal site" means a location where water enters into man-made works designed to withdraw water; (*site de prélèvement*)

"withdrawer" means a person or municipality, within the meaning of section 1 of the Environment Quality Act, that operates a withdrawal site. (*préleveur*)

2.1. Where a provision of this Regulation requires that the volumes of water to be recorded or declared be expressed in litres, they may also be expressed in cubic metres.".

4. Section 3 is replaced by the following:

"**3.** This Regulation applies to any water withdrawal. Unless indicated otherwise, it immediately applies to existing withdrawals and to new withdrawals.

This Regulation does not apply to

(1) withdrawals that total an average volume of less than 75,000 litres per day for all the withdrawal sites of one establishment or waterworks system. That average daily volume is calculated on the basis of the monthly quantity of water withdrawn, divided by the number of withdrawal days in the month concerned;

(2) withdrawals intended for domestic use, namely withdrawals using a personal well or a surface water intake for the use of one household only;

(3) withdrawals to supply vehicles, such as vessels and aircraft, either for the needs of the persons or animals being transported or for ballast, or to meet other needs incidental to the operation of those vehicles;

(4) withdrawals exclusively for firefighting purposes, in particular to supply an aircraft or tank vehicle;

(5) withdrawals from a waterworks system;

(6) withdrawals for the purposes of a temporary industrial camp intended to house not more than 80 persons simultaneously for a period not exceeding 6 months per year and that is located in one of the following territories:

— the territory not organized into a local municipality, including the unorganized territory amalgamated with one of the municipalities of Rouyn-Noranda, La Tuque or Senneterre, as it was delimited the day before the amalgamation;

— the James Bay territory as described in section 133 of the Environment Quality Act;

— the territory situated north of the 55th parallel;

— the territories of the municipalities of Blanc-Sablon, Bonne-Espérance, Côte-Nord-du-Golfe-du-Saint-Laurent, Gros-Mécatina and Saint-Augustin and the territory of any other municipality constituted under the Act respecting the municipal reorganization of the territory of Municipalité de Côte-Nord-du-Golfe-du-Saint-Laurent (S.Q. 1988, c. 55; S.Q. 1996, c. 2);

— the territories that are not accessible at all times by road vehicles;

(7) withdrawals for the purposes of a temporary industrial camp set up for timber salvage following a forest fire, regardless of the number of person housed in the camp;

(8) withdrawals using a drain or a drainage ditch that is not connected to an active pumping system, that are not intended to transport water to a site where the water is used or that are not used to fill a water supply reservoir for subsequent use;

(9) non-recurring groundwater withdrawals during not more than 30 days, as part of civil engineering work or to analyze the performance of the withdrawal facility or to establish the properties of a geological aquifer;

(10) temporary and non-recurring water withdrawals as part of mining exploration activities, other than those made for petroleum or gas prospection, except if the withdrawals are made for the purposes of dewatering mine shafts, access ramps to a mine or mine workings, or keeping them dry.

In addition, this Regulation does not apply to the following withdrawals insofar as they are wholly made outside the St. Lawrence River Basin:

(1) withdrawals intended for agricultural or fish-breeding purposes;

(2) withdrawals intended to produce hydroelectric power.

For the purposes of this section, "temporary industrial camp" means a group of facilities and their dependencies, that an employer temporarily sets up to house, for not more than 6 months during the 12-month period following the setting-up, the employer's employees who carry out forest management, mining exploration, mining operation, transport infrastructure and water retaining work or any other work.

3.1. To determine if a water withdrawal capacity or if a water withdrawal reaches the volume from which the withdrawer is required, under a provision of this Regulation, to declare the volumes of water it withdraws or may withdraw, all the volumes of water withdrawn from each withdrawal site must be added up each time that more than one withdrawal site is used to supply water to a single establishment or waterworks system. Establishments whose activities are related or complementary to one another and are under the responsibility of one withdrawer are considered to be part of the same establishment.".

5. Section 5 is amended

(1) by replacing "section 9" in the first paragraph by "sections 9, 18.4 and 18.7";

(2) by striking out the third paragraph.

6. The following is inserted after section 5:

"**5.1.** Despite the provisions of the second paragraph of section 5, where a new withdrawal is authorized for the purposes of a transfer out of the St. Lawrence River Basin, the withdrawer so authorized must install the appropriate measuring equipment at the points where water is withdrawn, transferred and, where applicable, returned to the Basin.".

7. Section 7 is amended by replacing "cubic metres" in the second paragraph by "litres".

8. The heading of Chapter III is amended by adding "ANNUAL" before "DECLARATION".

9. Section 9 is amended

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

"Every withdrawer whose water withdrawals total an average daily volume of 75,000 litres or more per day, calculated on the basis of the monthly quantity of water withdrawn, divided by the number of withdrawal days in the month concerned, is required to send to the Minister of Sustainable Development, Environment and Parks an annual declaration describing the withdrawal activities by specifying the monthly volumes of water withdrawn.

The declaration must be transmitted electronically, using the form available online on the Ministère du Développement durable, de l'Environnement et des Parcs website. All the sections relevant to the information that the withdrawer is required to declare must be filled out. Where at least 2 of sections 9, 18.4 and 18.7 of this

Regulation apply to the withdrawer, only one declaration containing all the information prescribed by those sections must be transmitted.";

Where a withdrawer resides or a legal person has its seat in the territory of a local municipality or in a territory not organized as a municipality where no Internet service provider offers access to the Internet, the data to be transmitted to the Minister pursuant to section 9, 18.4 or 18.7 may be transmitted, despite those provisions, using the form provided by the Minister on a medium other than a technology-based medium. In such case, the declaration must be dated and signed by the person who wrote it and must attest to the accuracy of the information contained therein.";

(2) by adding "and the addresses of the withdrawer's establishments" at the end of subparagraph 1 of the third paragraph;

(3) by striking out "and the dates" in subparagraph *b* of subparagraph 3 of the third paragraph;

(4) by replacing the words "cubic metres" wherever they appear in subparagraphs *e*, *f* and *i* of subparagraph 3 of the third paragraph by "litres".

10. Section 10 is amended by replacing "cubic metres" in subparagraph 4 of the first paragraph by "litres".

11. Section 11 is amended by striking out the following at the end of paragraph 3:

"if the location is still not readily accessible, the equipment must have a remote reader;".

12. Section 15 is replaced by the following:

"**15.** If the measuring equipment ceases to function or malfunctions, or a discrepancy in a reading is detected in comparison with an earlier reading, the withdrawer must indicate, as the volumes of water withdrawn in the period concerned, the volumes of water withdrawn during the corresponding period in the previous year as declared pursuant to section 9 or 18.7. If no water was withdrawn during the latter period, or if the volumes of water withdrawn were lower that the declaration threshold provided for in section 9, the withdrawer must have the volumes of water withdrawn in the period concerned estimated by a professional, in accordance with the provisions of Chapter V.

Where 3 months, each comprising at least one withdrawal day, have elapsed and the measuring equipment has not been restored to proper working order or replaced, the withdrawer must, for each following month comprising at least one withdrawal day, and for as long as the measuring equipment does not function or malfunctions, cause the volumes of water withdrawn to be estimated, in accordance with the provisions of Chapter V.".

13. Section 16 is amended by adding the following at the end:

"or using another generally recognized method whose accuracy percentage is at least equivalent to the accuracy percentage of the methods referred to in section 18".

14. The Regulation is amended by adding the following after section 18:

"**TITLE II**
SPECIAL PROVISIONS APPLICABLE TO WATER WITHDRAWALS FROM THE ST. LAWRENCE RIVER BASIN

CHAPTER I
INTERPRETATION AND SCOPE

18.1. For the purposes of this Title,

"level 1 drainage basin" means a territory whose waters converge towards a watercourse that flows directly into the St. Lawrence River or James Bay; (*bassin versant de niveau 1*)

"rated capacity" means the maximum effective capacity, according to the specifications of the builder or manufacturer of the withdrawal works, facility or equipment; (*capacité nominale*)

"water withdrawal" means the withdrawing of water within the meaning of section 2 of this Regulation, including by means of any of the works referred to in any of paragraphs 1 to 3 of section 31.74 of the Environment Quality Act; (*prélèvement d'eau*)

18.2. The provisions of this Title apply to any water withdrawal in the St. Lawrence River Basin, regardless of the volumes of water that are withdrawn.

The provisions of this Title do not apply to the following water withdrawals:

(1) withdrawals used for the production of hydroelectric power by means of run-of-river works or facilities;

(2) withdrawals by means of works used for the impounding of water, other than a dam, such as a pond or a basin having no hydraulic interconnection with groundwater, except if the pond or basin is supplied by means of a surface water drainage system.

18.3. Where a provision of this Title prescribes that a water withdrawer is required to make a declaration on the basis of the withdrawal rated capacity of the works or facilities used for water withdrawals and it appears that the withdrawal capacity of those works or facilities exceeds the withdrawal volume that the withdrawer is authorized to withdraw, under the provisions of the Environment Quality Act or a regulation thereunder, the authorized withdrawal volume must be considered to be the threshold from which declaration is required.

CHAPTER II
INITIAL DECLARATION REQUIRED TO ESTABLISH THE REFERENCE VOLUMES OF WATER FOR THE IMPLEMENTATION OF THE GREAT LAKES–ST. LAWRENCE RIVER BASIN SUSTAINABLE WATER RESOURCES AGREEMENT

18.4. In order to enable the Minister of Sustainable Development, Environment and Parks to determine the reference volumes of water for the implementation of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement, a withdrawer that withdraws water from the St. Lawrence River Basin from a withdrawal site whose works or facilities have a withdrawal rated capacity equal to or greater than 379,000 litres per day must, not later than 31 March 2012, send the Minister a declaration on existing withdrawals that contains, in addition to the information referred to in subparagraphs 1, 2 and subparagraphs *a*, *c*, *d*, *h* and *i* of subparagraph 3 of the fourth paragraph of section 9, the following information:

(1) the authorized daily water withdrawal volumes, as they appear on the certificate of authorization, authorization or in the documents that are part of the certificate of authorization or authorization:

(a) where the certificate of authorization or, as the case may be, the authorization provides for specific withdrawal volumes for the various components of the same works or facility used for withdrawals, the declaration must indicate the highest withdrawal volume of the component and identify the component;

(b) where the certificate of authorization or, as the case may be, the authorization identifies the components of the works or facility used for withdrawals without specifying the authorized withdrawal volume, the declaration must indicate the highest rated capacity of the component and identify the component;

(c) where the certificate of authorization or, as the case may be, the authorization concerns both a determined withdrawal volume and the installation of an identified component, such as a pump, whose withdrawal rated capacity is different from the determined withdrawal volume, the declaration must indicate the authorized withdrawal volume only;

(2) the volumes of water corresponding to the withdrawal rated capacity of the works or facility and for which no certificate of authorization or no authorization was issued under the Environment Quality Act. Where the works or facilities have components whose rated capacities are different from one another, the declaration must indicate the lowest rated capacity and identify the component used to establish the rated capacity;

(3) the volumes of water consumed within the St. Lawrence River Basin, expressed in litres or in percentage, out of the volumes of water withdrawn from the Basin and declared pursuant to paragraphs 1 and 2;

(4) the volumes of water transferred out of the St. Lawrence River Basin out of the volumes of water withdrawn from the St. Lawrence River Basin and declared pursuant to paragraph 1 or 2:

(a) where the volume of water transferred out of the Basin represents only a part of the volume of water withdrawn from the Basin, the declaration must indicate the volume corresponding to the rated capacity of the facility used for the transfer. The declaration must identify the class of industrial or commercial activities for which the withdrawal or, as the case may be, the transfer is intended, using the codes of the North American Industry Classification System (NAICS);

(b) where the water transferred out of the Basin or a part of the water transferred is returned to the Basin, the declaration must identify, by means of georeferenced data, the locations where the water was returned for each withdrawal site and the volumes of water returned;

(c) where the water transferred out of the Basin is not returned to the Basin, the declaration must specify, in addition to the volumes discharged, the location where they were discharged, by means of georeferenced data;

(5) the volumes of water consumed out of the Basin out of the volumes of water declared pursuant to paragraph 4, expressed in litres or in percentage. The declaration must identify the class of activities in all cases where the water transferred out of the Basin is consumed in whole or in part, using the codes of the North American Industry Classification System (NAICS).

Each time that a provision of this section provides that the location of a site must be indicated, the georeferenced data of the site must be provided. If the

withdrawals are intended to supply a waterworks system serving all or part of the population of a municipality, the site must be located by referring to the level 1 drainage basins covered by the waterworks system, specifying the name of the watercourse, as officialized by the Commission de toponymie du Québec, into which the water of the territory of the basin flows.

For the purposes of this section, the volumes of water consumed must be either calculated using the direct measurement taken by measuring equipment or estimated. Where the volumes are calculated, no supply of water from outside the withdrawal site may affect or distort the calculation. Where the volumes of water are estimated, the estimate must be made by a professional in accordance with the provisions of sections 16 to 18 of this Regulation. In addition, the declaration must contain the name of the professional who evaluated the volume of water consumed, as well as his or her profession, and a description of the estimation method used. However, where the water is withdrawn to supply a waterworks system serving all or part of the population of a municipality, the person making the declaration may indicate a consumptive use equal to 15% of the person's withdrawals without justifying the percentage.

The provisions of the second paragraph of section 9 apply to the declaration of information provided for by this section, except for the purposes of section 18.6.

18.5. Where the water is withdrawn using a pond, a basin or other retaining works and having a hydraulic interconnection with groundwater, the declaration provided for in section 18.4 must indicate as withdrawal volume the rated volume of the pond, basin or works. In such a case, the volume of water withdrawal made out of the pond, basin or works needs not be indicated.

18.6. Despite the provisions of section 18.4, a withdrawer that, for agricultural or fish-breeding purposes, withdraws water from the St. Lawrence River Basin or transfers water out of the Basin is exempted from sending to the Minister of Sustainable Development, Environment and Parks the information provided for in that section if the Minister of Agriculture, Fisheries and Food has the same information out of the information collected pursuant to the regulations under the Minister's responsibility, such as the Regulation respecting the registration of agricultural operations and the payment of property taxes and compensations, made by Order in Council 340-97 dated 19 March 1997, or out of the programs under the Minister's responsibility or to which the Minister is a party, and where the withdrawer has consented to the transmission of the information to the Minister of Sustainable Development, Environment and Parks.

CHAPTER III
ANNUAL DECLARATION OF WATER WITHDRAWAL ACTIVITIES IN THE ST. LAWRENCE RIVER BASIN AND OF TRANSFER ACTIVITIES OUT OF THE BASIN

18.7. As of 1 January 2012, a withdrawer that withdraws water from the St. Lawrence River Basin from a withdrawal site whose works or facilities have a withdrawal rated capacity equal to or greater than 379,000 litres per day is required to annually declare to the Minister of Sustainable Development, Environment and Parks, for the year preceding the withdrawer's declaration or, as the case may be, for the year in progress, in addition to the information that must be declared pursuant to section 9, the volumes of water consumed every month in the Basin by indicating, for each site of use of the water withdrawn, the georeferenced data of their location, the volume and the class of industrial or commercial activities for which the withdrawal is intended; the class is identified using the codes of the North American Industry Classification System (NAICS).

Likewise, as of the same date, a withdrawer that transfers water out of the St. Lawrence River Basin, whatever the volume, must provide, in addition to the information that the withdrawer must declare pursuant to section 9, the following additional information for the preceding year:

(1) the volumes of water transferred out of the St. Lawrence River Basin, expressed in litres, indicating for each withdrawal site concerned, the georeferenced data of the sites where the water so transferred is used. Where the water transferred out of the Basin is intended to supply a waterworks system serving all or part of the population of a municipality, the level 1 drainage basins covered by the waterworks system must be indicated, and the name of the watercourse into which the water of the territory flows must be specified, as that name was officialized by the Commission de toponymie du Québec;

(2) the volumes of water discharged or returned to the St. Lawrence River Basin, expressed in litres, specifying the georeferenced data of the sites where the water was discharged or, as the case may be, where the water was returned.

As soon as a withdrawer is subject to a provision of this section, the withdrawer becomes, despite the provisions of subparagraph 1 of the second paragraph and subparagraphs 1 and 2 of the third paragraph of section 3 of this Regulation, subject to the provisions of sections 9 and 10 of this Regulation.

The provisions of sections 5 to 8 and 18.5 of this Regulation apply to the determination of the volumes of water to which this section applies, including the determination of the volumes of water transferred out of the St. Lawrence River Basin and the volumes of water discharged or returned to the Basin. The provisions of the third paragraph of section 18.4 apply to the determination of the volumes of water consumed; the provisions of the second and third paragraphs of section 9 apply to the transmission of the declaration provided for in this section.

18.8. The provisions of section 18.6 of this Regulation apply to the annual declarations to which section 18.7 apply, with the necessary modifications.

TITLE III
PENAL AND MISCELLANEOUS".

15. The heading "CHAPTER VI" is replaced by "CHAPTER I".

16. Section 19 is amended by replacing "18" in the introductory sentence of the first paragraph by "18.8".

17. The heading "Chapter VII" is replaced by "CHAPTER II".

18. Section 22 is struck out.

19. The annual declaration required by section 18.7, introduced by section 12 of this Regulation, applies as of 1 January 2015 for water withdrawals made for agricultural or fish-breeding purposes during 2014.

20. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except paragraph 2 of section 5, which comes into force on 1 January 2012.

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Notices

Notice

Natural Heritage Conservation Act
(R.S.Q., c. C-61.01)

Des Pointes Nature Reserve
— Recognition

Notice is hereby given, in keeping with article 58 of the Natural Heritage Conservation Act (R.S.Q., c. C-61.01), that the Minister of Sustainable Development, Environment and Parks has recognized as a nature reserve a private property which extends over more than 25 hectares. This property, situated on the territory of the Municipality of Saint-Justin, Regional County Municipality Maskinongé, known and designated as being a part of lot number 66, a part of lot 67 and a part of lot 68 upon Official plan and book of reference of Paroisse de Saint-Justin, Maskinongé Registration division.

This recognition, for perpetuity, takes effect on the date of the publication of this notice in the *Gazette officielle du Québec*.

PATRICK BEAUCHESNE,
Director of Ecological Heritage and Parks

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