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# Laws and Regulations

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## Summary



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# Coming into force of Acts

Gouvernement du Québec

## O.C. 1042-2013, 9 October 2013

**An Act to amend the Election Act with regard to on-campus voting by students in vocational training centres and post-secondary educational institutions (2013, chapter 5)**
**— Coming into force of certain provisions of the Act**

CONCERNING the coming into force of certain provisions of the Act to amend the Election Act with regard to on-campus voting by students in vocational training centres and post-secondary educational institutions

WHEREAS the Act to amend the Election Act with regard to on-campus voting by students in vocational training centres and post-secondary educational institutions (2013, chapter 5) was assented to on April 24, 2013;

WHEREAS section 17 of the said Act provides that the Act comes into force on April 24, 2013, except sections 1 and 2, paragraphs 1 and 2 of section 5, sections 9, 11 and 12, and the words "or in a vocational training centre or a post-secondary educational institution where they exercise their right to vote under section 301.25", will come into force on November 24, 2013;

WHEREAS section 17 of the said Act provides that the provisions to come into force on November 24, 2013 may come into force at an earlier date set by the Government. Such a date may not be set before a recommendation to that effect is obtained from the Chief Electoral Officer stating that the preparations needed for the implementation of those provisions have been made and that the provisions may therefore come into force;

WHEREAS the Chief Electoral Officer has indicated that the preparations needed for the implementation of sections 1 and 2, paragraphs 1 and 2 of section 5, sections 9, 11 and 12, and the words "or in a vocational training centre or a post-secondary educational institution where they exercise their right to vote under section 301.25" in section 15 have been made and that the said provisions may therefore come into force as of November 4, 2013;

IT IS HEREBY ORDERED, accordingly, upon the recommendation of the Minister responsible for Democratic Institutions and Active Citizenship:

THAT the date for the coming into force of sections 1 and 2, paragraphs 1 and 2 of section 5, sections 9, 11 and 12, and the words "or in a vocational training centre or a post-secondary educational institution where they exercise their right to vote under section 301.25" of the Act to amend the Election Act with regard to on-campus voting by students in vocational training centres and post-secondary educational institutions (2013, chapter 5) shall be set to November 4, 2013.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

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Gouvernement du Québec

## O.C. 1086-2013, 23 October 2013

**An Act to prevent, combat and punish certain fraudulent practices in the construction industry and make other amendments to the Building Act (2011, chapter 35)**
**— Coming into force of certain provisions of the Act**

COMING INTO FORCE of certain provisions of the Act to prevent, combat and punish certain fraudulent practices in the construction industry and make other amendments to the Building Act

WHEREAS the Act to prevent, combat and punish certain fraudulent practices in the construction industry and make other amendments to the Building Act (2011, chapter 35) was assented to on 9 December 2011;

WHEREAS section 68 of the Act provides that the Act comes into force on 9 December 2011, except sections 11 to 13, 22, 29 and 30, which come into force on the date or dates to be set by the Government, sections 42 to 45, which come into force on the same date as that to be set by the Government for the coming into force of sections 41, 43, 44 and 46 of chapter 17 of the statutes of 2011, respectively, sections 46 to 55, which come into force on the same date as that to be set by the Government for the coming into force of section 49 of chapter 17 of the statutes of 2011, and section 60, which comes into force on the same date as that to be set by the Government for the coming into force of section 63 of chapter 17 of the statutes of 2011;

WHEREAS, under Order in Council 1363-2011 dated 14 December 2011, sections 22, 29 and 30 of the Act to prevent, combat and punish certain fraudulent practices in the construction industry and make other amendments to the Building Act (2011, chapter 35) came into force on 14 December 2011;

WHEREAS it is expedient to set 1 January 2014 as the date of coming into force of sections 12 and 13 of the Act;

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

THAT sections 12 and 13 of the Act to prevent, combat and punish certain fraudulent practices in the construction industry and make other amendments to the Building Act (2011, chapter 35) come into force on 1 January 2014.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

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# Regulations and other Acts

Gouvernement du Québec

## O.C. 1051-2013, 23 octobre 2013

An Act respecting the Québec Pension Plan
(chapter R-9)

**Benefits**
**— Amendment**

CONCERNING the Regulation to amend the Regulation respecting benefits

WHEREAS, under paragraph *c* of section 219 of the Act respecting the Québec Pension Plan (chapter R-9), the Régie des rentes Québec may make regulations determining the conditions that persons to whom sections 86, 133.1 or 175 applies must satisfy and the information they must furnish to be considered to maintain another person;

WHEREAS, under paragraph *t* of section 219 of the Act, the Régie may make regulations determining the manner of rounding off a fraction that is less than one resulting from the calculations made in the application of Title IV;

WHEREAS, on 17 May 2013, the Régie des rentes du Québec adopted the Regulation to amend the Regulation respecting benefits;

WHEREAS, under section 220 of the Act, regulations made by the Régie shall not come into force until approved by the Government and published in the *Gazette officielle du Québec*;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting benefits was published, with a written notice that it could be submitted to the Government for approval on the expiry of 45 days following its publication in part 2 of the *Gazette officielle du Québec* on 3 July 2013;

WHEREAS it is expedient to approve the un-amended Regulation;

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

THAT the Regulation to amend the Regulation respecting benefits, attached hereto, be approved.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting benefits

An Act respecting the Québec Pension Plan
(chapter R-9, s. 219, pars. *c* and *t*)

**1.** Sections 12 and 13 of the Regulation respecting benefits (chapter R-9, r. 5) are revoked.

**2.** Section 16 of the Regulation is replaced by the following:

"**16.** For the purposes of sections 86, 133.1 and 175 of the Act, a person is deemed to maintain a child if, in 2014, he supports the child for a monthly amount equal to or greater than one of the following amounts, adjusted by multiplying the amount by the ratio between the Pension Index for the year 2014 and the Pension Index for the year 2013:

(1) where the child is less than five years old, $290;

(2) where the child is at least five years old but less than 12 years old, $340;

(3) where the child is at least 12 years old but less than 16 years old, $430;

(4) where the child is at least 16 years old, $460.

For each subsequent year, the amounts are adjusted in accordance with section 119 of the Act.

Where the result obtained is a number containing one or more digits after the decimal point, no such digit shall be retained and, where the first digit is greater than 4, the number thus modified shall be increased by one unit.

For the purposes of section 175 of the Act, except where the person receives financial assistance for a child as a foster family or tutor, a person who resides with a child is presumed to support the child provided the disabled

contributor or the surviving spouse, who does not reside with the child, does not maintain the child in accordance with the conditions set out in the first paragraph.".

**3.** Section 24 of the Regulation is amended by inserting, after paragraph 6, the following:

«(7) for the purpose of the calculation set out in subparagraphs 1 and 2 of the first paragraph of section 120.1 and the second paragraph of section 120.2, only the first five digits after the decimal point shall be retained and, where the sixth digit is greater than 4, the fifth digit shall be increased by one unit.».

**4.** This Regulation comes into force on 1 January 2014.

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Gouvernement du Québec

## **O.C. 1052-2013,** 23 October 2013

Supplemental Pension Plans Act
(chapter R-15.1)

An Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises
(2012, chapter 32)

**Target-benefit pension plans in certain pulp and paper sector enterprises**

CONCERNING the Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises

WHEREAS, under the second paragraph of section 2 of the Supplemental Pension Plans Act (chapter R-15.1), the Government may, by regulation and on the conditions it determines, exempt any category of pension plan it designates from the application of all or part of this Act, particularly by reason of the special characteristics of the category and prescribe special rules applicable to the category;

WHEREAS, under section 1 of the Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises (2012, chapter 32), provides that where such pension plans meet the rules and requirements set out in a regulation made by the Government, they may be established if the employer who is party to the pension plan is in the pulp and paper sector and has entered into an agreement with a union to establish a target-benefit pension plan while that employer or another employer whose assets it acquired was subject to an order under the Companies' Creditors Arrangement Act (Revised Statutes of Canada, 1985 chapter C-36);

WHEREAS, under section 2 of the Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises, a regulation that provides for the establishment of a target-benefit pension plan may, if it so provides, have retroactive effect from a date not prior to 31 December 2010;

WHEREAS, in accordance with sections 10, 11 and 12 of the Regulations Act (chapter R-18.1), a draft Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises was published with a written notice that it could be made by the Government on the expiry of 30 days following its publication, in Part 2 of the *Gazette officielle du Québec*, on 31 July 2013;

WHEREAS it is expedient to make the amended Regulation;

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

THAT the Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises, attached hereto, be made.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

## Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises

Supplemental Pension Plans Act
(chapter R-15.1, s. 2, 2nd and 3rd pars.)

An Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises
(2012, chapter 32)

**DIVISION I**
AFFECTED ENTERPRISES

**1.** A target-benefit pension plan can be established in an enterprise covered by the Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises (2012, chapter 32) where the conditions referred to in paragraphs 2 and 3 of section 1 of that Act are met between 30 December 2010 and 1 January 2014.

**DIVISION II**
ESTABLISHMENT AND EFFECTIVE DATE OF THE PLAN

**2.** A target-benefit pension plan may be established with regard to service affected by a component of a pension plan established in application of a regulation made pursuant to section 2 of the Supplemental Pension Plans Act (chapter R-15.1). It may be established as part of that pension plan or as a separate pension plan.

The target-benefit pension plan is effective as of the date on which the component is established.

**3.** A pension plan established under this Regulation is said to be a "target-benefit pension plan".

The provisions of the Supplemental Pension Plans Act apply to the target-benefit pension plan, except to the extent provided for under this Regulation. Moreover, in the case of a discrepancy, the provisions of this Regulation prevail over those of the Act.

**4.** Where the target-benefit pension plan is established as a component of a pension plan, the provisions of this Regulation apply solely to the component, unless otherwise indicated, as though it were a separate pension plan. The provisions of a regulation referred to in the first paragraph of section 2, under which section the component is constituted, continue to apply thereto.

**DIVISION III**
CHARACTERISTICS

**5.** A target-benefit pension plan established under this Regulation must include the following characteristics:

(1) the employer and member contributions as well as the method used for calculating those contributions are determined in advance;

(2) the plan text determines the benefits target, including any ancillary benefit, on the basis of which the current service contribution is established;

(3) the normal pension may vary according to the financial situation of the pension plan, as can any ancillary benefit provided for under the plan; the same variation being described in the actuarial valuation report for the plan;

(4) notwithstanding section 39 of the Act, the employer contribution to the plan is limited to the one set out in the plan text;

(5) the cost of the plan's obligations, after deducting the employer contribution set out in the plan text, is charged solely to the members and beneficiaries of the plan, under the conditions provided for in section 27;

(6) only the members and beneficiaries are entitled to surplus assets during the existence of the plan, as in the case of its termination;

(7) the plan has no defined contribution provision nor provisions that, under a defined benefit plan, are identical to those of a defined contribution plan.

**6.** A target-benefit plan constitutes, for the purposes of the Act, a defined benefit plan.

**DIVISION IV**
FUNDING

*§1. General*

**7.** Notwithstanding section 42.1 of the Act, the employer may not exempt itself from the contributions it must pay by means of letter of credit nor may it exempt itself by the allocation of the surplus assets in whole or in part.

**8.** The cost of the plan's obligations as at the date of an actuarial valuation is equal to the sum of the following:

(8) the current service contribution determined in accordance with section 138 of the Act;

(9) the greater of the following amounts: the amortization payment determined in respect of the funding actuarial deficiency or the amortization payment determined in respect of the technical actuarial deficiency.

**9.** At the date of an actuarial valuation of a target-benefit pension plan, the amortization payments related to any technical actuarial deficiency determined on the date of a previous actuarial valuation, where applicable, are eliminated.

The amortization period for such a technical actuarial deficiency ends, notwithstanding paragraph 1 of section 142 of the Act, no later than 10 years after the date of the actuarial valuation that determines the deficiency.

**10.** No improvement unfunded actuarial liability may be determined with respect to a target-benefit pension plan.

**11.** The value of the obligations arising from a target-benefit pension plan for credited service completed during the current fiscal year of the plan is determined based on the benefits target provided for under the plan.

**12.** A portion of the contributions made to the plan may be allocated to establishing the reserve referred to in section 128 of the Act.

**13.** The target-benefit pension plan may not provide for the payment of additional voluntary contributions nor may it allow any sums to be transferred to its fund from any other pension plan, even one not referred to in the Act.

**14.** The maximum set in section 60 of the Act does not apply to member contributions to a target-benefit plan.

The provisions of section 60.1 of the Act do not apply to a target-benefit pension plan.

**15.** The provision for adverse deviations, notwithstanding the regulatory provisions made under section 128 of the Act, is the one provided for under the target-benefit pension plan. It may not be less than 20% of the liabilities of the plan determined on a solvency basis.

Despite the foregoing, to determine the maximum amount of surplus assets that may be allocated, in application of the second paragraph of section 30, to the restoration of benefits that were reduced, the provision for adverse deviations provided for under the plan is reduced by 50%.

**16.** Notwithstanding the second paragraph of section 118 of the Act, any actuarial valuation of a target-benefit pension plan must be complete.

*§2. Conditions for payment of benefits*

**17.** The provisions of this subdivision, with the exception of those in section 26, apply to any payment of benefits during the existence of the plan.

**18.** Notwithstanding section 99 of the Act, a member who is less than 10 years under normal retirement age or who has attained or exceeded normal retirement age may exercise the right to transfer provided for under section 98 of the Act in the 90 days following receipt of the statement provided for in section 113 of the Act.

**19.** Any additional benefits related to early retirement shall be included in the value of the deferred pension, regardless of the age of the member.

**20.** A target-benefit pension plan is exempt from the application of sections 143 to 146 of the Act.

The value of the benefits of a member or beneficiary shall be paid in proportion to the degree of solvency of the plan determined in accordance with section 22.

The amount paid in application of the second paragraph may not be less that the total of the contributions made by the member plus accrued interest.

A payment made in accordance with this section constitutes a valid discharge with respect to the benefits covered by the payment.

**21.** For the purposes of section 66 of the Act, the value of the benefits is determined by applying the degree of solvency of the plan determined in accordance with section 22.

**22.** The degree of solvency of the target-benefit pension plan taken into account for the payment of benefits is the one determined during the last actuarial valuation of the plan or the one determined under the plan for a period less than a fiscal year, whichever is most recent.

The pension committee must determine or have determined the degree of solvency of the plan as at the end date of each period so prescribed. For that purpose, the actuary in charge of preparing the actuarial valuation report required at the end date of a fiscal year of the plan must define in the report a method that, taking into account the return on the investment of the plan assets and the change in the valuation rate, will allow the degree of solvency to be determined summarily before the date of the next required actuarial valuation.

The most recent degree of solvency is assessed on the date on which is received by the pension committee the application for a refund or transfer of benefits filed by a member who has ceased to be active, or the application for the benefit provided for in the first paragraph of section 86 of the Act, filed by the spouse or successor of the member. Where the benefits are paid other than on demand, the degree of solvency is assessed as at the date on which the application for the purchase of an annuity is submitted to the insurer or, where the payment is made by other means than the purchase of an annuity, as at the date the payment is made.

**23.** Except where a request has been made by a member or beneficiary, the pension committee may only proceed with the payment, through the purchase of an annuity, of the benefits of a member or beneficiary whose pension is already in payment where the following conditions are met:

(10) the value of the member's benefits at the time of payment, multiplied by the degree of solvency of the pension plan, is greater than or equal to the value of the benefits target;

(11) the amount of the annuity purchased is at least equal to the pension the member or beneficiary was receiving before its purchase;

(12) the payment does not reduce the degree of solvency of the plan.

The value of the benefits of the member or beneficiary is established using the premium determined according to the assumptions for hypothetical wind-up and solvency valuations established by the Canadian Institute of Actuaries as they apply on the date of the calculation made for the purposes of the payment of the benefits.

**24.** Except where a request has been made by a member or beneficiary, the refund referred to in section 66 of the Act may be made only where the conditions referred to in subparagraphs 1 and 3 of the first paragraph of section 23 are met.

**25.** Notwithstanding the third paragraph of section 33 and section 240.2 of the Act, a member whose benefits are paid in full ceases to be a member of the pension plan.

**26.** The provisions of subdivision 4 of Division II of Chapter XIII of the Act, related to the debt of the employer on termination of the target-benefit pension plan, do not apply except concerning the employer contributions provided for under the plan that have not been paid on the date of termination.

*§3. Reduction in benefits and increase in member contributions*

**27.** Where an actuarial valuation of a target-benefit pension plan shows that the cost of the plan's obligations exceeds the contributions set out under the plan, the shortfall in contributions, subject to the terms and conditions prescribed by the plan text, must be offset by one or more of the following corrective measures:

(13) a reduction in the benefits arising from service completed prior to the date of the actuarial valuation;

(14) an increase in member contributions;

(15) a reduction of the benefits target.

The plan text must provide the types of corrective measures that can be used and indicate the priority of use for each measure.

The provisions of the first paragraph only apply where the shortfall in contributions is greater than 2% of the contributions set under the plan.

**28.** The corrective measures referred to in the first paragraph of section 27 may not become effective until the day following the date of the actuarial valuation that determined the contribution shortfall. Moreover, the corrective measures may take effect no later than one year after the day following the date of that valuation.

The adjustment of accrued benefits and the change to member contributions or the benefits target must take into consideration, for actuarial purposes, any deferment thus determined.

**29.** A corrective measure referred to in subparagraph 1 of the first paragraph of section 27 does not constitute an amendment to the plan.

*§4. Appropriation of surplus assets*

**30.** During the existence of the plan, only the portion of the surplus assets that exceeds the provision for adverse deviations, as referred to in section 15 and as determined in an actuarial valuation of the plan, may be appropriated.

The portion must first be appropriated to restoring, up to the amount of the benefits target, any benefits that were reduced. The plan text must provide the terms and conditions for restoring benefits, particularly the order in which the benefits are to be restored.

Where a balance of the portion of the surplus assets remains, the balance may be appropriated as provided for in the plan text or, in the absence of such a provision, as determined by the person or body empowered to amend the plan.

With the exception of measures aimed at increasing the benefits target, a measure taken in application of the second and third paragraphs does not constitute an amendment to the plan.

The provisions of section 146.3 do not apply to an amendment whose purpose is to increase the benefits target.

**31.** Notwithstanding section 146.1 of the Act, the maximum amount of surplus assets that may be appropriated under section 30 is equal to the lesser of the following amounts:

(16) on a solvency basis, the amount by which the plan's assets, reduced by the reserve provided for in section 128 of the Act, exceed the plan's liabilities, reduced

by the value of the additional obligations arising from any measure referred to in section 30 considered for the first time during the valuation;

(17) on a funding basis, the amount by which the plan's assets exceed its liabilities, the latter being reduced by the value of the additional obligations arising from any measure referred to in section 30 considered for the first time during the valuation.

**32.** A measure referred to in the second paragraph of section 30 may not become effective until the day following the date of the actuarial valuation that determined the surplus assets. Moreover, the measure may take effect no later than one year after the day following the date of that valuation.

**33.** No measure referred to in section 30 may be made unless the resulting additional obligations are paid in full from the surplus assets.

**DIVISION V**
SEIZURE, TRANSFER OR PARTITION OF BENEFITS

**34.** For the purposes of a seizure, transfer or partition of benefits, the value that must be considered as the value of the aggregate benefits of the member or the value of the benefits accrued during the union is equal to the product of the value determined pursuant to the applicable provisions of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6), multiplied by the degree of solvency of the plan as at the date of their valuation determined in accordance with section 22.

**35.** Where no pension is being paid to the member as at the date of execution of the partition or transfer of pension benefits, the amount referred to in the first paragraph of section 54 of that regulation, and for which the pension committee must keep a record, is replaced by the amount calculated according to the following formula:

A X B/C

"A" represents the amount of the normal pension that would be payable to the member at normal retirement age for his recognized credited service at the date of the valuation and according to the conditions and characteristics provided for by the plan for that pension;

"B" represents the sum remitted to the spouse further to partition or a transfer, including interest;

"C" represents the value considered for the purpose of the partition or transfer of the member's benefits.

**36.** To determine the residual benefits of the member receiving a pension as at the date of execution of the partition or transfer of benefits, the amount referred to in subparagraph 2 of the first paragraph of section 55 of the Regulation respecting supplemental pension plans is equal to the amount calculated according to the following formula:

A – (A X B/C)

"A" represents the benefit payable to the member as at the date of execution of the partition or transfer;

"B" represents the sum remitted to the spouse further to partition or a transfer, including interest;

"C" represents the value the member's pension would have had at the date of execution of the partition or transfer of benefits had it been determined based on the amount and type of pension on the date of the valuation and taking into account the assumptions on that date.

**37.** Notwithstanding subparagraph 2 of the first paragraph of section 50 of the Regulation respecting supplemental pension plans, no amount granted to the spouse further to the partition or transfer of the member's benefits may be retained in the plan or transferred thereto, even where the spouse is a member of the plan.

**DIVISION VI**
COMMUNICATIONS

**38.** The summary of the pension plan provided for in section 111 of the Act must contain, in addition to the information provided for in section 56.1 of the Regulation respecting supplemental pension plans, the following:

(18) a description of what a target-benefit pension plan is, including the fact that benefits may vary according to the financial situation of the pension plan;

(19) a description of the risks for the members and beneficiaries as well as the methods used to manage those risks.

**39.** The document referred to in the first paragraph of section 112 of the Act must also contain:

(20) a description of what a target-benefit pension plan is, including the fact that benefits may vary according to the financial situation of the pension plan;

(21) a description of the risks for the members and beneficiaries as well as the methods used to manage those risks;

(22) a description of the benefits target.

**40.** The first part of the annual statement provided for in section 112 of the Act for an active member or non-active member must contain, in addition to the information referred to in section 57 or 59 of the Regulation respecting supplemental pension plans, adapted to take into account this Regulation, as the case may be:

(1) the amount of the pension, adjusted according to the financial situation of the plan, to which the member is entitled and the one to which the member would be entitled had the benefits target been reached;

(2) the value of the benefits of the member, adjusted according to the financial situation of the plan as at the date of the actuarial valuation, and the value those benefits would have attained at that date had the benefits target been reached.

The first part of the statement sent to a beneficiary must contain, in addition to the information referred to in section 59.0.1 of the Regulation respecting supplemental pension plans, the amount of the pension, adjusted according to the financial situation of the plan as at the date of the actuarial valuation, to which the beneficiary is entitled and the one to which he would have been entitled had the benefits target been reached.

The statement must also mention that, should the member or beneficiary transfer his benefits, he will be entitled to the value of those benefits multiplied by the degree of solvency of the plan determined in accordance with section 22.

**41.** The second part of the annual statement provided for in section 112 of the Act must contain, in addition to the information referred to in section 59.0.2 of the Regulation respecting supplemental pension plans:

(1) a description of the adjustments to benefits that were applied during the fiscal year concerned;

(2) a description of the adjustments to benefits that will be applied at a later date and the effective date of the adjustments.

**42.** The statement referred to in section 113 of the Act must

(1) not include a reference to section 60 of the Act;

(2) indicate the most recent degree of solvency, determined in accordance with the second paragraph of section 22 as at the date the statement is prepared;

(3) indicate the amount of the pension and the value of the benefits determined by taking into consideration the degree of solvency of the plan referred to in subparagraph 2;

(4) indicate the amount of the pension that would apply had the benefits target been reached and the value of that pension.

Where the statement is for a member referred to in section 18, the statement must mention the right to transfer provided for under that section.

The statement must also mention that, should the member leave his benefits in the plan, the benefits and their value could continue to vary according to the financial situation of the pension plan.

Furthermore, the statement must mention that the degree of solvency that applies in the case of the payment of benefits in full is the one determined in accordance with section 22.

**43.** During the annual meeting, the following subjects must be on the agenda in addition to those mentioned in section 166 of the Act:

(1) a description of what a target-benefit pension plan is, including the fact that benefits may vary according to the financial situation of the pension plan;

(2) a description of the risks for the members and beneficiaries as well as the methods used to manage those risks;

(3) the adjustments to the benefits and the changes to member contributions or the benefits target applied during the fiscal year concerned;

(4) the adjustments to the benefits and the changes to member contributions or the benefits target that will be applied at a later date and their effective date.

**44.** Where the pension committee proceeds with the payment of the benefits of a member or beneficiary other than on demand, the pension committee must notify in writing the member or beneficiary concerned.

Where the payment of the benefits of a member or beneficiary whose pension is in payment is made by means of the purchase of an annuity, the notice must include the following information:

(1) the name and contact information of the insurer that guaranteed the annuity;

(2) the amount of the guaranteed annuity;

(3) the amount of the pension the member or beneficiary was receiving prior to the purchase of the annuity;

(4) the amount of the benefits target provided for under the plan.

In all cases the notice must also indicate that the member or beneficiary no longer has any connection to the plan.

**45.** The actuarial valuation report for the plan must indicate the adjustments to the benefits taken into consideration in the valuation, the calculations pertaining to their determination and their effective date. The report must also contain a summary of the adjustments to benefits and any amendments taken into consideration in the previous actuarial valuation.

The provisions of sections 4.1, 4.3 and 4.4 of the Regulation respecting supplemental pension plans that pertain to amendments considered for the first time apply, adapted as required, to any measure taken in application of section 30 being considered for the first time.

**46.** The Régie des rentes du Québec may require from a pension committee or an employer party to a pension plan, on the conditions and within the time limits established by the Régie, any document, information or report that it deems necessary for ascertaining that the requirements imposed by this Regulation are met, particularly concerning the contents of an actuarial valuation report provided for under this Division.

**DIVISION VII**
MISCELLANEOUS PROVISIONS

**47.** The fiscal year of a target-benefit pension plan corresponds to the calendar year except where, for the first fiscal year of the plan, the Régie has authorized a period that exceeds one year.

**48.** No multi-employer pension plan, even one not considered as such, may be established under this Regulation.

**49.** No purchase of past service or transfer of benefits from another plan is permitted under a target-benefit plan.

The provisions of this section do not hinder the exercise of the rights provided for under sections 79.3 and 81.15 of the Act respecting labour standards (chapter N-1.1), nor do they preclude the application of the plan provisions allowing the accrual of benefits for the periods of absence determined under the plan and for which the required contributions are paid.

**50.** Notwithstanding section 59 of the Act, periodic amounts payable as pension benefits may vary further to the adjustments provided for under subparagraph 1 of the first paragraph of section 27 or under the second or third paragraph of section 30.

**51.** The salary increase of a member after his period of active membership in the target-benefit pension plan has ended that can be taken into consideration for the purpose of determining his normal pension under the plan may not exceed the increase in the average weekly salaries and wages for the Industrial Composite in Canada, as published by Statistics Canada pursuant to the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19).

Notwithstanding the rule provided for in the first paragraph and the provisions of section 39 of the Regulation respecting the exemption of certain categories of pension plans from the application of provisions of the Supplemental Pension Plans Act (chapter R-15.1, r. 7), a target-benefit pension plan may be connected to a pension plan to which the same employer is party.

Notwithstanding the second paragraph of section 5 of the Act, a target-benefit pension plan may not contain provisions that are more advantageous than those contained in this section.

**52.** A target-benefit plan may not be the object of a merger of all or part of its assets and liabilities with those of another plan, nor can it be converted to another type of plan.

**53.** The provisions of subdivision 4.0.1 of Division II of Chapter XIII of the Supplemental Pension Plans Act do not apply to a target-benefit pension plan.

**54.** The Regulation respecting measures to reduce the effects of the financial crisis on pension plans covered by the Supplemental Pension Plans Act (chapter R-15.1, r. 4) and the Regulation providing temporary relief measures for the funding of solvency deficiencies (chapter R-15.1, r. 3.1) do not apply to a target-benefit pension plan established under this Regulation.

**DIVISION VIII**
TRANSITIONAL AND FINAL PROVISIONS

**55.** In the case of a target-benefit pension plan whose effective date is prior to the date of coming into force of this Regulation, the time period provided for under section 16 of the Act for notifying the Régie, as well as the time period provided for under section 25 of the Act for sending the Régie an application for the registration of a pension plan, begin on the latter date.

**56.** Where a member has received the statement referred to in section 113 of the Act prior to 6 November 2013, the time period for exercising the right to transfer provided for under section 18 begins on the date on which the pension committee informs the member of the right provided for under that section.

The pension committee must inform, in a diligent manner and in writing, all members referred to in the first paragraph.

**57.** Notwithstanding subparagraph 1 of the first paragraph of section 119 of the Act, a pension committee has until 6 March 2014 to send the Régie any actuarial valuation report for a pension plan referred to in this Regulation whose date is prior to 1 January 2013.

The fees provided for under the fourth paragraph of section 14 of the Regulation respecting supplemental pension plans with regard to a report referred to in the first paragraph shall be paid to the Régie for each complete month of delay as of 6 March 2014.

**58.** The annual statements referred to in section 112 of the Act already filed for the fiscal year ending on 31 December 2011, where applicable, do not have to be filed again. Annual statements related to the fiscal year ending on 31 December 2012, however, must include for the previous fiscal year the adaptations required under the provisions of this Regulation.

Notwithstanding the first paragraph of section 112 of the Act, the time period for sending to members and beneficiaries the statement referred to in that section for the fiscal year ending on 31 December 2012 expires on 6 March 2014.

**59.** An annual meeting held before 6 November 2013 with regard to a fiscal year that ended before that date does need to be held again. However, at the first annual meeting held after that date, a summary of the information required under the provisions of this Regulation must be presented.

**60.** Notwithstanding section 205 of the Act, where, with regard to service covered by a component of a pension plan established in accordance with a regulation made pursuant to section 2 of the Act, a target-benefit pension plan is established as a separate plan, the existing plan may not be terminated solely because it no longer has active members, for so long as the target-benefit plan has active members with benefits under the plan.

**61.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* but has effect from 31 December 2010.

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Gouvernement du Québec

## **O.C. 1071-2013,** 23 October 2013

Professional Code
(chapter C-26)

**Specialist's certificates of professional orders — Diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders — Amendment**

Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders

WHEREAS, under the first paragraph of section 184 of the Professional Code (chapter C-26), the Government may, by regulation, after obtaining the advice of the Office des professions du Québec in accordance with subparagraph 7 of the third paragraph of section 12, and of the order concerned, determine the diplomas issued by the educational institutions it indicates which give access to a permit or specialist's certificate;

WHEREAS, under that paragraph, the Office must, before giving its advice to the Government, consult the educational institutions and the order concerned, the Fédération des cégeps, in the case of a college-level diploma, and the Minister of Higher Education, Research, Science and Technology, among others;

WHEREAS the Office has carried out that consultation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders was published in Part 2 of the *Gazette officielle du Québec* of 26 June 2013, with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the Government has received the advice of the Office and that of the Ordre professionnel des technologistes médicaux du Québec;

WHEREAS it is expedient to make the Regulation without amendment;

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

THAT the Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders, attached to this Order in Council, be made.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders

Professional Code
(chapter C-26, s. 184)

**1.** The Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders (chapter C-26, r. 2) is amended in section 2.06

(1) by inserting "de" in the French text after "général et professionnel" in the first paragraph;

(2) by replacing in the first paragraph

*(a)* "Saguenay–Lac-Saint-Jean (Chicoutimi campus)" by "Chicoutimi";

*(b)* "Bourgchemin (Saint-Hyacinthe campus), Shawinigan" by "Saint-Hyacinthe";

*(c)* "and Dawson general and vocational colleges" by "and Outaouais general and vocational colleges, Dawson College and Collège Shawinigan";

(3) by striking out the second paragraph.

**2.** The second paragraph of section 2.06, struck out by paragraph 3 of section 1 of this Regulation, remains applicable to persons who, on 21 November 2013, hold the attestation d'études collégiales postscolaires referred to therein.

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

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Gouvernement du Québec

## **O.C. 1072-2013,** 23 October 2013

Professional Code
(chapter C-26)

**Psychoeducators**
**— Certain professional activities that may be engaged in by persons other than psychoeducators**
**— Amendment**

Regulation to amend the Regulation respecting certain professional activities that may be engaged in by persons other than psychoeducators

WHEREAS, under paragraph *h* of section 94 of the Professional Code (chapter C-26), the board of directors of a professional order may, by regulation, determine, among the professional activities that may be engaged in by members of the order, those that may be engaged in by the persons or categories of persons indicated in the regulation, in particular persons serving a period of professional training determined pursuant to paragraph *i* of that section, and the terms and conditions on which such persons may engage in such activities;

WHEREAS the board of directors of the Ordre des psychoéducateurs et psychoéducatrices du Québec made the Regulation to amend the Regulation respecting certain professional activities that may be engaged in by persons other than psychoeducators on 11 May 2013;

WHEREAS, pursuant to section 95 of the Professional Code and subject to sections 95.0.1 and 95.2 of the Code, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order shall be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Regulation respecting certain professional activities that may be engaged in by persons other than psychoeducators was published in Part 2 of the *Gazette officielle du Québec* of 3 July 2013 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and submitted it to the Government with its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

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

THAT the Regulation to amend the Regulation respecting certain professional activities that may be engaged in by persons other than psychoeducators, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting certain professional activities that may be engaged in by persons other than psychoeducators

Professional Code
(chapter C-26, s. 94, par. *h*)

**1.** The Regulation respecting certain professional activities that may be engaged in by persons other than psychoeducators (chapter C-26, r. 207.01) is amended in section 1 by replacing "engages in the activities under the supervision of a training supervisor" by "is supervised".

**2.** Section 2 is amended by replacing "engages in the activities under the supervision of a training supervisor" by "is supervised".

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

"**2.1.** When acting outside a program of studies, a training period or training, a person referred to in sections 1 and 2 who has the necessary knowledge and skills may, in connection with an employment, engage in the professional activities that psychoeducators may engage in, provided that the person is supervised. That person must also be registered in the register kept for that purpose by the Order.".

**4.** Section 3 is amended by replacing "The training supervisor referred to in sections 1 and 2" by "The supervisor referred to in sections 1, 2 and 2.1", and "training supervisor" in paragraph 3 by "supervisor".

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

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Gouvernement du Québec

## **O.C. 1073-2013,** 23 October 2013

Professional Code
(chapter C-26)

**Psychoeducators**
**— Code of ethics of psychoeducators**

Code of ethics of psychoeducators

WHEREAS, under section 87 of the Professional Code (chapter C-26), the board of directors of a professional order must make, by regulation, a code of ethics governing the general and special duties of the professional towards the public, clients and the profession, particularly the duty to discharge professional obligations with integrity;

WHEREAS the board of directors of the Ordre des psychoéducateurs et psychoéducatrices du Québec made the Code of ethics of psychoeducators on 16 March 2013;

WHEREAS, under section 95.3 of the Professional Code, a draft of the Code of ethics of psychoeducators was sent to every member of the Order at least 30 days before being made by the board of directors;

WHEREAS, pursuant to section 95 of the Professional Code and subject to sections 95.0.1 and 95.2, every regulation made by the board of directors of a professional order under the Code must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Code of ethics of psychoeducators was published in Part 2 of the *Gazette officielle du Québec* of 8 May 2013 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the Office has examined the Regulation and submitted it with its recommendation to the Government;

WHEREAS it is expedient to approve the Regulation with amendments;

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

THAT the Code of ethics of psychoeducators, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

## Code of ethics of psychoeducators

Professional Code
(chapter C-26, s. 87)

**DIVISION I**
PRELIMINARY

**1.** This Code determines the duties and obligations that must be discharged by psychoeducators, regardless of the context or manner in which they carry on their professional activities or the nature of their contractual relationship with clients.

The duties and obligations under the Professional Code (chapter C-26) and its regulations are not modified in any manner owing to the fact that a psychoeducator carries on professional activities within a partnership or joint-stock company.

**2.** Psychoeducators may not exempt themselves, even indirectly, from a duty or obligation contained in this Code.

**3.** Psychoeducators must take all reasonable means so that every person who collaborates with them in the practice of their profession, and any partnership or joint-stock company within which they carry on their professional activities, comply with the Professional Code and its regulations, including this Code.

**4.** Psychoeducators may not perform any act or behave in any manner that is contrary to what is generally admissible in the practice of the profession, or that is likely to tarnish the image of the profession.

**DIVISION II**
DUTIES AND OBLIGATIONS TOWARDS THE CLIENT, THE PUBLIC AND THE PROFESSION

*§1. Quality of the professional relationship*

**5.** In their practice, psychoeducators must show respect for the dignity and freedom of persons and refrain from any form of discrimination.

**6.** Psychoeducators must refrain from acting in any manner that may affect the physical, mental or emotional integrity of the person with whom they establish a relationship in the practice of their profession.

**7.** Psychoeducators must act with diligence and availability.

**8.** Psychoeducators must seek to establish and maintain a relationship of trust with their client.

**9.** Psychoeducators must refrain from interfering in the personal affairs of their client on subjects that are not relevant to the practice of the profession.

**10.** During the professional relationship, psychoeducators must not establish relations of an intimate, amorous or sexual nature with their client or a relative of the client.

The duration of the professional relationship is determined taking into account the nature of the problems and the duration of professional services provided, the client's vulnerability and the likelihood of having to provide professional services to the client again.

**11.** Psychoeducators may not refuse or cease to act on behalf of a client, without just and reasonable grounds, in particular

(1) the inability to establish or maintain a relationship of trust with their client;

(2) a real or apparent conflict of interest or in a situation in which their professional independence could be questioned;

(3) inducement by their client or a relative of the client to perform illegal acts or acts that are contrary to the provisions of this Code;

(4) non-compliance by their client with the conditions agreed on to provide services, including professional fees, and the impossibility of negotiating with the client a reasonable agreement to reinstate the conditions.

**12.** Before refusing or ceasing to carry on their professional activities with a client, psychoeducators must so inform the client and take the necessary measures to avoid any prejudice to the client.

**13.** Psychoeducators must inform their client as soon as possible of any action, taken in connection with a professional service, that may be prejudicial to the client.

**14.** Psychoeducators must at all times acknowledge their client's right to consult another professional or any other competent person.

*§2. Consent*

**15.** Psychoeducators must, except in an emergency, obtain the free and enlightened consent of their client, the client's representative or parents, in the case of a child under 14 years of age, before providing professional services.

To enable their client to give free and enlightened consent, psychoeducators must inform the client of and ensure that the client understands

(1) the objective, nature, relevance and main terms of the professional services;

(2) the alternatives, limits and constraints on the professional service;

(3) the use of information obtained;

(4) the implications of sharing information with third persons or sending a report to third persons;

(5) the fees, the collection of interest on accounts and the terms of payment.

**16.** Psychoeducators must ensure that the consent remains free and enlightened throughout the professional relationship.

**17.** Psychoeducators must acknowledge the client's right to revoke his or her consent at any time.

*§3. Confidential information*

**18.** Psychoeducators must preserve the secrecy of all confidential information that becomes known to them in the practice of their profession.

Psychoeducators may be released from their obligation of professional secrecy only where so authorized by their client or where so ordered or expressly authorized by law.

In order to obtain the client's authorization, psychoeducators must inform the client of the use and possible implications of the transmission of information.

**19.** In addition to the cases provided for in section 18, psychoeducators may communicate information that is protected by professional secrecy to prevent an act of violence, including a suicide, where they have reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

Despite the foregoing, psychoeducators may only communicate the information to a person exposed to the danger or that person's representative, or to the persons who can come to that person's aid.

Psychoeducators may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

**20.** Psychoeducators who, pursuant to section 19, communicate information protected by professional secrecy to prevent an act of violence must

(1) communicate the information immediately; and

(2) enter in the client's record as soon as possible

*(a)* the reasons supporting the decision to communicate the information; and

*(b)* the mode and subject of the communication and the name of the person to whom the information was given.

**21.** For the purpose of preserving professional secrecy, psychoeducators must

(1) refrain from any indiscreet conversation concerning their client and the professional services provided to the client;

(2) take the reasonable means with respect to their colleagues and persons under their supervision;

(3) not disclose that a client has required their professional services.

**22.** Where psychoeducators ask a client to disclose confidential information or where they allow a client to disclose such information, they must clearly inform the client of the various uses that could be made of the information.

**23.** Before transmitting a report to a third person, psychoeducators must obtain explicit authorization from the client after the client has been made aware of the information in the report.

**24.** Psychoeducators who transmit confidential information, in particular within a multidisciplinary or interdisciplinary team or an institutional program, must limit the transmission to information that is relevant and necessary to achieve the objectives pursued.

**25.** Psychoeducators may not reveal or communicate the results of an evaluation obtained with measurement or evaluation instruments without the written authorization of their client.

**26.** Psychoeducators may only transmit the raw, unprocessed data resulting from an evaluation to a competent professional.

**27.** When psychoeducators cease to perform their professional duties for an employer, they must inform their employer of the confidential information contained in the records for which they were responsible and propose the necessary measures to preserve the confidentiality of such information. If the confidentiality of the information could be compromised, they must notify the secretary of the Ordre des psychoéducateurs et psychoéducatrices du Québec.

*§4. Accessibility and rectification of records*

**28.** Psychoeducators must respond promptly, at the latest within 20 days of its receipt, to any request made by a client to consult or obtain a copy of documents that concern the client in his or her record.

Psychoeducators may charge the client reasonable fees not exceeding the cost of reproducing or transcribing documents or the cost of transmitting a copy of the documents.

Before transcribing, reproducing or transmitting the documents, psychoeducators who intend to charge such fees must inform the client of the approximate amount to be paid.

**29.** Psychoeducators must respond promptly, at the latest within 20 days of its receipt, to any request made by a client to have information that is inaccurate, incomplete, ambiguous, outdated or unjustified corrected or deleted in any document concerning the client. In addition, psychoeducators must notify the client of the client's right to make written comments and file them in the record.

Psychoeducators must give the client, free of charge, a duly dated copy of the document or part of the document filed in the record so that the client may verify that the information has been corrected or deleted or, as applicable, give the client an attestation stating that the client's written comments have been filed in the record.

Psychoeducators must forward a copy, free of charge, of the corrected information or an attestation stating that the information has been deleted or, as applicable, that the written comments have been filed in the record, to every person from whom psychoeducators received the information that was the subject of the correction, deletion or comments, and to every person to whom the information was communicated.

**30.** Psychoeducators who deny a client access to information contained in the client's record, where authorized by law, or who refuse to grant a client's request to correct or delete information in any document concerning the client must inform the client in writing of the reasons for the refusal and enter them in the record.

**31.** Psychoeducators must respond promptly, at the latest within 20 days of its receipt, to any written request from a client to have a document returned to the client.

*§5. Professional independence and conflict of interest*

**32.** Psychoeducators must act with objectivity and subordinate their personal interests or, where applicable, those of their employer, colleagues or a third person who pays fees to those of their client.

**33.** Psychoeducators must safeguard their professional independence at all times, in particular,

(1) by ignoring any intervention by a third person that could influence their professional judgment or the performance of their professional activities to the detriment of their client;

(2) by avoiding to use their professional relationship to obtain for themselves or a third person benefits of any nature;

(3) by avoiding any real or apparent situation of conflict of interest, including when the interests are such that psychoeducators may tend to favour certain of them over those of their client, or where their integrity and loyalty towards the client may be unfavourably affected.

**34.** Psychoeducators who become aware that they are in a real or apparent conflict of interest must notify their client and take the means necessary to ensure that the situation does not cause prejudice to the client.

**35.** Psychoeducators must not urge a person insidiously, pressingly or repeatedly to retain their professional services or to participate in research.

**36.** Psychoeducators must not perform unwarranted professional acts or unnecessarily increase the number of such professional acts, and must refrain from performing acts that are inappropriate or disproportionate to the client's needs.

**37.** Psychoeducators must not issue, out of kindness or for any other reason, inaccurate receipts, falsify or destroy part of or an entire report or record.

**38.** Except for the remuneration to which they are entitled, psychoeducators may not receive, pay or offer to pay any benefit, rebate or commission relating to the practice of their profession except for customary tokens of appreciation and gifts of small value.

**39.** Psychoeducators must refrain from exerting any undue pressure to influence the board of directors of the Order, a committee or council of the Order or any other person acting on behalf of the Order.

*§6. Quality of practice*

**40.** Psychoeducators must discharge their professional obligations with competence, loyalty and integrity.

**41.** Psychoeducators must avoid any misrepresentation with respect to their competence or the efficiency of their own services or those generally provided by the members of their profession or, where applicable, those generally provided by persons who work with them or who carry on their activities within the same partnership or joint-stock company as them.

**42.** Psychoeducators must practise their profession in keeping with good practice and generally accepted standards.

**43.** Psychoeducators must ensure the quality of their professional services offered to the public, in particular,

(1) by ensuring that their level of competence is kept up to date and developed;

(2) by assessing the quality of their evaluations and actions; and

(3) by promoting education and information measures in the field in which they practise.

**44.** Before providing professional services, psychoeducators must evaluate their proficiency, knowledge and the means at their disposal.

As soon as the interest of their client so requires, psychoeducators must obtain the assistance from another psychoeducator or another professional, or refer the client to one of them.

**45.** Psychoeducators may not issue findings or give opinions or advice unless they have sufficient knowledge and understanding of the facts to do so.

**46.** Psychoeducators who produce a written or oral report must limit its content to the interpretations, findings and recommendations based on their professional expertise and related to the practice of the profession.

**47.** Psychoeducators must refrain from practising their profession if their state of health is an obstacle to doing so, or in any condition or state that may compromise the quality of their professional services or the dignity and image of the profession.

**48.** Psychoeducators must not, by any means of communication whatsoever, utter words, publish writings, distribute photographs, pictures, videos or perform any other act that is contrary to the provisions of this Code or urge any person to do so.

**49.** Psychoeducators must take the means necessary to not compromise the psychometric validity of a test by revealing the protocol to their client.

**50.** Psychoeducators must recognize the inherent limits of the measurement instruments they use and exercise caution in interpreting the psychometric material, in particular taking into account

(1) the specific characteristics of the tests or of the client that may interfere with their judgment or affect the validity of their interpretation;

(2) the context of the intervention; and

(3) factors that could affect the validity of the measurement instruments and necessitate changes in the administering of tests or the weighting of standards.

**51.** Psychoeducators must assume full personal civil liability. They may not evade or attempt to evade personal civil liability, by any means whatsoever, in particular by invoking the liability of the partnership or joint-stock company within which they carry on their professional activities or that of another person practising within that partnership or joint-stock company or by requesting that their client or the client's representative renounce any recourse in case of professional negligence on their part.

*§7. Professional collaboration and commitment*

**52.** To the extent of their resources, qualifications and experience, psychoeducators must participate in the development and quality of the profession in particular by accompanying students and by sharing with other psychoeducators.

To the same extent, psychoeducators must collaborate with the Order in fulfilling its duties, including its duty to ensure the protection of the public.

**53.** Psychoeducators consulted by another psychoeducator must provide their opinion and recommendations within a reasonable time. If unable to do so, they must so notify the other psychoeducator as quickly as possible.

**54.** Psychoeducators must not use unfair practices against any person with whom they have a professional relationship or damage the person's reputation or breach the person's trust.

**55.** Psychoeducators may not take credit for work not performed by them.

**56.** Psychoeducators must notify the Order of the fact that a person who is not a member is using the title or abbreviations reserved for psychoeducators or is illegally practising activities reserved for them.

**57.** Psychoeducators must inform the Order if they suspect that the competence or conduct of another psychoeducator is derogatory to the dignity of the profession.

**58.** Unless they have serious grounds for refusing, psychoeducators must accept to participate in a council of arbitration of accounts, a disciplinary council, a professional inspection committee or a review committee.

**59.** Psychoeducators must collaborate and reply to any request made by a syndic, an inspector, a member of the professional inspection committee or the secretary of the Order and psychoeducators must do so within the time and using the method of communication determined by them.

**60.** In no circumstances may a psychoeducator, on being informed of an inquiry into the psychoeducator's professional conduct or competence or on being served with a complaint, communicate with the person who requested the inquiry or made the complaint or with any other person involved in the inquiry or complaint, without the prior written authorization of the syndic.

*§8. Research*

**61.** Psychoeducators who undertake, participate or collaborate in research involving persons must ensure that the project has been approved by a research ethics committee. To that end, psychoeducators must

(1) inform each of the subjects or representative of the project's objectives and the manner in which it will be conducted and the advantages, risks or disadvantages related to the person's participation;

(2) obtain free and enlightened consent;

(3) inform the research subject or representative that the consent is revocable at any time.

**62.** Where the carrying out of a research activity is likely to cause prejudice to persons or the community, psychoeducators who participate in research must advise the research ethics committee or another appropriate authority.

**63.** Psychoeducators must cease any form of participation in a research activity if the disadvantages for the subjects appear to outweigh the expected benefits.

**64.** Psychoeducators must not voluntarily conceal the negative results of research in which they have taken part.

*§9. Fees*

**65.** Psychoeducators must charge and accept fair and reasonable fees, taking into account

(1) their experience and particular competence;

(2) the time required to provide the professional services;

(3) the nature and complexity of the professional services;

(4) the performance of professional services that are unusual or provided in unusual conditions; and

(5) exceptional competence or celerity necessary to provide professional services.

**66.** Psychoeducators may only claim fees for professional services provided.

Psychoeducators may, however, claim reasonable cancellation fees for missed appointments.

**67.** Psychoeducators must claim from their client in writing their fees and cancellation fees, where applicable.

**68.** Psychoeducators must produce an intelligible statement of fees to their client and provide them with all explanations necessary to an understanding of the statement.

**69.** Outstanding accounts of psychoeducators bear interest at the rate agreed in advance with their client.

**70.** Before instituting legal proceedings, psychoeducators must have exhausted all means available to recover their fees and other expenses.

***§10.*** *Obligations and restrictions respecting advertising*

**71.** Psychoeducators may not use or allow to be used in advertising any endorsement or statement of gratitude in their regard other than awards for excellence and other merits related to the practice of the profession.

**72.** In all advertising, psychoeducators must refrain from adopting attitudes, methods or using advertising practices likely to impart a mercantile character to the profession.

**73.** All advertising must indicate the psychoeducator's name along with the professional title. Where there are members of various professions included in the name of a partnership or joint-stock company, the title of each professional must appear.

**74.** Where psychoeducators reproduce the graphic symbol of the Order for advertising purposes, they must ensure that the symbol conforms to the original held by the Order.

**75.** Where psychoeducators use the graphic symbol of the Order in their advertising, they may not suggest that such advertising emanates from the Order.

**76.** Psychoeducators must refrain from participating as psychoeducators in any form of advertising that recommends that the public buy or use a product or service unrelated to the field of psychoeducation.

**77.** Psychoeducators must keep a copy of every advertisement for a period of 3 years following the date on which it was last broadcast or published. The copy must be given, on request, to the syndic, an inspector or member of the professional inspection committee.

**78.** This Code replaces the Code of ethics of the members of the Ordre des psychoéducateurs et psychoéducatrices du Québec (chapter C-26, r. 68).

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

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Gouvernement du Québec

## **O.C. 1083-2013,** 23 October 2013

An Act respecting roads
(chapter V-9)

**Ville de Lac-Mégantic**
**— Management of a portion of route 161 (rues Frontenac/Laval) located in the territory**

CONCERNING the management of a portion of route 161 (rues Frontenac/Laval) located in the territory of Ville de Lac-Mégantic

WHEREAS, pursuant to the first paragraph of section 2 of the Act respecting roads (chapter V-9), the Government determines, by an order published in the *Gazette officielle du Québec*, the roads which shall be under the management of the Minister of Transport;

WHEREAS, pursuant to the first paragraph of section 3 of the Act, the government may, by an order published in the *Gazette officielle du Québec*, determine that a road which is under the management of the Minister shall, from the date indicated in the Order, be managed by a municipality in accordance with Chapter I and Division I of Chapter IX of Title II of the Municipal Powers Act (chapter C-47.1);

WHEREAS Order in Council 292-93 dated March 3, 1993, concerning the roads under the management of the Minister of Transport, determined that route 161, located in the territory of Ville de Lac-Mégantic, is under the management of the Minister of Transport;

WHEREAS it is expedient to amend the schedule to this Order to correct the description of route 161 (rues Frontenac/Laval) and remove a portion of this road that is 743 metres long and located between the junction of the new route of route 161 and rue Villeneuve, situated in the territory of Ville de Lac-Mégantic;

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

THAT the schedule to Order in Council 292-93 dated March 3, 1993, concerning the roads under the management of the Minister of Transport be amended, with regard to Ville de Lac-Mégantic, by correcting the description and by deleting a portion of route 161 (rues Frontenac/Laval) as specified in the schedule of this Order in Council;

THAT this Order in Council take effect on October 23, 2013.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

**SCHEDULE**

ROADS UNDER THE MANAGEMENT OF THE MINISTER OF TRANSPORT

PRESENTATION NOTE

A) CORRECTION TO THE DESCRIPTION, ADDITION OR DELETION

The roads identified in the "Correction to the description", "Addition" or "Deletion" sections of the schedule to this Order have been described for each municipality where they are located with the assistance of the following five elements:

1. ROAD CATEGORY

The nomenclature of road categories comes from the functional classification established by the ministère des Transports.

2. SECTION IDENTIFICATION

The roads are identified by a sequence of numbers composed of seven different groups:

| | | |
|---|---|---|
| Road: | Group 1: | Road number |
| | Group 2: | Road segment number |
| | Group 3: | Road section number |
| Sub-road: | Group 4: | The only figure other than zero that may appear in this group is 3, which is used to identify one or several ramps |
| | Group 5: | This group of figures indicates a sequential number for an intersection within a road segment |
| | Group 6: | Letter identifying the ramp, if applicable |
| | Group 7: | Letter identifying the roadway type or the side<br>(C: Contiguous, S: Divided, D: Right and G: Left) |

3. NAME OF ROAD

For roads with a number lower than 1,000, this number is entered in this element and not the odonym. For roads with a number of 10,000 and over, the odonym is used instead of the road number.

When one or more ramps exist along a road section, the total number of ramps attached to this section is entered in this element; the cumulative length of all these ramps is then found under the heading "Length in km".

4. LOCATION OF BEGINNING

This element contains the description of a physical landmark to locate the beginning of a road section or identify municipal boundaries in the case of a road section found in more than one municipality.

5. LENGTH IN KM

The length in kilometres is entered for each road or part of a road. This length, established by the Minister of Transport, corresponds to the distance travelled by a vehicle between two points, without considering the configuration of the road (number of lanes, extra widths, etc.). Thus, the length is the same regardless of whether the road is an autoroute or a collector road.

B) CHANGE OF RIGHT-OF-WAY WIDTH

The roads identified in the "Change of Right-of-Way Width" section of the schedule to this order have been described, for each municipality where they are located, with the assistance of the following six elements:

1. SECTION IDENTIFICATION

From now on, the roads are identified by a sequence of numbers composed of three different groups:

| | | |
|---|---|---|
| Road: | Group 1: | Road number |
| | Group 2: | Road segment number |
| | Group 3: | Road section number |

2. Name of Road

3. Name of Land Surveyor

4. Number of Land Surveyor's Minutes

5. Plan Number

6. Length in km

C) GEOMETRIC REDEVELOPMENT

The roads identified in the "Geometric Redevelopment" section of the schedule to this Order have been described with the assistance of the five elements of Section A above and the plan number, the name of the land surveyor and the number of the land surveyor's minutes.

NOTE: The designation of the sites appearing in the schedule does not necessarily conform to the standards of the Commission de toponymie du Québec.

**LAC MÉGANTIC, V (3003000)**

| Road Class | Section Identification | Name of Road | Location of Beginning | Length in km |
|---|---|---|---|---|
| National | 00161-01-050-0-00-7 | Route 161 | Intersection Route 204 | 3.58 |

- **Corrections to the description (numbering):**
- **Deletion (between new route of route 161 and rue Villeneuve) :**

| | | | | |
|---|---|---|---|---|
| National | 84815-01-015-000-C | Rue Laval | Intersection rue Villeneuve | 2.84 |

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Gouvernement du Québec

## **O.C. 1087-2013,** 23 October 2013

Building Act
(chapter B-1.1)

**Guarantee plan for new residential buildings — Amendment**

Regulation to amend the Regulation respecting the guarantee plan for new residential buildings

WHEREAS, under paragraphs 19.5, 19.5.1, 19.6 and 38 of section 185 of the Building Act (chapter B-1.1), the Régie du bâtiment du Québec may make a regulation in respect of financial guarantees for new residential buildings;

WHEREAS, under section 192 of the Act, the contents of the regulation may vary according to the classes of persons or contractors and buildings to which they apply;

WHEREAS the Board made the Regulation to amend the Regulation respecting the guarantee plan for new residential buildings on 19 March 2012;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the guarantee plan for new residential buildings was published in Part 2 of the *Gazette officielle du Québec* of 30 May 2012 with a notice that it could be approved by the Government with or without amendment on the expiry of 45 days following that publication;

WHEREAS the comments received have been examined;

WHEREAS, under section 189 of the Building Act, every regulation of the Board is subject to approval by the Government which may approve it with or without amendment;

WHEREAS it is expedient to approve the Regulation with amendments;

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

THAT the Regulation to amend the Regulation respecting the guarantee plan for new residential buildings, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

## Regulation to amend the Regulation respecting the guarantee plan for new residential buildings

Building Act
(chapter B-1.1, s. 185, pars. 19.5, 19.5.1, 19.6 and 38, and s. 192)

**1.** The Regulation respecting the guarantee plan for new residential buildings (chapter B-1.1, r. 8) is amended in section 50 by adding the following paragraph:

"The manager must also collect for each guarantee certificate an amount of $300 that is then paid directly into the guarantee fund administered by the Board. The amount of $300 is not included in the calculation of the amount to be paid into the reserve account of this section or in the calculation of the excess required in section 48.".

**2.** Section 56 is amended by adding the following paragraphs:

"The manager's actuary may take into account the insurance, reinsurance or other guarantees held by the manager in the estimate of the good and sufficient provision of this section but must not take into account the guarantee fund in Chapter III.I of this Regulation. The actuary's analyses and conclusions in that regard and the copies of the insurance, reinsurance or other guarantees held by the manager must be submitted in the report mentioned in section 64.

The actuarial reserve thus calculated may not cover uses other than those identified in the first paragraph.".

**3.** The following is inserted after Chapter III:

"**CHAPTER III.I**
GUARANTEE FUND

**74.1.** The guarantee fund established under section 81.0.1 of the Building Act, introduced by section 12 of chapter 35 of the Statutes of 2011, is managed by the Board and serves to insure that the guarantee beneficiaries may be compensated by the manager when

(1) it is shown that exceptional or unforeseen major claims are the source of a claim to a manager by the beneficiaries of the guarantee plan, that the guarantee manager has acted with diligence and judgment in activities related to the management of the guarantee plan and that the exceptional and major claims could result in non-compliance of the financial criteria of the Regulation; or

(2) the manager is no longer able to take on the obligations of the guarantee plan, owing to the manager's financial position and a provisional manager has been appointed.

The fund also guarantees the payment of administration costs or provisional manager's fees in case of insolvency of a manager of the guarantee plan.

**74.2.** The guarantee fund comprises

(1) the amount of $300 referred to in section 50 and collected by the manager in consideration of a guarantee certificate;

(2) the investment income accrued in the guarantee fund;

(3) the amounts recovered under subrogation; and

(4) any other sum paid into the guarantee fund.

**74.3.** The manager must send to the Board on a quarterly basis all the amounts collected under section 74.2. The manager also sends to the Board at each quarter the detail of the certificates issued and collected (name of the contractor, type and address of the building, sale price of the building or co-ownership unit, detail of the amounts paid to the manager under section 50).

**74.4.** The Board manages the guarantee fund.

The sums constituting the fund are held in trust by the Board and deposited with the Caisse de dépôt et placement du Québec according to the terms determined between the Board and the Fund.

Authorized investments are those provided for in the safe portfolios of the Caisse de dépôt et placement du Québec that the Board chooses according to an investment policy.

**74.5.** The management fees of the guarantee fund are payable by the fund.

**74.6.** A claim to the fund is forwarded to the Board by the authorized manager or the provisional manager appointed by the Board.

The application of a manager must include the information allowing to establish the exceptional or unforeseeable major nature of the claims, the real or apprehended impact on the solvency of the manager and the justification of the amount requested in relation with the claims of beneficiaries.

**74.7.** The Board may request any document or proof required for the analysis of the request and to determine compliance with the conditions of section 74.1.

After analysis of the claim, the Board renders a decision on the amount that the guarantee fund must pay to the manager.

The Board may, to that end, require all necessary information and make all the verifications required to render an informed decision. The Board gives the manager the opportunity to be heard.

Payment is made to the reserve account of the manager. It may be made in whole or progressively and be the subject of additional conditions, including a rendering of accounts from the guarantee manager or the provisional manager on the use of the sums received as compensation and the efforts made for recovery from contractors or suppliers responsible for the exceptional or unforeseeable major claims. The Board may require reimbursement of the amounts paid to the manager.

**74.8.** Guarantee managers who have obtained compensation from the guarantee fund must attempt to recover the amounts from the contractors, suppliers or any other person having responsibility in relation to the major and exceptional claims.

The Board is subrogated by operation of law in the rights of the managers and beneficiaries for the amounts paid by the fund.

**74.9.** The guarantee fund is financed by the sums mentioned in section 74.2 until the guarantee fund reaches 100 million dollars.

Where the guarantee fund reaches the amount referred to in the previous paragraph, the Board informs the guarantee managers and the managers suspend the collection of the amount of $300 per certificate provided for in section 50.".

**4.** This Regulation comes into force on 1 January 2014.

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Gouvernement du Québec

## **O.C. 1103-2013,** 30 October 2013

Public Contracts Act
(2012, chapter 25)

An Act respecting contracting by public bodies
(chapter C-65.1)

Public-private partnership contracts involving an expenditure equal to or greater than $10,000,000

WHEREAS the Integrity in Public Contracts Act (2012, chapter 25) was assented to on 7 December 2012;

WHEREAS the Act amends the Act respecting contracting by public bodies (chapter C-65.1) to introduce Chapter V.2 concerning prior authorization for public contracts or public subcontracts;

WHEREAS, under section 21.17 of the Act respecting contracting by public bodies, an enterprise that wishes to enter into a contract with a public body involving an expenditure equal to or greater than the amount determined by the Government or that wishes to enter into a subcontract that involves an expenditure equal to or greater than that amount and that is directly or indirectly related to the contract must obtain an authorization from the Autorité des marchés financiers and the amount may vary according to the category of contract;

WHEREAS, under section 85 of the Integrity in Public Contracts Act, from 15 January 2013, for the purposes of section 21.17 of the Act respecting contracting by public bodies, the contracts and subcontracts to which that section applies are construction contracts and subcontracts and service contracts and subcontracts that involve an expenditure equal to or greater than $40,000,000 and for which the award process is underway on or begins after that date;

WHEREAS, under section 89 of the Integrity in Public Contracts Act, Chapter V.2 of the Act respecting contracting by public bodies applies to a body referred to in sections 7 and 7.1 of that Act as they read before being repealed by section 4 of the Integrity in Public Contracts Act as of 7 December 2012;

WHEREAS, under subparagraph 1 of the second paragraph of section 3 of the Act respecting contracting by public bodies, public-private partnership contracts are subject to the Act respecting contracting by public bodies whether or not they involve public expenditure;

WHEREAS the Government determined, under Order in Council 97-2013 dated 13 February 2013, that Chapter V.2 of the Act respecting contracting by public bodies applies to public-private partnership contracts entered into by a public body covered by that Act or by a body referred to in sections 7 and 7.1 of that Act, for the purposes of a public infrastructure project carried out under a public-private partnership within the meaning of the Act respecting Infrastructure Québec (chapter I-8.2), involving an expenditure equal to or greater than $40,000,000;

WHEREAS the Autorité des marchés financiers has, since 15 January 2013, issued authorizations to enter into contracts to a number of enterprises and the Act provides the flexibility required to progressively reduce the amounts of the contracts and subcontracts for which an authorization issued under Chapter V.2 of the Act respecting contracting by public bodies must be obtained;

WHEREAS it is expedient to reduce the amount of public-private partnership contracts;

WHEREAS section 21.44 of the Act respecting contracting by public bodies provides that a decision of the Government under the first paragraph of section 21.17 of the Act comes into force on the 30th day after its publication in the *Gazette officielle du Québec* or on any later date specified therein and sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to that decision;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Chair of the Conseil du trésor:

THAT, for the purposes of section 21.17 of the Act respecting contracting by public bodies (chapter C-65.1), the public-private partnership contracts covered be, as of the date of coming into force of this Order in Council, contracts involving an expenditure equal to or greater than $10,000,000 and for which the award process begins as of that date;

THAT this Order in Council come into force on 6 December 2013.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

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Gouvernement du Québec

## **O.C. 1105-2013,** 30 October 2013

Public Contracts Act
(2012, chapter 25)

An Act respecting contracting by public bodies
(chapter C-65.1)

Service contracts and subcontracts and construction contracts and subcontracts involving an expenditure equal to or greater than $10,000,000

WHEREAS the Integrity in Public Contracts Act (2012, chapter 25) was assented to on 7 December 2012;

WHEREAS the Act amends the Act respecting contracting by public bodies (chapter C-65.1), to introduce Chapter V.2 concerning prior authorization for public contracts or public subcontracts, and amends other Acts respecting the municipal sector;

WHEREAS, under section 21.17 of the Act respecting contracting by public bodies, an enterprise that wishes to enter into a contract with a public body involving an expenditure equal to or greater than the amount determined by the Government or that wishes to enter into a subcontract that involves an expenditure equal to or greater than that amount and that is directly or indirectly related to the contract must obtain an authorization from the Autorité des marchés financiers and the amount may vary according to the category of contract;

WHEREAS, under section 85 of the Integrity in Public Contracts Act, from 15 January 2013, for the purposes of section 21.17 of the Act respecting contracting by public bodies, the contracts and subcontracts to which that section applies are construction contracts and subcontracts and service contracts and subcontracts that involve an expenditure equal to or greater than $40,000,000 and for which the award process is underway on or begins after that date;

WHEREAS, under section 573.3.3.3 of the Cities and Towns Act (chapter C-19), section 938.3.3 of the Municipal Code of Québec (chapter C-27.1), section 118.1.2 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01), section 111.1.2 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02), section 41.1 of the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01) and section 108.1.2 of the Act respecting public transit authorities

(chapter S-30.01), sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies apply, with the necessary modifications, in respect of any contract of a municipality, a metropolitan community, a mixed enterprise company or a public transit authority, as the case may be, that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services and, for the purposes of the sections of the Act respecting contracting by public bodies, any such contract is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract and every municipality, metropolitan community, mixed enterprise company or public transit authority is deemed to be a public body;

WHEREAS, under section 89 of the Integrity in Public Contracts Act, Chapter V.2 of the Act respecting contracting by public bodies applies to a body referred to in sections 7 and 7.1 of that Act as they read before being repealed by section 4 of the Integrity in Public Contracts Act as of 7 December 2012;

WHEREAS the Autorité des marchés financiers has, since 15 January 2013, issued authorizations to enter into contracts to a number of enterprises and the Act provides the flexibility required to progressively reduce the amounts of the contracts and subcontracts for which an authorization issued under Chapter V.2 of the Act respecting contracting by public bodies must be obtained;

WHEREAS it is expedient to reduce the amount of service contracts and subcontracts and the amount of construction contracts and subcontracts;

WHEREAS section 21.44 of the Act respecting contracting by public bodies provides that a decision of the Government under the first paragraph of section 21.17 of the Act comes into force on the 30th day after its publication in the *Gazette officielle du Québec* or on any later date specified therein and sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to that decision;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Chair of the Conseil du trésor and the Minister of Municipal Affairs, Regions and Land Occupancy:

THAT, for the purposes of section 21.17 of the Act respecting contracting by public bodies (chapter C-65.1), the contracts and subcontracts covered be, as of the date of coming into force of this Order in Council, service contracts and subcontracts and construction contracts and subcontracts involving an expenditure equal to or greater than $10,000,000 and for which the award process begins as of that date;

THAT this Order in Council come into force on 6 December 2013.

JEAN ST-GELAIS,
*Clerk of the Conseil exécutif*

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## **M.O.,** 2013

**Order of the Minister of Sustainable Development, Environment, Wildlife and Parks dated 23 October 2013**

Natural Heritage Conservation Act
(chapter C-61.01)

Assignment of proposed biodiversity reserve status to land of the former Dunn property

THE MINISTER OF SUSTAINABLE DEVELOPMENT, ENVIRONMENT, WILDLIFE AND PARKS,

CONSIDERING the first paragraph of section 27 of the Natural Heritage Conservation Act (chapter C-61.01), which provides that, for the purpose of protecting land to be established as a new protected area, the Minister, with the approval of the Government, prepares the plan of that area, establishes a conservation plan and assigns temporary protection status to the area as a proposed aquatic reserve, biodiversity reserve, ecological reserve or man-made landscape;

CONSIDERING section 28 of the Act under which the setting aside of land under the first paragraph of section 27 is valid for a period of not more than four years, subject to renewals or extensions, which may not be such that the term of the setting aside exceeds six years, unless so authorized by the Government;

CONSIDERING Order in Council 470-2013 dated 8 May 2013 by which the Government authorized the Minister of Sustainable Development, Environment, Wildlife and Parks to assign the status of proposed

biodiversity reserve to land of the former Dunn property and to establish the conservation plan of the Réserve de biodiversité projetée Michael-Dunn and the plan attached to it;

CONSIDERING the publication in Part 2 of the *Gazette officielle du Québec* of 26 June 2013 and 17 July 2013, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), of a draft conservation plan and a draft Order respecting the assignment of proposed biodiversity reserve to land of the former Dunn property with a notice that they could be made by the Minister on the expiry of 45 days following their publication;

CONSIDERING that the 45-day period has expired;

CONSIDERING that it is expedient to make the Minister's Order with minor amendments to the activities framework of the conservation plan of the Réserve de biodiversité projetée Michael-Dunn, to take into account certain comments received after the publication of the Order, so as to control the prohibition of hunting, fishing and trapping in the proposed reserve and to clarify the section on the rules of conduct for users.

ORDERS AS FOLLOWS:

The status of proposed biodiversity reserve, the plan of that area and its conservation plan being those the copies of which are attached to this Minister's Order is assigned to land of the former Dunn property;

The status is assigned for a period of four years beginning on the fifteenth day following the date of publication of this Minister's Order in the *Gazette officielle du Québec*.

Québec, 23 October 2013

YVES-FRANÇOIS BLANCHET,
*Minister of Sustainable Development, Environment, Wildlife and Parks*

QUÉBEC STRATEGY FOR PROTECTED AREAS

Protected areas in Québec:
A Lifelong Heritage

# Réserve de biodiversité projetée Michael-Dunn

## Conservation plan

**September 2013**

Québec

# 1. Protection status and Toponym

The protection status of the area described below is that of "proposed biodiversity reserve", a status governed by the *Natural Heritage Conservation Act* (chapter C-61.01).

The anticipated permanent protection status is that of "biodiversity reserve", a status also governed by the *Natural Heritage Conservation Act*.

The provisional toponym is "Réserve de biodiversité projetée Michael-Dunn". The official toponym will be determined when the territory is given permanent protection status.

# 2. Plan and description

## 2.1. Geographic location, boundaries, and dimensions

The boundaries and location of Réserve de biodiversité projetée Michael-Dunn are shown on the plan in Appendix I.

Réserve de biodiversité projetée Michael-Dunn, which covers an area of 1,176 $km^2$ (117.6 ha), is located between 45°0'19'' and 45°0'48'' north latitude and 72°11'8'' and 72°12'46'' west longitude. The southern boundary of the biodiversity reserve is adjacent to the Canada-U.S. border and the western boundary is the eastern shore of Lac Memphrémagog opposite Île de la Province. The reserve is located approximately 3 km west of Bebee and roughly 860 meters south of Cedarville in the municipality of Ogden within the Memphrémagog RCM and the Estrie administrative region.

## 2.2. Ecological overview

Réserve de biodiversité projetée Michael-Dunn is located in the Plateau d'Estrie-Beauce natural region in the Appalachian natural province. More specifically, it is part of the Lac Memphrémagog Basin ecological district and the Appalachian Uplands physiographic unit. This proposed biodiversity reserve contributes to the conservation of ecosystems representative of the Lac Memphrémagog Basin ecological district.

### 2.2.1. Representative elements

***Climate*:** The area is characterized by a continental climate with a moderate average temperature (4.5 to 6.6°C), subhumid annual rainfall (800 to 1,359 mm), and a long growing season (180 to 209 days). The area belongs to the maple-linden bioclimatic domain.

***Geology and geomorphology*:** Réserve de biodiversité projetée Michael-Dunn belongs to the Appalachian geologic province, consisting of Paleozoic intrusive rock. The geologic foundation in the proposed reserve is composed mainly of mudrock, sandstone, limestone, and conglomerate. As regards geomorphology, the Lac Memphrémagog Basin ecological district consists of hummocks. In the proposed biodiversity reserve, surface deposits are glacial drift along the lake's edge (ground moraines without morphology) and glaciolacustrine deposits (silty clay and sandy) inland. Organic deposits are also observed around a small unnamed lake. The altitude varies from 208 m to 261 m.

***Hydrography*:** The protected area is part of the Rivière Magog sub-watershed, which is part of the Rivière Saint-François watershed. The biodiversity reserve protects slightly more than one kilometer of Lac Memphrémagog shoreline. A runnel flows through the area from northwest to southeast over a distance of 825 meters, emptying into a small unnamed lake. This lake located on either side of the Canada-U.S. border covers 975 $m^2$ of the proposed reserve and is surrounded by wetlands. A small, intermittent watercourse also flows through the area.

***Flora*:** Close to 100.5 ha of Réserve de biodiversité projetée Michael-Dunn is forest environment while 17.5 ha is pastureland.

Eco-forest map data indicates that sugar maple–tolerant hardwood stands comprise the dominant tree species community, covering almost 40% of the area, or 47.5 ha. An inventory carried out in August 2010 shows however that while sugar maple (*Acer saccharum*) is generally dominant in the area, it grows alongside highly diverse hardwood species including several intolerant species: American white ash (*Fraxinus americana*), large-toothed and quaking aspen (*Populus grandidentata, P. tremuloides*), white birch (*Betula papyrifera*), American beech (*Fagus grandifolia*), red maple (*Acer rubrum*), and less commonly yellow birch (*Betula alleghaniensis*), American linden (*Tilia americana*), and black cherry (*Prunus serotina*). Certain softwood species are also present including Eastern hemlock (*Tsuga canadensis*) and Eastern white cedar (*Thuja occidentalis*), which can become predominant locally, especially in riparian areas of Lac Memphrémagog. Balsam fir (*Abies balsamea*), white pine (*Pinus strobus*), and red spruce (*Picea rubens*), although less abundant, have also been recorded within this tree species community. The presence of red pine (*Pinus resinosa*), silver maple (*Acer saccharinum*), and speckled alder (*Alnus incana* subsp. *rugosa*) along the shoreline is worth noting.

Red maple–softwood stands are the second leading community, covering 26 ha. Red maple is dominant in this stand, which also includes white birch, American white ash, American black ash (*Fraxinus nigra*), sugar maple, yellow birch, aspen, hemlock, and white pine.

Lastly, tolerant hardwood–softwood stands and white pine–aspen stands occupy 13 and 8 ha respectively. Forest species present within the tolerant hardwood stands are similar to those within the maple–tolerant hardwood stands. Sugar maple is however less abundant in these stands, and intolerant hardwoods generally seem more numerous. Red pine and silver maple are virtually absent. In white pine stands a fair number of hemlock can be observed.

Striped maple (*Acer pensylvanicum*) dominates the shrub stratum. The herbaceous stratum is dominated primarily by various fern species including New York fern (*Thelypteris noveboracensis*), evergreen wood fern (*Dryopteris intermedia;* syn.: *D. spinulosa* var. *intermedia*), and lady fern (*Athyrium filix-femina*). These ferns are found mainly with wild sasparilla (*Aralia nudicaulis*), wild lily of the valley (*Maianthemum canadense*), and rosy twistedstalk (*Streptopus lanceolatus*). Riparian flora is distinguished by an abundance of plants from the heath family including black huckleberry (*Gaylussacia baccata*), highbush blueberry (*Vaccinium corymbosum*), velvetleaf huckleberry (*Vaccinium myrtilloides*), and wintergreen (*Gaultheria procumbens*). Some basins are home to a diverse flora comprising numerous species associated with wetlands or nutrient-enriched environments.

***Fauna*:**
While no wildlife inventory has been carried out on the Dunn property, the fauna is probably typical of the region, and the presence of large mammals (deer, moose) is likely.

## 2.3. Land occupation and uses

The land for Réserve de biodiversité projetée Michael-Dunn was left to the Government of Québec by Michael Dunn on his death in 2007. Dunn owned 400 ha of farmland on either side of the border. In the deed creating the trust tasked with disposing of his property, Dunn asked that his land be given to the Canadian and U.S. governments. Canada did not accept this gift, so the Canadian portion was offered to the Québec government. The latter accepted the land on April 9, 2010, and took possession of the 117.6 ha north of the border on December 14, 2010. In his will Dunn indicated his desire that the land remain in an open state, with hiking and camping permitted. Authority over the land was transferred to Ministère du Développement durable, de l'Environnement et des Parcs by Ministère des Ressources naturelles et de la Faune under a notice of transfer of authority published in the Register of the Domain of the State under No. 51.

The impact of treading on the undergrowth flora has already been recorded in certain parts of the area. Signage and appropriate amenities must therefore be installed to limit the impact of recreation and education activities on biodiversity. New trails and marked campsites would help in this regard.

The proposed biodiversity reserve is accessible by land from Chemin Arnold, which meets Cedarville at Glines Corner. The reserve can also be reached by water via Lac Memphrémagog. Two farm roads provide access to the pastureland from Dunn Farm in the United States.

Historically speaking, the proposed biodiversity reserve lies in an archaeological zone with topographical characteristics that could have been favourable to the establishment of ancient populations. Additionally, lac Memphrémagog includes numerous archaeological sites, which increases the probability of chance discoveries or of updating such sites within the sector. Prehistoric, colonisation era and pre-industrial era local development vestiges may also be found on these lands.

## 3. Activities within the Réserve

### *§1. Introduction*

Activities carried on within the proposed reserve are governed mainly by the provisions of the Natural Heritage Conservation Act.

This Division describe prohibited activities in addition to those already forbidden by the above-mentioned Act and provides the framework for the various activities permitted so as to better protect the natural environment in keeping with the conservation principles and other management objectives established for the proposed biodiversity reserve. The permitted and prohibited activities considered for the period that follows the assignment of permanent status by the Government are the same with the necessary adjustments to take into account the application of section 46 of the Act.

Under the Natural Heritage Conservation Act, the main activities prohibited in an area to which a status of proposed biodiversity reserve has been assigned are:

- mining, and gas or petroleum development;
- forest development activity within the meaning of section 4 of the Sustainable Forest Development Act (chapter A-18.1); and
- the development of hydraulic resources and any production of energy on a commercial or industrial basis.

## *§2 Prohibitions, prior authorizations and other conditions governing certain activities in the proposed reserve*

### §2.1. Protection of resources and the natural environment

**3.1.** Subject to the prohibition in the second paragraph, no person may establish in the proposed reserve any specimens or individuals of a native or non-native species of fauna into the reserve, including by stocking, unless the person has been authorized by the Minister.

No person may stock a watercourse or body of water for aquaculture, commercial fishing or any other commercial purpose.

No person may establish in the proposed reserve a non-native species of flora, unless the person has been authorized by the Minister.

**3.2.** No person may use fertilizer or fertilizing material in the proposed reserve.

**3.3.** No person may carry on hunting, fishing or trapping activities in the proposed reserve, unless the person has been authorized by the Minister.

**3.4.** No person may carry on activities relating to mining, gas and petroleum exploration, including brine and underground reservoir exploration, prospecting, and digging or boring in the proposed reserve.

**3.5.** No person may, unless the person has been authorized by the Minister:

(1) intervene in a wetland area, including a marsh, swamp or bog;

(2) modify the reserve's natural drainage or water regime, including by creating or modifying watercourses or bodies of water;

(3) dig, fill, obstruct or divert a watercourse or body of water;

(4) install or erect any structure, infrastructure or new works in or on the bed, banks, shores or floodplain of a watercourse or body of water;

(5) carry on any activity other than those referred to in the preceding paragraphs that is likely to degrade the bed, banks or shores of a body of water or watercourse or directly and substantially affect the biochemical characteristics or quality of aquatic or riparian environments or wetland areas in the proposed reserve, including by discharging or dumping waste or pollutants into the watercourse or body of water;

(6) carry out soil development work, including any burial, earthwork, removal or displacement of surface materials or any cutting, harvesting or destruction of the vegetation cover, for any purpose including the development of recreational and tourist infrastructures;

(7) install or erect any structure, infrastructure or new works;

(8) reconstruct or demolish an existing structure, infrastructure or works;

(9) carry on an activity that is likely to severely degrade the soil or a geological formation or damage the vegetation cover, such as stripping, the digging of trenches or excavation work;

(10) use a pesticide, although no authorization is required for the use of personal insect repellent;

(11) carry on educational or research-related activities if the activities are likely to significantly damage or disturb the natural environment, in particular because of the nature or size of the samples taken or the invasive character of the method or process used;

(12) carry on recreational and educational activities outside the trails, roads and areas laid out and provided for that purpose;

(13) travel in a motorized or mechanical vehicle on land of the reserve; or

(14) hold a sports event, tournament, rally or similar event if more than 15 persons are likely to participate in the activity and have access to the proposed reserve at the same time.

**3.6**. Despite subparagraphs 6, 7, 8 and 9 of the first paragraph of section 3.5, no authorization is required to carry out work referred to in subparagraph 1 of this section when the requirements of subparagraph 2 are met.

(1) The work involves:

(*a*) the maintenance or repair of an existing structure, infrastructure or works including ancillary facilities;

(*b*) the demolition or reconstruction of an existing structure, infrastructure or works, including an appurtenance or ancillary facility to such structure.

(2) The work is carried out in compliance with the following requirements:

(a) the work involves a structure, infrastructure or works authorized within the proposed reserve;

(b) the work is carried out within the area of land or right of way subject to the right to use or occupy the land in the proposed reserve, whether the right results from a lease, servitude or other form of title, permit or authorization;

(c) the work is carried out in compliance with the conditions of a permit or authorization issued for the work or in connection with the structure, infrastructure or works involved, and in accordance with the laws and regulations that apply.

For the purposes of this section, repair work includes work to replace or erect works or facilities to comply with the requirements of an environmental regulation.

**3.7**. No person may bury, abandon or dispose of waste, snow or other residual materials elsewhere than in waste disposal containers, facilities or sites determined by the Minister or in another place with the authorization of the Minister.

§2.2. Rules of conduct for users

**3.8.** Any person staying, carrying on an activity or travelling within the proposed reserve is required to have paid, if need be, the rights of access required as indicated by signage. The rights of access can be collected by a delegate where such power has been delegated to the authorities by the Minister.

**3.9.** Any person staying, carrying on an activity or travelling within the proposed reserve is required to maintain the premises in a satisfactory state and before leaving, return the premises to their natural state to the extent possible.

**3.10.** Any person who makes a campfire must ensure that:

(1) the place where the fire is lit is provided for and laid out for that purpose as indicated by signage;

(2) the fire is at all times under the immediate supervision of a person on the premises; and

(3) the fire is completely extinguished before leaving the premises.

**3.11**. In the proposed reserve, no person may:

(1) cause any excessive noise;

(2) behave in a manner that unduly disturbs other users or interferes with their enjoyment of the premises;

(3) harass wildlife;

(4) circulate or travel with a domestic animal that is not kept on a leash.

For the purposes of subparagraphs 1 and 2 of the first paragraph, behaviour that significantly disturbs other persons and constitutes unusual or abnormal conditions for the carrying on of an activity or for the permitted use of property, a device or an instrument within the proposed reserve is considered excessive or undue.

**3.12.** No person may enter, carry on an activity or travel in a given sector of the proposed reserve if the signage erected by the Minister restricts access, circulation or certain activities in order to protect the public from a danger or to avoid placing the fauna, flora or other components of the natural environment at risk, unless the person has been authorized by the Minister.

**3.13.** No person may destroy, remove, move or damage any poster, sign, notice or other types of signage posted by the Minister within the proposed reserve.

§2.3. Activities requiring an authorization

**3.14**. No person may carry on camping activities within the proposed reserve, except at the places provided and laid out for that purpose as clearly indicated by signage, unless the person has been so authorized by the Minister.

**3.15.** No person may carry on camping activities within the proposed reserve for a period of more than 14 days in the same year, unless the person has been so authorized by the Minister.

**3.16.** No person may carry on forest management activities for the purpose of maintaining biodiversity, unless the person has been authorized by the Minister.

§ 2.4 Authorization exemptions

**3.17**. Despite the preceding provisions, an authorization is not required for an activity or other form of intervention within the proposed reserve if urgent action is necessary to prevent harm to the health or safety of persons, or to repair or prevent damage caused by a real or apprehended disaster. The person concerned must, however, immediately inform the Minister of the activity or intervention that has taken place.

**3.18.** Despite the preceding provisions, the following activities and interventions carried out by Hydro-Québec (Société) or by any other person for Hydro-Québec do not require the prior authorization of the Minister under this conservation plan:

(1) any activity or intervention required within the proposed reserve to complete a project for which express authorization had previously been given by the Government and the Minister, or only by the Minister, in accordance with the Environment Quality Act (chapter Q-2), if the activity or intervention is carried out in compliance with the authorizations issued;

(2) any activity or intervention necessary for the preparation and presentation of a pre-project report for a project requiring an authorization under the Environment Quality Act; and

(3) any activity or intervention relating to a project requiring the prior authorization of the Minister under the Environment Quality Act if the activity or intervention is in response to a request for a clarification or for additional information made by the Minister to the Société, and the activity or intervention is carried out in conformity with the request.

The Société is to keep the Minister informed of the various activities or interventions referred to in this section it proposes to carry out before the work is begun in the reserve.

For the purposes of this section, the activities and interventions of the Société include but are not restricted to pre-project studies, analysis work or field research, work required to study and ascertain the impact of electric power transmission and distribution line corridors and rights of way, geological or geophysical surveys and survey lines, and the opening and maintenance of roads required for the purpose of access, construction or equipment movement incidental to the work.

## 4. Activities governed by other laws

Certain activities likely to be carried out in the proposed reserve are also governed by other applicable legislative and regulatory provisions, including those that require issuance of a permit or authorization or the payment of fees. Some activities may also be prohibited or restricted under other laws or regulations applicable in the proposed reserve.

In proposed reserves, a special legal framework may govern permitted activities, particularly in the following spheres:

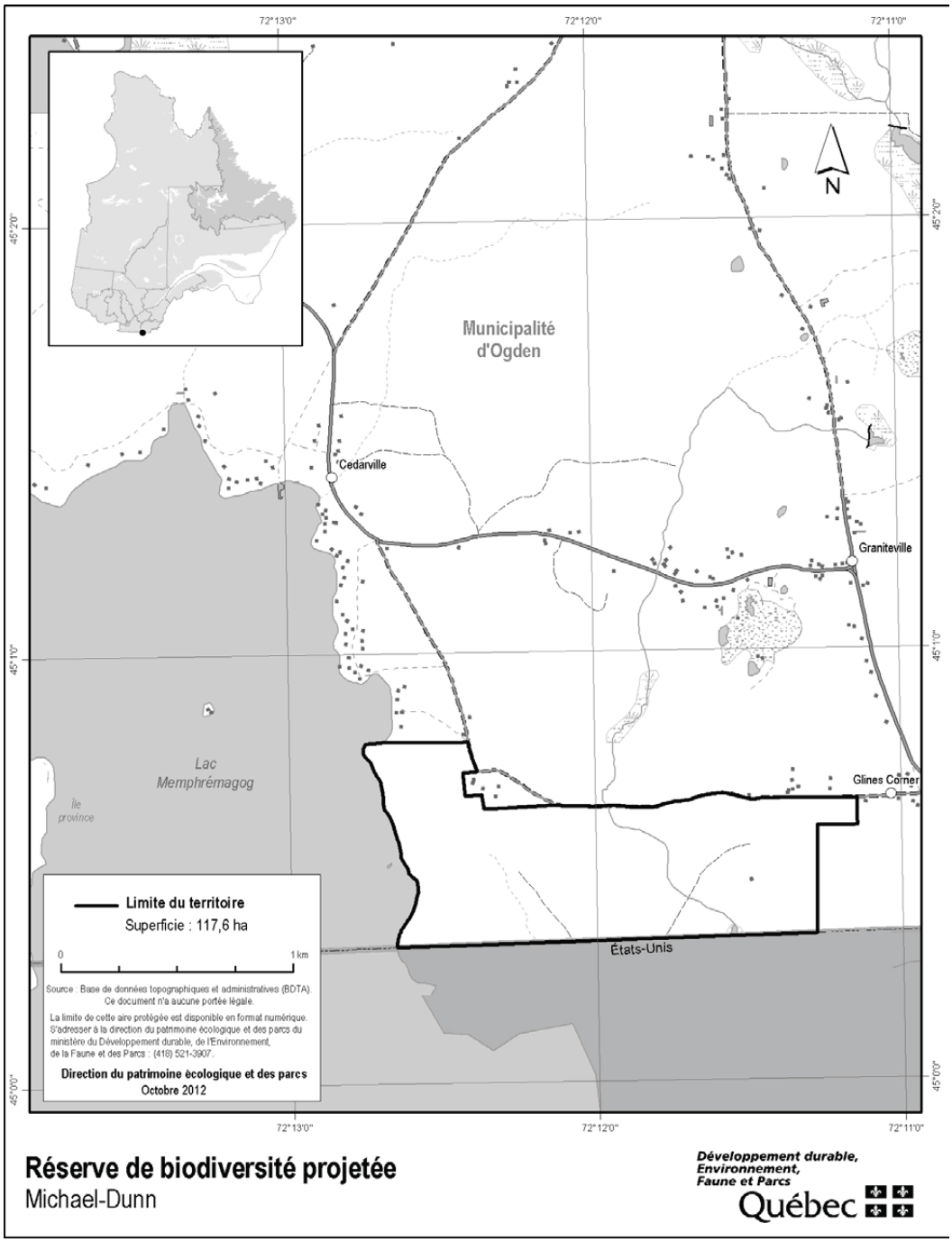
- Environmental protection: measures set out in particular in the *Environment Quality Act* (chapter Q-2) and its regulations;
- Plant species designated as threatened or vulnerable: measures prohibiting notably the removal of these species under *Act respecting threatened or vulnerable species* (chapter E-12.01);
- Development and conservation of wildlife resources: measures set out in the *Act respecting the conservation and development of wildlife (*chapter C-61.1);
- Archeological research and chance discoveries: measures set out in particular in the *Cultural Heritage Act* (chapter P-9.002);
- Access and land rights related to the domain of the State: measures set out in the *Act respecting the lands in the domain of the State* (chapter T-8.1) and the *Watercourses Act* (chapter R-13);
- The regulation respecting motor vehicle traffic in certain fragile environments made under the *Environment Quality Act;*
- Building and development standards: regulatory measures adopted by regional and local municipal authorities under applicable legislation.

## 5. Responsibilities of the Minister of Sustainable Development, Environment, Wildlife and Parks

The Minister of Sustainable Development, Environment, Wildlife and Parks is responsible for the conservation and management of Réserve de biodiversité projetée Michael-Dunn. He supervises and monitors the activities that may be carried out within the reserve. In carrying out these duties, the Minister can count on the cooperation and participation of other stakeholders with special responsibilities for this land or areas nearby, such as the Minister of Natural Resources, the Memphrémagog RCM, and any organization(s) with an interest in the conservation and management of this land. MDDEFP could also delegate certain management responsibilities to regional partners under a delegation agreement drawn up for this purpose. The partners' duties would take into account the type of protection desired for this natural environment and its current protection status. No additional conservation measures are anticipated at this time. With respect to zoning, as the conservation objectives for the temporary protection period are the same throughout the area, the proposed reserve comprises a single conservation zone.

## Appendix 1

**Plan of Réserve de biodiversité projetée Michael-Dunn**



# Notices

## Notice

Natural Heritage Conservation Act
(chapter C-61.01)

**Collines-de-Bolton-Est Nature Reserve
(Conservation de la nature – Québec)
— Recognition**

Notice is hereby given, in keeping with article 58 of the Natural Heritage Conservation Act (chapter C-61.01), that the Minister of Sustainable Development, Environment, Wildlife and Parks has recognized as a nature reserve a private property consisted the sectors Senécal and Champigny Bellevue Donation, situated on the territory of the Municipality of Bolton-Est, Regional County Municipality of Memphrémagog, known and designated as the lot number 827, a part of the lot number 1297, a part of the lot number 1296 and as a part of the lot number 1295 of Township of Bolton Cadastre, Brome registry division. This property covering an area of 27,28 hectares.

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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## Notice

Natural Heritage Conservation Act
(chapter C-61.01)

**Tourbière-du-Lac-à-la-Tortue Nature Reserve
(Conservation de la nature – Québec)
— Recognition**

Notice is hereby given, in keeping with article 58 of the Natural Heritage Conservation Act (chapter C-61.01), that the Minister of Sustainable Development, Environment, Wildlife and Parks has recognized as a nature reserve, a private property consisted the sectors Cloutier and Simard-Richard, of the area of 130,04 hectares, situated on the territory of the Municipality of Notre-Dame-du-Mont-Carmel, Regional County Municipality des Chenaux, known and designated as the lots number 3 674 591, 3 674 598, 4 173 318, 4 173 319, 4 173 320 and 4 173 321of the Quebec Land Register, Champlain Registry 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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# Index

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