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**Part**

**2**

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**Laws and Regulations**

Volume 150

**Summary**

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### Contents

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**PROVINCE OF QUÉBEC**

1ST SESSION

41ST LEGISLATURE

QUÉBEC, 1 DECEMBER 2017

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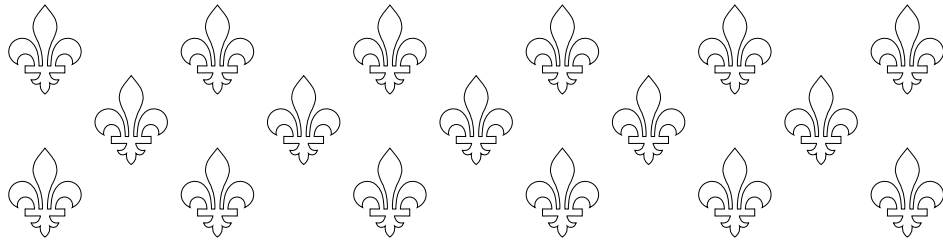
**OFFICE OF THE LIEUTENANT-GOVERNOR***Québec, 1 December 2017*

This day, at thirty minutes past one o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to assent to the following bill:

108     An Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics

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





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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 108  
(2017, chapter 27)

**An Act to facilitate oversight of public  
bodies' contracts and to establish the  
Autorité des marchés publics**

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**Introduced 8 June 2016  
Passed in principle 24 November 2016  
Passed 1 December 2017  
Assented to 1 December 2017**

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**Québec Official Publisher  
2017**

## EXPLANATORY NOTES

*This Act establishes the Autorité des marchés publics (the Authority) to oversee all public procurement for public bodies, including municipal bodies, and apply the Act respecting contracting by public bodies as regards ineligibility for public contracts, prior authorization to obtain public contracts or subcontracts and contractor performance evaluations in relation to the performance of contracts.*

*In particular, the Authority may examine the compliance of a tendering or awarding process for a public contract of a public body on the Authority's own initiative, after a complaint is filed by an interested person, on the request of the Chair of the Conseil du trésor or the minister responsible for municipal affairs or following a communication of information.*

*The Authority may furthermore, in certain circumstances, examine the performance of a contract awarded by a public body.*

*The Authority must also ensure that the contract management of a public body it designates or of a public body designated by the Government is carried out in accordance with the normative framework.*

*Various powers are conferred on the Authority, including the powers to audit and investigate and, following an audit or investigation, to make orders or recommendations or suspend or cancel a contract.*

*The Act determines the Authority's organizational and operational rules, in particular with respect to its administrative structure. It specifies that the Authority is to be composed of a president and chief executive officer appointed by the National Assembly and vice-presidents appointed by the Government. It also specifies certain governance measures to be applied by the Authority, such as establishing a strategic plan approved by the Government and rules of ethics.*

*Moreover, the Act respecting contracting by public bodies and the Acts governing municipal bodies are amended in order to require bodies to publish a notice of intention before entering into certain contracts by mutual agreement and to establish a procedure for receiving and examining the complaints filed with them about the tendering or awarding process for a public contract.*



*The Act respecting contracting by public bodies is also amended*

*(1) to ensure the permanent nature of the system of ineligibility for public contracts and harmonize it with the system of authorizations to contract;*

*(2) to allow the Government to require an enterprise to obtain an authorization to contract while it is in the process of performing a public contract or in order to enter into a public contract or subcontract involving an expenditure below the applicable authorization threshold;*

*(3) to allow the Authority to cancel an application for authorization to contract or suspend such an authorization if the enterprise concerned fails to communicate information;*

*(4) to prevent an enterprise that has withdrawn its application for authorization to contract, or that has had its application cancelled, from filing a new application within the year after the withdrawal or cancellation;*

*(5) to allow the Chair of the Conseil du trésor to authorize the implementation of pilot projects aimed at testing various measures to facilitate the payment of enterprises party to public contracts and subcontracts;*

*(6) to confer on the Conseil du trésor the power to give permission, in exceptional circumstances, to continue a contracting process despite a decision of the Authority;*

*(7) to introduce a penal offence for anyone who communicates or attempts to communicate with a member of a selection committee for the purpose of influencing the member and provide for a three-year prescriptive period for penal proceedings that begins to run from the time the prosecutor becomes aware of the commission of the offence without exceeding seven years since the offence was committed; and*

*(8) to limit the disclosure of information that allows the number of enterprises that asked for a copy of the tender documents or that tendered a bid to be known or that allows those enterprises to be identified.*

*Lastly, the Act amends the Tax Administration Act to allow the Agence du revenu du Québec to communicate to the Authority information obtained under fiscal laws that the Authority needs in order to apply the provisions concerning the system of authorizations to contract.*

**LEGISLATION AMENDED BY THIS ACT:**

- Financial Administration Act (chapter A-6.001);
- Tax Administration Act (chapter A-6.002);
- Act respecting the Autorité des marchés financiers (chapter A-33.2);
- Building Act (chapter B-1.1);
- Cities and Towns Act (chapter C-19);
- Municipal Code of Québec (chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);
- Act respecting contracting by public bodies (chapter C-65.1);
- Act to facilitate the disclosure of wrongdoings relating to public bodies (chapter D-11.1);
- Act respecting elections and referendums in municipalities (chapter E-2.2);
- Act respecting school elections (chapter E-2.3);
- Election Act (chapter E-3.3);
- Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (chapter G-1.011);
- Anti-Corruption Act (chapter L-6.1);
- Act respecting the Ministère des Transports (chapter M-28);

- Act respecting labour standards (chapter N-1.1);
- Public Protector Act (chapter P-32);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (chapter R-10);
- Act respecting the Pension Plan of Management Personnel (chapter R-12.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);
- Educational Childcare Act (chapter S-4.1.1);
- Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);
- Act respecting public transit authorities (chapter S-30.01);
- Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);
- Integrity in Public Contracts Act (2012, chapter 25).

**REGULATIONS AMENDED BY THIS ACT:**

- Regulation of the Autorité des marchés financiers under an Act respecting contracting by public bodies (chapter C-65.1, r. 0.1);
- Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (chapter C-65.1, r. 1.1);
- Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2);
- Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4);
- Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5);

- Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1);
- Regulation respecting the register of enterprises ineligible for public contracts and oversight and monitoring measures (chapter C-65.1, r. 8.1).

## Bill 108

### AN ACT TO FACILITATE OVERSIGHT OF PUBLIC BODIES' CONTRACTS AND TO ESTABLISH THE AUTORITÉ DES MARCHÉS PUBLICS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### CHAPTER I

##### ESTABLISHMENT AND ORGANIZATION

**1.** A public procurement authority is established under the name “Autorité des marchés publics” (the Authority).

The Authority is a legal person and a mandatary of the State.

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

The Authority binds none but itself when it acts in its own name.

**3.** The Authority has its head office in the national capital at the location it determines. A notice of the location of the head office, and of any change in its location, must be published in the *Gazette officielle du Québec*.

**4.** The Authority’s president and chief executive officer is appointed by the National Assembly, on the recommendation of the Prime Minister and with the approval of at least two-thirds of its Members, from among the persons declared qualified to hold that office by a selection committee composed of the Secretary of the Conseil du trésor, the Deputy Minister of Municipal Affairs and Land Occupancy, the Deputy Minister of Justice or their representatives, an advocate recommended by the Bâtonnier of the Province of Québec and a chartered professional accountant recommended by the president of the Ordre des comptables professionnels agréés du Québec.

The Chair of the Conseil du trésor publishes a notice inviting interested persons to apply for the office of president and chief executive officer or to propose the name of a person they consider qualified to hold that office in accordance with the procedure the Chair determines.

The selection committee promptly evaluates the candidates on the basis of their knowledge, particularly in public contract matters, their experience and their qualifications, according to the criteria determined in Schedule 1. The committee presents to the Chair of the Conseil du trésor a report in which it lists the candidates it has met whom it considers qualified to hold the office of president and chief executive officer. All information and documents regarding the candidates and the proceedings of the committee are confidential.

When the evaluation is concluded, if fewer than three candidates are considered qualified to hold the office of president and chief executive officer, the Chair of the Conseil du trésor must publish a new invitation for applications.

The members of the committee receive no remuneration, except in the cases and on the conditions that may be determined by the Government. They are, however, entitled to the reimbursement of expenses to the extent determined by the Government.

The Government may amend Schedule 1.

**5.** On the recommendation of the Chair of the Conseil du trésor, the Government appoints one or more vice-presidents to assist the Authority's president and chief executive officer.

The vice-presidents are chosen from a list of persons declared qualified to hold that office by a selection committee composed of the Secretary of the Conseil du trésor, the Deputy Minister of Municipal Affairs and Land Occupancy or their representatives and the Authority's president and chief executive officer.

**6.** The minimum requirements to be appointed as president and chief executive officer or vice-president and to remain in that office are

(1) to be of good moral character; and

(2) not to have been found guilty anywhere of an offence for an act or omission that is either an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence, referred to in section 183 of that Code, under any of the Acts listed in that section and that is related to the employment, unless the person has obtained a pardon.

**7.** The president and chief executive officer's term is seven years and may not be renewed. A vice-president's term is of a fixed duration of not more than five years and may be renewed. On the expiry of their terms, the president and chief executive officer remains in office until he or she is replaced, and the vice-presidents remain in office until they are replaced or reappointed, as the case may be.

The president and chief executive officer and the vice-presidents exercise their functions on a full-time basis.

**8.** The Government determines the remuneration, employee benefits and other conditions of employment of the president and chief executive officer and the vice-presidents.

**9.** The president and chief executive officer is responsible for the administration and direction of the Authority.

The president and chief executive officer designates a vice-president or one or more members of the Authority's staff to replace him or her when he or she is absent or unable to act.

**10.** The vice-presidents assist the president and chief executive officer in the exercise of his or her functions and powers and exercise their administrative functions under the president and chief executive officer's authority.

**11.** Subject to the applicable legislative provisions, the president and chief executive officer may delegate any function or power under this Act or the Act respecting contracting by public bodies (chapter C-65.1) to one of the Authority's vice-presidents or any member of the Authority's staff. The decision is published on the Authority's website.

The president and chief executive officer may, in the instrument of delegation, authorize the subdelegation of specified functions and powers and, in that case, identifies the vice-president or staff member to whom they may be subdelegated.

**12.** The decisions made by the Authority and certified true by the president and chief executive officer, or by any other person authorized by the president and chief executive officer, are authentic. The same applies to the documents or copies of documents emanating from the Authority or forming part of its records when they have been signed or certified true by any such person.

**13.** Subject to the conditions determined by by-law, the Authority may allow the signature of the president and chief executive officer or a delegatee referred to in the second paragraph of section 9 or in section 11 to be affixed by means of an automatic device on the documents determined by by-law.

**14.** A by-law made by the Authority establishes a staffing plan as well as the procedure for appointing the members of its staff and the selection criteria.

Subject to the provisions of a collective agreement, such a by-law also determines the standards and scales of staff members' remuneration, employee benefits and other conditions of employment in accordance with the conditions defined by the Government.

**15.** The conditions set out in paragraphs 1 and 2 of section 6 must be met for a person to be hired as a member of the Authority's staff and remain as such.

**16.** The president and chief executive officer and the vice-presidents may not have a direct or indirect interest in a body, enterprise or association that may cause their personal interest to conflict with the duties of their office. If the interest devolves to them by succession or gift, they must renounce it or dispose of it with diligence.

Members of the Authority's staff who have a direct or indirect interest in a body, enterprise or association that may cause their personal interest to conflict with the Authority's interest must, on pain of dismissal, disclose it in writing to the president and chief executive officer and, if applicable, refrain from participating in any decision pertaining to the body, enterprise or association.

**17.** The Authority determines, by by-law, the rules of ethics and the disciplinary sanctions applicable to staff members.

**18.** The Authority must establish a strategic plan according to the form, content and timetable determined by the Government. The plan must state

- (1) the Authority's objectives and strategic directions;
- (2) the results targeted over the period covered by the plan;
- (3) the performance indicators to be used in measuring results; and
- (4) any other element determined by the Chair of the Conseil du trésor.

The plan requires the Government's approval.

## **CHAPTER II**

### **MISSION**

**19.** The Authority's mission is

- (1) to oversee all public contracts, in particular, the tendering and awarding processes for those contracts;
- (2) to apply Chapter V.1 of the Act respecting contracting by public bodies concerning ineligibility for public contracts;
- (3) to apply Chapter V.2 of that Act concerning the prior authorization required to obtain a public contract or subcontract;
- (4) to apply Chapter V.3 of that Act concerning performance evaluations; and
- (5) to establish the operating rules of the electronic tendering system in collaboration with the secretariat of the Conseil du trésor.



It is also the Authority's mission to oversee all other contracting processes determined by the Government, on the conditions it determines.

**20.** For the purposes of this Act,

(1) “public contract” means

(a) a contract described in section 3 of the Act respecting contracting by public bodies that a public body, other than a municipal body, may enter into; and

(b) a contract for the performance of work or the supply of insurance, equipment, materials or services that a municipal body may enter into;

(2) “public body” means a body referred to in section 4 or section 7 of the Act respecting contracting by public bodies, or a municipal body;

(3) “municipal body” means a municipality, a metropolitan community, an intermunicipal board, a public transit authority, a Northern village, the Kativik Regional Government, a mixed enterprise company and any other person or body subject to any of sections 573 to 573.3.4 of the Cities and Towns Act (chapter C-19), articles 934 to 938.4 of the Municipal Code of Québec (chapter C-27.1), sections 106 to 118.2 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01), sections 99 to 111.2 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) or sections 92.1 to 108.2 of the Act respecting public transit authorities (chapter S-30.01);

(4) “mixed enterprise company” means a company established under the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01) or any similar body constituted under a private Act, in particular those constituted under chapters 56, 61 and 69 of the statutes of 1994, chapter 84 of the statutes of 1995 and chapter 47 of the statutes of 2004; and

(5) “electronic tendering system” means the electronic tendering system referred to in section 11 of the Act respecting contracting by public bodies.

Despite subparagraph 1 of the first paragraph, for the purposes of Chapter IV, “public contract” means

(1) in the case of a contract described in the first or third paragraph of section 3 of the Act respecting contracting by public bodies, a contract involving an expenditure equal to or above the applicable lowest public tender threshold;

(2) in the case of a contract for the performance of work or the supply of insurance, equipment, materials or services that a municipal body other than a mixed enterprise company may enter into, a contract involving an expenditure equal to or above the applicable lowest public tender threshold; and

(3) a contract for the performance of work or the supply of insurance, equipment, materials or services that a mixed enterprise company may enter into after a public call for tenders.

This Act does not however apply to a Cree or Naskapi village.

### **CHAPTER III**

#### **FUNCTIONS AND POWERS**

##### **DIVISION I**

##### **FUNCTIONS OF THE AUTHORITY**

**21.** The Authority's functions are

(1) to examine the tendering or awarding process for a public contract following a complaint under Division I or II of Chapter IV, for the purposes of an intervention under Chapter V or following a communication of information under Chapter VI;

(2) to examine the performance of a public contract following an intervention or a communication of information under subparagraph 1;

(3) to ensure coherence is maintained in the examination of tendering and awarding processes for public contracts and in the examination of the performance of such contracts;

(4) to examine the contract management of a public body the Authority designates or of a public body designated by the Government, in particular the definition of procurement requirements, contract awarding processes, contract performance and accountability reporting;

(5) to monitor public contracts particularly for the purpose of analyzing procurement trends and public bodies' contracting practices and identifying problematic situations that affect competition;

(6) to exercise the functions assigned to it under Chapters V.1 to V.3 of the Act respecting contracting by public bodies and, in particular, to keep the register of enterprises ineligible for public contracts and the register of enterprises authorized to enter into a public contract or subcontract; and

(7) to exercise any other function determined by the Government in relation to the Authority's mission.

For the purposes of subparagraph 4 of the first paragraph, the Authority may designate a public body only if the exercise of the functions set out in subparagraphs 1 and 2 of the first paragraph has revealed repeated failures to comply with the normative framework, pointing to significant deficiencies in contract management matters.

The Government or the Authority, as the case may be, determines the conditions under which and the manner in which an examination of a public body's contract management under subparagraph 4 of the first paragraph is to be conducted. The conditions and manner are published on the Authority's website.

## **DIVISION II**

### **POWERS OF THE AUTHORITY**

#### *§1.—Audit and investigation*

**22.** The Authority may conduct an audit to verify compliance with this Act. The Authority may also conduct an audit to determine whether the tendering or awarding process for a public contract, the performance of a public contract or the contract management of a public body designated under subparagraph 4 of the first paragraph of section 21 is carried out in compliance with the normative framework to which the public body concerned is subject.

**23.** On the Authority's request, the public body being audited must send or otherwise make available to the Authority within the time it specifies all documents and information the Authority considers necessary to conduct the audit.

**24.** For the purposes of an audit, any authorized person may

(1) enter, at any reasonable hour, the establishment of a public body or any other premises in which relevant documents or information may be kept;

(2) use any computer, equipment or other thing that is on the premises to access data contained in an electronic device, computer system or other medium or to audit, examine, process, copy or print out such data; and

(3) require from the persons present any relevant information as well as the production of any book, register, account, contract, record or other relevant document and make copies.

Any person who has the custody, possession or control of documents referred to in this section must communicate them to the person conducting the audit and facilitate their examination by that person.

**25.** The person authorized to conduct the audit must, on request, produce identification and, if applicable, show the document attesting his or her authorization.

**26.** The Authority may conduct an investigation to ascertain whether the contract management of a public body designated under subparagraph 4 of the first paragraph of section 21 is carried out in compliance with the normative framework to which the body is subject.

The Authority may also conduct an investigation into the commission of an offence under section 28 or 66.

For the purposes of the first paragraph, the Authority is vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

**27.** The Authority may, in writing, entrust the mandate of conducting an audit to a person who is not a member of its staff and who meets the conditions set out in paragraphs 1 and 2 of section 6. For that purpose, the Authority may delegate the exercise of its powers to that person.

The Authority may also, on the same conditions, entrust the mandate of conducting an investigation to such a person. In the case of an investigation under the first paragraph of section 26, the person is then vested with the powers and immunity referred to in the third paragraph of that section.

**28.** Any person who

(1) hinders or attempts to hinder a person conducting an audit or investigation, refuses to provide any information or document that he or she must send or make available, or conceals or destroys any document relevant to an audit or investigation,

(2) by an act or omission, helps another person to commit an offence under subparagraph 1, or

(3) by encouragement, advice, consent, authorization or command, induces another person to commit an offence under subparagraph 1,

is guilty of an offence and is liable to a fine of \$4,000 to \$20,000.

The fines are doubled for a subsequent offence.

## §2. — *Orders and recommendations*

**29.** When an audit or investigation is concluded, the Authority may

(1) order the public body to amend, to the Authority's satisfaction, its tender documents or cancel the public call for tenders if the Authority is of the opinion that the conditions of the call for tenders do not ensure the honest and fair

treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework;

(2) order the public body not to follow up on its intention to enter into a public contract by mutual agreement if the Authority is of the opinion that a complainant that has expressed interest is capable of carrying out the contract according to the procurement requirements and obligations stated in the notice of intention, in which case the public body must issue a public call for tenders if it intends to enter into the contract;

(3) order the public body to call on an independent process auditor for the tendering processes the Authority indicates;

(4) designate an independent person to act as a member of a selection committee for the tendering of a public contract the Authority indicates;

(5) despite any prohibition against the disclosure of information relating to a selection committee member's identity or allowing a selection committee member to be identified as such, order the public body to send the Authority, for approval, the composition of the selection committees for the tendering processes the Authority indicates; and

(6) when the Authority exercises the functions assigned to it under subparagraph 4 of the first paragraph of section 21, suspend the performance of any public contract for the time it specifies or cancel such a contract if it is of the opinion that the seriousness of the breaches observed as regards contract management justifies suspending or cancelling the contract.

The decisions made by the Authority are public and must be made available by the Authority on its website. However, in the case of a decision made under subparagraph 4 of the first paragraph, the identity of the person designated to act as a member of a selection committee must not be disclosed.

In addition, following a decision made under subparagraph 1 or 2 of the first paragraph, the Authority requires the operator of the electronic tendering system to enter a brief description of the decision on the system without delay.

Despite the first paragraph, if the audit or investigation concerns a municipal body, a decision of the Authority takes the form of a recommendation to the body's council or board.

**30.** A decision of the Authority under subparagraph 6 of the first paragraph of section 29 must include reasons and be sent without delay to the chief executive officer of the public body and the contractor concerned.

If it concerns a public body other than a municipal body, a decision referred to in the first paragraph to suspend the performance of a public contract becomes effective on the date and for the time the Authority specifies, and a decision to cancel a public contract becomes effective on the date the Authority specifies.

**31.** The Authority may also

(1) make recommendations to the Chair of the Conseil du trésor or the minister responsible for municipal affairs on the tendering or awarding processes for public contracts and give its opinion on any question submitted to it by the Chair or the minister concerning matters under the Authority's jurisdiction;

(2) make recommendations to the chief executive officer of a public body on the tendering or awarding processes for a contract, on the performance of a contract or, when the Authority exercises the functions assigned to it under subparagraph 4 of the first paragraph of section 21, on the body's contract management, which may propose corrective measures, appropriate follow-up and any other measures, such as oversight and monitoring measures;

(3) recommend to the Conseil du trésor that it require, on the conditions it determines, that a public body, other than a municipal body,

(a) associate itself with another public body designated by the Conseil du trésor for the tendering or awarding processes the Conseil indicates, or

(b) entrust to another public body designated by the Conseil du trésor the responsibility of conducting the tendering or awarding processes the Conseil indicates;

(4) recommend to the Chair of the Conseil du trésor or the minister responsible for municipal affairs that the Chair or minister recommend to the Government that the Government determine, in accordance with section 21.17.1 of the Act respecting contracting by public bodies, other public contracts, categories of public contracts or groups of public contracts, including public subcontracts, for which an authorization to contract is required;

(5) recommend to the Chair of the Conseil du trésor or the minister responsible for municipal affairs that the Chair or minister recommend to the Government that the Government require, in accordance with section 21.17.2 of the Act respecting contracting by public bodies, an enterprise party to a public contract or subcontract that is in process to obtain an authorization to contract;

(6) recommend to the minister responsible for municipal affairs

(a) that the minister intervene under section 7 of the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1), or

(b) that the minister give, under section 14 of that Act, any instructions the minister considers appropriate to the council or board of a municipal body, in which case the prior verification or investigation referred to in that section is not required; and

(7) as part of its monitoring of public contracts, collect, compile and analyze information on such contracts and disseminate the resulting findings among the public bodies.

Subparagraph 3 of the first paragraph does not apply to bodies of the administrative branch established to exercise adjudicative functions and does not apply to bodies described in section 7 of the Act respecting contracting by public bodies to the extent that it concerns a tendering process.

For the purposes of subparagraphs 3 to 6 of the first paragraph, the Authority must send a copy of the record it has established to the Conseil du trésor, the Chair of the Conseil du trésor or the minister responsible for municipal affairs.

Recommendations made by the Authority under subparagraph 2 of the first paragraph are public and must be made available by the Authority on its website.

**32.** For the purposes of this Act, the chief executive officer of a public body, other than a municipal body, is the person responsible for the day-to-day management of the body, such as the deputy minister, the president or the director general.

However, in the case of a general and vocational college or university-level educational institution, the chief executive officer corresponds to the board of governors and, in the case of a school board, to the council of commissioners.

A board or council referred to in the second paragraph may, by regulation, delegate all or part of the functions to be exercised by the chief executive officer to the executive committee, the director general or, in the case of a university-level educational institution, a member of the senior administrative personnel within the meaning of the Act respecting educational institutions at the university level (chapter E-14.1).

**33.** For the purposes of this Act, the chief executive officer of a municipal body is the council or board of directors of the body. The council or board may delegate all or part of the functions assigned to it under this Act to the executive committee or the director general or, failing that, to the employee holding the highest office within the body.

The delegation of functions by a municipal council, the council of a metropolitan community, a Northern village or the Kativik Regional Government or by the board of directors of an intermunicipal board or transit authority must be made by by-law.

§3. — *Other powers*

**34.** On the Authority's request, a public body must send or otherwise make available to the Authority within the time it specifies all documents and information the Authority considers necessary to exercise its monitoring functions under subparagraph 5 of the first paragraph of section 21.

**35.** If the Authority issues recommendations, it may require that it be informed in writing, within the time specified, of the measures taken by the public body to follow up on the recommendations.

**36.** For the exercise of its functions, the Authority may, as provided by law, enter into an agreement with a government other than the Gouvernement du Québec, with a department or body of such a government or with an international organization or a body of such an organization.

The Authority may also enter into an agreement with a public body or any other person or partnership with a view to facilitating the application of this Act.

## CHAPTER IV

### COMPLAINTS

#### DIVISION I

##### COMPLAINTS RESULTING FROM A PUBLIC BODY'S DECISION

§1. — *Tendering process*

**37.** An interested person or partnership or the person's or partnership's representative may file a complaint with the Authority about the tendering process for a public contract if, after complaining to the public body that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework, the person, partnership or representative disagrees with the public body's decision.

The complaint must be filed with the Authority not later than three days after the complainant receives the public body's decision. If that deadline expires on a holiday, it is extended to the next working day. For the purposes of this paragraph, Saturday is considered a holiday, as are 2 January and 26 December.



§2.—*Awarding process*

**38.** An interested person or partnership or the person's or partnership's representative may file a complaint with the Authority about the awarding process for a public contract if, after expressing interest in carrying out the contract to the public body that published the notice of intention required by law, the person, partnership or representative disagrees with the public body's decision.

The complaint must be filed with the Authority not later than three days after the complainant receives the public body's decision. If that deadline expires on a holiday, it is extended to the next working day. For the purposes of this paragraph, Saturday is considered a holiday, as are 2 January and 26 December.

## DIVISION II

### COMPLAINTS NOT RESULTING FROM A PUBLIC BODY'S DECISION

§1.—*Tendering process*

**39.** An interested person or partnership or the person's or partnership's representative may file a complaint with the Authority about the tendering process for a public contract if, after complaining as described in section 37, the person, partnership or representative has still not received the public body's decision three days before the tender closing date determined by the public body.

The complaint must be filed with the Authority not later than that date.

**40.** An interested person or partnership or the person's or partnership's representative may also file a complaint with the Authority about the tendering process for a public contract if, after being informed of an amendment made to the tender documents during the period starting two days before the complaint filing deadline indicated on the electronic tendering system, the person, partnership or representative is of the opinion that the amendment contains conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework.

The complaint must be filed with the Authority not later than two days before the tender closing date indicated on the electronic tendering system.

The first paragraph applies regardless of whether the person or partnership had first communicated with the public body that amended the tender documents.

§2. — *Awarding process*

**41.** An interested person or partnership or the person's or partnership's representative may file a complaint with the Authority about the awarding process for a public contract if, after an expression of interest referred to in section 38, the person, partnership or representative has still not received the public body's decision three days before the projected contract date.

The complaint must be filed with the Authority not later than one day before the projected contract date indicated on the electronic tendering system.

**42.** An interested person or partnership or the person's or partnership's representative may also file a complaint with the Authority about the awarding process for a public contract if the notice of intention required by law was not published on the electronic tendering system.

### DIVISION III

#### SPECIAL PROVISIONS

**43.** For the purposes of sections 37, 39 and 40, a group of interested persons or interested partnerships or its representative may, on the same conditions, file a complaint with the Authority.

**44.** Despite Divisions I and II, no complaint may be filed concerning an amendment made to the tender documents in accordance with an order or recommendation of the Authority.

### DIVISION IV

#### COMPLAINT PROCESSING

**45.** A complaint must be filed electronically with the Authority in the form it determines and in accordance with the procedure it establishes. The procedure must, in particular,

- (1) specify how a complaint must be filed and how complaints are processed;
- (2) indicate the information the complaint must include; and
- (3) allow the complainant and the chief executive officer of the public body referred to in the complaint to submit observations.

The Authority must publish the procedure on its website.

**46.** The Authority dismisses a complaint if

- (1) it considers the complaint to be abusive, frivolous or clearly unfounded;
- (2) the complaint has not been sent in accordance with section 45 or has been filed late;
- (3) the complainant does not have the required interest;
- (4) the complaint concerns an amendment made to the tender documents in accordance with an order or recommendation of the Authority;
- (5) the complainant should have first filed a complaint with or expressed its interest to the public body;
- (6) the complainant refuses or neglects to provide, within the time specified by the Authority, the information or documents that the Authority requires; or
- (7) the complainant is pursuing or has pursued a judicial remedy based on the same facts as those set out in the complaint.

In all cases, the Authority must inform the complainant and give the reasons for its decision in writing. It must also send its decision to the public body concerned if the complaint was dismissed after the body's observations were obtained.

If the Authority dismisses a complaint under subparagraph 2, 3 or 5 of the first paragraph, the information sent by the complainant is deemed to have been communicated to the Authority under section 56.

Despite the preceding paragraphs, the Authority may, in exceptional circumstances, consider a complaint that has not been filed in accordance with section 45 or that has been filed late to be admissible if the Authority considers it relevant to examine the complaint. For the purposes of this paragraph, the examination of a complaint is relevant in such cases as when the complaint concerns a tendering process and is filed before the tender closing date.

**47.** If the Authority considers that a complaint under Division I or II is admissible, the Authority informs the public body, which must in turn, without delay, submit its observations to the Authority and, as applicable, send the Authority a copy of the reasons for its decision on the complaint or the expression of interest that it has processed.

**48.** In the case of a complaint about a tendering process, the Authority must, if need be, defer the submission of bids until a new tender closing date is set by the public body in accordance with the second paragraph of section 50.

In the case of a complaint about an awarding process, the Authority must, if need be, defer the projected contract date.

In the cases referred to in the first and second paragraphs, the Authority informs the public body concerned and the complainant of the deferral, and requires the operator of the electronic tendering system to make an entry to that effect on the system without delay.

**49.** The Authority has 10 days from the time it receives the public body's observations to make its decision.

If the complaint cannot be processed within the time period specified in the first paragraph because of the complexity of the elements raised, the Authority determines such an additional time period as is sufficient to allow it to finish processing the complaint.

However, if the public body demonstrates to the Authority's satisfaction that the additional time period determined under the second paragraph would prevent the body from properly fulfilling its mission, adversely affect the services offered to citizens, enterprises or other public bodies, result in a contravention of laws and regulations or raise any other public interest issue, the Authority then has only an additional period of five days to make its decision unless it agrees with the body on a longer time period.

If the Authority fails to make a decision before the expiry of the additional time period determined under this section, it is deemed to have decided that, with regard to the elements raised in the complaint, the tendering or awarding process for the contract complies with the normative framework.

**50.** When the examination of a complaint under Division I or II is concluded, the Authority sends its decision with reasons in writing to the complainant and the public body concerned.

If the Authority's decision on a complaint referred to in section 37, 39 or 40 allows the tendering process to continue, the public body must ensure that a time period of at least seven days is granted for tendering a bid if the decision results in an amendment to the tender documents. The time period must be of at least two days if the decision does not result in an amendment to the tender documents. The public body enters on the electronic tendering system a new tender closing date, as the case may be, that allows for those time periods.

The second paragraph does not apply to a tendering process of a municipal body.

**51.** It is forbidden to take a reprisal in any manner whatever against a person or partnership that files a complaint with the Authority or again to threaten to take a reprisal against a person or partnership so that he, she or it will abstain from filing a complaint with the Authority.

A person or partnership who believes himself, herself or itself to be a victim of a reprisal may file a complaint with the Authority so that the Authority may determine if the complaint is substantiated and make any recommendations it considers appropriate to the chief executive officer of the public body concerned by the reprisal. Section 46 applies to the follow-up of the complaint, with the necessary modifications.

When the examination is concluded, the Authority informs the complainant of its findings and, if applicable, its recommendations.

**52.** No civil action may be instituted against a person or partnership for or as a consequence of a complaint that the person or partnership filed in good faith under this chapter, whatever the Authority's conclusions, or for or as a consequence of the publication of a report by the Authority under this Act.

Moreover, nothing in this Act restricts a complainant's right, after the Authority has processed the complainant's complaint, to pursue a remedy based on the same facts as those set out in the complaint.

## CHAPTER V

### INTERVENTION

**53.** The Authority may, on its own initiative or on the request of the Chair of the Conseil du trésor or the minister responsible for municipal affairs, examine a tendering or awarding process for a public contract or examine the performance of such a contract if the public body concerned does not appear to be acting, in respect of the process or contract, in compliance with the normative framework.

When the Authority's intervention concerns an ongoing tendering or awarding process, sections 48 and 49 and the second paragraph of section 50 apply, as the case may be, with the necessary modifications.

**54.** The Authority informs the public body's chief executive officer of the reasons for its intervention and invites him or her to submit observations.

**55.** When the examination is concluded, the Authority sends its decision with reasons in writing to the public body concerned, the minister responsible for the body and, if applicable, the Chair of the Conseil du trésor or the minister responsible for municipal affairs who required the intervention.

## CHAPTER VI

### COMMUNICATION OF INFORMATION TO THE AUTHORITY

**56.** A person may communicate information to the Authority about the tendering or awarding process for a public contract or the performance of such a contract if the public body concerned does not appear to be acting or to have acted, in respect of the process or contract, in compliance with the normative framework.

The first paragraph applies despite the provisions on the communication of information in the Act respecting the protection of personal information in the private sector (chapter P-39.1) and the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), except those in section 33 of the latter Act. It also applies despite any other communication restrictions under a law and any duty of confidentiality or loyalty that may be binding on a person, including toward an employer or, if applicable, a client.

However, the lifting of professional secrecy authorized under this section does not apply to professional secrecy between a lawyer or a notary and a client.

**57.** The Authority must establish a procedure for the communication of information under section 56 and publish it on its website.

**58.** A person who communicates or wishes to communicate information under section 56, who cooperates in an audit conducted on the grounds of such a communication or who believes himself or herself to be a victim of a reprisal forbidden under section 63 may apply to the Public Protector for access to legal advice under section 26 of the Act to facilitate the disclosure of wrongdoings relating to public bodies (chapter D-11.1), in which case the third and fourth paragraphs of that section apply, with the necessary modifications.

**59.** If the Authority considers it relevant to examine the process or performance of the contract referred to in the communication of information, it informs the public body's chief executive officer of the reasons for the examination and invites him or her to submit observations.

**60.** When the examination is concluded, the Authority sends its decision with reasons in writing to the public body concerned. The decision may not take the form of an order described in subparagraph 1 or 2 of the first paragraph of section 29.

In addition, the Authority informs the person who made the communication of any follow-up given to it.

The Authority may also, if it considers it relevant, send a copy of its decision to the minister responsible for the public body.

**61.** The Authority must take all measures necessary to protect the identity of persons who have communicated with it. The Authority may nonetheless communicate the identity of such persons to the Anti-Corruption Commissioner, the inspector general of Ville de Montréal or the Public Protector, as the case may be.

**62.** A person who, in good faith, communicates information or cooperates in an audit conducted on the grounds of such a communication incurs no civil liability for doing so.

**63.** It is forbidden to take a reprisal against a person on the ground that the person has, in good faith, communicated information or cooperated in an audit conducted on the grounds of such a communication.

It is also forbidden to threaten to take a reprisal against a person so that the person will abstain from communicating information or cooperating in an audit conducted on the grounds of such a communication.

**64.** The demotion, suspension, dismissal or transfer of a person referred to in section 63 or any other disciplinary measure or measure that adversely affects such a person's employment or conditions of employment is presumed to be a reprisal within the meaning of that section.

**65.** Any person who believes himself or herself to be a victim of a reprisal may file a complaint with the Authority so that the Authority may determine whether the complaint is substantiated and make any recommendations it considers appropriate to the chief executive officer of the public body concerned by the reprisal. Section 46 applies to the follow-up of the complaint, with the necessary modifications.

If the reprisal of which the person believes himself or herself to be a victim seems, in the Authority's opinion, to constitute a prohibited practice within the meaning of subparagraph 14 of the first paragraph of section 122 of the Act respecting labour standards (chapter N-1.1), the Authority refers the person to the Commission des normes, de l'équité, de la santé et de la sécurité du travail.

When the examination is concluded, the Authority informs the complainant of its findings and, if applicable, its recommendations.

**66.** Any person who

(1) communicates information under section 56 that the person knows to be false or misleading,

(2) contravenes section 63,

(3) by an act or omission, helps another person to commit an offence under subparagraph 1 or 2, or

(4) by encouragement, advice, consent, authorization or command, induces another person to commit an offence under subparagraph 1 or 2,

is guilty of an offence and is liable to a fine of \$2,000 to \$20,000 in the case of a natural person or \$10,000 to \$250,000 in any other case.

The fines are doubled for a subsequent offence.

## CHAPTER VII

### CANCELLATION BY OPERATION OF LAW

**67.** Any public contract entered into following a tendering or awarding process continued by a public body before the Authority has made a decision on a complaint filed under Division I or II of Chapter IV, or, subject to section 25.0.1 of the Act respecting contracting by public bodies, in contravention of an order made by the Authority under subparagraph 1 or 2 of the first paragraph of section 29, is cancelled by operation of law from the time the body and its contractor receive notification from the Authority to that effect.

In addition, a contract entered into by mutual agreement by a public body without the prior publication of the notice of intention required by law is cancelled by operation of law from the time the body and its contractor receive notification from the Authority to that effect.

This section does not apply to a contract entered into by a municipal body.

## CHAPTER VIII

### MISCELLANEOUS PROVISIONS

**68.** The functions and powers devolved to the Authority in respect of a municipal body, except those that concern the examination of the contract management of a public body referred to in subparagraph 4 of the first paragraph of section 21, are exercised, in respect of Ville de Montréal or a person or body referred to in the second paragraph, by the inspector general of Ville de Montréal. In such a case, the inspector general is substituted for the Authority for the purposes of this Act, with the necessary modifications. The inspector general is bound by the same obligations that would apply to the Authority in the exercise of those functions and powers.

The persons and bodies referred to in the first paragraph are the following:

(1) a legal person referred to in subparagraph 1 of the fifth paragraph of section 57.1.9 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4);

(2) a person or body related to the city under section 70; and



(3) a body referred to in section 573.3.5 of the Cities and Towns Act if

(a) the body referred to in subparagraph 1 of the first paragraph of that section is the mandatary or agent of Ville de Montréal;

(b) in accordance with subparagraph 2 of the first paragraph of that section, the majority of the members of its board of directors are members of the council of Ville de Montréal or appointed by Ville de Montréal;

(c) its budget is adopted or approved by Ville de Montréal;

(d) the body referred to in subparagraph 4 of the first paragraph of that section receives the largest share of all the funds it receives from municipalities from Ville de Montréal; or

(e) the body designated under subparagraph 5 of the first paragraph of that section has its principal place of business in the territory of Ville de Montréal.

The city and a body or person referred to in the second paragraph are bound by the same obligations toward the inspector general as those by which a municipal body would be bound toward the Authority, and the Authority does not exercise any function or power in respect of the city or the body or person, unless the city, body or person is designated under subparagraph 4 of the first paragraph of section 21.

Despite the first and third paragraphs, the Authority may make any recommendation to the inspector general, in particular to ensure that coherence is maintained in the decisions and recommendations made in the examination of the tendering or awarding process for public contracts and the examination of the performance of public contracts.

In addition, the city, the inspector general and any person or body referred to in the second paragraph must send the Authority any document or information necessary for the purposes of the fourth paragraph of this section and subparagraph 7 of the first paragraph of section 31.

The exercise of the functions and powers provided for in the first paragraph in respect of a contracting process or a contract does not prevent the inspector general from exercising, in respect of the same process or contract, the same functions and powers devolved to the inspector under Division VI.0.1 of Chapter II of the Charter of Ville de Montréal, metropolis of Québec.

Penal proceedings for an offence under this Act that the inspector general has uncovered may be brought by Ville de Montréal.

The Government may, at any time, order that the first paragraph not apply in respect of Ville de Montréal or of a person or body referred to in that paragraph.

**69.** The provisions of Chapters IV to VI that concern the examination of a tendering process under subparagraph 1 of the first paragraph of section 21 apply to a process for the certification of goods or the qualification of suppliers, service providers or contractors, with the necessary modifications.

**70.** If, with respect to a municipal body or a person related to a municipality, the Authority issues recommendations under section 29 or under subparagraph 2 of the first paragraph of section 31, dismisses a complaint under section 46, considers a complaint admissible under section 47, determines an additional time period under section 49, makes a decision under section 50, intervenes under section 53, makes a decision under section 55, carries out an examination under section 59 or makes a decision under section 60, the Authority informs the municipality. However, if the municipal body is a local municipality, the Authority does not inform the regional county municipality related to the local municipality, and if the body is a metropolitan community, the Authority does not inform the municipality related to the metropolitan community.

For the purposes of this section, a municipal body, except in the case of a local municipality, or a person is related to a municipality if

- (1) the body's territory includes that of the local municipality;
- (2) the body's territory corresponds to that of the local municipality;
- (3) the body was constituted by the municipality;
- (4) the body is a mixed enterprise company founded by the municipality; or
- (5) the person exercises, within the municipality, the functions assigned to him or her and the person is alone responsible for making the contracts necessary for the exercise of those functions.

In addition, if the Authority intervenes under a provision referred to in the first paragraph in respect of one of the agglomerations governed by the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001), it informs all the municipalities related to the agglomeration.

**71.** If the Authority considers that information brought to its attention may potentially be a communication under section 57.1.13 of the Charter of Ville de Montréal, metropolis of Québec, a disclosure under section 6 of the Act to facilitate the disclosure of wrongdoings relating to public bodies or a disclosure under section 26 of the Anti-Corruption Act (chapter L-6.1), the Authority sends the information to the inspector general of Ville de Montréal, the Public Protector or the Anti-Corruption Commissioner, as the case may be, as soon as possible.

Similarly, the Authority may send the Chair of the Conseil du trésor or the minister responsible for municipal affairs such information regarding public bodies' contract management as is useful for the discharge of their respective mandates.

A communication of information made by the Authority in accordance with this section is made according to the terms and conditions determined in an agreement.

**72.** Nothing contained in an audit or investigation record under this Act, including the resulting conclusions with reasons, may be construed as a declaration, recognition or extrajudicial admission of misconduct capable of establishing the civil liability of a party in a judicial proceeding.

**73.** Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information, the Authority may not disclose information that allows a person to be identified as being a member of a selection committee.

**74.** Despite any inconsistent provision of any Act, the president and chief executive officer or a vice-president of the Authority, a member of the Authority's staff acting in the exercise of his or her powers or a mandatary referred to in section 27 may not be compelled, in a judicial proceeding or a proceeding before a person or body exercising adjudicative functions, to make a deposition on information obtained in the exercise of his or her functions or to produce a document containing such information.

**75.** No proceedings may be brought against the Authority, the president and chief executive officer or a vice-president of the Authority, a member of the Authority's staff or a mandatary referred to in section 27 by reason of omissions or acts performed in good faith in the exercise of its or his or her functions.

**76.** Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be presented or injunction granted against the Authority, the president and chief executive officer or a vice-president of the Authority, a member of the Authority's staff or a mandatary referred to in section 27 in the exercise of its or his or her functions.

**77.** A judge of the Court of Appeal may, on an application, summarily annul any proceeding instituted, decision rendered or order or injunction made or granted contrary to sections 75 and 76.

## CHAPTER IX

### FINANCIAL PROVISIONS, ACCOUNTS AND REPORTS

**78.** The Authority's fiscal year ends on 31 March.

**79.** Not later than 30 September each year, the Authority must file its financial statements and a report on its activities and governance for the previous fiscal year with the Chair of the Conseil du trésor.

The financial statements and report must contain all the information required by the Chair.

The report must also contain information on the Authority's oversight activities. In this regard, the report specifies the nature of the complaints that the Authority received under Chapter IV and indicates, for each type of complaint, the number received, dismissed, considered, refused or abandoned.

The report must also describe the examinations conducted by the Authority for the purposes of an intervention under Chapter V or a communication of information under Chapter VI and its main conclusions, if any.

**80.** The Chair of the Conseil du trésor tables the Authority's financial statements and the report referred to in section 79 before the National Assembly within 30 days of receiving them or, if the Assembly is not in session, within 15 days of resumption.

**81.** The Authority provides the Chair of the Conseil du trésor with any information and any other report required by the Chair concerning the Authority's activities.

**82.** The Authority's books and accounts must be audited by the Auditor General each year and whenever the Government so orders.

The Auditor General's report must be filed with the report referred to in section 79 and the Authority's financial statements.

**83.** Each year, the Authority must submit its budget estimates for the following fiscal year to the Chair of the Conseil du trésor, according to the form and content and at the time determined by the Chair.

The estimates require the Government's approval.

**84.** The Authority determines the tariff of fees as well as the other forms of remuneration payable for the services it provides. The tariff and other forms of remuneration may vary according to the type of enterprise or the place where the enterprise mainly carries on its activities.

Such forms of remuneration require the Government's approval.

**85.** The Government may, on the conditions and according to the terms it determines,

(1) guarantee the payment, in principal and interest, of any loan contracted by the Authority and any of its obligations; and

(2) authorize the Minister of Finance to advance to the Authority any amount that is considered necessary for the performance of its obligations or the pursuit of its mission.

The sums that the Government may be called on to pay under the first paragraph are taken out of the Consolidated Revenue Fund.

**86.** The Authority may not, without the Government's authorization,

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

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

(3) acquire or transfer assets in excess of the limits or in contravention of the terms and conditions determined by the Government.

**87.** The sums received by the Authority must be applied to the payment of its obligations. Any surplus is retained by the Authority unless the Government decides otherwise.

## CHAPTER X

### AMENDING PROVISIONS

#### ACT RESPECTING CONTRACTING BY PUBLIC BODIES

**88.** Section 1 of the Act respecting contracting by public bodies (chapter C-65.1) is amended

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

“The purpose of this Act is also to determine certain conditions for the public contracts that a body described in section 7 may enter into with such a contractor.”;

(2) by replacing “in the first paragraph” in the second paragraph by “in the first or second paragraph. Such subcontracts are public subcontracts”;

(3) by replacing “in the first or second paragraph” in the third paragraph by “in this section”.

**89.** Section 3 of the Act is amended by inserting “, to the extent that they are not for the acquisition of goods for commercial sale or resale or to be used to produce or provide goods or services for commercial sale or resale” at the end of subparagraph 1 of the first paragraph.

**90.** Section 4 of the Act, amended by section 77 of chapter 21 of the statutes of 2017, is again amended, in the first paragraph,

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

“(2) budget-funded bodies listed in Schedule 1 to the Financial Administration Act (chapter A-6.001), except bodies referred to in section 6;”;

(2) by replacing subparagraph 4 by the following subparagraph:

“(4) bodies other than budget-funded bodies listed in Schedule 2 to the Financial Administration Act, even when exercising fiduciary functions, and the Commission de la construction du Québec, the Cree-Québec Forestry Board, the Office franco-québécois pour la jeunesse and the Office Québec-Monde pour la jeunesse;”;

(3) by adding the following subparagraph after subparagraph 6:

“(7) any other body or category of bodies that the Government determines.”

**91.** Section 7 of the Act is amended

(1) by replacing “Bodies other than those referred to in sections 4 to 6 and at least half of whose members or directors are appointed or elected by the Government or by a minister” in the first paragraph by “Bodies listed in Schedule 3 to the Financial Administration Act”;

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

“Section 11 and Chapters V.0.1.1, V.1 and V.2 apply to bodies referred to in the first paragraph and the contracts they enter into, with the necessary modifications.”

**92.** Section 8 of the Act is amended by replacing “subparagraphs 2 to 4 and 6 of the first paragraph of section 4” in the first paragraph by “any of subparagraphs 2 to 4, 6 and 7 of the first paragraph of section 4 or of a body referred to in section 7”.

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

(1) by replacing “subparagraphs 3 and 4” in the second paragraph by “subparagraphs 2 to 4”;

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

“Despite the preceding paragraphs, a public body may, in the cases described in subparagraph 5 of the first paragraph, award the contract following an invitation to tender if there is more than one possible contractor.”

**94.** The Act is amended by inserting the following sections after section 13:

**“13.1.** The public body must, at least 15 days before entering into a contract by mutual agreement under subparagraph 4 of the first paragraph of section 13, publish on the electronic tendering system a notice of intention allowing any enterprise to express its interest in carrying out the contract. The notice of intention must, among other things, specify or include

(1) the name of the enterprise with which the public body intends to enter into the contract by mutual agreement;

(2) a detailed description of the public body’s procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked by the public body for entering into a contract by mutual agreement despite the fact that the contract involves an expenditure equal to or above the public tender threshold; and

(5) the address at which and the deadline by which an enterprise may express interest electronically and demonstrate that it is capable of carrying out the contract according to the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

For the purposes of this Act, “enterprise” means a legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship.

**“13.2.** If an enterprise has expressed interest in accordance with subparagraph 5 of the first paragraph of section 13.1, the public body must, at least seven days before the projected contract date, electronically send the enterprise its decision as to whether or not it still intends to enter into a contract by mutual agreement. If that seven-day period cannot be complied with, the projected contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The public body must also inform the enterprise of its right to file a complaint under section 38 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no enterprise has expressed interest by the deadline under subparagraph 5 of the first paragraph of section 13.1, the public body may enter into the contract before the projected contract date specified in the notice of intention.”

**95.** Section 21.0.2 of the Act is amended

(1) by replacing “responsable de l’observation” in the introductory clause in the French text by “responsable de l’application”;

(2) by replacing “seeing that the contract rules” in paragraph 1 by “seeing that measures are put in place within the public body to comply with the contract rules” and by striking out “are complied with” in that paragraph;

(3) by replacing “à l’observation” in paragraph 5 in the French text by “à l’application”.

**96.** The Act is amended by inserting the following chapter after section 21.0.2:

**“CHAPTER V.0.1.1**

**“FILING OF A COMPLAINT WITH A PUBLIC BODY**

**“DIVISION I**

**“PROCEDURE**

**“21.0.3.** A public body must provide equitable resolution of complaints filed with it in the course of the awarding of a public contract. It must, for that purpose, establish a procedure for receiving and examining complaints.

The public body must make the complaint procedure available on its website.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure or, failing that, to the chief executive officer of the public body. A complaint referred to in section 21.0.4 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“DIVISION II**

**“COMPLAINT ABOUT CERTAIN CONTRACTING PROCESSES**

**“21.0.4.** In the case of an ongoing public call for tenders, only an enterprise or a group of enterprises interested in participating in the awarding process or its representative may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework.



The first paragraph also applies to a process for the certification of goods or the qualification of enterprises, with the necessary modifications.

In the case of a body referred to in section 7, this section applies only to the contracting processes preceding the entering into of a contract governed by an intergovernmental agreement.”

**97.** The title of Division I of Chapter V.1 of the Act is amended by striking out “AND OVERSIGHT MEASURES”.

**98.** Section 21.1 of the Act is replaced by the following section:

“**21.1.** An enterprise that is found guilty, by a final judgment, of an offence listed in Schedule I is ineligible for public contracts for five years as of the recording of the finding of guilty in the register of enterprises ineligible for public contracts.”

**99.** Section 21.2 of the Act is amended

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

“If an associate of an enterprise is found guilty, by a final judgment, of an offence listed in Schedule I, the enterprise becomes ineligible for public contracts for five years as of the recording of the situation in the register of enterprises ineligible for public contracts.”;

(2) by replacing “the contractor” in the third paragraph by “the enterprise”.

**100.** The Act is amended by inserting the following section after section 21.2:

“**21.2.0.0.1.** An enterprise for which the Autorité des marchés publics (the Authority) refused to grant or renew an authorization required under Chapter V.2 or revoked such an authorization is ineligible for public contracts for five years as of the recording of the decision in the register of enterprises ineligible for public contracts or until the date preceding the date on which the enterprise’s name is registered in the register of authorized enterprises, if the latter date is earlier.

In addition, the legal person in which the enterprise referred to in the first paragraph holds shares carrying 50% or more of the voting rights attached to the shares of the legal person’s capital stock that may be exercised under any circumstances becomes ineligible for public contracts for the same time as the enterprise as of the recording of the situation referred to in the first paragraph in the register of enterprises ineligible for public contracts.”

**101.** Section 21.2.0.1 of the Act is amended

(1) by replacing the introductory clause of the first paragraph by “No finding of guilty may be recorded under section 21.1 or the first paragraph of section 21.2 in the register of enterprises ineligible for public contracts provided for in section 21.6 if”;

(2) by replacing “the Autorité des marchés financiers (the Authority) under Chapter V.2 and, when it was considered, an authorization was granted to the contractor or the authorization held by the contractor” in subparagraph 1 of the first paragraph by “the Authority under Chapter V.2 and, when it was considered, an authorization was granted to the enterprise or the authorization held by the enterprise”;

(3) by replacing “l’Autorité des marchés financiers” in subparagraph 2 of the first paragraph in the French text by “l’Autorité”;

(4) by striking out the second paragraph.

**102.** Sections 21.2.1 and 21.3 of the Act are repealed.**103.** Section 21.3.1 of the Act is replaced by the following section:

“**21.3.1.** An enterprise that becomes ineligible for public contracts and is in the process of performing a public contract is, subject to being given permission by the Conseil du trésor under section 25.0.2, deemed to have defaulted on performance of the contract on the expiry of a period of 60 days after the date on which it becomes ineligible. However, the enterprise is not deemed to have defaulted as regards honouring the contract guarantees.”

**104.** Section 21.4 of the Act is repealed.**105.** Section 21.4.1 of the Act is replaced by the following section:

“**21.4.1.** An enterprise that is ineligible for public contracts may not, for as long as it is ineligible, submit a bid to obtain a contract described in section 3 with a public body, enter into such a contract or enter into a public subcontract.”

**106.** Section 21.5 of the Act is repealed.**107.** Section 21.6 of the Act is replaced by the following section:

“**21.6.** The Authority keeps a register of enterprises ineligible for public contracts.

The Authority must record in the register the finding of guilty against an enterprise or an associate of the enterprise not later than 20 days after the date on which the Authority was informed of the final judgment.

The Authority must also record in the register each decision by which it refused to grant or renew an authorization required under Chapter V.2 or revoked such an authorization.”

**108.** Section 21.7 of the Act is amended

(1) by replacing “concerning each contractor referred to in section 21.1, 21.2, 21.2.1 or 21.4” in the introductory clause by “for each enterprise ineligible to enter into public contracts”;

(2) by replacing paragraphs 3 to 5 by the following:

“(3) as the case may be,

(a) the offence or offences of which the enterprise was found guilty,

(b) the offence or offences of which an associate of the enterprise was found guilty, resulting in the enterprise being named in the register, the associate’s name and the name of the municipality in whose territory the associate resides,

(c) a reference to the Authority’s decision to refuse to grant or renew an authorization required under Chapter V.2 or to revoke such an authorization, or

(d) a reference to the Authority’s decision concerning the holder of shares carrying 50% or more of the voting rights attached to the shares of the enterprise’s capital stock that may be exercised under any circumstances, the shareholder’s name and the municipality in whose territory the shareholder resides;

“(4) the projected end date of the enterprise’s ineligibility for public contracts; and

“(5) any other information prescribed by regulation of the Authority.

A regulation of the Authority under this chapter is submitted for approval to the Conseil du trésor, which may approve it with or without amendment.”

**109.** Section 21.8 of the Act is replaced by the following section:

“**21.8.** A public body designated in Schedule II must provide the information required under section 21.7 to the Authority in the cases, on the conditions and in the manner determined by regulation of the Authority.

The Government may amend that schedule.”

**110.** Section 21.9 of the Act is repealed.

**III.** Section 21.10 of the Act is replaced by the following section:

**“21.10.** The information contained in the register is public information and must be made available by the Authority on its website.”

**II2.** Section 21.11 of the Act is replaced by the following section:

**“21.11.** Public bodies must, before entering into a contract described in section 3, ensure that the bidders, or the successful bidder, are not named in the register or, if they are named in the register, that their period of ineligibility for public contracts has ended or that the conditions prescribed in section 25.0.3 have been met.

Similarly, an enterprise that has entered into a contract described in section 3 with a public body must, before entering into any subcontract required for the performance of the contract, ensure that the subcontractors are not named in the register or, if they are named in the register, that their period of ineligibility for public contracts has ended or that the conditions under section 25.0.3 have been met.”

**II3.** Section 21.12 of the Act is replaced by the following section:

**“21.12.** The Authority informs the enterprise, in writing and without delay, of its registration in the register, of the grounds for the registration and of the enterprise’s period of ineligibility for public contracts.

The enterprise must then send the Authority, in writing and within the time determined by the Authority, the name of every public body with which a contract described in section 3 is in process as well as the name and, if applicable, Québec business number of every legal person of which the enterprise holds shares carrying 50% or more of the voting rights attached to the shares of the capital stock of the legal person that may be exercised under any circumstances.

The Authority must inform each public body concerned, as soon as possible, of the information it obtains under the second paragraph.”

**II4.** Sections 21.13 and 21.14 of the Act are repealed.

**II5.** Section 21.15 of the Act is amended

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

“An enterprise that may have been mistakenly named in the register or in respect of whom inaccurate information is recorded in the register may ask the Authority to make the necessary rectifications in the register.”;

(2) by replacing “The Chair” in the second paragraph by “The Authority”.

**116.** Section 21.16 of the Act is amended by replacing “The Chair of the Conseil du trésor” and “the Chair’s” by “The Authority” and “its”, respectively.

**117.** Section 21.17 of the Act is amended

(1) by inserting “, including an expenditure resulting from an option provided in the contract,” after “involving an expenditure” in the first paragraph;

(2) by replacing “Autorité des marchés financiers (the Authority)” in the first paragraph by “the Authority”;

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

“An enterprise that wishes to enter into a public subcontract that involves an expenditure equal to or greater than that amount must also obtain such an authorization.”;

(4) by striking out the third paragraph.

**118.** The Act is amended by inserting the following sections after section 21.17:

**“21.17.1.** Despite the expenditure amount set by the Government under section 21.17, the Government may, on the conditions it fixes, determine that an authorization is required in respect of public contracts or subcontracts, even if they involve a lower expenditure amount.

The Government may also, on the conditions it fixes, determine that an authorization is required in respect of a category of public contracts or subcontracts other than the categories determined under section 21.17 or determine that an authorization is required in respect of groups of public contracts or subcontracts, regardless of whether they are in the same category.

The Government may determine special terms for the applications for authorization that enterprises must file with the Authority in respect of such contracts or subcontracts.

**“21.17.2.** The Government may require an enterprise party to a public contract or subcontract in process to obtain, within the time the Government determines, an authorization to contract.

The Government may determine special terms for the application for authorization that the enterprise must file with the Authority.

An enterprise that has not obtained its authorization within the time determined under the first paragraph is deemed to have defaulted on performance of the public contract or subcontract on the expiry of a period of 30 days after that time has expired.

**“21.17.3.** An enterprise named in the register of enterprises ineligible for public contracts under section 21.1 or 21.2 may, at any time, file with the Authority an application for authorization to contract.

The granting of such an authorization entails, despite any inconsistent provision, the removal of the enterprise’s name from the register as well as the removal of the name of any associate of the enterprise named in the register under section 21.2.”

**119.** Sections 21.19 and 21.20 of the Act are repealed.

**120.** Section 21.22 of the Act is amended by replacing “required under section 21.17” by “required under sections 21.17 to 21.17.3”.

**121.** Section 21.23 of the Act is amended by replacing the second paragraph by the following paragraph:

“The application must be in the form prescribed by the Authority and be filed together with the information and documents prescribed by regulation of the Authority and the fee determined in accordance with section 84 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27). The information and documents required may vary according to the type of enterprise or the place where the enterprise mainly carries on its activities.”

**122.** Section 21.28 of the Act is amended by replacing “whether the enterprise has, in the preceding five years, been found guilty” in subparagraph 0.1 of the second paragraph by “whether the enterprise, one of its shareholders not referred to in subparagraph 2 of the first paragraph of section 21.26, one of its associates or another person or entity that has direct or indirect legal or de facto control over it has, in the preceding five years, been found guilty”.

**123.** Section 21.30 of the Act is amended by adding the following paragraph at the end:

“An enterprise that, after the information is sent as required under the first paragraph, withdraws its application for authorization may not file a new application with the Authority within 12 months after the withdrawal unless the Authority allows it.”

**124.** Section 21.35 of the Act is amended

(1) by replacing “revoke its authorization” by “, as applicable, cancel the application for authorization or suspend the authorization”;

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

“The Authority may also cancel the application for authorization or suspend the authorization of an enterprise that fails to communicate to the Associate Commissioner referred to in section 21.30, within the time the Commissioner specifies, the information needed for the purposes of this chapter that the Commissioner requests.

An enterprise whose application for authorization is cancelled under this section may not file a new application with the Authority within 12 months after the cancellation unless the Authority allows it.

An enterprise whose authorization is suspended may nonetheless perform a public contract or subcontract if the enterprise was authorized on the date the contract or subcontract was entered into or, in the case of an enterprise responding to a call for tenders, if it was authorized on the closing date and time for the receipt and opening of tenders.”

**125.** Section 21.38 of the Act is amended by replacing the second paragraph by the following paragraph:

“An enterprise whose authorization has expired must, within 10 days after its expiry, send in writing to the Authority the name of every public body with which the enterprise has a contract in process, unless it can continue to perform a public contract or subcontract under the fourth paragraph of section 21.41.”

**126.** The Act is amended by inserting the following section after section 21.41:

**“21.41.1.** An enterprise whose authorization expires while it is in the process of performing a public contract for which such an authorization is required is, subject to being given permission by the Conseil du trésor under section 25.0.4, deemed to have defaulted on performance of the contract on the expiry of a period of 60 days after the expiry date of the authorization if no application for renewal is submitted to the Authority. However, the enterprise is not deemed to have defaulted as regards honouring the contract guarantees.”

**127.** Section 21.43 of the Act is amended

- (1) by replacing “this Act” in the first paragraph by “this chapter”;
- (2) by striking out the second paragraph.

**128.** Section 21.44 of the Act is replaced by the following section:

**“21.44.** A decision of the Government under the second paragraph of section 21.8 or the first paragraph of section 21.17 or under section 21.42 comes into force on the 30th day after its publication in the *Gazette officielle du Québec* or on any later date specified in the decision.

In addition, a decision of the Government under section 21.17.1 or 21.17.2 comes into force on the date it is made or on any later date specified in the decision and must be published in the *Gazette officielle du Québec* as soon as possible.

Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to those decisions.”

**129.** The Act is amended by adding the following chapter after section 21.48:

**“CHAPTER V.3**

**“PERFORMANCE EVALUATION**

**“21.49.** The Authority keeps and makes accessible to public bodies summaries of contractor performance evaluations, to be used to establish a performance rating for such purposes as the evaluation of the quality of a bid.

To that end, each public body designated by regulation must, in the cases and on the conditions determined by regulation, send the Authority a copy of the performance evaluations concerned.”

**130.** Section 23 of the Act is amended

(1) by striking out paragraphs 8 to 13;

(2) by inserting the following paragraphs after paragraph 13:

“(13.1) determine the conditions and procedure applicable to complaints referred to in section 21.0.4 and to the processing of such complaints;

“(13.2) determine the cases and conditions in or on which contractor performance evaluations must be sent to the Authority for the purposes of the summaries under section 21.49, and the public bodies that must send such evaluations to the Authority;”;

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

“(16) establish, despite any inconsistent provision of a general or special Act, a mechanism for the settlement of disputes that are likely to have an impact on the payment of a public contract or subcontract and determine the cases and conditions in or on which and the procedure by which such a mechanism applies.”

**131.** Section 23.1 of the Act is amended by replacing “in subparagraphs 1, 3, 14 and 15 of the first paragraph of section 23” by “in section 23”.



**132.** The Act is amended by inserting the following sections after section 24.2:

**“24.3.** The Chair of the Conseil du trésor may, by order, authorize the implementation of pilot projects aimed at testing various measures to facilitate the payment of enterprises party to the public contracts that the Conseil du trésor determines and to the public subcontracts related to those contracts and defining standards applicable to such payment.

As part of a pilot project, the Chair of the Conseil du trésor may, in particular, despite any inconsistent provision of any general or special Act, prescribe the use of various payment calendars, the use of a dispute settlement mechanism and accountability reporting measures according to terms and conditions the Chair determines, which may differ from those provided for in this Act and the regulations.

The Chair of the Conseil du trésor may modify or terminate a pilot project at any time. The Chair may also determine the terms and conditions of a pilot project whose violation constitutes an offence and set the minimum and maximum amounts for which the offender is liable. Those amounts may not be less than \$2,500 or greater than \$40,000.

The terms and conditions of a pilot project must be published on the website of the secretariat of the Conseil du trésor. Those terms and conditions may vary according to the public bodies and the public contracts and subcontracts concerned.

The Conseil du trésor may, during a period of one year after the coming into force of the terms and conditions referred to in the second paragraph, determine the public contracts that are to be included in a pilot project. That period may be extended by the Conseil du trésor by up to one year.

Despite any inconsistent provision, a pilot project may not continue for more than three years after the coming into force of the terms and conditions referred to in the second paragraph.

**“24.4.** A public body must, on request, send the Chair of the Conseil du trésor a list of the contracts the body plans to enter into and that meet the conditions the Chair determines.

**“24.5.** The public bodies and the enterprises that are party to the public contracts and public subcontracts included in a pilot project under section 24.3 must, as part of the prescribed dispute settlement mechanism and if necessary, call on the services of the non-profit legal person established for a private interest that has entered into an agreement with the Chair of the Conseil du trésor to implement that mechanism.

**“24.6.** The Chair of the Conseil du trésor or any person the Chair designates as an investigator may conduct an investigation into any matter falling within the Chair’s jurisdiction regarding the implementation of a pilot project under section 24.3.

Investigators must, on request, identify themselves and produce a certificate of authority signed by the Chair of the Conseil du trésor.

**“24.7.** At the end of the pilot project, the Chair of the Conseil du trésor publishes on the website of the secretariat of the Conseil du trésor a report on the implementation of the pilot project in which the Chair evaluates the terms of a regulatory framework aimed at establishing measures to facilitate the payment of enterprises party to public contracts and to public subcontracts related to such contracts.”

**133.** Section 25 of the Act is amended by inserting “or a body described in section 7” after “a public body” in the second paragraph.

**134.** The Act is amended by inserting the following sections after section 25:

**“25.0.1.** The Conseil du trésor may, in exceptional circumstances, give a public body permission to enter into a contract by mutual agreement or give such a body or a body described in section 7 permission to continue a public call for tenders despite the fact that the contract or call for tenders is covered by an order of the Autorité des marchés publics under subparagraph 1 or 2 of the first paragraph of section 29 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27). The Conseil du trésor may subject the permission to certain conditions.

The Conseil du trésor may also, for a reason in the public interest, give a public body or a body referred to in section 7 permission to continue performing a contract despite the fact that the contract is covered by a decision of the Authority under subparagraph 6 of the first paragraph of section 29 of that Act. The Conseil du trésor may subject the permission to certain conditions.

**“25.0.2.** Within 30 days after an enterprise is notified by the Authority of its ineligibility for public contracts, a public body or a body described in section 7 may, for a reason in the public interest, apply to the Conseil du trésor for permission to continue performing a public contract. The Conseil du trésor may subject the permission to certain conditions, including that the enterprise agree to the implementation, at the enterprise’s expense, of oversight and monitoring measures.

**“25.0.3.** Despite section 21.4.1, the Conseil du trésor may, in exceptional circumstances, give a public body or a body described in section 7 permission to enter into a contract with an enterprise that is ineligible for public contracts or give an enterprise permission to enter into a subcontract directly related to a public contract with a subcontractor who is ineligible for public contracts. The Conseil du trésor may subject the permission to certain conditions, including that the ineligible enterprise or subcontractor agree to the implementation, at the enterprise’s or subcontractor’s expense, of oversight and monitoring measures.

As well, despite section 21.4.1, if a public body or a body described in section 7 finds that urgent action is required and there is a threat to human safety or property, its chief executive officer may allow a contract to be entered into with an enterprise that is ineligible for public contracts or give an enterprise permission to enter into a subcontract directly related to a public contract with a subcontractor who is ineligible for public contracts. The body’s chief executive officer must however give the Chair of the Conseil du trésor notice in writing within 15 days.

The first and second paragraphs also apply, with the necessary modifications, in cases where the permission concerned is permission to enter into a public contract or a subcontract directly related to a public contract with an enterprise that does not hold an authorization to contract although such an authorization is required.

**“25.0.4.** Within 30 days after being notified by the Authority, under the second paragraph of section 21.39, of the expiry of an enterprise’s authorization to contract, a public body or a body described in section 7 may, for a reason in the public interest, apply to the Conseil du trésor for permission to continue performing a public contract. The Conseil du trésor may subject the permission to certain conditions, including that the enterprise agree to the implementation, at the enterprise’s expense, of oversight and monitoring measures.

**“25.0.5.** Within 15 days after permission is given by the Conseil du trésor under any of sections 25.0.1 to 25.0.4 or within 15 days after the notice that the Chair of the Conseil du trésor receives from the body’s chief executive officer under the second paragraph of section 25.0.3, the Chair of the Conseil du trésor makes public the name of the public body concerned, the name of the enterprise or subcontractor concerned and a summary description of the circumstances or reasons considered by posting them on a website. The Chair also publishes the information in the *Gazette officielle du Québec*.”

**135.** Section 25.1 of the Act is replaced by the following section:

**“25.1.** The Conseil du trésor may establish policies to determine conditions applicable to the designation of contract rules compliance monitors and establish measures to support them and ensure that their functions are exercised coherently.”

**136.** Section 26 of the Act is amended by inserting “, in particular, determine the cases in which the authorization of a public body’s chief executive officer is required. They may” after “Such directives may” in the first paragraph.

**137.** Section 27 of the Act is amended by replacing “other standard documents to be used by public bodies or by a particular group of public bodies” by “other standard documents and model document clauses to be used by the public bodies it determines”.

**138.** Section 27.1 of the Act is amended by replacing the first paragraph by the following paragraph:

“In order to encourage ongoing improvement in public bodies’ contract management, the Chair of the Conseil du trésor is competent to conduct an audit of the awarding of the contracts of a body or group of bodies governed by this Act and its application of other contract management measures relating to those contracts.”

**139.** Section 27.2 of the Act is repealed.

**140.** Section 27.4 of the Act is amended by striking out “, including oversight and monitoring measures, which may include the obligation to obtain the authorization of the Conseil du trésor in order to enter into public contracts”.

**141.** Section 27.5 of the Act is amended by replacing “the Authority to obtain, renew or keep an authorization required under section 21.17” by “the Authority to obtain, renew or keep an authorization required under sections 21.17 to 21.17.3”.

**142.** Section 27.7 of the Act is replaced by the following section:

“**27.7.** An enterprise that is ineligible for public contracts or that does not hold an authorization under the first paragraph of section 21.17 or under section 21.17.1 although required to hold one and that submits a bid for a public contract in response to a call for tenders or enters into a public contract is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case, unless the enterprise was given permission to enter into a contract under section 25.0.3.”

**143.** Section 27.8 of the Act is replaced by the following section:

“**27.8.** An enterprise that, in the course of a contract with a public body or with a body described in section 7, enters into a subcontract with an enterprise that is ineligible or does not hold an authorization under the first paragraph of section 21.17 or under section 21.17.1 although required to hold one is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case, unless the enterprise was given

permission to enter into a contract under section 25.0.3. The ineligible or unauthorized subcontractor is also guilty of an offence and liable to the same fine.”

**144.** Section 27.9 of the Act is amended by replacing “, in accordance with the second paragraph of section 21.38, the name of every public body referred to in that paragraph” by “information required under the second paragraph of section 21.12 or under the second paragraph of section 21.38”.

**145.** The Act is amended by inserting the following sections after section 27.10:

“**27.10.1.** Every person who, before a contract is awarded, communicates or attempts to communicate, directly or indirectly, with a member of a selection committee for the purpose of influencing the member in respect of a call for tenders is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in any other case.

The first paragraph does not apply if the tender documents provide that such a communication is to be made after the tender closing date for tender evaluation purposes.

“**27.10.2.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member’s knowledge in the exercise of the member’s functions within the committee is guilty of an offence and liable to a fine of \$5,000 to \$30,000.”

**146.** The Act is amended by inserting the following section after section 27.14:

“**27.14.1.** Penal proceedings must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.”

**147.** Section 27.15 of the Act is repealed.

**148.** Section 58.1 of the Act is replaced by the following section:

“**58.1.** Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), the following may not be disclosed by a public body or a member of its staff:

(1) until the bids are opened, information that allows the number of enterprises that asked for a copy of the tender documents and the number of enterprises that tendered a bid to be known or that allows those enterprises to be identified; and

(2) information that allows a person to be identified as being a member of a selection committee constituted in accordance with the normative framework.

The prohibition under subparagraph 1 of the first paragraph also applies to the operator of the electronic tendering system, except with respect to information that allows an enterprise that requests a copy of the tender documents to be identified, if the enterprise expressly authorized the operator to disclose that information.”

**149.** Section 58.2 of the Act is repealed.

**150.** Schedule I to the Act is amended

(1) by inserting the following in the alphanumerical order of the Acts and regulations concerned:

“

Cities and Towns Act (chapter C-19)	573.3.3.5	Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee’s proceedings
Municipal Code of Québec (chapter C-27.1)	938.3.5	Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee’s proceedings
Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01)	118.1.4	Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee’s proceedings

“

“

Act respecting the Communauté métropolitaine de Québec (chapter C-37.02)	111.1.4	Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee’s proceedings
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”;

(2) by inserting the following in the portion concerning offences under the Act respecting contracting by public bodies, by numerical order of the offences:

- |          |  |
|----------|--|
| “27.10.1 | Communicating or attempting<br>to communicate with a<br>selection committee member   |
| “27.10.2 | Disclosing or making known,<br>without authorization,<br>confidential information<br>obtained in the course of a<br>selection committee’s<br>proceedings”; |

(3) by inserting “, 27.10.1, 27.10.2” after “27.6” in the portion that gives a summary description of offences under section 27.13 of the Act respecting contracting by public bodies;

(4) by inserting the following in order according to the alphanumerical designation of the Acts and regulations:

“

Act respecting public transit authorities (chapter S-30.01)	108.1.4	Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee’s proceedings
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”

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Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1)	65 with 83	Submitting a certificate from Revenu Québec that contains false or inaccurate information, producing the certificate of a third person, or falsely declaring that the supplier does not hold the required certificate
	66 with 83	Helping another person to contravene section 65

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**151.** The Act is amended by adding the following schedule after Schedule I:

**“SCHEDULE II**

**“(Section 21.8)**

**“BODIES**

“The Agence du revenu du Québec

“The Autorité des marchés financiers

“The Director of Criminal and Penal Prosecutions

“The Chief Electoral Officer”.

**FINANCIAL ADMINISTRATION ACT**

**152.** Schedule 2 to the Financial Administration Act (chapter A-6.001) is amended by inserting “Autorité des marchés publics” in alphabetical order.

**TAX ADMINISTRATION ACT**

**153.** Section 69.1 of the Tax Administration Act (chapter A-6.002) is amended by adding the following subparagraph after subparagraph z.2 of the second paragraph:

“(z.3) the Autorité des marchés publics, in respect of information necessary for the purposes of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).”

**154.** Section 69.4.1 of the Act is amended by replacing “Autorité des marchés financiers” by “Autorité des marchés publics”.



**155.** Section 69.8 of the Act is amended by replacing “y and z.1” in the first paragraph by “y, z.1 and z.3”.

#### ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

**156.** Section 9 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) is amended by striking out “the Act respecting contracting by public bodies (chapter C-65.1) and” in the first paragraph.

**157.** Section 43.2 of the Act is repealed.

**158.** Section 44 of the Act is amended by replacing “the activity report, the financial statements and the financial report” in the second paragraph by “the activity report and financial statements”.

**159.** Section 749 of the Act is amended by striking out “, except for the provisions relating to the functions and powers exercised by the Authority for the purposes of the Act respecting contracting by public bodies (chapter C-65.1), which are under the responsibility of the Minister who is the Chair of the Conseil du trésor”.

#### BUILDING ACT

**160.** Section 65.1.0.1 of the Building Act (chapter B-1.1) is amended, in the first paragraph, by replacing “Autorité des marchés financiers” in subparagraph 1 by “Autorité des marchés publics” and by replacing “l’Autorité des marchés financiers” in subparagraph 2 in the French text by “l’Autorité des marchés publics”.

**161.** Section 65.1.0.2 of the Act is amended by replacing “l’Autorité des marchés financiers” in the first paragraph in the French text by “l’Autorité des marchés publics”.

**162.** Section 65.2.1 of the Act is amended by adding the following paragraph at the end:

“Despite the preceding paragraphs, if a holder’s licence has been restricted and the holder is also ineligible for public contracts under Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1), this section is replaced by sections 21.3.1 and 25.0.2 of that Act, with the necessary modifications.”

## CITIES AND TOWNS ACT

**163.** The Cities and Towns Act (chapter C-19) is amended by inserting the following sections after section 573.3:

**“573.3.0.0.1.** To enter into a contract that, but for section 573.3, would have been subject to section 573 with a supplier that is the only one in a position to provide the equipment, materials or services under subparagraph 2 of the first paragraph of section 573.3, a municipality must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the municipality intends to enter into the contract in accordance with section 573.3;

(2) a detailed description of the municipality’s procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the municipality to enter into the contract in accordance with section 573.3; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

**“573.3.0.0.2.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of section 573.3.0.0.1, the municipality shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The municipality must also inform the person of the person’s right to file a complaint under section 38 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of section 573.3.0.0.1, the contract may be entered into before the projected contract date specified in the notice of intention.”

**164.** The Act is amended by inserting the following sections after section 573.3.1.2:

**“573.3.1.3.** A municipality must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The municipality shall make the procedure available at all times by publishing it on its website. If the municipality does not have a website, it shall publish the procedure on the website of the regional county municipality whose territory contains the municipality’s territory or, if the regional county municipality does not have a website, on another website whose address it shall give public notice of at least once a year.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 573.3.1.4 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27).

For the purpose of applying this section and sections 573.3.1.4 to 573.3.1.7 to Ville de Montréal, the functions provided for in those sections may not be assumed by the inspector general appointed under section 57.1.1 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4).

**“573.3.1.4.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the municipality’s normative framework.

The complaint must be filed with the municipality not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The municipality must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the municipality must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“573.3.1.5.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 573.3.1.4 or under section 40 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“573.3.1.6.** In the case of a complaint under section 573.3.1.4, the municipality must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the municipality must defer the tender closing date.

If the municipality has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The municipality must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The municipality must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The municipality must also, if applicable, inform the complainant of the complainant's right to file a complaint under section 37 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the municipality has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

“**573.3.1.7.** Sections 573.3.1.3 to 573.3.1.6 apply to certification or qualification processes, with the necessary modifications.”

**165.** Section 573.3.3.2 of the Act is amended by replacing “by section 21.3 of that Act and that conferred on the minister responsible by section 21.5 of that Act” in the second paragraph by “by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act”.

**166.** Section 573.3.3.3 of the Act is amended

(1) by replacing “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” in the first paragraph by “21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1”;

(2) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the first paragraph;

(3) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the second paragraph;

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

“For the purposes of the application of Chapter V.2 of that Act to municipalities, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.”

**167.** Section 573.3.3.4 of the Act is amended by adding the following paragraph at the end:

“This section does not apply in the case of a person presenting a proposal to a selection committee formed to determine the winner of a competition.”

**168.** The Act is amended by inserting the following sections after section 573.3.3.4:

**“573.3.3.5.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member’s knowledge in the exercise of the member’s functions within the committee is guilty of an offence and is liable to a fine of \$5,000 to \$30,000.

In the case of a subsequent offence, the minimum and maximum fines are doubled.

**“573.3.3.6.** Penal proceedings under section 573.3.1.1.1, 573.3.3.4 or 573.3.3.5 must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.”

#### MUNICIPAL CODE OF QUÉBEC

**169.** The Municipal Code of Québec (chapter C-27.1) is amended by inserting the following articles after article 938:

**“938.0.0.1.** To enter into a contract that, but for article 938, would have been subject to article 935 with a supplier that is the only one in a position to provide the equipment, materials or services under subparagraph 2 of the first paragraph of article 938, a municipality must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the municipality intends to enter into the contract in accordance with article 938;

(2) a detailed description of the municipality’s procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the municipality to enter into the contract in accordance with article 938; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

**“938.0.0.2.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of article 938.0.0.1, the municipality shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The municipality must also inform the person of the person’s right to file a complaint under section 38 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of article 938.0.0.1, the contract may be entered into before the projected contract date specified in the notice of intention.”

**170.** The Code is amended by inserting the following articles after article 938.1.2:

**“938.1.2.1.** A municipality must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The municipality shall make the procedure available at all times by publishing it on its website. If the municipality does not have a website, it shall publish the procedure on the website of the regional county municipality whose territory contains the municipality’s territory or, if the regional county municipality does not have a website, on another website whose address it shall give public notice of at least once a year.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under article 938.1.2.2 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“938.1.2.2.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the municipality’s normative framework.

The complaint must be filed with the municipality not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The municipality must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the municipality must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this article, Saturday is considered a holiday, as are 2 January and 26 December.

**“938.1.2.3.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under article 938.1.2.2 or under section 40 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“938.1.2.4.** In the case of a complaint under article 938.1.2.2, the municipality must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the municipality must defer the tender closing date.



If the municipality has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The municipality must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The municipality must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The municipality must also, if applicable, inform the complainant of the complainant's right to file a complaint under section 37 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the municipality has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“938.1.2.5.** Articles 938.1.2.1 to 938.1.2.4 apply to certification or qualification processes, with the necessary modifications.”

**171.** Article 938.3.2 of the Code is amended by replacing “by section 21.3 of that Act and that conferred on the minister responsible by section 21.5 of that Act” in the second paragraph by “by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act”.

**172.** Article 938.3.3 of the Code is amended

(1) by replacing “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” in the first paragraph by “21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1”;

(2) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the first paragraph;

(3) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the second paragraph;

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

“For the purposes of the application of Chapter V.2 of that Act to municipalities, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.”

**173.** Article 938.3.4 of the Code is amended by adding the following paragraph at the end:

“This article does not apply in the case of a person presenting a proposal to a selection committee formed to determine the winner of a competition.”

**174.** The Code is amended by inserting the following articles after article 938.3.4:

“**938.3.5.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member’s knowledge in the exercise of the member’s functions within the committee is guilty of an offence and is liable to a fine of \$5,000 to \$30,000.

In the case of a subsequent offence, the minimum and maximum fines are doubled.

“**938.3.6.** Penal proceedings under article 938.1.1.1, 938.3.4 or 938.3.5 must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.”

## ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

**175.** The Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01) is amended by inserting the following sections after section 112.4:

“**112.5.** To enter into a contract that, but for section 112.4, would have been subject to sections 106 and 108 with a supplier that is the only one in a position to provide the equipment, materials or services under subparagraph 2 of the first paragraph of section 112.4, the Community must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the Community intends to enter into the contract in accordance with section 112.4;

(2) a detailed description of the Community's procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the Community to enter into the contract in accordance with section 112.4; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

**“112.6.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of section 112.5, the Community shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The Community must also inform the person of the person's right to file a complaint under section 38 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of section 112.5, the contract may be entered into before the projected contract date specified in the notice of intention.”

**176.** The Act is amended by inserting the following sections after section 113.2:

**“113.3.** The Community must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The Community shall make the procedure available at all times by publishing it on its website.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 113.4 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**113.4.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the Community's normative framework.

The complaint must be filed with the Community not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The Community must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the Community must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**113.5.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 113.4 or under section 40 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“113.6.** In the case of a complaint under section 113.4, the Community must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the Community must defer the tender closing date.

If the Community has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The Community must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The Community must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The Community must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the Community has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“113.7.** Sections 113.3 to 113.6 apply to certification or qualification processes, with the necessary modifications.”

**177.** Section 118.1.1 of the Act is amended by replacing “by section 21.3 of that Act and that conferred on the minister responsible by section 21.5 of that Act” in the second paragraph by “by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act”.

**178.** Section 118.1.2 of the Act is amended

(1) by replacing “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” in the first paragraph by “21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1”;

(2) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the first paragraph;

(3) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the second paragraph;

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

“For the purposes of the application of Chapter V.2 of that Act to the Community, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.”

**179.** Section 118.1.3 of the Act is amended by adding the following paragraph at the end:

“This section does not apply in the case of a person presenting a proposal to a selection committee formed to determine the winner of a competition.”

**180.** The Act is amended by inserting the following sections after section 118.1.3:

**“118.1.4.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member’s knowledge in the exercise of the member’s functions within the committee is guilty of an offence and is liable to a fine of \$5,000 to \$30,000.

For a second or subsequent offence, the minimum and maximum fines are doubled.

**“118.1.5.** Penal proceedings under section 113.1.1, 118.1.3 or 118.1.4 must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.”

#### ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

**181.** The Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) is amended by inserting the following sections after section 105.4:

**“105.5.** To enter into a contract that, but for section 105.4, would have been subject to sections 99 and 101 with a supplier that is the only one in a position to provide the equipment, materials or services under subparagraph 2 of the first paragraph of section 105.4, the Community must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the Community intends to enter into the contract in accordance with section 105.4;

(2) a detailed description of the Community's procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the Community to enter into the contract in accordance with section 105.4; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

**“105.6.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of section 105.5, the Community shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The Community must also inform the person of the person's right to file a complaint under section 38 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of section 105.5, the contract may be entered into before the projected contract date specified in the notice of intention.”

**182.** The Act is amended by inserting the following sections after section 106.2:

**“106.3.** The Community must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The Community shall make the procedure available at all times by publishing it on its website.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 106.4 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“106.4.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the Community’s normative framework.

The complaint must be filed with the Community not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The Community must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the Community must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant’s interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“106.5.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 106.4 or under section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.



**“106.6.** In the case of a complaint under section 106.4, the Community must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the Community must defer the tender closing date.

If the Community has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The Community must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The Community must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The Community must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the Community has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“106.7.** Sections 106.3 to 106.6 apply to certification or qualification processes, with the necessary modifications.”

**183.** Section 111.1.1 of the Act is amended by replacing “by section 21.3 of that Act and that conferred on the minister responsible by section 21.5 of that Act” in the second paragraph by “by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act”.

**184.** Section 111.1.2 of the Act is amended

(1) by replacing “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” in the first paragraph by “21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1”;

(2) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the first paragraph;

(3) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the second paragraph;

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

“For the purposes of the application of Chapter V.2 of that Act to the Community, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.”

**185.** Section 111.1.3 of the Act is amended by adding the following paragraph at the end:

“This section does not apply in the case of a person presenting a proposal to a selection committee formed to determine the winner of a competition.”

**186** The Act is amended by inserting the following sections after section 111.1.3:

**“111.1.4.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member’s knowledge in the exercise of the member’s functions within the committee is guilty of an offence and is liable to a fine of \$5,000 to \$30,000.

For a second or subsequent offence, the minimum and maximum fines are doubled.

**“111.1.5.** Penal proceedings under section 106.1.1, 111.1.3 or 111.1.4 must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.”

#### ACT TO FACILITATE THE DISCLOSURE OF WRONGDOINGS RELATING TO PUBLIC BODIES

**187.** Section 5 of the Act to facilitate the disclosure of wrongdoings relating to public bodies (chapter D-11.1) is amended by adding the following paragraph at the end:

“Moreover, this Act does not apply to a disclosure of a contravention of an Act or regulation regarding the tendering or awarding process for, or the performance of, a contract described in section 3 of the Act respecting contracting by public bodies (chapter C-65.1) of a public body referred to in section 4 or 7 of that Act.”

**188.** Section 6 of the Act is amended by replacing “Wrongdoings include, in particular, those committed by a member of the personnel of a public body in the exercise of his or her functions or by any person, partnership, group or other entity in the preparation or performance of a contract, including a grant of financial assistance, that has been entered into or is about to be entered into with the public body.” in the first paragraph by “Wrongdoings include, in particular, those committed by a member of the personnel of a public body in the exercise of his or her functions or by any other person, partnership, group or other entity in the course of the tendering or awarding process for, or the performance of, a contract of a public body, including a grant of financial assistance.”

**189.** Section 12 of the Act is amended by inserting the following subparagraph after subparagraph 4 of the second paragraph:

“(4.1) that the disclosure concerns a contravention of an Act or regulation regarding the tendering or awarding process for, or the performance of, a contract described in section 3 of the Act respecting contracting by public bodies (chapter C-65.1) of a public body referred to in section 4 or 7 of that Act;”.

**190.** Section 14 of the Act is amended by inserting the following paragraph after the first paragraph:

“As well, if the Public Protector considers that information disclosed to the Public Protector may be communicated under section 56 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27), the Public Protector forwards the information to the Autorité des marchés publics as soon as possible.”

**191.** The Act is amended by inserting the following section after section 14:

**“14.1.** The forwarding of information by the Public Protector to a body in accordance with section 14 is carried out according to the terms and conditions determined in an agreement.”

**192.** Section 17 of the Act is amended by replacing “the first paragraph” in subparagraph 9 of the first paragraph by “the first and second paragraphs”.

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

**“32.1.** Any person who, in good faith, makes a disclosure or cooperates in an audit or investigation conducted on the basis of a disclosure incurs no civil liability for doing so.”

**194.** Section 33 of the Act is amended by replacing the first paragraph by the following paragraph:

“Anyone who

(1) discloses information under section 6 that they know to be false or misleading, or

(2) contravenes section 30,

is guilty of an offence and is liable to a fine of \$2,000 to \$20,000 in the case of a natural person and to a fine of \$10,000 to \$250,000 in other cases.”

#### ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

**195.** Section 648.1 of the Act respecting elections and referendums in municipalities (chapter E-2.2) is amended by replacing “to the Chair of the Conseil du trésor, in the manner determined in an agreement, the information required under paragraphs 1 to 3 of section 21.7” in the second paragraph by “to the Autorité des marchés publics, in the manner determined in an agreement, the information required under subparagraphs 1 to 3 and 5 of the first paragraph of section 21.7”.

#### ACT RESPECTING SCHOOL ELECTIONS

**196.** Section 223.5 of the Act respecting school elections (chapter E-2.3) is amended by replacing “to the Chair of the Conseil du trésor, in the manner determined in an agreement, the information required under paragraphs 1 to 3 of section 21.7” in the second paragraph by “to the Autorité des marchés publics, in the manner determined in an agreement, the information required under subparagraphs 1 to 3 and 5 of the first paragraph of section 21.7”.

#### ELECTION ACT

**197.** Section 569.1 of the Election Act (chapter E-3.3) is amended by replacing “to the Chair of the Conseil du trésor, in the manner determined in an agreement, the information required under paragraphs 1 to 3 of section 21.7” in the second paragraph by “to the Autorité des marchés publics, in the manner determined in an agreement, the information required under subparagraphs 1 to 3 and 5 of the first paragraph of section 21.7”.

ACT RESPECTING WORKFORCE MANAGEMENT AND CONTROL  
WITHIN GOVERNMENT DEPARTMENTS, PUBLIC SECTOR BODIES  
AND NETWORKS AND STATE-OWNED ENTERPRISES

**198.** Section 24 of the Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (chapter G-1.011) is amended by replacing “apply, with the necessary modifications, to such an audit” by “, as they read on (*insert the date that precedes the date of coming into force of sections 138 and 140 of this Act*), apply to such an audit, with the necessary modifications”.

ANTI-CORRUPTION ACT

**199.** Section 2 of the Anti-Corruption Act (chapter L-6.1) is amended by replacing “of sections 21.12 to 21.14 and 27.5 to 27.11” in paragraph 1 by “of sections 27.5 to 27.11 and 27.13”.

**200.** Section 10 of the Act is amended by replacing “Autorité des marchés financiers” in paragraph 1.1 by “Autorité des marchés publics”.

ACT RESPECTING LABOUR STANDARDS

**201.** Section 3.1 of the Act respecting labour standards (chapter N-1.1) is amended by replacing “13” in the second paragraph by “14”.

**202.** Section 122 of the Act is amended by adding the following subparagraph after subparagraph 13 of the first paragraph:

“(14) on the ground of a communication of information made in good faith by the employee under section 56 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) or of the employee’s cooperation in an audit or investigation conducted on the ground of such a communication.”

**203.** Section 140 of the Act is amended by replacing “11 and 13” in paragraph 6 by “11, 13 and 14”.

PUBLIC PROTECTOR ACT

**204.** Section 15 of the Public Protector Act (chapter P-32) is amended by adding the following paragraph at the end:

“(10) the Autorité des marchés publics.”

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE  
COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC  
SECTORS

**205.** Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2) is amended by inserting “— The Autorité des marchés publics” in alphabetical order.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES  
RETIREMENT PLAN

**206.** Schedule I to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) is amended by inserting “the Autorité des marchés publics” in paragraph 1, in alphabetical order.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT  
PERSONNEL

**207.** Schedule II to the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) is amended by inserting “the Autorité des marchés publics” in paragraph 1, in alphabetical order.

ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING  
AND WORKFORCE MANAGEMENT IN THE CONSTRUCTION  
INDUSTRY

**208.** Section 7.5 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is amended by replacing “21.19” in paragraph 3 by “25.0.2 or 25.0.4”.

EDUCATIONAL CHILDCARE ACT

**209.** Section 101.21 of the Educational Childcare Act (chapter S-4.1.1) is amended by replacing the second paragraph by the following paragraph:

“Wrongdoings include, in particular, acts committed or about to be committed by a staff member, director or shareholder of a day care permit holder delivering subsidized childcare or by a home childcare coordinating office in the exercise of his, her or its functions and those committed by any other person, partnership, group or other entity in the course of the tendering or awarding process for, or the performance of, a contract of such a permit holder or coordinating office, including a grant of financial assistance.”

**210.** The Act is amended by inserting the following section after section 101.33:

**“101.34.** Any person who, in good faith, makes a disclosure or cooperates in an inspection or investigation conducted on the basis of a disclosure incurs no civil liability for doing so.”

**211.** Section 117.1 of the Act is replaced by the following section:

**“117.1.** A person that

(1) discloses information under section 101.21 that the person knows to be false or misleading, or

(2) contravenes section 101.31,

is guilty of an offence and is liable to a fine of \$2,000 to \$20,000 in the case of a natural person and \$10,000 to \$250,000 in other cases.”

#### ACT RESPECTING MIXED ENTERPRISE COMPANIES IN THE MUNICIPAL SECTOR

**212.** Section 41.1 of the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01) is amended

(1) by replacing “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” in the first paragraph by “21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1”;

(2) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the first paragraph;

(3) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the second paragraph;

(4) by inserting the following paragraph after the second paragraph:

“For the purposes of the application of Chapter V.2 of that Act to mixed enterprise companies, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.”

**213.** The Act is amended by inserting the following sections after section 41.1:

**“41.2.** A mixed enterprise company must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The mixed enterprise company shall make the procedure available at all times by publishing it on its website or, if it does not have a website, on the website of the municipal entities that founded it whose address it shall give public notice of at least once a year.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 41.3 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“41.3.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework.

The complaint must be filed with the mixed enterprise company not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government, if applicable. That deadline is determined, subject to the third paragraph, by adding to the date of the notice of the public call for tenders a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The mixed enterprise company must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the mixed enterprise company must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.



Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“41.4.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 41.3 or under section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“41.5.** In the case of a complaint under section 41.3, the mixed enterprise company must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the mixed enterprise company must defer the tender closing date.

If the mixed enterprise company has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The mixed enterprise company must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The mixed enterprise company must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The mixed enterprise company must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the mixed enterprise company has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

“**41.6.** Sections 41.2 to 41.5 apply to certification or qualification processes, with the necessary modifications.”

#### ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

**214.** The Act respecting public transit authorities (chapter S-30.01) is amended by inserting the following sections after section 101.1:

“**101.2.** To enter into a contract that, but for section 101.1, would have been subject to sections 93 and 95 with a supplier that is the only one in a position to provide the equipment, materials or services under subparagraph 2 of the first paragraph of section 101.1, a transit authority must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the transit authority intends to enter into the contract in accordance with section 101.1;

(2) a detailed description of the transit authority’s procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the transit authority to enter into the contract in accordance with section 101.1; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

“**101.3.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of section 101.2, the transit authority shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The transit authority must also inform the person of the person’s right to file a complaint under section 38 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of section 101.2, the contract may be entered into before the projected contract date specified in the notice of intention.”

**215.** The Act is amended by inserting the following sections after section 103.2:

**“103.2.1.** A transit authority must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The transit authority shall make the procedure available at all times by publishing it on its website.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 103.2.2 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“103.2.2.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the transit authority's normative framework.

The complaint must be filed with the transit authority not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The transit authority must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the transit authority must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“103.2.3.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 103.2.2 or under section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“103.2.4.** In the case of a complaint under section 103.2.2, the transit authority must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the transit authority must defer the tender closing date.

If the transit authority has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The transit authority must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The transit authority must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The transit authority must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the transit authority has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“103.2.5.** Sections 103.2.1 to 103.2.4 apply to certification or qualification processes, with the necessary modifications.”

**216.** Section 108.1.1 of the Act is amended by replacing “by section 21.3 of that Act and that conferred on the minister responsible by section 21.5 of that Act” in the second paragraph by “by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act”.

**217.** Section 108.1.2 of the Act is amended

(1) by replacing “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” in the first paragraph by “21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1”;

(2) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the first paragraph;

(3) by inserting “or is designated by the Government under section 21.17.1 of that Act” after “21.17 of that Act” in the second paragraph;

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

“For the purposes of the application of Chapter V.2 of that Act to transit authorities, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.”

**218.** Section 108.1.3 of the Act is amended by adding the following paragraph at the end:

“This section does not apply in the case of a person presenting a proposal to a selection committee formed to determine the winner of a competition.”

**219.** The Act is amended by inserting the following sections after section 108.1.3:

**“108.1.4.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member’s knowledge in the exercise of the member’s functions within the committee is guilty of an offence and is liable to a fine of \$5,000 to \$30,000.

In the case of a second or subsequent offence, the minimum and maximum fines are doubled.

**“108.1.5.** Penal proceedings under section 103.1.1, 108.1.3 or 108.1.4 must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.”

#### ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

**220.** The Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1) is amended by inserting the following sections after section 204.3:

**“204.3.1.** To enter into a contract that, but for section 204.3, would have been subject to section 204 with a supplier that is the only one in a position to provide the equipment, materials or services under paragraph 2 of section 204.3, a municipality must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the municipality intends to enter into the contract in accordance with section 204.3;

(2) a detailed description of the municipality’s procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the municipality to enter into the contract in accordance with section 204.3; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

**“204.3.2.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of section 204.3.1, the municipality shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The municipality must also inform the person of the person’s right to file a complaint under section 38 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of section 204.3.1, the contract may be entered into before the projected contract date specified in the notice of intention.”

**221.** The Act is amended by inserting the following sections after section 207:

**“207.0.1.** A municipality must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The municipality shall make the procedure available at all times by publishing it on its website. If the municipality does not have a website, it shall publish the procedure on another website whose address it shall give public notice of at least once a year.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 207.0.2 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“207.0.2.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the municipality’s normative framework.

The complaint must be filed with the municipality not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The municipality must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the municipality must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“207.0.3.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 207.0.2 or under section 40 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“207.0.4.** In the case of a complaint under section 207.0.2, the municipality must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the municipality must defer the tender closing date.

If the municipality has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The municipality must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.



The municipality must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The municipality must also, if applicable, inform the complainant of the complainant's right to file a complaint under section 37 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the municipality has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“207.0.5.** Sections 207.0.1 to 207.0.4 apply to certification or qualification processes, with the necessary modifications.”

**222.** The Act is amended by inserting the following sections after section 358.3:

**“358.3.1.** To enter into a contract that, but for section 358.3, would have been subject to section 358 with a supplier that is the only one in a position to provide the equipment, materials or services under paragraph 2 of section 358.3, the Regional Government must, at least 15 days before entering into the contract, publish on the electronic tendering system approved by the Government a notice of intention allowing any person to express interest in entering into it. The notice of intention must, among other things, specify or include

(1) the name of the person with whom the Regional Government intends to enter into the contract in accordance with section 358.3;

(2) a detailed description of the Regional Government's procurement requirements and the contract obligations;

(3) the projected contract date;

(4) the reasons invoked allowing the Regional Government to enter into the contract in accordance with section 358.3; and

(5) the address at which and deadline by which a person may express interest electronically and demonstrate that he, she or it is capable of carrying out the contract on the basis of the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

**“358.3.2.** Where a person has expressed interest in entering into the contract in accordance with paragraph 5 of section 358.3.1, the Regional Government shall electronically send the person its decision as to the contract, at least seven days before the projected contract date. If that seven-day period cannot be complied with, the contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The Regional Government must also inform the person of the person’s right to file a complaint under section 38 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If no person has expressed interest by the deadline under paragraph 5 of section 358.3.1, the contract may be entered into before the projected contract date specified in the notice of intention.”

**223.** The Act is amended by inserting the following sections after section 358.4:

**“358.4.1.** The Regional Government must provide equitable resolution of complaints filed with it in the course of the awarding of a contract through a public call for tenders or otherwise. It must, for that purpose, establish a procedure for receiving and examining the complaints filed.

The Regional Government shall make the procedure available at all times by publishing it on its website.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure. A complaint under section 358.4.2 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27).

**“358.4.2.** In the case of an ongoing public call for tenders, only a person or group of persons interested in participating in the awarding process or the representative of such a person or group may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the Regional Government’s normative framework.

The complaint must be filed with the Regional Government not later than the complaint filing deadline indicated on the electronic tendering system approved by the Government. That deadline is determined, subject to the third paragraph, by adding to the date on which the call for tenders is advertised a period corresponding to half the time for receiving tenders but which may not be less than 10 days.

The Regional Government must ensure that there is a period of at least four working days between the tender closing date and the complaint filing deadline.

Such a complaint may pertain only to the content of the tender documents available on the electronic tendering system not later than two days before that deadline.

The complainant shall, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

On receiving a first complaint, the Regional Government must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant's interest.

Any amendment made to the tender documents before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the number of days by which the tender submission period was extended.

Any amendment made three days or less before the tender closing date results in a minimum three-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a working day.

For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“358.4.3.** Any amendment made to the tender documents must contain the information relating to the deadline for filing a complaint under section 358.4.2 or under section 40 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27). Any amendment made to the tender documents must also indicate whether it results from a recommendation of the Autorité des marchés publics.

**“358.4.4.** In the case of a complaint under section 358.4.2, the Regional Government must send the complainant its decision electronically after the complaint filing deadline but not later than three days before the tender closing date it has determined. If necessary, the Regional Government must defer the tender closing date.

If the Regional Government has received two or more complaints about the same call for tenders, it must send both or all of its decisions at the same time.

The Regional Government must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

The Regional Government must defer the tender closing date by the number of days needed to allow a minimum period of seven days to remain from the date its decision is sent.

The Regional Government must also, if applicable, inform the complainant of the complainant's right to file a complaint under section 37 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within three days after receiving the decision.

If, two days before the tender closing date, the Regional Government has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by four days. If the deferred date falls on a holiday, it must again be deferred to the second next working day. In addition, if the day preceding the deferred date is not a working day, that date must be deferred to the next working day. For the purposes of this section, Saturday is considered a holiday, as are 2 January and 26 December.

**“358.4.5.** Sections 358.4.1 to 358.4.4 apply to certification or qualification processes, with the necessary modifications.”

#### INTEGRITY IN PUBLIC CONTRACTS ACT

**224.** Sections 3, 4 and 9, paragraph 6 of section 13, section 14, paragraph 1 of section 18 and sections 31 to 37, 39, 43, 45, 48, 52, 56, 69, 71 to 74, 82, 88 to 90 and 93 of the Integrity in Public Contracts Act (2012, chapter 25) are repealed.

**225.** Section 102 of the Act, amended by section 234 of chapter 15 of the statutes of 2015, is again amended by replacing “, except sections 3, 4, 5 and 9, paragraph 6 of section 13, sections 14 and 16, paragraph 1 of section 18, sections 23, 24, 31 to 39, 43 to 45, 47, 48, 51, 52, 56, 69, 71 to 74, 78, 79, 81 and 82, which come” by “, except section 5, which comes”.

#### REGULATION OF THE AUTORITÉ DES MARCHÉS FINANCIERS UNDER AN ACT RESPECTING CONTRACTING BY PUBLIC BODIES

**226.** The title of the Regulation of the Autorité des marchés financiers under an Act respecting contracting by public bodies (chapter C-65.1, r. 0.1) is amended by replacing “Autorité des marchés financiers” by “Autorité des marchés publics”.

**227.** Section 1 of the Regulation is amended by replacing “under section 21.17” by “under sections 21.17 to 21.17.3”.

**228.** Section 2 of the Regulation is amended by replacing “Autorité des marchés financiers” in the first paragraph by “Autorité des marchés publics”.

REGULATION RESPECTING SUPPLY CONTRACTS, SERVICE CONTRACTS AND CONSTRUCTION CONTRACTS OF BODIES REFERRED TO IN SECTION 7 OF THE ACT RESPECTING CONTRACTING BY PUBLIC BODIES

**229.** The Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (chapter C-65.1, r. 1.1) is amended by inserting the following after section 1:

“**1.1.** For the purposes of this Regulation, the electronic tendering system is the one approved by the Government under section 11 of the Act.

“CHAPTER I.1

“PUBLIC CALL FOR TENDERS

“**1.2.** Every public call for tenders for a contract governed by an intergovernmental agreement is made by publishing a notice on the electronic tendering system.

The notice forms part of the tender documents and must specify and contain

- (1) the name of the body;
- (2) a brief description of the goods, services or construction work and the place where the goods are to be delivered or the construction work performed, as the case may be;
- (3) the nature and amount of any required tender security;
- (4) the intergovernmental agreement, within the meaning of section 2 of the Act, that applies;
- (5) the place where the tender documents and information may be obtained;
- (6) the place and the closing date and time for the receipt and opening of tenders; the time for receiving tenders may not be less than the time prescribed in the intergovernmental agreement that applies;
- (7) the deadline for filing complaints under section 21.0.4 of the Act; that deadline is determined, subject to the third paragraph, by adding to the date of the notice of the call for tenders a period corresponding to half the time for receiving tenders but which may not be less than 10 days; and
- (8) the fact that the body is not bound to accept any of the tenders received.

The body must ensure that there is a period of at least 4 working days between the closing date and the deadline referred to in subparagraphs 6 and 7 of the second paragraph. For the purposes of this Regulation, Saturday is considered a holiday, as are 2 January and 26 December.

**“1.3.** A body may amend its tender documents by means of an addendum sent to the suppliers, service providers or contractors concerned, as the case may be. An addendum must contain the information relating to the deadline for filing a complaint under section 21.0.4 of the Act or under section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27), or specify whether the amendments to the tender documents result from a decision of the Autorité des marchés publics.

If the amendment is likely to affect the prices, the addendum must be sent at least 7 days before the tender closing date; if that 7-day period cannot be complied with, the closing date must be deferred by the number of days needed to ensure compliance with the minimum period.

An amendment made before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the time by which the tender submission period is extended.

Subject to the second paragraph, an amendment made 3 days or less before the tender closing date results in a minimum 3-day deferral of that date. However, the deferral must be such as to ensure that the date preceding the new tender closing date is a working day.

In addition, provided that it is specified in the tender documents, the body may reserve the right to not consider a request for details made, as the case may be, by a supplier, service provider or contractor if the request is sent to the body less than 3 working days before the tender closing date and time.

## **“CHAPTER I.2**

### **“PROCESSING OF COMPLAINTS ABOUT A PUBLIC CALL FOR TENDERS**

**“1.4.** A complaint under section 21.0.4 of the Act about a public call for tenders must be filed with the body not later than the complaint filing deadline indicated on the electronic tendering system. Such a complaint may pertain only to the content of the tender documents available not later than 2 days before that deadline.

The complainant must, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

**“1.5.** On receiving a first complaint, the body must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant’s interest.

**“1.6.** The body must send the complainant its decision electronically after the complaint filing deadline but not later than 3 days before the tender closing date it has determined. If necessary, the body must defer the tender closing date.

The body must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within 3 days after receiving the decision.

**“1.7.** If the body has received two or more complaints about the same public call for tenders, it must send both or all of its decisions at the same time.

**“1.8.** The body must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

**“1.9.** The body must defer the tender closing date by the number of days needed to allow a minimum period of 7 days to remain from the date its decision is sent.

**“1.10.** If, 2 days before the tender closing date, the body has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by 4 days.

If the deferred date falls on a holiday, it must again be deferred to the second next working day. If the day preceding the deferred date is not a working day, that date must be deferred to the next working day.

### **“CHAPTER I.3**

#### **“QUALIFICATION OF ENTERPRISES**

**“1.11.** When a body uses a qualification process to qualify enterprises before issuing a call for tenders for a supply, service or construction contract governed by an intergovernmental agreement, the following requirements must be met:

(1) the qualification process must be preceded by a public notice to that effect on the electronic tendering system indicating, with the necessary modifications, the information required under subparagraphs 1, 2 and 4 to 7 of the second paragraph of section 1.2 and the period of validity of the list of qualified enterprises or the method used to inform all interested persons of the time as of which that list will no longer be used;

(2) the list of qualified enterprises must be published on the electronic tendering system and every enterprise must be informed of its acceptance for entry on the list or of the reason for refusal if entry was denied;

(3) a public notice of qualification must be published again at least once a year so as to allow the qualification of other enterprises during the period of validity of the list; and

(4) the public notice of qualification must remain accessible on the electronic tendering system for the entire period of validity of the list.

The third paragraph of section 1.2, the first, third and fourth paragraphs of section 1.3 and Chapter I.2 apply, with the necessary modifications, to the qualification of enterprises.

**“1.12.** Every supply, service or construction contract subsequent to the qualification of enterprises under section 1.11 that involves an expenditure equal to or above the public tender threshold must be awarded through a call for tenders open only to qualified enterprises.”

**230.** The Regulation is amended by inserting the following chapter after Chapter II:

#### **“CHAPTER II.1**

##### **“INFORMATION TO BE PUBLISHED**

**“9.1.** Following a public call for tenders for a contract governed by an intergovernmental agreement, the body publishes on the electronic tendering system, within 15 days of the conclusion of the contract, the description of the contract. That description contains at least

- (1) the name of the supplier, service provider or contractor;
- (2) the nature of the goods, services or construction work covered by the contract;
- (3) the date of conclusion of the contract; and
- (4) the amount of the contract.”



## REGULATION RESPECTING CERTAIN SUPPLY CONTRACTS OF PUBLIC BODIES

**231.** Section 4 of the Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2) is amended

(1) by inserting the following subparagraph after subparagraph 6 of the second paragraph:

“(6.1) the deadline for filing complaints under section 21.0.4 of the Act; that deadline is determined, subject to the third paragraph, by adding to the date of the notice of the call for tenders a period corresponding to half the time for receiving tenders but which may not be less than 10 days;”;

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

“The public body must ensure that there is a period of at least 4 business days between the closing date and the deadline referred to in subparagraphs 6 and 6.1, respectively, of the second paragraph. For the purposes of this Regulation, Saturday is considered a holiday, as are 2 January and 26 December.”

**232.** Section 9 of the Regulation is amended

(1) by adding the following sentence at the end of the first paragraph: “An addendum must contain the information relating to the filing deadline for complaints under section 21.0.4 of the Act or section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) or specify whether the amendments to the tender documents result from a decision of the Autorité des marchés publics.”;

(2) by inserting the following paragraphs after the second paragraph:

“An amendment made before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the time by which the bid submission period is extended.

Subject to the second paragraph, any amendment made 3 days or less before the tender closing date results in a minimum 3-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a business day.”;

(3) by replacing “2 business days” in the third paragraph by “3 business days”.

**233.** The Regulation is amended by inserting the following division after section 9.2:

**“DIVISION II.1**

**“PROCESSING OF COMPLAINTS ABOUT A PUBLIC CALL FOR TENDERS**

**“9.3.** A complaint under section 21.0.4 of the Act about a public call for tenders must be filed with the public body not later than the complaint filing deadline indicated on the electronic tendering system. Such a complaint may pertain only to the content of the tender documents available not later than 2 days before that deadline.

The complainant must, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

**“9.4.** On receiving a first complaint, the public body must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant’s interest.

**“9.5.** The public body must send the complainant its decision electronically after the complaint filing deadline but not later than 3 days before the tender closing date it has determined. If necessary, the public body must defer the tender closing date.

The public body must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within 3 days after receiving the decision.

**“9.6.** If the public body has received two or more complaints about the same public call for tenders, it must send both or all of its decisions at the same time.

**“9.7.** The public body must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

**“9.8.** The public body must defer the tender closing date by the number of days needed to allow a minimum period of 7 days to remain from the date its decision is sent.

**“9.9.** If, 2 days before the tender closing date, the public body has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by 4 days.

If the deferred date falls on a holiday, it must again be deferred to the second next business day. If the day preceding the deferred date is not a business day, that date must be deferred to the next business day.”

**234.** Section 31 of the Regulation is amended

(1) by inserting “specifying the filing deadline for complaints under section 21.0.4 of the Act; that deadline is determined, subject to the second paragraph, by adding to the date of the notice a period corresponding to half the time for receiving applications for certification but which may not, however, be less than 10 days” at the end of paragraph 1;

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

“The public body must ensure that there is a period of at least 4 business days between the certification application filing deadline and the complaint filing deadline.

The first, third and fourth paragraphs of section 9 and Division II.1 of Chapter II apply, with the necessary modifications, to the certification of goods.”

**235.** Section 39 of the Regulation is amended by inserting “the date of publication of the notice of intention and” after “section 13 of the Act,” in paragraph 7.

REGULATION RESPECTING CERTAIN SERVICE CONTRACTS OF PUBLIC BODIES

**236.** Section 4 of the Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4) is amended

(1) by inserting the following subparagraph after subparagraph 6 of the second paragraph:

“(6.1) the deadline for filing complaints under section 21.0.4 of the Act; that deadline is determined, subject to the third paragraph, by adding to the date of the notice of the call for tenders a period corresponding to half the time for receiving tenders but which may not be less than 10 days;”;

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

“The public body must ensure that there is a period of at least 4 business days between the closing date and the deadline referred to in subparagraphs 6 and 6.1, respectively, of the second paragraph. For the purposes of this Regulation, Saturday is considered a holiday, as are 2 January and 26 December.”

**237.** Section 9 of the Regulation is amended

(1) by adding the following sentence at the end of the first paragraph: “An addendum must contain the information relating to the filing deadline for complaints under section 21.0.4 of the Act or section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) or specify whether the amendments made to the tender documents result from a decision of the Autorité des marchés publics.”;

(2) by inserting the following paragraphs after the second paragraph:

“An amendment made before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the time by which the bid submission period is extended.

Subject to the second paragraph, any amendment made 3 days or less before the tender closing date results in a minimum 3-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a business day.”;

(3) by replacing “2 business days” in the third paragraph by “3 business days”.

**238.** The Regulation is amended by inserting the following division after section 9.2:

**“DIVISION II.1****“PROCESSING OF COMPLAINTS ABOUT A PUBLIC CALL FOR TENDERS**

**“9.3.** A complaint under section 21.0.4 of the Act about a public call for tenders must be filed with the public body not later than the complaint filing deadline indicated on the electronic tendering system. Such a complaint may pertain only to the content of the tender documents available not later than 2 days before that deadline.

The complainant must, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

**“9.4.** On receiving a first complaint, the public body must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant’s interest.

**“9.5.** The public body must send the complainant its decision electronically after the complaint filing deadline but not later than 3 days before the tender closing date it has determined. If necessary, the public body must defer the tender closing date.

The public body must also, if applicable, inform the complainant of the complainant's right to file a complaint under section 37 of the Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics (2017, chapter 27) within 3 days after receiving the decision.

**“9.6.** If the public body has received two or more complaints about the same public call for tenders, it must send both or all of its decisions at the same time.

**“9.7.** The public body must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

**“9.8.** The public body must defer the tender closing date by the number of days needed to allow a minimum period of 7 days to remain from the date its decision is sent.

**“9.9.** If, 2 days before the tender closing date, the public body has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by 4 days.

If the deferred date falls on a holiday, it must again be deferred to the second next business day. If the day preceding the deferred date is not a business day, that date must be deferred to the next business day.”

**239.** Section 43 of the Regulation is amended

(1) by replacing “in subparagraphs 1, 2 and 4 to 6” in paragraph 1 by “in subparagraphs 1, 2 and 4 to 6.1”;

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

“The third paragraph of section 4, the first, third and fourth paragraphs of section 9 and Division II.1 of Chapter II apply, with the necessary modifications, to the qualification of service providers.”

**240.** Section 52 of the Regulation is amended by inserting “the date of publication of the notice of intention and” after “section 13 of the Act,” in paragraph 7.

## REGULATION RESPECTING CONSTRUCTION CONTRACTS OF PUBLIC BODIES

**241.** Section 4 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5) is amended

(1) by inserting the following subparagraph after subparagraph 6 of the second paragraph:

“(6.1) the deadline for filing complaints under section 21.0.4 of the Act; that deadline is determined, subject to the third paragraph, by adding to the date of the notice of the call for tenders a period corresponding to half the time for receiving tenders but which may not be less than 10 days;”;

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

“The public body must ensure that there is a period of at least 4 business days between the closing date and the deadline referred to in subparagraphs 6 and 6.1, respectively, of the second paragraph. For the purposes of this Regulation, Saturday is considered a holiday, as are 2 January and 26 December.”

**242.** Section 9 of the Regulation is amended

(1) by adding the following sentence at the end of the first paragraph: “An addendum must contain the information relating to the filing deadline for complaints under section 21.0.4 of the Act or section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) or specify whether the amendments to the tender documents result from a decision of the Autorité des marchés publics.”;

(2) by inserting the following paragraphs after the second paragraph:

“An amendment made before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the time by which the bid submission period is extended.

Subject to the second paragraph, any amendment made 3 days or less before the tender closing date results in a minimum 3-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a business day.”;

(3) by replacing “2 business days” in the third paragraph by “3 business days”.

**243.** The Regulation is amended by inserting the following division after section 12:

**“DIVISION II.1**

**“PROCESSING OF COMPLAINTS ABOUT A PUBLIC CALL FOR TENDERS**

**“12.1.** A complaint under section 21.0.4 of the Act about a public call for tenders must be filed with the public body not later than the complaint filing deadline indicated on the electronic tendering system. Such a complaint may pertain only to the content of the tender documents available not later than 2 days before that deadline.

The complainant must, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

**“12.2.** On receiving a first complaint, the public body must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant’s interest.

**“12.3.** The public body must send the complainant its decision electronically after the complaint filing deadline but not later than 3 days before the tender closing date it has determined. If necessary, the public body must defer the tender closing date.

The public body must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within 3 days after receiving the decision.

**“12.4.** If the public body has received two or more complaints about the same public call for tenders, it must send both or all of its decisions at the same time.

**“12.5.** The public body must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

**“12.6.** The public body must defer the tender closing date by the number of days needed to allow a minimum period of 7 days to remain from the date its decision is sent.

**“12.7.** If, 2 days before the tender closing date, the public body has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by 4 days.

If the deferred date falls on a holiday, it must again be deferred to the second next business day. If the day preceding the deferred date is not a business day, that date must be deferred to the next business day.”

**244.** Section 36 of the Regulation is amended

(1) by replacing “in subparagraphs 1, 2 and 4 to 6” in paragraph 1 by “in subparagraphs 1, 2 and 4 to 6.1”;

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

“The third paragraph of section 4, the first, third and fourth paragraphs of section 9 and Division II.1 of Chapter II apply, with the necessary modifications, to the qualification of contractors.”

**245.** Section 42 of the Regulation is amended by inserting “the date of publication of the notice of intention and” after “section 13 of the Act,” in paragraph 7.

REGULATION RESPECTING CONTRACTING BY PUBLIC BODIES IN  
THE FIELD OF INFORMATION TECHNOLOGIES

**246.** Section 4 of the Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1) is amended

(1) by inserting the following subparagraph after subparagraph 10 of the second paragraph:

“(10.1) the deadline for filing complaints under section 21.0.4 of the Act; that deadline is determined, subject to the third paragraph, by adding to the date of the notice of the call for tenders a period corresponding to half the time for receiving tenders but which may not be less than 10 days;”;

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

“The body must ensure that there is a period of at least 4 business days between the closing date and the deadline referred to in subparagraphs 10 and 10.1, respectively, of the second paragraph. For the purposes of this Regulation, Saturday is considered a holiday, as are 2 January and 26 December.”

**247.** Section 11 of the Regulation is amended

(1) by adding the following sentence at the end of the first paragraph: “An addendum must contain the information relating to the filing deadline for complaints under section 21.0.4 of the Act or section 40 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) or specify whether the amendments to the tender documents result from a decision of the Autorité des marchés publics.”;



(2) by replacing “closing time; if that 7-day period cannot be complied with, the closing date must be extended” in the second paragraph by “closing date; if that 7-day period cannot be complied with, the closing date must be deferred”;

(3) by inserting the following paragraphs after the second paragraph:

“An amendment made before the complaint filing deadline indicated on the electronic tendering system that modifies the tender closing date defers the complaint filing deadline by a period corresponding to half the time by which the bid submission period is extended.

Subject to the second paragraph, any amendment made 3 days or less before the tender closing date results in a minimum 3-day deferral of that date. However, the deferral must be such as to ensure that the day preceding the new tender closing date is a business day.”;

(4) by replacing “2 business days” in the third paragraph by “3 business days”.

**248.** The Regulation is amended by inserting the following division after section 13:

### “DIVISION III

#### “PROCESSING OF COMPLAINTS ABOUT A PUBLIC CALL FOR TENDERS

“**13.1.** A complaint under section 21.0.4 of the Act about a public call for tenders must be filed with the public body not later than the complaint filing deadline indicated on the electronic tendering system. Such a complaint may pertain only to the content of the tender documents available not later than 2 days before that deadline.

The complainant must, without delay, send a copy of the complaint to the Autorité des marchés publics for information purposes.

“**13.2.** On receiving a first complaint, the public body must make an entry to that effect on the electronic tendering system without delay, after having ascertained the complainant’s interest.

“**13.3.** The public body must send the complainant its decision electronically after the complaint filing deadline but not later than 3 days before the tender closing date it has determined. If necessary, the public body must defer the tender closing date.

The public body must also, if applicable, inform the complainant of the complainant’s right to file a complaint under section 37 of the Act to facilitate oversight of public bodies’ contracts and to establish the Autorité des marchés publics (2017, chapter 27) within 3 days after receiving the decision.

**“13.4.** If the public body has received two or more complaints about the same public call for tenders, it must send both or all of its decisions at the same time.

**“13.5.** The public body must, when sending its decision on a complaint filed with it, make an entry to that effect on the electronic tendering system without delay.

**“13.6.** The public body must defer the tender closing date by the number of days needed to allow a minimum period of 7 days to remain from the date its decision is sent.

**“13.7.** If, 2 days before the tender closing date, the public body has not indicated on the electronic tendering system that it has sent its decision on a complaint, the system operator must, without delay, defer the tender closing date by 4 days.

If the deferred date falls on a holiday, it must again be deferred to the second next business day. If the day preceding the deferred date is not a business day, that date must be deferred to the next business day.”

**249.** Section 52 of the Regulation is amended

(1) by inserting “specifying the filing deadline for complaints under section 21.0.4 of the Act; that deadline is determined, subject to the second paragraph, by adding to the date of the notice a period corresponding to half the time for receiving applications for certification but which may not be less than 10 days” at the end of paragraph 1;

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

“The public body must ensure that there is a period of at least 4 business days between the certification application filing deadline and the complaint filing deadline.

The first, third and fourth paragraphs of section 11 and Division III of Chapter II apply, with the necessary modifications, to the certification of goods.”

**250.** Section 54 of the Regulation is amended

(1) by replacing “in subparagraphs 1, 2 and 6 to 10” in paragraph 1 by “in subparagraphs 1, 2 and 6 to 10.1”;

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

“The third paragraph of section 4, the first, third and fourth paragraphs of section 11 and Division III of Chapter II apply, with the necessary modifications, to the qualification of service providers.”

**251.** Section 73 of the Regulation is amended by inserting “the date of publication of the notice of intention and” after “section 13 of the Act,” in paragraph 7.

#### REGULATION RESPECTING THE REGISTER OF ENTERPRISES INELIGIBLE FOR PUBLIC CONTRACTS AND OVERSIGHT AND MONITORING MEASURES

**252.** The title of the Regulation respecting the register of enterprises ineligible for public contracts and oversight and monitoring measures (chapter C-65.1, r. 8.1) is amended by striking out “and oversight and monitoring measures”.

**253.** Chapters I and II, section 5 of Chapter III and Chapters IV and V of the Regulation are repealed.

**254.** The heading of Chapter III of the Regulation is amended by replacing “TO THE CHAIR OF THE CONSEIL DU TRÉSOR” by “TO THE AUTORITÉ DES MARCHÉS PUBLICS”.

**255.** Section 6 of the Regulation is replaced by the following section:

“**6.** Every body mentioned in Schedule II to the Act respecting contracting by public bodies (chapter C-65.1) must designate from among the members of its personnel those who are authorized to send the information required under section 21.7 of that Act to the employees of the Autorité des marchés publics (the Authority) designated by the Authority’s president and chief executive officer.”

**256.** Section 7 of the Regulation is replaced by the following section:

“**7.** The information required under section 21.7 of that Act must be sent electronically on the form provided by the Authority, within 10 working days after the date on which the judgment relating to a finding of guilty for an offence listed in Schedule I to that Act becomes final.”

#### OTHER AMENDMENTS

**257.** The expression “responsable de l’observation des règles contractuelles” is replaced by the expression “responsable de l’application des règles contractuelles”, with the necessary grammatical modifications, wherever it appears in the French text of the following provisions:

(1) the heading of Chapter V.0.1 and section 21.0.1 of the Act respecting contracting by public bodies (chapter C-65.1);

(2) section 12.21.4 of the Act respecting the Ministère des Transports (chapter M-28);

(3) sections 15.4 and 15.6 to 15.8 of the Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2);

(4) sections 29.3 and 29.5 to 29.7 of the Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4);

(5) sections 18.4 and 18.6 to 18.8 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5); and

(6) sections 35 and 37 to 39 of the Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1).

## CHAPTER XI

### TRANSITIONAL AND FINAL PROVISIONS

#### DIVISION I

#### AUTORITÉ DES MARCHÉS PUBLICS

##### §1. — *Rights and obligations*

**258.** The responsibilities of the Chair of the Conseil du trésor with respect to the application of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) concerning ineligibility for public contracts and the rights and obligations of the Autorité des marchés financiers with respect to the application of Chapter V.2 of that Act concerning prior authorization for a public contract or subcontract become the responsibilities, rights and obligations of the Autorité des marchés publics.

The Autorité des marchés publics becomes, without continuance of suit, party to all proceedings to which were party the Attorney General of Québec with respect to the application of that Chapter V.1 or the Autorité des marchés financiers with respect to that Chapter V.2.

**259.** The Regulation of the Autorité des marchés financiers under an Act respecting contracting by public bodies (chapter C-65.1, r. 0.1) in force on (*insert the date of coming into force of section 258*) is deemed made by the Autorité des marchés publics under section 21.23 of the Act respecting contracting by public bodies and approved by the Conseil du trésor under section 21.43 of that Act.

The Regulation respecting the register of enterprises ineligible for public contracts and oversight and monitoring measures (chapter C-65.1, r. 8.1) in force on (*insert the date of coming into force of section 258*) is deemed made by the Autorité des marchés publics under section 21.8 of the Act respecting contracting by public bodies.

Those regulations continue to apply until they are repealed, replaced or amended in accordance with the law.

**260.** The Fee related to an application for authorization filed by an enterprise with the Autorité des marchés financiers for public contracts and subcontracts (chapter C-65.1, r. 7.2) in force on (*insert the date of coming into force of section 258*) is deemed made by the Autorité des marchés publics and approved by the Government under section 84.

**261.** The processing of applications for rectification submitted to the Chair of the Conseil du trésor under section 21.15 of the Act respecting contracting by public bodies and that of applications for authorization filed with the Autorité des marchés financiers with respect to the application of Chapter V.2 of that Act that are pending on (*insert the date preceding the date of coming into force of section 258*) are continued by the Autorité des marchés publics as of (*insert the date of coming into force of section 258*).

§2. — *Human resources*

**262.** Subject to the conditions of employment applicable to them and compliance with the minimum hiring requirements prescribed by section 6, the employees of the public contracts and money-services businesses directorate of the Autorité des marchés financiers who, on (*insert the date preceding the date of coming into force of section 258*), are assigned more specifically to matters related to the application of Chapter V.2 of the Act respecting contracting by public bodies and five advocates designated by the Autorité des marchés financiers who, at that date, exercise certain functions related to the application of that chapter become, without further formality, employees of the Autorité des marchés publics as of (*insert the date of coming into force of section 258*). They retain the same conditions of employment.

The designation provided for in the first paragraph is made so as to ensure the continuity of activities and the transition required with respect to the application of Chapter V.2 of the Act respecting contracting by public bodies.

**263.** Subject to the conditions of employment applicable to them and to compliance with the minimum hiring requirements prescribed by section 6, the following employees become, without further formality, employees of the Autorité des marchés publics as of (*insert the date of coming into force of section 258*):

(1) six employees of the Anti-Corruption Commissioner designated by the Commissioner who, on (*insert the date preceding the date of coming into force of section 258*), may act as investigators under section 14 of the Anti-Corruption Act (chapter L-6.1);

(2) all the employees of the Ministère des Transports who, on (*insert the date preceding the date of coming into force of section 258*), hold positions as internal auditors assigned to territorial directorates or as investigators more specifically assigned to contract management-related matters within the Direction des enquêtes et de l'audit interne;

(3) all the employees of the Ministère des Affaires municipales et de l'Occupation du territoire who, on (*insert the date preceding the date of coming into force of section 258*), hold positions within the Service de la vérification – équipe Montréal; and

(4) three employees of the secretariat of the Conseil du trésor designated by the Secretary of the Conseil du trésor who, on (*insert the date preceding the date of coming into force of section 258*), are more specifically assigned to matters relating to the application of Chapters V.1 and V.2 of the Act respecting contracting by public bodies.

The employees transferred to the Autorité des marchés publics under the first paragraph retain the same conditions of employment.

**264.** An employee transferred to the Autorité des marchés publics under section 263 may apply for a transfer to a position in the public service or enter a promotion-only qualification process in accordance with the Public Service Act (chapter F-3.1.1) if, on the date of transfer to the Authority, he or she was a public servant with permanent tenure.

Section 35 of the Public Service Act applies to an employee who participates in such a promotion-only qualification process.

**265.** If an employee referred to in section 264 applies for a transfer or enters a promotion-only qualification process, the employee may apply to the Chair of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on the date of transfer as well as the years of experience and the level of schooling attained while employed by the Authority.

If an employee is transferred under section 264, the deputy minister or chief executive officer whom the employee comes under must assign to the employee a classification compatible with the assessment provided for in the first paragraph.

If an employee is promoted under section 264, the employee must be given a classification on the basis of the criteria set out in the first paragraph.

**266.** If some or all of the operations of the Autorité des marchés publics are discontinued or if there is a shortage of work, an employee referred to in section 263 is entitled to be placed on reserve in the public service with the classification the employee had prior to the date on which the employee was transferred.

In such a case, the Chair of the Conseil du trésor determines, if applicable, the employee's classification on the basis of the criteria set out in the first paragraph of section 265.

**267.** A person referred to in section 263 who, in accordance with the applicable conditions of employment, refuses to be transferred to the Autorité des marchés publics remains assigned to the Authority until the Chair of the Conseil du trésor is able to place the person in accordance with section 100 of the Public Service Act.

§3. — *Registers, documents and miscellaneous measures*

**268.** The files, records, guides, forms and other documents of the Chair of the Conseil du trésor resulting from the application of Chapter V.1 of the Act respecting contracting by public bodies and those of the Autorité des marchés financiers resulting from the application of Chapter V.2 of that Act become files, records, guides, forms and other documents of the Autorité des marchés publics.

**269.** The information assets related to the application of Chapter V.1 of the Act respecting contracting by public bodies, with all the related rights and obligations, are transferred to the Autorité des marchés publics.

The data held by the Autorité des marchés financiers for the purposes of Chapter V.2 of that Act in its information assets are transferred to the Autorité des marchés publics.

**270.** The expression “Autorité des marchés financiers” is replaced by the expression “Autorité des marchés publics” wherever it appears in the following Acts, regulations and orders:

(1) The Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4);

(2) The Fee related to an application for authorization filed by an enterprise with the Autorité des marchés financiers for public contracts and subcontracts (chapter C-65.1, r. 7.2); and

(3) any order made for the purposes of Chapter V.2 of the Act respecting contracting by public bodies and orders made under section 86 of the Integrity in Public Contracts Act (2012, chapter 25).

## **DIVISION II**

### **OTHER PROVISIONS**

**271.** For the first application of the fifth paragraph of section 4, the Government is deemed to have determined that the members of the selection committee who are not employees of a government department are entitled to

(1) fees in the amount of \$200 per half-day of attendance at meetings; and

(2) the reimbursement of the expenses incurred in the exercise of their functions in accordance with the Directive concernant les frais de déplacement des personnes engagées à honoraires par des organismes publics issued by the Conseil du trésor on 26 March 2013 (French only) and its subsequent amendments.

**272.** For the first application of subparagraph 4 of the first paragraph of section 21, the Government is deemed to have designated the Ministère des Transports.

**273.** The Secretary of the Conseil du trésor must prepare and implement the establishment plan of the Autorité des marchés publics, which must in particular take into account the human, financial, material and information resources transferred to the Autorité des marchés publics under this Act.

**274.** The Secretary of the Conseil du trésor may, on behalf of the Autorité des marchés publics (in this section referred to as “the Authority”) and until the date preceding that on which the president and chief executive officer of the Authority is to take office, enter into any contract the Secretary considers necessary to establish that body and foster the soundness of its activities and operations. For those purposes, the Secretary may make any necessary financial commitment for the amount and the term the Secretary considers appropriate.

However, as regards human resources, the Secretary of the Conseil du trésor may only recruit the members of the Authority’s administrative staff and designate the positions of, and assign the functions to be exercised by, those employees.

Despite section 14, the Authority’s first by-law regarding the adoption of a staffing plan and the procedure for appointing and criteria for selecting the members of the administrative staff is made by the Secretary of the Conseil du trésor.

**275.** Until the coming into force of section 9 of the Act to group the Office Québec/Wallonie-Bruxelles pour la jeunesse, the Office Québec-Amériques pour la jeunesse and the Office Québec-Monde pour la jeunesse (2017, chapter 22), subparagraph 4 of the first paragraph of section 4 of the Act respecting contracting by public bodies must be read as follows:

“(4) bodies other than budget-funded bodies listed in Schedule 2 to the Financial Administration Act, even when exercising fiduciary functions, and the Commission de la construction du Québec, the Cree-Québec Forestry Board, the Office franco-québécois pour la jeunesse and the Office Québec/Wallonie-Bruxelles pour la jeunesse;”.



**276.** Until (*insert the date that is six months after the date the first president and chief executive officer of the Autorité des marchés publics takes office*), the reference to “the Autorité des marchés publics” in the first paragraph of section 21.2.0.0.1 of the Act respecting contracting by public bodies, enacted by section 100, and the reference to “the Authority” in section 27.5 of that Act, as amended by section 141, are to be read as references to the Autorité des marchés financiers.

**277.** Until (*insert the date that is six months after the date the first president and chief executive officer of the Autorité des marchés publics takes office*), the first paragraph of section 21.44 of the Act respecting contracting by public bodies, enacted by section 128, is to be read as follows:

“**21.44.** A decision of the Government under the first paragraph of section 21.17 or under section 21.42 comes into force on the 30th day after its publication in the *Gazette officielle du Québec* or on any later date specified in the decision.”

**278.** Until (*insert the date that is 10 months after the date the first president and chief executive officer of the Autorité des marchés publics takes office*), subparagraph 1 of the first paragraph of section 1.11 of the Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (chapter C-65.1, r. 1.1), enacted by section 229, is to be read as follows:

“(1) the qualification process must be preceded by a public notice to that effect on the electronic tendering system indicating, with the necessary modifications, such information as that required under subparagraphs 1, 2 and 4 to 6 of the second paragraph of section 1.2 and the period of validity of the list of qualified enterprises or the method used to inform all interested persons of the time as of which that list will no longer be used;”.

**279.** The Government may, by regulation made before (*insert the date that is 24 months after the date the first president and chief executive officer of the Autorité des marchés publics takes office*), enact any other transitional or consequential measure required for the carrying out of this Act.

The Government may also, within that same time, modify, by regulation, the deadlines and time periods applicable to complaints filed with public bodies and those filed with the Autorité des marchés publics if it appears that those provided for in Chapter IV or in any of sections 164, 170, 176, 182, 213, 215, 221, 223, 229, 231, 232, 233, 234, 236, 237, 238, 241, 242, 243, 246, 247, 248 and 249 are inadequate.

Despite the time provided for in section 11 of the Regulations Act (chapter R-18.1), a regulation referred to in this section may not be made before the expiry of 30 days after the publication of the draft regulation.

A regulation made under the first paragraph may, if it so provides, have effect from a date not prior to 1 December 2017.

**280.** The publication requirement set out in section 8 of the Regulations Act does not apply to the terms and conditions determined by the Chair of the Conseil du trésor for the first pilot project authorized under section 24.3 of the Act respecting contracting by public bodies (chapter C-65.1).

### DIVISION III

#### FINAL PROVISIONS

**281.** This Act may be cited as the “Act respecting the Autorité des marchés publics”.

**282.** The minister who is Chair of the Conseil du trésor is responsible for the administration of this Act.

**283.** The Chair of the Conseil du trésor must, not later than four years after this Act is assented to, and subsequently every three years, report to the Government on the implementation of this Act and on the advisability of maintaining or amending it.

The report is tabled in the National Assembly by the Chair of the Conseil du trésor within 30 days or, if the Assembly is not sitting, within 30 days of resumption.

The report must be referred to the competent parliamentary committee for consideration within 15 days after its tabling in the National Assembly.

**284.** Sections 24, 78 and 79 of the Integrity in Public Contracts Act (2012, chapter 25) come into force on *(insert the date of coming into force of section 258)*.

**285.** Sections 167, 173, 179, 185 and 218 have effect from 10 June 2016.

**286.** This Act comes into force on 1 December 2017, except

(1) subparagraph 5 of the first paragraph of section 19, sections 71 and 75 to 77, which come into force on *(insert the date the first president and chief executive officer of the Autorité des marchés publics appointed under section 4 takes office)*;

(2) subparagraphs 1 to 3 of the first paragraph of section 19, subparagraphs 1 and 2 of the first paragraph of section 21 to the extent that it concerns an intervention under section 53, subparagraph 4 of the first paragraph of section 21, subparagraph 6 of the first paragraph of that section to the extent that it concerns the exercise of the functions conferred on the Autorité des marchés publics under Chapters V.1 and V.2 of the Act respecting contracting by public bodies (chapter C-65.1), the third paragraph of that section, sections 22 to 28, subparagraphs 1 and 3 to 6 of the first paragraph of section 29, the second, third and fourth paragraphs of that section, section 30, subparagraphs 1 to 6 of the first paragraph of section 31, the second, third and fourth paragraphs of that section, section 35, sections 48 to 50, sections 53 to 55, 67, 70, 72 to 74, 84 and 90, paragraph 1 of section 91, sections 92, 101 and 107, section 108 to the extent that it concerns the portion after subparagraph 4 of the first paragraph of section 21.7 of the Act respecting contracting by public bodies that it replaces, sections 109 to 111, 113, 115 and 116, paragraph 2 of section 117, sections 121 and 127, section 134 to the extent that it concerns the enactment of section 25.0.1 of the Act respecting contracting by public bodies, sections 147, 151, 153 to 161, 195 to 197, 200, 226 and 228, section 253 to the extent that it concerns the repeal of section 5 of Chapter III of the Regulation respecting the register of enterprises ineligible for public contracts and oversight and monitoring measures (chapter C-65.1, r. 8.1) and sections 254 to 256, 258 to 270, 272, 275 and 284, which come into force on (*insert the date that is six months after the date the first president and chief executive officer of the Autorité des marchés publics appointed under section 4 takes office*);

(3) the second paragraph of section 19, subparagraph 1 of the first paragraph of section 21 to the extent that it concerns the examination of a contracting process following a complaint or a communication of information, subparagraph 2 of the first paragraph of that section to the extent that it concerns the examination of the performance of a contract following a communication of information, subparagraphs 3, 5 and 7 of the first paragraph of that section and the second paragraph of that section, subparagraph 2 of the first paragraph of section 29, subparagraph 7 of the first paragraph of section 31, sections 34, 37 to 47, 51, 52, 56 to 66, 68 and 69, paragraph 2 of section 91 to the extent that it concerns Chapter V.0.1.1 of the Act respecting contracting by public bodies, section 94 to the extent that it concerns the enactment of the first paragraph of section 13.1 and section 13.2 of the Act respecting contracting by public bodies, section 96, paragraph 2 of section 130 to the extent that it concerns the enactment of paragraph 13.1 of section 23 of the Act respecting contracting by public bodies, sections 138 to 140, 163, 164, 169, 170, 175, 176, 181, 182, 187 to 194, 198, 201 to 203, 209 to 211, 213 to 215 and 220 to 223, section 229 to the extent that it concerns the enactment of subparagraph 7 of the second paragraph of section 1.2 of the Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (chapter C-65.1, r. 1.1) and the enactment of the third paragraph of that section 1.2 as well as the enactment of sections 1.3 to 1.10 and of the second paragraph of section 1.11 of that Regulation, sections 231 to 251 and the second paragraph of section 279, which come into

force on *(insert the date that is 10 months after the date the first president and chief executive officer of the Autorité des marchés publics appointed under section 4 takes office)*;

(4) subparagraph 4 of the first paragraph of section 19, subparagraph 6 of the first paragraph of section 21 to the extent that it concerns the exercise of functions conferred on the Autorité des marchés publics under Chapter V.3 of the Act respecting contracting by public bodies, section 129 and paragraph 2 of section 130 to the extent that it concerns the enactment of paragraph 13.2 of section 23 of the Act respecting contracting by public bodies, which come into force on the date or dates to be set by the Government.

**SCHEDULE 1***(Section 4)*

The selection committee formed under section 4 to evaluate candidates for the office of president and chief executive officer of the Authority must consider the following criteria:

(1) with respect to the required experience:

(a) experience as a manager and the relevance of that experience to the functions of the president and chief executive officer of the Authority; and

(b) experience in contract management, complaint processing and administrative investigation and audit;

(2) with respect to the required qualifications:

(a) sense of public service, ethics and fairness;

(b) ability to develop a strategic vision;

(c) political sense;

(d) judgment and decisiveness;

(e) ability to adapt to a complex and changing environment; and

(f) ability to communicate and mobilize working teams; and

(3) with respect to the required knowledge:

(a) knowledge of the normative framework governing public bodies' contract management; and

(b) knowledge of the public administration and its workings.



## Regulations and other Acts

### Agreement

Election Act  
(chapter E-3.3)

CONCERNING THE TESTING OF NEW POLLING  
FORMALITIES

BETWEEN

MR. PHILIPPE COUILLARD, LEADER OF THE  
QUEBEC LIBERAL PARTY, AN AUTHORIZED  
PARTY REPRESENTED IN THE NATIONAL  
ASSEMBLY.

AND

MR. JEAN-FRANÇOIS LISEE, LEADER OF THE  
PARTI QUÉBÉCOIS, AN AUTHORIZED PARTY  
REPRESENTED IN THE NATIONAL ASSEMBLY.

AND

MR. FRANÇOIS LEGAULT, LEADER OF  
COALITION AVENIR QUÉBEC-L'ÉQUIPE  
FRANÇOIS LEGAULT, AN AUTHORIZED PARTY  
REPRESENTED IN THE NATIONAL ASSEMBLY.

AND

MR. GAÉTAN CHÂTEAUNEUF, LEADER OF  
QUÉBEC SOLIDAIRE, AN AUTHORIZED PARTY  
REPRESENTED IN THE NATIONAL ASSEMBLY.

AND

MR. PIERRE REID, IN HIS CAPACITY AS THE  
CHIEF ELECTORAL OFFICER OF QUEBEC.

WHEREAS the parties signed an agreement in February 2014, under section 489 of the Election Act (CQLR, chapter E-3.3), to allow the testing of an online registration service for electors wishing to register to vote outside Québec;

WHEREAS according to the terms of said agreement, the agreement was to be applicable for the general election of April 7, 2014 and for by-elections held prior to the next general election;

WHEREAS said agreement is not applicable to the general election in 2018;

WHEREAS the results of using the online registration service were found to be satisfactory;

WHEREAS the Chief Electoral Officer wishes to avail himself of section 489 of the Election Act in order to recommend to the leaders of the authorized parties represented in the National Assembly the renewal of the agreement concerning the online registration service for electors who are eligible to vote outside Québec and allowing this service to be provided and made available between election periods;

WHEREAS the recommendation of the Chief Electoral Officer has been accepted by the four leaders of authorized parties represented at the National Assembly;

WHEREAS section 489 of the Election Act states that when the recommendation of the Chief Electoral Officer is accepted by the party leaders, an agreement must be signed in this respect by these party leaders and the Chief Electoral Officer;

WHEREAS this agreement has force of law.

Therefore, the parties agree as follows:

#### 1. PREAMBLE

The preamble to this agreement forms an integral part thereof.

#### 2. PURPOSE OF THE AGREEMENT

The purpose of this agreement is to test a new method of exercising the right to vote by allowing electors wishing to exercise their right to vote outside Québec to be able to register online at all times.

#### 3. AMENDMENTS TO THE ELECTION ACT

3.1 Section 283 of the Election Act (CQLR, chapter E-3.3) is amended by adding the following paragraph at the end:

“The request provided for in this section may be filed using the electronic form prescribed by the Chief Electoral Officer. In such a case, one of the documents stipulated in the second paragraph must bear the elector’s signature. The elector’s statement attesting that he or she is in fact the elector to whom the request for registration to vote outside Québec applies shall replace the signature provided for in the first paragraph.”

3.2 Section 292 of the Act is amended by replacing the first paragraph by the following paragraph:

“As soon as it is received, the Chief Electoral Officer verifies the signature on the envelope. If it matches the signature that appears on the request provided for in the first paragraph of section 283 or, in the case of a request contemplated in the fourth paragraph of this section, on the document accompanying the elector’s request, the envelope is kept without being opened.”

3.3 Section 490 of the Act is amended by adding the following paragraph at the end:

“This section applies to an agreement entered into by the leaders of the authorized parties represented in the National Assembly and the Chief Electoral Officer, pursuant to section 489.”

#### 4. APPLICATION OF THE AGREEMENT

The Chief Electoral Officer is responsible for the application of the agreement.

#### 5. EVALUATION REPORT

Within 90 days following the date of any general election, the Chief Electoral Officer shall convey to the leaders of the political parties represented at the National Assembly, a report covering the following points:

— election preparations related to the present agreement;

— the advantages and disadvantages encountered in applying the present agreement;

— recommended amendments to the provisions of the Election Act, if any.

#### 6. EFFECT OF THE AGREEMENT

This agreement shall come into force on the date of its signing by the last signatory and replaces the agreement reached by the parties in February 2014, which is therefore cancelled.

#### 7. CANCELLATION OF THE AGREEMENT

The Chief Electoral Officer may cancel this agreement at any time upon 30 days advance notice to the parties.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED, IN FIVE COPIES,

In Québec, on 13 February 2018

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PHILIPPE COUILLARD,  
*Leader of the Quebec Liberal Party*

In Québec, on 14 February 2018

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JEAN-FRANÇOIS LISÉE,  
*Leader Of the Parti québécois*

In Québec, on 15 February 2018

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FRANÇOIS LEGAULT,  
*Leader of Coalition Avenir Québec  
-Équipe François Legault*

In Montréal, on 26 February 2018

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GAÉTAN CHÂTEAUNEUF,  
*Leader of Québec Solidaire*

In Québec, on 28 February 2018

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PIERRE REID,  
*Chief Electoral Officer of Québec*

103376

### **M.O., 2018**

#### **Order of the Minister of Forests, Wildlife and Parks dated 21 February 2018**

An Act respecting the conservation and development of wildlife  
(chapter C-61.1)

CONCERNING the Regulation to amend the Regulation respecting fishing licences

THE MINISTER OF FORESTS, WILDLIFE AND PARKS

CONSIDERING subparagraph 1 of the first paragraph of section 163 of the Act respecting the conservation and development of wildlife (chapter C-61.1), which provides that the Minister may make regulations determining classes of licences, certificates, authorizations and leases, as well as their content and duration and the conditions for their issue, replacement, renewal or transfer;



CONSIDERING subparagraph 3 of the first paragraph of section 163 of the Act, which provides that the Minister may make regulations establishing the requirements that a holder of a licence, certificate, authorization or lease must satisfy;

CONSIDERING the first paragraph of section 164 of the Act, which provides in particular that a regulation made under subparagraphs 1 to 3 of the first paragraph of section 163 of the Act is not subject to the publication requirements set out in section 8 of the Regulations Act (chapter R-18.1);

CONSIDERING the making of the Regulation respecting fishing licences (chapter C-61.1, r. 20.2);

CONSIDERING that it is expedient to amend certain provisions of the Regulation;

ORDERS AS FOLLOWS:

The Regulation to amend the Regulation respecting fishing licences, attached hereto, is hereby made.

Québec, on 21 February 2018

LUC BLANCHETTE,  
*The Minister of Forests,  
Wildlife and Parks*

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## Regulation to amend the Regulation respecting fishing licences

An Act respecting the conservation and development of wildlife  
(chapter C-61.1, s. 163, 1st par., subpars. 1 and 3)

**1.** The Regulation respecting fishing licences (chapter C-61.1, r. 20.2) is amended in section 1 by replacing “1 day” wherever that expression appears in paragraph 2 by “3 consecutive days”.

**2.** Section 2 is amended by replacing the second and third paragraphs by the following:

“The term of the licences provided for in subparagraphs *c* and *g* of paragraph 1 and in subparagraphs *b* and *e* of paragraph 2 of section 1 is 3 consecutive days.

The term of the licence provided for in subparagraph *h* of paragraph 1 of section 1 is 1 day.”.

**3.** The following is inserted after section 4:

“4.1. A lost, stolen or unusable fishing licence may be replaced upon the holder’s request and on payment of the fees provided for in the Regulation respecting the scale of fees and duties related to the development of wildlife (chapter C-61.1, r. 32).”.

**4.** Section 5 is amended by striking out “, and in parts of Area 22, the plans of which appear in Schedules CXCVI and CXCVII” in the first paragraph.

**5.** Section 7 is amended by adding “or to fish for Atlantic salmon in Area 23 or 24” at the end of the second paragraph.

**6.** This Regulation comes into force on 1 April 2018.

103379



## Draft Regulations

### Draft Regulation

Professional Code  
(chapter C-26)

#### **Board of directors of a professional order — Standards of ethics and professional conduct of directors on the board of directors of a professional order**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the standards of ethics and professional conduct of directors on the board of directors of a professional order, made by the Office des professions du Québec on 23 February 2018, may be submitted to the Government which may approve it with or without amendment on the expiry of 45 days following this publication.

The draft Regulation determines the standards of ethics and professional conduct applicable to directors on the board of directors of a professional order, whether they are elected by the members of the order or appointed by the Office des professions du Québec, in accordance with the Professional Code (chapter C-26).

The draft Regulation has no impact on the public and enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Ariane Imreh, Direction des affaires juridiques, Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3; telephone: 418 643-6912, extension 369 or 1 800 643-6912; email: ariane.imreh@opq.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Chair of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister of Justice and may also be sent to the interested persons, departments and bodies.

DIANE LEGAULT,  
*Chair of the Office des  
professions du Québec*

### **Regulation respecting the standards of ethics and professional conduct of directors on the board of directors of a professional order**

Professional Code  
(chapter C-26, ss. 12.0.1 and 12, 4th par., subpar. 6,  
subpar. b)

#### **CHAPTER I PURPOSE AND SCOPE**

**1.** The purpose of this Regulation is to preserve and enhance the confidence of the public and the members of professional orders in the management of the orders, to promote transparency within the orders, to make the members of their board of directors aware of their responsibilities regarding ethics and professional conduct and to raise the awareness of the senior management of the order about those issues.

**2.** The standards of ethics and professional conduct determined in this Regulation are applicable to the directors on the board of directors of an order, whether they are elected by members or appointed by the Office des professions du Québec in accordance with the Professional Code (chapter C-26).

The standards apply in particular where the director performs his or her duties within the board of directors or with any committee created by the board of directors.

#### **CHAPTER II ETHICS AND INTEGRITY**

**3.** A director must, in the performance of his or her duties and in determining the standards of ethics applicable to the director, take into consideration the following values and principles embraced by the director:

(1) the primacy of the order's mission to ensure public protection and the director's commitment to contribute to the carrying out of that mission;

(2) rigour, effectiveness, fairness and transparency in the management of the order;

(3) the commitment to maintain the confidence of the public, members of the order and various participants of the professional system towards mechanisms of public protection;

(4) respect towards the public, members of the order, other directors and employees of the order;

(5) gender equality, recognition and inclusion of ethno-cultural diversity and intergenerational equity, including the contribution of members 35 years of age or under.

### CHAPTER III DUTIES AND OBLIGATIONS

#### DIVISION I GENERAL

**4.** A director acts with honesty, integrity, rigour, objectivity and moderation. A director must act with probity.

A director performs his or her duties with competence. To that end, a director develops and maintains his or her knowledge on the role of a professional order's board of directors in particular as regards such matters as governance and ethics, gender equality as well as ethnocultural diversity management.

A director performs his or her duties in good faith, with prudence and diligence and shows loyalty towards the order.

A director acts in the interest of the order, in particular so that the latter may guide his or her actions and direct his or her activities towards protecting the public. The director may not, in any case, favour his or her personal interest, the special interest of members of an electoral region or in a sector of professional activities that elected the director.

**5.** In the performance of his or her duties, a director is bound to comply with the ethical principles and the rules of professional conduct prescribed by this Regulation and by the code of ethics and professional conduct established by the board of directors under Chapter IV. In case of discrepancy, the more stringent principles and rules apply.

**6.** A director must know and understand the standards of ethics and professional conduct that apply to him or her, undertake to comply with them and to promote compliance with them. An administrator must, at the beginning of his or her term of office and once a year thereafter, sign a declaration to that effect.

The president of the order ensures that the secretary of the order collects and records the declaration of the director.

#### DIVISION II SITTINGS

**7.** A director is required to be present, unless he or she has a valid excuse, at the sittings of the board of directors or of a committee, to be prepared for it and to take an active part in it. The director contributes to the progress of the work of the order by providing a constructive contribution to the deliberations.

**8.** A director must address any issue with an open mind.

**9.** A director must debate any issue in an objective and independent manner as well as in a clear and informed manner.

**10.** A director must act with courtesy and respect so as to encourage mutual trust and cohesive action within the board of directors or a committee of which the director is a member.

**11.** A director is in solidarity with the decisions made by the board of directors.

**12.** A director is required to vote, except if there is an impediment determined by the board of directors or a ground considered sufficient by the president of the order or, where the president is concerned, by the director designated to perform the duties of the president in the case of an impediment or absence of the latter.

#### DIVISION III CONFLICT OF INTEREST

**13.** A director must refrain from placing himself or herself in a situation entailing a conflict between the interest of the order or the public and his or her personal interest or that of a person related to the director, such as the director's spouse, a blood relative, a person living under the same roof or a partner or a legal person that the director manages or controls.

A director preserves at all times his or her ability to perform duties impartially, objectively and independently.

**14.** Except for the goods and services offered by the order to its members, no director may enter into a contract with the order, except with an authorization of the board of directors warranted, in particular, by a special competence necessary to the order.

**15.** A director who has a direct or indirect interest in property, a body, an enterprise, association or a legal entity likely to place the director in a situation of conflict of interest must declare, without delay and in writing, that interest to the president of the order or, where the president is concerned, to the director designated to perform the duties of the president in the case of an impediment or absence of the latter. Such a declaration may be made at the sitting and is then recorded in the minutes of the sitting of the board of directors.

The director must refrain from taking part in any deliberation or any decision that comes into conflict with his or her personal interest.

A director must file a declaration of interest at the beginning of his or her term of office and on an annual basis thereafter, and when a change in his or her situation requires it.

The president of the order ensures that the secretary of the order collects and records the declaration of the director.

**16.** A director may not give any undertaking to third parties nor grant them any guarantee with regard to a vote that the director may be called upon to make or a decision that the board of directors may be called upon to make.

**17.** A director may not treat the property of the order as if it were his or her own and may not use it for his or her own benefit or for the benefit of a third party, unless an authorization from the board of directors is obtained.

**18.** A director may not, directly or indirectly, grant, solicit or accept a favour, gift, hospitality or other advantage offered or given because of the director's duties, except what is customary and of modest value.

#### DIVISION IV CONFIDENTIALITY AND DISCRETION

**19.** A director is bound to discretion in regard to anything that comes to his or her knowledge in the performance of duties and is at all times bound to maintain the confidentiality of discussions and documents at the director's disposal or that have come to his or her knowledge.

A director must take reasonable security measures to preserve the confidentiality of information obtained in the performance of his or her duties.

**20.** A director must, except to the extent determined by the board of directors, refrain from commenting the decisions made by the board of directors, in particular on a website, blog or social network.

**21.** A director may not use for his or her own benefit or for the benefit of a third party information obtained in the performance of his or her duties.

#### DIVISION V RELATIONS WITH EMPLOYEES OF THE ORDER

**22.** A director must act with courtesy and respect in his or her relations with employees of the order.

A director may not contact an employee of the order to give him or her instructions, interfere in the employee's work or obtain confidential information, unless the director is acting within the mandate of a committee of which he or she is the president and is expressly authorized by the board of directors to do so.

The first paragraph does not prevent the president of the order from requiring information to the extent provided for in the fourth paragraph of section 80 of the Professional Code (chapter C-26).

#### DIVISION VI POST-TERM RULES

**23.** Upon completion of his or her term, a former director may not disclose confidential information obtained in the performance of his or her duties as director or use for his or her own benefit or for the benefit of a third party information not available to the public obtained in the same conditions.

**24.** A former director must refrain from commenting the decisions made by the board of directors during his or her term of office, in particular on a website, blog or social network, unless the director is expressly authorized by the board of directors to do so, and must demonstrate reserve regarding his or her comments.

**25.** A former director must conduct himself or herself in such a manner as not to derive undue advantages from his or her duties within the order.

**26.** A former director may not enter into a contract with the order in the 12 months following the end of his or her term of office, except under the conditions provided for in section 14.

#### DIVISION VII REMUNERATION

**27.** A director is entitled, for the performance of his or her duties, solely to the remuneration determined in accordance with the Professional Code (chapter C-26).

**28.** An appointed director may receive additional remuneration from the order, which reports it in its annual report.

The additional remuneration may not exceed the difference between the allowance paid by the Office and the allowance received by a director elected by the members of the order.

#### CHAPTER IV CODE OF ETHICS AND PROFESSIONAL CONDUCT

**29.** The board of directors must establish, in compliance with the standards made by this Regulation, a code of ethics and professional conduct applicable to its directors.

**30.** The code establishes the ethical and professional conduct standards which reflects the order's mission, the values underlying its operations and its general principles of sound management and specificities of the profession.

The standards of ethics pertain to the duties and obligations of directors of the order. The standards explain and illustrate those duties and obligations in a concrete manner. They must in particular cover

- (1) preventive measures, specifically, rules concerning the declaration of interests made by directors; and
- (2) real and potential situations of conflict of interest.

#### CHAPTER V CONTROL

**31.** The president of the order sees that the directors comply with the standards of ethics and professional conduct applicable to them.

**32.** A committee of inquiry in ethics and professional conduct is formed within the order for the purpose of examining and inquiring into any information received relatively to a violation of the standards of ethics and professional conduct by a director.

The committee is composed of 3 members appointed by the board of directors:

- (1) a person whose name appears on a list from which the directors are appointed by the Office, in accordance with the Professional Code (chapter C-26), and who is not a director of the order;
- (2) a former director of the order or another person referred to in subparagraph 1; and

(3) a member of the order having notable experience and expertise in, sensitivity to and interest for matters of ethics and professional conduct and who is not a director of the order or an employee of the order or a person related to them.

The committee may designate experts to assist the committee.

The duration of the term of office of the members of the committee is determined by the board of directors. On the expiry of their term of office, they remain in office until they are replaced or reappointed.

The remuneration and reimbursement of the expenses of members of the committee are determined by the board of directors of the order, except for the members appointed from the list referred to in subparagraph 1 of the first paragraph. Those members are entitled, at the Office's expense, to an attendance allowance and to the reimbursement of their expenses to the same extent and under the same conditions as those determined by the Government pursuant to the fifth paragraph of section 78 of the Professional Code (chapter C-26).

The committee adopts an internal by-law that the order makes available to the public, in particular on its website, and publishes it in its annual report.

**33.** The director must disclose without delay to the committee any violation of the standards of ethics and professional conduct applicable to the directors that has come to his or her knowledge or of which the director suspects the existence.

**34.** The committee receives the disclosure from any person who becomes aware that a director has violated the standards of ethics and professional conduct applicable to the director.

**35.** The committee may, upon summary examination, dismiss any disclosure if, in the committee's opinion, it is abusive, frivolous or clearly unfounded.

The committee so informs the informant and the member of the board of directors covered by the disclosure.

**36.** The committee conducts the inquiry in such manner as to preserve its confidentiality, diligently and in keeping with the duty to act fairly. It must allow the director to submit observations after the director has been informed of the violations of which the director is accused.

Each member of the committee takes the oath contained in Schedule II to the Professional Code (chapter C-26).

**37.** Where the committee comes to the conclusion that the director under inquiry has not violated the standards of ethics and professional conduct applicable to the director, the committee so informs the informant and the director.

Where the committee comes to the conclusion that the director under inquiry has violated the standards of ethics and professional conduct applicable to the director, the committee sends without delay a written report to the board of directors containing a summary of the inquiry and a substantiated recommendation for penalty and the entire record and documents.

Those documents are confidential and a copy is sent to the director under inquiry, in such a manner as to protect the identity of the informant.

**38.** The board of directors meets, without delay and in camera, to decide, by a two-thirds vote of its members, whether the director under inquiry has violated a standard of ethics or professional conduct and determines, where applicable, the appropriate penalty. The director may not take part in the deliberations or decision.

A director may, however, submit his or her observations to the board of directors and be heard on the facts in support of his or her claims, before the decision of the board of directors is taken.

**39.** Depending on the nature, gravity and persistence of the violation or misconduct, one or more of the following penalties may be imposed on the director: a reprimand, a suspension with or without remuneration or dismissal.

A director may also be compelled to reimburse or remit to the order, donor or charity that is not related to the order, any sum of money or any gift, hospitality or other advantage received in contravention of the standards of ethics and professional conduct applicable to the director.

**40.** A director is informed, without delay and in writing, of the substantiated and final decision of the board of directors and, where applicable, of the grounds in support of the penalty imposed on him or her. The board of directors so informs the informant in writing.

The board of directors informs the Office of any penalty imposed on an appointed director.

## CHAPTER VI PROVISIONAL SUSPENSION

**41.** A director against whom proceedings concerning an act involving collusion, corruption, malfeasance, breach of trust or influence peddling and any proceedings concerning improper gestures or remarks of a sexual

nature are instituted or a director prosecuted for an offence punishable by a term of imprisonment of 5 years or more must, within 10 days from the day on which the director is so informed, notify the secretary of the order.

**42.** On the recommendation of the committee, a director accused of a violation of the standards of ethics or professional conduct applicable to the director may be temporarily relieved of his or her duties by the board of directors, in an urgent situation requiring rapid action or in a presumed case of serious misconduct.

On the recommendation of the committee, a director against whom proceedings concerning an act involving collusion, corruption, malfeasance, breach of trust or influence peddling or proceedings concerning improper gestures or remarks of a sexual nature are instituted may be temporarily relieved of his or her duties.

The board of directors meets, without delay and *in camera*, to decide, by a two-thirds vote of its members, whether the director under inquiry must be temporarily relieved of his or her duties.

The director concerned by that measure may submit observations to the board of directors and be heard on the facts in support of his or her claims, before the decision of the board of directors is taken.

The board of directors informs the Office of its decision to temporarily relieve an appointed director of his or her duties.

**43.** A director is relieved of his or her duties until the board of directors renders a decision referred to in section 38 or, in the cases referred to in the second paragraph of section 42, until the prosecutor decides to stay or withdraw all charges in the proceedings on which the board of directors' decision was based to relieve the director of his or her duties or until the decision to acquit the director or to stay all charges in the proceedings.

**44.** A director against whom a complaint has been filed before the disciplinary council of the order or who is the subject of an inquiry brought before the disciplinary council in accordance with section 122.0.1 of the Professional Code (chapter C-26) is temporarily relieved of his or her duties.

**45.** The director is relieved of his or her duties until the final and enforceable decision of the disciplinary council or the Professions Tribunal or, if an order is made by the disciplinary council under section 122.0.3 of the Professional Code (chapter C-26), until it is no longer into force.

**46.** A director is informed without delay, in writing, of the decision to temporarily relieve the director of his or her duties and the reasons justifying it.

**CHAPTER VII**  
FINAL

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

103378



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

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