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**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, 14 FEBRUARY 2018

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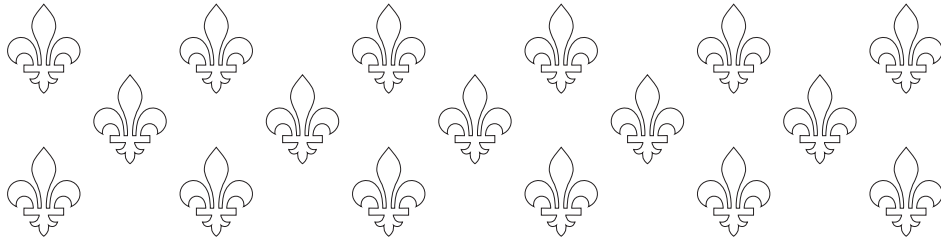
**OFFICE OF THE LIEUTENANT-GOVERNOR***Québec, 14 February 2018*

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

- 107 An Act to increase the jurisdiction and independence of the Anti-Corruption Commissioner and the Bureau des enquêtes indépendantes and expand the power of the Director of Criminal and Penal Prosecutions to grant certain benefits to cooperating witnesses

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 107  
(2018, chapter 1)

**An Act to increase the jurisdiction and independence of the Anti-Corruption Commissioner and the Bureau des enquêtes indépendantes and expand the power of the Director of Criminal and Penal Prosecutions to grant certain benefits to cooperating witnesses**

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**Introduced 8 June 2016  
Passed in principle 1 December 2017  
Passed 14 February 2018  
Assented to 14 February 2018**

## EXPLANATORY NOTES

*This Act amends the Anti-Corruption Act in order to specify that the purpose and scope of that Act and the mission of the Anti-Corruption Commissioner are not limited to corruption in contractual matters but also concern corruption in the administration of justice and in the granting of rights and privileges, such as an authorization, appointment or subsidy.*

*Changes are made to the procedure for the appointment and dismissal of the Anti-Corruption Commissioner; to provide, among other things, for a non-renewable seven-year term. The Act establishes the office of Associate Commissioner for Investigations and provides that any member of a police force on secondment to the Commissioner may act as an investigator.*

*The Act provides that the Commissioner, the Associate Commissioners for Audits, the Associate Commissioner for Investigations, the investigators on secondment to the Commissioner and the Commissioner's personnel form a specialized anti-corruption police force. That police force and the audit teams and investigation units designated by the Government form the Unité permanente anticorruption. Further provisions specify the manner in which the Sûreté du Québec and other police forces must cooperate with the Commissioner.*

*The Act establishes the Unité Permanente Anticorruption Oversight Committee and sets out its mandate and composition.*

*The Act provides that penal proceedings for an offence under a provision of the Anti-Corruption Act are prescribed three years from the date on which the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed from the date of the commission of the offence.*

*The Police Act is amended to provide that the director of a police force must inform the director of the Bureau des enquêtes indépendantes, instead of the Minister of Public Security, if a person, other than an on-duty police officer, dies, sustains a serious injury or is injured by a firearm used by a police officer during a police intervention or while the person is in police custody. In addition, the Act specifies*



*that the director of a police force must notify the Bureau des enquêtes indépendantes of any allegation against a police officer concerning a criminal offence of a sexual nature committed in the performance of duties. The Bureau is to conduct the investigations relating to such allegations and advise the Minister of Public Security of the progress of the file.*

*Amendments to the Act respecting the Director of Criminal and Penal Prosecutions grant the Director, in the context of a cooperation agreement with a witness, the power to terminate, with regard to the witness and in relation to facts that are the subject of a statement by the witness, a civil proceeding instituted by a public body, the hearing of a complaint before the disciplinary council of a professional order, or a measure taken for the purposes of a fiscal law. In addition, if the witness cooperation agreement is terminated, the public body, the complainant who had brought a complaint before a disciplinary council or the Minister of Revenue, as the case may be, may reinstitute a judicial application, again seize the disciplinary council of a complaint or reinstate a measure taken for the purposes of a fiscal law that was terminated by the Director of Criminal and Penal Prosecutions.*

*Lastly, the Act makes a number of consequential amendments.*

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

- Tax Administration Act (chapter A-6.002);
- Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4);
- Professional Code (chapter C-26);
- Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (chapter C-52.2);
- Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1);
- Public Service Act (chapter F-3.1.1);
- Anti-Corruption Act (chapter L-6.1);
- Police Act (chapter P-13.1).

**REGULATION AMENDED BY THIS ACT:**

- Code of ethics of Québec police officers (chapter P-13.1, r. 1).

## Bill 107

### AN ACT TO INCREASE THE JURISDICTION AND INDEPENDENCE OF THE ANTI-CORRUPTION COMMISSIONER AND THE BUREAU DES ENQUÊTES INDÉPENDANTES AND EXPAND THE POWER OF THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS TO GRANT CERTAIN BENEFITS TO COOPERATING WITNESSES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### ANTI-CORRUPTION ACT

**1.** Section 1 of the Anti-Corruption Act (chapter L-6.1) is amended

(1) by replacing “in contractual matters within the public sector” by “in the public sector, including in contractual matters,”;

(2) by inserting “and public institutions” after “public procurement process”.

**2.** Section 2 of the Act is amended

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

“(1) a contravention of a federal or a Québec law or of a regulation made under such a law, if the contravention pertains to corruption, breach of trust, malfeasance, collusion, fraud or influence peddling in, for example, awarding, obtaining or performing contracts granted, in the exercise of their functions, by a body or a person belonging to the public sector, or in the administration of justice or the granting of rights and privileges, such as an authorization, an appointment or a subsidy, by a body or a person belonging to the public sector;

“(1.1) a contravention of any of sections 21.12 to 21.14 and 27.5 to 27.11 of the Act respecting contracting by public bodies (chapter C-65.1);”;

(2) by inserting “, 1.1” after “paragraph 1” in paragraph 3.

**3.** The heading of Division I of Chapter II of the Act is replaced by the following heading:

“ESTABLISHMENT, MISSION AND ORGANIZATION”.

**4.** Section 4 of the Act is amended by replacing “in contractual matters within the public sector” in the second paragraph by “in the public sector, including in contractual matters”.

**5.** Section 5 of the Act is replaced by the following sections:

**“5.** On the recommendation of the Minister, the Government appoints the Commissioner from among the persons declared qualified to hold the office by the selection committee formed for that purpose.

**“5.1.** During the year that precedes the end of the Commissioner’s term or as soon as the office becomes vacant, the Minister publishes a notice inviting interested persons to apply for the office of Commissioner or to propose the name of a person they consider qualified to hold that office, in accordance with the procedure the Minister determines.

The Minister also forms the selection committee. The committee is made up of the Deputy Minister of Public Security, the secretary of the Conseil du trésor, an advocate recommended by the Bâtonnier of the Province of Québec, a director of a police force recommended by the board of directors of the Association des directeurs de police du Québec, and a person recommended by bodies representing the municipal sector.

The committee promptly evaluates the candidates’ aptitude on the basis of their knowledge, particularly in criminal and penal law, their experience and their qualifications, according to the criteria determined by government regulation. Without delay, the committee presents to the Minister a report in which it lists the candidates it has met whom it considers qualified to hold the office of Commissioner. All information and documents regarding the candidates and the proceedings of the committee are confidential.

If, once the evaluation is concluded, fewer than three candidates are considered qualified to hold the office of Commissioner, the Minister 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.

**“5.2.** The Commissioner is appointed for a non-renewable seven-year term.

At the expiry of the term, the Commissioner remains in office until replaced. The Commissioner may resign at any time by giving written notice to the Minister.

**“5.3.** The Commissioner must meet the requirements set out in the first paragraph of section 115 of the Police Act (chapter P-13.1), with the exception of subparagraph 4.

**“5.4.** The Commissioner may not be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a report from the Commission de la fonction publique. The suspension may not exceed three months.

In an urgent situation requiring prompt intervention, or in a presumed case of serious fault, the Minister may provisionally relieve the Commissioner from duties, with remuneration.

**“5.5.** The Government determines the remuneration, employee benefits and other conditions of employment of the Commissioner on the recommendation of the Minister; the Commissioner’s remuneration, once set, may not be reduced.

**“5.6.** The Commissioner’s functions must be exercised on a full-time basis.

The Commissioner may not engage in any partisan political activity.”

**6.** Section 7 of the Act is amended by striking out the second sentence of the first paragraph.

**7.** Section 8 of the Act is replaced by the following sections:

**“8.** The Government appoints Associate Commissioners for Audits, on the recommendation of the Minister, from among the persons declared qualified to hold the office by a selection committee formed by the Minister and made up of the Commissioner, the Deputy Minister of Public Security and a chartered professional accountant recommended by the Ordre des comptables professionnels agréés du Québec.

The Associate Commissioners for Audits may not be peace officers.

They must take the oath set out in Schedule II before a judge of the Court of Québec.

**“8.1.** The Government also appoints an Associate Commissioner for Investigations, on the recommendation of the Minister, from among the persons declared qualified to hold the office by a selection committee formed by the Minister and made up of the Commissioner, the Deputy Minister of Public Security and a director of a police force recommended by the board of directors of the Association des directeurs de police du Québec.

The Associate Commissioner for Investigations is a peace officer throughout Québec.

The Associate Commissioner for Investigations must take the oath set out in Schedule I before a judge of the Court of Québec.

**“8.2.** Associate Commissioners are appointed for a fixed term that may not exceed five years.

At the expiry of their term, Associate Commissioners remain in office until reappointed or replaced. Associate Commissioners may resign at any time by giving written notice to the Commissioner.

**“8.3.** Associate Commissioners exercise the functions conferred on them under this Act, with the independence provided for in this Act.

Section 5.1, except the second paragraph, and sections 5.3 to 6 apply, with the necessary modifications, in the case of Associate Commissioners.

**“8.4.** The following persons form a specialized anti-corruption police force:

- (1) as members of the police force:
  - (a) the Commissioner;
  - (b) the Associate Commissioner for Investigations; and
  - (c) the investigators on secondment from a police force in accordance with section 14;
- (2) the Associate Commissioners for Audits; and
- (3) the members of the Commissioner’s personnel appointed in accordance with section 12.

**“8.5.** The Government may designate teams or units of persons doing audit or investigation work in departments or bodies to take part in the fight against corruption under the coordination of the Associate Commissioners for Audits or the Associate Commissioner for Investigations, as the case may be.

**“8.6.** The police force formed under section 8.4 and the teams or units designated by the Government form the Unité permanente anticorruption.

**“8.7.** The policing, investigation and support services of the Sûreté du Québec must be made available to the Commissioner when the latter so requires. To that end, the Director General of the Sûreté du Québec and any Sûreté du Québec member or employee must cooperate with the Commissioner.

Such services are provided in accordance with the terms and conditions set out in an agreement between the Commissioner and the Minister or a person designated by the Minister.

**“8.8.** A police force must inform the Commissioner whenever it has reasonable cause to believe, during the course of an investigation, that a wrongdoing has been committed.

The Commissioner determines, in cooperation with the police force, how the investigation is to continue.”

**8.** Section 9 of the Act is amended by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) to act as director of the police force formed under section 8.4;”.

**9.** Section 10 of the Act is amended by inserting “for Audits” after “Associate Commissioners” in the introductory clause.

**10.** The Act is amended by inserting the following section after section 10:

**“10.1.** The Associate Commissioner for Investigations has the following functions:

(1) to direct the activities of the specialized investigation unit formed under section 14 and coordinate the activities of any investigation unit designated by the Government; and

(2) to ensure that the investigation units carry out their mandates in their respective fields of competence.”

**11.** Section 13 of the Act is amended by replacing “of the personnel of the Commissioner” by “of the members of and the other persons who form the police force”.

**12.** Section 13.1 of the Act is amended

(1) by inserting “for Audits” after both occurrences of “Associate Commissioner” in the introductory clause of the first paragraph;

(2) by inserting “for Audits” after “Associate Commissioner” in the last paragraph.

**13.** Section 14 of the Act is amended by replacing the first and second paragraphs by the following paragraphs:

“The Commissioner may designate, from among the Commissioner’s personnel, persons to act as investigators within a specialized investigation unit under the authority of the Associate Commissioner for Investigations.

Any member of a police force on secondment to the Commissioner by agreement between the Commissioner and the competent authority in respect of the police force may also act as an investigator within the unit.

The investigators of the unit are peace officers throughout Québec.”

**14.** Section 15 of the Act is amended by inserting “for Audits” after all occurrences of “Associate Commissioner” in paragraphs 1, 2 and 3.

**15.** Section 16 of the Act is amended by replacing all occurrences of “Commissioner” in paragraphs 2 and 3 by “Associate Commissioner for Investigations”.

**16.** Section 17 of the Act is amended by replacing “The Commissioner, the Commissioner’s personnel, the Associate Commissioners and the audit teams or investigation units designated by the Government” by “Persons acting within the Unité permanente anticorruption”.

**17.** Section 20 of the Act is amended by replacing “the Commissioner, the Commissioner’s personnel, the Associate Commissioners, members of the audit teams or investigation units designated by the Government” by “a person acting within the Unité permanente anticorruption”.

**18.** Section 21 of the Act is amended by replacing “the Commissioner, the Commissioner’s personnel, the Associate Commissioners, members of the audit teams or investigation units designated by the Government” in the first paragraph by “a person acting within the Unité permanente anticorruption”.

**19.** Section 25 of the Act is amended by adding the following paragraph at the end:

“Within 15 days after the report is laid before the National Assembly, the Commissioner presents it publicly in the national capital.”

**20.** Section 29 of the Act is amended by replacing “or to the investigation units concerned” in the second paragraph by “for Audits or the Associate Commissioner for Investigations”.

**21.** The Act is amended by inserting the following section after section 35:

**“35.1.** Penal proceedings for an offence under a provision of this Act are prescribed three years from the date on which the prosecutor became 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 commission of the offence.”



**22.** The Act is amended by inserting the following chapter before Chapter IV:

**“CHAPTER III.1**

**“UNITÉ PERMANENTE ANTICORRUPTION OVERSIGHT  
COMMITTEE**

**“DIVISION I**

**“ESTABLISHMENT AND MANDATE**

**“35.2.** The Unité Permanente Anticorruption Oversight Committee is established.

**“35.3.** The mandate of the Committee is to give its opinion, after conducting the necessary verifications and examinations at the times and intervals and in the manner it determines,

(1) on the administration of penal and criminal investigations conducted by the Unité permanente anticorruption;

(2) on the follow-up given under this Act to disclosures of wrongdoings received by the Anti-Corruption Commissioner, except when such disclosures are the subject of an investigation or a proceeding relating to a penal or criminal offence under a federal or Québec law;

(3) on the Anti-Corruption Commissioner’s annual management report; and

(4) on any other matter relating to the activities of the Unité permanente anticorruption.

The Committee also gives its opinion on any matter within its jurisdiction whenever the Minister requests it.

The Committee may, in its opinions, make the recommendations it considers appropriate.

**“35.4.** In carrying out its mandate, the Committee may not act in a way that interferes with the penal or criminal investigations of the Unité permanente anticorruption and the resulting judicial proceedings or that compromises legally recognized privileges, in particular those relating to the confidentiality of investigation methods and the identity of police informants.

Also, the Committee may not request or accept information that could compromise the independence of peace officers with authority to investigate offences against the law.

**“35.5.** The Committee makes its opinions public. However, it must first consult the Director of Criminal and Penal Prosecutions to ensure compliance with section 35.4.

The Committee may communicate to the government authorities and the persons in charge its opinions on any matter which, in its opinion, is within their jurisdiction.

**“35.6.** To fulfil its mandate, the Committee or the person it designates may, after having agreed on the applicable procedures with the Anti-Corruption Commissioner,

(1) examine, in relation to the activities of the Unité permanente anticorruption, any person acting within the unit; and

(2) examine any document, book, register or account that, in the opinion of the Committee or designated person, may contain information relevant to the mandate and take notes or make copies.

Any person who has the custody, possession or control of such documents, books, registers or accounts must, if so required, communicate them to the Committee or the person designated by it and facilitate their examination by the Committee or that person.

Committee members and designated persons must, on request, produce identification and show the documents attesting their authorization.

**“35.7.** Any person who

(1) hinders or attempts to hinder the work of a member of the Committee or of a person designated by it in the exercise of his or her functions, misleads the member or designated person by concealment or misrepresentation or refuses to provide the member or designated person with information,

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

(3) by encouragement, advice or consent or by an authorization or order, 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.

For any subsequent offence, the amounts are doubled.

**“DIVISION II****“COMPOSITION AND OPERATION**

**“35.8.** The Committee is composed of three members, including a chair, appointed by the National Assembly on a motion of the Prime Minister and with the approval of two-thirds of its Members.

**“35.9.** A person must meet the following minimum requirements to be appointed as a member of the Committee and remain as such:

(1) be of good moral character; and

(2) not have been convicted 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 he or she has obtained a pardon.

**“35.10.** A candidate for the office of Committee member is first chosen from a list of persons declared qualified to be appointed as such by the selection committee formed by the Minister for that purpose.

The selection committee is made up of the Deputy Minister of Public Security or that Deputy Minister’s representative, an advocate recommended by the Bâtonnier of the Province of Québec, and an associate professor or full professor at a Québec university in a field relevant to the Committee’s mandate.

The selection committee promptly evaluates the candidates on the basis of their knowledge, experience and qualifications, according to the criteria it determines. Without delay, the selection committee presents to the Prime Minister a report in which it lists the candidates it has met whom it considers qualified to be Committee members. The list must include three, four or five candidates according to whether one, two or three offices are to be filled. All information and documents regarding the candidates and the proceedings of the selection committee are confidential.

The members of a selection committee receive no remuneration, except in the cases, on the conditions and to the extent the Government may determine. They are, however, entitled to the reimbursement of any expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

**“35.11.** The chair of the Committee is appointed for a seven-year term and other Committee members, for a five-year term. A Committee member may not be reappointed, whether for a consecutive term or otherwise, in any capacity.

At the expiry of the term, a Committee member remains in office until replaced. A Committee member may resign at any time by giving written notice to the President of the National Assembly.

A Committee member may be dismissed only by a resolution of the National Assembly approved by two-thirds of its Members.

**“35.12.** The Government determines the remuneration and other conditions of employment of the Committee members.

**“35.13.** The Committee holds meetings at the times and intervals it determines.

It may hold its meetings anywhere in Québec. The quorum consists of the chair and one other member.

**“35.14.** The members of the Committee’s personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1).

**“35.15.** The chair of the Committee directs the activities of the Committee and coordinates its work.

If the chair is absent or unable to act, or if the office of chair is vacant, the Minister designates one of the other Committee members to act as interim chair.

**“35.16.** Before taking office, the Committee members must take the oath set out in Schedule III before the President of the National Assembly.

The members of the Committee’s personnel and any person designated under section 35.6 must do the same before the chair of the Committee.

### “DIVISION III

#### “REPORTS

**“35.17.** The Committee must, not later than (*insert the date that is one year after the date on which all the members of the Unité Permanente Anticorruption Oversight Committee referred to in section 35.8 have been appointed*) and each year after that, submit its activity report to the President of the National Assembly.

The President of the National Assembly tables the report in the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 15 days of resumption.

**“35.18.** At least once a year, the competent committee of the National Assembly hears the chair of the Committee on the activities of the latter.

**“35.19.** The Committee may, at any time, submit a special report to the President of the National Assembly on any matter of such importance or urgency that the Assembly may not, in its opinion, wait for the tabling of its activity report.

The President of the National Assembly tables the report in the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 15 days of resumption.

**“35.20.** Before submitting a report under this division, the Committee must consult the Director of Criminal and Penal Prosecutions to ensure compliance with section 35.4.

**“35.21.** The Committee must, not later than *(insert the date that is five years after the date on which all the members of the Unité Permanente Anticorruption Oversight Committee referred to in section 35.8 have been appointed)*, report to the Minister on the carrying out of this chapter.

The Minister tables the report in the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 15 days of resumption.

#### **“DIVISION IV**

#### **“IMMUNITIES**

**“35.22.** No civil action may be instituted for the publication of an opinion or a report of the Committee under this Act or the publication in good faith of an extract from or summary of such an opinion or report.

**“35.23.** No judicial proceedings may be brought against the Committee, its members, the members of its personnel or persons designated under section 35.6 for an act or omission in good faith in the exercise of their functions.

**“35.24.** Despite any provision to the contrary in any Act, members of the Committee, members of its personnel or persons designated under section 35.6 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 their functions or to produce a document containing such information.

**“35.25.** Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be filed nor any injunction granted against the Committee, its members, members of its personnel or persons designated under section 35.6 acting in the exercise of their functions.”

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

(1) by replacing “(Section 7)” after “SCHEDULE I” by “(Sections 7 and 8.1)”;

(2) by replacing “Anti-Corruption Commissioner” in the first paragraph by “(Anti-Corruption Commissioner or Associate Commissioner for Investigations, as the case may be)”.

**24.** The Act is amended by adding the following schedule after Schedule II:

“SCHEDULE III  
“(Section 35.16)

“OATH OF OFFICE

“I, (*name*), declare under oath that I will fulfill my duties with honesty and justice and that I will not accept any sum of money or benefit of any kind for what I do or may do in the discharge of the duties of my office, other than what is allowed me by law.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in or in connection with the discharge of my duties.”

POLICE ACT

**25.** Section 48 of the Police Act (chapter P-13.1) is amended by replacing “289.6” in the first paragraph by “89.1”.

**26.** The Act is amended by inserting the following division after section 89:

“DIVISION III.1

“SPECIALIZED POLICE FORCES

“**89.1.** For the purposes of the pursuit of its mission, a specialized police force shall have jurisdiction to prevent and repress statutory offences throughout Québec.

“**89.2.** The Bureau des enquêtes indépendantes established under section 289.5 and the police force formed under section 8.4 of the Anti-Corruption Act (chapter L-6.1) are specialized police forces.”

**27.** Section 120.1 of the Act, enacted by section 5 of chapter 20 of the statutes of 2017, is amended by replacing “the director of the Bureau des enquêtes indépendantes” in paragraph 1 by “the person acting as director of a specialized police force”.

**28.** Section 126 of the Act is amended by striking out “to the Anti-Corruption Commissioner,” in the third paragraph.

**29.** Section 143 of the Act is amended by inserting “or the person acting as director of a specialized police force” at the end of subparagraph 1 of the second paragraph.

**30.** Section 257 of the Act is amended by replacing “the Bureau des enquêtes indépendantes established under section 289.5, on the recommendation of the director of the Bureau” in the third paragraph by “a specialized police force, on the recommendation of the person acting as director of the police force”.

**31.** Section 286 of the Act is amended

(1) by inserting “or a peace officer within the meaning of section 14 of the Anti-Corruption Act (chapter L-6.1)” after “against a police officer” in the first paragraph;

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

“The director of a police force must also notify the Bureau des enquêtes indépendantes without delay in the case of an allegation against a police officer concerning a criminal offence of a sexual nature committed in the performance of duties.”

**32.** Section 287 of the Act is replaced by the following section:

**“287.** Not later than 45 days after the date the Minister is notified under section 286 and every three months thereafter, the director of the police force, the Bureau des enquêtes indépendantes or the competent authority in respect of a special constable, as the case may be, shall notify the Minister in writing of the progress of the file the director, Bureau or authority is processing.”

**33.** Section 288 of the Act is amended by inserting “or the competent authority in respect of a special constable” after “director of the police force”.

**34.** Section 289 of the Act is amended

(1) by inserting “, a peace officer within the meaning of section 14 of the Anti-Corruption Act (chapter L-6.1)” after “police officer” in the first paragraph;

(2) by inserting “or the peace officer within the meaning of section 14 of the Anti-Corruption Act” after “police officer” in the second paragraph.

**35.** Section 289.1 of the Act is amended by inserting the following paragraph after the first paragraph:

“An investigation must also be conducted if the Bureau des enquêtes indépendantes is notified of an allegation against a police officer concerning a criminal offence of a sexual nature committed in the performance of duties, unless the director of the Bureau considers the allegation to be frivolous or unfounded, after consulting, if the director finds it necessary, the Director of Criminal and Penal Prosecutions.”

**36.** Section 289.2 of the Act is amended

- (1) by replacing “Minister” in the first paragraph by “Bureau”;
- (2) by striking out the second paragraph.

**37.** Section 289.4 of the Act is amended

(1) by replacing “the Bureau is charged with conducting under section 289.2” by “conducted by the Bureau in relation to an occurrence described in the first paragraph of section 289.1”;

(2) by replacing “an occurrence described in section 289.1” by “the occurrence”.

**38.** Section 289.5 of the Act is amended

- (1) by inserting “specialized” before “police force” in the fourth paragraph;
- (2) by adding the following sentence at the end of the fourth paragraph: “The director of the Bureau acts as director of the police force.”

**39.** Section 289.6 of the Act is replaced by the following section:

**“289.6.** The mission of the Bureau is to conduct any investigation in relation to an occurrence or allegation described in section 289.1 or any investigation entrusted to it by the Minister under section 289 or 289.3.”

**40.** Section 289.23 of the Act is amended by replacing “described in” by “described in the first paragraph of”.

**41.** Section 312 of the Act is amended by replacing “the Sûreté du Québec or a municipal police force,” by “a police force”.

**42.** Section 354 of the Act is amended

(1) by inserting “, a member of a specialized police force” after “municipal police force” in the first paragraph;



(2) by replacing “, a special constable or a member of the Bureau des enquêtes indépendantes” in the first paragraph by “or a special constable”.

#### ACT RESPECTING THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

**43.** The Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) is amended by inserting the following chapter after section 24:

##### “CHAPTER II.1

##### “POWERS OF THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS IN CIVIL, DISCIPLINARY AND FISCAL MATTERS

“**24.1.** Despite any incompatible provision, if the Director considers that the public interest allows it in the context of a cooperation agreement with a witness in a case referred to the Director, the Director may, in relation to facts that are the subject of a statement by the witness concerning that case or a similar case, terminate

(1) with regard to the witness, any civil proceeding instituted by a public body, before the judgment in first instance is rendered on the merits of the dispute;

(2) the hearing of a complaint against the witness before the disciplinary council of a professional order; or

(3) any measure taken in relation to the witness for the purposes of a fiscal law within the meaning of section 1 of the Tax Administration Act (chapter A-6.002) if that measure precedes the issue of an assessment or a determination under such a law or, in the case of an assessment or a determination that has already been issued, if the time limit for objecting to the assessment or determination or for bringing an appeal has not expired or a judgment has not been rendered by the Court of Québec with respect to the assessment or determination.

Before entering into a cooperation agreement to terminate the hearing of a complaint filed before the disciplinary council of a professional order, the Director, if able to do so without revealing the identity of the witness or interfering with an ongoing police investigation, consults the syndic of the professional order concerned and takes into account the syndic’s opinion on the effects of such an agreement on the protection of the public and the importance of maintaining public trust in the members of the order.

For the purposes of this chapter, “public body” means a body described in section 4 or 7 of the Act respecting contracting by public bodies (chapter C-65.1) or a municipal body within the meaning of section 5 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

**“24.2.** To terminate a civil proceeding, the Director must notify a notice to that effect to the parties and file the notice with the office of the court concerned.

To terminate the hearing of a complaint before a disciplinary council, the Director must notify a notice to that effect to the complainant and the secretary of the disciplinary council. Before sending such a notice, the Director shall consult the syndic of the professional order concerned with regard to the evidence contained in the syndic’s investigation record that concerns the complaint and is subject to a disclosure requirement in the context of the disciplinary process.

To terminate a measure taken for the purposes of a fiscal law, the Director must notify a notice to that effect to the Minister of Revenue and, if the cooperating witness has brought an appeal before the Court of Québec, file the notice with the office of that court.

**“24.3.** If the Director terminates a civil proceeding, the public body and the cooperating witness each bear the legal expenses they have incurred.

**“24.4.** If the Director terminates the witness cooperation agreement for a reason provided for in the agreement and relating to the testimony of or any statement by the witness, the Director must notify a notice to that effect to the persons notified under section 24.2.

**“24.5.** Solely on notification of the notice required under section 24.4, the public body, the complainant or the Minister of Revenue, as the case may be, may reinstitute a judicial application, again seize the disciplinary council of a complaint or reinstate a measure taken for the purposes of a fiscal law that was terminated by the Director under section 24.1. In such a case, the applicable prescription period begins to run again from the date of notification of the notice required under section 24.4.”

#### TAX ADMINISTRATION ACT

**44.** Section 69.1 of the Tax Administration Act (chapter A-6.002) is amended by inserting “, the Associate Commissioner for Investigations” after “Associate Commissioners for Audits” in subparagraph y of the second paragraph.

**45.** The Act is amended by inserting the following division after section 94.8:

#### **“DIVISION I.2**

#### **“COOPERATION AGREEMENT ENTERED INTO BY THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS**

**“94.9.** Where the Minister receives a notice under section 24.2 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1), the Minister shall take the necessary measures to give effect to it.

The same rule applies where the Minister receives a notice under section 24.4 of the Act respecting the Director of Criminal and Penal Prosecutions and, in the case of an assessment, a determination or an appeal before the Court of Québec terminated by the Director of Criminal and Penal Prosecutions in accordance with section 24.1 of that Act, the Minister may, within one year after receipt of the notice, issue a new assessment or determination taking into account the elements of the terminated measure.

In the management report required under section 75 of the Act respecting the Agence du revenu du Québec (chapter A-7.003), the Minister shall report on the implementation of the first paragraph during the fiscal year concerned in a manner that will ensure the confidentiality of the information.”

#### CHARTER OF VILLE DE MONTRÉAL, METROPOLIS OF QUÉBEC

**46.** Section 57.1.18 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4) is amended by replacing the first paragraph by the following paragraph:

“If, in the opinion of the inspector general, a wrongdoing within the meaning of paragraph 1 of section 2 of the Anti-Corruption Act (chapter L-6.1) may have been committed, the inspector general must, without delay, make a disclosure to the Anti-Corruption Commissioner.”

#### PROFESSIONAL CODE

**47.** Section 124 of the Professional Code (chapter C-26) is amended by inserting “or between the syndics and the Director of Criminal and Penal Prosecutions within the scope of the powers conferred on the Director by Chapter II.1 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1)” at the end of the second paragraph.

**48.** The Code is amended by inserting the following section after section 139.1:

**“139.2.** A notice of the Director of Criminal and Penal Prosecutions notified to the secretary of a disciplinary council in accordance with the second paragraph of section 24.2 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) withdraws the complaint that is the subject of the notice from the disciplinary council; the notice is public information from the time it is notified.

The secretary of the disciplinary council must, without delay after receiving such a notice, send it to the chair of the disciplinary council or, if the chair has not yet been appointed, to the senior chair.”

ACT RESPECTING THE FORFEITURE, ADMINISTRATION AND  
APPROPRIATION OF PROCEEDS AND INSTRUMENTS OF  
UNLAWFUL ACTIVITY

**49.** Section 25 of the Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (chapter C-52.2) is amended by inserting “or the Anti-Corruption Commissioner” after “Sûreté du Québec” in subparagraph 4 of the first paragraph.

PUBLIC SERVICE ACT

**50.** Section 115 of the Public Service Act (chapter F-3.1.1) is amended by adding the following subparagraph after subparagraph 3 of the first paragraph:

“(4) report to the Minister of Public Security, after conducting an inquiry, on whether there is sufficient cause to dismiss or suspend without remuneration the Anti-Corruption Commissioner or an Associate Commissioner as provided for in sections 5.4 and 8.3 of the Anti-Corruption Act (chapter L-6.1).”

CODE OF ETHICS OF QUÉBEC POLICE OFFICERS

**51.** Section 1 of the Code of ethics of Québec police officers (chapter P-13.1, r. 1) is amended by striking out “the Anti-Corruption Commissioner,” in the second paragraph.

TRANSITIONAL AND FINAL PROVISIONS

**52.** Despite the first paragraph of section 5.2 of the Anti-Corruption Act (chapter L-6.1), enacted by section 5, the term of the Anti-Corruption Commissioner in office on 14 February 2018 continues on the conditions and for the time determined in the Commissioner’s instrument of appointment.

**53.** For the first application of the fourth paragraph of section 35.10 of the Anti-Corruption Act, enacted by section 22, 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 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.

**54.** This Act comes into force on 14 February 2018, except

(1) section 22, to the extent that it enacts Divisions I, III and IV of Chapter III.1 of the Anti-Corruption Act, which comes into force on the date on which all the members referred to in section 35.8 of that Act have been appointed;

(2) section 27, which comes into force on the date to be set by the Government.



## Regulations and other Acts

Gouvernement du Québec

### **O.C. 233-2018, 14 March 2018**

An Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4)

#### **Certain transitional measures to carry out the Act**

Regulation respecting certain transitional measures to carry out the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund

WHEREAS the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) was assented to on 23 March 2017;

WHEREAS, under section 310 of the Act, certain provisions of the Act relating to the new environmental authorization scheme come into force on 23 March 2018;

WHEREAS, under section 283 of the Act, as of 23 March 2018, a reference to a project notice in the Agricultural Operations Regulation (chapter Q-2, r. 26) becomes a reference to a declaration of compliance;

WHEREAS, under the first paragraph of section 306 of the Act, not later than 23 March 2018, the Government must make a regulation, which must come into force on that date, to amend, replace or repeal the regulations listed therein in order to ensure consistency with and enforcement of the provisions of the Act;

WHEREAS, under the second paragraph of section 306 of the Act, not later than 23 March 2018, the Government must make regulations on activities that are eligible for a declaration of compliance and regulations on activities that are exempted from section 22 of the Environment Quality Act, which must come into force of that date;

WHEREAS, under section 307 of the Act, not later than 23 March 2019, the Government must make a regulation to amend the Regulation respecting pits and quarries (chapter Q-2, r. 7) in order to provide for activities that are eligible for a declaration of compliance;

WHEREAS, under section 308 of the Act, the Minister must, not later than 23 March 2018, make a regulation on fees payable, which must come into force on that date;

WHEREAS most of the draft regulations concerned by section 306 of the Act have been published in the *Gazette officielle du Québec* of 14 February 2018 for a 60-day consultation period, which ends beyond 23 March 2018;

WHEREAS, under section 305 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund, the Government may, by regulation made not later than 23 March 2018, make any transitional measure necessary for the application of the Act, including to adjust the transitional provisions provided for in the Act;

WHEREAS it is expedient to make by regulation various transitional measures necessary for the application of the provisions of the Environment Quality Act relating to the new environmental authorization scheme until the implementation regulations are in force;

WHEREAS, in accordance with sections 10, 12 and 13 of the Regulations Act (chapter R-18.1), the Regulation respecting certain transitional measures to carry out the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund was published in Part 2 of the *Gazette officielle du Québec* of 14 February 2018 with a notice that it could be made by the Government on the expiry of 15 days following that publication;

WHEREAS it is expedient to make the Regulation respecting certain transitional measures to carry out the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund with amendments;

WHEREAS, under section 18 of the Regulations Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* and 15 days after that date where the authority that has made it is of the opinion that the urgency of the situation requires it and the reason justifying such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the coming into force on 23 March 2018:

— the transitional measures provided for in the Regulation respecting certain transitional measures to carry out the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund must come into force at the time of the coming into force of the provisions of the Act relating to the new environmental authorization scheme;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Regulation respecting certain transitional measures to carry out the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund, attached to this Order in Council, be made.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

### **Regulation respecting certain transitional measures to carry out the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund**

An Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4, s. 305)

**1.** As of 23 March 2018, in addition to the references provided for in section 274 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), unless the context indicates otherwise, in any Act, any regulation or any order,

(1) subject to paragraph 3, a reference to a certificate of authorization issued under the first paragraph of section 22 of the Environment Quality Act (chapter Q-2), as it read before 23 March 2018, becomes a reference to an authorization issued under the second paragraph of section 22 of that Act as it reads from that date;

(2) a reference to a certificate of authorization issued under the second paragraph of section 22 of the Environment Quality Act, as it read before 23 March 2018, becomes a reference to an authorization issued under subparagraph 4 of the first paragraph of that section as it reads from that date;

(3) until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306, as well as section 308 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund or until 14 July 2018, whichever comes first, a reference to a certificate of authorization issued under the first paragraph of section 22 of the Environment Quality Act, as it read before 23 March 2018, for an activity carried out in a shore or bank or floodplain is a reference to an authorization issued under the second paragraph of section 22 as it reads from that date.

**2.** For the purposes of section 283, subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), the date of 23 March 2018 is postponed until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of that Act or 14 July 2018, whichever comes first.

In addition, the date provided for in section 307 is postponed until the date occurring one year after the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of that Act or 14 July 2019, whichever comes first.

**3.** For the purposes of section 300 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), the following is also rendered accessible in the register referred to in that section:

(1) the information and documents forming an integral part of any authorization issued by the Government under section 31.5 of the Environment Quality Act (chapter Q-2) as of 23 March 2018;

(2) the environmental impact studies filed with the Minister before 23 March 2018 in relation to a project for which the impact assessment and review procedure continues after that date.



**4.** For the purposes of the second paragraph of section 306 and section 307 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), the activities eligible for a declaration of compliance, activities exempt from the application of section 22 of the Environment Quality Act (chapter Q-2), and activities related to quarries and sand pits eligible for a declaration of compliance may be provided in the Regulation respecting ministerial authorizations and declarations of compliance in environmental matters (insert the reference to the Compilation of Québec Laws and Regulations).

**5.** As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) or 14 July 2018, whichever comes first, the Environment Quality Act (chapter Q-2) applies on the following conditions:

(1) despite section 46.0.2 of the Environment Quality Act, any work, structures or other intervention carried out in a shore, bank or floodplain are concerned by the second paragraph of section 22 of the Act;

(2) for the purposes of the first paragraph of section 23, the information and documents to be provided to the Minister by a person or municipality in support of an application for authorization are, in addition to those provided for in that section, those required for an application for a certificate of authorization under the following provisions, with the necessary modifications:

(a) the third paragraph of section 22 of the Environment Quality Act, as it read before 23 March 2018;

(b) section 7 of the Act respecting the application of the Environment Quality Act (chapter Q-2, r. 3);

(c) any other provision of a regulation made under the Environment Quality Act that applies to the activity covered by the application for authorization;

(3) for the purposes of section 29, the information and documents required for an application for authorization for research and authorization purposes are, in addition to those referred to in the second paragraph of that section, those referred to in paragraph 2;

(4) for the purposes of section 30, an application to amend an authorization must, in addition to the information and documents prescribed by a provision of a regulation made under that Act that applies to the activity covered by the application, contain the following information and documents:

(a) the number and date of issue of the authorization the amendment of which is applied for;

(b) a complete description of the intended change that requires the amendment of the authorization and the reasons in support of the change;

(c) an assessment of the consequences of the change on the nature, quantity, location or concentration of contaminants discharged into the environment;

(d) a description of the measures, apparatus or equipment required so that the project complies with the conditions, restrictions, prohibitions and standards that apply to it;

(e) an update of the information and documents sent to the Minister for the issue of his or her authorization that are concerned by the amendment;

(f) if the information referred to in subparagraph *e* consisted in data estimates at the time of the application for authorization, the actual data related to information collected in the course of the activity affected by the change, less than 1 year before the application for amendment;

(g) in the cases provided for and in accordance with paragraph 11, the declaration referred to in section 115.8 of the Environment Quality Act;

(h) if the applicant has retained the services of professionals or other competent persons to prepare the application for amendment, the name and contact information of those persons, a brief description of their mandates and a declaration attesting that the information and documents provided by them are complete and accurate;

(i) a declaration from the applicant attesting that all the information and documents provided are complete and accurate;

(5) for the purposes of section 31.0.2, a notice of transfer must contain the following information and documents:

(a) the number and date of issue of the authorization whose transfer is planned;

(b) the scheduled date of the transfer;

(c) the name of the transferee and all information regarding the transferee's identity, namely:

i. the contact information and, if applicable, that of his or her representative;

ii. in the case of an applicant that is not a natural person, the Québec business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1);

iii. if the applicant is a municipality, a true copy of the resolution of the municipal council or copy of the by-law authorizing the mandatary to sign the application;

(d) in the cases provided for in and in accordance with paragraph 10, the declaration referred to in section 115.8 of the Environment Quality Act completed by the transferee;

(e) if applicable, a declaration attesting that the transferee holds the guarantee or liability insurance required under a regulation made under the Environment Quality Act to carry out the activity covered by the authorization;

(f) a declaration from the holder attesting that all the information and documents provided are complete and accurate;

(6) for the purposes of section 31.0.5, the activities concerned are those for which provisions of the Environment Quality Act or a regulation made under the Act deal with the cessation of an activity; the foregoing also applies to the time allocated to inform the Minister of the permanent cessation of an activity;

(7) for the purposes of section 31.0.5.1, the information and documents required for an application for a general authorization are also those referred to in paragraph 2, except the plans and specifications referred to in the third paragraph of section 22 of the Environment Quality Act, as it read before 23 March 2018;

(8) for the purposes of section 31.18, the time periods, manner and form related to the renewal of an industrial establishment's authorization are those provided for in the Regulation respecting industrial depollution attestations (chapter Q-2, r. 5) for a new application for a depollution attestation;

(9) for the purposes of section 31.20:

(a) the manner and form applicable to the publication of a notice announcing a public consultation are those provided for in section 31.20 of the Act as it read before 23 March 2018 and in section 7 of the Regulation respecting industrial depollution attestations;

(b) the time period referred to in the second paragraph to submit comments to the Minister is 30 days and comments may be sent in writing or in electronic form;

(10) for the purposes of section 31.24, the holder of an authorization to operate an industrial establishment must send the notice to the Minister within 30 days of the date of the total or partial cessation of the operations of the industrial establishment covered by the authorization and the notice must contain the following information and documents:

(a) the number and date of issue of the authorization corresponding to the activity to be ceased;

(b) the location and description of the activity that will cease and the prior measures to be implemented to carry out the cessation;

(c) the follow-up measures that the holder intends to implement to prevent the discharge of contaminants into the environment and to ensure, in particular, the cleaning and decontamination of the premises, the dismantlement of equipment and installations;

(d) the date on which the activity will cease;

(e) the reasons for ceasing the activity;

(f) an attestation from the authorization holder that the holder will comply with the cessation measures determined by the Minister in the authorization, if applicable;

(11) for the purposes of section 115.8, the declaration must be submitted by any applicant or holder who is not a legal person established in the public interest and the declaration must contain the following information and documents:

(a) the contact information of the applicant for or holder of the authorization and, if applicable, that of his or her representative;

(b) in the case of an applicant or holder that is not a natural person, the Québec business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1);

(c) a description of any situation referred to in sections 115.5, 115.6 and 116.7 of the Environment Quality Act that applies to the applicant, the holder or, in the case of a legal person, to any of its directors, officers or shareholders as well as the information referred to in subparagraph *a* concerning them;

(d) a declaration from the applicant for or holder of an authorization to the effect that all the information and documents provided are complete and accurate.

**6.** As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) or 14 July 2018, whichever comes first, the amendments made by that Act that involved a change in the structure or numbering must be applied to the interpretation of any Act, regulation or order.

**7.** As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) or 14 July 2018, whichever comes first, in addition to the general modifications provided for in this Regulation and that Act, the Regulation respecting industrial depollution attestations (chapter Q-2, r. 5) applies with the following modifications:

(1) section 17 must be read as follows:

“**17.** In accordance with section 31.16 of the Act, in the case of any event or incident resulting in a contravention of the authorization’s provisions, the authorization holder must so inform the Minister in writing, giving reasons for the contravention, and inform the Minister of the measures referred to in that section that have been taken, specifying any timetable for their implementation, within the following time periods:

(1) without delay if the event or incident constitutes a case of accidental occurrence of a contaminant in the environment;

(2) within 30 days of becoming aware of any other event or accident entailing a contravention of the provisions of the authorization.”;

(2) in section 19, the technical report must be submitted to the Minister by any holder of an authorization for the operation of an industrial establishment who wishes to replace or alter apparatus or equipment intended to treat wastewater or to prevent, reduce or stop the discharge of contaminants into the atmosphere, for which contaminant discharge standards are provided for in the authorization;

(3) section 20 does not apply.

**8.** As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) or 14 July 2018, whichever comes first, in addition to the general modifications provided for in this Regulation and that Act, the Regulation respecting hazardous materials (chapter Q-2, r. 32) applies with the following modifications:

(1) section 9 does not apply;

(2) in subparagraph *b* of paragraph 5 of section 113, the 12-month period is extended to 24 months.

**9.** This Regulation comes into force on 23 March 2018.

103385

Gouvernement du Québec

## **O.C. 234-2018, 14 March 2018**

Environment Quality Act  
(chapter Q-2)

### **Private waterworks and sewer services**

WHEREAS the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) was assented to on 23 March 2017;

WHEREAS the Act replaces in particular sections 32, 39, 46 and 95.1 of the Environment Quality Act (chapter Q-2);

WHEREAS, under the second paragraph of section 32 of the Environment Quality Act, as replaced, the Government may, by regulation, define the terms “waterworks system” and “sewer system”;

WHEREAS, under the first paragraph of section 39 of the Act, as replaced, the Government prescribes, by regulation, the cases and manner in which an operator or owner of a waterworks or sewer system may collect a tax, duty or dues from the persons served by it and the terms and conditions according to which the operator or owner sets to that end the applicable rate for using the system;

WHEREAS, under the second paragraph of section 39 of the Act, as replaced, the Government prescribes, by regulation, the terms and conditions according to which a person served may refuse the imposed rate;

WHEREAS, under the fourth paragraph of section 39 of the Act, as replaced, the Government prescribes, by regulation, the criteria according to which the Minister may, after an inquiry, impose the applicable rate and the moment it takes effect;

WHEREAS, under paragraph 12 of section 46 of the Act, as replaced, the Government may, by regulation, establish the duties, rights and obligations of the persons served, the owner and the operators as to the running and operation of a water management or treatment facility that is not operated by a municipality, or is operated by a municipality outside its territorial limits, and prohibit any act detrimental to its running and operation;

WHEREAS, under paragraph 14 of section 46 of the Act, as replaced, the Government may, by regulation, establish classes of persons served and operators;

WHEREAS, under subparagraph 3 of the first paragraph of section 95.1 of the Act, as replaced, the Government may make regulations to prohibit, limit and control sources of contamination and the release into the environment of any class of contaminants for all or part of the territory of Québec;

WHEREAS, under subparagraph 5 of the first paragraph of section 95.1 of the Act, as replaced, the Government may make regulations to establish standards for the installation and use of any type of apparatus, device, equipment or process designed to control the release of contaminants into the environment;

WHEREAS, under subparagraph 21 of the first paragraph of section 95.1 of the Act, as replaced, the Government may, by regulation, prescribe the reports, documents and information that must be provided to the Minister by any person or municipality carrying on an activity governed by the Act or the regulations, determine their form and content and the conditions governing their preservation and sending;

WHEREAS, under the second paragraph of section 95.1 of the Act, as replaced, a regulation made under the section may also prescribe any transitional measure necessary for its implementation;

WHEREAS, under section 115.27 of the Act, the Government may, in a regulation made under the Act, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty and set forth the amounts of the penalty;

WHEREAS, under the first paragraph of section 115.34 of the Act, the Government may determine the regulatory provisions made under the Act whose contravention constitutes an offence and renders the offender liable to a fine the minimum and maximum amounts of which are set by the Government;

WHEREAS, in accordance with sections 10, 12 and 13 of the Regulations Act (chapter R-18.1) and section 124 of the Environment Quality Act, a draft Regulation respecting private waterworks and sewer services was published in Part 2 of the *Gazette officielle du Québec* of 14 February 2018 with a notice that it could be made by the Government on the expiry of 15 days following that publication;

WHEREAS, under section 18 of the Regulations Act, a regulation may come into force between the date of its publication in the *Gazette officielle du Québec* and 15 days after that date where the authority that has made it is of the opinion that the urgency of the situation requires it and the reason justifying such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies a coming into force on 23 March 2018:

—the new provisions introduced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund concerning waterworks and sewer system enterprises completely changed the regulatory measures applicable to them. The new Regulation respecting private waterworks and sewer services must therefore be in force at the time of the coming into force of the new provisions to give them full effect;

WHEREAS it is expedient to make the Regulation respecting private waterworks and sewer services with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Regulation respecting private waterworks and sewer services, attached to this Order in Council, be made.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

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## Regulation respecting private waterworks and sewer services

Environment Quality Act  
(chapter Q-2, ss. 32, 39, 46, 95.1, 115.27 and 115.34;  
2017, chapter 4)

### CHAPTER I GENERAL

#### DIVISION I DEFINITIONS

**1.** For the purposes of this Regulation,

“owner of a waterworks or sewer system” means a person who owns a waterworks or sewer system, or, if it is undetermined, a person who owns the lot from which water is taken, in the case of a waterworks system, or is discharged, in the case of a sewer system; (*propriétaire d'un système d'aqueduc ou d'égout*)

“person in charge” means the operator or owner of a waterworks or sewer system; (*responsable*)

“person served” means the owner of a building, including a mobile home or a trailer, served by a waterworks or sewer system or, where one system serves another, the owner of the waterworks or sewer system served. The owner of land served by a waterworks or sewer system on which there is no building, including a mobile home or a trailer, is also a person served within the meaning of this Regulation; (*personne desservie*)

“sewer system” means any works used to collect, store, transport or process domestic wastewater before being discharged into the environment or into another sewer system. Any works situated within the limit of the property of a person served is however excluded; (*système d'égout*)

“waterworks system” means a distribution system within the meaning of section 1 of the Regulation respecting the quality of drinking water (chapter Q-2, r. 40). A distribution system intended only for fire protection is also considered to be a waterworks system. (*système d'aqueduc*)

#### DIVISION II SCOPE

**2.** The provisions of this Regulation regulate the services provided to the persons served by a waterworks or sewer system that is the responsibility of a person or a group of persons. The same applies for the services provided to the persons served by a waterworks or sewer system that is under the responsibility of a municipality

but, in that case, only to the extent where the property served is situated outside the limits of the territory of that municipality.

Despite the foregoing, subject to the second paragraph of section 21, the provisions of this Regulation do not apply in the cases where the person served by the waterworks or sewer system

(1) is a director, an officer or a shareholder or is otherwise a member of the legal person or group of persons responsible for the system;

(2) is part of the tourist clientele of a tourist establishment, within the meaning of section 1 of the Regulation respecting the quality of drinking water (chapter Q-2, r. 40), that is responsible for the system by which it is served.

### CHAPTER II WATERWORKS OR SEWER SERVICE

**3.** The person in charge of a waterworks or sewer system must provide the persons served with a continuous service and maintain the system in good working order.

**4.** Where a temporary interruption of service is necessary for repair, maintenance or improvement purposes of a waterworks or sewer system, the person in charge must send a notice of interruption to the persons served at least 10 days before interrupting the service.

If an interruption of service must be made urgently due to unforeseeable circumstances, the person in charge may proceed immediately with the interruption by informing the persons served by any appropriate means. As soon as the person in charge is aware that the duration of the interruption of service will extend to the following day, the person must send a notice of interruption of service to the persons served.

The person in charge must, in the notice of interruption, specify the nature of the work, the estimated time for the interruption of service and the measures that will be set up to ensure the sanitation of the premises. Where the interruption of service extends beyond the first day, the notice must specify the measures that will be implemented to ensure access to alternate services during the work.

The person in charge must again notify the persons served as soon as the person in charge is aware that the duration of the interruption of service will be longer than the time estimated in the notice of interruption. The measures set up to ensure the sanitation of the premises and, as the case may be, access to alternate services must be maintained until the end of the work.



Despite the first to the fourth paragraphs, where the interruption of service concerns a sewer system intended only for fire protection, the person in charge must inform, by any appropriate means, the persons served of the interruption and specify the estimated duration of the work.

**5.** The person in charge may suspend the waterworks or sewer service to a person served 30 days after that person has received a notice of suspension, where that person

(1) fails to pay the rate in effect in accordance with section 9;

(2) allows the installations to deteriorate, adversely affects their maintenance or makes use of the system in a way that is likely to compromise the service; or

(3) adversely affects the service in any other manner.

The notice of suspension must state the grounds invoked to suspend the service.

**6.** The person in charge may not suspend the service before the expiry of the 30-day period provided for in section 5 or if the ground for suspension no longer prevails within that period.

Where the service is suspended, the person in charge must restore it as soon as the ground for suspension no longer prevails.

**7.** No person may carry out a connection to a waterworks or sewer system covered by this Regulation without having previously obtained written authorization from the person in charge of the system.

The connection to a waterworks or sewer system that was authorized by the person in charge must be done at the expense of the person served.

The person in charge of a waterworks or sewer system who is aware of a connection that he or she did not authorize may cut the service to the person, without prior notice.

**8.** Where a sewer service is suspended under section 5 or cut under section 7, the person in charge must send, on the same day or on the next working day, a notice to the Minister and to the secretary-treasurer or the clerk of the local municipality in which the property concerned is situated.

The notice must contain

(1) the name and contact information of the person concerned;

(2) the address of the property concerned;

(3) the name and contact information of the person in charge of the waterworks or sewer service; and

(4) the date of effect of the suspension or cut and the grounds justifying it.

### CHAPTER III RATE FOR THE USE OF A SERVICE

#### DIVISION I SETTING THE RATE

**9.** The rate in effect for the use of a waterworks or sewer service is the rate set by the person in charge in accordance with this Division or, as the case may be, the rate imposed by the Minister under section 39 of the Environment Quality Act (chapter Q-2) or the rate ordered by the Minister under section 45.3.1 or 45.3.2 of the Act.

**10.** The person in charge may collect a tax, a fee or a charge from the persons served by his or her waterworks or sewer system.

In order to set the rate to be collected, the person in charge must calculate the sum of the expenses incurred in the preceding year of operation. The person in charge then sets a rate corresponding to the proportion of the sum of the expenses paid by each person served by the system, which are apportioned in accordance with Division IV.

In the case of a new waterworks or sewer system, a rate may be set for the first year of operation. In that case, the rate is set according to the sum of the expenses incurred for the installation of the system.

**11.** For the purpose of calculating the expenses incurred, the costs for the provision of the waterworks or sewer service that are related to the following are taken into account:

(1) buildings and land;

(2) the usual maintenance and repair of the installations or pipes of the system;

(3) the treatments and sampling of water and laboratory analyses;

(4) administration;

(5) other related expenses.

The capital costs and other expenses related to the provision of a waterworks or sewer service that may be apportioned over several years and that are related to the following are also taken into account:

- (1) the purchase, construction, replacement or major repairs of installations or components of the system;
- (2) any study or any application for authorization or for a permit when required;
- (3) other related expenses.

**12.** The person in charge must send to the persons served a notice of rate collection. That notice indicates the rate set and its effective date, that must correspond to the date on which the notice is sent or a later date. Subject to the decision that the Minister could make under Division III, that date constitutes the anniversary date of the effective date of the rate and the latter will be recalculated, in accordance with section 13, each year for 1 year from that date.

The notice also indicates each of the amounts related to the elements referred to in the first and second paragraphs of section 11 that were considered in the calculation of the rate.

**13.** Each year, within 60 days following the anniversary date of the taking of effect of the rate, the person in charge must send the persons served a new notice of rate collection.

The rate may also be reduced, maintained or increased, according to the sum of the expenses, calculated in accordance with sections 10 and 11.

## DIVISION II REFUSAL OF RATE

**14.** The person served may refuse the rate that the person in charge intends to collect by sending the person in charge a notice stating his or her reasons, within 30 days following the reception of the notice of rate collection referred to in section 12 or 13.

The person served may, in the notice of refusal, ask the person in charge to provide him or her with more information, in particular details of the expenses incurred or the supporting documents on which the person in charge relied to calculate the rate.

**15.** For the purpose of reaching an agreement, the person in charge must, within 10 days after receiving the notice of refusal, communicate with the person served and send to the person, in the manner prescribed in section 26, the required documents.

**16.** If the person in charge and the person served cannot agree, the person served may submit a request for an inquiry to the Minister, in accordance with Division III.

If no agreement has been reached and no request for an inquiry has been sent to the Minister within 60 days following receipt of the notice of refusal by the person in charge, the rate in force is then deemed to be the rate indicated in the notice of rate collection.

## DIVISION III MINISTER'S INQUIRY

**17.** If there is no agreement at least 30 days but not later than 60 days after the person in charge has received a notice of refusal in accordance with section 14, the person served may send the Minister a request for an inquiry so that the Minister may decide on the rate applicable and the time of its taking of effect.

The request must be sent in writing and contain

- (1) the name and contact information of the person served;
- (2) the address of the property served by the system;
- (3) the name and contact information of the person in charge of the waterworks or sewer system that serves the person; and
- (4) the specific reasons supporting the refusal.

A copy of the notice of rate collection received, a copy of the notice of refusal sent to the person in charge and a copy of any documents received from the person in charge under section 15 must also accompany the request.

**18.** After giving the parties an opportunity to submit their observations and produce any documents to complete the record, the Minister renders a decision on the record unless the Minister deems it necessary to proceed in some other manner.

**19.** In the Minister's decision, the Minister takes into account the criteria provided for in sections 10 and 11 and the fact that it is a public service.

## DIVISION IV RATE COLLECTION

**20.** The persons served may be grouped in categories according to the use and type of property that the waterworks or sewer system serves.

In the case of a waterworks system, the persons served may also be categorized according to their real consumption, calculated with water meters.

**21.** To set the rate to be collected, the sum of the expenses must be apportioned equally among each person served or according to proportions that may vary based on the categories of persons served.

The person in charge must, in apportioning the sum of the expenses to set the rate to be collected, consider any other person benefiting from the waterworks or sewer service, although the provisions of this Regulation do not apply to that person under section 2.

**22.** The sum of the expenses among various categories of persons served must be apportioned fairly. Within a single category, the rate must be identical for each person served.

**23.** The capital costs related to the extension of a waterworks or sewer system carried out to serve a new person are paid by that person. The costs are added to the rate that the person in charge may then collect from the new person served, that corresponds to the rate in effect, at the time of the connection, for other persons served or, as the case may be, for other persons served of the category to which the person belongs.

The person in charge must, for the purposes of the second paragraph of section 13, take into account the sums collected from the new person served in the calculation of the new rate.

**24.** Failing agreement between the person in charge and the person served regarding the terms of payment of the set rate, the rate is to be collected on a quarterly basis.

**25.** Despite a notice of rate collection that was the subject of a notice of refusal in accordance with section 14, the person in charge may continue to collect the rate collected the preceding year until an agreement is reached between the person in charge and the person served or until the new rate has been set in accordance with Division III, according to the terms established.

Where, following an agreement or a decision of the Minister, a new rate is set, the person in charge must send, within 15 days after the agreement or the reception of the decision, a notice of corrected rate collection to all the persons served by the system. The notice must specify the terms of adjustment of the rate in relation to the amounts collected up until then.

#### DIVISION V NOTICE

**26.** All the notices to be sent under this Regulation must be sent in writing and by a means allowing to prove its reception.

Notices and proof of their reception must be kept for a period of 5 years as of the date of their filing and be sent to the Minister, at the Minister's request.

#### CHAPTER IV PENALTIES

##### DIVISION I MONETARY ADMINISTRATIVE PENALTIES

**27.** A monetary administrative penalty of \$250 in the case of a natural person or \$1,000 in other cases may be imposed on the person who fails

(1) to communicate with the person served from whom the person in charge received a notice of refusal or to provide, at the request of the person served, the information and documents requested, in accordance with section 15; or

(2) to comply with the sending method provided for in the first paragraph of section 26 for any notice or document.

**28.** A monetary administrative penalty of \$350 in the case of a natural person or \$1,500 in other cases may be imposed on the person in charge who fails

(1) to comply with the deadlines to send any notice or document provided for in this Regulation or to indicate, in the notices or documents, the information required;

(2) to inform the persons served of an interruption of service, in accordance with the second or fifth paragraph of section 4; or

(3) to keep a notice or document for the period provided for in the second paragraph of section 26 or to send it to the Minister, at the Minister's requests.

**29.** A monetary administrative penalty of \$500 in the case of a natural person or \$2,500 in other cases may be imposed on the person in charge who fails to comply with the conditions to apportion the rate among the persons served provided for in section 21 or in section 22.

**30.** A monetary administrative penalty of \$750 in the case of a natural person or \$3,500 in other cases may be imposed on the person in charge who fails

(1) to ensure the persons served a continuous service or to maintain its system in good working order, in accordance with section 3;



(2) to set up or maintain, for the entire duration of the work, the measures to ensure the sanitation of the premises and, where applicable, access to alternate services in the cases provided for in section 4; or

(3) to comply with the conditions of suspension or restoration of service provided for in section 6.

## DIVISION II PENAL

**31.** A person in charge who contravenes section 15 or the first paragraph of section 26 commits an offence and is liable, in the case of a natural person, to a fine of \$1,000 to \$100,000 or, in other cases, to a fine of \$3,000 to \$600,000.

**32.** A person in charge who fails

(1) to comply with the deadlines to send any notice or document provided for in this Regulation or to indicate, in the notices, the information required,

(2) to inform the persons served of an interruption of service, in accordance with the second or the fifth paragraph of section 4,

(3) to keep a notice of document for the period provided for in the second paragraph of section 26 or to send it to the Minister, at the Minister's request,

commits an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$100,000 or, in other cases, to a fine of \$6,000 to \$600,000.

**33.** The person in charge who contravenes section 21 or section 22 commits an offence and is liable, in the case of a natural person, to a fine of \$2,500 to \$250,000 or, in other cases, to a fine of \$7,500 to \$1,500,000.

**34.** The person in charge who contravenes section 3 or section 6 commits an offence and is liable, in the case of a natural person, to a fine of \$4,000 to \$250,000 or, in other cases, to a fine of \$12,000 to \$1,500,000.

The person in charge who fails to set up or maintain, for the entire duration of the work, the measures to ensure the sanitation of the premises and, where applicable, access to alternate services in the cases provided for in section 4 also commits an offence and is liable to the same penalties.

**35.** Any person who, pursuant to this Regulation, makes a declaration, communicates information or files a document that is false or misleading commits an offence

and is liable, in the case of a natural person, to a fine of \$5,000 to \$500,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 18 months, or to both the fine and imprisonment, or, in other cases, to a fine of \$15,000 to \$3,000,000.

**36.** Any person who contravenes any other requirement imposed by this Regulation also commits an offence and is liable, where no other penalty is provided for by this Division or the Act, to a fine of \$1,000 to \$100,000 in the case of a natural person or, in other cases, to a fine of \$3,000 to \$600,000.

## CHAPTER V TRANSITIONAL AND FINAL

**37.** A rate approved or ordered by the Minister pursuant to the Environment Quality Act (chapter Q-2) before 23 March 2018 is considered, for the purposes of this Regulation, as a rate in effect within the meaning of section 9.

**38.** The person in charge who, on 23 March 2018, imposes a rate approved or ordered by the Minister pursuant to the Environment Quality Act (chapter Q-2), as it read before that date, must send to the persons served by its system a first notice of rate collection in accordance with Division I of Chapter III of this Regulation not later than on 23 March 2019.

**39.** Applications for approval or amendment of the rate that were sent to the Minister before 23 March 2018 are continued and decided in accordance with subdivision 4 of Division V of Chapter I of the Environment Quality Act, as it read before that date.

The rate thus approved by the Minister will constitute the rate in effect for a year and the rate may be collected in accordance with this Regulation. The date set in the Minister's decision will constitute, for the purposes of this Regulation, the anniversary date of the taking of effect of the rate under section 12.

**40.** This Regulation replaces the Regulation respecting waterworks and sewer services (chapter Q-2, r. 21).

**41.** This Regulation comes into force on 23 March 2018.

103384

Gouvernement du Québec

## O.C. 259-2018, 14 March 2018

An Act respecting health services and social services  
(chapter S-4.2)

An Act to modify the organization and governance  
of the health and social services network, in particular  
by abolishing the regional agencies  
(chapter O-7.2)

### Certification of private seniors' residences

Regulation respecting the certification of private  
seniors' residences

WHEREAS, under the second paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2), for the purposes of the Act, a private seniors' residence is all or part of a congregate residential facility occupied or designed to be occupied mainly by persons 65 years of age or over; in addition to leasing rooms or apartments, the operator of the residence offers various services included in at least two of the following categories of services, defined by regulation: meal services, personal assistance services, nursing care services, domestic help services, security services or recreation services and the cost of those services may be included in the rent or paid in another manner;

WHEREAS, under the fourth paragraph of section 346.0.1 of the Act, the Government may, by regulation, define the categories of services listed in the second paragraph of the section and provide for categories of private seniors' residences including at least one category of residences offering services for independent elderly persons and one category of residences offering services for semi-independent elderly persons

WHEREAS, under section 346.0.6 of the Act, the Government may prescribe, by regulation, the qualifications an applicant for a temporary certificate of compliance must possess, the health and social criteria with which the operator of a private seniors' residence must comply to receive a certificate of compliance, which may vary according to category of private seniors' residence, the conditions that staff members and volunteers of such a residence and any other person working in such a residence must fulfill, depending on their duties, in particular conditions relating to training and security, including conditions relating to judicial records and the information and documents those persons must provide to the operator of the residence to enable the operator to verify whether those conditions have been fulfilled, and any other standard applicable to the operation of a private seniors' residence;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting the certification of private seniors' residences was published in Part 2 of the *Gazette officielle du Québec* of 14 October 2015 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT the Regulation respecting the certification of private seniors' residences, attached to this Order in Council, be made.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

### Regulation respecting the certification of private seniors' residence

An Act respecting health services and social services  
(chapter S-4.2, ss. 346.0.1, 346.0.3, 346.0.6, 346.0.7,  
346.0.20 and 346.20.1)

An Act to modify the organization and governance  
of the health and social services network, in particular  
by abolishing the regional agencies  
(chapter O-7.2, s. 46, 2nd par.)

#### CHAPTER I GENERAL

#### DIVISION I SCOPE AND INTERPRETATION

1. A private seniors' residence belongs to one or a number of the following categories:

(1) category 1, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments, various services included in at least 2 of the following categories of services: meal services, security services, recreation services or domestic help services except, in the latter case, medication distribution;

(2) category 2, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments and domestic help services including as a minimum medication distribution, at least 1 service included in any of the following categories of services: meal services, security services or recreation services;

(3) category 3, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments and at least 1 service in the category of personal assistance services, at least 1 service included in any of the following categories of services: meal services, security services, recreation services or domestic help services;

(4) category 4, composed of any private seniors' residence offering, in addition to the leasing of rooms or apartments and at least 1 service in the category of nursing care, at least 1 service included in any of the following categories of services: meal services, security services, recreation services, domestic help services or personal assistance services.

Category 1 and category 2 residences are residences whose services are intended for independent elderly persons and those of category 3 and category 4 are residences whose services are intended for semi-independent elderly persons within the meaning of the fourth paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2).

**2.** For the purposes of the second paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2) and this Regulation,

(1) "domestic help services" means any of the following services:

(a) housekeeping services in rental units;

(b) laundry services for clothing and bedding;

(c) medication distribution, namely, the physical delivery of medication to a resident who is able to administer it personally;

(2) "personal assistance services" means any of the following services:

(a) the administration of medication, namely the control of the medication by a staff member and an assistance to the resident in taking the medication, carried out in accordance with the first paragraph of section 25;

(b) all the other personal assistance services, including feeding, personal hygiene, dressing and bathing assistance services, excluding the services included in the definition of nursing care provided for in paragraph 7;

(3) "recreation services" means organized recreation or entertainment services to promote socialization provided by the operator to the residents, in particular in the form of physical, mental, social or creative activities;

(4) "meal services" means the supply or availability, in the residence and on a regular basis, of one or more meals; the fact, for an operator, of suspending on an occasional or repeated basis the supply or availability of that service does not deprive the service of its regular character;

(5) "security services" means the full-time presence in a residence of a staff member providing supervision or responding to calls from a call-for-help system offered to residents pursuant to section 15;

(6) "ambulatory care service" means a room made available by the operator where one or a number of authorized professionals receive the residents who wish to consult on an occasional basis for a particular health problem or its follow-up;

(7) "nursing care" means the activities and care provided in a resident's rental unit, including invasive care involved in assistance with activities of daily living offered in the course of the professional activities that nurses and nursing assistants are authorized to exercise under an Act or regulation, and the care provided during the exercise of such activities by any other person authorized to exercise them under an Act or regulation.

**3.** The operator of a private seniors' residence may offer services that result in the residence corresponding to more than one category provided for in this Regulation to the extent that the operator provides the services corresponding to each of the categories in separate units or on separate floors. The residence is then subject to the respective requirements of those categories in each unit or on each floor concerned. If services of various categories are not offered separately, the private seniors' residence is subject to the requirements of the highest category.

In addition to the services provided for in section 1 in respect of each of their categories, categories 2, 3 and 4 residences may also put at the disposal of residents an ambulatory care service.

**4.** This Regulation and sections 346.0.1 to 346.0.21 of the Act respecting health services and social services (chapter S-4.2) do not apply to the operator of a private seniors' residence housing exclusively less than 6 persons who are related to the operator by blood, marriage, civil union or de facto union.

**5.** Sections 15, 37, 39, 40, 50 and the second paragraph of section 53 do not apply to the operator of a private seniors' residence housing less than 6 residents.

No operator of such a residence may offer services that result in the residence corresponding to more than one category or an ambulatory care service.

**6.** The second paragraph of section 39, section 40 and the second paragraph of section 53 do not apply to the operator of a private seniors' residence housing 6 residents or more but counting 9 rental units or less.

Section 15 does not apply to the operator of such a category 1 residence.

No operator of such a residence may offer services that result in the residence corresponding to more than one category or an ambulatory care service.

## **DIVISION II REGISTER**

**7.** In addition to the information provided for in the third paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2), an integrated health and social services centre must collect and update the following information for the purposes of constituting and keeping the register of private seniors' residences:

(1) the name and address of the residence and its opening date;

(2) the name and address of the operator and, in the case of a legal person or partnership, its name, mode of constitution and the business number assigned by the enterprise registrar in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1);

(3) the name and address of the shareholders or, as the case may be, partners;

(4) the date on which the operator took possession of the residence;

(5) where applicable, the names and addresses of the other private seniors' residences held by the operator;

(6) where applicable, the name of the associations representing private seniors' residences of which the operator is a member;

(7) the total number of rental units in the congregate residential facility;

(8) the total number and the number of the rental units that form the private seniors' residence, also specifying whether they are rooms or apartments;

(9) the number of residents in each of the determined age groups;

(10) whether or not there are care units in the residence;

(11) whether or not there is an ambulatory care service;

(12) where applicable, for each work shift, the number of staff members in charge of providing personal assistance services, the number of nurses and nursing assistants present in the residence and the total number of staff members present in the residence.

For the purposes of the register, the integrated centre must also collect and update the following information on the building pursuant to the third paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2):

(1) the number of floors in the residence and the type of elevator with which it is equipped, if any;

(2) the type of construction of the building;

(3) the characteristics of the building's basement and its use, if applicable;

(4) whether or not there is an access ramp to the building;

(5) whether or not the residence is equipped with a sprinkler system and the drinking water supply source;

(6) whether or not there are hot water mixing valves and detection and alarm equipment in the rental units;

(7) the presence of an alternative source to the main electric power supply source.

## **CHAPTER II OPERATION OF A PRIVATE SENIORS' RESIDENCE**

### **DIVISION I GENERAL**

**8.** The operator of a private seniors' residence must make sure that all the provisions of this Regulation are complied with in the residence.

More specifically, the operator must make sure that the residents and their close relatives are treated with courtesy, fairness and understanding. To ensure the health and safety of residents, the operator must also make sure that the residence and the land on which it is situated are maintained and kept in a good condition. The foregoing also applies to the appliances and equipment required to provide care and personal assistance services, which must also be used in a safe and adequate manner.

The operator must also, on request by the body recognized by the Minister under the second paragraph of section 346.0.4.1 of the Act respecting health services and social services (chapter S-4.2) or by a person authorized to carry out an inspection in accordance with section 346.0.9 of the Act, provide any document attesting that the provisions of this Regulation are complied with, within no more than 48 hours.

**9.** In addition to the words “private seniors’ residence” provided for in section 346.0.20.1 of the Act respecting health services and social services (chapter S-4.2), a congregate residential facility may not be operated under a name including the words listed in Schedule I if the operator does not hold a temporary certificate of compliance or a certificate of compliance.

Likewise, the operator of such a facility may not use a logo or another sign that could lead to believe that the facility is operated as a private seniors’ residence if the operator does not hold a certificate of compliance or a temporary certificate of compliance.

## DIVISION II TEMPORARY CERTIFICATE OF COMPLIANCE

**10.** In addition to the conditions set out in the Act respecting health services and social services (chapter S-4.2), every person or partnership applying for a temporary certificate of compliance must meet the following conditions:

(1) neither the person or partnership, nor any officer of the residence, may have held a temporary certificate of compliance or a certificate of compliance that, in the year prior to the application, was revoked or was not renewed pursuant to section 346.0.11 of the Act respecting health services and social services (chapter S-4.2);

(2) neither the person or partnership, nor any officer of the residence, may, in the year prior to the application, have been refused the issue of a certificate of compliance pursuant to the Act respecting health services and social services (chapter S-4.2);

(3) neither the person or partnership, nor any officer of the residence, may, in the year prior to the application, have been found guilty of an offence under section 531.1 of the Act respecting health services and social services (chapter S-4.2).

In addition, a legal person one of the directors of which or whose chief officer acts or has already acted as officer or director of a legal person that does not meet the conditions provided for in any of subparagraphs 1 to 3 of the first paragraph or that would not meet them if it still existed must demonstrate to the integrated health and social services centre that it will take the measures necessary for ensuring compliance with this Regulation.

**11.** Every person or partnership applying for a temporary certificate of compliance must provide the integrated health and social services centre with the following information and documents:

(1) the name and contact information of the person or partnership and the officers of the residence;

(2) the address where the applicant wishes to receive correspondence, if different from the address provided for the applicant under subparagraph 1;

(3) the name and address of the residence for which the application is made;

(4) where applicable, the name of any residence for which the applicant holds or has held a temporary certificate of compliance or a certificate of compliance;

(5) where applicable, a copy of the registration declaration filed in the enterprise register pursuant to the Act respecting the legal publicity of enterprises (chapter P-44.1) and the business number assigned to the applicant;

(6) the category or categories of private seniors’ residence that the applicant intends to operate;

(7) a description of the target clientele, of all the services offered in the residence and their cost, and the residence’s capacity for providing services and receiving persons with a disability;

(8) the number of planned rental units that will form the private seniors’ residence, specifying whether they are rooms or apartments;

(9) a written declaration by the applicant, in the case of a natural person, and by each officer of the residence and, where applicable, by each director, stating that they are aware of all the relevant provisions of the Act respecting health services and social services (chapter S-4.2) and the provisions of this Regulation and that they undertake to comply or ensure compliance with those provisions from the beginning of the period of validity of the temporary certificate of compliance;

(10) a written declaration by the applicant and by each officer of the residence and, where applicable, by each director, who is, or has been, charged with or convicted of an indictable or other offence, unless, in the case of a conviction, a pardon has been obtained, along with all the information required for the verification of the declaration by a police force and written consent, from each person concerned, to the verification and to the disclosure of the results of the verification to the integrated centre by the police force;



(11) an attestation from the municipality where the residence will be situated confirming that the project does not violate any zoning by-law;

(12) an attestation from a professional, such as an architect or engineer, confirming that the construction of the building or of the part thereof that will shelter the residence is compliant for the planned use.

In addition, where the application is made by a legal person or a partnership, the applicant must provide

(1) a certified copy of its constituting act or partnership agreement, as the case may be;

(2) a copy of the initial declaration filed in the enterprise register under the Act respecting the legal publicity of enterprises (chapter P-44.1); and

(3) a certified copy of the resolution authorizing the application.

A copy of the declaration and consent provided for in subparagraph 10 of the first paragraph must be kept for 5 years following the departure of the person concerned by the declaration or consent.

### DIVISION III HEALTH AND SOCIAL CRITERIA FOR CERTIFICATION

#### §1. *General*

**12.** The operator of a private seniors' residence must, in order to obtain a certificate of compliance, comply with the health and social criteria provided for in this Division that apply to the operator's residence.

**13.** Before entering into a lease with a person wishing to become a resident, the operator of a private seniors' residence must make sure that the person has read the document referred to in section 37. Using that document and with the person's agreement, the operator must then identify the services, if any, that the person wishes to receive. The operator must then enter into a written lease using, as the case may be, the forms prescribed by paragraph 4 or paragraph 5 of section 1 of the Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee (chapter R-8.1, r. 3). In every case, the operator must also use the form prescribed by section 2 of that Regulation.

The operator of a private seniors' residence must offer and maintain all the services listed in the lease and the appendix to the lease for the full term of the lease without increasing the cost or decreasing the provision of the services.

The operator must also maintain in the residence, at all times, sufficient qualified staff to respond adequately to the services agreed upon and to the commitments made to residents under the leases entered into pursuant to the first paragraph.

**14.** The operator of a private seniors' residence must take and maintain liability insurance coverage in a sufficient amount to cover any claim resulting from the operator's general civil or professional liability, the minimum amounts of which are provided for in Schedule II.

If the operator is a legal person, the operator must also take and maintain insurance coverage concerning the liability of the residence's directors and officers, where applicable.

#### §2. *Residents' health and safety*

**15.** The operator of a private seniors' residence must make a call-for-help system available to each resident, enabling the resident to obtain, quickly and at all times, assistance from a person of full age responsible for taking action in case of emergency and for ensuring access inside the residence by the emergency services.

The call-for-help system may be fixed or mobile. If it is fixed, it must be usable in each of the private bathrooms or washrooms of the resident's rental unit, as well as in each shared bathroom or washroom of the residence. A fixed call-for-help system must also be accessible from the resident's bed, except if the resident has refused in writing to have access to the system from the bed. However, the operator must ensure that the system is operational at all times.

The resident or the resident's representative may refuse in writing the use of a mobile call-for-help system, where applicable.

A document expressing a refusal pursuant to this section must be filed in the resident's file kept pursuant to section 57.

**16.** Subject to the application of the second paragraph of section 346.0.7 of the Act respecting health services and social services (chapter S-4.2) or of any other legislative or regulatory provision requiring the presence of a greater number of persons in a residence, the operator of a private seniors' residence must ensure supervision in the residence, in accordance with sections 17 to 20, according to the category to which the residence belongs and the number of rental units offered for lease. The operator must also make sure, where required, that a sufficient number of persons able to ensure the evacuation of the residents in case of emergency is present in the residence.

For the purposes of sections 17 to 20, a person present in the residence to supervise it must, from the first supervision, hold, as the case may be, the attestations referred to in section 28 or the diploma referred to in subparagraph 1 of the first paragraph of section 29, or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section. The foregoing also applies to a care attendant referred to in section 27.

**17.** In the case of a category 1 private seniors' residence comprising 99 rental units or less, a person of full age must be present at all times in the residence to supervise it. That person may be a staff member, a resident, a supervising lessee or a volunteer of the residence.

In the case of a category 1 residence comprising 100 to 199 rental units, at least 1 person of full age who is a staff member or, if applicable, 2 other persons of full age referred to in the first paragraph must be present at all times in the residence to ensure supervision. In the case of a residence of 200 rental units or more, those minimum numbers are increased to 2 and 3 persons, respectively.

Every person present in the residence to ensure supervision pursuant to this section must hold the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28.

**18.** In the case of a category 2 private seniors' residence comprising 199 rental units or less, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. For a residence of 200 rental units or more, that minimum number is increased to 2 persons.

In the case of such a residence comprising 9 rental units or less, the operator may, for discontinuous periods of less than 12 hours, have the supervision in the operator's residence ensured by a person of full age, other than a resident.

Every person present in the residence to ensure supervision pursuant to this section must hold the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28.

**19.** In the case of a category 3 private seniors' residence comprising 99 rental units or less, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. That person must hold the attestations referred to in section 28. The person must also hold the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section.

Despite the foregoing, in the case of a residence comprising 9 rental units or less, the operator may, for discontinuous periods of less than 12 hours, have the supervision in the residence provided by a person of full age, other than a resident, insofar as that person holds the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28.

In the case of a category 3 residence comprising from 100 to 199 rental units, at least 2 persons of full age who are staff members must be present at all times in the residence to ensure supervision, including 1 person holding the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28. The other person must hold the attestations referred to in section 28 and the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section.

In the case of a residence comprising 200 rental units or more, at least 3 persons of full age who are staff members must be present at all times in the residence to ensure supervision, including 2 persons holding the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28. The other person must hold the attestations referred to in section 28 and the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section.

**20.** In the case of a category 4 private seniors' residence comprising 49 rental units or less, at least 1 person of full age who is a staff member must be present at all times in the residence to ensure supervision. That number is increased to 2 for a residence from 50 to 99 rental units, 3 for a residence from 100 to 199 rental units and 4 for a residence of 200 rental units or more.

Every person who ensures supervision pursuant to this section must hold the attestations referred to in section 28. The person must also hold the diploma referred to in subparagraph 1 of the first paragraph of section 29 or have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section.

**21.** The operator of a private seniors' residence must establish a fire safety plan and keep it up-to-date.

In addition to what is provided by any applicable Act or regulation, the fire safety plan must contain

(1) a list of the residents, specifying for each the measures to be taken to ensure they are evacuated to a safe place;

(2) the telephone numbers of the persons who must be alerted in the event of a fire in order to provide housing for the residents; and

(3) where applicable, the names and contact information of all organizations, establishments institutions or individuals that have undertaken to provide assistance in the event of an evacuation of the residence and to take charge of the persons evacuated, along with a copy of the agreements signed.

A copy of the plan must be kept in an accessible place determined by the fire safety service of the municipality where the residence is situated.

Every staff member and every person in charge of ensuring supervision in the residence must be informed, upon taking office and thereafter every year, of the content of the plan and of the specific tasks they are to perform in the event of an evacuation. They must be able to perform them.

**22.** The operator of a private seniors' residence must establish, in writing, procedures to be followed by the residence's staff and by any other person in charge of ensuring supervision in the residence in case of danger to the life or integrity of a resident, the death or unexplained absence of a resident, and a heat wave advisory issued by the competent authorities. The procedures must include at least the actions provided for in Schedule III. The operator must also establish, in writing, procedures for infection prevention in the residence, for fall prevention among the residents and measures to be taken when a resident shows signs of an infectious disease.

The operator must inform the staff members and any other person in charge of ensuring supervision in the residence of the procedures referred to in the first paragraph.

**23.** The operator of a category 1 or 2 private seniors' residence may not accept an elderly person who, before arriving at the residence, has a cognitive disorder that makes constant supervision necessary, unless the supervision is provided by a third person that does not act on behalf or at the request of the operator.

**24.** The operator of a category 3 or 4 private seniors' residence must take all the measures necessary to prevent residents prone to wandering from leaving the residence or its grounds, including the installation of a security device that allows, in such a case, to alert a staff member and the establishment of a procedure intended for staff members regarding their course of action in the event of an alert.

The operator must also complete an information sheet, with residents prone to wandering or the resident's representative, if applicable, describing the resident's general profile and physical characteristics, and accompanied by a recent photograph.

Once completed, the information sheet must be kept in the file referred to in section 57.

**25.** In a category 3 or 4 private seniors' residence, prescribed ready-to-administer medications must be administered in accordance with section 39.8 of the Professional Code (chapter C-26) or a regulation made pursuant to section 39.9 of the Code.

In addition, in a category 4 private seniors' residence, the invasive care involved in assistance with activities of daily living that is required on a sustained basis for the maintenance of health must be provided in accordance with section 39.7 of the Professional Code (chapter C-26) or a regulation made pursuant to section 39.9 of the Code.

**26.** The operator of a category 2, 3 or 4 private seniors' residence must implement, for staff members, a procedure regarding the medications prescribed to residents to whom the medication distribution or administration services are provided, including

(1) the measures to be taken upon the arrival and departure of a resident to whom medications have been prescribed;

(2) the storage, conservation, distribution or administration measures for medications prescribed to residents; and

(3) measures for the management of outdated medications or medications no longer needed by residents;

(4) the measures providing specific conditions during the distribution or administration of medications prescribed individually to be used as required or prescribed by group prescription, where the residence has the staff authorized to distribute or administer such medications under the applicable legislative or regulatory provisions respecting professional activities.

The operator must designate, from among the staff members, a person in charge of the application of the procedure provided for in the first paragraph.

The person in charge must establish a list of the persons authorized to distribute and administer medications during each work shift. The person in charge must also make sure



(1) that the authorized person distributing or administering a medication verifies the resident's identity and ensures that the medications given or administered are in fact intended for the resident;

(2) that the medications prescribed to each resident are clearly identified and stored in a placed under lock and key and, if required, refrigerated; and

(3) that an incident or accident in relation to the distribution or administration of a medication to a resident be reported in the register of incidents and accidents referred to in section 50.

### §3. *Persons working in the residence*

**27.** For the purposes of this Regulation, a care attendant is any person, including the operator if applicable, who, in performing duties in the residence, provides personal assistance services or invasive care involved in assistance with activities of daily living, except any member of a professional order in the field of health.

**28.** Every care attendant must, not later than 1 year after beginning work, hold the attestations of completion issued by the persons or organizations listed in Schedule IV confirming that the person has successfully completed training on each of the following subjects:

- (1) cardiopulmonary resuscitation;
- (2) standard first aid;
- (3) the safe movement of persons.

For the subjects referred to in subparagraphs 1 and 2 of the first paragraph, the training must enable the acquisition of the skills listed in that Schedule.

Thereafter, every care attendant is required to keep the attestations up-to-date.

**29.** Every care attendant must, not later than 1 year after beginning work,

(1) hold a vocational education diploma awarded by the Ministère de l'Éducation et de l'Enseignement supérieur in the fields of assistance in health care facilities or home care assistance;

(2) have received from a school board, or through a school board, care attendant training and hold an official document issued by the school board certifying competency in

(a) identifying the responsibilities and obligations of a care attendant and behaving and intervening in a manner consistent with professional ethics with regard to residents' rights;

(b) identifying the needs of elderly persons, recognizing the physical and physiological changes associated with normal aging, and taking into account the functional consequences of vision and hearing problems and expression problems such as aphasia, as well as their impact on those needs, in particular as part of the activities of daily living;

(c) applying basic practices to prevent infection and contamination;

(d) applying basic care procedures, in particular as part of the activities of daily living; and

(e) taking into account the functional consequences of illness, physical and mental disability and cognitive impairment and their impact on the needs of the elderly person, in particular as part of the activities of daily living; or

(3) hold from a school board a document confirming that

(a) the care attendant has completed a number of courses equivalent to 1 year of full-time studies in a program leading to the title of nurse or nursing assistant; or

(b) the care attendant has 3 or more years of full-time experience in providing assistance in direct interventions, acquired over the last 60 months and obtained as

i. a beneficiary care attendant or equivalent in a community organization or private seniors' residence;

ii. a beneficiary care attendant in an institution or intermediate resource, or as the person responsible for an intermediate resource or family-type resource, provided the resource housed elderly persons and the care attendant performed tasks in the resource that involved providing assistance and support services; or

iii. a family and social auxiliary or a home care auxiliary in an institution operating a local community service centre or rehabilitation centre, or in a social economy enterprise.

For the purposes of subparagraph 3 of the first paragraph, 1 year of full-time experience corresponds to 1,664 hours of paid work.

**30.** The staff members of a private seniors' residence must not be charged with or have been convicted of an indictable or other offence related to the abilities and conduct required to work in the residence, unless, in the case of a conviction, a pardon has been obtained.

The foregoing also applies to volunteers working in the residence on a regular basis and who, as part of their duties, are required to come in contact directly with the residents.

**31.** Every person wishing to join the staff of a private seniors' residence or to work there as a volunteer in accordance with the second paragraph of section 30 must, before beginning work, provide the operator with a declaration concerning any charge or conviction referred to in the first paragraph of that section unless, in the case of a conviction, a pardon has been obtained.

The declaration must contain all the information necessary for verification and include written consent to the verification and to the disclosure of the results of the verification to the operator.

The operator must have the accuracy of the declaration referred to in the first paragraph verified before the staff member or volunteer referred to in the second paragraph of section 30 begins work. The verification must be made for all Canadian provinces and the results obtained must describe the charges or convictions, where applicable.

However, the operator may hire a person as staff member subject to the verification of the person's judicial record if the person has declared no judicial record and insofar as the hiring is necessary to maintain sufficient staff on the premises to adequately meet the needs of the residents and the commitments made in their respect in the leases entered into under section 13.

**32.** The verification of a judicial record referred to in section 31 must be repeated when

(1) a staff member or a volunteer referred to in the second paragraph of section 30 is charged with or convicted of an indictable or other offence; or

(2) the operator or the integrated health and social services centre concerned so requires.

Similarly, when a new director or officer is appointed, the operator must, before that person takes office, provide the integrated centre concerned with the declaration and consent of the director or officer, as described in subparagraph 10 of the first paragraph of section 11.

**33.** The operator of a private seniors' residence must, without delay, inform the integrated health and social services centre concerned of any indictment for an indictable or other offence brought against the operator or one of the directors or officers, and of any conviction for such offence pronounced against the operator or one of the directors or officers.

The integrated centre concerned may also, where it deems it appropriate, require that the operator provide the integrated centre with the information provided for in the first paragraph.

**34.** The operator of a private seniors' residence providing services to the residents through subcontractors or who uses the services of third persons to fill the operator's needs for personnel, in particular the services of a placement agency, must obtain from the subcontractors or other third persons the guarantee that the persons that could be chosen to work in the residence have been verified to determine if they are indicted for a criminal offence or have been found guilty of such an offence for which they have not obtained a pardon. The operator must also obtain from any subcontractor or other third person the guarantee that a person who has been indicted for or found guilty of a criminal offence related to the abilities and conduct required to work in the residence will not work in the residence, unless, in the case of a conviction, a pardon has been obtained.

The operator must also obtain from the subcontractors or other third persons referred to in the first paragraph the guarantee that the persons chosen to work in the residence as care attendants hold the attestations referred to in section 28. The operator must also obtain from the subcontractors and third persons the guarantee that those persons hold a diploma referred to in subparagraph 1 of the first paragraph of section 29 or that they have obtained one of the documents referred to in subparagraph 2 or 3 of the first paragraph of that section.

#### **DIVISION IV** **OPERATING STANDARDS**

##### *§1. General*

**35.** The operator of a private seniors' residence must, in the course of operating the residence, comply with the standards provided for in this Division that are applicable. Failing that, the provisions of section 346.0.11 of the Act respecting health services and social services (chapter S-4.2) apply.

**36.** The operator of a private seniors' residence must adopt, for the residence's directors, staff members, volunteers and any other person working in the residence, a code of ethics that the operator must enforce and that sets out expected practices and behaviour toward residents and their close relatives. The code of ethics must specify, as a minimum,

(1) the residents' right to be treated with courtesy, fairness and understanding in the respect of their dignity and autonomy, and on the basis of their needs;

(2) the affirmation of the philosophy of well-treatment, according to which the actions carried out towards the residents must favour their well-being, fulfilment and decision-making power;

(3) the right to information and freedom of expression;

(4) the right to confidentiality and discretion; and

(5) the prohibition preventing the operator, staff members, volunteers and any other person working in the residence from accepting donations or bequests from a resident made while the resident is or was housed at the residence, or, subject to the second paragraph, from soliciting residents in any way.

In the case of a private seniors' residence constituted for non-profit purposes or as a cooperative under a statute of Québec, the code of ethics may provide that residents may be solicited for purposes determined by the board of directors.

The persons subject to the code of ethics must undertake, in writing, to comply with the code of ethics. The undertaking made by a staff member or a volunteer referred to in the first paragraph of section 17 must be placed in the file kept pursuant to section 58.

The operator must post the code of ethics visibly, in a place accessible to the residents.

**37.** The operator of a private seniors' residence must, before signing a lease, give a prospective resident, or the prospective resident's representative, if applicable, a document drafted in simple and clear terms specifying

(1) all the services provided in the residence, with their respective cost;

(2) the conditions on which persons with a disability may be admitted and the accommodation capacity for such persons;

(3) the operating rules for the residence;

(4) the fact that any resident may file a complaint with the integrated health and social services centre concerned regarding the services that the resident received or ought to have received from the residence; and

(5) the fact that every resident must insure his or her personal property;

(6) the fact that a resident may choose the pharmacist from whom the resident wishes to receive pharmaceutical services.

In the case of a category 1 or 2 residence, the document referred to in the first paragraph must also indicate the fact that the operator does not provide personal assistance services or nursing care.

The operator gives to the resident or, where applicable, his or her representative the code of ethics adopted under the first paragraph of section 36.

**38.** The operator of a private seniors' residence must allow the residents to receive visits from visitors at all times.

The operator must ensure that the layout of the residence allows visits to take place in a way that respect the residents' privacy.

**39.** To promote the socialization of residents and to prevent their isolation, the operator of a private seniors' residence must offer them various activities, including organized recreation and entertainment activities that are varied and adapted to the client profile for the residence.

The operator must post visibly a schedule of activities in a place accessible to the residents, for consultation by residents and close relatives.

**40.** The operator of a private seniors' residence must, for all new staff members, draw up and apply a reception and job induction program to familiarize them with their new work environment and the tasks inherent to their duties.

## §2. Residents' health and safety

**41.** The operator of a private seniors' residence must sign an agreement with the integrated health and social services centre concerned setting out how health services and social services will be dispensed to the residents by that institution, undertakings made by the institution and the operator in that respect and any other modality concerning their cooperation.

In the case of a category 3 or 4 residence, the agreement must also establish the manner in which sections 39.7 and 39.8 of the Professional Code (chapter C-26) are to apply or, as the case may be, the manner in which the provisions of a regulation made under section 39.9 of the Code are to apply.

**42.** The operator of a private seniors' residence must allow health or social services professionals chosen by the residents and employees of a health and social services institution to have access to residents at all times, in particular to assess their psychosocial needs, monitor their state of health or provide care or services.

**43.** Professional activities carried out in a residence, within the framework of the services provided by the operator, must be carried out by members in good standing of the professional order concerned or by persons who, even if they are not members of the professional order concerned, are authorized to carry out such activities pursuant to an Act or a regulation.

**44.** The operator of a private seniors' residence must inform the residents that they are entitled to address a complaint concerning the services that the resident received or ought to have received from the residence, directly to the local service quality and complaints commissioner of the integrated health and social services centre concerned.

The operator must make available, in a place accessible to residents and their visitors, the information about the exercise of the right and the information they need to file a complaint.

**45.** The operator of a private seniors' residence must ensure the health and safety of residents by offering and maintaining a living environment that complies with the provisions of any Act or regulation, including a municipal by-law, that are applicable to the operator or to the operator's residence, in particular any standards in matters of hygiene, sanitation, construction, building, food products or safety, including fire safety.

An operator that offers services through subcontractors must ensure that they comply with the applicable legislative and regulatory provisions.

The operator must keep in the residence, for at least 5 years, the orders, remedial notices or other documents issued to the operator by any authority in charge of applying any applicable legislative or regulatory provisions, as well as proof showing that the operator has complied with them by taking the appropriate remedial action, where applicable.

**46.** The operator of a private seniors' residence must store in a secure storage space all household cleaning materials between each use. The operator must also take the measures necessary to ensure that any flammable, toxic or explosive product is not accessible to residents.

**47.** Every private seniors' residence must have mobile first aid kits in good condition and readily accessible by staff members and volunteers.

The content of the kits must be adapted to the number and types of residents, in particular as regards the nature and quantity of the items included in the kit.

**48.** The operator of a category 2, 3 or 4 private seniors' residence must promote and encourage the residents' autonomy by favouring the self-administration of medications by the residents.

The operator must inform the residents who self-administer their medications that they must keep them safely in their rental unit so that they are not easily accessible to the other residents.

**49.** The operator of a private seniors' residence may not offer, sell or put at the disposal of a resident any medication, whether or not the medication may be sold by anyone under the Regulation respecting the terms and conditions for the sale of medications (chapter P-10, r. 12).

The first paragraph may not be interpreted as preventing a nurse or a nursing assistant from performing an act that the legislative or regulatory provisions applicable to them allow them to perform.

In addition, subject to subparagraph 2 of the third paragraph of section 26, no medication of a resident may be kept outside the resident's rental unit.

**50.** To prevent, correct or reduce the frequency of situations creating a risk, the operator must establish a reporting procedure for known incidents and accidents that occur in the residence and involve a resident.

The procedure must include, as a minimum,

(1) the keeping of a register to record the names of witnesses, the time and place of the incident or accident, a description of the facts observed, the circumstances of an incident or accident and, where applicable, the immediate consequences for the resident;

(2) the means used by the operator to prevent the occurrence of other incidents or accidents; and

(3) the obligation to disclose every accident to the resident, his or her representative, where applicable, and, if the resident consents, to the person to be contacted in case of emergency, as well as the rules to be followed for such disclosure.

Following an accident, the information in subparagraph 1 of the second paragraph must be filed in the resident's file referred to in section 57.

For the purposes of this Regulation,

(1) "accident" means an action or situation in which a risk is realized that has, or could have, consequences for the state of health or well-being of a resident;

(2) "incident" means an action or situation that has no consequences for the health or well-being of a resident but that has an unusual outcome and could, in other circumstances, have had consequences.

**51.** The operator of a private seniors' residence must notify the person to be contacted in case of emergency and, with the resident's consent or, as the case may be, that of his or her representative, the integrated health and social services centre concerned when the operator notices that

(1) a resident is behaving unusually or unexpectedly in a way that may harm the resident or another person;

(2) a resident shows a loss of cognitive autonomy associated with behavioral disorders;

(3) a state of health that presents a risk for a resident's safety in case of emergency or that requires care or services beyond the services offered by the operator.

The mechanism for giving notice to the integrated health and social services centre must be agreed upon between them in the agreement entered into pursuant to section 41.

A notice given pursuant to this section must be filed in the resident's file referred to in section 57.

**52.** The operator of a private seniors' residence may, with the consent of a resident or a person who wishes to become one, proceed with or request the identification of a loss of autonomy of the resident or person, in order to determine if their state of health may require care or services beyond the services offered by the operator or to enable the resident or person to determine the care and services required by his or her condition. Such identification must be conducted using the tool for the identification of persons with decreasing autonomy Prisma-7.

The operator may also, in the same manner and for the same purposes, proceed with or request an assessment of the autonomy of such a resident or person. Such assessment must be conducted using the functional autonomy measurement system (*système de mesure de l'autonomie fonctionnelle* (SMAF)) by a professional authorized to do so.

Only the tools referred to in the first and second paragraphs may be used to conduct such identification or assessment. The result thereof must be filed in the resident's file kept pursuant to section 57.

Should a resident decide to require additional services following an assessment, the new needs identified and services chosen must be the subject of an amendment to the lease and be communicated to the residence's staff members, in particular to care attendants.

**53.** The operator of a private seniors' residence who provides meal services for the residents must offer varied menus that conform to Canada's Food Guide, published by Health Canada, and are adapted to the specific nutritional needs of elderly persons.

The operator must update and post visibly a list of menus in a place accessible to the residents for consultation by residents and close relatives. However, the operator may modify the menu of a posted meal provided that the residents are so informed the day before the day the meal is to be served.

The operator must keep a record of the meals served for verification purposes.

**54.** The operator of a private seniors' residence may not use control measures involving force, isolation or mechanical means on a resident. In addition, the operator may not use any chemical substance as a control measure.

Despite the first paragraph, as a last resort, the operator of a category 3 or 4 residence may use control measures involving force, isolation or mechanical means in an emergency situation, when alternative control measures have been ineffective in reducing the danger or may not be applied in due time and it is imperative to protect the resident or another person from a serious and imminent danger of injury. In such a case, the operator must apply the control measures temporarily and in the least constraining way possible. The operator must also record in the resident's file the reasons for which the alternative measures proved ineffective or could not be applied in due time. The operator may not use any chemical substance as a control measure.



**55.** The operator of a category 3 or 4 private seniors' residence who applies control measures in accordance with the second paragraph of section 54 must

(1) notify without delay the resident's representative, if applicable, and the person to be contacted in case of emergency; if that person cannot be reached in time, the operator must notify a close relative;

(2) ask immediately the integrated health and social services centre concerned to assess the resident's condition without delay and identify and implement the measures appropriate to ensure the resident's security; and

(3) ensure that the following information is recorded in the resident's file:

(a) the date and time of the intervention;

(b) the measures applied, the reason for applying the measures, and the time and duration of their application;

(c) the measures taken to ensure the resident's safety, including supervision measures, and the resident's reaction to the measures;

(d) the names of the persons who have been informed of the situation, the date and time when they were informed, and the information provided to them.

**56.** Alternative control measures on the resident may only be applied in a category 3 or 4 private seniors' residence to reduce the danger. Those measures must have been the subject of a prior agreement with a provider of the integrated health and social services centre concerned.

When such measures are applied, the operator of a seniors' residence must

(1) notify without delay the persons referred to in paragraph 1 of section 55;

(2) ask the integrated health and social services centre concerned to assess the resident's condition; and

(3) ensure that the alternative measures applied, the reason for applying those measures and their effectiveness are recorded in the resident's file, in addition to the information listed in subparagraphs *a* and *d* of paragraph 3 of section 55.

### **§3. Keeping of files and confidentiality of information**

**57.** The operator of a private seniors' residence must keep a file for each resident containing, in particular,

(1) the resident's name and date of birth;

(2) the name and contact information of a person to be contacted in case of emergency;

(3) where applicable, the name and contact information of the resident's representative and a description of the acts that the representative is authorized to perform for the resident;

(4) a copy of the lease, including all its schedules, signed with the resident or, as the case may be, the resident's representative; and

(5) a description of the resident's health problems and specific needs, including any allergies.

In addition to the information provided for in the first paragraph, the operator of a category 2, 3, or 4 residence must enter into the resident's file

(1) the particulars concerning the resident's health condition that must be taken into account in case of emergency and in the services offered to the resident in the residence;

(2) the distribution procedure for the resident's medications, where applicable;

(3) the name and contact information of the resident's attending physician, where applicable; and

(4) the name and contact information of the resident's pharmacist, where applicable.

The operator of a private seniors' residence must also include in the file, in accordance with this Regulation,

(1) the resident's consent obtained by the operator for each disclosure of personal information concerning the resident;

(2) the resident's written refusals referred to in the second and third paragraph of section 15;

(3) a record of any disclosure concerning the resident made under subparagraph 3 of the second paragraph of section 50;

(4) a copy of any accident report concerning the resident made under the third paragraph of section 50;

(5) the indication that a notice provided for in section 51 has been given, where applicable; and

(6) the result of the identification of the loss of autonomy or of the assessment of the resident's autonomy made in accordance with section 52.

The operator of a category 3 or category 4 private seniors' residence must also include in the file the following information or documents in accordance with this Regulation:

(1) the resident's information sheet referred to in the second paragraph of section 24; and

(2) the information provided for in paragraph 3 of section 55 and subparagraph 3 of the second paragraph of section 56 regarding the application on the resident of a control or alternative measure.

If a person refuses to provide information required under this section, the operator must have the person sign a declaration to that effect. The declaration must be kept in the file.

In order to comply with the provisions of the first paragraph of section 60, an operator may keep the elements provided for in subparagraphs 1 to 5 of the first paragraph in a separate physical file.

**58.** The operator of a private seniors' residence must keep a file for each staff member containing, as a minimum,

(1) a description of the tasks to be performed;

(2) proof that the staff member holds the attestations and diploma or one of the documents required under sections 28 and 29;

(3) in the case of a professional, the number of the professional's permit and annual proof of the professional's registration on the roll of the professional order concerned;

(4) a copy of the declaration and consent provided for in section 31 and the result of the verifications made in respect of the declarations referred to in that section;

(5) the undertaking provided for in the third paragraph of section 36.

The operator of a residence referred to in the first paragraph of section 17 must also keep a file for each volunteer ensuring supervision pursuant to that paragraph. The file must contain

(1) proof that the volunteer holds the attestations referred to in subparagraphs 1 and 2 of the first paragraph of section 28, if applicable;

(2) a copy of the declaration and consent provided for in section 31 and the result of the verifications made in respect of the declarations referred to in that section; and

(3) the undertaking provided for in the third paragraph of section 36.

**59.** The files referred to in sections 57 and 58 must be quickly accessible in case of emergency or upon request by a person authorized to consult them.

**60.** The operator of a private seniors' residence must protect the confidentiality of the personal information held pursuant to this Regulation and give access to them only in accordance with the Act respecting the protection of personal information in the private sector (chapter P-39.1).

The operator must keep the file of a resident for at least 5 years after the departure or death of the resident and the file of a staff member or a volunteer referred to in the first paragraph of section 17 for at least 5 years after his or her departure from the residence.

### CHAPTER III RENEWAL AND TRANSFER

**61.** As soon as the integrated health and social services centre concerned starts the renewal process of his or her certificate of compliance, the operator of a private seniors' residence must provide the centre with the documents and information listed in subparagraphs 1 to 10 of the first paragraph of section 11 and the second paragraph of that section, if applicable, except for documents and information previously provided to the integrated centre if the operator certifies that they are still complete and accurate. That exception does not apply to the declarations referred to in subparagraphs 9 and 10 of the first paragraph of that section.

The operator must also provide the integrated centre with any information it requires concerning compliance with the conditions set out in section 10 and complete the form for self-assessment of compliance with the conditions of the Act respecting health services and social services (chapter S-4.2) and of this Regulation provided by the centre.

**62.** Every person who, in accordance with section 346.0.20 of the Act respecting health services and social services (chapter S-4.2), requests from an integrated health and social services centre permission to become the transferee of the rights conferred by a temporary certificate of compliance or a certificate of compliance must meet the conditions set out in section 10 and provide the documents and information listed in section 11, except those listed in subparagraph 11 of the first paragraph of that section.

## CHAPTER IV OTHER APPLICATION

**63.** For the purposes of this Regulation, a reference to an integrated health and social services centre is, if applicable, a reference to the Centre régional de santé et de services sociaux de la Baie-James.

## CHAPTER V OFFENCES

**64.** A contravention of the provisions of section 8, the second paragraph of section 9, the third paragraph of section 11, sections 13 to 15, the first paragraph of section 16, the first paragraph of section 17, sections 21 to 24, the first and second paragraphs of section 26, the first paragraph of section 33, section 34, the first, second and fourth paragraphs of section 36, sections 37 to 42, 44 to 46, 48, the first paragraph of section 49, sections 50 to 55, the second paragraph of section 56, the first, second, third and fourth paragraphs of section 57 and sections 58 and 60 constitutes an offence.

The fact for an operator of a private seniors' residence to not ensure compliance with the provisions of the second paragraph of section 16, the second and third paragraphs of section 17, sections 18 to 20, 25, the third paragraph of section 26, sections 28 to 32, the third paragraph of section 36, sections 43, 47, the third paragraph of section 49, the first paragraph of section 56 and section 59 also constitutes an offence.

## CHAPTER VI TRANSITIONAL AND FINAL

**65.** Despite section 29, a care attendant who, on 4 April 2018, is a staff member of a private seniors' residence, has until 5 April 2019 to complete his or her training and to comply with the provisions of that section.

**66.** This Regulation replaces the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence (chapter S-4.2, r. 5.01).

**67.** This Regulation comes into force on 5 April 2018.

## SCHEDULE I (s. 9)

- Residential centre for seniors or for the elderly
- Retirement centre for seniors or for the elderly
- Long-term care centre for seniors or for the elderly
- Living centre for seniors or for the elderly

Centre for seniors or for the elderly

Private housing and residential establishment for seniors or for the elderly

Home for seniors or for the elderly

Foster home for seniors or for the elderly

Evolutionary housing for the retired, for seniors or for the elderly

Asylum for seniors or for the elderly

Retirement home for seniors or for the elderly

Residential home for seniors or for the elderly

Residence for seniors or for the elderly

Residence for the aged

## SCHEDULE II (s. 14)

**1.** For every residence, regardless of the category, general civil liability coverage of at least

— Residence with 1 to 9 rental units: \$2,000,000;

— Residence with 10 to 50 rental units: \$3,000,000;

— Residence with 51 to 100 rental units: \$5,000,000;

— Residence with more than 100 rental units: \$8,000,000.

**2.** For every category 1 residence, professional liability coverage of at least \$500,000.

**3.** For every category 2 residence, professional liability coverage of at least \$1,000,000.

**4.** For every category 3 or 4 residence, professional liability coverage of at least \$2,000,000.

## SCHEDULE III (s. 22)

**1.** Procedure to follow if the life or physical integrity of a resident is in danger:

(1) ensure the resident's safety and provide first aid; perform cardiopulmonary resuscitation if required, considering the resident's wishes;

(2) call the emergency 911 service and provide all relevant information concerning the emergency;



(3) notify the resident's representative, if applicable, and the person to be contacted in case of emergency identified in the resident's file kept pursuant to section 57;

(4) prepare the information required by the ambulance technicians;

(5) record in the resident's file, kept pursuant to section 57, a description of the circumstances and facts of the event;

(6) notify the person responsible at the residence of the situation and nature of the emergency.

**2. Procedure to follow in the event of a resident's death:**

(1) call the emergency 911 service immediately;

(2) give the authorities all the required information and follow the instructions of the emergency services;

(3) notify the resident's representative, if applicable, and the person to be contacted in case of emergency.

**3. Procedure to follow if a resident is absent without reason, in particular when the absence is noticed at meal time:**

(1) question staff members and any person who is considered useful to question about possible reasons for the resident's absence and places where the resident may possibly be found;

(2) inspect all rooms in the residence, the resident's dwelling, the grounds and the surrounding area;

(3) notify the resident's representative, if applicable, and the person to be contacted in case of emergency, and ask them about places where the resident may possibly be found;

(4) call the emergency 911 service;

(5) give the police the information sheet referred to in the second paragraph of section 24;

(6) notify the resident's representative, if applicable, the person to be contacted in case of emergency and the police if the resident is found;

(7) complete the incident or accident report referred to in section 50;

(8) take all necessary measures, working with the resident, the resident's close relatives and, if the person is prone to wandering, the integrated health and social services centre concerned, to prevent a reoccurrence of the event.

**4. Procedure to follow in the event of a heat wave advisory:**

(1) place a sufficient number of fans in the common areas and, where possible, in rental units;

(2) distribute cold drinks and water frequently during the day;

(3) cancel all physical activities in the recreation schedule and advise residents to stay in the shade or go outside late in the day, wear a hat and apply sunscreen;

(4) ask residents to stay in air-conditioned rooms in the residence, where applicable;

(5) early in the morning, for the common areas, close windows, drapes and blinds, especially on the sides of the building exposed to the sun; keep them closed until the outdoor temperature drops and educate residents to do the same in their respective rental unit;

(6) when the outdoor temperature drops, open windows as wide as possible to create drafts and educate residents to do the same in their respective rental unit;

(7) conduct inspection tours of rental units;

(8) call the emergency 911 service if any residents have symptoms that point to a deterioration in their physical condition.

**SCHEDULE IV**

(s. 28)

**1. For cardiopulmonary resuscitation and standard first aid:**

— any organization contractually linked with the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) to provide first aid training;

— any other organization for which the trainers hold valid accreditation and that offers training allowing the acquisition of the skills below;

— any educational institution for which the teachers offer training allowing the acquisition of the skills below.

The training given by those organizations must allow the acquisition of the following skills:

*(a)* Skills in cardiopulmonary resuscitation:

- assess properly vital functions;
- be familiar with techniques to unblock airways, apply artificial respiration and perform cardiac massage;

- be able to apply the techniques;

*(b)* Skills in standard first aid:

- understand the role and responsibilities of a first aid provider with regard to the legislative and regulatory provisions in force;

- know how to take charge of an emergency situation;

- recognize urgent situations and intervene appropriately while waiting for emergency services, in particular in the following situations:

- allergic reactions;

- problems related to heat or cold, such as heatstroke and hypothermia;

- poisoning;

- hemorrhaging and shock, including the prevention of blood-borne contamination;

- muscular and skeletal injuries, including prevention during convulsions;

- eye injuries;

- open wounds of medical or accidental origin, including the application of sealed compression dressings;

- medical problems such as chest pain, hypoglycemia and epilepsy.

2. Training providers accredited by the Association paritaire pour la santé et la sécurité du travail du secteur affaires sociales (ASSTSAS) and the educational institutions whose training is recognized by the Association as allowing the acquisition of the required skills for the safe movement of persons.

103388

Gouvernement du Québec

**O.C. 262-2018**, 14 March 2018Anti-Corruption Act  
(chapter L-6.1)

Exclusion of the first regulation made under section 5.1 of the Anti-Corruption Act from the application of the Regulations Act

WHEREAS the Act to increase the jurisdiction and independence of the Anti-Corruption Commissioner and the Bureau des enquêtes indépendantes and expand the power of the Director of Criminal and Penal Prosecutions to grant certain benefits to cooperating witnesses (2018, chapter 1) was assented to on 14 February 2018;

WHEREAS sections 5 and 7 of that Act introduce in particular sections 5.1 and 8.3 into the Anti-Corruption Act (chapter L-6.1);

WHEREAS the third paragraph of section 5.1 of that Act, as introduced, provides among other things that the selection committee promptly evaluates the candidates' aptitude to hold the office of Anti-Corruption Commissioner on the basis of their knowledge, particularly in criminal and penal law, their experience and their qualifications, according to the criteria determined by government regulation;

WHEREAS the second paragraph of section 8.3 of that Act, as introduced, provides that the third paragraph of section 5.1 applies, with the necessary modifications, in the case of Associate Commissioners for Audits and the Associate Commissioner for Investigations;

WHEREAS paragraph 6 of section 3 of the Regulations Act (chapter R-18.1) provides that the Act does not apply to proposed regulations or regulations as the Government may determine by order;

WHEREAS it is expedient to exclude the first regulation made under section 5.1 of the Anti-Corruption Act to allow the selection committee formed under that section to proceed promptly;

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

THAT the first regulation made under section 5.1 of the Anti-Corruption Act (chapter L-6.1) be excluded from the application of the Regulations Act (chapter R-18.1).

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

103383

Gouvernement du Québec

## O.C. 263-2018, 14 March 2018

Anti-Corruption Act  
(chapter L-6.1)

### **Criteria to be used to evaluate candidates' aptitude to hold the offices of Anti-Corruption Commissioner, Associate Commissioners for Audits and Associate Commissioner for Investigations**

Regulation respecting the criteria to be used to evaluate candidates' aptitude to hold the offices of Anti-Corruption Commissioner, Associate Commissioners for Audits and Associate Commissioner for Investigations

WHEREAS the Act to increase the jurisdiction and independence of the Anti-Corruption Commissioner and the Bureau des enquêtes indépendantes and expand the power of the Director of Criminal and Penal Prosecutions to grant certain benefits to cooperating witnesses (2018, chapter 1) was assented to on 14 February 2018;

WHEREAS sections 5 and 7 of that Act replace sections 5 and 8 of the Anti-Corruption Act (chapter L-6.1) and introduce in particular sections 5.1, 8.1 and 8.3 into the Anti-Corruption Act;

WHEREAS section 5 of the Anti-Corruption Act, as replaced, provides that the Government appoints the Anti-Corruption Commissioner, on the recommendation of the Minister of Public Security, from among the persons declared qualified to hold the office by the selection committee formed for that purpose;

WHEREAS the first paragraph of section 8 of that Act, as replaced, provides among other things that the Government appoints Associate Commissioners for Audits, on the recommendation of the Minister of Public Security, from among the persons declared qualified to hold the office by a selection committee formed by the Minister;

WHEREAS the first paragraph of section 8.1 of that Act, as introduced, provides among other things that the Government appoints an Associate Commissioner for Investigations, on the recommendation of the Minister of Public Security, from among the persons declared qualified to hold the office by a selection committee formed by the Minister;

WHEREAS the third paragraph of section 5.1 of that Act, as introduced, provides among other things that the selection committee promptly evaluates the candidates' aptitude to hold the office of Anti-Corruption Commissioner

on the basis of their knowledge, particularly in criminal and penal law, their experience and their qualifications, according to the criteria determined by government regulation;

WHEREAS the second paragraph of section 8.3 of that Act, as introduced, provides that the third paragraph of section 5.1 applies, with the necessary modifications, in the case of Associate Commissioners for Audits and the Associate Commissioner for Investigations;

WHEREAS it is expedient to determine the criteria to be used to evaluate the candidates' aptitude to hold the offices of Anti-Corruption Commissioner, Associate Commissioners for Audits and Associate Commissioner for Investigations;

WHEREAS, under Order in Council 262-2018 dated 14 March 2018, the first regulation made under section 5.1 of the Anti-Corruption Act is excluded from the application of the Regulations Act (chapter R-18.1);

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

THAT the Regulation respecting the criteria to be used to evaluate candidates' aptitude to hold the offices of Anti-Corruption Commissioner, Associate Commissioners for Audits and Associate Commissioner for Investigations, attached to this Order in Council, be made.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

### **Regulation respecting the criteria to be used to evaluate candidates' aptitude to hold the offices of Anti-Corruption Commissioner, Associate Commissioners for Audits and Associate Commissioner for Investigations**

Anti-Corruption Act  
(chapter L-6.1, ss. 5.1 and 8.3)

**1.** A selection committee formed pursuant to section 5.1 of the Anti-Corruption Act (chapter L-6.1) is to evaluate a candidate's aptitude to hold the office of Anti-Corruption Commissioner according to the following criteria:

- (1) the candidate's knowledge of
  - (a) criminal and penal law and laws relevant to the holding of the office of Anti-Corruption Commissioner;
  - (b) the investigative and auditing fields;

(c) the issues associated with corruption and public anti-corruption policies;

(d) management of public or parapublic bodies and regulatory framework governing public body contract management; and

(e) government organization and administrative operations;

(2) the candidate's experience and its relevance to the holding of the office of Anti-Corruption Commissioner

(a) as regards extensive criminal and penal investigations; and

(b) in a managerial capacity;

(3) the candidate's aptitudes, namely

(a) leadership;

(b) sense of public service, ethics and fairness;

(c) judgment and decisiveness;

(d) ability to develop a strategic vision and to lead the organization toward achievement of its objectives;

(e) ability to interpret a complex and evolving environment and adapt to it;

(f) ability to communicate and maintain working relationships and networks; and

(g) ability to manage highly confidential and extensive files.

**2.** A selection committee formed pursuant to section 8 or 8.1 of the Anti-Corruption Act (chapter L-6.1) is to evaluate a candidate's aptitude to hold the office of Associate Commissioner for Audits or Associate Commissioner for Investigations according to the following criteria:

(1) the candidate's knowledge of

(a) for the office of Associate Commissioner for Audits,

i. the auditing, taxation, accounting or corporate law fields;

ii. the regulatory framework governing public body contract management;

iii. the issues associated with corruption and public anti-corruption policies; and

(b) for the office of Associate Commissioner for Investigations,

i. the criminal and penal investigative field and related law;

ii. the issues associated with corruption and public anti-corruption policies;

(2) the candidate's experience and its relevance

(a) to the holding of the office of Associate Commissioner for Audits

i. as regards contract or investigation management or administrative auditing;

ii. in a managerial capacity; and

(b) to the holding of the office of Associate Commissioner for Investigations

i. as a peace officer, as regards the administration of extensive criminal and penal investigations;

ii. in a managerial capacity; and

(3) the candidate's aptitudes, namely

(a) leadership;

(b) sense of public service, ethics and fairness;

(c) judgment and decisiveness;

(d) tactfulness;

(e) ability to manage highly confidential and extensive files; and

(f) thoroughness and working methods.

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

103386

## Municipal Affairs

Gouvernement du Québec

### O.C. 170-2018, 28 February 2018

An Act respecting land use planning and development  
(chapter A-19.1)

Amendment to the letters patent constituting  
Municipalité régionale de comté du Haut-Saint-François

WHEREAS Municipalité régionale de comté du Haut-Saint-François was constituted, on 1 January 1982, by letters patent issued in accordance with Order in Council 3298-81 dated 2 December 1981 under the Act respecting land use planning and development (chapter A-19.1);

WHEREAS the letters patent of Municipalité régionale de comté du Haut-Saint-François were amended by Orders in Council 695-95 dated 24 May 1995 and 495-97 dated 16 April 1997;

WHEREAS under section 3 of the Act respecting judgments rendered by the Supreme Court of Canada on the language of statutes and other instruments of a legislative nature (chapter J-1.1), the letters patent constituting Municipalité régionale de comté du Haut-Saint-François, issued on 2 December 1981, were replaced by letters patent issued in accordance with Order in Council 162-97 dated 12 February 1997;

WHEREAS the council of that municipality requests that the Government amend its letters patent with regard to the number of votes of the representatives of local municipalities;

WHEREAS, under section 210.39 of the Act respecting municipal territorial organization (chapter O-9), rendered applicable to that regional county municipality by section 109 of the Act to amend the Act respecting municipal territorial organization and other legislative provisions (1993, chapter 65), the Government may, at the request of the regional county municipality, amend its letters patent in particular with regard to the number of votes of the representatives of local municipalities on the council of a regional county municipality;

WHEREAS section 210.40 of the Act respecting municipal territorial organization provides that the order comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Land Occupancy:

THAT the letters patent constituting Municipalité régionale de comté du Haut-Saint-François be amended by replacing the third and fourth paragraphs of the operative part by the following:

“The representative of a municipality on the council of the Municipalité régionale de comté du Haut-Saint-François has the number of votes calculated according to the following formula:

—From one to 10,000 inhabitants: one vote;

—From 10,001 to 20,000 inhabitants: two votes.

For any population above 20,000 inhabitants, the representative of that municipality has one additional vote per portion of 10,000 inhabitants of the municipality concerned, by adjusting the formula established in the preceding paragraph.”

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

103375



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## Notices

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### Notice

Natural Heritage Conservation Act  
(chapter C-61.01)

#### **Rivière-Rouge Nature Reserve — Recognition**

Notice is hereby given, in keeping with article 58 of the Natural Heritage Conservation Act (chapter C-61.01), that the Minister of Sustainable Development, Environment and the Fight Against Climate Change has recognized as a nature reserve a private property situated on the territory of the Municipality of Rivière-Rouge, Regional County Municipality Antoine-Labelle, known and designated as two parts of the original lots number 86 and 87, range SUD-EST de la Rivière Rouge, of the official cadastre of the township of Marchand, Labelle registry division. This property covering an area of 37,47 hectares.

This recognition, for perpetuity, takes effect on the date of the publication of this notice in the *Gazette officielle du Québec*.

FRANCIS BOUCHARD,  
*The Director of the Protected Areas,*

103380





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

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Jurisdiction and independence of the Anti-Corruption Commissioner and the Bureau des enquêtes indépendantes and expand the power of the Director of Criminal and Penal Prosecutions to grant certain benefits to cooperating witnesses, An Act to increase the . . . . . (2018, Bill 107)	1235	
Land use planning and development, An Act respecting... — Municipalité régionale de comté du Haut-Saint-François — Amendment to the letters patent . . . . (chapter A-19.1)	1289	
List of Bills sanctioned (14 February 2018) . . . . .	1233	
Municipalité régionale de comté du Haut-Saint-François — Amendment to the letters patent . . . . . (An Act respecting land use planning and development, chapter A-19.1)	1289	
Natural Heritage Conservation Act — Rivière-Rouge Nature Reserve — Recognition . . . . . (chapter C-61.01)	1291	Notice
Organization and governance of the health and social services network, in particular by abolishing the regional agencies, An Act to modify the... — Certification of private seniors' residences . . . . . (chapter O-7.2)	1270	N
Police Act, amended . . . . . (2018, Bill 107)	1235	
Private waterworks and sewer services . . . . . (Environment Quality Act, chapter Q-2)	1263	N
Professional Code, amended . . . . . (2018, Bill 107)	1235	
Public Service Act, amended . . . . . (2018, Bill 107)	1235	
Rivière-Rouge Nature Reserve — Recognition . . . . . (Natural Heritage Conservation Act, chapter C-61.01)	1291	Notice
Tax Administration Act, amended . . . . . (2018, Bill 107)	1235	