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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, 22 FEBRUARY 2018

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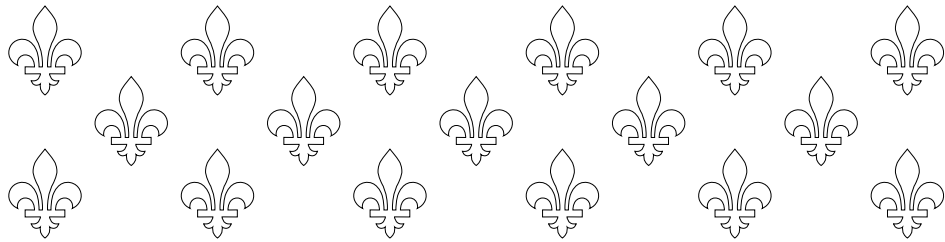
**OFFICE OF THE LIEUTENANT-GOVERNOR***Québec, 22 February 2018*

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

149 An Act to enhance the Québec Pension Plan and to amend various retirement-related legislative provisions

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 149  
(2018, chapter 2)

**An Act to enhance the Québec  
Pension Plan and to amend various  
retirement-related legislative provisions**

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**Introduced 2 November 2017  
Passed in principle 5 December 2017  
Passed 21 February 2018  
Assented to 22 February 2018**

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**Québec Official Publisher  
2018**

## EXPLANATORY NOTES

*This Act amends the Act respecting the Québec Pension Plan mainly to enhance the Québec Pension Plan by adding an additional plan. Starting in 2019, a first additional contribution, shared by the employer and the worker, will be applicable to income that is less than or equal to the worker's maximum pensionable earnings. The contribution rate for that contribution will progressively increase until it reaches 2% per year. As of 2024, a second additional contribution, with a contribution rate of 8% per year, will be applicable to income exceeding the worker's maximum pensionable earnings. Consequently, the Act amends the calculation of benefits to take into account those new contributions to the additional plan.*

*Various measures are introduced to stabilize the Québec Pension Plan, including a mechanism for adjusting additional plan contributions and benefits and the obligation to finance improvements to the Québec Pension Plan through contribution rate increases.*

*An additional amendment to the Act respecting Retraite Québec provides for two investment policies for the Québec Pension Plan, one for sums from the base plan and the other for sums from the additional plan.*

*The Act also amends the Supplemental Pension Plans Act to allow pension plans to set priorities for the appropriation of surplus assets that are different from those established under that Act. Under the Act, the sums an employer pays to reduce a letter of credit and, if the annuity purchasing policy so provides, the sums it pays as a special annuity purchasing payment are now to be recorded to establish the level of surplus assets used.*

*Finally, the Act proposes various amendments to that Act to simplify administration, including by providing that the degree of solvency for the payment of a member's benefits is the one applicable on the date of the valuation of the benefits, extending the current period for calling the annual meeting from six months to nine, and moving the deadline for sending the notice relating to the financial position of the plan to Retraite Québec from 30 April to 30 September.*



**LEGISLATION AMENDED BY THIS ACT:**

- Act respecting the Québec Pension Plan (chapter R-9);
- Supplemental Pension Plans Act (chapter R-15.1);
- Act respecting retirement plans for the mayors and councillors of municipalities (chapter R-16);
- Act respecting Retraite Québec (chapter R-26.3).



## Bill 149

### AN ACT TO ENHANCE THE QUÉBEC PENSION PLAN AND TO AMEND VARIOUS RETIREMENT-RELATED LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE QUÉBEC PENSION PLAN

**1.** The Act respecting the Québec Pension Plan (chapter R-9) is amended by inserting the following title before Title I:

#### “TITLE 0.1

#### “GENERAL PROVISIONS

“**0.1.** The Québec Pension Plan comprises a base plan and an additional plan.

“**0.2.** The base plan is the one under which entitlement to the benefits established by Title IV of this Act is determined. Those benefits are provided for in section 105.

The additional plan is intended to enhance the base plan benefits the amount of which is established according to contributions to that plan.

“**0.3.** These plans are funded respectively by base contributions and additional contributions.”

**2.** Section 1 of the Act is amended by striking out paragraph *r*.

**3.** Section 34 of the Act is amended by replacing the second paragraph by the following paragraph:

“Retraite Québec shall deposit with the Caisse de dépôt et placement du Québec, keeping deposits for the base plan separate from those for the additional plan, all the money received under the first paragraph, except whatever is necessary for the current administration of each plan and for the payment of benefits for a prescribed period.”

**4.** The Act is amended by inserting the following after section 40.3:

*“Additional Maximum Pensionable Earnings*

**“40.4.** For the year 2024, the amount of the Additional Maximum Pensionable Earnings is equal to 107% of the Maximum Pensionable Earnings for the year.

For the year 2025 and each subsequent year, the amount of the Additional Maximum Pensionable Earnings is equal to 114% of the Maximum Pensionable Earnings for the year.

When the amount obtained under the first or second paragraph is not a multiple of \$100, the next lowest multiple of \$100 must be substituted therefor.”

**5.** Section 41 of the Act is amended by replacing “is excluded from his contributory period under subparagraph *a* of the second paragraph” in subparagraph *a* of the third paragraph by “is excluded from his base contributory period under subparagraph *a* of the third paragraph”.

**6.** The Act is amended by inserting the following after section 41:

*“Worker’s Additional Maximum Pensionable Earnings*

**“41.1.** The additional maximum pensionable earnings of a worker for a year are equal to the Additional Maximum Pensionable Earnings for the year.

However, where one of the events mentioned in the second paragraph of section 41 or subparagraph *a* or *d* of the third paragraph of that section occurs, the additional maximum pensionable earnings of a worker are equal to the amount obtained by multiplying the Additional Maximum Pensionable Earnings by the proportion provided for therein.”

**7.** The Act is amended by inserting “*and Additional Maximum*” after “*Maximum*” in the heading preceding section 44.

**8.** Section 44 of the Act is amended

(1) by inserting “For the purposes of the base contribution and the first additional contribution,” before “The maximum contributory earnings”;

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

“For the purposes of the second additional contribution, the additional maximum contributory earnings of a worker for a year are equal to his additional maximum pensionable earnings for the year less his maximum pensionable earnings for the year.”

**9.** Section 44.1 of the Act is amended by replacing all occurrences of “rate of contribution” by “base contribution rate”, except in the expression “steady-state contribution rate”.

**10.** The Act is amended by inserting the following sections after section 44.1:

**“44.2.** The first additional contribution rate is

(a) 0.3% for the year 2019;

(b) 0.6% for the year 2020;

(c) 1.0% for the year 2021;

(d) 1.5% for the year 2022;

(e) 2.0% for the year 2023; and

(f) for the year 2024 and each subsequent year, the rate determined in accordance with Division V of Title VI.

**“44.3.** The second additional contribution rate is 8% for the year 2024 and each subsequent year or the rate determined in accordance with Division V of Title VI.”

**11.** The Act is amended

(1) by replacing “is excluded from his contributory period under subparagraph *a* of the second paragraph” in subparagraph *b* of the second paragraph of section 45 by “is excluded from his base contributory period under subparagraph *a* of the third paragraph”;

(2) by replacing “is excluded from his contributory period under subparagraph *a* of the second paragraph” in subparagraph *a* of the third paragraph of section 48 by “is excluded from his base contributory period under subparagraph *a* of the third paragraph”;

(3) by replacing “is excluded from the worker’s contributory period under subparagraph *a* of the second paragraph” in the third paragraph of section 48.1 by “is excluded from the worker’s base contributory period under subparagraph *a* of the third paragraph”.

**12.** The heading preceding section 50 of the Act is replaced by the following heading:

*“Contributions of Employee”.*

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

(1) in the first paragraph,

(a) by replacing the introductory clause by the following:

**“50.** Every employee who is employed in pensionable employment for an employer shall, by deduction at source, make a base contribution equal to the product of one-half of the base contribution rate, established under section 44.1, for the year and the lesser of the following amounts:”;

(b) by replacing “second paragraph” in subparagraph *a* by “fourth paragraph”;

(c) by replacing “all contributions” and “rate of contribution” in subparagraph *b* by “all base contributions” and “base contribution rate”, respectively;

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

“For the year 2019 and each subsequent year, the employee shall, by deduction at source and in addition to the base contribution provided for in the first paragraph, make a first additional contribution equal to the product of one-half of the first additional contribution rate for the year, established under section 44.2, and the lesser of the following amounts:

(a) the amount determined in respect of the employee for the year under subparagraph *a* of the first paragraph; and

(b) the employee’s maximum contributory earnings for the year, less the amount obtained by dividing the aggregate of all first additional contributions the employee was required to make in the year under a similar plan in respect of the employee’s salary and wages by the first additional contribution rate for employees for the year under that plan.

For the year 2024 and each subsequent year, the employee shall, by deduction at source and in addition to the contributions provided for in the first and second paragraphs, make a second additional contribution equal to the product of one-half of the second additional contribution rate, established under section 44.3, for the year and the lesser of the following amounts:

(a) the amount by which the employee’s salary and wages for the year, referred to in subparagraph *a* of the first paragraph, paid by the employer to or in respect of the employee or deemed to be paid by the employer to the employee exceeds the employee’s maximum pensionable earnings for the year; and

(b) the employee’s additional maximum contributory earnings for the year, less the amount obtained by dividing the aggregate of all second additional contributions the employee was required to make in the year under a similar plan in respect of the employee’s salary and wages by the second additional contribution rate for employees for the year under that plan.”;

(3) by replacing “The salary” in the second paragraph by “The amount of the salary”;

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

“However, such salary and wages do not include any amount paid to the employee, paid in respect of the employee or deemed to be paid to the employee before the employee reaches 18 years of age or in a month that, because of a disability, is excluded from the employee’s base contributory period under subparagraph *a* of the third paragraph of section 101.”

**14.** The heading preceding section 51 of the Act in the French text is replaced by the following heading:

“*Excédents de cotisation*”.

**15.** Section 51 of the Act is amended

(1) by replacing the introductory clause of the first paragraph by the following:

“**51.** An overpayment is established for a year subsequent to the year 2012 where, for the year, the aggregate of the deductions at source by one or more employers, under this Act or under a similar plan, from the salary and wages of an employee who is resident in Québec at the end of 31 December of that year or, if the employee died in the year, was resident in Québec on the date of the employee’s death, exceeds the aggregate of”;

(2) by replacing “rate of contribution” in subparagraphs *a* and *b* of the first paragraph by “base contribution rate”;

(3) by adding the following subparagraphs after subparagraph *b* of the first paragraph:

“(c) an amount equal to the product of the first additional contribution rate for employees for the year under the similar plan and the lesser of the amounts described in subparagraphs i and ii of subparagraph *a*;

“(d) an amount equal to the product of one-half of the first additional contribution rate for the year and the lesser of the amounts described in subparagraphs i and ii of subparagraph *b*;

“(e) an amount equal to the product of the second additional contribution rate for employees for the year under the similar plan and the lesser of the following amounts:

i. the amount by which the aggregate of all amounts each of which is the employee’s pensionable salary and wages for the year in respect of pensionable employment under the similar plan exceeds the proportional share of the

employee's maximum pensionable earnings for the year under the similar plan, and

ii. the amount by which the proportional share of the employee's additional maximum pensionable earnings for the year under the similar plan exceeds the proportional share of the employee's maximum pensionable earnings for the year under the similar plan; and

“(f) an amount equal to the product of one-half of the second additional contribution rate for the year by the lesser of the following amounts:

i. the amount by which the total of the aggregate of all amounts each of which for the year is the employee's pensionable salary and wages, pensionable self-employed earnings and pensionable earnings as a family-type resource or an intermediate resource exceeds the amount by which the employee's maximum pensionable earnings for the year exceed the proportional share of the employee's maximum pensionable earnings for the year under the similar plan, and

ii. the amount by which the employee's additional maximum contributory earnings for the year exceed the lesser of the amounts described in subparagraphs i and ii of subparagraph e.”;

(4) by replacing “in subparagraph a of the first paragraph” in the second paragraph by “in subparagraph i of subparagraph b of the first paragraph”.

**16.** Section 51.0.1 of the Act is amended by replacing the first and second paragraphs by the following paragraphs:

“The proportional share of an employee's personal exemption, maximum contributory earnings, maximum pensionable earnings and additional maximum pensionable earnings for a year under a similar plan is equal to the amount obtained by multiplying, as the case may be, the employee's personal exemption, maximum contributory earnings, maximum pensionable earnings or additional maximum pensionable earnings for the year under the plan by the ratio between

(a) the aggregate of all amounts each of which is the employee's pensionable salary and wages for the year in respect of pensionable employment under the similar plan, up to, for each of those amounts,

i. for a year prior to the year 2024, the employee's maximum pensionable earnings for the year under the plan, or

ii. for a year subsequent to the year 2023, the employee's additional maximum pensionable earnings for the year under the plan; and

(b) the aggregate of all amounts each of which is the employee's pensionable salary and wages for the year in respect of pensionable employment under this Act or the similar plan, up to, for each of those amounts,



- i. for a year prior to the year 2024, the employee's maximum pensionable earnings for the year under this Act or the similar plan, as the case may be, or
- ii. for a year subsequent to the year 2023, the employee's additional maximum pensionable earnings for the year under this Act or the similar plan, as the case may be.

For the purposes of subparagraph *b* of the first paragraph, where an employee is employed in a year in pensionable employment under both this Act and a similar plan, the total of the employee's pensionable salary and wages for the year in respect of the employment may not exceed

(*a*) for a year prior to the year 2024, the employee's maximum pensionable earnings for the year under this Act; or

(*b*) for a year subsequent to the year 2023, the employee's additional maximum pensionable earnings for the year under this Act."

**17.** Section 51.0.2 of the Act is amended by replacing "the employee is deemed to have made an overpayment" by "an overpayment is established".

**18.** The heading preceding section 52 of the Act is replaced by the following heading:

*"Contributions of Employer"*.

**19.** Section 52 of the Act is amended by replacing "a contribution equal to the contribution" by "contributions equal to the contributions".

**20.** The heading preceding section 53 of the Act is replaced by the following heading:

*"Contributions of Self-Employed Worker"*.

**21.** Section 53 of the Act is amended by replacing "contribution equal to the product of the rate of contribution" in the introductory clause by "base contribution equal to the product of the base contribution rate", and all other occurrences of "contribution" by "base contribution".

**22.** The Act is amended by inserting the following sections after section 53:

**"53.1.** For the year 2019 and each subsequent year, a self-employed worker, a family-type resource or an intermediate resource shall make a first additional contribution in addition to the base contribution.

The first additional contribution is equal to the product of the first additional contribution rate for the year and the lesser of the amounts established in accordance with the rules in section 53, substituting "first additional contribution" in those rules for "base contribution".

**“53.2.** For the year 2024 and each subsequent year, a self-employed worker, a family-type resource or an intermediate resource shall make a second additional contribution in addition to the base contribution and the first additional contribution.

The second additional contribution is equal to the product of the second additional contribution rate for the year and the lesser of

(a) the amount by which the total of the following amounts exceeds the total of the worker’s maximum pensionable earnings and the amount of his salary and wages on which a second additional contribution has been made for the year under this Act or a similar plan:

i. the aggregate, for the year, of the worker’s pensionable self-employed earnings and pensionable earnings as a family-type resource or an intermediate resource,

ii. the total of the amount of the worker’s salary and wages on which a first additional contribution has been made for the year under this Act or a similar plan and the amount of his salary and wages on which a second additional contribution has been made for the year under this Act or a similar plan, and

iii. the lesser of the following amounts:

(1) the total of the aggregate of all amounts each of which is an amount that an employer has deducted from the worker’s salary and wages as a basic exemption for the year and the aggregate of all amounts each of which is an amount that an employer has deducted from the worker’s salary and wages as a similar exemption for the year under a similar plan, and

(2) the worker’s personal exemption for the year; and

(b) the worker’s additional maximum contributory earnings for the year less his salary and wages on which a second additional contribution has been made for the year under this Act or a similar plan.”

**23.** Section 54 of the Act is amended by replacing “contribution” in the first paragraph by “base contribution”.

**24.** The heading preceding section 55 of the Act is replaced by the following heading:

*“Optional Contributions”.*

**25.** Section 55 of the Act is amended

(1) by replacing all occurrences of “contribution” by “base contribution”;

(2) by inserting “, for a year prior to 2019,” after “the present section” in the fourth paragraph.

**26.** The Act is amended by inserting the following sections after section 55:

**“55.1.** Where an employee makes the election referred to in section 55 for a particular year subsequent to the year 2018, the employee must make a first additional contribution for the particular year, computed under section 53.1, on the amount established under section 55 and on which the employee makes a base contribution under that section.

The amount on which a first additional contribution is made under this section is deemed to be pensionable self-employment earnings.

**“55.2.** Where an employee makes the election referred to in section 55 for a particular year subsequent to the year 2023, the employee must make a second additional contribution for the particular year, computed under section 53.2, on the amount by which the lesser of the employee’s additional maximum pensionable earnings for the particular year and the employee’s pensionable salary and wages for the particular year to which the prescribed amount for that year is added, where applicable, exceeds the aggregate of the following amounts:

(a) the total of the employee’s salary and wages on which a first additional contribution and, if applicable, a second additional contribution have been made for the particular year and the amount of the employee’s salary and wages on which a first additional contribution and, if applicable, a second additional contribution have been made for the particular year under a similar plan;

(b) the lesser of

i. the total of the aggregate of all amounts each of which is an amount that an employer has deducted from the employee’s salary and wages as a basic exemption for the particular year and the aggregate of all amounts each of which is an amount that an employer has deducted from the employee’s salary and wages as a similar exemption for the particular year under a similar plan, and

ii. the employee’s personal exemption for the particular year; and

(c) the amount computed in accordance with section 55.1.

The amount on which a second additional contribution is made under this section is deemed to be pensionable self-employed earnings.”

**27.** Section 56 of the Act is amended

(1) in the first paragraph,

(a) by replacing “a contribution” by “a base contribution”;

(b) by replacing “rate of contribution” by “base contribution rate”;

(c) by inserting “on account of the base contribution” after “from the worker’s salary and wages for the year” in subparagraphs *a* and *b*;

(2) in the second paragraph,

(a) by replacing “rate of contribution” and “contribution has” in subparagraph *a* by “base contribution rate” and “base contribution has”, respectively;

(b) by replacing subparagraph *b* by the following subparagraph:

“(b) the amount by which the amount referred to in subparagraph *a* of the first paragraph exceeds the aggregate of the amounts established under subparagraphs *a* and *b* of the first paragraph of section 51.”

**28.** Section 56.1 of the Act is amended

(1) by replacing “a contribution” and “rate of contribution” by “a base contribution” and “base contribution rate”, respectively;

(2) by inserting “on account of the base contribution” after both occurrences of “worker’s salary and wages for the year” in paragraph *c*.

**29.** The Act is amended by inserting the following sections after section 56.1:

**“56.2.** A worker’s salary and wages on which a first additional contribution has been made for a year is equal to the amount obtained by dividing, by one-half of the first additional contribution rate for the year, the amount by which the aggregate of the following amounts exceeds the amount described in the second paragraph:

(a) the aggregate of the deductions at source from the worker’s salary and wages for the year on account of the first additional contribution under this Act or a similar plan; and

(b) any amount that an employer has not deducted at source from the worker’s salary and wages for the year on account of the first additional contribution, as the employer should have done under this Act or a similar plan, provided that the worker has given notice of that fact to the Minister on or before 30 April of the following year.

The amount to which the first paragraph refers is equal to the aggregate of

(a) an amount equal to the product of the first additional contribution rate for employees for the year under the similar plan and the amount of the worker’s salary and wages on which a first additional contribution has been made for the year under the plan; and

(b) the amount by which the amount described in subparagraph *a* of the first paragraph exceeds the aggregate of the amounts established under subparagraphs *c* and *d* of the first paragraph of section 51.

**“56.3.** A worker’s salary and wages on which a first additional contribution has been made for a year under a similar plan is equal to the lesser of

(a) the amount by which the aggregate of all amounts each of which is the worker’s pensionable salary and wages for the year in respect of pensionable employment under the similar plan exceeds the proportional share of the worker’s personal exemption for the year under the plan;

(b) the proportional share of the worker’s maximum contributory earnings for the year under the similar plan; and

(c) the amount obtained by dividing, by the first additional contribution rate for employees for the year under the similar plan, the aggregate of the deductions at source from the worker’s salary and wages for the year on account of the first additional contribution under this Act or a similar plan and any amount that an employer has not deducted at source from the worker’s salary and wages for the year on account of the first additional contribution, as the employer should have done under this Act or a similar plan, provided that the worker has given notice of that fact to the Minister on or before 30 April of the following year.

**“56.4.** A worker’s salary and wages on which a second additional contribution has been made for a year is equal to the amount obtained by dividing, by one-half of the second additional contribution rate for the year, the amount by which the aggregate of the following amounts exceeds the amount described in the second paragraph:

(a) the aggregate of the deductions at source from the worker’s salary and wages for the year on account of the second additional contribution under this Act or a similar plan;

(b) any amount that an employer has not deducted at source from the worker’s salary and wages for the year on account of the second additional contribution, as the employer should have done under this Act or a similar plan, provided that the worker has given notice of that fact to the Minister on or before 30 April of the following year; and

(c) the aggregate of the amounts established under subparagraph *b* of the second paragraph of section 56 and subparagraph *b* of the second paragraph of section 56.2.

The amount to which the first paragraph refers is equal to the aggregate of

(a) an amount equal to the product of the second additional contribution rate for employees for the year under the similar plan and the amount of the worker's salary and wages on which a second additional contribution has been made for the year under the plan; and

(b) the excess amount established under the first paragraph of section 51.

**“56.5.** A worker's salary and wages on which a second additional contribution has been made for a year under a similar plan is equal to the lesser of

(a) the amount by which the aggregate of all amounts each of which is the worker's pensionable salary and wages for the year in respect of pensionable employment under the similar plan exceeds the proportional share of the worker's maximum pensionable earnings for the year under the plan;

(b) the amount by which the proportional share of the worker's additional maximum pensionable earnings for the year under the similar plan exceeds the proportional share of the worker's maximum pensionable earnings for the year under the plan; and

(c) the amount obtained by dividing, by the second additional contribution rate for employees for the year under the similar plan, the aggregate of

i. the aggregate of the deductions at source from the worker's salary and wages for the year on account of the second additional contribution under this Act or a similar plan and any amount that an employer has not deducted at source from the worker's salary and wages for the year on account of the second additional contribution, as the employer should have done under this Act or a similar plan, provided that the worker has given notice of that fact to the Minister on or before 30 April of the following year, and

ii. the aggregate of the amounts established under subparagraph *b* of the second paragraph of section 56 and subparagraph *b* of the second paragraph of section 56.2.”

**30.** Section 57 of the Act is replaced by the following section:

**“57.** Where an employer pays, on account of the employee's base contribution, first additional contribution or second additional contribution, as the case may be, for a year under this Act or a similar plan, an amount that the employer has failed to deduct, that amount is, for the purposes of sections 51 and 56 to 56.5, deemed to have been deducted by the employer on account of that contribution for the year.”

**31.** Section 58 of the Act is amended

(1) in the first paragraph,

(a) by replacing “a contribution has been made by an employee” by “an employee has made contributions”;

(b) by replacing “section 56 or 56.1” by “sections 56 to 56.5”;

(2) by replacing subparagraphs *a* and *b* of the second paragraph by the following subparagraphs:

“(a) for an amount computed under section 56 or 56.1,

i. an amount equal to the product of one-half of the base contribution rate for the year and the amount shown in the return as the salary and wages, less than or equal to the employee’s maximum pensionable earnings, on which the employee has made a base contribution for the year under this Act, and

ii. an amount equal to the product of the base contribution rate for employees for the year under the similar plan and the amount shown in the return as the salary and wages, less than or equal to the employee’s maximum pensionable earnings, on which the employee has made a base contribution for the year under the plan;

“(b) for an amount computed under section 56.2 or 56.3,

i. an amount equal to the product of one-half of the first additional contribution rate for the year and the amount shown in the return as the salary and wages, less than or equal to the employee’s maximum pensionable earnings, on which the employee has made a first additional contribution for the year under this Act, and

ii. an amount equal to the product of the first additional contribution rate for employees for the year under the similar plan and the amount shown in the return as the salary and wages, less than or equal to the employee’s maximum pensionable earnings, on which the employee has made a first additional contribution for the year under the plan; and

“(c) for an amount computed under section 56.4 or 56.5,

i. an amount equal to the product of one-half of the second additional contribution rate for the year and the amount shown in the return as the salary and wages, greater than the employee’s maximum pensionable earnings, on which the employee has made a second additional contribution for the year under this Act, and

ii. an amount equal to the product of the second additional contribution rate for employees for the year under a similar plan and the amount shown in the return as the salary and wages, greater than the employee's maximum pensionable earnings, on which the employee has made a second additional contribution for the year under the plan."

**32.** Section 59 of the Act is amended by replacing "on account of the employee's contribution" in the first paragraph by "on account of the employee's contributions".

**33.** Section 63 of the Act is amended by replacing "of the contribution referred to" by "of the contributions referred to".

**34.** Section 64 of the Act is amended

(1) by replacing "the contribution" in the first paragraph by "the contributions";

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

"Upon payment of the contributions by the employer, the employee is deemed, for the purposes of subparagraph *b* of the first paragraph of each of sections 56, 56.2 and 56.4 and of paragraph *c* of each of sections 56.1, 56.3 and 56.5, to have notified the Minister, within the required time, of the employer's failure."

**35.** Section 72 of the Act is amended by replacing "on the contribution payable" by "on the contributions payable".

**36.** Section 74 of the Act is amended

(1) by replacing "of the contribution to be made" by "of the contributions to be made";

(2) by replacing "of the contribution payable" by "of the contributions payable".

**37.** Section 75 of the Act is amended by replacing "his contribution" by "his contributions".

**38.** Section 77 of the Act is amended by replacing "on the contribution payable" by "on the contributions payable".

**39.** Section 78 of the Act is amended by replacing "as a contribution exceeding the contribution required" by "as contributions exceeding the contributions required".



**40.** Section 78.0.1 of the Act is amended

(1) by replacing “as or on account of the contribution referred to” by “as or on account of the contributions referred to”;

(2) by replacing “second paragraph” by “fourth paragraph”;

(3) by replacing “as or on account of a contribution exceeding the contribution required” by “as or on account of contributions exceeding the contributions required”.

**41.** Section 79 of the Act is amended by replacing all occurrences of “as a contribution under” by “as contributions under”.

**42.** Section 95.4 of the Act is amended

(1) by replacing “in sections 106 and 106.1” by “in sections 105.0.1, 106 and 106.1”;

(2) by inserting “or an additional amount for disability after retirement” at the end.

**43.** Section 96 of the Act is amended by replacing “section 106 or 106.1” in subparagraph *e* of the second paragraph by “section 105.0.1, 106 or 106.1”.

**44.** The Act is amended by inserting the following section before section 98:

“**97.1.** A contributor’s unadjusted pensionable earnings are his

(a) base unadjusted pensionable earnings;

(b) first additional unadjusted pensionable earnings; and

(c) second additional unadjusted pensionable earnings.”

**45.** Section 98 of the Act is amended by replacing all occurrences of

(1) “unadjusted pensionable earnings” by “base unadjusted pensionable earnings”;

(2) “a contribution”, “his contribution” and “rate of contribution” by “a base contribution”, “his base contribution” and “base contribution rate”, respectively;

(3) “contributory period” by “base contributory period”; and

(4) “subparagraph *a* or *b* of the first paragraph” by “subparagraph *a* or *b* of the second paragraph”.

**46.** The Act is amended by inserting the following sections after section 98:

**“98.1.** The first additional unadjusted pensionable earnings of a contributor for a year are an amount equal to the least of the three following amounts:

(a) the total of

(1) his pensionable salary and wages,

(2) his pensionable earnings from self-employment, and

(3) his pensionable earnings as a family-type resource or an intermediate resource;

(b) the aggregate of the three following amounts:

(1) the total of his salary and wages on which a first additional contribution has been made and the amount obtained by dividing his first additional contribution in respect of his self-employed earnings and earnings as a family-type resource or an intermediate resource by the first additional contribution rate for the year,

(2) the total, determined in prescribed manner, of his salary and wages on which a first additional contribution has been made under a similar plan and the amount obtained by dividing his first additional contribution under such plan in respect of his self-employed earnings by the first additional contribution rate for the year for a self-employed worker determined under such plan, and

(3) the contributor’s personal exemption for the year; and

(c) his maximum pensionable earnings for the year.

Nevertheless, if, for a year, the amount of the contributor’s first additional unadjusted pensionable earnings does not exceed his personal exemption, such amount is deemed to be nil.

**“98.2.** The second additional unadjusted pensionable earnings of a contributor for a year are an amount equal to the least of the three following amounts:

(a) the amount by which the total of the amounts referred to in subparagraph *a* of the first paragraph of section 98 exceeds his maximum pensionable earnings for the year;

(b) the aggregate of the two following amounts:

(1) the total of his salary and wages on which a second additional contribution has been made and the amount obtained by dividing his second additional

contribution in respect of his self-employed earnings and earnings as a family-type resource or an intermediate resource by the second additional contribution rate for the year, and

(2) the total, determined in prescribed manner, of his salary and wages on which a second additional contribution has been made under a similar plan and the amount obtained by dividing his second additional contribution under such plan in respect of his self-employed earnings by the second additional contribution rate for the year for a self-employed worker determined under such plan; and

(c) the amount by which his additional maximum pensionable earnings for the year exceed his maximum pensionable earnings for the year.”

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

(1) by replacing the first, second and third paragraphs by the following paragraphs:

“Any base contribution, first additional contribution or second additional contribution paid for a year shall be deemed to have been made for all months in the year and the base unadjusted pensionable earnings, first additional unadjusted pensionable earnings and second additional unadjusted pensionable earnings for each month are calculated by dividing those earnings for the year by 12.

Nevertheless, for a year in which the contributor reaches 18 years of age or in which a disability pension ceases to be payable to him under this Act or under a similar plan, any of the contributions referred to in the first paragraph shall be deemed to have been made for earnings relating to the months following the day preceding his eighteenth birthday or the day on which the disability pension ceased to be payable.

For a year in which one of the events mentioned in subparagraphs *a* to *d* of this paragraph occurs, any of a contributor’s contributions referred to in the first paragraph shall be deemed to have been made for earnings relating to the months in the year which, as the case may be, are prior to

(a) the first month which, by reason of a disability of the contributor, is excluded from his base contributory period under subparagraph *a* of the third paragraph of section 101;

(b) the month in which a retirement pension becomes payable to him under this Act or under a similar plan, unless that month is subsequent to 2011, in which case no adjustment is made;

(c) the month of his seventieth birthday, unless that month is subsequent to 2011, in which case no adjustment is made; or

(d) the month following his death.”;

(2) by replacing all occurrences of “contribution”, “contributory period” and “unadjusted pensionable earnings” in the fifth paragraph by “base contribution”, “base contributory period” and “base unadjusted pensionable earnings”, respectively;

(3) by replacing the six and seventh paragraphs by the following paragraphs:

“Where no base contribution, first additional contribution or second additional contribution has been made for a year, the amount of the base unadjusted pensionable earnings, first additional unadjusted pensionable earnings and second additional unadjusted pensionable earnings for which such a contribution is deemed to have been made for each month in that year is deemed to be nil.

For the purposes of this Title, where, for a year, a contributor’s base unadjusted pensionable earnings or first additional unadjusted pensionable earnings exceed his personal exemption, he is deemed to have made a contribution in respect of such earnings for that year; where his base unadjusted pensionable earnings or first additional unadjusted pensionable earnings do not exceed his personal exemption, he is deemed to have made no contribution in respect of such earnings.”;

(4) by replacing “A contribution” and “a contribution” in the eighth paragraph by “A base contribution or a first additional contribution” and “such a contribution”, respectively.

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

(1) by replacing the introductory clause of the first paragraph by the following:

**“101.** The base contributory period, first additional contributory period and second additional contributory period of a person begin on his eighteenth birthday or on the following date, if he reached 18 years of age before that date:

(a) 1 January 1966, for his base contributory period;

(b) 1 January 2019, for his first additional contributory period; or

(c) 1 January 2024, for his second additional contributory period.

Each of those periods terminates at the end of the earliest of the following months:”;

(2) in the second paragraph,

(a) by replacing “contributory period” in the introductory clause by “base contributory period”;

(b) by replacing “unadjusted pensionable earnings” in subparagraphs *b* and *c* by “base unadjusted pensionable earnings”.

**49.** Section 102.3 of the Act is amended by replacing “the sum of their unadjusted pensionable earnings” in the first paragraph by “the sum of their base unadjusted pensionable earnings, the sum of their first additional unadjusted pensionable earnings and the sum of their second additional unadjusted pensionable earnings”.

**50.** Section 102.4 of the Act is amended

(1) in the first paragraph,

(a) by replacing subparagraph *c.1* by the following subparagraph:

“(d) solely in respect of the base unadjusted pensionable earnings, months which, by reason of a disability, are excluded from the base contributory period of either of the former spouses under subparagraph *a* of the third paragraph of section 101;”;

(b) by replacing “unadjusted pensionable earnings” in subparagraph *e* by “base unadjusted pensionable earnings”;

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

“In addition, where one of the former spouses has paid a base contribution, a first additional contribution or a second additional contribution to a similar plan for a particular month, partition of the base unadjusted pensionable earnings, the first additional unadjusted pensionable earnings and the second additional unadjusted pensionable earnings shall not be effected in respect of that month, unless partition is also effected under the similar plan.”

**51.** Section 102.10.5 of the Act is amended

(1) by replacing “the sum of their unadjusted pensionable earnings” in the first paragraph by “the sum of their base unadjusted pensionable earnings, the sum of their first additional unadjusted pensionable earnings and the sum of their second additional unadjusted pensionable earnings”;

(2) by replacing subparagraph *a* of the second paragraph by the following subparagraph:

“(a) the months for which partition is not effected under section 102.4;”.

**52.** Section 105.0.1 of the Act is amended

(1) by replacing “contributions” in subparagraph 4 of the first paragraph by “base contributions”;

(2) by replacing “second paragraph of section 101” in the second paragraph by “third paragraph of section 101”;

(3) by replacing all occurrences of “contributory period” by “base contributory period”.

**53.** Section 105.1 of the Act is amended by replacing “contributory period” in the second paragraph by “base contributory period”.

**54.** The Act is amended by replacing all occurrences of “contributions” and “contributory period” in sections 106, 106.1 and 107 by “base contributions” and “base contributory period”, respectively.

**55.** Section 107.0.1 of the Act is amended

(1) by replacing all occurrences of “contributions” by “base contributions”;

(2) by replacing both occurrences of “contributory period” by “base contributory period”;

(3) by replacing “cotisation” in the French text by “cotisation de base”;

(4) by replacing “first paragraph of section 101” by “second paragraph of section 101”;

(5) by replacing “second paragraph of section 101” by “third paragraph of section 101”.

**56.** Section 107.1 of the Act is amended

(1) by replacing “second paragraph of section 101” in paragraph 1 by “third paragraph of section 101”;

(2) by replacing all occurrences of “contributions” by “base contributions”;

(3) by replacing all occurrences of “contributory period” by “base contributory period”.

**57.** Section 116.1 of the Act is amended by replacing the first paragraph by the following paragraph:

“For the calculation of a benefit, a contributor’s base pensionable earnings for each month are his base unadjusted pensionable earnings for that month multiplied by the ratio between the average Maximum Pensionable Earnings

relating to the year for which his average base monthly pensionable earnings are established and the Maximum Pensionable Earnings for the year that includes that month.”

**58.** The Act is amended by inserting the following sections after section 116.1:

**“116.1.1.** For the calculation of a benefit, a contributor’s first additional pensionable earnings for each month are his first additional unadjusted pensionable earnings for that month multiplied by the ratio between the average Maximum Pensionable Earnings, referred to in the second paragraph of section 116.1, relating to the year for which the contributor’s average first additional monthly pensionable earnings are established and the Maximum Pensionable Earnings for the year that includes that month.

For any month of a year prior to the year 2023, the result obtained under the first paragraph is multiplied by one of the following factors, according to the year of the month concerned:

- (a) 0.15 for the year 2019;
- (b) 0.30 for the year 2020;
- (c) 0.50 for the year 2021; or
- (d) 0.75 for the year 2022.

**“116.1.2.** For the calculation of a benefit, a contributor’s second additional pensionable earnings for each month are his second additional unadjusted pensionable earnings for that month multiplied by the ratio between the average Maximum Pensionable Earnings, referred to in the second paragraph of section 116.1, relating to the year for which the contributor’s average second additional monthly pensionable earnings are established and the Maximum Pensionable Earnings for the year that includes that month.”

**59.** Section 116.2 of the Act is amended

(1) by replacing all occurrences of

(a) “average monthly pensionable earnings” and “total pensionable earnings” by “average base monthly pensionable earnings” and “total base pensionable earnings”, respectively;

(b) “contributory period” by “base contributory period”;

(c) “contributory months” by “base contributory months”; and

(d) “second paragraph of section 101” by “third paragraph of section 101”;

(2) by replacing “of the contributory” in paragraph *a* by “of the contributor”.

**60.** The Act is amended by inserting the following sections after section 116.2:

**“116.2.1.** A contributor’s average first additional monthly pensionable earnings are equal to  $G/480$ ,

where

$G$  is the contributor’s total first additional pensionable earnings for each month included in his first additional contributory period.

Where the total number of months included in the contributor’s first additional contributory period exceeds 480, only the 480 months for which the first additional pensionable earnings are the highest will be considered.

**“116.2.2.** A contributor’s average second additional monthly pensionable earnings are equal to  $G/480$ ,

where

$G$  is the contributor’s total second additional pensionable earnings for each month included in his second additional contributory period.

Where the total number of months included in the contributor’s second additional contributory period exceeds 480, only the 480 months for which the second additional pensionable earnings are the highest will be considered.”

**61.** Sections 116.3 and 116.4 of the Act are amended by replacing

(1) both occurrences of “average monthly pensionable earnings” in the first paragraph of section 116.3 by “average base monthly pensionable earnings” and all other occurrences of “pensionable earnings” in those sections by “base pensionable earnings”; and

(2) all occurrences of “contributory period” by “base contributory period”.

**62.** Section 116.5 of the Act is amended by replacing the first paragraph by the following paragraph:

“The contributor’s base pensionable earnings for a year subsequent to 1997 but prior to 2008 that relate to months subsequent to the end of his base contributory period, within the meaning of subparagraph *a* or *b* of the second paragraph of section 101, may be substituted, after months are excluded under section 116.3, for the base pensionable earnings relating to months of the base contributory period in which contributory earnings are lower. The substitution shall first be effected in respect of the months for which contributory earnings are the lowest.”

**63.** Section 116.6 of the Act is amended by replacing “maximum monthly” by “maximum base monthly”.



**64.** Section 119 of the Act is amended by inserting “, unless a regulation made under section 218.3 prescribes otherwise,” after “first is” in the first paragraph.

**65.** Section 120 of the Act is replaced by the following section:

**“120.** The basic monthly amount of a contributor’s retirement pension is equal to the total of the following amounts, calculated as provided in sections 116.1 to 116.5, for the year in which the retirement pension becomes payable:

- (a) 25% of his average base monthly pensionable earnings;
- (b) 8.33% of his average first additional monthly pensionable earnings; and
- (c) 33.33% of his average second additional monthly pensionable earnings.

The amount is adjusted in accordance with sections 120.1 and 120.2.”

**66.** Section 120.1 of the Act is amended, in the first paragraph,

(1) by replacing “A retirement pension which becomes payable to a contributor on a date other than that of his sixty-fifth birthday is a monthly amount equal to” in the introductory clause by “The monthly amount of a retirement pension which becomes payable to a contributor on a date other than that of his sixty-fifth birthday is equal to”;

(2) by replacing, in subparagraph 1,

(a) “average monthly pensionable earnings” by “average base monthly pensionable earnings”; and

(b) “maximum monthly retirement pension” by “maximum base monthly retirement pension”.

**67.** Section 120.2 of the Act is amended by replacing, in the second paragraph,

(1) “average monthly pensionable earnings” by “average base monthly pensionable earnings”; and

(2) “maximum monthly retirement pension” by “maximum base monthly retirement pension”.

**68.** Sections 120.3 and 120.4 of the Act are replaced by the following sections:

**“120.3.** When, for a year subsequent to 2007, a contributor’s unadjusted pensionable earnings relate to months subsequent to the end of his base

contributory period, first additional contributory period or second additional contributory period, within the meaning of subparagraph *a* or *b* of the second paragraph of section 101, subject to section 120.4, the contributor is entitled to an additional pension from 1 January of the following year. This additional pension is deemed to be a retirement pension. However, section 157.1 does not apply to the payment of the additional pension.

The basic monthly amount of the additional pension is equal to the total of

(*a*) 1/12 of 0.5% of the amount of the contributor's total base unadjusted pensionable earnings for the year concerned less the basic exemption. However, for the year in which the contributor's base contributory period ends under subparagraph *a* or *b* of the second paragraph of section 101, the base unadjusted pensionable earnings to be used are those deemed to relate to the months of the year that are subsequent to the end of the contributor's base contributory period and the basic exemption is multiplied by the proportion that the number of those months bears to 12;

(*b*) 1/12 of 0.16% of the amount of the contributor's total first additional unadjusted pensionable earnings for the year concerned less the basic exemption, that amount multiplied by 0.15 for the year 2019, by 0.30 for the year 2020, by 0.50 for the year 2021 or by 0.75 for the year 2022. However, for the year in which the contributor's first additional contributory period ends under subparagraph *a* or *b* of the second paragraph of section 101, the first additional unadjusted pensionable earnings to be used are those deemed to relate to the months of the year that are subsequent to the end of the contributor's first additional contributory period and the basic exemption is multiplied by the proportion that the number of those months bears to 12; and

(*c*) 1/12 of 0.66% of the amount of the contributor's total second additional unadjusted pensionable earnings for the year concerned. However, for the year in which the contributor's second additional contributory period ends under subparagraph *a* or *b* of the second paragraph of section 101, the second additional unadjusted pensionable earnings to be used are those deemed to relate to the months of the year that are subsequent to the end of his second additional contributory period.

**“120.4.** From the year 2013, for the calculation of the basic monthly amount of the additional pension under the second paragraph of section 120.3,

(*a*) the amount obtained under subparagraph 2 of subparagraph *b* of the first paragraph of section 98 for each of the years subsequent to the end of the contributor's base contributory period under subparagraph *a* or *b* of the second paragraph of section 101 is excluded from his total base unadjusted pensionable earnings for the year referred to in subparagraph *a* of the second paragraph of section 120.3;

(b) the amount obtained under subparagraph 2 of subparagraph *b* of the first paragraph of section 98.1 for each of the years subsequent to the end of the contributor's first additional contributory period under subparagraph *a* or *b* of the second paragraph of section 101 is excluded from his total first additional unadjusted pensionable earnings for the year referred to in subparagraph *b* of the second paragraph of section 120.3; and

(c) the amount obtained under subparagraph 2 of paragraph *b* of section 98.2 for each of the years subsequent to the end of the contributor's second additional contributory period under subparagraph *a* or *b* of the second paragraph of section 101 is excluded from his total second additional unadjusted pensionable earnings for the year referred to in subparagraph *c* of the second paragraph of section 120.3.

However, for the year in which the contributor's base contributory period ends under subparagraph *a* or *b* of the second paragraph of section 101, the amount excluded from his total base unadjusted pensionable earnings for the year concerned is the amount obtained under subparagraph 2 of subparagraph *b* of the first paragraph of section 98 multiplied by the proportion that the number of months subsequent to the end of the base contributory period bears to 12 less the number of months referred to in subparagraph *a* of the third paragraph of section 101.

For the year in which the contributor's first additional contributory period ends under subparagraph *a* or *b* of the second paragraph of section 101, the amount excluded from his total first additional unadjusted pensionable earnings for the year concerned is the amount obtained under subparagraph 2 of subparagraph *b* of the first paragraph of section 98.1 multiplied by the proportion that the number of months subsequent to the end of the first additional contributory period bears to 12 less the number of months referred to in subparagraph *a* of the third paragraph of section 101.

For the year in which the contributor's second additional contributory period ends under subparagraph *a* or *b* of the second paragraph of section 101, the amount excluded from his total second additional unadjusted pensionable earnings for the year concerned is the amount obtained under subparagraph 2 of paragraph *b* of section 98.2 multiplied by the proportion that the number of months subsequent to the end of the second additional contributory period bears to 12 less the number of months referred to in subparagraph *a* of the third paragraph of section 101."

**69.** Section 123 of the Act is amended

(1) by replacing the introductory clause by the following:

**“123.** The basic monthly amount of the disability pension payable to a contributor consists in”;

(2) by replacing paragraph *b* by the following paragraph:

“(b) 75% of the total of the following amounts, calculated as provided in sections 116.1 to 116.4, for the year in which the disability pension becomes payable:

- (1) 25% of his average base monthly pensionable earnings;
- (2) 8.33% of his average first additional monthly pensionable earnings; and
- (3) 33.33% of his average second additional monthly pensionable earnings.”

**70.** Section 127 of the Act is amended by replacing “the contributory period of a contributor terminates” by “a contributor’s base contributory period, first additional contributory period and second additional contributory period terminate”.

**71.** Section 128 of the Act is amended by replacing “contributions” in the third paragraph by “base contributions”.

**72.** Section 133 of the Act is amended

(1) by replacing the introductory clause of the first paragraph by the following:

“**133.** The basic monthly amount of the surviving spouse’s pension of a spouse under 65 years of age to whom neither a disability pension nor a retirement pension is payable under this Act or under a similar plan is equal to the aggregate of the following four amounts:

- (a) 37.5% of the amount established in accordance with section 137;
- (b) 50% of the amount established in accordance with section 137.1;
- (c) 50% of the amount established in accordance with section 137.2; and
- (d) the amount of the flat benefit applicable as provided in the second paragraph.

The amount of the flat benefit, according to the spouse’s situation, is”;

(2) by replacing both occurrences of “first paragraph” in the second and third paragraphs by “second paragraph”.

**73.** Section 133.1 of the Act is amended by replacing “of subparagraphs *a* and *b* of the first paragraph of section 133” in the first paragraph by “of subparagraphs *a* and *b* of the second paragraph of section 133”.

**74.** Section 134 of the Act is amended by replacing “is equal to 60% of the amount established in accordance with section 137” by “is equal to the aggregate of the following three amounts:

- (a) 60% of the amount established in accordance with section 137;
- (b) 50% of the amount established in accordance with section 137.1; and
- (c) 50% of the amount established in accordance with section 137.2”.

**75.** Section 135 of the Act is amended

(1) by replacing the introductory clause of the first paragraph by the following:

“**135.** The basic monthly amount of the surviving spouse’s pension of a spouse to whom a disability pension is payable under this Act or under a similar plan is equal to the aggregate of the following three amounts:

(a) the lesser of D and E, calculated as follows:

$$a \times 37.5\% = D$$

$$b - c = E;$$

- (b) 50% of the amount established in accordance with section 137.1; and
- (c) 50% of the amount established in accordance with section 137.2.

In the formulas in subparagraph *a* of the first paragraph,”;

(2) by replacing “maximum monthly” in the definition of “b” in the first paragraph by “maximum base monthly”;

(3) by replacing the definition of “c” in the first paragraph by the following definition:

““c” is the amount of the disability pension payable to the surviving spouse for the month for which the basic monthly amount is established, reduced by 75% of the amounts calculated under subparagraphs 2 and 3 of paragraph *b* of section 123, adjusted as provided in section 119, and by the amount of the flat benefit included in the disability pension for that month.”

**76.** Section 136 of the Act is amended

(1) by replacing subparagraphs *a* and *b* of the first paragraph by the following subparagraphs:

“(a) in the case of a spouse who is under 65 years of age, to the amount of the flat benefit which, if no retirement pension were payable to him, would be included in his surviving spouse’s pension for the month for which the basic monthly amount is established, to which the aggregate of the following three amounts is added:

(1) the lesser of E and F, calculated as follows:

$$a \times 37.5\% = E$$

$$c - d = F;$$

(2) 50% of the amount established in accordance with section 137.1; and

(3) 50% of the amount established in accordance with section 137.2;

“(b) in the case of a spouse who is 65 years of age or over, to the aggregate of the three following amounts:

(1) the lesser of the following amounts:

i.  $c - d$ ; and

ii. the greater of G and H, calculated as follows:

$$a \times 37.5\% = G$$

$$(a \times 60\%) - (d \times 40\%) = H;$$

(2) 50% of the amount established in accordance with section 137.1; and

(3) 50% of the amount established in accordance with section 137.2;”;

(2) by replacing “maximum monthly” in the definition of “c” by “maximum base monthly”;

(3) by inserting “, calculated as provided in subparagraph *a* of the first paragraph of section 120 and adjusted in accordance with section 119,” in the definition of “d” after “the amount of the retirement pension”.

**77.** Section 137 of the Act is amended

(1) in the first paragraph,

(a) by replacing “basic monthly amount” by “base portion of the basic monthly amount”;

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

“(1) in the case of a contributor to whom a retirement pension was payable, the amount of that pension for the month of his death, established without taking account of the amounts calculated as provided in subparagraphs *b* and *c* of the first paragraph of section 120 and adjusted in accordance with section 119, any partition effected under sections 158.3 to 158.8 or a similar plan, any adjustments provided for in sections 120.1 and 120.2, or any additional pension established under section 120.3. If the basic number of months established in accordance with section 116.2 for the calculation of that portion of the amount of the contributor’s retirement pension is higher than the total number of months included in his base contributory period, that portion of the amount of his retirement pension must be multiplied by the proportion that the basic number bears to 36 or the total number of months included in his base contributory period, whichever is higher;”;

(c) by replacing “average monthly pensionable earnings” in subparagraph 2 by “average base monthly pensionable earnings”;

(2) by replacing “the monthly amount of the deceased contributor’s additional pension established as provided in section 120.3” in the second paragraph by “the base portion of the monthly amount of the deceased contributor’s additional pension established under subparagraph *a* of the second paragraph of section 120.3”;

(3) by replacing “monthly basic amount” in the third paragraph by “base portion of the basic monthly amount”.

**78.** The Act is amended by inserting the following sections after section 137:

**“137.1.** For the calculation of the first additional portion of the basic monthly amount of the surviving spouse’s pension, the amount to be used is, depending on the contributor’s situation for the month of his death,

(a) in the case of a contributor to whom a retirement pension was payable, the amount of that pension for the month of his death, established without taking account of the amounts calculated as provided in subparagraphs *a* and *c* of the first paragraph of section 120 and adjusted in accordance with section 119, any partition effected under sections 158.3 to 158.8 or a similar plan, any adjustments provided for in sections 120.1 and 120.2, or any additional pension established under subparagraphs *a* and *c* of the second paragraph of section 120.3; and

(b) in other cases, an amount equal to 8.33% of the contributor’s average first additional monthly pensionable earnings, calculated as provided in section 116.2.1, for the year of his death.

The amount obtained is adjusted by multiplying it by the ratio between the Pension Index for the year including the month for which the first additional portion of the basic monthly amount is established and the Pension Index for the year of the contributor's death.

**137.2.** For the calculation of the second additional portion of the basic monthly amount of the surviving spouse's pension, the amount to be used is, depending on the contributor's situation for the month of his death,

(a) in the case of a contributor to whom a retirement pension was payable, the amount of that pension for the month of his death, established without taking account of the amounts calculated as provided in subparagraphs *a* and *b* of the first paragraph of section 120 and adjusted in accordance with section 119, any partition effected under sections 158.3 to 158.8 or a similar plan, any adjustments provided for in sections 120.1 and 120.2, or any additional pension established under subparagraphs *a* and *b* of the second paragraph of section 120.3; and

(b) in other cases, an amount equal to 33.33% of the contributor's average second additional monthly pensionable earnings, calculated as provided in section 116.2.2, for the year of his death.

The amount obtained is adjusted by multiplying it by the ratio between the Pension Index for the year including the month for which the second additional portion of the basic monthly amount is established and the Pension Index for the year of the contributor's death."

**79.** Section 145 of the Act is amended by inserting “, additional amounts for disability after retirement” after “except retirement pensions” in the first paragraph.

**80.** Section 145.1 of the Act is amended by replacing “whose retirement or disability pension” by “and that”.

**81.** Section 158.5 of the Act is amended by replacing “combined contributory period” in the definition of “c” by “combined base contributory period”.

**82.** Section 158.6 of the Act is amended

(1) by replacing all occurrences of

(a) “combined contributory period” by “combined base contributory period”;

(b) “contributory period” by “base contributory period”; and

(c) “périodes cotisables” in the French text by “périodes cotisables de base”;

(2) by replacing “second paragraph of section 101” at the end of subparagraph 1 of the first paragraph by “third paragraph of section 101”.



**83.** Section 180 of the Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) the aggregate of his earnings on which a base contribution has been made under this Act, calculated as provided in subparagraph 1 of paragraph *b* of section 98, and those on which a second additional contribution has been made under this Act, calculated as provided in subparagraph 1 of paragraph *b* of section 98.2,

is of

(b) the aggregate of his earnings on which a base contribution has been made and those on which a second additional contribution has been made under this Act and under a similar plan, calculated as provided in subparagraphs 1 and 2 of paragraph *b* of sections 98 and 98.2.”

**84.** Section 180.1 of the Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) the aggregate of his base unadjusted pensionable earnings and his second additional unadjusted pensionable earnings allotted to him as a result of a partition effected under section 102.1 or 102.10.3

is of

(b) the aggregate of his base unadjusted pensionable earnings and his second additional unadjusted pensionable earnings allotted to him as a result of a partition effected under section 102.1 or 102.10.3 and those allotted to him under the similar plan.”

**85.** Section 186 of the Act is amended by replacing “notified” in the second paragraph by “sent”.

**86.** Section 188 of the Act is amended by replacing “notification” in the first paragraph by “being sent”.

**87.** The heading of Division V of Title VI of the Act is replaced by the following:

“FINANCIAL REVIEW OF THE QUÉBEC PENSION PLAN

“§1. — *Actuarial valuation*”.

**88.** Section 216 of the Act is replaced by the following section:

“**216.** At least once every three years, Retraite Québec shall cause to be prepared an actuarial valuation, for a minimum projection period of at least 50 years, on the operation of this Act and on the state of the base plan’s and

the additional plan's account. The report made after the valuation shall include, in particular,

(a) for each of the 10 subsequent years and for every fifth year within a total period of not less than 40 years thereafter, an estimate of the base plan's and the additional plan's revenues and expenditures;

(b) a study of the long-term effects of the base plan's and the additional plan's revenues and expenditures on the accumulation of their respective reserves;

(c) for the base plan, the steady-state contribution rate; and

(d) for the additional plan, the reference contribution rate.

The steady-state contribution rate referred to in subparagraph *c* of the first paragraph is equal to the contribution rate that meets the following conditions:

(a) from the third year of the minimum projection period, it is the lowest constant rate possible during that period;

(b) it makes the ratio between the reserve at the end of one year and the expenditures of the following year, calculated for the last year of the minimum projection period, at least equal to the ratio calculated for the 20th year preceding the end of the minimum projection period; and

(c) it is established without taking account of the cost of a change in the benefit portions related to the base plan, where that cost is covered by a temporary increase in the base contribution rate.

If the result of the calculation of the steady-state contribution rate has more than two decimals, it is rounded off to the second, which is rounded up if the third decimal is greater than 4.

The reference contribution rate referred to in subparagraph *d* of the first paragraph is equal to the contribution rate that meets the following conditions:

(a) from the third year of the minimum projection period, it is the lowest constant rate applicable to the income that is less than or equal to the Maximum Pensionable Earnings during that period, considering that the contribution rate applicable to the income that is greater than the Maximum Pensionable Earnings is four times greater;

(b) it makes the reserve at the end of the 20th year of the minimum projection period at least equal to the value of the expenditures subsequent to that year in respect of contributions for the years prior to the 21st year of the minimum projection period; and

(c) it is established without taking account of the cost of a change in the benefit portions related to the additional plan, where that cost is covered by a temporary increase in an additional contribution rate.

Where the third year of the minimum projection period referred to in subparagraph *a* of the fourth paragraph is before the year 2023, the first year to be considered for the purposes of that subparagraph is the year 2023 instead of the third year.

If the result of the calculation of the reference contribution rate has more than two decimals, it is rounded off according to the rules provided in the third paragraph.

An actuarial valuation prepared under the first paragraph shall describe the situation of the plan as at 31 December of a year; the valuation report must be available before the end of the following year.

The valuation shall be prepared by using the contribution rates set under sections 44.1 to 44.3.”

**89.** Section 217.1 of the Act is repealed.

**90.** The Act is amended by inserting the following section after section 218:

“**218.0.1.** Retraite Québec shall publish in the *Gazette officielle du Québec*, before 1 July of the year that follows the tabling of the report referred to in section 216, the steady-state contribution rate and the reference contribution rate indicated in the report.”

**91.** Section 218.1 of the Act is amended

(1) by replacing “the state of the Québec Pension Plan’s account” by “the state of the base plan’s and the additional plan’s account”;

(2) by inserting “of each plan” after “reserve”;

(3) by replacing “the rate of contribution” by “the contribution rates”.

**92.** The Act is amended by inserting the following subdivision after section 218.1:

“§2. — *Adjustment mechanisms for contributions and benefits*

“**218.2.** From the year 2024, the first additional contribution rate and the second additional contribution rate remain the same as those for the preceding year, unless

(a) on 1 September of the year that follows the tabling of the report referred to in section 216, a difference greater than that provided for by regulation is observed between the most recent reference contribution rate, published by Retraite Québec in the *Gazette officielle du Québec*, and the stated first additional contribution rate for 1 January of the following year, subtracting from the latter the temporary contribution rate related to the first additional contribution and provided for in section 218.4, if applicable; and

(b) the difference referred to in subparagraph *a* is observed in two consecutive reports tabled under section 216.

In that case, the first additional contribution rate and the second additional contribution rate are changed in accordance with the rules prescribed by regulation.

However, the Government may, by order, provide that those contribution rates are to remain unchanged.

**“218.3.** From the year 2024, if the conditions provided in the first paragraph of section 218.2 are met, the portions of the basic monthly amount of a benefit that are related to a contributor’s first additional unadjusted pensionable earnings and to his second additional unadjusted pensionable earnings are changed in accordance with the rules prescribed by regulation.

However, the Government may, by order, provide that the portions of the basic monthly amount of a benefit are to remain unchanged.

**“218.4.** Any change to the pension plan that increases the cost of benefits under the base plan or the additional plan must be accompanied by an increase in the contribution rates for those plans to cover the additional cost.

The increase in the contribution rates is permanent if the cost increase is related to participation in the plan after the coming into force of the change.

If the cost increase is related to participation in the plan before the coming into force of the change, a temporary increase must be added for a period of not more than 15 years.

**“218.5.** An order made by the Government under the third paragraph of section 218.2 or the second paragraph of section 218.3 must be published in the *Gazette officielle du Québec* not later than 15 September preceding the year to which it applies.”

**93.** Section 219 of the Act is amended by inserting the following paragraphs after paragraph *x*:

“(y) determine the difference, referred to in section 218.2, between the most recent reference contribution rate and the first additional contribution rate that causes the contribution and benefit adjustment mechanisms respectively provided for in that section and section 218.3 to apply;

“(z) determine, for the purposes of section 218.2, the rules applicable to the change in the first additional contribution rate and the second additional contribution rate; and

“(z.1) determine, for the purposes of section 218.3, the rules applicable to the change in the portions of the basic monthly amount of a benefit that are related to the contributor’s first additional unadjusted pensionable earnings and to his second additional unadjusted pensionable earnings.”

#### SUPPLEMENTAL PENSION PLANS ACT

**94.** Section 14 of the Supplemental Pension Plans Act (chapter R-15.1) is amended by replacing subparagraph 17 of the second paragraph by the following subparagraph:

“(17) in the case of a pension plan to which Chapter X applies, the conditions and procedure for appropriating all or part of the surplus assets referred to in section 146.8 and, if different, the conditions and procedure for appropriating all or part of the balance of surplus assets referred to in the third paragraph of that section, according to one or a combination of the following appropriation methods:

(a) the payment of employer current service contributions;

(b) the payment of member current service contributions;

(c) the payment of the value of the additional obligations arising from an amendment to the plan, in which case the nature of the amendments that may give rise to such an appropriation must be indicated; and

(d) the transfer of amounts to the employer;”.

**95.** Sections 38.2 and 38.3 of the Act are replaced by the following section:

“**38.2.** The following are special payments:

(1) the special improvement payment which, in respect of the additional obligations arising from an amendment to the pension plan, is established in accordance with section 139; and

(2) the special annuity purchasing payment which, where it is required on a payment of benefits made in accordance with the annuity purchasing policy, is established in accordance with the provisions of section 142.4.”

**96.** Section 39 of the Act is amended by striking out “improvement” in subparagraph *b* of subparagraph 2 of the first paragraph.

**97.** Section 41 of the Act is amended

- (1) by striking out “improvement” in the first paragraph;
- (2) by replacing the second paragraph by the following paragraph:

“The monthly payments must be of equal amounts. However, if they relate to the current service contribution or an amortization payment to which members contribute, the monthly payments may represent an hourly rate or a rate of the remuneration of, or a percentage of the total payroll for, the active members. The monthly payments may also, in the case of a defined contribution plan or with respect to contributions paid under terms in a defined benefit plan that are identical to those of a defined contribution plan, represent an amount paid for each of the active members. That rate, percentage or amount must be uniform, unless it is established by reference to a variable authorized by *Retraite Québec*.”

**98.** Section 42.2 of the Act is replaced by the following section:

“**42.2.** The amount of employer contributions that are technical amortization payments or stabilization amortization payments, except those paid by letter of credit, must be the subject of special monitoring. The amount of the following sums paid by the employer must also be included:

- (1) payments in excess of the employer contributions required, excluding interest payable due to a delay in a contribution payment or as the balance of the value of the benefits referred to in section 146;
- (2) payments to reduce a letter of credit, provided that, in the case of a letter of credit relating to a contribution payable before 1 January 2016, the contribution would have been recorded in accordance with section 288.3 had the employer not been relieved of paying it by such a letter of credit; and
- (3) if provided for in the annuity purchasing policy, special annuity purchasing payments.

The amount of member contributions that are technical amortization payments or stabilization amortization payments must also be the subject of special monitoring.

Interest on those amounts, at the rate of return obtained on the investment of the plan assets, reduced by the investment and administration fees, must also be included.

Any surplus assets appropriated to the payment of employer current service contributions or transferred to the employer, in accordance with section 146.8, must be deducted from the amounts recorded under the first paragraph. Likewise, any surplus assets appropriated, in accordance with that section, to the payment of member current service contributions or to the payment of the

value of the additional obligations arising from an amendment to the plan must be deducted from the amounts recorded, if applicable, under the second paragraph.

An employer may apply to the pension committee to have the amounts recorded under the first paragraph reduced by the amount the employer indicates.”

**99.** Section 48 of the Act is amended

(1) by replacing “les cotisations qui ne sont pas versées à la caisse de retraite ou à l’assureur portent intérêt” in the French text by “toute cotisation qui n’est pas versée à la caisse de retraite ou à l’assureur porte intérêt”;

(2) by adding the following sentence at the end: “However, in the case of a special payment, interest accrues from the day that follows the date on which it becomes payable.”

**100.** Section 103 of the Act is amended by striking out “or 45”.

**101.** Section 112.1 of the Act is repealed.

**102.** Section 118 of the Act is amended by striking out “to the payment of employer contributions” in subparagraph 5 of the first paragraph.

**103.** Section 119.1 of the Act is amended, in the first paragraph,

(1) by inserting “or under the second paragraph” after “under subparagraph 2 of the first paragraph”;

(2) by replacing “four” by “nine”;

(3) by adding the following sentence at the end: “The notice is no longer required, however, if the report on an actuarial valuation that establishes the degree of solvency of the plan as at a date included in the period from the end date of that fiscal year to the deadline for sending the notice has been sent to Retraite Québec.”

**104.** Section 121 of the Act is amended by inserting “if it concerns service prior to that date” after “effective” in the third paragraph.

**105.** Section 124 of the Act is amended by striking out “, calculated on the assumption that the effective date of the amendment is the valuation date” in subparagraph 2 of the first paragraph.

**106.** Section 142.3 of the Act is amended by replacing “The values referred to in subparagraph 2 of the first paragraph of section 142 and in section 142.1” by “The values referred to in this division”.

**107.** Section 143 of the Act is amended

(1) by replacing “as established in the last actuarial valuation report transmitted to Retraite Québec or, if the degree of solvency is more recent, in the notice prescribed by section 119.1 sent to Retraite Québec” in the third paragraph by “applicable on the date on which the value of the member’s benefits are established”;

(2) by adding the following sentence at the end of the third paragraph: “The degree of solvency of the plan applicable on the date referred to in the third paragraph is the one established in the last actuarial valuation for which the report was sent to Retraite Québec before that date, or the one established in the notice prescribed by section 119.1 sent to Retraite Québec before that date, if that notice is more recent.”

**108.** Section 146.8 of the Act is replaced by the following section:

**“146.8.** The amount of surplus assets that may be used over the course of a fiscal year must first be appropriated as provided for in the pension plan in accordance with the second paragraph, up to the following amounts:

(1) the lesser of the amount recorded under the first paragraph of section 42.2 and the amount of the employer current service contributions; and

(2) the lesser of the amount recorded under the second paragraph of that section and the amount of the member current service contributions.

The pension plan shall set out the procedure for appropriating the surplus assets according to one or a combination of the following appropriation methods:

(1) the payment of employer current service contributions;

(2) the payment of member current service contributions;

(3) the payment of the value of the additional obligations arising from an amendment to the plan; and

(4) the transfer of amounts to the employer.

If there is a balance of surplus assets, up to 20% of the balance may, per fiscal year of the plan, be appropriated according to the appropriation method applicable to the amount referred to in the first paragraph or according to another appropriation method provided for in the plan in accordance with the second paragraph.”



**109.** Section 146.9 of the Act is replaced by the following section:

**“146.9.** If the pension plan provides that the surplus assets are to be appropriated first to the payment of current service contributions, it may also provide that the appropriation applies, despite the limits established in the first paragraph of section 146.8, beyond the amounts recorded under section 42.2.”

**110.** Section 146.12 of the Act is amended by striking out paragraph 2.

**111.** Section 146.20 of the Act is amended by replacing “of the application for transfer” in the first paragraph by “on which the value is established”.

**112.** Section 146.22 of the Act is amended by inserting “, where the date of their valuation is subsequent to 31 December 2014,” after “the date of their valuation”.

**113.** Section 151.2 of the Act is amended by replacing “may adopt” in the first paragraph by “shall adopt”.

**114.** Section 152 of the Act is amended by striking out “, except those conferred by sections 243.3 and 243.7,” in the first paragraph.

**115.** Section 154.3 of the Act is amended by replacing “with this Act” by “with the law”.

**116.** Section 161 of the Act is amended by replacing the second paragraph by the following paragraph:

“It shall cause to be prepared, within the same time limit, a financial report containing a statement of the financial position of the plan and a statement of changes in the net assets available for the provision of benefits for the fiscal year just ended. The report need not include a statement of the obligations relating to benefits. The report must be audited by a duly authorized accountant, except in the cases provided for by regulation.”

**117.** Section 162.1 of the Act is amended by replacing “the fault” in the second paragraph by “the compensation”.

**118.** Section 166 of the Act is amended by replacing “Within six months after the end of each fiscal year of the plan, or within such additional period as may be granted by Retraite Québec” in the first paragraph by “Within nine months after the end of each fiscal year of the plan”.

**119.** Section 203 of the Act is amended by inserting “, including interest,” after “the contributions referred to in the first paragraph of section 202” in paragraph 2.

**120.** Section 204 of the Act is amended, in the second paragraph,

(1) by striking out “and the names of the members and beneficiaries affected”;

(2) by replacing “The date of termination” by “That date”;

(3) by striking out “or after”.

**121.** Section 209.1 of the Act is amended by striking out “who has applied therefor”.

**122.** Section 210 of the Act is amended

(1) by inserting “, including the surplus assets to which they are entitled,” after “the benefits of each member and beneficiary affected” in the first paragraph;

(2) by replacing “operation” in the second paragraph by “payment of all or part of the benefits”;

(3) by replacing “or within 30 days after” in the last sentence of the second paragraph by “or the expiry of a 30-day period after”;

(4) by striking out the first sentence of the third paragraph;

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

“The surplus assets to which the employer is entitled may not be allocated before all the benefits of the members and beneficiaries affected by the termination have been paid in full.”

**123.** Section 230.0.0.1 of the Act is amended by inserting the following paragraph after paragraph 3:

“(3.1) the employer is not exempted from the application of the first paragraph of section 228; and”.

**124.** Section 230.2 of the Act is amended

(1) by replacing “the amount of the contributions recorded” in the first paragraph by “the amounts recorded”;

(2) in the second paragraph,

(a) by replacing “than the total amount of employer and employee contributions recorded” by “than the total of the amounts recorded”;

(b) by replacing “proportionately to the contributions recorded” by “proportionately to the amounts recorded”.

**125.** Section 244 of the Act is amended by replacing “la vérification” in subparagraph 8.4 of the first paragraph in the French text by “l’audit”.

**126.** Section 288.1 of the Act is amended

(1) by striking out “or appropriation”;

(2) by replacing “in subparagraphs 16 and 17” by “in subparagraph 16”.

**127.** The Act is amended by inserting the following sections after section 288.1:

“**288.1.1.** The provisions of a defined benefit pension plan that pertain to the appropriation of surplus assets of the plan, in force on 31 December 2015, that appropriate all the surplus assets to payment of the employer contributions are deemed to provide, under section 146.9, that the appropriation applies beyond the amounts recorded under section 42.2.

“**288.1.2.** A pension plan that does not include provisions pertaining to the appropriation of its surplus assets must, before 22 February 2019, be amended according to the rules set out in Division I of Chapter X.1 to bring it into compliance with section 146.2. The application for registration of such an amendment must be submitted without delay to Retraite Québec.

In the absence of such an amendment, the plan must provide that the amount of surplus assets referred to in the first paragraph of section 146.8 is to be appropriated according to a combination of the methods referred to in subparagraphs 1 and 2 of the second paragraph of that section and that, if that amount is less than the caps established in the first paragraph of that section, the appropriation must be proportional to the employer and member current service contributions. The pension committee must, without delay, amend the text of the plan to include these rules, and inform Retraite Québec in writing of the amendment.”

**128.** The Act is amended by inserting the following section after section 288.3:

“**288.3.1.** No payment made before 1 January 2016 to reduce a letter of credit may be recorded under section 42.2.

The sums referred to in subparagraph 2 of the first paragraph of section 42.2 that were paid in 2016 and 2017 may be recorded in the actuarial valuation of the plan as at 31 December 2017.”

**129.** The Act is amended by inserting the following section after section 288.3.1:

**“288.3.2.** An actuarial valuation as at 31 December 2017 of a pension plan must take into account the provisions of sections 118, 121, 124 and 146.12 in their version in force from 1 January 2018.”

**130.** Section 289 of the Act is amended by striking out “or 45”.

**131.** Section 308.1 of the Act is repealed.

**132.** Section 318.4 of the Act is amended by adding the following sentence at the end of the second paragraph: “The same applies to special annuity purchasing payments.”

#### ACT RESPECTING RETIREMENT PLANS FOR THE MAYORS AND COUNCILLORS OF MUNICIPALITIES

**133.** Section 1 of the Act respecting retirement plans for the mayors and councillors of municipalities (chapter R-16) is amended by striking out paragraph *d*.

#### ACT RESPECTING RETRAITE QUÉBEC

**134.** Section 33 of the Act respecting Retraite Québec (chapter R-26.3) is amended by replacing “de la politique de placement” in the first and second paragraphs in the French text by “des politiques de placement”.

**135.** Section 40.1 of the Act is amended

(1) by replacing “de la politique de placement” in the introductory clause in the French text by “des politiques de placement”;

(2) by replacing “a policy for investing the sums deposited” in paragraph 1 by “policies for investing the sums from the base plan and those from the additional plan, deposited”;

(3) by replacing all occurrences of “the investment policy” in paragraphs 2 and 3 by “those policies”.

#### MISCELLANEOUS AND FINAL PROVISIONS

**136.** Sums may be borrowed from the account of the base plan of the Québec Pension Plan, no later than 31 December 2020, to cover the additional plan’s implementation costs.

The sums borrowed bear interest, as of the loan date, at the rate set under the second paragraph of section 28 of the Tax Administration Act (chapter A-6.002). Such interest is capitalized daily.

The sums owed must be repaid to the base plan account no later than 31 March 2021.

**137.** This Act comes into force on 22 February 2018.

However, sections 94 to 98, 102 to 106, 108 to 110, 123, 124 and 126, section 127 except section 288.1.2 of the Supplemental Pension Plans Act (chapter R-15.1) that it enacts, and sections 128, 129 and 132 have effect from 1 January 2018.



## Regulations and other Acts

Gouvernement du Québec

### **O.C. 201-2018, 14 March 2018**

An Act to establish the Natural Disaster Assistance Fund  
(2011, c. 16, schedule I)

Cessation of effect of the Act to establish the Natural Disaster Assistance Fund and the balance of the financial compensation to Hydro-Québec owing to the ice storm of 5 to 9 January 1998

WHEREAS the Natural Disaster Assistance Fund established at the Secrétariat du Conseil du trésor, under the first paragraph of section 1 of the Act to establish the Natural Disaster Assistance Fund, enacted by section 80 of the Act to abolish the Ministère des Services gouvernementaux and to implement the Government's 2010-2014 Action Plan to Reduce and Control Expenditures by abolishing or restructuring certain bodies and certain funds (2011, chapter 16);

WHEREAS the second paragraph of section 1 of the Act to establish the Natural Disaster Assistance Fund provides that the Fund is dedicated to the management and financing of the exceptional expenditures borne by government departments and bodies and the expenditures pertaining to the various financial assistance programs established to provide compensation for damage caused by the torrential rains of 19 and 20 July 1996 that affected the regions designated by the Government and the ice storm of 5 to 9 January 1998;

WHEREAS the second paragraph of section 19 of the Act provides that the Act ceases to have effect on the date to be set by the Government;

WHEREAS it is expedient to set 31 March 2018 as the date on which the Act ceases to have effect;

WHEREAS, under Décret 1329-2013 dated 11 December 2013, the sums required for payment of the balance of the financial compensation to Hydro-Québec owing to the ice storm of 5 to 9 January 1998 are taken out of the

sums transferred to the Natural Disaster Assistance Fund from the appropriations granted annually for that purpose by Parliament to the Minister of Energy and Natural Resources;

WHEREAS the balance of the compensation has not been fully paid;

WHEREAS it is expedient that, as of 1 April 2018, the sums required for the payments of the balance of the compensation be paid out of the appropriations granted annually for that purpose by Parliament to the Minister of Energy and Natural Resources;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Ongoing Program Review and Chair of the Conseil du trésor and the Minister of Energy and Natural Resources:

THAT 31 March 2018 be set as the date on which the Act to establish the Natural Disaster Assistance Fund, enacted by section 80 of the Act to abolish the Ministère des Services gouvernementaux and to implement the Government's 2010-2014 Action Plan to Reduce and Control Expenditures by abolishing or restructuring certain bodies and certain funds (2011, chapter 16), ceases to have effect;

THAT, as of 1 April 2018, the sums required for the payments of the balance of the financial compensation to Hydro-Québec owing to the ice storm of 5 to 9 January 1998 be taken out of the sums transferred to the Natural Disaster Assistance Fund from the appropriations granted annually for that purpose by Parliament to the Minister of Energy and Natural Resources and Décret 1329-2013 dated 11 December 2013 be amended accordingly.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

103392

Gouvernement du Québec

## O.C. 251-2018, 14 March 2018

Professional Code  
(chapter C-26)

### Évaluateurs agréés — Code of ethics of the members of the Ordre des évaluateurs agréés du Québec — Amendment

Regulation to amend the Code of ethics of the members of the Ordre des évaluateurs agréés du Québec

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

WHEREAS the board of directors of the Ordre des évaluateurs agréés du Québec made the Regulation to amend the Code of ethics of the members of the Ordre des évaluateurs agréés du Québec at its meeting of 9 March 2016;

WHEREAS, under section 95.3 of the Professional Code, a draft of the Regulation to amend the Code of ethics of the members of the Ordre des évaluateurs agréés du Québec was sent to every member of the Order at least 30 days before being made by the board of directors;

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

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Code of ethics of the members of the Ordre des évaluateurs agréés du Québec was published in Part 2 of the *Gazette officielle du Québec* of 4 May 2016 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, on 13 November 2017, the Office examined the Regulation and then submitted it to the Government with its recommendation in accordance with section 95 of the Professional Code;

WHEREAS it is expedient to approve the Regulation with amendments;

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

THAT the Regulation to amend the Code of ethics of the members of the Ordre des évaluateurs agréés du Québec, attached to this Order in Council, be approved.

ANDRÉ FORTIER,  
*Clerk of the Conseil exécutif*

### Regulation to amend the Code of ethics of the members of the Ordre des évaluateurs agréés du Québec

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

**1.** The Code of ethics of the members of the Ordre des évaluateurs agréés du Québec (chapter C-26, r. 123) is amended by replacing “of the members of the Ordre des évaluateurs agréés du Québec” in the title by “of chartered appraisers”.

**2.** Section 1 is replaced by the following:

“**1.** This Code determines the duties of chartered appraisers towards the public, their clients and their profession, in carrying on their professional activities.”

**3.** Section 1.1 is replaced by the following:

“**1.1.** Every chartered appraiser must take reasonable measures to ensure that persons who collaborate with him in the practice of the profession and any partnership or joint-stock company within which the chartered appraiser carries on professional activities comply with the Professional Code (chapter C-26) and its regulations, including this Code.”

**4.** Section 3 is amended by replacing “outlook” by “skills”.

**5.** Section 4 is replaced by the following:

“**4.** Every chartered appraiser must carry on professional activities in accordance with the standards of practice of the profession.”



**6.** Section 6 is replaced by the following:

“6. Every chartered appraiser must refrain from carrying on professional activities if attendant conditions are likely to compromise the quality of his professional services or the dignity of the profession.”

**7.** Section 12 is amended by replacing “has acted” by “is involved”.

**8.** Section 15 is amended by replacing “duplication” by “multiplication”.

**9.** Section 16 is amended in the second paragraph:

(1) by inserting “or records” after “contracts”;

(2) by replacing “the interests of his clients and the respect of his professional obligations” by “the laws and regulations and the standards of practice of the profession”.

**10.** Section 17 is amended:

(1) by replacing paragraph 1 by the following:

“(1) ignore any intervention by a person with whom he establishes a relationship in the practice of the profession and who could incite him to depart from his professional duties, in particular the duty to act with objectivity;”;

(2) by striking out “, to the rules of his profession,” in paragraph 3;

(3) by replacing “generally accepted standards of practice” by “the standards of the profession”.

**11.** Section 24 is amended by striking out the second paragraph.

**12.** The following is inserted after section 24:

“24.1. Subject to a decision of a tribunal or another authority, no chartered appraiser may agree to conditional fees, that is, fees whose amount depends on the results of the professional services obtained, except in respect of the following professional consultation services:

(1) verification of the value of an immovable for entry on the municipal assessment roll;

(2) negotiations to determine the amount of indemnities in case of expropriation;

(3) verification and negotiations of the operating expenses of an immovable under lease.

Despite the first paragraph, when a chartered appraiser appears before a member of a tribunal or of a quasi-judicial body, he may not in any case determine or accept conditional fees in respect of professional consultation services, including acting as an expert witness.

**24.2.** No chartered appraiser may undertake professional services for which conditional fees have been agreed upon, unless the terms and conditions for determining the fees have also been agreed upon in writing.

**24.3** When undertaking professional services referred to in subparagraphs 1 and 2 of the second paragraph of section 24.1 and regardless of the method of remuneration agreed upon, a chartered appraiser must, in accordance with the standards of practice of the profession, prepare and file in the client’s record a preliminary analysis of the value or, as the case may be, of the indemnities to which the services pertain.”.

**13.** Section 25 is revoked.

**14.** Section 28 is amended by replacing “shall collect interest on an outstanding account without first notifying his client” by “may collect interest on an outstanding account unless the rate of interest has been agreed upon with the client or any other person who undertook to pay the fees to the appraiser” and by replacing “interest thus charged must be at a reasonable rate” by “rate must be reasonable”.

**15.** Section 31 is amended by inserting “and any other person who undertook to pay his fees” after “client”.

**16.** Section 34 is replaced by the following:

“34. Every chartered appraiser must, in the practice of the profession, hold himself out as a member of the Order. A chartered appraiser must in particular sign and indicate his capacity as a chartered appraiser on any report or other document produced in the practice of the profession.”.

**17.** Section 41 is amended by replacing “He must present his report in accordance with generally accepted standards, and in particular, he must describe the methodology used and the extent of research carried out” by “The report must conform to the standards of practice of the profession and, in particular, must describe the methodology used and the extent of research carried out in order to perform the required professional services”.

**18.** Section 47 is amended:

(1) by replacing “a contract for services” in the first paragraph by “his professional services”;

(2) by inserting “or any other person who undertook to pay his fees” in subparagraph 3 of the second paragraph after “client”;

(3) by striking out “from the client” in subparagraph 4 of the second paragraph;

(4) by replacing subparagraph 6 of the second paragraph by the following:

“(6) loss of confidence between the chartered appraiser and the client.”.

**19.** The heading of Division VIII is amended by striking out “ACTS DEROGATORY TO THE”.

**20.** Section 50 is amended by replacing the part preceding paragraph 1 by the following:

“**50.** Every chartered appraiser must refrain from performing any of the following acts:”.

**21.** The heading of Division IX is amended by striking out “PROTECTION OF”.

**22.** The heading of Division XI is amended by striking out “CONDITIONS, OBLIGATIONS AND PROHIBITIONS IN RESPECT OF”.

**23.** Section 60 is amended in the French version by inserting “quant” after “notamment”.

**24.** The Code is amended by replacing the word “appraiser”, wherever it appears, by “chartered appraiser”.

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

## Draft Regulations

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### Draft Regulation

Educational Childcare Act  
(chapter S-4.1.1)

#### Reduced contribution — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Reduced Contribution Regulation, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends section 11 of the Reduced Contribution Regulation (chapter S-4.1.1, r. 1) to add to the programs provided for therein two programs making a parent eligible for exemption from the basic contribution for childcare received by a child under 5 years of age.

Under the draft Regulation, a parent exempted from the basic contribution for childcare received by a child under 5 years of age will be entitled, for the child, to 261 days of childcare per year of reference. The draft Regulation also determines the services that childcare providers must provide to those children.

The amendment will have no significant impact on Québec enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Yacine Hadjoudj, Direction de l'accessibilité et de la qualité des services de garde, Ministère de la Famille, 600, rue Fullum, 6<sup>e</sup> étage, Montréal (Québec) H2K 4S7; telephone: 514 873-7200, extension 6109; email: Yacine.Hadjoudj@mfa.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Carole Vézina, Assistant Deputy Minister, Direction générale des services de garde éducatifs à l'enfance, Ministère de la Famille, 425, rue Jacques-Parizeau, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1.

LUC FORTIN,  
*Minister of Families*

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### Regulation to amend the Reduced Contribution Regulation

Educational Childcare Act  
(chapter S-4.1.1, s. 106)

**1.** The Reduced Contribution Regulation (chapter S-4.1.1, r. 1) is amended in section 11 by replacing “Social Assistance Program or the Social Solidarity Program under the Individual and Family Assistance Act (chapter A-13.1.1)” by “Aim for Employment Program, the Social Assistance Program or the Social Solidarity Program under the Individual and Family Assistance Act (chapter A-13.1.1) and the Income Security Program for Cree Hunters and Trappers referred to in Section 30 of the James Bay and Northern Québec Agreement, appearing in Schedule 1 to Complementary Agreement No. 15 entered into by the Gouvernement du Québec and the Cree Regional Authority, approved by Order in Council 605-2002 dated 24 May 2002 and published in the *Gazette officielle du Québec* of 6 November 2002”.

**2.** Section 12 is replaced by the following:

“**12.** The childcare provider must provide a child whose parent is exempted from the basic contribution with the goods and services provided for in section 6 according to the terms and conditions provided for in this Regulation.”

**3.** Section 13 is revoked.

**4.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 2 and 3, which come into force on 1 August 2018.

103397

## Draft Regulation

Professional Code  
(chapter C-26)

### Nurses

— **Diplomas which give access to specialist's certificates**

— **Amendment**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends the second paragraph of section 1.17 of the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders (chapter C-26, r. 2), which concerns diplomas giving access to specialist's certificates in one of the classes of specialization issued by the Ordre des infirmières et infirmiers du Québec.

The draft Regulation has no impact on the public or on enterprises, including small and medium-sized businesses.

The draft Regulation will be submitted to the Office des professions du Québec and to the Ordre des infirmières et infirmiers du Québec for their opinion. To that end, the Office will collect the opinion of the Order and will submit it to the Minister of Justice with its own opinion after a consultation with the interested educational institutions, departments and bodies.

Further information may be obtained by contacting Marie-Noëlle Cabana, Direction des affaires juridiques, Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3; telephone: 418 643-6912, extension 309 or 1 800 643-6912, extension 309; email: marie-noelle.cabana@opq.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Diane Legault, Chair of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister of Justice and may also be sent to the professional orders as well as to interested departments and bodies.

STÉPHANIE VALLÉE,  
*Minister of Justice*

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

Professional Code  
(chapter C-26, s. 184, 1st par.)

**1.** The Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders (chapter C-26, r. 2) is amended by replacing subparagraphs 1 to 5 of the second paragraph of section 1.17 by the following:

“(1) specialist's certificate, nurse practitioner specialized in neonatology: Master of Science, Applied (M.Sc.A.) in Nursing (Non-Thesis): Neonatology Nurse Practitioner held with the Graduate Diploma in Neonatal Nurse Practitioner or Graduate Certificate in Theory in Neonatology held with the Graduate Diploma in Neonatal Nurse Practitioner from McGill University;

(2) specialist's certificate, nurse practitioner specialized in adult care:

(a) *Maîtrise en sciences infirmières (M.Sc.) en soins à la clientèle adulte* held with the *Diplôme d'études supérieures spécialisées (D.E.S.S.) en sciences infirmières, pratique spécialisée en soins à la clientèle adulte* from Université Laval;

(b) *Maîtrise en sciences infirmières (M.Sc.), option Pratique infirmière avancée* held with the *Diplôme complémentaire de pratique infirmière avancée, option Soins aux adultes* from the Université de Montréal;

(3) specialist's certificate, nurse practitioner specialized in pediatric care:

(a) *Diplôme d'études supérieures spécialisées (D.E.S.S.) en sciences infirmières (infirmière praticienne spécialisée en soins pédiatriques)* held with the *Maîtrise en sciences infirmières (M.Sc.) (infirmière praticienne spécialisée en soins pédiatriques)*, awarded by the Université du Québec, obtained upon completion of a program offered by the Université du Québec en Abitibi-Témiscamingue or the Université du Québec en Outaouais;

(b) *Master of Science, Applied (M.Sc.A.) in Nursing (Non-Thesis): Pediatric Nurse Practitioner* held with the *Graduate Diploma in Pediatric Nurse Practitioner or Graduate Certificate in Theory in Pediatrics* held with the *Graduate Diploma in Pediatric Nurse Practitioner* from McGill University;

(4) specialist's certificate, nurse practitioner specialized in primary care:

(a) Maîtrise en sciences infirmières (M.Sc.) en soins de première ligne held with the Diplôme d'études supérieures spécialisées (D.E.S.S.) en sciences infirmières en pratique spécialisée en soins de première ligne from Université Laval;

(b) Master of Science, Applied (M.Sc.A.) in Nursing (Non-Thesis): Primary Care Nurse Practitioner held with the Graduate Diploma in Primary Care Nurse Practitioner or Graduate Certificate in Theory in Primary Care held with the Graduate Diploma in Primary Care Nurse Practitioner from McGill University;

(c) Maîtrise en sciences infirmières (M.Sc.), option Pratique infirmière avancée held with the Diplôme complémentaire de pratique infirmière avancée, option Soins de première ligne from the Université de Montréal;

(d) Maîtrise en sciences infirmières (M.Sc.), cheminement menant aux études spécialisées en soins de première ligne held with the Diplôme d'études supérieures spécialisées (D.E.S.S.) de 2<sup>e</sup> cycle en soins de première ligne from the Université de Sherbrooke;

(e) Diplôme d'études supérieures spécialisées (D.E.S.S.) en sciences infirmières (infirmière praticienne spécialisée en soins de première ligne) held with the Maîtrise en sciences infirmières (M.Sc.) (nurse practitioner specialized in primary care) awarded by the Université du Québec, obtained upon completion of a program offered by the Université du Québec à Chicoutimi, the Université du Québec à Trois-Rivières, the Université du Québec en Abitibi-Témiscamingue or the Université du Québec en Outaouais;

(5) specialist's certificate, nurse practitioner specialized in mental health:

(a) Maîtrise en sciences infirmières (M.Sc.), option Pratique infirmière avancée held with the Diplôme complémentaire de pratique infirmière avancée, option Soins en santé mentale from the Université de Montréal;

(b) Diplôme d'études supérieures spécialisées (D.E.S.S.) en sciences infirmières (infirmière praticienne spécialisée en santé mentale) held with the Maîtrise en sciences infirmières (M.Sc.) (infirmière praticienne spécialisée en santé mentale) awarded by the Université du Québec, obtained upon completion of a program offered by the Université du Québec à Chicoutimi, the Université du Québec à Rimouski, the Université du Québec à Trois-Rivières, the Université du Québec en Abitibi-Témiscamingue or the Université du Québec en Outaouais;

(c) Master of Science, Applied (M.Sc.A.) in Nursing (Non-Thesis): Mental Health Nurse Practitioner held with the Graduate Diploma in Mental Health Nurse Practitioner or the Graduate Certificate in Theory in Mental Health held with the Graduate Diploma in Mental Health Nurse Practitioner from McGill University;

(6) specialist's certificate, clinical nurse specialized in infection prevention and control:

(a) Diplôme d'études supérieures spécialisées (D.E.S.S.) de 2<sup>e</sup> cycle en prévention et contrôle des infections from the Université de Sherbrooke;

(b) Diplôme d'études supérieures spécialisées (D.E.S.S.) en prévention et contrôle des infections from the Université de Montréal.”

**2.** Subparagraphs 1 and 3 of the second paragraph of section 1.17, amended by section 1 of this Regulation, remain applicable to persons who, on 8 March 2018, hold the diplomas referred to in the amended paragraphs or are registered in a program leading to one of those diplomas.

**3.** Subparagraphs 2, 4 and 5 of the second paragraph of section 1.17, amended by section 1 of this Regulation, remain applicable to persons who, on (*insert the date of coming into force of this Regulation*), hold the diplomas referred to in the amended paragraphs or are registered in a program leading to one of those diplomas.

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

103394

## Draft Regulation

Québec Immigration Act  
(2016, chapter 3)

### Selection of foreign nationals

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Québec Immigration Regulation, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation replaces the Regulation respecting the selection of foreign nationals (chapter I-0.2, r. 4) and is governed by the new Québec Immigration Act,

adopted and assented to by the National Assembly on 6 April 2016. The Act is to come into force, by Order of the Government, at the same time as the making of the proposed Regulation.

The draft Regulation contains most of the provisions relating to temporary and permanent immigration in the Regulation respecting the selection of foreign nationals, in particular those concerning the selection of foreign nationals of the economic class.

The draft Regulation determines which foreign nationals will have to file an expression of interest, a concept introduced in the Québec Immigration Act, for the purposes of an invitation by the Minister to file a selection application, and those who will be exempt from the application of the invitation criteria during the filing of such an application. It also provides for the validity conditions of an expression of interest, in particular, the time of its validity and the effects of its invalidity.

The draft Regulation amends the program for immigrant entrepreneurs by proposing two ways to access selection for permanent immigration, one of which provides for the contribution of enterprise incubators, enterprise accelerators and university entrepreneurship centres, and specifies the conditions that would allow a financial intermediary to take part in the program for investor immigrants.

The draft Regulation also provides for classes of legal persons that may subscribe to a sponsorship undertaking under the program for refugees abroad while requiring legal persons and groups of natural persons filing such an application to accompany it with a plan for the reception and integration of the persons covered by the undertaking and to file a report on the settling of those persons after their arrival in Québec.

The impact of the draft Regulation on enterprises, including small and medium-sized businesses, is a slight increase of the administrative charges of the enterprises concerned, without a significant increase of their financial charges.

Further information on the draft Regulation may be obtained by contacting Benoit Lymburner, director general of immigration policy and programs and exploration, Ministère de l'Immigration, de la Diversité et de l'Inclusion, 360, rue McGill, 3<sup>e</sup> étage, Montréal (Québec) H2Y 2E9; telephone: 514 873-9120, extension 20016; fax: 514 864-0453; email: benoit.lymburner@midi.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Jacques Leroux, Assistant Deputy

Minister for Orientations, Ministère de l'Immigration, de la Diversité et de l'Inclusion, 360, rue McGill, 4<sup>e</sup> étage, Montréal (Québec) H2Y 2E9; fax: 514 873-0453; email: jacques.leroux@midi.gouv.qc.ca

DAVID HEURTEL,  
*Minister of Immigration,  
Diversity and Inclusiveness*

## Québec Immigration Regulation

Québec Immigration Act  
(2016, chapter 3, ss. 8 to 10, 12, 14, 15, 17, 18, 22 to 24, 26, 29, 30, 34, 35, 37, 38, 40, 42, 43, 48, 58, 59, 63, 64, 66 to 68, 81, 82, 94, 101, 103, 105 and 106)

### CHAPTER I DEFINITIONS

**1.** In this Regulation,

“accompanying family member” means, with respect to a foreign national, a family member who is selected by the Minister to accompany the foreign national to Québec where the foreign national is selected; (*membre de la famille qui l'accompagne*)

“Act” means the Act respecting immigration to Québec (2016, chapter 3); (*Loi*)

“basic needs” means food, clothing, personal necessities and any other expenses pertaining to living in a house or a dwelling. Such needs also include any special benefits awarded by the Gouvernement du Québec under the Individual and Family Assistance Act (chapter A-13.1.1) and referred to in section 83 and Schedules I to III to the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1); (*besoins essentiels*)

“child” means, with respect to any person, the child of whom that person is the biological father or mother and was not adopted by a person other than the spouse or de facto spouse of one of the parents, or the adopted child of whom that person is either of the adoptive parents; (*enfant*)

“conjugal partner” means, with respect to a person, a person at least 16 years of age residing outside Canada who has been in a conjugal relationship with the person for at least 1 year; (*partenaire conjugal*)

“de facto spouse” means a person at least 16 years of age who is in one of the following situations:

(1) the person has been cohabiting for at least 1 year with a person of the opposite sex or the same sex who is at least 16 years of age; or

(2) the person has had a conjugal relationship for at least 1 year with such a person but, since the person is being persecuted or the subject of any form of penal control, cannot live with that person; (*conjoint de fait*)

“dependent child” means a child who

(1) is less than 22 years of age and is not a spouse or de facto spouse; or

(2) is 22 years of age or older and has depended substantially on the financial support of one of the parents since before the age of 22 and is unable to be financially self-supporting due to a physical or mental condition; (*enfant à charge*)

“educational institution” means

(1) an educational institution within the meaning of section 36 of the Education Act (chapter I-13.3);

(2) a college established in accordance with section 2 of the General and Vocational Colleges Act (chapter C-29);

(3) a private educational institution for which a permit has been issued under section 10 of the Act respecting private education (chapter E-9.1);

(4) an educational institution operated under an Act of Québec by a government department or a body that is a mandatary of the State or an arts training institution recognized by the Ministère de la Culture et des Communications;

(5) the Conservatoire de musique et d’art dramatique du Québec established pursuant to the Act respecting the Conservatoire de musique et d’art dramatique du Québec (chapter C-62.1);

(6) an educational institution at the university level referred to in section 1 of the Act respecting educational institutions at the university level (chapter E-14.1); (*établissement d’enseignement*)

“employer” means a person, enterprise or any organization established in Québec and that exercises daily control on work carried out by an employee and that is responsible for hiring, firing, disciplining, training, assessing work, affecting positions, remuneration and integration of the employee in the enterprise or organization; (*employeur*)

“employment” or “work” means any activity for which a person receives valuable consideration; (*emploi ou travail*)

“enterprise accelerator” means an organization having an establishment in Québec that offers support services, in particular, in the search for financing, to persons whose business projects involve the growth of innovative enterprises; (*accélérateur d’entreprises*)

“enterprise incubator” means an organization having an establishment in Québec and that offers coaching services, in particular, hosting, to persons whose business projects involve the creation of innovative enterprises; (*incubateur d’entreprises*)

“family member” means, with respect to a person, a person who is

(1) the spouse or de facto spouse; and

(2) the dependent child of that person or of the spouse or de facto spouse and, where applicable, the dependent child of that child; (*membre de la famille*)

“financial institution” means a bank having an establishment in Québec and that is a member of the Canada Deposit Insurance Corporation and that is governed by the Bank Act (S.C. 1991, c. 46) or a financial services cooperative within the meaning of the Act respecting financial services cooperatives (chapter C-67.3); (*institution financière*)

“investment dealer” means a person registered as such within the meaning of section 1.1 of Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations (chapter V-1.1, r. 10); (*courtier en placement*)

“management experience” means the assuming, for at least 2 years in the 5 years preceding the application for a selection certificate, of duties related to the planning, management and control of financial resources and of human or material resources under the person’s authority; the experience does not include the experience acquired in the context of an apprenticeship, training or specialization process attested to by a diploma; (*expérience en gestion*)

“National Occupational Classification” means the document by that name published by the Government of Canada; (*Classification nationale des professions*)

“nephew” or “niece” means, with respect to a person, the child of the sister or brother of that person; (*neveu ou nièce*)

“parent” means, with respect to a person, ascendant in the first degree; (*parent*)

“Québec diploma” means one of the following diplomas, attesting to at least 1 year of full-time studies:

(1) a diploma issued by the Minister of Education, Recreation and Sports or the Minister responsible for Higher Education or by a Québec university;

(2) a diploma issued by a college-level educational institution for training acquired in Québec.

The following is deemed to be a Québec diploma:

(1) a diploma issued by the minister responsible for education or by a university of a province or Canadian territory;

(2) a diploma or training acquired outside Québec and recognized as equivalent by a Québec professional or trade regulatory body, except a diploma leading to the practice of the profession of physician according to code 3111 or 3112 of the National Occupational Classification;

(3) a diploma or training acquired outside Québec and related to a profession or trade regulated in Québec, where the holder holds an authorization to practise the profession or trade issued by a Québec regulatory body;

(4) evidence certifying successful completion of formal training acquired outside Québec, related to a profession governed by a professional order in Québec and referred to in an arrangement for mutual recognition applicable under an agreement on mutual recognition of professional qualifications entered into with another government, where the holder has the legal authorization to practise required by that arrangement;

(5) evidence certifying successful completion of formal training acquired outside Québec, related to a trade regulated in Québec and referred to in an arrangement for mutual recognition applicable under an agreement on mutual recognition of professional qualifications entered into with another government, where the Québec regulatory body certifies that the holder meets the conditions regarding training and, where applicable, professional experience required by that arrangement; (*diplôme du Québec*)

“Québec resident” means any Canadian citizen or permanent resident within the meaning of the Immigration and Refugee Protection Act who is domiciled in Québec; (*résidant du Québec*)

“relative” means, with respect to a person, the person who is connected to the other by blood relationship or by adoption; (*membre de la parenté*)

“sponsor” means a person who gives an undertaking on behalf of a foreign national; (*garant*)

“spouse” means a married person who is at least 16 years of age

(1) who was not, at the time of the marriage, another person’s spouse; and

(2) who is not the de facto spouse of another person, and has been living separately from the spouse for at least 1 year; (*époux*)

“trust company” means a trust company within the meaning of the Act respecting trust companies and savings companies (chapter S-29.01) or the Trust and Loan Companies Act (S.C. 1991, c. 45); (*société de fiducie*)

“university entrepreneurship centre” means an organization managed by an institution at the university level referred to in section 1 of the Act respecting educational institutions at the university level (chapter E-14.1) or an organization affiliated to such an institution and that offers coaching services to entrepreneurs. (*centre d’entrepreneuriat universitaire*)

## CHAPTER II TEMPORARY IMMIGRATION

### DIVISION I GENERAL

**2.** A foreign national who wishes to stay in Québec to work, study or obtain medical treatment must, in accordance with section 12 of the Act, unless the foreign national is a person referred to in section 20 of this Regulation, obtain the Minister’s consent under

- (1) the temporary foreign worker program;
- (2) the international student program;
- (3) the program for temporary stay for medical treatment; or
- (4) the temporary immigration pilot program referred to in section 16 of the Act.

**3.** The Minister’s consent to a foreign national’s stay is certified by the issue of a Québec certificate of acceptance.

### DIVISION II TEMPORARY FOREIGN WORKER PROGRAM

**4.** A foreign national who belongs to the temporary worker class must, to stay in Québec, obtain the Minister’s consent under the temporary foreign worker program.



The foreign national referred to in the first paragraph stays in Québec to hold temporary employment.

**5.** The Minister consents to a foreign national's stay if

(1) a written employment contract has been signed with an employer whose employment offer has been the subject of a positive assessment as to its impact on Québec's labour market; and

(2) the conditions for access to the profession listed in the National Occupational Classification to hold the employment and, where applicable, the special conditions specified in the employment contract, are met.

**6.** The written employment contract must contain

(1) the duration of the contract, the place where the foreign national will be employed, a description of the duties, hourly wage, work schedule, vacation and holidays, the deadlines to be met with respect to a notice of termination or resignation; and

(2) where applicable, the social benefits offered, such as a group insurance plan or a retirement savings plan, the conditions relating to lodging offered by the employer and the terms of payment, by the employer, of transportation costs between the country of origin and the work place of the foreign national.

**7.** Consent for the foreign national's stay is given for the employment and the employer indicated in the application.

**8.** A foreign national who wishes to obtain the Minister's consent to extend the stay in Québec must demonstrate compliance with the conditions applicable to the foreign national as temporary resident.

**9.** A temporary foreign worker must hold the employment for the employer or, in the case of a farm worker, employments for employers, for which the Minister's consent has been given.

### DIVISION III INTERNATIONAL STUDENT PROGRAM

**10.** A foreign national who belongs to the international student class must, to stay in Québec, obtain the Minister's consent under the international student program.

The foreign national referred to in the first paragraph stays in Québec to study in an educational institution.

**11.** The Minister consents to a foreign national's stay under the international student program where the foreign national

(1) has been admitted to an educational institution, except if the foreign national is a minor child who is required to attend primary or secondary school and who is accompanying the holder of parental authority to Québec;

(2) has and will continue to have, for the duration of the stay in Québec, except if the foreign national is a minor child who is required to attend primary or secondary school and who is accompanying the holder of parental authority who is staying in Québec as a temporary foreign worker, an international student or to receive medical treatment, sufficient financial resources to

(a) pay round-trip transportation expenses between the place of residence abroad and the destination in Québec, tuition and other study-related fees;

(b) pay the amount for a health and hospital insurance for the duration of the stay to study or for purchasing such insurance on the foreign national's arrival in Québec, except if the foreign national is covered by a reciprocal social security agreement including a health component; and

(c) provide for basic needs and, where applicable, those of the foreign national's accompanying family members without having to hold employment in Québec; and

(3) where the foreign national is under 17 years of age and the holder of parental authority is not in Québec, the holder has delegated to a Québec resident of full age rights and powers of custody, supervision and education in the interest of the child and respect the child's rights.

**12.** A foreign national who wishes to obtain the Minister's consent to extend the stay in Québec must demonstrate compliance with the conditions applicable to the foreign national as a temporary resident.

**13.** The foreign national's financial resources to provide for basic needs must be at least equal to the scale provided for in Schedule C. To calculate basic needs for the first year, the amount must be increased by \$500 to cover settling-in-expenses.

Where a Québec resident wishes to provide for the foreign national's basic needs and, where applicable, those of the accompanying family members, the resident's financial resources must be at least equal to the scales provided for in Schedules B and D. In addition, an undertaking previously subscribed to by the resident must be taken into account in calculating the resident's financial capacity to provide for the foreign national's basic needs.

**14.** Section 11 does not apply to a minor child whose situation is the responsibility of a director of youth protection designated under the Youth Protection Act

(chapter P-34.1) or a local community service centre established under the Act respecting health services and social services (chapter S-4.2).

**15.** An international student must receive the education for the level of studies for which the Minister's consent was given.

The student must also make studies the student's principal activity unless

- (1) the principal purpose of the stay is work;
- (2) the student is accompanying the holder of parental authority staying in Québec as a temporary foreign worker, international student or to receive a medical treatment; or
- (3) the student has filed an application to obtain protection under paragraph *b* or *c* of subdivision 1 of section 95 of the Immigration and Refugee Protection Act (S.C. 2001, c. 27).

The term "level of studies" means elementary and secondary school instructional services or educational services in vocational training within the meaning of the Education Act (chapter I-13.3), general and vocational instruction at the college level within the meaning of the General and Vocational Colleges Act (chapter C-29) or education at the university level within the meaning of the Act respecting educational institutions at the university level (chapter E-14.1) and in the latter case, the cycle of studies.

**16.** An international student must hold, for the duration of the stay in Québec, a health and hospital insurance for the student and for accompanying family members, except if the student is covered by a reciprocal social security agreement including a health component.

#### **DIVISION IV** PROGRAM FOR TEMPORARY STAY FOR MEDICAL TREATMENT

**17.** A foreign national who belongs to the temporary stay for medical treatment class must, to stay in Québec, obtain the Minister's consent under the program for temporary stay for medical treatment.

The foreign national referred to in the first paragraph stays in Québec to receive medical treatment in a public institution within the meaning of the Act respecting health services and social services (chapter S-4.2).

**18.** The Minister consents to a foreign national's temporary stay under the program for temporary stay for medical treatment if

(1) the Minister of Health and Social Services certifies that the medical treatment required may be given; and

(2) the foreign national has sufficient financial resources to pay the expenses related to the medical treatment and basic needs and, where applicable, those of accompanying family members.

**19.** A foreign national who wishes to obtain the Minister's consent for extension of the stay in Québec must demonstrate compliance with the conditions applicable to the foreign national as person on a temporary stay for medical treatment.

#### **DIVISION V** EXEMPTIONS

**20.** The following persons are exempted from the requirement to obtain the Minister's consent to stay in Québec:

(1) a foreign national staying in Québec to hold employment for a cumulative period of not more than 30 days or to hold employment that does not require an assessment of the impact it could have on Québec's labour market;

(2) a foreign national staying in Québec to study under a federal assistance program for developing countries or for training for a period of not more than 6 months;

(3) for a period of not more than 6 weeks, the foreign national referred to in section 214 of the Immigration and Refugee Protection Regulations (SOR/2002-227) staying in Québec to study;

(4) a minor child who has filed an application to obtain protection under paragraph *b* or *c* of subdivision 1 of section 95 of the Immigration and Refugee Protection Act or the minor child of a foreign national who has filed such an application;

(5) a minor child who is already in Québec and who accompanies the holder of parental authority staying in Québec as temporary foreign worker or international student;

(6) a family member of a foreign national staying in Québec as a diplomat, consular officer, representative or official, properly accredited, of a foreign country or of the United Nations or any of its agencies or of any inter-governmental organization in which Québec or Canada participates, or as a member of the staff accompanying the foreign national coming to or in Québec to carry out official duties;

(7) a foreign national recognized as refugee or person protected in Canada under section 95 of the Immigration and Refugee Protection Act;

(8) a foreign national whose application as permanent resident is processed in Canada;

(9) a foreign national who holds a temporary resident permit referred to in section 24 of the Immigration and Refugee Protection Act issued with a view to the granting of permanent residence;

(10) a person registered as an Indian under the Indian Act (Revised Statutes of Canada (1985), chapter I-5).

### CHAPTER III PERMANENT IMMIGRATION

#### DIVISION I GENERAL

**21.** A foreign national who wishes to settle permanently in Québec must, in accordance with section 18 of the Act, be selected by the Minister, unless the foreign national belongs to the family class, is recognized as a refugee when in Québec or is a family member abroad of the foreign national.

**22.** The Minister's selection decision for permanent immigration is certified by the issue of a Québec certificate of selection.

#### DIVISION II ECONOMIC CLASS

**23.** A foreign national who belongs to the economic class must, to settle in Québec, be selected by the Minister under

- (1) the skilled worker selection program;
- (2) the investor program;
- (3) the entrepreneur program;
- (4) the self-employed worker program; or
- (5) the permanent immigration pilot program referred to in section 32 of the Act.

##### §1. *Expression of interest*

**24.** A foreign national of the economic class must, to file an application for selection under the regular skilled worker program, have filed with the Minister an expression of interest to settle in Québec and have been invited by the Minister to file the application.

**25.** The Minister invites a foreign national who has filed an expression of interest to file an application for selection, without the invitation criteria being applied, where the foreign national is staying in Québec as a diplomat, consular officer, representative or official, duly accredited, of a foreign country or of the United Nations or any of its agencies or of any intergovernmental organization of which Québec or Canada is a member and who carries out official duties in Québec, or is a member of the staff of any such diplomat, consular officer, representative or official.

**26.** An expression of interest is valid for a period of 12 months as of the date of its filing by the Minister in the expressions-of-interest bank.

**27.** The expression of interest of a foreign national who files an application for selection after having been invited by the Minister, and those of the foreign national's spouse and dependent child of full age included in the application become invalid.

**28.** The expression of interest of a foreign national who fails to file an application for selection, not later than 90 days after having been invited by the Minister, becomes invalid.

**29.** The Minister withdraws from the bank the expression of interest that is invalid.

##### §2. *Skilled worker selection program*

###### I - General

**30.** The Minister selects a foreign national as skilled worker if the foreign national meets the conditions provided for in the regular skilled worker program or the Québec experience program.

**31.** A skilled worker is a foreign national at least 18 years of age who settles in Québec to hold employment the foreign national is likely able to hold.

###### II - Regular skilled worker program

**32.** The Minister selects, under the regular skilled worker program, a foreign national where the foreign national obtains the passing score provided for in the Regulation respecting the weighting applicable to the selection of foreign nationals (chapter I-0.2, r. 2) in the awarding of the points in respect of the factors and criteria provided for in the Selection grid for the economic class in Schedule A.

## III - Québec experience program

**33.** The Minister selects, under the Québec experience program, a foreign national who has stayed in Québec for the main purpose of studying if the foreign national

(1) obtained from a Québec educational institution, during the 3 years preceding the date of filing of the application, a university diploma attesting to a bachelor's degree, a master's degree or a doctorate, a diploma of college studies in a technical program or a secondary vocational diploma which, alone or with an attestation of vocational specialization obtained consecutively, attests to 1,800 hours or more of continuing training and leads to a trade;

(2) has not begun a new program of studies in Québec since the issue of the diploma referred to in paragraph 1;

(3) shows an intermediate oral knowledge of French, level 7 or level 8 according to the *Échelle québécoise des niveaux de compétence en français des personnes immigrantes adultes* or its equivalent and

(a) has completed his or her program of studies in Québec in French;

(b) has filed the result of a standardized test showing the oral knowledge of French;

(c) has filed a document certifying that the foreign national has met the requirements relating to the practice of a profession governed by a professional order in accordance with section 35 of the Charter of the French language (chapter C-11); or

(d) has successfully completed at least 3 years of full-time studies in French at the secondary or post-secondary level or an intermediate French course, level 7 or level 8 according to that scale or its equivalent, offered by a Québec educational institution in Québec;

(4) stayed in Québec for at least half the duration of his or her program of studies and complied with the conditions of the stay;

(5) does not have a scholarship including a condition of return to the foreign national's country at the end of the program of studies or has complied with that condition; and

(6) complies with Factor 9, that deals with financial self-sufficiency, of the Selection grid for the economic class in Schedule A.

**34.** The Minister selects a foreign national staying in Québec, with the main purpose of working or taking part in a youth exchange program under an international agreement entered into by Québec or Canada, if the foreign national

(1) has complied with the conditions of the stay and is lawfully in Québec;

(2) does hold full-time employment in Québec and held such employment during a period of at least 12 months in the 24 months preceding the date of filing of the application;

(3) shows an intermediate oral knowledge of French, level 7 or level 8 according to the *Échelle québécoise des niveaux de compétence en français des personnes immigrantes adultes* or its equivalent and

(a) has filed the result of a standardized test showing the oral knowledge of French;

(b) has submitted a document certifying that the foreign national has met the requirements relating to the practice of a profession governed by a professional order in accordance with section 35 of the Charter of the French language (chapter C-11); or

(c) has successfully completed at least 3 years of full-time studies in French at the secondary or post-secondary level or an intermediate French course, level 7 or level 8 according to that scale or its equivalent, offered by a Québec educational institution in Québec; and

(4) complies with Factor 9, that deals with financial self-sufficiency, of the Selection grid for the economic class in Schedule A.

**35.** The holder of a work permit issued under section 205 of the Immigration and Refugee Protection Regulations (SOR/2002-227) as accompanying spouse may apply and be selected by the Minister if the holder meets the conditions provided for in subparagraphs 1 to 4 of the first paragraph of section 34.

### §3. Investor program

**36.** The Minister selects a foreign national as investor if the foreign national meets the conditions provided for in the investor program.

**37.** An investor is a foreign national at least 18 years of age who settles in Québec to invest in Québec.

**38.** The Minister selects a foreign national under the investor program if the foreign national

(1) has experience in management;

(2) has, alone or with the accompanying spouse or de facto spouse, net assets of at least \$2,000,000 whose lawful origin must be demonstrated;

(3) makes a 5-year term investment of \$1,200,000 with a subsidiary of Investissement Québec for which the foreign national has entered into an investment agreement with a financial intermediary bound by an agreement with the Minister and the subsidiary and that will be the foreign national's mandatary in Québec;

(4) obtained the passing score provided for in the Regulation respecting the weighting applicable to the selection of foreign nationals in the awarding of the points in respect of the factors and criteria provided for in the Selection grid for the economic class in Schedule A.

**39.** The foreign national's net assets do not include the amounts received by donation in the 6 months preceding the date of filing of the application for selection.

**40.** The Minister may enter into an agreement with a financial intermediary who is an investment dealer or a trust company to allow the foreign national to take part in the investor program. The financial intermediary must

(1) be registered with the Autorité des marchés financiers and not be the subject of a suspension of rights;

(2) have its head office in Québec; and

(3) has been operating as an investment dealer or a trust company for at least 3 months.

The subsidiary of Investissement Québec referred to in paragraph 3 of section 38 is also part of the agreement referred to in the first paragraph.

**41.** The investment agreement must provide for

(1) the establishment of the identity of the foreign national by the foreign national's name, sex, date of birth, domicile address, citizenship, personal telephone number, the type of document proving the foreign national's identity, the number of that document and the place of issue;

(2) the requirement that the foreign national notify in writing the financial intermediary of any change in the information provided for in subparagraph 1 within 30 days following the change; and

(3) the undertaking of the financial intermediary to open a separate client account in the name of the foreign national not later than 110 days following the date of the Minister's notice of intent to render a selection decision.

The agreement or any deed resulting from it may not provide for a hypothec, a guarantee or any other security granted by a third person on behalf of a foreign national or a member of his or her family.

**42.** The foreign national must, within 120 days following the date of the Minister's notice of intent to render a selection decision, make the investment provided for in paragraph 3 of section 38.

**43.** The term of the investment is 5 years as of the date on which the amount is invested with a subsidiary of Investissement Québec. The date must be subsequent to the date of the Minister's notice of intent to render a selection decision.

**44.** The investment is irrevocable before the end of its term unless its reimbursement is justified by the refusal or rejection of the application, the cancellation of the selection decision or if the foreign national is not admitted as a permanent resident under the Immigration and Refugee Protection Act.

**45.** The financial intermediary must reimburse the investor the amount invested with a subsidiary of Investissement Québec within 30 days following the date of expiry of the investment or of its revocation.

The financial intermediary must send to the Minister a written attestation of the reimbursement within 30 days following the reimbursement.

**46.** As of the date of filing of the application for selection, the foreign national may not change financial intermediary unless the change is justified by a reason such as the status, bankruptcy or cessation of activities of the financial intermediary, or the purchase or merger of the financial intermediary's enterprise.

#### *§4. Self-employed worker program*

**47.** The Minister selects a foreign national as self-employed worker if the foreign national meets the conditions provided for in the self-employed worker program.

**48.** A self-employed worker is a foreign national at least 18 years of age who settles in Québec to work on the worker's own account, alone or in a partnership, and who employs no worker.

**49.** The Minister selects a foreign national under the self-employed worker program if the foreign national

(1) practises a trade or a profession provided for in the list made by the Minister under section 28 of the Act;

(2) deposits with a financial institution situated in the region where the foreign national intends to practise his or her trade or profession for start-up an amount complying with Factor 11 of Schedule A, based on the Regulation respecting the weighting applicable to the selection of foreign nationals;

(3) obtains the passing score provided for in the Regulation respecting the weighting applicable to the selection of foreign nationals in the awarding of the points in respect of the factors and criteria provided for in the Selection grid for the economic class in Schedule A.

### §5. *Entrepreneur program*

**50.** The Minister selects a foreign national as entrepreneur if the foreign national meets the conditions provided for in any of the components of the entrepreneur program.

**51.** An entrepreneur is a foreign national 18 years of age who settles in Québec to carry out a business project consisting in, according to the component of the program,

(1) the operation in Québec of an enterprise that the foreign national creates, alone or with other persons, including a maximum of 3 foreign nationals who file an application for selection as entrepreneur, when the entrepreneur has received, for that purpose, an offer of service from an enterprise accelerator, an enterprise incubator or a university entrepreneurship centre; or

(2) the operation in Québec of an enterprise the foreign national creates or acquires.

#### I - Component 1 of the entrepreneur program

**52.** The Minister selects a foreign national referred to in paragraph 1 of section 51, as part of component 1 of the entrepreneur program, if the foreign national obtains the passing score provided for in the Regulation respecting the weighting applicable to the selection of foreign nationals in the awarding of the points in respect of the factors and criteria provided for in the Selection grid for the economic class in Schedule A.

#### II - Component 2 of the entrepreneur program

**53.** The Minister selects a foreign national referred to in paragraph 2 of section 51, as part of component 2 of the entrepreneur program, if, according to the business project presented, the foreign national

(1) holds and controls, alone or with the accompanying spouse or de facto spouse, at least 25% of the equity of the enterprise the foreign national creates or at least 51% of the equity of the enterprise the foreign national

acquires, the value of that participation must be equal to or greater than the amount that must serve to start up the business project;

(2) manages the enterprise himself or herself or participates actively as an associate in the management and daily operations of the enterprise;

(3) the enterprise does not carry out an economic activity referred to in Part 1 of Schedule E;

(4) deposits, with a financial institution with which the foreign national has entered into a deposit contract including the elements provided for in section 54, for start-up an amount complying with Factor 11 of Schedule A based on the Regulation respecting the weighting applicable to the selection of foreign nationals; and

(5) obtains the passing score provided for in the Regulation respecting the weighting applicable to the selection of foreign nationals in the awarding of the points in respect of the factors and criteria provided for in the Selection grid for the economic class in Schedule A.

Where the foreign national acquires an enterprise, the enterprise must have had economic activities in the 24 months preceding the date of filing of the application for selection and must not have been acquired by another foreign national who has been selected as entrepreneur in the 5 years preceding that date.

### **54.** The deposit contract must include

(1) the establishment of the identity of the foreign national by the foreign national's name, sex, date of birth, domicile address, citizenship, personal telephone number, the type of document proving the foreign national's identity, the number of that document and the place of issue;

(2) the requirement that the foreign national notify in writing the financial institution and the Minister of any change in the information provided for in paragraph 1 within 30 days following the change;

(3) the requirement that the foreign national provide to the Minister, on request, the information relating to the status of the deposit and the documents held by the parties to the contract concerning the deposit;

(4) the withholding of an amount complying with Factor 11 of Schedule A based on the Regulation respecting the weighting applicable to the selection of foreign nationals as performance guarantee of the business project up to the date of the Minister's decision referred to in section 55 or 57.

**55.** The Minister determines that the entrepreneur has carried out the business project where, in 12 consecutive months following the date of the selection decision, during a period not exceeding 36 months following the date of the foreign national's arrival in Québec as permanent resident,

(1) the amount deposited and reserved for the start-up of the business project has been used for the creation or acquisition of the enterprise;

(2) the enterprise that has been created or acquired complies with the business project presented with the Québec application for selection and is in operation;

(3) the entrepreneur holds and controls, alone or with the accompanying spouse or de facto spouse, at least 25% of the equity of the enterprise the foreign national created or at least 51% of the equity of the enterprise the foreign national acquired, the value of that participation must be equal to or greater than the amount used to start up the business project; and

(4) the entrepreneur manages the enterprise himself or herself or participates actively as an associate in the management and daily operations of the enterprise.

**56.** The financial institution gives to the entrepreneur access to the amount withheld under paragraph 4 of section 54 as performance guarantee of the business project, within 30 days following the written notice of the Minister's decision made under section 55. The institution confirms in writing to the Minister the date as of which the entrepreneur has access to that amount.

The financial institution gives the entrepreneur access to the amount withheld in case of the refusal or rejection of the application, the cancellation of the selection decision or if the foreign national is not admitted as a permanent resident under the Immigration and Refugee Protection Act.

**57.** The Minister may confiscate the amount deposited as performance guarantee of the business project of the entrepreneur where the Minister determines that the business project has not been carried out. The Minister must, at least 30 days before the date of confiscation of the amount withheld under paragraph 4 of section 54, inform the entrepreneur of the Minister's intent to confiscate the amount and the reasons on which it is based.

The Minister must give the entrepreneur the opportunity to make observations and, where applicable, to send to the Minister any document deemed appropriate.

### *§6. Override power*

**58.** The Minister may select a foreign national in the economic class who does not meet a condition or selection criterion if the Minister is of the opinion that the foreign national can successfully settle in Québec.

Despite the first paragraph, the Minister may not make a selection decision for a foreign national that does not obtain a cutoff score provided for in the Regulation respecting the weighting applicable to the selection of foreign nationals in the awarding of the points in respect of the factors and criteria provided for in the Selection grid for the economic class in Schedule A.

### **DIVISION III FAMILY CLASS**

**59.** A foreign national who belongs to the family class must, to settle in Québec, be, in respect of the sponsor who undertakes on behalf of the foreign national,

(1) the spouse, de facto spouse or conjugal partner;

(2) the dependent child;

(3) the father, mother, grandfather or grandmother;

(4) the brother, sister, nephew, niece, grandson or granddaughter, an orphan having lost both parents and under 18 years of age who is unmarried or not a de facto spouse;

(5) an unmarried minor whom the Québec resident intends to adopt and may adopt under Québec law; or

(6) a relative, regardless of age or degree of relationship with the Québec resident, where the Québec resident does not have a spouse or de facto spouse, child, father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew or niece

(a) who is a Canadian citizen, an Indian or a permanent resident within the meaning of the Immigration and Refugee Protection Act; and

(b) whom he or she could sponsor.

**60.** The following foreign national does not belong to the family class:

(1) the spouse, de facto spouse or conjugal partner of the Québec resident who has previously subscribed to a sponsorship undertaking on behalf of another spouse, de facto spouse or conjugal partner that has not ended;

(2) the spouse who, on the date of the union with the Québec resident, was also the spouse of another person;

(3) the spouse of the Québec resident when they lived separately for 1 year or more and one of them is the de facto spouse or conjugal partner of another person.

#### DIVISION IV HUMANITARIAN CLASS

**61.** A foreign national in a special hardship situation who belongs to the humanitarian class must, to settle in Québec, be selected by the Minister under the program for refugees abroad or the program for persons selected on the basis of humanitarian considerations.

**62.** The Minister may select a foreign national in a special hardship situation under any of the programs referred to in section 61 where the Minister is of the opinion, in particular, that the foreign national is able to participate in community life in Québec or the integration process of the foreign national is the subject of a positive opinion regarding the participation of the foreign national in community life in Québec.

**63.** For the purposes of section 62, the Minister takes into account the level of hardship of the foreign national, in particular with respect to risks to his or her physical integrity.

In addition, the Minister takes into account the personal qualities and language proficiency of the foreign national and accompanying family members, the relationship with a Québec resident who is the spouse or de facto spouse or a relative in the first or second degree, the work experience of the foreign national or accompanying family members, an undertaking application of a sponsor referred to in subdivision 3 or 4 of Division V filed on his or her behalf or financial assistance paid by the State.

#### *§1. Program for refugees abroad*

**64.** A foreign national who is in a special hardship situation may be selected under the program for refugees abroad by the Minister if the foreign national is

(1) a refugee within the meaning of the Convention relating to the Status of Refugees outside Canada; or

(2) a humanitarian-protected person outside Canada who belongs to the country of asylum class referred to in sections 146 and 147 of the Immigration and Refugee Protection Regulations.

#### *§2. Program for persons selected on the basis of humanitarian considerations*

**65.** A foreign national who is in a special hardship situation may be selected under the program for persons selected on the basis of humanitarian considerations by the Minister if the foreign national is

(1) in a hardship situation such that the foreign national deserves humanitarian consideration because

(a) his or her physical and psychological well-being and that of his or her family lawfully in Québec would be seriously affected if the foreign national could not live in or come to Québec;

(b) the foreign national is outside Canada with a relative who has been selected by the Minister and his or her physical and psychological well-being and that of the relative would be seriously affected if the foreign national could not accompany the relative to Québec;

(c) although not a resident of Québec, the foreign national is successfully established in Québec and has no significant ties with his or her country of origin or makes a definite contribution through his or her employment, profession, or economic or artistic activities;

(d) his or her physical security would be threatened particularly due to risks of imprisonment, torture or death if the foreign national could not come to Québec; or

(e) his or her application for permanent residence is processed in Canada under section 25 of the Immigration and Refugee Protection Act or section 65.1 of the Immigration and Refugee Protection Regulations, his or her physical and psychological well-being would be seriously affected if the foreign national could not come to or settle in Québec and his or her return to the country of origin would cause serious harm; or

(2) concerned by the lifting of the suspension of a removal order to a country of which he or she is a national and whose application for permanent residence is examined in Canada under section 25 of the Immigration and Refugee Protection Act or section 65.1 of the Immigration and Refugee Protection Regulations.

#### DIVISION V SPONSORSHIP UNDERTAKING

##### *§1. General*

**66.** A natural person who files with the Minister a sponsorship undertaking application on behalf of a foreign national and accompanying family members must



- (1) be 18 years of age or older;
- (2) be a Québec resident, except in the case of a person referred to in section 75;
- (3) have complied with the monetary requirements of the sponsorship undertaking or, failing that, has reimbursed the amounts received under the Individual and Family Assistance Act (chapter A-13.1.1) or the Immigration and Refugee Protection Act;
- (4) is not the subject of a removal order made under the Immigration and Refugee Protection Act;
- (5) is not detained in a penitentiary or prison;
- (6) has not been convicted in Canada of murder or any of the offences listed in Schedule I or II to the Corrections and Conditional Release Act (S.C. 1992, c. 20) punishable by summary conviction or by way of indictment; that condition is removed if the person has been acquitted in the last instance or pardoned under the Criminal Records Act (S.C. 1985, c. C-47) or served the sentence imposed at least 5 years before the date of filing of the undertaking application;
- (7) has not been convicted outside Canada of an offence that, if committed in Canada, would constitute an offence referred to in paragraph 6, unless a 5-year period following the expiry of the sentence imposed under the foreign law has elapsed before the date of filing of the undertaking application;
- (8) has not, in the 5 years preceding the date of filing of the undertaking application, been the subject of forced execution of a court judgment ordering support payment, or of a remedy for the execution of support referred to in Chapter VI of the Act to facilitate the payment of support (chapter P-2.2) or, failing that, has paid all arrears owed;
- (9) is not a recipient of last resort financial assistance under the Individual and Family Assistance Act, except owing to age or disability creating a severely and permanently or indefinitely limited capacity for employment; and
- (10) is not the subject of a cancellation procedure under the Citizenship Act (R.S.C. 1985, c. C-29).

**67.** The undertaking entered into by the Minister with the sponsor binds the sponsor as of the signing.

Despite the foregoing, the obligations of the sponsor provided for in the undertaking take effect from the date the foreign national obtains the status of permanent

resident under the Immigration and Refugee Protection Act or, in the case of a national admitted under a temporary resident permit issued under section 24 of that Act, on the date of issue of the permit, if the application is filed in Québec, or on the date of the foreign national's arrival in Québec, if the application is filed abroad.

**68.** A sponsor who subscribed to an undertaking on behalf of a foreign national and, where applicable, family members accompanying the foreign national to Québec must, in their regard,

- (1) provide for basic needs in accordance with the scales prescribed by Schedule C or D as the case may be;
- (2) provide the necessary support in integration activities such as search for employment and school enrolment as well as support for access to public services and participation in community life;
- (3) reimburse to the Gouvernement du Québec any amount paid as last resort assistance benefits under the Individual and Family Assistance Act; and
- (4) reimburse to the government of a province any amount paid as last resort assistance benefits under an Act of that province.

If more than one sponsor subscribed to an undertaking, each is jointly and solidarily liable for the obligations contracted.

## **§2. Undertaking under the family program**

**69.** A sponsorship undertaking application is filed by a resident referred to in section 59 of this Regulation on behalf of a foreign national and, where applicable, accompanying family members.

**70.** The spouse or de facto spouse of the person filing a sponsorship undertaking application may join into the application and subscribe to the undertaking if that person meets the conditions provided for in section 66 of this Regulation.

**71.** The person filing a sponsorship undertaking application on behalf of his or her minor child must show that the person holds and exercises parental authority in respect of the child.

Where parental authority is held or exercised solely by the other parent or jointly, the sponsor must obtain from that parent authorization in writing for the settling of the child in Québec.

**72.** A person who files a sponsorship undertaking application on behalf of his or her dependent child for whom a decision granting adoption recognized by the sole operation of law under the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3) is made while the person is residing in Québec, or on behalf of a minor child the person intends to adopt and may adopt under Québec law, must include in the application a statement issued by the Minister of Health and Social Services certifying that the Minister has taken cognizance of the steps taken by the person to receive the child and that there are no reasons to oppose the adoption.

Where an officer authorized under the Immigration and Refugee Protection Regulations (SOR/2002-227) provides the minister with new evidence under subsection 8 of section 117 of those Regulations, the Minister must notify the sponsor thereof and the Minister of Health and Social Services so that the Minister may confirm or amend the statement.

**73.** A person who files a sponsorship undertaking application on behalf of a minor child covered by paragraph 4 of section 59 of this Regulation must include a document issued by an agency having the authority to inquire into the conditions of taking in charge and placing a child, certifying that it has taken cognizance of the steps taken by the sponsor to receive the child and that such steps are in the interest of the child and respect the child's rights.

The person must also subscribe to an undertaking in writing to apply to the Superior Court within 90 days of the child's arrival to have a tutor appointed to the child. The person must in like manner agree to exercise the rights and obligations of parental authority until such appointment.

**74.** Where a sponsor subscribes to an undertaking on behalf of a child referred to in paragraph 2 of section 59 of this Regulation, who was adopted and of full age, the adoption, if made while the sponsor resided in Québec, must comply with Québec law.

**75.** A Canadian citizen residing abroad who subscribes to an undertaking on behalf of his or her spouse, de facto spouse, conjugal partner or dependent child who has no dependent children, must undertake to reside in Québec when that person will have obtained the status of permanent resident.

**76.** A person who files a sponsorship undertaking application must demonstrate that he or she will be able to comply with an undertaking subscribed to on behalf of the foreign national and family members accompanying

the foreign national to Québec and would also be able to subscribe to an undertaking on behalf of family members who do not accompany the foreign national. The demonstration must be based on income from a Canadian source or property held in Canada.

The first paragraph does not apply where a sponsor subscribes to an undertaking on behalf of his or her spouse, de facto spouse or conjugal partner who does not have dependent children or on behalf of his or her dependent child who does not have dependent children or, in the case of an undertaking on behalf of a person referred to in paragraph 5 of section 59 of this Regulation.

**77.** A person who files a sponsorship undertaking application is presumed to be able to fulfil his or her undertaking in accordance with section 76 if the person demonstrates that he or she has had, for the 12 months preceding the examination of the application and will continue to have, for the duration of the undertaking, a gross annual income from a Canadian source equal to the minimum income required from the sponsor to provide for his or her basic needs and those of the family members, as determined in Schedule B, to which is added the minimum amount required to provide for the sponsored person's basic needs, as determined in Schedule C.

**78.** The basic income required from the spouses and de facto spouses filing jointly a sponsorship application in accordance with section 70 of this Regulation is calculated using the gross annual income from a Canadian source for each member of the couple.

**79.** An undertaking subscribed to previously by a person filing a sponsorship undertaking application must be taken into account in the calculation of the person's financial capacity to fulfil the new undertaking.

**80.** Where the conditions of subdivision 1 and this subdivision are met, the undertaking is entered into. The duration of the undertaking is

(1) 3 years, in the case of a person described in paragraph 1 of section 59 of this Regulation;

(2) 10 years or, where applicable, until of full age, according to the longer of those periods, in the case of a person described in paragraph 2, 4 or 5 of section 59 or a family member accompanying the person referred to in section 59, if the family member is under 13 years of age on the date on which the sponsor's obligations take effect;

(3) 3 years or up to 22 years of age, according to the longer of those periods, in the case of a person described in paragraph 2, 4 or 5 of section 59 or a family member

accompanying the person referred to in section 59, if the family member is 13 years of age or older on the date on which the sponsor's obligations take effect; or

(4) 10 years, in the case of a person described in paragraph 3 or 6 of section 59.

**§3.** *Undertaking under the program for refugees abroad*

**81.** An undertaking application for the sponsorship of a foreign national referred to in section 65 of this Regulation may be filed with the Minister by

- (1) a class E legal person (experienced);
- (2) a class R legal person (regular); or
- (3) a group of 2 to 5 natural persons.

**82.** The legal person referred to in section 81 must

(1) be constituted under Part III of the Companies Act (chapter C-38), the Religious Corporations Act (chapter C-71), the Roman Catholic Bishops Act (chapter E-17), the Act respecting fabriques (chapter F-1) or the Professional Syndicates Act (chapter S-40), or is incorporated as a non-profit corporation within the meaning of the laws of Canada or any province thereof, if it carries on activities in Québec and is registered in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1);

(2) have been carrying out its activities for at least 2 years;

(3) not be a political party or a party authority within the meaning of Chapter I of Title III of the Election Act (chapter E-3.3); and

(4) have complied with the monetary requirements given under a sponsorship undertaking or, failing that, have reimbursed the amounts paid under the Individual and Family Assistance Act (chapter A-13.1.1) or the Immigration and Refugee Protection Act.

**83.** A class E legal person is a person who

(1) has 10 years or more of experience in sponsorship in Québec acquired over a period of 15 years preceding the date of coming into force of the Minister's decision made under section 50 of the Act;

(2) has filed, in the 12 months preceding the date of coming into force of the Minister's decision made under section 50 of the Act, the minimum number of sponsorship undertaking applications set in the decision; and

(3) has subscribed to, in the 36 months preceding the date of coming into force of the Minister's decision made under section 50 of the Act, undertakings on behalf of foreign nationals of at least 3 different nationalities.

A class E legal person is part of subclass ES (specific) if the person files only sponsorship undertaking applications of foreign nationals who will settle outside the territory of the Communauté métropolitaine de Montréal, as certified by the reception and integration plan referred to in section 92.

**84.** A class R legal person is a person who does not meet the criteria provided for in section 83.

A class R legal person is part of subclass RS (specific) if the person files only sponsorship undertaking applications of foreign nationals who will settle outside the territory of the Communauté métropolitaine de Montréal, as certified by the reception and integration plan referred to in section 92.

**85.** An organization related to a class E or R organization is excluded from any of those classes.

The administrators, representatives and members of the board of directors of a class E or R organization may not form a group of 2 to 5 persons referred to in paragraph 3 of section 81.

**86.** Each person forming a group of persons referred to in paragraph 3 of section 81 must meet the conditions provided for in section 66.

**87.** A legal person or a group of persons referred to in paragraph 3 of section 81 may not file a sponsorship undertaking application if the number of applications filed for a same period is equal to or greater than the number determined by a decision of the Minister made under section 50 of the Act.

**88.** The legal person or group of persons referred to in paragraph 3 of section 81 filing an undertaking application must demonstrate that it would be able to fulfil the undertaking subscribed to on behalf of the foreign national and the family members accompanying the foreign national to Québec and that it would also be able to subscribe to an undertaking on behalf of the family members not accompanying the foreign national. The demonstration must be based on income from a Canadian source or property held in Canada.

**89.** Each person who is part of a group of persons referred to in paragraph 3 of section 81 is presumed to be able to fulfil the undertaking in accordance with section 88 if the person demonstrates that he or she has

had, for the 12 months preceding the examination of the application and will continue to have, for the duration of the undertaking, a gross annual income from a Canadian source equal to the minimum income required from the sponsor to provide for his or her basic needs and those of the family members, as determined in Schedule B, to which is added a minimum share of at least 20% of the minimum amount required to provide for the sponsored person's basic needs, as determined in Schedule D.

The sum of the shares of each member of the group must be equal to the total of the minimum amount required to provide for the sponsored person's basic needs, as determined in Schedule D.

**90.** A legal person is presumed to be able to fulfil the undertaking for which it files an application if it demonstrates that it has had and will continue to have, for the duration of the undertaking, an annual amount at least equal to the amount required for the sponsored person's basic needs, as determined in Schedule C.

**91.** An undertaking subscribed to by a member of the group of natural persons referred to in paragraph 3 of section 81 or by the group of persons must be taken into account by the Minister in the calculation of the group's financial capacity to fulfil the new undertaking for which it is filing an application.

**92.** The legal person or group of natural persons referred to in paragraph 3 of section 81 filing a sponsorship undertaking application with the Minister must include a plan for the reception and integration of the person covered by the undertaking and accompanying family members.

The plan must, in particular, pertain to the reception in the region of settlement and assistance in the search for employment, and indicate the name, contact information and role of every person taking part in the reception and integration of the foreign nationals covered by the undertaking application.

**93.** A settlement report for the persons covered by the undertaking must be filed with the Minister not later than 3 months following the date of their settlement in Québec and not later than 3 months following the date of expiry of the undertaking.

**94.** The Minister may refuse to examine the sponsorship undertaking application of the legal person or group of persons referred to in paragraph 3 of section 81 if, in the 2 years preceding the examination of the application, the legal person or group of persons has not complied with section 93 or 95.

**95.** No person may profit, in any way, from an undertaking subscribed to on behalf of a foreign national and accompanying family members, in particular by receiving interest on an investment, the levy of charges or the acceptance of a donation.

The legal persons referred to in paragraphs 1 and 2 of section 81 may, however, receive administration fees that may not exceed 1% of the amount required to provide for the basic needs of the foreign national and accompanying family members on behalf of whom the undertaking has been subscribed to, as provided for in Schedule C.

**96.** The duration of the undertaking subscribed to on behalf of a foreign national referred to in section 64 of this Regulation is 1 year.

*§4. Discretionary undertaking in an economic class program or under the program for persons selected for humanitarian considerations*

**97.** Where the Minister selects a foreign national under an economic class program or under the program for persons selected for humanitarian considerations, the Minister may require that an undertaking be subscribed to, for a period of 3 years, on behalf of that foreign national,

(1) by a Québec resident who meets the conditions referred to in sections 65 to 67 and, in that case, sections 70 and 76 to 79 apply with the necessary modifications; or

(2) by a legal person referred to in section 81 of this Regulation and, in that case, sections 82, 89, 90 and 92 to 95 apply with the necessary modifications.

## CHAPTER IV EMPLOYER

### DIVISION I CONDITIONS RELATING TO THE EMPLOYER

**98.** An employer wishing to hire a foreign national under the temporary foreign worker program must obtain from the Minister, in accordance with section 15 of the Act, a positive assessment as to the employment offer's impact on Québec's labour market.

An employer wishing to hire a foreign national who files an application for selection for permanent immigration under the regular skilled worker program may file an application for the validation of the employment offer.

**99.** The Minister refuses the employer's application for the assessment of the employment offer's impact on the labour market if the employer

(1) is on the list provided for in section 209.997 of the Immigration and Refugee Protection Regulations (SOR/2002-227);

(2) has been condemned, during the 2 years preceding the date of the application, by a final decision of the Human Rights Tribunal relating to discrimination or reprisals relating to employment;

(3) has been condemned, during the 2 years preceding the application, by a final decision of the Human Rights Tribunal for an application relating to discrimination or reprisals relating to employment or has been convicted of an offence against

(a) section 458 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) for a contravention of the first paragraph of section 32 of that Act, section 461 of that Act for a contravention of section 290, section 463 or section 464 of that Act;

(b) paragraph 1 or 5 of section 134 of the Charter of human rights and freedoms (chapter C-12) relating to employment;

(c) section 143 of the Labour Code (chapter C-27) for a contravention of section 14 of that Act;

(d) section 30 of the Act respecting collective agreement decrees (chapter D-2);

(e) subparagraph 3 of the first paragraph of section 115 of the Pay Equity Act (chapter E-12.001);

(f) section 139, 140 or 141 of the Act respecting labour standards (chapter N-1.1);

(g) section 119 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) for a contravention of section 101 of that Act; or

(h) section 235 of the Act respecting occupational health and safety (chapter S-2.1) or section 236 of that Act for a contravention of section 30 or section 185 of that Act;

(4) is unable to demonstrate that it can comply with the financial or material conditions offered;

(5) failed, during the 2 years preceding the application, to comply with the conditions relating to a previous temporary or permanent employment offer; or

(6) is a placement agency.

## DIVISION II EMPLOYMENT OFFER

**100.** The Minister gives a positive assessment as to the employment offer's impact on Québec's labour market or validates the permanent employment offer where the employment

(1) does not and is not likely to adversely affect the settlement of any labour dispute at the workplace where the foreign national would carry on the employment, or the employment of any person involved in the dispute, or to contravene the application of the Labour Code (chapter C-27);

(2) corresponds to the employer's legitimate labour needs;

(3) will likely result in a positive or neutral effect on the labour market;

(4) is offered to a foreign national who meets the conditions of access to the profession and the particular requirements provided for in the National Occupational Classification, including the requirements relating to a regulated trade or profession;

(5) is not employment on behalf of the foreign national or an enterprise owned by the foreign national;

(6) is not in a field referred to in Part 2 of Schedule E.

In the case of the validation of permanent employment, the employment must

(1) be full-time;

(2) not be referred to in Minor group 441 of the National Occupational Classification.

**101.** To determine if the employment will likely result in a positive impact on Québec's labour market or for the validation of the permanent employment offer, the Minister takes into account, in the Minister's assessment, direct employment creation or employment retention, the development or transfer of skills, the filling of a labour shortage in the profession or trade concerned by the employment offer and the following elements:

(1) the employer has made reasonable efforts to hire or train Québec residents;

(2) the work conditions and salary offered are regarded as incentives for Québec residents to hold or continue to hold the employment.

**102.** An employer whose permanent employment offer is validated by the Minister must reserve that employment for the foreign national so that the foreign national may hold it as soon as the foreign national arrives in Québec.

#### CHAPTER V REQUIRED FEES

**103.** A foreign national who is the minor child whose situation is the responsibility of a youth protection director designated under the Youth Protection Act or a local community services centre established under the Act respecting health services and social services is exempted from paying the fees provided for in section 73 of the Act.

**104.** Where a selection application involves, in relation to the previous application, the addition of a member of the foreign national's family belonging to the economic class, the foreign national and family members are exempted from paying the required fees if they are already subject to a selection decision that is still valid.

#### CHAPTER VI DURATION AND LAPSE OF THE DECISION OF THE MINISTER

**105.** The Minister's consent for a foreign national's stay given under section 5 of this Regulation is valid for the duration provided for in the work contract but for not more than 36 months.

**106.** The Minister's consent for a foreign national's stay given under section 11 of this Regulation is valid for the duration of the program or level of studies indicated in the foreign national's application but for not more than 49 months.

In the case of a child under 17 years of age accompanying the holder of parental authority who stays in Québec as temporary foreign worker, international student or to receive medical treatment, the Minister's consent is of the same duration as the Minister's consent for the stay of the holder of parental authority.

If the child under 17 years of age is not accompanied by the holder of parental authority, the Minister's consent for the stay is for a period of 14 months.

**107.** The consent for a foreign national's stay given under section 18 of this Regulation is valid for the expected period for the medical treatment.

**108.** The selection decision for permanent immigration is valid for a period of 24 months or until a decision respecting the application for permanent residence is rendered under the Immigration and Refugee Protection Act (S.C. 2001, c. 27).

**109.** The selection decision for temporary immigration lapses where the foreign national

(1) is subject to a removal order for which there is no stay or is inadmissible and is not authorized to enter and remain in Canada, within the meaning of the Immigration and Refugee Protection Act; or

(2) obtains a new decision for the same reason as the temporary stay.

**110.** The sponsorship undertaking lapses if the foreign national on behalf of whom it is taken

(1) does not meet the requirements of this Regulation;

(2) is not admitted as permanent resident under the undertaking; or

(3) does not obtain a Québec selection certificate within 24 months following the date on which the undertaking is signed.

**111.** The selection decision for permanent immigration lapses where

(1) the foreign national is subject to a removal order for which there is no stay or is inadmissible and is not authorized to enter and remain in Canada, within the meaning of the Immigration and Refugee Protection Act; or

(2) the foreign national obtains a new selection decision.

#### CHAPTER VII INDEXING

**112.** The amounts in Schedules B, C and D are adjusted on 1 January of each year by a rate corresponding to the annual change in the overall average Québec consumer price index without alcoholic beverages and tobacco products for the 12-month period ending on 30 September of the year preceding the year for which the fee is to be adjusted. The Minister publishes the rate without delay on the Minister's website and in the *Gazette officielle du Québec*.

## CHAPTER VIII OFFENCES

### 113. Every person who

(1) acts as financial intermediary without having entered into, in accordance with section 40, an agreement with the Minister, allowing the intermediary to participate in the investor program,

(2) contravenes section 93, 95 or 103,

is guilty of an offence and is liable to the penalties provided for in section 94 of the Act.

A financial intermediary who entrusts, without the Minister's authorization, the obligations conferred on the intermediary under the agreement referred to in section 40 to a third person who is not party to the agreement is also guilty of an offence and liable to the same penalties.

## CHAPTER IX TRANSITIONAL AND FINAL

**114.** Applications for selection certificates filed before (*insert the date of coming into force of this Regulation*), except those filed under the Québec experience program, are continued and decided under the Regulation respecting the selection of foreign nationals and the Regulation respecting the weighting applicable to the selection of foreign nationals (chapter I-0.2, r. 2) as they read on (*insert the date of the day preceding the date of coming into force of this Regulation*).

**115.** Despite section 18 of the Québec Immigration Act (2016, chapter 3) and section 21 of this Regulation, a foreign national who belongs to the family class within the meaning of sections 59 and 60 or is domiciled in Québec and belongs to the class of foreign nationals who are in a special distressful situation, as provided for in paragraph a of section 18 and paragraph 1 of the Regulation respecting the selection of foreign nationals as it read on (*insert the date that precedes the date of coming into force of this Regulation*) must, until (*insert the date occurring 24 months after the coming into force of this Regulation*), be selected by the Minister to settle permanently in Québec.

**116.** Every selection certificate issued by the Minister under section 115 or 3.1 of the Act respecting immigration to Québec (chapter I-0.2) as it read before (*insert the date of coming into force of this Regulation*) to a foreign national who belongs to the family class or is recognized as refugee while already in the territory of Québec remains valid until its term or until a decision

regarding an application for permanent residence has been rendered under the Immigration and Refugee Protection Act (S.C. 2001, c. 27).

**117.** Every agreement entered into with a financial intermediary who is an investment dealer or a trust company before (*insert the date of coming into force of this Regulation*) is deemed to be entered into under section 41 of this Regulation.

Despite the foregoing, an investment dealer or trust company who does not have a head office in Québec and who participates in the investor program may continue to participate in the program if, in the year following the year of coming into force of this Regulation, the dealer or company creates or acquires an entity that is a dealer or trust company registered with the Autorité des marchés financiers and whose rights are not suspended by the latter.

**118.** This Regulation replaces the Regulation respecting the selection of foreign nationals.

**119.** This Regulation comes into force on (*insert the fifteenth day following the date of its publication in the Gazette officielle du Québec*) except

(1) paragraph 2 of section 83, which comes into force on (*insert the date that occurs 12 months after the date of coming into force of this Regulation*);

(2) paragraph 3 of section 83, which comes into force on (*insert the date that occurs 36 months after the date of coming into force of this Regulation*).

## SCHEDULE A

(ss. 32, 33, 34, 38, 49, 52, 53, 54, 58)

### SELECTION GRID FOR THE ECONOMIC CLASS

<i>Factors</i>	<i>Criteria</i>
<b>1. Training</b>	<b>1.1 Education level</b>
	(a) secondary school general diploma
	(b) secondary school vocational diploma
	(c) postsecondary school general diploma attesting to 2 years of full-time studies
	(d) postsecondary school technical diploma attesting to 1 year of full-time studies

<i>Factors</i>	<i>Criteria</i>	<i>Factors</i>	<i>Criteria</i>
	(e) postsecondary school technical diploma attesting to 2 years of full-time studies		Section B of Part II
	(f) secondary school vocational diploma, or post-secondary school technical diploma attesting to 1 or 2 years of full-time studies, in training referred to in section A or B of Part I or II of criterion 1.2		Section C of Part II Section D of Part II Section E of Part II Section F of Part II Section G of Part II
	(g) postsecondary school technical diploma attesting to 3 years of full-time studies		The diploma attesting to training must have been obtained before the date of filing of the application for a selection certificate.
	(h) postsecondary school technical diploma attesting to 3 years of full-time studies in training referred to in section A or B of Part I or II of criterion 1.2		If there is more than 1 diploma, the most advantageous diploma for the foreign national is retained.
	(i) undergraduate university degree attesting to 1 year of full-time studies		
	(j) undergraduate university degree attesting to 2 years of full-time studies		
	(k) undergraduate university degree attesting to 3 years or more of full-time studies		
	(l) master's degree attesting to 1 year or more of full-time studies		
	(m) doctorate		
	The diploma attesting to training must have been obtained before the date of filing of the application for a selection certificate.		
	<b>1.2 Areas of training</b>	<b>2. Experience</b>	<b>2.1 Professional experience of a skilled worker</b>
	Québec diploma or diploma issued abroad listed in one of the following sections in the List of areas of training:		less than 6 months 6 to 11 months 12 to 23 months 24 to 35 months 36 to 47 months 48 months or more
	Section A of Part I		The experience must have been acquired in the 5 years preceding the date of filing of the application for a selection certificate and be based on the period of employment in a profession in a skill level higher than D, within the meaning of the National Occupational Classification, including training periods, remunerated or not, during an apprenticeship, training or specialization process attested to by a diploma.
	Section B of Part I		
	Section C of Part I		<b>2.2 Professional experience of a self-employed worker</b>
	Section D of Part I		6 months
	Section E of Part I		1 year
	Section F of Part I		1 ½ years
	Section G of Part I		2 years
	Section A of Part II		2 1/2 years
			3 years
			3 1/2 years
			4 years
			4 1/2 years
			5 years or more



<i>Factors</i>	<i>Criteria</i>	<i>Factors</i>	<i>Criteria</i>
	The experience of a self-employed person is based on the period of practice on the person's behalf of the profession the person intends to practise in Québec.		40 years of age
			41 years of age
			42 years of age
			43 years of age
			44 years of age
			45 years of age
			46 years of age
			47 years of age
			48 years of age
			49 years of age
			50 years of age
	<b>2.3 Experience in management of the investor</b>	<b>4. Language proficiency</b>	<b>4.1 French</b>
	6 months		According to the <i>Échelle québécoise des niveaux de compétence en français des personnes immigrantes adultes</i> or its equivalent:
	1 year		(a) oral interaction
	1 ½ years		– oral comprehension:
	2 years		beginner
	2 1/2 years		levels 1 and 2
	3 years		levels 3 and 4
	3 1/2 years		intermediate
	4 years		levels 5 and 6
	4 1/2 years		levels 7 and 8
	5 years		advanced
	5 1/2 years		levels 9 and 10
	6 years		levels 11 and 12
	6 1/2 years		– oral expression:
	7 years		beginner
	7 1/2 years or more		levels 1 and 2
			levels 3 and 4
			intermediate
			levels 5 and 6
			levels 7 and 8
			advanced
			levels 9 and 10
			levels 11 and 12
<b>3. Age</b>	18 years of age		(b) written interaction
	19 years of age		– written comprehension:
	20 years of age		beginner
	21 years of age		levels 1 and 2
	22 years of age		levels 3 and 4
	23 years of age		intermediate
	24 years of age		levels 5 and 6
	25 years of age		levels 7 and 8
	26 years of age		advanced
	27 years of age		levels 9 and 10
	28 years of age		levels 11 and 12
	29 years of age		
	30 years of age		
	31 years of age		
	32 years of age		
	33 years of age		
	34 years of age		
	35 years of age		
	36 years of age		
	37 years of age		
	38 years of age		
	39 years of age		

<i>Factors</i>	<i>Criteria</i>	<i>Factors</i>	<i>Criteria</i>	
	<ul style="list-style-type: none"> <li>– written expression:               <ul style="list-style-type: none"> <li>beginner                   <ul style="list-style-type: none"> <li>levels 1 and 2</li> <li>levels 3 and 4</li> </ul> </li> <li>intermediate                   <ul style="list-style-type: none"> <li>levels 5 and 6</li> <li>levels 7 and 8</li> </ul> </li> <li>advanced                   <ul style="list-style-type: none"> <li>levels 9 and 10</li> <li>levels 11 and 12</li> </ul> </li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>(c) for studies leading to a vocational training diploma (DEP) or an attestation of college studies (AEC) attesting to a total of 900 to less than 1,800 hours, combined with full-time work experience in Québec, related to the field of training, for a period of at least 6 months following the program of studies</li> <li>(d) for studies leading to a vocational training diploma (DEP) or an attestation of college studies (AEC) attesting to 1,800 hours or more, a diploma of college studies (DEC) preuniversity or technical or an undergraduate, graduate or master's diploma</li> <li>(e) to work, with a work permit of at least 1 year and full-time work experience of 6 months</li> <li>(f) to work for at least 3 months if work is the main activity</li> <li>(g) to work for at least 6 months if work is the main activity</li> <li>(h) in the context of a youth exchange program to which an international agreement entered into by Québec or Canada, if work is the main activity for at least 3 months</li> <li>(i) in the context of a youth exchange program to which an international agreement entered into by Québec or Canada, if work is the main activity for at least 6 months</li> <li>(j) for business for at least 1 week</li> <li>(k) other stay for at least 2 weeks</li> <li>(l) other stay for at least 3 months</li> </ul>	
	<p><b>4.2 English</b></p> <p>According to the Canadian Language Benchmarks or its equivalent:</p> <p>(a) oral interaction</p> <ul style="list-style-type: none"> <li>– oral comprehension:           <ul style="list-style-type: none"> <li>beginner               <ul style="list-style-type: none"> <li>levels 1 to 4</li> </ul> </li> <li>intermediate               <ul style="list-style-type: none"> <li>levels 5 to 8</li> </ul> </li> <li>advanced               <ul style="list-style-type: none"> <li>levels 9 to 12</li> </ul> </li> </ul> </li> <li>– oral expression:           <ul style="list-style-type: none"> <li>beginner               <ul style="list-style-type: none"> <li>levels 1 to 4</li> </ul> </li> <li>intermediate               <ul style="list-style-type: none"> <li>levels 5 to 8</li> </ul> </li> <li>advanced               <ul style="list-style-type: none"> <li>levels 9 to 12</li> </ul> </li> </ul> </li> </ul> <p>(b) written interaction</p> <ul style="list-style-type: none"> <li>– written comprehension:           <ul style="list-style-type: none"> <li>beginner               <ul style="list-style-type: none"> <li>levels 1 to 4</li> </ul> </li> <li>intermediate               <ul style="list-style-type: none"> <li>levels 5 to 8</li> </ul> </li> <li>advanced               <ul style="list-style-type: none"> <li>levels 9 to 12</li> </ul> </li> </ul> </li> <li>– written expression:           <ul style="list-style-type: none"> <li>beginner               <ul style="list-style-type: none"> <li>levels 1 to 4</li> </ul> </li> <li>intermediate               <ul style="list-style-type: none"> <li>levels 5 to 8</li> </ul> </li> <li>advanced               <ul style="list-style-type: none"> <li>levels 9 to 12</li> </ul> </li> </ul> </li> </ul>			

## 5. Stay and family in Québec

### 5.1 Stay in Québec

- (a) to study for 1 regular full-time semester if study is the main activity
- (b) to study for at least 2 regular full-time semesters if study is the main activity

The stay, other than the stay referred to in paragraph *j*, must have been completed by the foreign national or the foreign national's accompanying spouse or de facto spouse in the 10 years preceding the date of filing of the selection application.

The stay referred to in paragraph *j* must have been completed by the foreign national in the 2 years preceding the date of filing of the selection application.

<i>Factors</i>	<i>Criteria</i>	<i>Factors</i>	<i>Criteria</i>
	<p><b>5.2 Family in Québec</b></p> <p>Relationship with a Québec resident who is, in relation to the foreign national or the foreign national's accompanying spouse or de facto spouse,</p> <p>(a) spouse or de facto spouse</p> <p>(b) son or daughter, father or mother, brother or sister</p> <p>(c) grandfather or grandmother</p> <p>(d) uncle or aunt, nepehw or niece</p>		<p><b>6.2 Areas of training</b></p> <p>Québec diploma or diploma issued abroad listed in the following sections in the List of areas of training:</p> <p>Section A of Part I</p> <p>Section B of Part I</p> <p>Section C of Part I</p> <p>Section D of Part I</p> <p>Section E of Part I</p> <p>Section F of Part I</p> <p>Section G of Part I</p> <p>Section A of Part II</p> <p>Section B of Part II</p> <p>Section C of Part II</p> <p>Section D of Part II</p> <p>Section E of Part II</p> <p>Section F of Part II</p> <p>Section G of Part II</p> <p>The diploma attesting to training must have been obtained before the date of filing of the selection application.</p> <p>If there is more than 1 diploma, the most advantageous diploma for the foreign national is retained.</p>
<b>6. Characteristics of the accompanying spouse or de facto spouse</b>	<p><b>6.1 Education level</b></p> <p>(a) secondary school general diploma</p> <p>(b) secondary school vocational diploma</p> <p>(c) postsecondary school general diploma attesting to 2 years of full-time studies</p> <p>(d) postsecondary technical diploma attesting to 1 year of full-time studies</p> <p>(e) postsecondary technical diploma attesting to 2 years of full-time studies</p> <p>(f) postsecondary technical diploma attesting to 3 years of full-time studies</p> <p>(g) undergraduate university degree attesting to 1 year of full-time studies</p> <p>(h) undergraduate university degree attesting to 2 years of full-time studies</p> <p>(i) undergraduate university degree attesting to 3 years of full-time studies</p> <p>(j) master's degree attesting to 1 year or more of full-time studies</p> <p>(k) doctorate</p> <p>The diploma attesting to training must have been obtained before the date of filing of the selection application.</p>	<b>6.3 Professional experience</b>	<p>6 to 11 months</p> <p>12 months or more</p> <p>The professional experience must have been acquired in the 5 years preceding the date of filing of the selection application and be based on the period of employment in a profession in a skill level higher than D, within the meaning of the National Occupational Classification, including training periods, remunerated or not, during an apprenticeship, training or specialization process attested to by a diploma.</p>
		<b>6.4 Age</b>	<p>18 years of age</p> <p>19 years of age</p> <p>20 years of age</p>

<i>Factors</i>	<i>Criteria</i>	<i>Factors</i>	<i>Criteria</i>
	21 years of age		– oral expression:
	22 years of age		beginner
	23 years of age		levels 1 and 2
	24 years of age		levels 3 and 4
	25 years of age		intermediate
	26 years of age		levels 5 and 6
	27 years of age		levels 7 and 8
	28 years of age		advanced
	29 years of age		levels 9 and 10
	30 years of age		levels 11 and 12
	31 years of age		(b) written interaction in French
	32 years of age		– written comprehension:
	33 years of age		beginner
	34 years of age		levels 1 and 2
	35 years of age		levels 3 and 4
	36 years of age		intermediate
	37 years of age		levels 5 and 6
	38 years of age		levels 7 and 8
	39 years of age		advanced
	40 years of age		levels 9 and 10
	41 years of age		levels 11 and 12
	42 years of age		– written expression:
	43 years of age		beginner
	44 years of age		levels 1 and 2
	45 years of age		levels 3 and 4
	46 years of age		intermediate
	47 years of age		levels 5 and 6
	48 years of age		levels 7 and 8
	49 years of age		advanced
	50 years of age		levels 9 and 10
			levels 11 and 12
	<b>6.5 Language proficiency</b>	<b>7. Validated employment offer</b>	<b>7.1 Validated employment offer in the metropolitan area of Montréal</b>
	According to the <i>Échelle québécoise des niveaux de compétence en français des personnes immigrantes adultes</i> or its equivalent:		<b>7.2 Validated employment offer outside the metropolitan area of Montréal in one of the following administrative regions:</b>
	(a) oral interaction in French		(a) Abitibi-Témiscamingue
	– oral comprehension:		(b) Bas-Saint-Laurent
	beginner		(c) Capitale-Nationale
	levels 1 and 2		(d) Centre-du-Québec
	levels 3 and 4		(e) Chaudière-Appalaches
	intermediate		(f) Côte-Nord
	levels 5 and 6		(g) Estrie
	levels 7 and 8		(h) Gaspésie–Îles-de-la-Madeleine
	advanced		(i) Lanaudière
	levels 9 and 10		(j) Laurentides
	levels 11 and 12		(k) Mauricie
			(l) Montérégie

<i>Factors</i>	<i>Criteria</i>	<i>Factors</i>	<i>Criteria</i>
	<p>(m) Nord-du-Québec</p> <p>(n) Outaouais</p> <p>(o) Saguenay–Lac-Saint-Jean</p>		<p>– region of operation of the enterprise</p> <p>– proposed support plan</p> <p>– operating plan</p> <p>– expertise of the enterprise accelerator, enterprise incubator or university entrepreneurship centre</p>
	<p><b>8.1 12 years of age or younger</b></p> <p><b>8.2 13 to 21 years of age</b></p> <p>A child means a dependent child of the foreign national or the foreign national's accompanying spouse or de facto spouse and an accompanying dependent child who is a Canadian citizen.</p>		<p><b>10.2 Business plan assessment (components 1 and 2)</b></p> <p>The business plan assessment is carried out, with the necessary modifications, from</p> <p>– the nature of the project and experience of the entrepreneur</p> <p>– the description of the enterprise</p> <p>– the market analysis</p> <p>– the marketing plan</p> <p>– the operating plan</p> <p>– the financing plan</p> <p>– the project management approach and risk analysis</p> <p>– the analysis of the economic and social benefits of the business project</p> <p>– the enterprise acquisition plan</p> <p>– the financial situation of the enterprise for the next 2 years</p>
<b>9. Financial self-sufficiency</b>	<p>Making of a contract in which the foreign national undertakes to provide for basic needs, those of the accompanying family members and those of a dependent child who is a Canadian citizen for a period of 3 months.</p> <p>The foreign national must also declare in the contract that the foreign national will have, for that period, financial resources at least equal to those in the scales in Schedule C to provide basic needs; in the case of a foreign national whose application for permanent residence is processed in Canada, the foreign national must prove that his or her gross income will allow the foreign national to provide basic needs.</p> <p>That requirement begins on the date of the foreign national's arrival in Canada or, in the case of a foreign national whose application for permanent residence is processed in Canada, as of the date of the selection decision.</p>	<b>11. Amount of deposit</b>	<p><b>11.1 Deposit for start-up</b></p> <p>11.1.1 Practice of a trade or profession in the metropolitan area of Montréal or an enterprise situated outside the metropolitan area of Montréal</p> <p>(a) \$15,000</p> <p>(b) \$20,000</p> <p>(c) \$25,000</p> <p>(d) \$40,000</p> <p>(e) \$50,000</p> <p>(f) \$100,000</p> <p>(g) \$200,000</p> <p>(h) \$300,000</p> <p>(i) \$400,000 or more</p>
<b>10. Business project</b>	<p><b>10.1 Service offer assessment (component 1)</b></p> <p>The service offer of the enterprise accelerator, enterprise incubator or university entrepreneurship centre is assessed according, in particular, to the</p> <p>– nature of the business project, the field of activity concerned and needs related to its implementation</p>		

Factors	Criteria
	11.1.2 Practice of a trade or profession outside the metropolitan area of Montréal or enterprise situated outside the metropolitan area of Montréal
	(a) \$15,000
	(b) \$20,000
	(c) \$25,000
	(d) \$40,000
	(e) \$50,000
	(f) \$100,000
	(g) \$200,000
	(h) \$300,000
	(i) \$400,000 or more
	<b>11.2 Security deposit</b>
	(a) \$100,000
	(b) \$200,000
	(c) \$300,000
	(d) \$400,000
	(e) \$500,000 or more

**12. Investment agreement** Compliant with the Regulation.

**SCHEDULE B**  
(ss. 13, 77, 89, 112)

MINIMUM INCOME REQUIRED TO PROVIDE FOR A PERSON'S BASIC NEEDS AND THOSE OF THE FAMILY MEMBERS

The scale of basic needs is established as follows:

Number of family members	Gross annual income
0	\$23,113
1	\$31,200
2	\$38,521
3	\$44,303
4	\$49,307

The gross annual income is increased by \$5,004 for each additional family member.

**SCHEDULE C**  
(ss. 13, 77, 90, 95, 112)

FOREIGN NATIONAL'S BASIC NEEDS

The scale of basic needs for 1 year is established as follows:

Number of persons 18 years of age or older	Number of persons under 18 years of age	Amount for basic needs for 1 year
0	1	\$6,171
	2	\$9,257

Basic needs are increased by \$3,086 for each additional person under 18 years of age.

Number of persons 18 years of age or older	Number of persons under 18 years of age	Amount for basic needs for 1 year
1	0	\$12,341
	1	\$16,584
	2	\$18,719

Basic needs are increased by \$2,136 for each additional person under 18 years of age.

Number of persons 18 years of age or older	Number of persons under 18 years of age	Amount for basic needs for 1 year
2	0	\$18,098
	1	\$20,274
	2	\$21,881

Basic needs are increased by \$1,608 for each additional person under 18 years of age and by \$5,754 for each additional person 18 years of age or older.

**SCHEDULE D**  
(ss. 13, 68, 89, 112)

MINIMUM AMOUNT REQUIRED TO PROVIDE FOR A FOREIGN NATIONAL'S BASIC NEEDS

The scale of the minimum amount required to provide for a foreign national's basic needs is established as follows:

Number of persons 18 years of age or older	Number of persons under 18 years of age	Gross annual amount required from sponsor
0	1	\$8,000
	2	\$12,680

The gross annual amount required is increased by \$4,228 for each additional person under 18 years of age.

Number of persons 18 years of age or older	Number of persons under 18 years of age	Gross annual amount required from sponsor
1	0	\$16,906
	1	\$22,714
	2	\$25,648

The gross annual amount required is increased by \$2,932 for each additional person under 18 years of age.

Number of persons 18 years of age or older	Number of persons under 18 years of age	Gross annual amount required from sponsor
2	0	\$24,791
	1	\$27,772
	2	\$29,981

The gross annual amount required is increased by \$2,201 for each additional person under 18 years of age and by \$7,882 for each additional person 18 years of age or older.

## SCHEDULE E

(ss. 53, 100)

### LIST OF INADMISSIBLE ECONOMIC ACTIVITIES AND EMPLOYMENT FIELDS

PART 1 – Inadmissible economic activities for the enterprises referred to in component 2 of the entrepreneur program

1. Loans on salaries, cheque cashing or pawn broking;
2. Estate development, real estate development or estate or insurance brokering;
3. Production, distribution or sale of pornographic or sexually explicit products;
4. Services connected to immigration.

PART 2 – Inadmissible employment fields under the temporary foreign worker program and the regular skilled worker program

1. Loans on salaries, cheque cashing or pawn broking;
2. Production, distribution or sale of pornographic or sexually explicit products;
3. Services connected to immigration.

103396

## Draft Regulation

An Act to promote workforce skills development and recognition (chapter D-8.3)

### Accreditation and ethics of training bodies, of training instructors and of training services

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the accreditation and ethics of training bodies, training instructors and training services, made by the Commission des partenaires du marché du travail and appearing below, may be approved by the Government on the expiry of 45 days following this publication.

The purpose of the amendments made by this draft Regulation is to ensure that the accreditation issued is relevant and consistent with the object of the Act, namely to improve the qualification and skills of the employed workforce and to lighten the regulatory framework respecting the accreditation and the ethics of training instructors and training bodies by integrating therein the applicable provisions of the Regulation respecting the ethics of training instructors and training bodies (chapter D-8.3, r. 2).

The draft Regulation has no negative impact on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Lilliam Sosa, Commission des partenaires du marché du travail, 800, rue du Square-Victoria, 27<sup>e</sup> étage, C.P. 100, Montréal (Québec) H4Z 1B7; telephone: 514 873-0800; fax: 514 864-1288; email: Lilliam.Sosa@mtess.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Secretary general of the Commission des partenaires du marché du travail, Johanne Bourassa, 800, rue du Square-Victoria, 29<sup>e</sup> étage, C.P. 100, Montréal (Québec) H4Z 1B7.

FRANÇOIS BLAIS,  
*Minister of Employment and  
Social Solidarity*

## Regulation respecting the accreditation and ethics of training bodies, training instructors and training services

An Act to promote workforce skills development and recognition  
(chapter D-8.3, s. 20, 1st par., subpar. 4, s. 21, 1st par., subpars. 2 and 3, and s. 21.1)

### CHAPTER I

#### ACCREDITATION OF TRAINING BODIES, TRAINING INSTRUCTORS AND TRAINING SERVICES

#### DIVISION I

##### CONDITIONS FOR OBTAINING A CERTIFICATE OF ACCREDITATION

**1.** A legal person, including a non-profit organization, or a partnership wishing to be accredited as a training body for the purposes of the Act to promote workforce skills development and recognition (chapter D-8.3) must apply to the Minister using the form provided by the Minister and provide the following information:

(1) its Québec business number assigned under section 37 of the Act respecting the legal publicity of enterprises (chapter P-44.1);

(2) the professional fields in which training will be provided;

(3) the names of the training instructors, employees or contract workers, and, for each of them, the professional field and experience in such field, training and experience as a training instructor;

(4) the résumé of each training instructor;

(5) the training plan and the detailed content of any training it has provided, if applicable. The person responsible for the enterprise or the recognized educational institution where the training was provided must attest to the truth of the information by signing the training plan and detailed content and indicating the person's contact information;

(6) a list of professional references;

(7) on request, a certified copy of the diplomas for the training received.

Where an application does not include the names of the training instructors, it must be accompanied by a written statement from the representative authorized for that

purpose in which the training body undertakes to provide training using only training instructors who have been accredited by the Minister.

**2.** An applicant who meets the following conditions is accredited by the Minister as a training body:

(1) each of its training instructors, employees or contract workers, have at least 3 years of experience in each professional field in which training will be provided. Where multiple training instructors are in the same field, they must have together an average of 3 years of experience in that field;

(2) each of its training instructors

(a) has received a minimum of 135 hours of training in knowledge transmission methods;

(b) has at least 250 hours of experience as a training instructor; or

(c) has received a minimum of 90 hours of training in knowledge transmission methods and has at least 100 hours of experience as a training instructor;

(3) the training offered complies with the object and the purposes of the Act and must in particular qualify as an eligible expenditure for the purposes of the Act.

The experience required in subparagraphs 1 and 2 of the first paragraph must have been acquired in the 10 years preceding the application.

In this Regulation,

“experience as a training instructor” means any training activity allowing knowledge transmission in a structured manner, provided

(1) to the personnel of an enterprise;

(2) in a recognized educational institution, in accordance with section 7 of the Act; or

(3) by an accredited training body;

“training in knowledge transmission methods” means any training allowing the development of skills relating to the structuring of a training activity, the carrying out of a training activity fostering knowledge transmission and the assessment of the training.

**3.** The Minister accredits as a training instructor a natural person who submits an application to the Minister using the form provided by the Minister and who



(1) has at least 3 years of experience in each professional field for which the person seeks accreditation; and

(2) satisfies any of the conditions set out in subparagraph 2 of the first paragraph of section 2 and the condition set out in subparagraph 3 of the first paragraph of section 2.

The experience required in subparagraphs 1 and 2 of the first paragraph must have been acquired in the 10 years preceding the application.

The documents identified in subparagraphs 4 to 7 of the first paragraph of section 1 must accompany the application.

**4.** The Minister accredits the training service of an employer subject to the provisions of Division I of Chapter II of the Act where the Minister receives an application submitted using the form provided by the Minister and the following information and documents are included:

(1) its address in Québec;

(2) the name of the person responsible for the service;

(3) a detailed description of the training activities carried out in the last year or those planned at the time of the application;

(4) a detailed description of the skills and qualifications of the personnel of the service that enable it to fulfill its responsibilities.

**5.** In addition, the training service must demonstrate that it assumes or coordinates the following activities:

(1) identification of training needs;

(2) preparation of specific training plans, design and programming of activities;

(3) implementation of training activities for the personnel of the employer and provided by qualified employees of the employer or by a supplier of material, equipment or software;

(4) recognition of the successful completion of an internal training activity by a member of the personnel;

(5) follow-up to training activities.

**6.** Sections 4 and 5 apply, with the necessary modifications, to a multi-employer training service.

An application for accreditation for such a service must include the names of the employers to which it applies.

In this Regulation, “multi-employer training service” means the administrative unit or legal person charged with organizing training for the personnel of employers belonging to a group identified with a common banner, a trademark or a line of products or services.

**7.** The multi-employer training service of an employer belonging to one of the following groups may assume or coordinate activities relating to the training of the personnel of other employers belonging to such group with which it shares a common mission:

(1) the Secrétariat du Conseil du trésor, a government department, a body whose personnel is appointed under the Public Service Act (chapter F-3.1.1) or any body for which, by law, the Government sets or approves the conditions of employment or standards and remuneration scales of its employees;

(2) the Ministère de la Santé et des Services sociaux, an integrated health and social services centre or an institution covered by the Act respecting health services and social services (chapter S-4.2) or a regional council or an institution covered by the Act respecting health services and social services for Cree native persons (chapter S-5);

(3) the Ministère de l'Éducation et de l'Enseignement supérieur, a school board or an educational institution covered by the Education Act (chapter I-13.3), a private educational institution covered by the Act respecting private education (chapter E-9.1), a general and vocational education college covered by the General and Vocational Colleges Act (chapter C-29) or a university level educational institution covered by the Act respecting educational institutions at the university level (chapter E-14.1);

(4) the Ministère des Affaires municipales et de l'Occupation du territoire, a municipality, a metropolitan community or a regional county municipality.

**8.** Every applicant for accreditation is deemed to have agreed to the verification by the Minister of the documents or information provided in support of the application.

## DIVISION II

### OBLIGATIONS OF ACCREDITATION HOLDERS

**9.** Accredited training bodies provide training only by means of their training instructors, employees or contract workers.

**10.** Accredited training bodies and accredited training instructors must inform the Minister without delay of any change in the conditions to be satisfied for accreditation or in the information provided in their initial application for accreditation or in their application for renewal.

A training body that has filed the statement required in the second paragraph of section 1 must, on request, provide the Minister with the list of the names of employees or contract workers called upon to provide the training.

Training bodies must update the list of their training instructors, employees or contract workers and so inform the Minister in writing. They must also provide, on request, the documents and information required to verify whether they satisfy the conditions in section 2.

**11.** Accreditation holders must inform the Minister in writing that the body, or any of its directors or officers, have been the subject of a decision referred to in the first paragraph of section 24.

**12.** Accredited training bodies must ensure that any training they provide is given by a training instructor with the required experience and skills.

**13.** The training provided by the accredited training service of an employer or by an accredited multi-employer training service must be provided solely by the personnel of such employer or of the employers mentioned in the accreditation, as the case may be. It can also be provided by the personnel of a supplier of material, equipment or software, provided the supply for which training is given is used by the personnel so trained.

**14.** Accredited multi-employer training services covered by section 7 may provide training only by means of a qualified employee of the group to which it belongs.

A multi-employer training service of the group covered by paragraph 2 of section 7 may also provide training by means of a physician, a dentist, a midwife, an optometrist, a pharmacist, a nurse or another health professional within the meaning of the Professional Code (chapter C-26).

**15.** Sections 9 and 13 do not apply in the case of an eligible training activity within the meaning of the Regulation respecting eligible training expenditures (chapter D-8.3, r. 3) and held as part of a conference, a convention, a seminar or any other activity organized in partnership with a educational institution recognized in accordance with section 7 of the Act, an accredited training body or an accredited training instructor.

**16.** Accredited training bodies or accredited training instructors issue to each employee of an employer subject to the Act who successfully completes or participates in a training activity an attestation of training including

- (1) the name of the employer;
- (2) the name of the employee;
- (3) a brief description of the training activity;
- (4) the confirmation of the successful completion or of participation of the employee;
- (5) the duration of the training activity; and
- (6) the name of the accredited training body or accredited training instructor.

**17.** Accredited training services, including accredited multi-employer services, issue an attestation containing the information contained in section 16 to each employee who successfully completes or participates in a training activity. The attestation is issued at least once a year and upon the employee's departure.

**18.** Accreditation holders must give to any participant who so requests the detailed content of the training provided to the participant in the last 24 months.

**19.** An accreditation cannot be assigned.

**20.** Accreditation holders must display the accreditation in public view in their establishment.

**21.** An accreditation is valid for 3 years.

**22.** Accreditation holders wishing to renew the accreditation must apply to the Minister, using the form provided by the Minister, before the accreditation expires and must provide

- (1) a list of the training provided during the accreditation with the name of the enterprises in which the training took place and the contact information of the persons in charge in each enterprise; and
- (2) on request, the course plan for the training provided during the accreditation validity period.

The accreditation is renewed where the holder continues to satisfy the conditions stipulated for obtaining accreditation and the holder has satisfied the conditions imposed for the maintenance of accreditation.

The accreditation remains valid during the processing of the application for renewal.

**23.** The fees for processing an application for accreditation or a renewal application are adjusted every year and are

- (1) for a training body: \$550;
- (2) for a non-profit organization: \$200;
- (3) for a training instructor: \$300;
- (4) for a training service: \$250; and
- (5) for a multi-employer training service: \$500.

### DIVISION III POWERS OF THE MINISTER

**24.** The Minister may refuse an application for accreditation where, in the 5 years preceding the application, the applicant, or, if applicable, one of its directors or officers, has been convicted of a criminal or penal offence that, in the Minister's opinion, is related to the practice of the profession or workforce training, except if the applicant has been pardoned.

The Minister may refuse an application for accreditation to a person referred to in the first paragraph where, in the 2 years preceding the application for accreditation, the person knowingly pretended or acted in a manner that leads to believe that the person held accreditation while it was not the case.

The Minister may also refuse an application for accreditation if it contains false statements or misleading elements.

**25.** The Minister may reprimand an accreditation holder or suspend or revoke accreditation where

- (1) the Act or the regulations thereunder have not been complied with;
- (2) the accreditation holder uses it for purposes other than those provided for in the Act or in this Regulation; or
- (3) the accreditation holder has been convicted of a criminal or penal offence which, in the Minister's opinion, is related to the practice of the profession or workforce training.

**26.** The renewal of an accreditation may be refused where

(1) in the 3 years preceding the application for renewal, the accreditation holder has been convicted of a criminal or penal offence that, in the Minister's opinion, is related to the practice of the profession or workforce training, except if the accreditation holder has been pardoned;

(2) it is determined that the accreditation holder failed to comply with the Act or the regulations thereunder; or

(3) it is determined that the application contains false statements or misleading elements.

**27.** Where an accreditation is revoked or its renewal has been refused, the accreditation holder may not submit a new application for accreditation before the expiry of 3 years as of the date of the Minister's decision.

In the case of a training body, the prohibition referred to in the first paragraph also applies to its directors and officers.

### DIVISION IV INSPECTION AND VERIFICATION

**28.** The Minister may verify whether an accreditation holder complies with the Act or the regulations thereunder.

**29.** During a verification, the Minister may in particular ask the accreditation holder to provide the Minister with any information or have access to any document relating to training provided or to the accreditation and obtain a copy thereof. The person conducting the verification may go to the premises of the training, for inspection purposes, particularly to attend the training provided.

## CHAPTER II ETHICS OF TRAINING INSTRUCTORS AND TRAINING BODIES

### DIVISION I RULES OF ETHICS

**30.** Accredited training bodies and accredited training instructors must fully honour contracts concluded with their clients.

**31.** Accredited training instructors must act with competence. They must provide quality professional services and make sure that the training provided complies with the set objectives and is adapted to the needs of the clients.

Accredited training instructors must take into account the limits of their skills and knowledge, as well as the means at their disposal. In particular, they must refrain from

(1) providing professional services for which they are not sufficiently prepared without the assistance or information needed; and

(2) accepting an assignment when they have not acquired the required competence in due time or are unable to acquire it.

**32.** Accredited training instructors have the duty to update and upgrade their knowledge and methods of instruction in order to keep up with the requirements of the profession.

**33.** Accredited training instructors must, in carrying out workforce training activities, act honestly and loyally and, in particular, must not

(1) engage in an act derogatory to the dignity of the profession;

(2) use discriminatory, fraudulent or illegal practices and must refuse to take part in such practices;

(3) carry on activities in conditions or states likely to compromise the quality of the services provided;

(4) receive, in addition to the remuneration to which they are entitled, any benefit, commission or discount related to the workforce training activities, except customary tokens of appreciation or gifts of small value, and must not pay, offer to pay or promise to pay any such benefit, commission or discount;

(5) use methods for attracting or soliciting clients that are unfair to the competition;

(6) abuse the good faith of another accredited training instructor, commit a breach of trust towards the instructor or use unfair practices;

(7) take credit for work done by another person; and

(8) plagiarize or use without written permission the content of training provided in particular by a recognized educational institution or by another accreditation holder.

**34.** Accreditation holders must refrain from providing persons in training with information intended to recruit them for organizations, movements, associations and circles, regardless of their purpose or reputation.

**35.** Accreditation holders must avoid placing themselves in any situation where their personal interest would be in conflict with contractual obligations or, where applicable, the obligations resulting from the performance of duties.

**36.** Accreditation holders may not use for their benefit or the benefit of a third person personal information obtained for training purposes or in the course of the training activities provided, or any confidential information provided by a client or employer and usually dealt with confidentially by the client or employer, except with the consent of the person, client or employer concerned.

**37.** Accreditation holders must advertise services in a way likely to adequately inform persons who have no special knowledge of the area of expertise referred to in the advertisement.

In particular, they may not in their advertising state or let people believe that

(1) the content of the training provided is approved by the Government, the Minister, the Commission des partenaires du marché du travail, a government department, a public body or a public or private institution, unless authorized to do so under an agreement in writing to that effect;

(2) the training instructors have skills or experience not recognized by the accreditation; and

(3) the scope of the accreditation covers professional fields other than those for which the accreditation is issued.

**38.** Accreditation holders may not in any way whatsoever engage in or allow advertising that is false, misleading or likely to mislead concerning the training provided or offered.

**39.** Accreditation holders may not in any way whatsoever engage in or allow advertising that is incompatible with the object of the Act.

The advertisement may however indicate that the accreditation holder is accredited by the Minister.

**40.** Accreditation holders must keep a complete copy of any advertisement made or authorized, for at least 3 years following the date it was last broadcast or published. The copy must be given to the Minister on request.

**41.** Accreditation holders are required, if applicable, to ensure compliance with the rules provided for in sections 30 to 37 by their training instructors, employees or contract workers.

### CHAPTER III COMPLAINTS AND PROCEEDINGS

**42.** Any person may file a complaint with the Minister against an accreditation holder for conduct derogatory to the Act or the regulations thereunder.

The complaint must be written and summarily expose the reasons on which it is based.

**43.** The Minister may reject any complaint that is obviously ill-founded. The Minister so informs the complainant and gives the complainant the reasons for the rejection.

**44.** The Minister may, following a complaint or on his or her own initiative, inquire into any act likely to be derogatory to the Act or the regulations thereunder.

**45.** No accreditation holder may communicate with the complainant during the inquiry.

**46.** The Minister must inform the accreditation holder of the alleged violations, of the reference to the provisions concerned in the Act and the regulations thereunder, of the possible penalty and that the holder may make observations in writing and file documents to complete the accreditation holder's record within 15 days.

**47.** Where the Minister finds that an accreditation holder's conduct has been derogatory to the Act or the regulations thereunder, the Minister may, depending on the seriousness of the conduct, reprimand the accreditation holder or suspend or revoke the accreditation.

**48.** The Minister must inform the complainant of the result of the inquiry and of the decision.

The first paragraph does not allow disclosure of confidential information.

### CHAPTER IV DECISIONS

**49.** Any decision of the Minister under this Regulation must be in writing, give reasons and be notified to the accreditation holder.

Where applicable, the Minister must inform the accreditation holder of the terms for the contestation provided for in section 23.1 of the Act.

**50.** The Minister makes public the names and the penalties imposed to the holders of an accreditation that has been suspended, revoked or not renewed.

**51.** The Minister's decision takes effect as soon as notification is given.

Within 10 days of the notification of the Minister's decision to suspend, not renew or revoke the accreditation, the accreditation holder must return to the Minister the document attesting accreditation.

**52.** The decision to suspend, revoke or not renew the accreditation of a holder may not affect the eligibility of an employer's training expenditure recognized under the Act or the regulations thereunder, where the expenditure has been incurred in good faith by the employer prior to the decision.

### CHAPTER V TRANSITIONAL AND FINAL

**53.** Applications for accreditation received as of (*insert the date of coming into force of this Regulation*) are governed by this Regulation.

**54.** Despite section 53, the renewal of an accreditation as training instructor may not be refused to a natural person who holds the accreditation on (*insert the date preceding the date of coming into force of this Regulation*), for the reason that the experience as training instructor recognized at the time the accreditation was obtained does not correspond to the definition in the second paragraph of section 2. The exception applies only to the first application for renewal.

The same applies to the renewal of the accreditation of a training body, valid on (*insert the date preceding the date of coming into force of this Regulation*), concerning the experience as training instructor recognized for its training instructors before that date.

**55.** This Regulation replaces the Regulation respecting the accreditation of training bodies, training instructors and training services (chapter D-8.3, r. 1) and the Regulation respecting the ethics of training instructors and training bodies (chapter D-8.3, r. 2) and comes into force on the fifteenth day following the date of its publication.

103395



## Notices

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### Notice

Natural Heritage Conservation Act  
(chapter C-61.01)

**North River Farm Nature Reserve  
(Parcelle Griffin-McCall-Servitude)  
— 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 Lachute, Regional County Municipality of Argenteuil and Mirabel, known and designated as the lots number 1 846 861 and 1 846 927 of the Quebec cadastre, Deux-Montagnes registry division. This property covering an area of 94,02 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*

103390

### Notice

Natural Heritage Conservation Act  
(chapter C-61.01)

**North River Farm Nature Reserve  
(Parcelle McCall-Servitude)  
— 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 Saint-Colomban, Regional County Municipality of La Rivière-du-Nord, known and designated as the lots number 2 078 157 and 4 599 764 of the Quebec cadastre, Deux-Montagnes registry division. This property covering an area of 111,84 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*

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

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