No. 17

Part 2
LAWS AND REGULATIONS

23 April 2025 / Volume 157

Summary

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Part 2 – LAWS AND REGULATIONS

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Regulation respecting the *Gazette officielle du Québec*, section 4

Part 2 shall contain:

(1) Acts assented to;

(2) proclamations and Orders in Council for the coming into force of Acts;

(3) regulations and other statutory instruments whose publication in the *Gazette officielle du Québec* is required by law or by the Government;

(4) regulations made by courts of justice and quasi-judicial tribunals;

(5) drafts of the texts referred to in paragraphs (3) and (4) whose publication in the *Gazette officielle du Québec* is required by law before they are made, adopted or issued by the competent authority or before they are approved by the Government, a minister, a group of ministers or a government body; and

(6) any other document published in the French Edition of Part 2, where the Government orders that the document also be published in English.

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Gouvernement du Québec

O.C. 545-2025, 9 April 2025

COMING INTO FORCE of certain provisions of the Act to amend the Youth Protection Act and other legislative provisions

WHEREAS, under paragraph 2 of section 73 of the Act to amend the Youth Protection Act and other legislative provisions (2022, chapter 11), the provisions of section 60 of the Act, insofar as it enacts sections 131.6, 131.7 and 131.9 to 131.13 of the Youth Protection Act (chapter P-34.1), come into force on the date determined by the Government;

WHEREAS it is expedient to set 26 April 2025 as the date of coming into force of the provisions;

IT IS ORDERED, therefore, on the recommendation of the Minister Responsible for Social Services:

THAT 26 April 2025 be set as the date of coming into force of section 60 of the Act to amend the Youth Protection Act and other legislative provisions (2022, chapter 11), insofar as it enacts sections 131.6, 131.7 and 131.9 to 131.13 of the Youth Protection Act (chapter P-34.1).

DAVID BAHAN
Clerk of the Conseil exécutif

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Gouvernement du Québec

O.C. 546-2025, 9 April 2025

Regulation to amend the Regulation respecting the application of various provisions concerning detection systems

WHEREAS, under subparagraph 3 of the first paragraph of section 519.80 of the Highway Safety Code (chapter C-24.2), a detection system may be used on a public highway or part of a public highway designated by the Minister of Transport;

WHEREAS, under the second paragraph of section 519.80 of the Code, such a designation is made according to the criteria determined by government regulation;

WHEREAS, under paragraph 2 of section 620.1 of the Code, the Government may, by regulation, determine the criteria according to which a public highway or part of a public highway may be designated by the Minister of Transport;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the application of various provisions concerning detection systems was published in Part 2 of the *Gazette officielle du Québec* of 11 December 2024 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

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

THAT the Regulation to amend the Regulation respecting the application of various provisions concerning detection systems, attached to this Order in Council, be made.

DAVID BAHAN
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the application of various legislative provisions concerning detection systems

Highway Safety Code
(chapter C-24.2, s. 519.80, 2nd par., and s. 620.1, par. 2).

1. The Regulation respecting the application of various legislative provisions concerning detection systems (chapter C-24.2, r. 1.001) is amended by inserting the following Chapter after section 1:

"**CHAPTER I.1**
CRITERIA FOR DESIGNATING A PUBLIC HIGHWAY OR PART OF A PUBLIC HIGHWAY

1.1. The designation of a public highway by the Minister under subparagraph 3 of the first paragraph of section 519.80 of the Highway Safety Code is made taking into account the following criteria:

(1) the difference between the number of accidents that occurred on that public highway and the average number of accidents that occurred on public highways of its reference family;

(2) the difference between the severity index of the accidents that occurred on that public highway and the average severity index of the accidents that occurred on public highways of its reference family;

(3) the difference between the average annual daily flow of that public highway and the average annual daily flow of public highways of its reference family;

(4) the factors likely to increase the concentration of vulnerable users in the vicinity of that public highway, in particular the presence of schools, sports or cultural facilities, parks or bicycle paths;

(5) the existence of an issue of non-compliance with the speed limit on that public highway;

(6) the fact that the characteristics of the public highway make its monitoring by officers of the peace difficult or inappropriate.

1.2. For the purposes of section 1.1,

(1) "reference family"means a set of public highways grouped together on the basis of similar characteristics having an impact on accident rates, in particular the speed limit, number of lanes and geometric configuration;

(2) "severity index"means an index determined according to the following formula:

[9.5×(F+SI)+3.5×MI+MDO]/N

Where

F is the number of fatal accidents;

SI is the number of accidents involving serious injuries;

MI is the number of accidents involving minor injuries;

MDO is the number of accidents involving material damage only;

N is the total number of accidents;

(3) "average annual daily flow" means the number of road vehicles operated on a public highway in a year, divided by the number of days in the year.

For the purposes of this Chapter, the expression "public highway" includes a part of a public highway.".

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

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Gouvernement du Québec

O.C. 547-2025, 9 April 2025

Internal Regulation of the Comité paritaire de l'industrie des services automobiles de la région de Montréal

WHEREAS, under the first paragraph of section 18 of the Act respecting collective agreement decrees (chapter D-2), the Comité paritaire de l'industrie des services automobiles de la région de Montréal is to adopt regulations for its formation, the number of its members, their admission, their replacing, the appointing of substitutes and the administration of funds; fix its head office; determine the name under which it is to be designated and, generally, draw up regulations for its internal management and the exercise of the rights conferred upon it by law;

WHEREAS, under the first paragraph of section 19 of the Act, the regulations referred to in section 18 of the Act are to be transmitted to the Minister and are approved, with or without amendment by the Government; and notice of such approval is to be published in the *Gazette officielle du Québec*;

WHEREAS, under subparagraph *l* of the second paragraph of section 22 of the Act, from the mere fact of its formation, the committee may, as of right, by regulation approved with or without amendment by the Government, determine the amount of the attendance allowance to which its members are entitled in addition to their actual travelling expenses;

WHEREAS the board of directors of the committee made the Internal Regulation of the Comité paritaire de l'industrie des services automobiles de la région de Montréal at its meeting held on 14 January 2025;

WHEREAS it is expedient to approve the Internal Regulation of the Comité paritaire de l'industrie des services automobiles de la région de Montréal, without amendment;

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

THAT the Internal Regulation of the Comité paritaire de l'industrie des services automobiles de la région de Montréal, attached to this Order in Council, be approved.

DAVID BAHAN
Clerk of the Conseil exécutif

Internal Regulation of the Comité paritaire de l'industrie des services automobiles de la région de Montréal

Act respecting collective agreement decrees
(chapter D-2, ss. 18, 1st par. and 22, 2nd par., subpar. *l*).

DIVISION I
SCOPE

1. **Application** — This Regulation applies to contracting parties of the Comité paritaire de l'industrie des services automobiles de la région de Montréal, to members of the board of directors of the parity committee and to employees and, if applicable, to consultants of the parity committee.

This Regulation supplements the General Regulation to govern the regulations of a parity committee (chapter D-2, r. 17). In the event the provisions of this Regulation are inconsistent or raise a doubt in their interpretation with those of the General Regulation, the latter provisions prevail.

DIVISION II
CONSTITUTION AND MISSION OF THE PARITY COMMITTEE

2. **Name** — The name of the parity committee is: "Comité paritaire de l'industrie des services automobiles de la région de Montréal".

In this Regulation, it is hereafter designated under the name "parity committee".

3. **Head office** — The head office of the parity committee is situated in Ville de Montréal. Its address is posted on the parity committee's website.

4. **Mission** — The parity committee oversees the application of and ascertains compliance with the Decree respecting the automotive services industry in the Montréal region (chapter D-2, r. 10), in accordance with the Act respecting collective agreement decrees (chapter D-2). To that end, it must, in particular,

(1) advise and inform the employees and professional employers of the conditions of employment determined in the Decree;

(2) exercise all recourses arising out of the Decree or the Act respecting collective agreement decrees; and

(3) hear and consider written complaints relating to the Decree from professional employers and from employees and, if necessary, initiate the appropriate procedures.

5. **Rights, powers and obligations** — The parity committee has the rights, powers and obligations conferred on it by the Act respecting collective agreement decrees (chapter D-2).

DIVISION III
BOARD OF DIRECTORS OF THE PARITY COMMITTEE

§1. Composition and appointment of the members of the board of directors

6. **Composition** — The parity committee is administered by a board of directors composed of 14 members appointed by the contracting parties as follows:

(1) for the employer party:

(*a*) 2 members from the Corporation des concessionnaires d'automobiles de Montréal inc.;

(*b*) 1 member from the Automobile Industries Association of Canada;

(*c*) 1 member from the Association des spécialistes de pneu et mécanique du Québec (ASPMQ);

(*d*) 1 member from the Association des marchands Canadian Tire du Québec;

(*e*) 1 member from the Association des services de l'automobile;

(*f*) 1 member from the la Corporation des carrossiers professionnels du Québec;

(2) for the union party:

(*a*) 5 members from Unifor section locale 4511;

(*b*) 2 members from the Syndicat national des employés de garage du Québec inc.

7. **Substitution** — Each contracting party may appoint one or more substitutes to sit if a member it has appointed is absent or unable to act. A substitute has the same rights and privileges as the member being replaced.

Reasons for absence or inability to act may include an illness, a family or professional obligation, a personal leave or a conflict of interest.

8. **Attestation and training** — On taking office, a member or substitute must send the secretary a document attesting to member's appointment; the document must be signed by a person authorized by the appointing contracting party.

Each member or substitute must also receive training from the general manager, or the person designated by the general manager, on the functions and responsibilities of members of the board of directors. The training must take place in a timely manner after the appointment.

9. **Term of appointment** — The members of the board of directors are appointed for a term of one year, which may be renewed, consecutively or not, for the same duration. The total duration of terms served, however, must not exceed 12 years.

At the end of their term, members remain in office until they are replaced or re-appointed.

10. **Replacement** — A vacancy on the board of directors is filled in the manner set out for the appointment of the member to be replaced, for the remainder of the term. Despite section 9, where a member is appointed to sit on the board of directors in consideration of the position held within a contracting party and the member is removed from office, the member is replaced by the successor to that position, for the remainder of the term.

Despite section 9, a contracting party must replace a member it has appointed if the member is no longer qualified to exercise the function following a decision of the board of directors that acknowledged, at a special meeting convened for the purpose, that the member has not complied with an obligation under sections 33 to 36, 38, 39 and 41 to 46 of the General Regulation to govern the regulations of a parity committee (chapter D-2, r. 17).

The secretary is to inform the contracting parties in writing when a member is replaced.

11. **Absence** — If a member is absent from 3 consecutive regular meetings without valid reason, the member's office automatically becomes vacant and the secretary is to immediately inform the appointing contracting party accordingly in writing.

12. **Vacancy** — A vacancy on the board of directors is filled by the relevant contracting party before the next regular meeting is held.

13. **Election** — The board of directors elects, from among its members, a chair and a vice-chair. If the chair is a representative of the employer contracting party, the vice-chair is a representative of the union contracting party and vise versa.

The chair and vice-chair are elected for a one-year term. Their terms are renewable, consecutively or not, without exceeding a total duration of 12 years.

The chair and vice-chair are elected each year on an alternating basis by the members of the contracting party they represent.

§2. Meetings of the board of directors

14. **Regular meeting** — A regular meeting must be held once a month, on the 2nd Tuesday of the month, unless otherwise specified, excepting during the month of August.

15. **Special meeting** — The holding of a special meeting may be decided by the board of directors at a regular meeting, by the chair or by the vice-chair. The secretary must also convene a special meeting on the written request of at least 4 members, at least 2 being members of the employer contracting party and 2 being members of the union contracting party.

The subjects discussed at the special meeting are limited to those specified in the notice of convocation.

16. **Annual meeting** — The board of directors holds an annual meeting each year during the month of January or at the latest before the end of the month of March.

At the meeting, it elects the chair and vice-chair and designates an independent auditor to prepare the parity committee's financial statements.

17. **Chairing of meetings** — Meetings are chaired by the chair or, in the absence of the chair, the vice-chair. If both the chair and the vice-chair are unable to act, at the beginning of each meeting the board of directors designates a member to chair the meeting.

The chair and the vice-chair also exercise the functions and powers conferred on them by the board of directors.

18. **Place of meetings** — Meetings of the board of directors are held at the head office of the parity committee, or elsewhere within the territorial scope determined in section 2.02 of the Decree respecting the automotive services industry in the Montréal region (chapter D-2, r. 10) if a resolution to that effect was passed at the previous meeting.

The members of the board of directors may, however, pursuant to the consent of a majority of the members, participate in a meeting using technological means allowing all participants to immediately communicate with each other.

19. **Notice of convocation** — At least 2 working days before a meeting is to be held, a written notice of convocation stating the date, time, type and place of the meeting and, if applicable, the technological means for participating in the meeting, must be sent to each member of the board of directors.

The meeting agenda and all documents relating to the subjects entered on the agenda must be sent with the notice of convocation. The meeting agenda must specify all the subjects that will be discussed at the meeting.

If a decree or a regulation under the Act respecting collective agreement decrees (chapter D-2) is to be made, amended or revoked, the notice of convocation must be sent at least 8 working days before the meeting and state the draft decree or regulation involved.

Despite the foregoing, this section does not apply in the case of an emergency or if the meeting has been adjourned.

The members of the board of directors may waive the notice of convocation to a meeting. Their mere attendance constitutes a waiver of the notice, unless beforehand they contested the legality of the convocation.

20. **Quorum** — The quorum at a meeting of the board of directors is 8 members, at least 4 of whom are members of the employer contracting party and 4 are members of the union contracting party.

21. **Vote** — At a meeting, decisions are made by a majority vote of the members present, including the chair.

In the case of a tie vote, the chair has a casting vote.

22. **Subcommittee** — The board of directors may, by resolution, form one or more subcommittees to contribute to the carrying out of its administrative responsibilities.

Sections 18, 19 and 23 apply to the meetings of a subcommittee.

23. **Procedure** — In the case of procedures not provided for in this Regulation, the Code de procédure des assemblées délibérantes by Victor Morin applies.

DIVISION IV
APPOINTMENT AND FUNCTIONS OF CERTAIN EMPLOYEES OF THE pARITY COMMITTEE

24. **Appointment of a general manager and a secretary** — The board of directors must appoint a general manager and a secretary. It may also appoint one or more assistant general managers whose duties the parity committee determines in a resolution. The same person may hold more than one function.

25. **Functions of the general manager** — The general manager manages and administers the day-to-day affairs of the parity committee in compliance with the applicable rules of law, the orientations of the board of directors and sound and prudent management practices.

The function of general manager is a full-time function.

In addition to the functions set out in sections 27 to 30 of the General Regulation to govern the regulations of a parity committee (chapter D-2, r. 17), the functions of the general manager consist in

(1) supervising personnel members of the parity committee, including, with the board of director's approval, hiring, assessing, imposing disciplinary measures or terminating the employment of any personnel member, in accordance, as applicable, with the staffing plan or the directives of the board of directors;

(2) overseeing the keeping of the books, archives and documents of the parity committee in accordance with the directives of the board of directors or until a court, the Minister or a public servant authorized by the Minister orders the parity committee to divest itself of them or destroy them;

(3) attending the meetings of the board of directors and carrying out the decisions made at the meetings;

(4) seeing to the preparation of the reports, statistics and financial statements requested by the board of directors or the Minister pursuant to the Act respecting collective agreement decrees (chapter D-2) and the Decree respecting the automotive services industry in the Montréal region (chapter D-2, r. 10);

(5) collecting money owing to the parity committee, depositing it in a banking institution, a financial services cooperative within the meaning of the Act respecting financial services cooperatives (chapter C-67.3) or a financial institution authorized under the Trust Companies and Savings Companies Act (chapter S-29.02) designated by the board of directors, and retaining all amounts so collected until they are disposed of in accordance with the purposes authorized by the board of directors;

(6) keeping the accounting records of the parity committee, in particular, the accounts of

(*a*) all amounts of money received and disbursed, itemized and supported by vouchers;

(*b*) the assets and liabilities of the parity committee; and

(*c*) any other transaction affecting the financial situation of the parity committee.

The accounts are kept according to generally accepted accounting principles. The general manager must obtain and keep receipts of all payments made by the parity committee, produce them for audit and inspection purposes and file them in the archives of the parity committee;

(7) providing security in the form of an insurance policy approved beforehand by the Minister, for which the insurance premium is paid by the parity committee;

(8) developing, at the request of the board of directors, the strategic orientations and governance rules of the parity committee, in particular a strategic plan, a statement of services, a code of ethics and conduct applicable to members of the board of directors and another applicable to the employees of the parity committee, a complaint processing policy and a decision review policy;

(9) developing, at the request of the board of directors, draft regulations and projects dealing with policies, system implementation and work methods or means conducive to enhancing administrative efficiency, and seeing to their application;

(10) advising the board of directors on any measure to be taken regarding the carrying out of its terms of reference;

(11) reviewing the mail and communications addressed to the parity committee and ensuring prompt processing;

(12) examining accounts for which payment is claimed and, if they are accurate, submitting them to the parity committee for approval, and reporting to the parity committee;

(13) examining procurement requests and the other expenditures incurred in the normal course of the parity committee's business, authorizing them if they are accurate and comply with the decisions of the parity committee, and reporting to the parity committee;

(14) studying the parity committee's draft regulations and providing observations and suggestions to the parity committee regarding the provisions of those draft regulations;

(15) advising the board of directors on measures to take to foster compliance with the regulations;

(16) seeing that the amounts of money voted by the board of directors are used for the purposes for which they were voted;

(17) examining complaints and claims and reporting on them to the board of directors; and

(18) performing any other task the board of directors entrusts to the general manager.

26. **Functions of the secretary** — The functions of the secretary are as follows:

(1) convening and preparing the agenda for meetings of the board of directors in accordance with the directives of the chair and the general manager;

(2) attending the meetings of the board of directors and drawing up the minutes of the discussions and decisions; and

(3) acting as custodian of the seal of the parity committee and certifying any extract or true copy from the minute book of the meetings of the board of directors.

DIVISION V
DELEGATION OF AUTHORITY AND SIGNING

27. **Absence of the general manager or the secretary** — If the general manager or the secretary is absent or unable to act for a period of more than two weeks, the board of directors must appoint a person to temporarily perform their duties.

28. **Bank bills** —Payment orders are signed by the chair and by the general manager. If the chair or the general manager is unable to act, the vice-chair is authorized to sign in the chair's place and the assistant general manager is authorized to sign in the general manager's place.

The receipts and bank bills relating to every payment made by the parity committee are kept at the head office of the parity committee and must be produced for audit and inspection purposes.

29. **Approval of accounts** — Unless otherwise provided by another regulation, every payment made outside the normal course of business of the parity committee must first have been approved by the board of directors.

30. **Approval and signing of contracts** — Contracts are approved by the board of directors and signed by the chair and by the general manager. If the chair or the general manager is unable to act, the vice-chair is authorized to sign in the chair's place and the assistant general manager is authorized to sign in the general manager's place.

DIVISION VI
ATTENDANCE ALLOWANCE AND TRAVELLING EXPENSES

31. **No remuneration** — The members of the parity committee are not remunerated. They are, however, entitled to an attendance allowance and to be reimbursed for actual travelling expenses.

32. **Allowance** — The attendance allowance and travelling expenses are granted to a member who participates in a meeting of the board of directors or one of its subcommittees.

33. **Amount of the allowance** — The parity committee pays an attendance allowance of $200 per day to its members following their participation in a meeting of the board of directors or one of its subcommittees.

The total amount of allowances paid to a member may not exceed $5,000 per year.

34. **Costs** — The parity committee reimburses the actual travelling expenses incurred by its members to participate in person in a meeting of the board of directors or one of its subcommittees.

Actual travelling expenses are composed of the costs for transportation, meals and accommodation and are reimbursed on submission of vouchers and in accordance with the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents (C.T. 194603, 2000-03-30).

No expenses are reimbursed for the virtual participation of a member in a meeting of the board of directors or one of its subcommittees.

DIVISION VII
MISCELLANEOUS AND FINAL

35. **Fiscal year** — The fiscal year of the parity committee ends on 31 December each year.

36. **Replacement** — This Regulation replaces the Regulation respecting the constitution of the Comité paritaire de l'industrie des services automobiles de la région de Montréal, approved by Order in Council No. 224 of 22 February 1950, and its subsequent amendments, and the Règlement sur l'allocation de présence et sur les frais de déplacement des membres du conseil d'administration du Comité paritaire de l'industrie des services automobiles de la région de Montréal, approved by Order in Council 748-2013 of 19 June 2013.

37. **Coming into force** — This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

107369

Draft Regulation

Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20)

Issuance of competency 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 issuance of competency certificates, made by the Commission de la construction du Québec and appearing below, may be submitted to the Government which may approve it, without or without amendment, on the expiry of 45 days following this publication.

The draft Regulation ensures coherence by allowing the issuance of an occupation competency certificate (OCC) for a construction trade to any person who has held an OCC in the past and prove they have worked 750 hours performing tasks that correspond to an occupation within the scope of application of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) (the "Act").

Since 30 November 2024, the Commission de la construction du Québec may issue an OOC to a person who proves that they have worked 750 hours performing tasks that correspond to an occupation outside the scope of application of the Act.

Taking into account that the objective is to enable the construction industry to benefit from new workers with certain experience in the field, it is appropriate and coherent that workers who have held an OCC in the past be able to benefit from the same conditions with respect to the recognition of hours worked in the industry.

By broadening the calculation of the 750 hours of work to hours worked within the scope of application of the Act, the draft Regulation resolves the incoherence caused by the measure in its current form. Since the amendment provides for the reintegration into the industry of persons who have already worked in construction and held an OCC, section 7.1 becomes redundant and is therefore revoked.

Further information on the draft Regulation may be obtained by contacting Audrey Murray, President and Chief Executive Officer, Commission de la construction du Québec, 8485, avenue Christophe-Colomb, Montréal (Québec) H2M 0A7; telephone: 514 341-7740, extension 6331; email: bureaupdg@ccq.org.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Audrey Murray, President and Chief Executive Officer, Commission de la construction du Québec, 8485, avenue Christophe-Colomb, Montréal (Québec) H2M 0A7; email: bureaupdg@ccq.org. The Commission will forward the comments to the Minister of Labour.

AUDREY MURRAY
President and Chief Executive Officer

Regulation to amend the Regulation respecting the issuance of competency certificates

Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20, s. 123.1, 1st par., subpar. 7).

1. The Regulation respecting the issuance of competency certificates (chapter R-20, r. 5) is amended in section 4 by replacing subparagraph 5 of the first paragraph by the following:

"(5) this person has worked at least 750 hours performed as an occupation and declared in accordance with the Regulation respecting the register, monthly report, notices from employers and the designation of a representative (chapter R-20, r. 11), or proves that he or she has worked at least 750 paid hours performing tasks that correspond to an occupation outside the scope of application of this Act, such correspondence being shown by the tools used and the circumstances in which the tasks are performed, and this person's employer registered with the Commission files a workforce request and, except where this person is a woman or a person who is representative of the diversity of Québec society, furnishes to the Commission proof that the employer guarantees this person employment for not less than 150 hours over a period not exceeding 3 months.".

2. Section 7.1 is revoked.

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

107370

Draft Regulation

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

Act mainly to promote Québec-sourced and responsible procurement by public bodies, to reinforce the integrity regime of enterprises and to increase the powers of the Autorité des marchés publics
(2022, chapter 18)

Prompt payments and the prompt settlement of disputes with regard to construction work

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting prompt payments and the prompt settlement of disputes with regard to construction work, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation supplements the provisions of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1), enacted by the Act mainly to promote Québec-sourced and responsible procurement by public bodies, to reinforce the integrity regime of enterprises and to increase the powers of the Autorité des marchés publics (2022, chapter 18), by determining the rules governing the payment of sums claimed by enterprises that are a party to a public contract for construction work referred to in the Act respecting contracting by public bodies or to a related public subcontract. It also determines the disputes that may be submitted to a third-person decider under the Act, the conditions for submitting a dispute, and the rules governing the dispute settlement process. In addition, the draft Regulation determines the standards with which persons, bodies and associations designated by the Minister of Justice to certify third-person deciders must comply, establishes the conditions that a person must meet to be certified to act as a third-person decider, and determines the standards with which such a person must comply when acting as a third-person decider. Last, the draft Regulation establishes the rules governing the fees and other costs that the parties to a dispute may be required to pay when the dispute is submitted to a third-person decider.

The draft Regulation will have no impact on citizens. However, it will have an impact on enterprises that carry out construction work on behalf of public bodies, which will have to comply with certain rules when requesting payment for the work completed and when paying or refusing to pay their subcontractors, if any.

Further information on the draft Regulation may be obtained by contacting Robert Villeneuve, Director General, Direction générale de l'encadrement, Sous-secrétariat aux marchés publics, Secrétariat du Conseil du trésor, 875, Grande Allée Est, Québec (Québec) G1R 5R8; telephone: 418 643-0875, extension 4938; email: robert.villeneuve@sct.gouv.qc.ca; and Mtre. Sophie Vézina, coordinator, Direction du développement de l'accès à la justice, Sous-ministériat des orientations et de l'accès à la justice, Ministère de la Justice, 1200 route de l'Église, Québec (Québec) G1V 4M1; telephone: 418-643-1222, extension 21530; email: sophie.vezina@justice.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Robert Villeneuve and Mtre. Sophie Vézina using the contact information above.

SONIA LEBEL
Minister Responsible for Government Administration and Chair of the Conseil du trésor

SIMON JOLIN-BARRETTE
Minister of Justice

Regulation respecting prompt payments and the prompt settlement of disputes with regard to construction work

Act respecting contracting by public bodies
(chapter C-65.1, s. 21.48.21, 1st par., s. 21.48.23, s. 21.48.24, 1st and 2nd pars., s. 21.48.25, s. 21.48.26, 1st and 2nd pars., s. 21.48.27, 2nd and 3rd pars., and ss. 21.48.31, 21.48.32 and 24.3).

Act mainly to promote Québec-sourced and responsible procurement by public bodies, to reinforce the integrity regime of enterprises and to increase the powers of the Autorité des marchés publics
(2022, chapter 18, ss. 113 and 151).

CHAPTER I
GENERAL

1. Where this Regulation requires a thing to be done on a particular date and that date falls on a holiday, such thing may validly be done on the next following working day.

A holiday is any day understood as such within the meaning of section 61 of the Interpretation Act (chapter I-16) as well as Saturdays, 2 January and 26 December.

2. In computing a time period prescribed by this Regulation, the day marking the start of the period is not counted and the last day is counted. Holidays are counted, but when the last day is a holiday, the period is extended to the next following working day.

3. When the Act respecting contracting by public bodies (chapter C-65.1) or this Regulation specifies that a sum of money bears interest, the rate of interest applicable is the higher of the legal rate and the rate agreed by the parties, if any.

4. In any provision of this Regulation applicable to a contractor that is a party to a public subcontract, a reference to a contractor is also a reference to a service provider and a reference to work under a subcontract is also a reference to services under a subcontract if a main contractor subcontracts professional services under a mixed contract for construction work and professional services or a contract to devise savings from the improvement of energy efficiency referred to in section 1 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5).

CHAPTER II
PROMPT PAYMENT SCHEME

DIVISION I
REQUEST FOR PAYMENT

5. For the purposes of section 21.48.21 of the Act, a request for payment must be sent by a contractor to the debtor on the date which, out of the following dates, applies to the contractor's situation:

(1) in the case of a contractor that is a party to a public contract referred to in that section: the 1st day of the month;

(2) in the case of a subcontractor and in connection with a public subcontract that is directly or indirectly related to a public contract referred to in that section: not later than the 25th day of the month.

The request for payment must, in addition, include the following information:

(1) the name and address of the contractor requesting payment;

(2) the number of the public contract, if the claim results from a public contract;

(3) a detailed description of the work carried out, the expenses incurred and any other element for which a sum of money is claimed under the contract or subcontract pursuant to this Regulation;

(4) the period or periods associated with each element referred to in subparagraph 3;

(5) the total sum of money claimed and a breakdown of the total for each element referred to in subparagraph 3;

(6) the name and contact information of the representative of the contractor who may be contacted.

Despite subparagraph 3 of the second paragraph, a subcontractor may include in the request for payment work yet to be carried out or expenses yet to be incurred on the date of the request, but which the subcontractor expects to carry out or incur before the end of the month during which the request is sent. A contractor that receives such a request for payment may, in turn, include such items in the request for payment sent to the debtor.

If the request for payment is made by a main contractor, the request must also indicate any part of the total sum claimed, expressed as a monetary value, that constitutes a sum of money claimed by a subcontractor of the contractor and identify the subcontractor concerned. For the purposes of this Regulation, a main contractor is a contractor that is a party to a public contract and that subcontracts all or part of the work under the contract, whether the contractor acts in the capacity of a general contractor or in the capacity of a specialized contractor within the meaning of the Regulation respecting the professional qualification of contractors and owner-builders (chapter B-1.1, r. 9).

The request must be made in writing and be dated and signed by the contractor's representative.

6. A public body may make the validity of a request for payment made by a contractor that is a party to a public contract conditional on the presentation of supporting documents, provided that the condition and the documents required are specified in the public contract.

Contractors that are parties to a public subcontract may agree among themselves to make the validity of a request for payment conditional on the presentation of supporting documents, provided that the agreement is recorded in writing.

A contractual clause giving effect to this section may require the presentation only of documents that are essential for an assessment of the request for payment concerned.

7. A debtor that considers that a request for payment is not valid may allow the contractor that sent it to amend it in order to correct any deficiency.

A request for payment is deemed to be valid if the debtor has not raised the question of its invalidity before or not later than the date which, pursuant to section 10, is the deadline for a refusal to pay.

The presumption under the second paragraph does not apply to a request that is invalid because of the date on which it was sent. In such a case the debtor must, unless it decides to overlook the invalidity, consider that the request was validly sent during the month following.

8. A request for payment that has been sent by a contractor to a debtor may be amended in any way on which both parties agree.

An amended request for payment does not constitute a new request for payment. For the purposes of this Regulation, the date on which the request is sent remains the date on which it was initially sent to the debtor.

9. No agreement may make the sending of a request for payment conditional on authorization from the debtor, whatever the form of the authorization.

DIVISION II
REFUSAL TO PAY

10. A debtor must indicate its refusal to pay all or part of a sum of money claimed by means of a valid request for payment not later than the date that applies to its situation, as follows:

(1) in the case of a public body: not later than the 21st day of the month during which it receives the request;

(2) in the case of a main contractor: not later than the last day of the month during which it receives the request;

(3) in the case of a subcontractor: not later than the day before the day on which it sends its own request for payment to its debtor.

11. A refusal to pay all or part of a sum of money the payment of which is validly claimed must be expressed in a written notice containing the following information:

(1) the part of the total amount of the request for payment that is refused, expressed as a monetary value;

(2) a description of the work, expenses or elements of the request for payment to which the refusal to pay applies;

(3) the grounds for the refusal to pay, which must be sufficiently detailed to allow them to be assessed by the creditor;

(4) if applicable, the contractual or legal provisions on which the reasons for the refusal to pay are based.

12. If a request for payment from a contractor that is a party to a public contract concerns work resulting from a change relating to the scope of the work under the contract or to the conditions for the performance of the contract and if, when the request for payment was sent to the public body, the value of the change had yet to be agreed on by the parties or determined by the public body, the public body may not, solely for that reason, refuse to pay the amount claimed for the work.

If the public body disagrees with the estimated value of the change on which the contractor's claim is based, it may refuse to pay the part of the amount claimed which exceeds the estimated and detailed amount of the change determined by the public body in accordance with section 46 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5). In such a case, the notice of refusal must specify the estimated and detailed amount.

This section does not prevent a public body from refusing to pay all or part of a request for payment for a reason other than the value of the work.

13. A contractor that receives a request for payment from a subcontractor concerning work referred to in the first paragraph of section 12 may not refuse to pay the amount claimed for the work solely for the reason that the value of the change has yet to be agreed by the parties to the public contract or determined by the public body. A contractor that disagrees with the value of the work established by the subcontractor may, however, refuse to pay part of the amount claimed.

This section does not prevent a contractor from refusing to pay all or part of a request for payment for a reason other than the value of the work.

14. A refusal to pay may not be based on a ground that may be invoked for a deduction or a withholding in accordance with the provisions of Division IV.

DIVISION III
DEADLINE FOR PAYMENT

15. A debtor must pay the creditor by one of the following deadlines, depending on the debtor's situation:

(1) in the case of a public body: not later than the last day of the month during which the request for payment is received;

(2) in the case of a contractor that is a party to a public contract: not later than the 5th day of the second month following the month during which the request for payment is received;

(3) in the case of a subcontractor that is a party to a public subcontract directly related to a public contract: not later than the 10th day of the second month following the month during which the request for payment is received.

If the subcontracting chain has more than two subcontracting levels, the deadline specified in subparagraph 3 of the first paragraph is extended by five days for each additional level.

DIVISION IV
DEDUCTIONS AND WITHHOLDINGS FROM SUMS OWED

§1. Deductions

16. A contractor may deduct, from a payment owed to one of its subcontractors, an amount representing the sum claimed by the subcontractor for work that is identified in a notice of refusal to pay made by another debtor in the contracting chain.

However, such a deduction may only be made if the contractor has first sent the subcontractor a copy of the notice of refusal to pay on which the deduction is based and a written notice setting out the monetary value of the deduction. A main contractor must send the notices not later than the 24th day of the month during which it receives the notice of refusal from the public body. A subcontractor that has also subcontracted work must send the notices within two days of receiving the notice of deduction sent by the debtor.

The fact that a contractor has exercised the right of deduction provided for in the first paragraph does not prevent a subcontractor from claiming the sums deducted from that contractor if the subcontractor considers that the sums are owed to it pursuant to the public subcontract to which both are parties.

17. A public body relying on a penalty clause in a public contract may deduct the amount of the stipulated penalty from the payment owed to a main contractor that is a party to the public contract.

Similarly, a contractor that avails itself of a penalty clause in a public subcontract may deduct the amount of the stipulated penalty from the payment owed to a subcontractor.

18. A public body must deduct an amount equal to the amount allocated to the payment of a fiscal debt pursuant to section 31.1.1 of the Tax Administration Act (chapter A-6.002) from the payment owed to a contractor that is a party to a public contract.

19. A debtor making a deduction pursuant to section 17 or 18 must state the grounds for and amount of the deduction to the creditor.

§2. Withholding at the initiative of a public body

20. A public body may, to ensure performance by a contractor that is a party to a public contract and, if applicable, by the contractor's subcontractors, withhold part of a sum of money owed to the contractor under that contract. The withholding may not exceed 10% of the sum owed.

A main contractor subject to a withholding may, in turn, withhold part of a sum it is required to pay to a subcontractor. The percentage of the withholding may not, however, exceed the percentage of the withholding applied to the main contractor by the public body. A subcontractor subject to a withholding that has also subcontracted work may in turn avail itself of this paragraph, with the necessary modifications, and in the same manner until the end of the subcontracting chain.

The right to withhold payment set out in this section may only be exercised by a public body if the right and the procedure for exercising the right are specified in the public contract. The details must include the percentage of the withholding that applies and the conditions on which any sum withheld may be claimed by the main contractor, subject to the conditions set out in this sub-subdivision.

In addition, the right may only be exercised by a contractor that is a party to a public contract or another contractor that is a party to a public subcontract if it is specified in a written agreement between the parties concerned.

21. A contractor may, when work has been accepted by a public body, claim the payment of any sum withheld pursuant to section 20 that remains unpaid on the date of acceptance.

For the purposes of the first paragraph, when a contractor considers that work under a public contract has been completed and is ready to be used for its intended purpose and that the public body is delaying acceptance, it may send the public body a written notice demanding that it accept the work. The public body must respond to the notice within 60 days after the date on which it receives it. If the public body fails to respond within that time, the contractor may claim the payment of any sum referred to in the first paragraph.

If the contractor claims the payment of any sum in accordance with the second paragraph, the public body is deemed to have accepted the work on the date on which the request for payment including the claim is received,

provided the request is valid. However, the public body may make reservations for apparent defects or apparent poor workmanship in the work within the time limit to pay the sum claimed.

Where this section applies, the contractor's liability for loss of the work provided for by article 2115 of the Civil Code lasts until the date of acceptance of the work established in accordance with the third paragraph, despite the sending of a notice in accordance with the second paragraph.

22. A public body may withhold, from any sum of money owed to a contractor that is a party to a public contract, an amount sufficient to cover the reservations made as to the apparent defects or apparent poor workmanship in the work.

However, if the reservations are made at the time when the work is accepted, and if sums have already been withheld pursuant to section 20, only the sums which, in addition to those sums, are sufficient to cover the reservations may be withheld pursuant to the first paragraph.

Despite the first paragraph, the public body may not exercise the right to withhold payment if the contractor has provided sufficient security to guarantee the performance of its obligations resulting from defects or poor workmanship in the work.

A main contractor from which payment is withheld may, in turn, withhold payment to a subcontractor whose work is connected to the repairs or corrections required in proportion to the share of the cost of the repairs or corrections that the main contractor attributes to each subcontractor. Any other contractor that subcontracts work may rely on this paragraph, adapted as required.

23. A public body may withhold, from a sum of money owed to a contractor that is a party to a public contract, an amount sufficient to repair any damage caused by the contractor or by a subcontractor to the work or, in the case of renovation work, the building on which the work is performed.

A main contractor from which a sum is withheld may, in turn, apply a withholding to a subcontractor that caused the damage or, if the damage was caused by several subcontractors, to each such subcontractor in proportion to the cost of the repairs that the main contractor attributes to each subcontractor. Any other contractor that subcontracts work may avail itself of this paragraph, with the necessary modifications.

Despite the first paragraph, the public body may not withhold an amount pursuant to that paragraph if the contractor has provided sufficient security to guarantee the performance of its obligations resulting from the damage caused to the work.

24. A contractor may claim the payment of all or part of a sum withheld by a public body pursuant to section 22 or 23 as soon as the public body declares that it is satisfied by the repairs or corrections made to the work or the building on which the work is performed.

For the purposes of the first paragraph, a contractor that considers that it has completed the work intended to repair or correct either the defects or poor workmanship that led the public body to make a reservation, or the damage caused to the work or the building on which the work is performed, and considers that the public body is delaying declaring itself satisfied, may send a written notice demanding that the public body make a declaration concerning the repairs or corrections.

The public body must respond to the notice within 60 days after the date on which it receives it. If the public body fails to respond within that time, the contractor may claim the payment of any sum referred to in the first paragraph.

If the contractor claims the payment of any sum in accordance with the third paragraph, the public body must assess the repairs or corrections within the time limit to pay the sum withheld. The public body may continue to withhold the sums needed to complete the repairs or corrections to its satisfaction.

25. A public body may, to ensure that the claims of subcontractors are paid by the contractor or to pay the claims itself, withhold from any sum of money it is required to pay to the main contractor under a public contract a sum previously paid for work performed by a subcontractor of the main contractor. This right to withhold a sum of money may be exercised both with regard to the claims of subcontractors that can invoke a legal hypothec on the immovable property and with regard to the claims of subcontractors that cannot invoke such a legal hypothec.

The main contractor may claim all or part of the sum withheld once it has paid all or part of the claim of the subcontractor.

Despite the first paragraph, the public body may not exercise the right to withhold payment if the contractor has provided sufficient security to guarantee payment of the claims of its subcontractors.

26. A public body may withhold, from any sum of money it is required to pay to a contractor that is a party to a public contract, an amount sufficient to pay the claims of persons other than the contractor's subcontractors who can invoke a legal hypothec on an immovable and have given notice of their contract to the contractor, for work completed or materials or services supplied after the notice is given.

The contractor may claim the payment of all or part of a sum withheld by the public body pursuant to the first paragraph once all or part of such a claim has been paid.

Despite the first paragraph, the public body may not exercise the right to withhold payment pursuant to that paragraph if the contractor has provided sufficient security to cover the claims concerned.

27. To claim payment of a sum of money withheld from it by a public body pursuant to one of sections 20 to 26, a contractor that is a party to a public contract must include the claim with a request for payment in accordance with the provisions of Division I.

In addition, where the sum of money was withheld pursuant to section 25 or 26, the contractor must include with the request for payment full or partial acquittance from its creditor for the sum paid to it, unless the public contract allows the contractor to include only a written declaration specifying the sum paid to its creditor.

28. A public body may withhold the entire amount payable to a contractor that is a party to a public contract after receiving the contractor's final request for payment if the contractor has not provided all the following documents on the conditions stated:

(1) not later than the day of receipt of the final request for payment, a written confirmation from the Commission des normes, de l'équité, de la santé et de la sécurité du travail that no assessment that the public body could be required to pay pursuant to section 316 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) is owed by the contractor;

(2) not later than the 25th day of the month during which the final request for payment is received, the final acquittances of all the subcontractors, including those relating to any part of the final payment to which a subcontract is entitled, and those relating to the claims referred to in the first paragraph of section 26;

(3) any other document requested by the public body pursuant to the public contract, within the time and according to any other conditions stated in the contract.

A public body may withhold payment pursuant to this section until all the required documents have been provided to the public body. However, the public body may decide to pay part of the amount withheld upon receipt of certain documents.

The right to withhold payment pursuant to this section applies despite any other provision of this sub-subsection giving the contractor the right to claim payment of a withheld amount.

§3. Withholding by a contractor

29. A contractor that is a party to a public subcontract may withhold all or part of a sum of money payable to a creditor pursuant to that subcontract, provided that the right to withhold payment, the purpose for which payment may be withheld, and the terms and conditions for exercising that right are specified in a written agreement between the parties concerned.

Despite the first paragraph, payment may not be withheld by a contractor if it targets the same purpose as a withholding of payment by the public body that is a party to the contract.

30. To claim the payment of a sum of money withheld from it by another contractor, a contractor must include its claim in a request for payment in accordance with the provisions of Division I.

DIVISION V
EXCLUSIONS FROM THE SCHEME

31. The following public contracts for construction work are excluded from the application of Division II of Chapter V.2 of the Act:

(1) contracts entered into in an emergency because of a threat to human safety or property;

(2) contracts of the Ministère des Transports or the Société québécoise des infrastructures which, when they are entered into provide, first, that the work must be completed over a continuous period of 3 months or less and, second, that the amounts owed by the Minister or the Société under the contract will be paid in a single instalment.

A public subcontract directly or indirectly related to a public contract referred to in the first paragraph is also excluded from the provisions specified.

A public body referred to in subparagraph 2 of the first paragraph may not divide or allocate construction work to ensure that the contracts entered into for the completion of the work are excluded, through the operation of that subparagraph, from the prompt payment scheme.

32. A monetary claim to compensate for a loss of profit, productivity or a business opportunity that a contractor considers it has suffered because of a change relating to the scope of the work specified in a public contract or public subcontract, or to the conditions for its performance, is excluded from the application of Division II of Chapter V.2 of the Act.

CHAPTER III
PROMPT DISPUTE SETTLEMENT SCHEME

DIVISION I
DISPUTES COVERED AND CONDITIONS FOR THE EXERCISE OF THE RIGHT TO HAVE RECOURSE TO A THIRD-PERSON DECIDER

33. This Chapter applies to every dispute arising between the parties to a public contract referred to in subparagraph 2 of the first paragraph of section 3 of the Act or to a public subcontract directly or indirectly related to such a contract. Such a dispute may, in particular, concern

(1) the validity of a request for payment or the compliance of a refusal to pay, a deduction or a withholding with regard to the legal and contractual requirements;

(2) the justification for a refusal to pay, deduction or withholding with regard to the legal and contractual requirements;

(3) the existence or value of a change relating to the scope of the work provided for in the contract or subcontract or to the conditions for its performance;

(4) the payability of a sum of money and the interest applicable, if any;

(5) any other question concerning the application or interpretation of the contract or subcontract and the normative framework applicable.

Despite the first paragraph, the following disputes may not be submitted to a third-person decider:

(1) a dispute that the parties have not attempted to settle amicably;

(2) a dispute relating to a monetary claim referred to in section 32.

It is understood that the public contracts referred to in the first paragraph include mixed contracts for construction work and professional services and contracts to devise savings from the improvement of energy efficiency referred to in section 1 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5).

34. In order to avail itself of the right to have recourse to a third-person decider, a party to a dispute referred to in the first paragraph of section 33 must notify a notice of intervention to the other contracting party on the date which, out of the following dates, applies to the situation:

(1) if the dispute arises from a public contract, the date occurring 90 days after the date on which the public body accepted the work without reservations or, if it accepted the work with reservations, the date on which it declared that it was satisfied with the repairs or corrections made to the work;

(2) if the dispute arises from a public subcontract, the date occurring 90 days after the end date for the work agreed on by the parties to the subcontract.

35. Despite sections 33 and 34, the right to have recourse to a third-person decider may not be exercised if

(1) the dispute has already been settled by a third-person decider following an intervention under the provisions of this Regulation;

(2) the difficulty giving rise to the dispute has already been resolved by a third-person decider pursuant to the second paragraph of section 59;

(3) the party that intends to exercise the right has previously submitted a request for intervention concerning the same dispute and one of the following situations applies:

(*a*) that party has voluntarily withdrawn its request after a third-person decider was designated to conduct the intervention;

(*b*) that party is deemed to have withdrawn its request pursuant to the provisions of this Chapter;

(*c*) the third-person decider designated to settle the dispute has rendered a decision, in accordance with the first paragraph of section 51, ruling that the party was not entitled to exercise the right to have recourse to a third-person decider for the dispute concerned or that it abused that right;

(4) the dispute is already the subject of judicial or arbitral proceedings between the same parties.

36. A party to a dispute may not dissociate the constituting elements of the dispute in order to file multiple requests for intervention, or otherwise act to abuse the right to have recourse to a third-person decider.

DIVISION II
DISPUTE SETTLEMENT PROCESS BEFORE A THIRD-PERSON DECIDER

§1. Request for intervention

37. A party to a public contract or public subcontract referred to in section 33 that intends to submit a dispute to a third-person decider, hereinafter referred to as the "applicant", must notify a request for intervention to the other party to the contract that includes

(1) the names and addresses of the parties to the contract or subcontract;

(2) the number of the contract or subcontract, if any;

(3) the nature and description of the dispute, including its monetary value, if any;

(4) the relevant contractual or legal provisions, if any;

(5) the grounds invoked in support of the request, which must be described in sufficient detail to allow the other party to the contract to assess them, the conclusions sought and the supporting documents;

(6) the information needed to establish that the parties have attempted to settle the dispute amicably and, where applicable, that the procedure set out for an amicable settlement in the contract or subcontract has been complied with;

(7) the names of three third-person deciders.

A request for intervention may concern only one disputed matter, hereinafter referred to as the "main matter in dispute". However, an applicant that considers that the conditions set out in the second paragraph of section 51 for the combination of several disputed matters are met and wishes to submit a single request must mention this fact in the request for intervention and detail, for each matter to the combined with the main matter in dispute, the elements mentioned in subparagraphs 3 to 6 of the first paragraph.

The notification of the request for intervention, and the notification required by any other provision of this Chapter, must be made in compliance with the Code of Civil Procedure (chapter C-25.01).

38. A party that proposes the name of a third-person decider for the purposes of this Division must first ensure that the name of the third-person decider appears in the register kept by the Minister of Justice pursuant to section 80, and that the third-person decider is available to perform the mandate.

39. Where a contractor that is a party to a public subcontract notifies a request for intervention to the other party to the subcontract concerning a deduction applied by that other party to the contractor pursuant to section 16, the other party must, within two days of receiving the request, notify the request for intervention to the debtor that initially issued the notice of refusal on which the deduction is based, and to all the other contractors that, because of the refusal, applied the deduction covered by the request for intervention.

That debtor and those contractors become parties to the dispute and intervention. The debtor is responsible for responding to the request for intervention, while the contractors are deemed, as regards the intervention and for the purpose of this Chapter, to be joint applicants.

If the other party to the subcontract referred to in the first paragraph fails to notify the request for intervention within the prescribed time to the debtor that initially issued the notice of refusal on which the deduction is based, the request is without effect and the other party is required to pay the amount of the deduction to the contractor that requested the intervention. The amount bears interest from the day following the expiry of the time limit in the first paragraph. The payment does not prevent the other party from claiming, in turn, payment of the amount of the deduction from its own debtor.

40. The other party to the contract has five days following notification to respond to the request for intervention. For that purpose, the other party to the contract must send the applicant a written notice including the following information:

(1) either the name of the third-person decider chosen by the other party to the contract from among those proposed by the applicant, or mention of the fact that it has chosen none of the third-person deciders proposed and, in the latter case, the names of three third-person deciders;

(2) for each matter in dispute that the applicant wishes to combine with the main matter in dispute, if any, mention of whether the other party to the contract accepts or rejects the combination;

(3) if the other party to the contract considers that the conditions set out in the second paragraph of section 51 are met and wishes to submit a request for that purpose, mention of that fact and, for each matter in dispute that it wishes to combine with the main matter in dispute, the elements mentioned in subparagraphs 3 to 6 of the first paragraph of section 37.

In addition, if the other party to the contract considers that the applicant cannot ask a third-person decider to settle the main matter in dispute because of the nature of the dispute or because the conditions for the exercise of the right have not been met, or considers that the applicant has abused its right, it must mention that fact in its response and provide the grounds and documents that support its claims.

41. An applicant that receives a response in which the other party to the contract expresses a wish to submit a request to combine several disputed matters in a single request has 5 days to inform the other party to the contract, in writing, for each matter that the other party wishes to combine with the main matter in dispute, whether it accepts or rejects the consolidation.

42. A main contractor that notifies or receives notification of a request for intervention related to a public contract must inform its subcontractors as soon as possible of the notification. The subcontractors must, in turn, inform their own subcontractors to the end of the subcontracting chain.

§2. Designation of the third-person decider, inability to act and recusation

43. If the parties were unable to agree on the choice of a third-person decider, they must designate a third-person decider by way of a random draw of the 6 candidates proposed, using the method they determine. The designation must be made within 5 days after the expiry of the time provided to the other contracting party to respond to the request for intervention. If the other contracting party fails to collaborate for the holding of the random draw, the applicant conducts it alone within that time, failing which the applicant is deemed to have withdrawn its request for intervention.

If the other party to the contract fails to respond to the request for intervention within the time provided, the applicant must designate the third-person decider responsible for the intervention within 2 days following the expiry of the deadline, failing which the applicant is deemed to have withdrawn its request for intervention.

44. When the parties inform the third-person decider of his or her designation, they must also notify to the third-person decider the request for intervention, the response to the request and, if applicable, the response from the applicant to the proposal by the other party to the contract to combine various matters in dispute for the purpose of the intervention. In addition, if the other party to the contract has, in its response to the request for intervention, provided grounds as specified in the second paragraph of section 40, it must notify the documents previously sent to the applicant in support of its claims to the third-person decider.

For the purposes of this Chapter, the date on which the third-person decider is designated is the date on which that person receives notification of all the documents referred to in the first paragraph.

45. The third-person decider may be recused if there are serious grounds to doubt his or her impartiality.

The third-person decider is required to inform the parties of any fact that could call his or her impartiality into question and justify a recusation.

46. A party may request the recusation of a third-person decider by setting out the grounds for recusation in a document notified to the other party and to the third-person decider within two days of becoming aware of the designation of the third-person decider.

Despite the first paragraph, where the cause of the recusation could not have been reasonably ascertained within that time limit or where the cause arises after the designation of the third-person decider, a request for recusation may be notified within two days of the cause coming to a party's attention.

A party may request the recusation of a third-person decider it has proposed or designated itself only in one of the cases provided for in the second paragraph. The same applies to a party that fails to participate in the process for designating a third-person decider.

47. The third-person decider is required to rule on the request for recusation within two days after receiving the request, except if he or she decides to withdraw or is required to withdraw after the other party supports the request.

If recusation cannot be obtained in this manner, a party may, within five days after being notified of the decision of the third-person decider or after the expiry of the deadline in the first paragraph, apply to the Court of Québec or the Superior Court, depending on their respective jurisdictions to rule on the disputed matter submitted to the third-person decider, to rule on the recusation. The third-person decider may, nevertheless, continue the dispute settlement process and render a decision for as long as the court has not made a ruling, except if ordered otherwise by the court. A decision made by the court pursuant to this paragraph cannot be appealed.

48. The third-person decider must inform the parties, in writing and as soon as possible, of any situation preventing him or her from continuing an intervention.

49. Within 5 days following the date on which the parties are informed of the recusation of the third-person decider or of the fact that he or she is unable to continue the intervention, each party must propose the name of another third-person decider.

If the parties cannot agree on the choice of a third-person decider, they must designate a third-person decider by way of a random draw of the 2 candidates proposed, using the method they determine, not later than 2 days after the expiry of the deadline in the first paragraph.

If one of the parties fails to propose the name of a third-person decider within the deadline set in the first paragraph or to participate in the random draw referred to in the second paragraph, the other party, in the first case, must designate the third-person decider responsible for deciding the dispute or, in the second case, must conduct the random draw of the 2 candidates. In both cases, the party must act within 2 days following the expiry of the deadline set in the first or second paragraph, as the case may be, failing which the intervention is terminated and each party is deemed to have withdrawn all the conclusions sought against the other party.

§3. Procedure for the intervention

50. Subject to the rules set out in the Act and in this Regulation, the third-person decider conducts the intervention using the procedure he or she determines; however, he or she is required to ensure that the process is equitable and complies with the principle of proportionality.

The third-person decider is also required to conduct the intervention in the manner he or she considers to be the most efficient and the least costly for the parties.

51. Within 5 days following the date on which the third-person decider was designated to conduct the intervention, he or she must, if the response of the other party to the contract to the request for intervention includes claims concerning the applicant's right to have recourse to a third-person decider or the applicant's abusive use of that right, rule on the claims.

In addition, the third-person decider must, within the same time limit, rule on any request for the consolidation of matters in dispute on which the parties have agreed. The third-person decider may grant such a request only if he or she considers that the matters result from contemporaneous events that are connected in such a way as to make it necessary to deal with them simultaneously to settle the dispute, or that they can be dealt with simultaneously to avoid the risk that the parties obtain contradictory decisions.

In all cases, the third-person decider rules on the face of the record.

52. The party that requested the intervention has five days from the date on which the third-person decider is designated or from the date on which a decision is rendered pursuant to section 51, if the decision has not terminated the intervention, to forward an outline of its claims and the documents mentioned to the third-person decider and, unless this has already been done, the other party.

On the expiry of the deadline in the first paragraph, the other party has 15 days to send a detailed response to the applicant's outline along with the documents mentioned in support of its response. A copy of the response and the documents must also be sent to the third-person decider.

53. A party that notes the existence of a situation or irregularity that could constitute grounds for the annulment of the decision to be made following the intervention is bound to bring it to the attention of the other party and of the third-person decider as soon as possible.

The third-person decider has five days from the date on which he or she is informed of such a situation or irregularity to rule on its existence. If the ruling is that the situation or irregularity exists, the third-person decider may remedy it, if possible, or terminate the intervention.

54. A party may not mandate a lawyer to make representations on its behalf before the third-person decider.

55. The proceedings are conducted orally at a hearing, unless the third-person decider has agreed, at the request of the parties, to render a decision on the face of the record.

After consulting the parties, the third-person decider notifies them of the date of the hearing and of the place where it will be held. With the consent of the parties, the hearing may take place remotely using technological means.

56. Testimony is given by way of a written affidavit. The third-person decider may, however, allow or request oral testimony.

57. If one party fails to state its contentions, attend the hearing or provide evidence in support of its contentions, the third-person decider must, after noting the default, continue the intervention without that party.

However, if the defaulting party is the party that submitted the request for intervention, it is deemed to have withdrawn its request from the date on which its default is noted and the intervention continues only if, in accordance with the second paragraph of section 59, the other party so requests.

58. A party may, at any time before the end of the intervention, withdraw all or some of the conclusions sought against the other party. For that purpose, it must notify a written notice to the other party and, where applicable, to the third-person decider designated to conduct the intervention.

59. The third-person decider must record any withdrawal in the record, whether voluntary or resulting from the application of a presumption under this Chapter.

The party against which a conclusion sought by the other party is withdrawn or is deemed to have been withdrawn has two days from the date on which the withdrawal is recorded to inform the third-person decider of its wish to see a decision rendered to resolve the difficulty for which the conclusion was sought. The intervention continues even if the other party has withdrawn or is deemed to have withdrawn.

A decision rendered pursuant to the second paragraph may rule on a question of fact or law, and in particular on the interpretation of a contractual clause, but cannot find against either of the parties. The rendering of such a decision ends the intervention.

If the parties have withdrawn from all the conclusions sought against the other party, a total withdrawal of the request for intervention is recorded in a decision ending the intervention.

60. A decision rendered by a third-person decider pursuant to the provisions of subsection 2 or this subsection must give reasons, be in writing and be signed by the third-person decider. In addition, it must be notified to the parties.

§4. Decision on the merits

61. The third-person decider must rule on the matters in dispute covered by the intervention in accordance with the rules of law and the stipulations of the contract binding the parties. The third-person decider must also take into account any applicable usages.

62. The third-person decider must render a decision and notify it to the parties within 50 days of being designated or, where applicable, within 50 days of a decision rendered pursuant to section 51 if it did not end the intervention. If needed, the third-person decider may extend the deadline by up to 15 days, provided he or she informs the parties before the expiry of the initial deadline, or by a longer period if the parties consent.

The decision of the third-person decider must give reasons, be in writing and be signed by the third-person decider.

If the parties settle the dispute, their agreement must be recorded in the decision.

The decision ends the intervention.

63. If the third-person decider fails to render a decision in accordance with section 62, the parties may revoke his or her mandate.

Any party to the dispute may revoke the mandate by notifying a notice of revocation to the other party and to the third-person decider. The notice is without effect if the third-person decider receives notification of the revocation after the parties have received notification of the decision.

64. Within 5 days after the decision is notified to the parties, the third-person decider may, on his or her own initiative or at the request of a party, make the necessary changes to correct a clerical or calculation error or any other material error.

65. If the creditor of a decision ordering the payment of a sum of money is a contractor who has entrusted work to one or more subcontractors, it must, as soon as possible after the decision is notified, inform each of its subcontractors of the rendering of the decision, the amount of the payment ordered, and the share of the amount owed to each subcontractor. The subcontractors must, in turn, provide the information to their own subcontractors, to the end of the subcontracting chain.

66. A party required to pay a sum of money as the result of a decision has 20 days, from the date on which the decision was sent notified, to comply.

When a payment as the result of a decision concerns all or part of the work subcontracted by the creditor, the creditor must, in turn, pay the subcontractor or subcontractors concerned in proportion to their respective claims within five days after receiving the payment. The mere lapse of the deadline for payment has the effect of causing the debtor to be in default of payment.

An amount that remains unpaid at the expiry of the deadline set in the first or second paragraph bears interest from the day following the expiry of the deadline.

§5. Confidentiality of information and documents

67. The parties to the dispute and the third-person decider must ensure that everything said, written or done during the intervention, including the decision rendered at the end of the intervention, remains confidential except if the parties agree otherwise and subject to any contrary provision of this Regulation or the law.

68. The Chair of the Conseil du trésor or the Minister of Justice may, for statistical purposes or a general assessment of the process for settling disputes and the results achieved, require the parties to a dispute that have taken part in an intervention conducted by a third-person decider and any third-person decider having conducted such an intervention to provide information about the intervention, provided that no personal information is disclosed.

69. A decision by the third-person ruling on a dispute may be filed in later proceedings before a court of common law or an arbitrator, if the intervention and the proceedings concern the same disputed matter and involve the same parties.

Such a decision, and any decision rendered pursuant to the first paragraph of section 51, if it ends the intervention, or pursuant to the second paragraph of section 59, may also be communicated to a third-person decider by a party against which a conclusion is sought in a dispute settlement process before the third-person decider, if the party considers that one of the cases provided for in section 35 applies and that, as a result, the other party cannot exercise the right to have recourse to a third-person decider.

§6. Intervention fees and costs

70. The fees of the third-person decider and the costs incurred by the third-person decider for the conduct of an intervention are allocated equally between the parties to the dispute, even following a withdrawal. However, if the intervention concerns a request referred to in section 39, 50% of the fees and costs are paid by the party that was required to respond to the request pursuant to that section and 50% by all the joint applicants, in equal shares.

The third-person decider may depart from the allocation of fees and costs prescribed by the first paragraph if he or she considers that the actions of a party during the intervention were harmful, in particular because its conduct was abusive or because it failed to comply with deadlines.

71. The fees payable to a third-person decider to perform a mandate, including work performed outside the hearing for the purposes of the intervention, the intervention hearing and the drafting of the decision, are billed at the hourly rate set by the third-person decider, up to the following maximum amounts:

Value of the dispute	Maximum amount
$10,000 or less	$3,000
From $10,001 to $20,000	$5,000
From $20,001 to $40,000	$8,000
From $40,001 to $75,000	$11,000
From $75,001 to $120,000	$15,000
From $120,001 to $180,000	$21,000
From $180,001 to $250,000	$29,000
From $250,001 to $335,000	$31,000
From $335,001 to $430,000	$35,000
From $430,001 to $500,000	$38,000
More than $500,000	N.A.

If the value of the dispute cannot be determined, the maximum amount is the amount applicable when the value of the dispute is $430,001 to $500,000.

If several matters in dispute are combined, only the matter with the highest value is considered for the purposes of this section.

72. The third-person decider may ask the parties for a provision for costs of up to 50% of the maximum amount of the fees specified in section 71 for the value of the dispute or, if the value of the dispute exceeds $500,000, up to 50% of the estimated amount of the fees, which is based on the number of hours the third-person decider expects to devote to the carrying out of the mandate. The provision is payable within 20 days of the request.

If a party fails to pay its share of the provision, the other party may pay that share. In such a case, the third-person decider may, when rendering the decision to end the intervention, order the party that has failed to pay its share of the provision to pay back the party that paid it. If pursuant to the decision the party that paid the provision is ordered to pay a sum of money to the party that has failed to pay its share of the provision, the third-person decider may also deduct that sum from the amount of the payment ordered.

If the provision is not paid, the third-person decider may withdraw from the dispute settlement process. If the third-person decider withdraws from the process, the applicant is deemed to have withdrawn its request as of the date on which the applicant is informed of the withdrawal.

73. The costs that the parties are bound to pay for the conduct of the intervention are the costs incurred by the third-person decider to hold the audience including, where applicable, the third-person decider's travel and accommodation costs. The travel and accommodation costs are established in accordance with the Directive concernant les frais de déplacement des personnes engagées à honoraires par des organismes publics (C.T. 212379; 2013-03-26), as amended.

The parties are also bound to pay any other costs incurred by the third-person decider to perform the mandate that the parties have previously agreed to pay.

All other costs, expenses and disbursements incurred by the third-person decider are paid by the third-person decider who cannot claim their payment or reimbursement either directly or indirectly from the parties.

74. Each party to the dispute pays all the costs it incurs itself for the purposes of this Chapter.

75. No fees or costs may be charged to the parties to the dispute if the mandate of the third-person decider has been revoked in accordance with the provisions of section 63.

DIVISION III
STANDARDS CONCERNING THE PERSONS, BODIES AND ASSOCIATIONS ABLE TO CERTIFY THIRD-PERSON DECIDERS

76. The Minister of Justice must publish, on the Minister's website, a list of the persons, bodies or associations the Minister has designated to certify third-person deciders.

77. A person, body or association that certifies a third-person decider must communicate the following information about the third-person decider to the Minister without delay:

(1) the name of the third-person decider;

(2) the hourly rate of the third-person decider;

(3) the address of the third-person decider's professional domicile;

(4) the third-person decider's phone numbers and, if applicable, fax number;

(5) the third-person decider's electronic address;

(6) the third-person decider's membership number in a professional order;

(7) the date of the third-person decider's certification;

(8) the ability of the third-person decider to intervene remotely using technological means, where applicable.

Any change in the information must be communicated to the Minister of Justice without delay by the person, body or association.

78. A person, body or association that certifies third-person deciders must notify the Minister of Justice without delay if the certification is withdrawn.

DIVISION IV
CONDITIONS FOR THE CERTIFICATION OF THIRD-PERSON DECIDERS

79. A person may be certified as a third-person decider if he or she

(1) has been a member of the Barreau du Québec, the Chambre des notaires du Québec, the Ordre des architectes du Québec or the Ordre des ingénieurs du Québec for at least 5 years;

(2) has taken out professional liability insurance covering the risks associated with the function of third-person decider;

(3) has acquired at least 5 years of professional experience in the construction field;

(4) has completed a minimum of 40 hours of training on arbitration, recognized or found to be equivalent by the person, body or association able to provide certification or dispensed by a higher education institution, focused on the following topics:

(*a*) the conduct of a dispute settlement process;

(*b*) the rules of evidence and procedure;

(*c*) the drafting of a decision;

(*d*) information technologies;

(5) has completed, in the two years preceding the application for certification, a minimum of 28 days of training on the dispute settlement process provided for in the Act, including ethics and professional conduct for third-person deciders;

(6) has completed a minimum of ten hours of refresher training for third-person deciders every two years, the content of which is determined or recognized by the person, body or association that provided certification;

(7) is not the subject of a decision or order rendered under the Professional Code, an act instituting a professional order or a regulation made for its application imposing a penalty, a striking off the roll, a restriction or suspension of the right to engage in professional activities or conditions the third-person decider must meet in order to be allowed to continue to practise the profession, refresher courses, periods of refresher training, or any other requirement provided for the first paragraph of section 55 of that Code, when the decision or order is connected with the exercise of the function of third-person decider;

(8) has not received a penal sanction or been found guilty of a criminal offence that is incompatible with the function of third-person decider.

The person, body or association that certifies a third-person decider must ensure that the conditions are met at all times. If the person fails to meet the conditions the person, body or association must withdraw the certification. The name of the third-person decider may only be re-entered in the register of third-person deciders following a new application for certification on the lapse of six months from the date on which certification was withdrawn.

80. The Minister of Justice must keep a register of third-person deciders, indicating in particular the hourly rate of each third-person decider, and make it available on the Minister's website.

DIVISION V
STANDARDS TO BE MET WHEN PERFORMING THE FUNCTION OF A THIRD-PERSON DECIDER

81. An intervention mandate is awarded personally to a third-person decider who may not, in any situation, transfer it to another third-person decider.

82. A third-person decider who ceases to exercise the function of a third-person decider or to exercise his or her profession must inform the person, body or association that provided certification without delay, and that person, body or association must then inform the Minister of Justice without delay.

83. A third-person decider may ask the person, body or association that provided certification to withdraw his or her name, temporarily or permanently, from the register.

CHAPTER IV
AMENDING PROVISIONS

84. Section 42.1 of the Regulation respecting service contracts of public bodies (chapter C-65.1, r. 4) is amended by inserting ", person to act as a third-person decider for the purposes of Division III of Chapter V.2 of the Act," after "physician".

85. Section 4 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5) is amended by inserting, the following after subparagraph 4 of the second paragraph:

"(4.1) whether or not the provisions of Division II of Chapter V.2 of the Act concerning payment for work and the provisions of Division III of that Chapter concerning dispute settlement apply and, where applicable, the legislative or regulatory provisions that prevent them from being applied;".

86. Section 47 is revoked.

87. Subdivisions 1 to 3 of Division II of Chapter VII of the Regulation respecting construction contracts of public bodies, including sections 50 to 54, are replaced by the following section:

"**50.** The public body and the contractor must attempt to achieve the amicable settlement of any difficulty that may occur with respect to a contract in compliance, where applicable, with the terms and conditions specified in the contract to remedy the situation.

If the difficulty cannot be resolved, it may, in the cases determined by a regulation made pursuant to the first paragraph of section 21.48.26 of the Act, be submitted to a third-person-decider. It may also be submitted to a court of law or an adjudicative body, as the case may be, or to an arbitrator.

The public bodies referred to in subparagraph 1 or subparagraph 2 of the first paragraph of section 4 of the Act must obtain general or special authorization from the Minister of Justice in order to submit a difficulty to an arbitrator.".

CHAPTER V
TRANSITIONAL AND FINAL PROVISIONS

88. Despite sections 86 and 87 of this Regulation, section 47 and the provisions of subdivisions 1 to 3 of Division II of Chapter VII of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5), including sections 50 to 54, continue to apply, as they read on (*insert the date before the date of coming into force of this Regulation*), to public contracts referred to in section 89 and to public contracts to which, by reason of the application of the second paragraph of section 93, the provisions of Chapters I and II and the provisions of Divisions I and II of Chapter III of this Regulation, including sections 1 to 75, do not apply.

89. The provisions of Chapters I and II, including sections 1 to 32, do not apply to public contracts under way on the date on which those provisions begin to apply to the category of contracts to which they belong. The same applies to any related public subcontracts.

The provisions also do not apply to public contracts resulting from calls for tenders issued before the date on which the provisions begin to apply to the category of contracts to which they belong. The same applies to any related public subcontracts.

90. The provisions of Divisions I and II of Chapter III, including sections 33 to 75, do not apply to disputes that have arisen or will arise between the parties to a public contract or public subcontract referred to in section 89.

91. Subject to sections 89 and 90 of this Regulation, public contracts resulting from the infrastructure projects listed in Schedule I of the Act respecting the acceleration of certain infrastructure projects (chapter A-2.001) and related public subcontracts are subject to the provisions of this Regulation, despite section 71 of the Act.

92. A lawyer, architect or engineer certified to act as an adjudicator for the purposes of the Pilot project to facilitate payment to enterprises that are parties to public construction work contracts and related public subcontracts (chapter C-65.1, r. 8.01) on the date of coming into force of this Regulation is deemed to be certified to act as a third-person decider within the meaning of this Regulation for a period of two years beginning on that date.

The condition set out in subparagraph 4 of the first paragraph of section 79 does not apply to a person referred to in the first paragraph who wishes to be certified as a third-person decider once the two-year period has expired.

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

However, with respect to the categories of public contracts provided for in subparagraphs 1 and 2 of this paragraph, the provisions of Chapters I and II and Divisions I and II of Chapter III of this Regulation, including sections 1 to 75, apply to a contract and a dispute arising therefrom only from the following dates:

(1) where the contract concerns work on a building:

(*a*) (*insert here the date occurring one year after the date of coming into force of this Regulation*), if it involves expenditure of less than $750,000 but equal to or more than $75,000;

(*b*) (*insert here the date occurring two years after the date of coming into force of this Regulation*), if it involves expenditure of less than $75,000;

(2) where the contract concerns civil engineering work other than work on a building:

(*a*) (*insert here the date occurring one year after the date of coming into force of this Regulation*), if it involves expenditure of less than $2,500,000 but equal to or more than $675,000;

(*b*) (*insert here the date occurring two years after the date of coming into force of this Regulation*), if it involves expenditure of less than $675,000.

For the purposes of the second paragraph, the expenditure for a contract includes expenditure resulting from a contract option.

This Regulation becomes applicable to a public subcontract and a dispute arising therefrom on the same date as it becomes applicable to the contract to which the subcontract is related.

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