Gazette officielle du Québec

Part 2
Laws and Regulations

Volume 128
17 January 1996
No. 3

Summary

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Legal deposit — 1st Quarterly 1968
Bibliothèque nationale du Québec
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PROVINCE OF QUÉBEC

1st SESSION

35th LEGISLATURE

QUÉBEC, 7 DECEMBER 1995

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 7 December 1995

This day, at fifteen minutes past four o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

88 An Act to amend the Taxation Act and other fiscal provisions

89 An Act to amend the Professional Code

92 An Act to amend the Code of Penal Procedure and other legislative provisions (*modified title*)

93 An Act to amend the Transport Act

104 An Act to again amend the Environment Quality Act

105 Plant Protection Act

106 An Act to amend the Act respecting the Québec Pension Plan and the Automobile Insurance Act

109 An Act to amend the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons

110 An Act to amend the Act respecting the Société du parc industriel et portuaire de Bécancour

238 An Act respecting certain acquisitions by the Sainte-Marguerite Salmon Club and by the Club de pêche Ste Marguerite

To these bills the Royal assent was affixed by His Excellency the Lieutenant-Governor.

PROVINCE OF QUÉBEC

1st SESSION

35th LEGISLATURE

QUÉBEC, 11 DECEMBER 1995

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 11 December 1995

This day, at five minutes past four o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

99 An Act to amend the Building Act

103 An Act to amend the Public Buildings Safety Act

113 An Act to prohibit the establishment or enlargement of certain waste elimination sites

120 An Act to amend the Act respecting the Régie du logement and the Civil Code of Québec

122 An Act respecting section 40 of the Act respecting labour relations, vocational training and manpower management in the construction industry

To these bills the Royal assent was affixed by His Excellency the Lieutenant-Governor.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 88
(1995, chapter 49)

An Act to amend the Taxation Act and other fiscal provisions

Introduced 3 May 1995
Passage in principle 21 June 1995
Passage 5 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

The main object of this bill is to harmonize fiscal legislation in Québec with the fiscal legislation in Canada. It consequently gives effect to the harmonization measures contained for the most part in the Budget Speeches delivered by the Minister of Finance on 20 May 1993 and 12 May 1994, and in Information Bulletins 92-12, 93-5 and 94-2 issued by the Ministère des Finances respectively on 23 December 1992, 25 November 1993 and 8 February 1994.

Firstly, the bill amends the Taxation Act primarily to bring amendments similar to those brought to the Income Tax Act of Canada by federal Bills C-28 (S.C., 1991, chapter 47), C-22 (S.C., 1992, chapter 27), C-84 (S.C., 1992, chapter 24), C-9 (S.C., 1994, chapter 8), C-27 (S.C., 1994, chapter 21) and C-32 (S.C., 1994, chapter 29), assented to respectively on 13 December 1991, 23 June 1992, 18 June 1992, 12 May 1994, 15 June 1994 and 23 June 1994. The amendments concern the following in particular:

(1) a two-year extension of the rules relating to the issue of development bonds by a private corporation and small business bonds by an individual or partnership;

(2) the introduction of a rule pertaining to flow-through shares that allows a corporation to renounce certain Canadian development expenses relating to oil and gas property up to an amount of $2,000,000 per year and which, by treating the expenses as Canadian exploration expenses, allows the expenses so renounced to be deducted at 100% rather than at 30%;

(3) a one-year extension of the rules pertaining to the home buyers' plan;

(4) the establishment of a new method for determining the taxable benefit an employee must include in his income where an employer or person related to the employer assumes the costs relating to the employee's use of an automobile for personal purposes;

(5) the introduction of rules allowing for a deduction of interest on borrowed money which ceases to be used for an income-earning purpose due to the loss of the source of income;

(6) the rule pertaining to the deduction for Canadian exploration expenses of a development corporation or of any other taxpayer carrying on a mining business;

(7) the rules pertaining to successor corporations applicable where Canadian resource property is the subject of back to back transfers;

(8) the rules for computing the disbursement quota applicable to charities;

(9) the rules applicable upon the death of an individual, in particular to take into account transfers of property resulting from the partition of the family patrimony between the former spouses;

(10) a broadening of the rule allowing for a deduction of certain costs incurred to enable assistance to be given to a disabled person;

(11) the rules pertaining to the computing of the income of a taxpayer who is resident in Canada for part of a taxation year only;

(12) the introduction of rules applicable to a corporation incorporated in a particular jurisdiction and that is later granted articles of continuance in a different jurisdiction;

(13) the introduction of provisions to subject manufacturers of tobacco products to a temporary surtax; and

(14) various amendments of a technical nature including concordance, referential and terminology-related amendments resulting from the revision of the Income Tax Act of Canada.

Secondly, the bill amends the Act respecting the application of the Taxation Act to provide a rule of application as a consequence of the revision of the Income Tax Act of Canada.

Thirdly, the bill amends the Act respecting the Ministère du Revenu primarily to bring amendments similar to those brought to the Income Tax Act of Canada by federal Bill C-27 (S.C., 1994, chapter 21), assented to on 15 June 1994. These latter amendments concern, in particular,

(1) the rules pertaining to the keeping of books and registers of registered charities; and

(2) clarification with respect to the holding in trust of amounts deducted, withheld or collected by a person as a mandatary under a fiscal law.

Fourthly, the bill amends the Act respecting the Régie de l'assurance-maladie du Québec to modify the calculation of the total income of an individual required to contribute to the health services fund.

Lastly, the bill amends the Act respecting the Québec Pension Plan, the Act respecting the Québec sales tax and various other Acts having amended for the most part the Taxation Act, mainly to introduce amendments of a technical and terminological nature.

ACTS AMENDED BY THIS BILL:

(1) Taxation Act (R.S.Q., chapter I-3);

(2) Act respecting the application of the Taxation Act (R.S.Q., chapter I-4);

(3) Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

(4) Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5);

(5) Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);

(6) Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);

(7) Act to again amend the Taxation Act and other fiscal legislation (1990, chapter 59);

(8) Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25);

(9) Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16);

(10) Act to amend the Taxation Act, the Act respecting the Québec sales tax and other fiscal provisions (1994, chapter 22).

Bill 88

An Act to amend the Taxation Act and other fiscal provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TAXATION ACT

1. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 4 of chapter 64 of the statutes of 1993, by section 15 of chapter 13 of the statutes of 1994, by section 41 of chapter 22 of the statutes of 1994 and by section 11 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing the definition of "taxable Canadian property" by the following definition:

" "taxable Canadian property" has the meaning assigned by Part II and, for the purposes of sections 785.1 and 785.2, includes

(*a*) a Canadian resource property;

(*b*) a timber resource property;

(*c*) an income interest in a trust resident in Canada;

(*d*) a right to a share of the income or loss of a partnership under an agreement referred to in section 608; and

(*e*) a life insurance policy in Canada;";

(2) by replacing, in the French text of paragraph *a* of the definition of "Canada", the words "hydrocarbures apparentés" by the words "hydrocarbures connexes";

(3) by replacing the definition of "retirement income fund" by the following definition:

" "retirement income fund" has the meaning assigned by subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);";

(4) by replacing the definition of "minerals" by the following definition which is to be reordered alphabetically:

" "mineral" includes bituminous sands, calcium chloride, coal, kaolin, oil sands, oil shale and silica, but does not include petroleum, natural gas or other related hydrocarbons;";

(5) by replacing, in the French text, the definitions of "organisme de charité" and "organisme de charité enregistré" by the following definitions:

" « organisme de bienfaisance » signifie une oeuvre de bienfaisance ou une fondation de bienfaisance, au sens de l'article 985.1;

" « organisme de bienfaisance enregistré » à un moment quelconque signifie une oeuvre de bienfaisance, une fondation privée ou une fondation publique, au sens de l'article 985.1, qui est enregistrée à ce moment à titre d'oeuvre de bienfaisance, de fondation privée ou de fondation publique, au sens de cet article 985.1, auprès du ministre ou qui est réputée l'être conformément aux articles 985.5 à 985.5.2;";

(6) by inserting, after the definition of "life insurance policy", the following definition:

" "life insurance policy in Canada" has the meaning assigned by paragraph *e*.1 of section 835;";

(7) by inserting, after the definition of "property", the following definition:

" "province" means a province of Canada and includes the Yukon Territory and the Northwest Territories;";

(8) by replacing the definition of "private health services plan" by the following definition:

" "private health services plan" means a contract of insurance in respect of medical expenses, hospital expenses or any combination of such expenses, or a medical care insurance plan or hospital care insurance plan or both a medical care and hospital care insurance plan, to the extent that the contract or plan applies to expenses described in section 752.0.11.1, except any such contract or plan established by or pursuant to a law of a province that establishes a health care insurance plan in respect of which the province receives contributions for insured health services provided under the plan pursuant to the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act (Revised Statutes of Canada, 1985, chapter F-8);";

(9) by replacing paragraph *b* of the definition of "mineral resource" by the following paragraph:

"(*b*) calcium chloride, diamond, gypsum, halite, kaolin or sylvite;".

(2) Paragraph 1 of subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election and, in this event, paragraph *e* of the definition of "taxable Canadian property", in section 1 of the Taxation Act, enacted by paragraph 1, shall be read as follows:

"(*e*) a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected;";

(*b*) from 1 January 1993, in all other cases.

(3) Paragraphs 2, 3 and 5 of subsection 1 apply to taxation years ending after 30 November 1991.

(4) Paragraphs 4 and 9 of subsection 1 apply to taxation years beginning after 31 December 1984. However,

(*a*) where the definition of "mineral" in section 1 of the Taxation Act, enacted by paragraph 4 of subsection 1, applies to taxation years ending before 1 January 1988, it shall be read without reference to the word "kaolin,", and where it applies to taxation years ending before 1 December 1991, the French text thereof shall be read as if the reference therein to "hydrocarbures connexes" were a reference to "hydrocarbures apparentés";

(*b*) where paragraph *b* of the definition of "mineral resource" in section 1 of the Taxation Act, enacted by paragraph 9 of subsection 1, applies

(1) to taxation years ending before 1 January 1988, that paragraph *b* shall be read as follows:

"(*b*) calcium chloride, gypsum, halite or sylvite;";

(2) to taxation years ending after 31 December 1987 and before 1 January 1993, that paragraph *b* shall be read as follows:

"(*b*) calcium chloride, gypsum, halite, kaolin or sylvite;".

(5) Paragraph 6 of subsection 1 has effect from 1 January 1993.

2. (1) Section 2.1.1 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**2.1.1** For the purposes of this Part and subject to sections 2.1, 2.1.2, 2.1.3 and 456.1, where at any time a property owned jointly by two or more persons is the subject of a partition, the following rules apply, notwithstanding any retroactive or declaratory effect of such partition:".

(2) Subsection 1 has effect from 14 July 1990.

3. (1) The said Act is amended by inserting, after section 2.1.2, the following section:

"**2.1.3** For the purposes of this Part and the regulations, where, as a consequence of the laws of a province relating to spouses' interests in respect of property as a result of marriage, property is, after the death of an individual,

(*a*) transferred or assigned to a person who was the individual's spouse at the time of the death, or acquired by that person, the property is deemed to have been so transferred, assigned or acquired, as the case may be, as a consequence of the death; or

(*b*) transferred or assigned to the individual's estate, or acquired by the individual's estate, the property is deemed to have been so transferred, assigned or acquired, as the case may be, immediately before the time that is immediately before the death."

(2) Subsection 1 applies in respect of deaths occurring after 30 June 1989. In this regard, notwithstanding sections 1010 to 1011 of the Taxation Act, such assessments and determinations as are necessary shall be made by the Minister of Revenue in respect of any taxation years to give effect to subsection 1 and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

4. (1) Section 2.2.1 of the said Act, enacted by section 44 of chapter 22 of the statutes of 1994 and amended by section 13 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

"(*a*) words referring to a spouse at any time of a taxpayer include the person of the opposite sex who cohabits at that time with the taxpayer in a conjugal relationship and has so cohabited with the taxpayer throughout a 12-month period ending before that time, or would be the father or mother of a child of whom the taxpayer would be the father or mother if section 2 were read without reference to the words "or a person who is the father or mother of the taxpayer's spouse";".

(2) Subsection 1 has effect from 1 January 1993.

5. (1) Section 6.2 of the said Act is amended by replacing paragraph *c* by the following paragraph:

"(*c*) subject to sections 779, 785.1 and 785.2 and paragraph *a* of section 999.1, and notwithstanding the definition of "taxation year" in section 1 and sections 5 and 6.1, where the taxation year of the corporation that would, but for this section, have been its last taxation year that ended before that time would, but for this paragraph, have ended within the 7-day period that ended immediately before that time, that taxation year is, except where control of the corporation was acquired by a person or group of persons within that period, deemed to end immediately before that time where the corporation so elects in its fiscal return under this Part for that taxation year; and".

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(*b*) from 1 January 1993, in all other cases.

6. (1) Section 7.4 of the said Act is replaced by the following section:

"**7.4** In section 7.1, "disclaimer" means a disclaimer made under the laws of a province other than Québec and includes a renunciation of a succession made under the laws of Québec that is not made in favour of any person, but does not include any disclaimer or renunciation, as the case may be, made after the period ending 36 months after the death of the taxpayer unless written application therefor has been made to the Minister by the taxpayer's legal representative before the expiry of that period and the disclaimer or renunciation, as the case may be, is made within such longer period as the Minister considers reasonable."

(2) Subsection 1 has effect from 15 June 1994. However, where the time granted to the taxpayer's legal representative for making a written application to the Minister of Revenue under section 7.4 of the Taxation Act, enacted by subsection 1, in respect of a disclaimer or renunciation ends before 7 December 1995, the said section 7.4 shall be read as if the reference therein to "unless written application therefor has been made to the Minister by the taxpayer's legal representative before the expiry of that period" were a reference to "unless written application therefor has been made to the Minister by the taxpayer's legal representative before 6 March 1996".

7. (1) Section 7.11.1 of the said Act, enacted by section 51 of chapter 22 of the statutes of 1994, is replaced by the following section:

"**7.11.1** For the purposes of this Part and the regulations, a person or partnership is beneficially interested in a particular trust if the person or partnership has any right, whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of any discretionary power by any person or persons, as a beneficiary under a trust to receive any of the income or capital of the particular trust either directly from the particular trust or indirectly through one or more other trusts."

(2) Subsection 1 has effect from 1 January 1991.

8. (1) The said Act is amended by inserting, after section 7.14, enacted by section 52 of chapter 22 of the statutes of 1994, the following section:

"**7.15** All the structural units of a trade union, including each local, branch, national and international unit, are deemed to be a single employer and a single entity for the purposes of the provisions of this Part, and the regulations, relating to the determination of whether a contribution made under a plan or arrangement is a resident's contribution within the meaning of section 890.6.1."

(2) Subsection 1 has effect from 9 October 1986. However, where section 7.15 of the Taxation Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read as if the reference therein to "cotisation" were a reference to "contribution".

9. (1) Section 8 of the said Act, amended by section 6 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *f* by the following paragraph:

"(*f*) he was a child of, and dependent for support on, an individual described in paragraph *b*, *c* or *d* and his income for the year did not exceed the amount in dollars referred to in that portion of section 752.0.1 before paragraph *a*, that is used by him in computing his deduction under that section."

(2) Subsection 1 applies from the taxation year 1993.

10. (1) The said Act is amended by inserting, before Chapter III of Title II of Book I of Part I, the following section:

"**11.3** Where a corporation is at any time, in this section referred to as the "time of continuation", granted articles of continuance or similar constitutional documents, the corporation is

(*a*) for the purpose of applying this Part, other than section 11, in respect of all times from the time of continuation in a particular jurisdiction until the time of continuation in a different jurisdiction, deemed to have been incorporated in the particular jurisdiction and not to have been incorporated in the other jurisdiction; and

(*b*) for the purpose of applying section 11 in respect of all times from the time of continuation in a particular jurisdiction until the time of continuation in a different jurisdiction, deemed to have been incorporated in the particular jurisdiction at the time of continuation in that jurisdiction and not to have been incorporated in the other jurisdiction."

(2) Subsection 1 applies

(*a*) in respect of a corporation that has made a valid election with the Minister of National Revenue, under paragraph *a* of subsection 4 of section 111 of the Act to amend the Income Tax Act, the Income Tax Application Rules, the Canada Pension Plan, the Canada Business Corporations Act, the Excise Tax Act, the Unemployment Insurance Act and certain related Acts (Statutes of Canada, 1994, chapter 21), and has effect from the time referred to in that paragraph *a* at which the corporation was granted articles of continuance or other similar documents. In such a case, the corporation shall notify the Minister of Revenue in writing, with supporting evidence, that it has made a valid election under this paragraph and shall be deemed, for the purposes of the second paragraph of section 1056.8 of the Taxation Act, to have made an election under a provision of this Act;

(*b*) in respect of a corporation that was, after 31 December 1992, granted articles of continuance or other similar constitutional documents in a jurisdiction, except where such a corporation has made a valid election with the Minister of National Revenue under subparagraph iii of paragraph *b* of subsection 4 of section 111 referred to in paragraph *a*.

11. Section 16.2 of the said Act is amended by striking out paragraphs *c* and *d*.

12. (1) Section 21.3 of the said Act, replaced by section 55 of chapter 22 of the statutes of 1994, is again replaced by the following section:

"**21.3** Control of a particular corporation is deemed not to have been acquired solely because of

(*a*) the acquisition at any time of shares of any corporation by a person who acquired the shares from another person to whom the person was related, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before that time, a person who was related to the particular corporation, otherwise than because of a right referred to in that paragraph *b*, immediately before that time, a succession that acquired the shares because of the death of a person, or a person who acquired the shares from a succession that arose on the death of another person to whom the person was related; or

(*b*) the cancellation or redemption at any time of shares of the particular corporation or of another corporation controlling the particular corporation, where the person or each member of the group of persons that controls the corporation immediately after that time was related to the corporation, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before that time."

(2) Subsection 1 applies in respect of acquisitions, cancellations or redemptions occurring after 31 December 1992.

13. (1) Section 21.4.3 of the said Act is amended by replacing, in the French text, the words "un intérêt important" by the words "une participation importante".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

14. (1) Section 21.6.1 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) as part of a proposal to, or an arrangement with, its creditors that had been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3),".

(2) Subsection 1 has effect from 30 November 1992.

15. (1) Section 21.12 of the said Act is amended by replacing subparagraph i of paragraph *c* by the following subparagraph:

"i. as part of a proposal to, or an arrangement with, the creditors of the particular corporation that had been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);".

(2) Subsection 1 has effect from 30 November 1992.

16. (1) Section 21.28 of the said Act is amended by replacing, in paragraph *a* of the definition of "qualified security", the words "clause A or B of subparagraph ii of paragraph *g* of subsection 1 of section 89" by the words "subparagraph i or ii of paragraph *b* of the definition of "public corporation" in subsection 1 of section 89".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

17. (1) Section 23 of the said Act is amended, in the second paragraph, by replacing the portion before paragraph *b* by the following:

"The taxable income, for a taxation year, of an individual referred to in the first paragraph who was resident in Québec on that day is equal to the amount by which the aggregate of the following amounts exceeds such of the deductions allowed by Book IV as can reasonably be considered applicable to a period referred to in subparagraph *a*:

(*a*) the individual's income for any period in the year throughout which the individual was resident in Canada, computed as if that period were a whole taxation year, and".

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of an individual who has made an election under subsection 2 of section 18.

18. (1) Section 24 of the said Act is replaced by the following section:

"**24.** The taxable income of an individual contemplated in section 22 for a taxation year is obtained by adding to his income for the year any addition provided for in Book IV and by subtracting from such income any deduction permitted by that Book, except if that individual was resident in Canada only during part of that taxation year. In the latter case, his taxable income shall be computed in the manner indicated in section 23, whether he is an individual who became resident in Canada during the year or an individual who ceased to be resident in Canada during the year."

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of an individual who so elects by notifying the Minister of Revenue in writing on or before 4 June 1996.

19. (1) Section 38 of the said Act, amended by section 12 of chapter 64 of the statutes of 1993, is again amended by replacing the third paragraph by the following paragraph:

"Nor is he required to include therein the value of benefits under a retirement compensation arrangement, an employee benefit plan, an employee trust or a salary deferral arrangement, except in the last case to the extent that the value of benefits is included under section 37 by reason of section 47.11, the value of benefits

related to the use of an automobile or the value of benefits derived from counselling services received by him or a person related to him concerning stress management or the use or consumption of tobacco, drugs or alcohol, other than a benefit attributable to an outlay or expense to which section 134 applies, or counselling services concerning his re-employment or retirement."

(2) Subsection 1 applies from the taxation year 1993. However, where the third paragraph of section 38 of the Taxation Act, enacted by subsection 1, applies in respect of counselling services paid or provided by an employer before 21 May 1993, it shall be read as follows:

"Nor is he required to include therein the value of benefits under a retirement compensation arrangement, an employee benefit plan, an employee trust or a salary deferral arrangement, except in the last case to the extent that the value of benefits is included under section 37 by reason of section 47.11, the value of benefits related to the use of an automobile or the value of benefits derived from counselling services in respect of his mental or physical health or that of a person related to him, other than a benefit attributable to an outlay or expense to which section 134 applies, or his re-employment or retirement."

20. (1) Section 40.1 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(*b*) where the individual both receives an allowance in respect of that use and is reimbursed in whole or in part for expenses in respect of that use, except where the reimbursement is in respect of supplementary business insurance or toll or ferry charges and the amount of the allowance was determined without reference to those reimbursed expenses."

(2) Subsection 1 applies from the taxation year 1993.

21. (1) Section 41.1 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1993.

22. (1) The said Act is amended by inserting, before section 41.2, the following sections:

"**41.1.1** Where a reasonable amount corresponding to the value of the right of use of an automobile is determined under sections 41 to 41.0.2 in computing the income of an individual for a taxation year

from an office or employment and an amount is paid or payable by the individual's employer or by a person related to the individual's employer, each of whom is referred to in this section as the "payor", in respect of the operation, otherwise than in connection with or in the course of the individual's office or employment, of the automobile for the period or periods in the year during which the automobile was made available to the individual or a person related to the individual, the individual shall include, in computing his income for the year from an office or employment, the amount determined by the formula

A – B.

For the purposes of the formula in the first paragraph,

(*a*) A is

i. where the automobile is used primarily in the performance of the duties of the individual during the period or periods referred to in the first paragraph and the individual notifies the employer in writing before the end of the year of the individual's intention to have this subparagraph apply, one-half of the reasonable amount corresponding to the value of the right of use determined in respect of the automobile under sections 41 to 41.0.2 in computing the individual's income for the year, and

ii. in any other case, the amount equal to the product obtained when the amount prescribed for the year is multiplied by the total number of kilometres that the automobile is driven, otherwise than in connection with or in the course of the individual's office or employment, during the period or periods referred to in the first paragraph; and

(*b*) B is the aggregate of all amounts in respect of the operation of the automobile in the year paid in the year or within 45 days after the end of the year to the payor by the individual or by the person related to the individual.

This section does not apply where the aggregate of all amounts each of which is an amount referred to in the first paragraph, paid or payable by the payor, is paid, in the year or within 45 days after the end of the year, to the payor by the individual or by the person related to the individual.

"**41.1.2** An individual is required to include, in computing his income for a taxation year from an office or employment, the value of a benefit in respect of the operation of an automobile, other than a benefit to which section 41.1.1 applies or would apply but for the third paragraph thereof, received or enjoyed by the individual in the year in respect of, in the course of or because of, the individual's office or employment."

(2) Subsection 1 applies from the taxation year 1993.

23. Section 41.2 of the said Act, amended by section 61 of chapter 22 of the statutes of 1994 and by section 17 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) the amount included in the amount referred to in subparagraph *a* in respect of the property or service that may reasonably be attributed to tax levied under an Act of the legislature of a province that is a prescribed tax for the purposes of section 154 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15)."

24. (1) Section 41.2.1 of the said Act, enacted by section 62 of chapter 22 of the statutes of 1994 and amended by section 18 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *c* of the second paragraph by the following subparagraph:

"(*c*) a benefit described in section 37.0.1.1."

(2) Subsection 1 applies from the taxation year 1993.

25. (1) Section 41.2.2 of the said Act, enacted by section 62 of chapter 22 of the statutes of 1994, is repealed.

(2) Subsection 1 applies from the taxation year 1993.

26. (1) Section 41.3 of the said Act, replaced by section 63 of chapter 22 of the statutes of 1994, is amended by replacing the portion before paragraph *a* by the following:

"**41.3** To the extent that an amount required to be included, under section 37 or 41, in computing the income of an individual for a taxation year is determined by reference to the cost to a person of any property or service, that cost shall, for the purposes of those

sections, except where section 37 relates to a benefit referred to in section 37.0.1.1, be determined without reference to".

(2) Subsection 1 applies from the taxation year 1993.

27. (1) The said Act is amended by inserting, after section 41.3, the following section:

"**41.4** For the purposes of this Division, the value of a benefit in respect of the use of a motor vehicle by an individual does not include the value of a benefit related to the parking of the vehicle."

(2) Subsection 1 applies from the taxation year 1993.

28. (1) Section 47.6 of the said Act, amended by section 18 of chapter 64 of the statutes of 1993, is again amended by replacing, in the second paragraph, the words "or a prescribed fund or plan" by the words "or a prescribed arrangement".

(2) Subsection 1 has effect from 1 January 1980.

29. (1) Section 49.5 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**49.5** For the purposes of this Division and section 725.3, where a taxpayer disposes of or exchanges shares of a Canadian corporation that were acquired by the taxpayer under an agreement referred to in section 49.2, in this section referred to as the "exchanged shares", the taxpayer receives no consideration for the disposition or exchange of the exchanged shares other than shares, in this section referred to as the "new shares", of any of the corporations described in the second paragraph, and the total value of the new shares immediately after the disposition or exchange does not exceed the total value of the exchanged shares immediately before the disposition or exchange, the following rules apply:".

(2) Subsection 1 applies from the taxation year 1992.

30. (1) The said Act is amended by inserting, after section 70, the following section:

"**70.1** An individual may deduct the amount that is deductible in computing his income for the year by reason of section 864."

(2) Subsection 1 applies from the taxation year 1992.

31. (1) Section 86 of the said Act is amended by replacing subsection 2 by the following subsection:

"(2) Where an individual's income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, any reference in respect of the business to the taxation year or the year shall, in this Title and in sections 487 to 487.0.4, be read as a reference to the fiscal period ending in the year, unless the context otherwise requires."

(2) Subsection 1 applies from the taxation year 1988.

32. (1) Section 87 of the said Act, amended by section 64 of chapter 22 of the statutes of 1994 and by section 21 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing, in the French text of paragraphs *i* and *i*.1, the words "mauvaises créances" by the words "créances irrécouvrables";

(2) by replacing the portion of paragraph *n* before subparagraph i by the following:

"(*n*) any amount he must include in computing his income for the year under Title XII or section 1121.1, except".

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1988.

33. (1) Section 92 of the said Act, amended by section 66 of chapter 22 of the statutes 1994, is again amended by replacing the second paragraph by the following paragraph:

"However, the first paragraph does not apply to interest accrued, received or that became receivable in respect of a net income stabilization account, an income bond, an income debenture, a small business bond, an indexed debt obligation or a development bond."

(2) Subsection 1 applies in respect of debt obligations issued after 16 October 1991.

34. (1) Section 92.7 of the said Act, amended by section 69 of chapter 22 of the statutes of 1994, is again amended by striking out the word "and" at the end of subparagraph viii.1 of paragraph *a* and by inserting thereafter the following subparagraph:

"viii.2 an indexed debt obligation, and".

(2) Subsection 1 applies in respect of debt obligations issued after 16 October 1991.

35. (1) Section 93.7 of the said Act is amended by replacing, in subparagraph *f* of the first paragraph, the words "clause A of subparagraph ii of paragraph *g* of subsection 1 of section 89" by the words "subparagraph i of paragraph *b* of the definition of "public corporation" in subsection 1 of section 89", and the words "clause B of the said subparagraph ii" by the words "subparagraph ii of that paragraph *b*".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

36. (1) The said Act is amended by inserting, after section 93.12, the following section:

"**93.13** Where a person acquires a depreciable property for consideration that can reasonably be considered to include another property, the portion of the cost to the person of the depreciable property attributable to the other property is deemed not to exceed the fair market value of that other property."

(2) Subsection 1 applies in respect of property acquired after 30 November 1992.

37. (1) Section 99 of the said Act, amended by section 73 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing the portion before paragraph *a* by the following:

"**99.** Subject to section 450.10, for the purposes of this Division, Chapter III, sections 64 and 78.4 and any regulations made under paragraph *a* of section 130, the following rules apply:";

(2) by replacing the portion of paragraph *d*.1 before subparagraph i by the following:

"(*d*.1) notwithstanding any other provision of this Part except section 450.10, where at any time a particular person or partnership has, in any manner whatever, acquired, otherwise than as a consequence of the death of the transferor, a depreciable property of a prescribed class, other than a timber resource property or a passenger vehicle in respect of which paragraph *d*.3 or *d*.4 or section 525.1 applies, from a transferor being a person or partnership with whom the particular person or partnership did not deal at arm's length and the property was, immediately before the transfer, a capital property of the transferor, the following rules apply:".

(2) Subsection 1 has effect from 1 January 1993. However, where the portion of section 99 of the Taxation Act before paragraph *a*, enacted by paragraph 1 of subsection 1, applies before 17 June 1994, it shall be read as follows:

"**99.** Subject to section 450.10, for the purposes of this Division, sections 64, 78.4, 130.1, 142 and 149 and any regulations made under paragraph *a* of section 130, the following rules apply:".

38. (1) The said Act is amended by inserting, after section 105, the following section:

"**105.1** For the purposes of paragraph *a* of section 105, where an individual was resident in Canada at any time in a taxation year and throughout the preceding taxation year or the following taxation year, he is deemed to have been resident in Canada throughout the year."

(2) Subsection 1 applies from the taxation year 1988.

39. (1) Section 112 of the said Act, replaced by section 77 of chapter 22 of the statutes of 1994, is amended by replacing the second paragraph by the following paragraph:

"For the purposes of subparagraph *c* of the first paragraph,

(*a*) where the voting rights attached to a particular class of common shares of the capital stock of a corporation differ from the voting rights attached to another class of common shares of the capital stock of the corporation and there are no other differences between the terms and conditions of the classes of shares that could cause the fair market value of a share of the particular class to differ materially from the fair market value of a share of the other class, the common shares of the particular class are deemed to be identical to those of the other class; and

(*b*) rights are not considered identical if the cost of acquiring the rights differs."

(2) Subsection 1 applies in respect of benefits conferred after 19 December 1991.

40. Section 112.2 of the said Act, replaced by section 78 of chapter 22 of the statutes of 1994 and by section 23 of chapter 1 of the statutes of 1995, is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) the amount included in the amount referred to in subparagraph *a* in respect of the property or service, that may reasonably be attributed to tax levied under an Act of the legislature of a province that is a prescribed tax for the purposes of section 154 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15)."

41. (1) Section 117 of the said Act is replaced by the following section:

"**117.** If a corporation has made, in the year, an automobile available to a shareholder, or a person related to the shareholder, the value of the benefit to be included in computing the income of the shareholder for the year under section 111 is, except when an amount has been included in computing the shareholder's income under section 41 in respect of the automobile, computed on the assumption that Divisions I and II of Chapter II of Title II apply in respect of that benefit, with such modifications as the circumstances require, and as though the references therein to "the employer", "an employer" or "his employer" were read as references to "the corporation"."

(2) Subsection 1 applies from the taxation year 1993.

42. (1) Section 119.2 of the said Act, replaced by section 83 of chapter 22 of the statutes of 1994, is amended by replacing, in the definition of "qualifying debt obligation", the portion before paragraph *a* by the following:

" "qualifying debt obligation" of a corporation at a particular time means an obligation that is a bond, debenture, bill, note, hypothec, mortgage or similar obligation issued between 25 February 1992 and 1 January 1995 and not more than five years before the particular time, the principal amount of which is not less than $10,000 nor more than $500,000, that is issued for a term of not more

than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the obligation is issued by the corporation".

(2) Subsection 1 applies in respect of obligations issued after 31 December 1992. In addition, for the purposes of the definition of "development bond" in section 119.2 of the Taxation Act, a joint election made after 31 December 1992 and on or before 6 March 1996 in respect of an obligation issued after 31 December 1992 and before 1 January 1995 shall be deemed to have been made within 90 days after the day the obligation was issued.

43. (1) Section 119.15 of the said Act, replaced by section 90 of chapter 22 of the statutes of 1994, is amended by replacing, in the definition of "qualifying debt obligation", the portion before paragraph *a* by the following:

" "qualifying debt obligation" of an individual or a partnership at a particular time means an obligation that is a bill, note, hypothec, mortgage or similar obligation issued between 25 February 1992 and 1 January 1995 and not more than five years before the particular time, the principal amount of which is not less than $10,000 nor more than $500,000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the proceeds from the issue of the obligation are used in Canada in a business the individual or partnership carried on immediately before the time of issue, and if the obligation is issued by the individual or partnership".

(2) Subsection 1 applies in respect of obligations issued after 31 December 1992. In addition, for the purposes of the definition of "small business bond" in section 119.15 of the Taxation Act, a joint election made after 31 December 1992 and on or before 6 March 1996 in respect of an obligation issued after 31 December 1992 and before 1 January 1995 shall be deemed to have been made within 90 days after the day the obligation was issued.

44. (1) Section 123 of the said Act, amended by section 94 of chapter 22 of the statutes of 1994, is again amended by replacing the portion before paragraph *a* by the following:

"**123.** Where a bond is issued at a discount, the first owner of the bond who is resident in Canada, who is not a person exempt, because of sections 980 to 998, from tax on part or on all of the

person's taxable income and of whom the bond is a capital property shall include, in computing his income for the taxation year in which he has become the owner of the bond, the amount by which the principal amount of the bond exceeds the amount for which the bond was issued,".

(2) Subsection 1 applies from the taxation year 1990.

45. (1) Section 135.1 of the said Act is replaced by the following section:

"**135.1** Paragraph *c* of section 135 does not apply in respect of a contribution made to an employee benefit plan, to the extent that

(*a*) the contribution

i. is made in respect of services performed by an employee who is not resident in Canada and is regularly employed in a country other than Canada, and

ii. cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada;

(*b*) when the custodian of the plan is not resident in Canada, the contribution

i. is made in respect of an employee who is not resident in Canada at the time the contribution is made, and

ii. cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada; or

(*c*) when the custodian of the plan is not resident in Canada, the contribution can reasonably be regarded as having been made in respect of services performed by an employee during a particular month, if the employee

i. was resident in Canada throughout no more than 60 of the 72 calendar months ending with the particular month, and

ii. became a member of the plan before the end of the month after the month in which he became resident in Canada.

For the purposes of subparagraph *c* of the first paragraph, where the benefits provided in respect of an employee under a particular employee benefit plan are replaced by the benefits provided under another employee benefit plan, the other plan is deemed, in respect of the employee, to be the same plan as the particular plan."

(2) Subsection 1 applies in respect of contributions made after 31 December 1992.

46. (1) Section 157 of the said Act, amended by section 105 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing paragraph *h*.2 by the following paragraph:

"(*h*.2) an amount paid by the taxpayer in the year for any prescribed disability-specific device or equipment;";

(2) by replacing, in the French text of paragraph *n*, the words "hydrocarbures apparentés" by the words "hydrocarbures connexes".

(2) Paragraph 1 of subsection 1 applies in respect of amounts paid after 25 February 1992.

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 30 November 1991.

47. (1) Section 157.2.1 of the said Act is replaced by the following section:

"**157.2.1** For the purposes of subparagraph ii of paragraph *o* of section 157, an outlay or expense does not include an outlay or expense that is in respect of the cost of property of the taxpayer or that is deductible under Divisions II to IV.1 of Chapter X of Title VI, except sections 360 and 361, or would be deductible if the amount so deductible by the taxpayer were not limited by reason of section 374 or 400, subparagraph ii of subparagraph *a* of the first paragraph of section 413 or subparagraph ii of paragraph *a* of section 418.7."

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

48. Section 165.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**165.1** Where a taxpayer who is a member of a partnership is obligated to pay an amount as interest or in full or partial payment of interest on money that was borrowed by him before 1 April 1977 and that was used by him to acquire land owned by the partnership before that day or pursuant to an obligation entered into by him before 1 April 1977 to pay for such land, and, in a taxation year of the taxpayer, the partnership disposes of all or part of the land, or the taxpayer disposes of all or part of his interest in the partnership, to a person other than a person with whom the taxpayer does not deal at arm's length, the taxpayer may, in computing his income for the year or any subsequent taxation year, deduct such part of the amount as may reasonably be attributed to the part of the land or interest in the partnership, as the case may be, that is so disposed of and that was not".

49. Section 175.1.1 of the said Act is amended, in the French text of the first paragraph,

(1) by replacing the portion before subparagraph i of subparagraph *b* by the following:

"**175.1.1** Lorsque, à un moment quelconque, un paiement est fait à une personne ou à une société par un contribuable dans le cadre de l'exploitation d'une entreprise ou relativement à un bien dont il tire un revenu, à l'égard d'un emprunt ou d'un montant à payer pour un bien acquis par lui, appelé « dette obligataire » dans le présent article, en contrepartie d'une réduction du taux d'intérêt qu'il doit payer sur la dette obligataire ou à titre de pénalité ou de prime qu'il doit payer en raison du remboursement par lui, avant échéance, de la totalité ou d'une partie du principal de la dette obligataire, le paiement, dans la mesure où l'on peut raisonnablement considérer qu'il se rapporte à un montant qui, si ce n'était de la réduction ou du remboursement, serait payé ou à payer par le contribuable à titre d'intérêt sur la dette obligataire pour une année d'imposition du contribuable qui se termine après ce moment, et dans la mesure où il n'excède pas la valeur à ce moment de ce montant, est réputé:

a) pour l'application de la présente partie, avoir été payé par le contribuable et reçu par la personne ou société à ce moment à titre d'intérêt sur la dette obligataire;

b) aux fins de calculer le revenu du contribuable à l'égard de l'entreprise ou du bien pour l'année, être payé ou à payer par le contribuable dans cette année à titre d'intérêt conformément à une obligation juridique de payer des intérêts:";

(2) by replacing subparagraphs 1 and 2 of subparagraph ii of subparagraph *b* by the following subparagraphs:

"1° qui constitue un emprunt, sur l'emprunt utilisé dans l'année pour les fins auxquelles cet emprunt qui a été remboursé a été utilisé, sauf dans la mesure où l'emprunt a été utilisé par le contribuable pour acquérir un bien;

"2° qui constitue soit un emprunt utilisé pour acquérir un bien, soit un montant à payer pour un bien acquis par le contribuable, sur la dette obligataire dans la mesure où le bien ou un bien y substitué est utilisé par le contribuable dans l'année aux fins d'en tirer un revenu ou aux fins de gagner ou produire un revenu provenant d'une entreprise."

50. (1) Section 175.2 of the said Act, amended by section 113 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following:

"**175.2** Malgré toute autre disposition de la présente partie, un contribuable ne peut déduire, dans le calcul de son revenu pour une année d'imposition, un montant en vertu des articles 147, 160, 163, 176, 176.4 ou 179 à l'égard d'un emprunt, ou d'un autre bien acquis par lui, relativement à une période après laquelle il utilise l'emprunt ou l'autre bien pour:";

(2) by adding, after paragraph *d*.1, the following paragraph:

"(*d*.2) paying an amount to any account under a provincial pension plan prescribed by regulation for the purposes of paragraph *v* of section 60 of the Income Tax Act."

(2) Paragraph 2 of subsection 1 applies from the taxation year 1993.

51. (1) The said Act is amended by inserting, after section 175.2.1, the following sections:

"**175.2.2** Where at any time after 31 December 1993 borrowed money ceases to be used by a taxpayer for the purpose of earning income from a capital property, other than depreciable property or immovable property, and the amount of the borrowed money that was so used by the taxpayer immediately before that time exceeds the amount determined under the second paragraph, the amount of

the excess, to the extent that it is outstanding after that time, is deemed to be borrowed money used by the taxpayer for the purpose of earning income from the property.

The amount referred to in the first paragraph as being determined in the second paragraph is the aggregate of

(*a*) where the taxpayer disposed of the property at the particular time for an amount of consideration that is not less than the fair market value of the property at that time, the amount of the borrowed money used to acquire the consideration;

(*b*) where the taxpayer disposed of the property at the particular time and paragraph *a* does not apply, the amount of the borrowed money that, if the taxpayer had received as consideration an amount of money equal to the amount by which the fair market value of the property at that time exceeds the amount included in the aggregate determined under this paragraph by reason of paragraph *c*, would be considered to be used to acquire the consideration;

(*c*) where the taxpayer disposed of the property at the particular time for consideration that includes a reduction in the amount of the borrowed money, the amount of the reduction; and

(*d*) where the taxpayer did not dispose of the property at the particular time, the amount of the borrowed money that, if the taxpayer had disposed of the property at that time and received as consideration an amount of money equal to the fair market value of the property at that time, would be considered to be used to acquire the consideration.

"**175.2.3** Where at any particular time after 31 December 1993 a taxpayer ceases to carry on a business and, as a consequence, borrowed money ceases to be used by the taxpayer for the purpose of earning income from the business, the following rules apply:

(*a*) where, at any time, in this paragraph referred to as the "time of disposition", at or after the particular time, the taxpayer disposes of property that was last used by the taxpayer in the business, an amount of the borrowed money equal to the lesser of the following amounts is deemed to have been used by the taxpayer immediately before the time of disposition to acquire the property:

i. the fair market value of the property at the time of disposition, and

ii. the amount of the borrowed money outstanding at the time of disposition that is not deemed by this paragraph to have been used before the time of disposition to acquire any other property;

(*b*) subject to paragraph *a*, the borrowed money is deemed, after the particular time, not to have been used to acquire property that was used by the taxpayer in the business;

(*c*) the amount of the borrowed money outstanding at any time after the particular time that is not deemed by paragraph *a* to have been used before that subsequent time to acquire property is deemed to be used by the taxpayer at that subsequent time for the purpose of earning income from the business; and

(*d*) the business is deemed to have fiscal periods after the particular time that coincide with the taxation years of the taxpayer, except that the first such fiscal period is deemed to begin at the end of the business's last fiscal period that began before the particular time.

"**175.2.4** For the purposes of paragraph *a* of section 175.2.3,

(*a*) where a property was used by a taxpayer in a business that the taxpayer has ceased to carry on, the taxpayer is deemed to dispose of the property at the time at which the taxpayer begins to use the property in another business or for any other purpose;

(*b*) where a taxpayer, who has at any particular time ceased to carry on a business, regularly used a property in part in the business and in part for some other purpose,

i. the taxpayer is deemed to have disposed of the property at that time, and

ii. the fair market value of the property at that time is deemed to equal the proportion of the fair market value of the property at that time that the use regularly made of the property in the business was of the whole use regularly made of the property; and

(*c*) where the taxpayer is a trust, sections 653 to 656.3 do not apply.

"**175.2.5** Where an amount is payable by a taxpayer for property, the amount is deemed, for the purposes of sections 175.2.2 to 175.2.7 and, where section 175.2.3 applies with respect to the amount, for the purposes of this Part, to be payable in respect of borrowed money used by the taxpayer to acquire the property.

"**175.2.6** For the purposes of sections 175.2.2 to 175.2.7, where borrowed money that has been used to acquire an interest in a partnership is, as a consequence, considered to be used at any time for the purpose of earning income from a business or property of the partnership, the borrowed money is deemed to be used at that time for the purpose of earning income from property that is the interest in the partnership and not to be used for the purpose of earning income from the business or property of the partnership.

"**175.2.7** Where at any time a taxpayer uses borrowed money to repay money previously borrowed that was deemed by paragraph *c* of section 175.2.3 immediately before that time to be used for the purpose of earning income from a business, the following rules apply:

(*a*) paragraphs *a* to *c* of section 175.2.3 apply with respect to the borrowed money; and

(*b*) section 183 does not apply with respect to the borrowed money."

(2) Subsection 1 has effect from 1 January 1994.

52. The heading of Division XIII of Chapter III of Title III of Book III of Part I of the said Act is replaced, in the English text, by the following heading:

"BORROWINGS".

53. (1) Section 176 of the said Act is replaced by the following section:

"**176.** Subject to section 176.1, a taxpayer may deduct such part of an amount that is not otherwise deductible in computing the income of the taxpayer and that is an expense incurred by the taxpayer in the year or a preceding taxation year

(*a*) in the course of a borrowing of money used by the taxpayer for the purpose of earning income from a business or property, other than money used by the taxpayer for the purpose of acquiring property the income from which is exempt from tax;

(*b*) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of earning income therefrom or for the purpose of earning income from a business, other than property the income from which would be exempt from tax or property that is an interest in a life insurance policy; or

(*c*) in the course of a rescheduling or restructuring of a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where

(1) the debt obligation is in respect of a borrowing described in paragraph *a* or in respect of an amount payable described in paragraph *b*, and

(2) in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the substitution or conversion of the debt obligation with or to another debt obligation or a share.

The taxpayer may not, however, deduct any amount that is a payment described in the first paragraph of section 175.1.1 or any amount paid or payable as or on account of the principal amount of the indebtedness or as or on account of interest."

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1987.

54. (1) Section 176.2 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**176.2** For the purposes of sections 176, 176.1 and 176.3, where in a taxation year all debt obligations in respect of a borrowing of money described in subparagraph *a* of the first paragraph of section 176 or in respect of an amount payable described in subparagraph *b* of that first paragraph are settled or extinguished by the taxpayer, otherwise than in a transaction made as part of a series of borrowings or other transactions and repayments, for consideration that does not include any property described in the second paragraph, of the taxpayer or any person with whom the taxpayer does not deal at arm's length or any partnership or trust of which the taxpayer or any person with whom the taxpayer does not deal at arm's length is a member or beneficiary, section 176.1 shall be read without reference to the words "the lesser of" and to paragraph *a*."

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1987.

55. (1) Section 176.4 of the said Act is replaced by the following section:

"**176.4** A taxpayer may deduct an amount payable by him, other than an amount referred to in section 176.5, as a registrar fee, transfer agent fee, standby charge, guarantee fee, filing fee, service fee or any similar fee, that may reasonably be considered to relate solely to the year and that is incurred by the taxpayer

(*a*) in the course of a borrowing of money to be used by the taxpayer for the purpose of earning income from a business or property, other than money used by the taxpayer for the purpose of acquiring property the income from which is exempt from tax;

(*b*) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of earning income therefrom or for the purpose of earning income from a business, other than property the income from which is exempt from tax or property that is an interest in a life insurance policy; or

(*c*) in the course of rescheduling or restructuring a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where

(1) the debt obligation is in respect of a borrowing described in paragraph *a*, or in respect of an amount payable described in paragraph *b*, and

(2) in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the substitution or conversion of the debt obligation with or to another debt obligation or a share."

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1987.

56. Section 176.6 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following:

"**176.6** A taxpayer may deduct such portion of the lesser of the following amounts as may reasonably be considered to relate to the amount owing from time to time during the year by the taxpayer to a restricted financial institution under a borrowing from the institution:";

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

"i. an interest in the policy is assigned to the restricted financial institution in the course of the borrowing;";

(3) by replacing, in the French text, subparagraphs ii and iii of paragraph *a* by the following subparagraphs:

"ii. l'intérêt à payer à l'égard du prêt est ou serait, en l'absence des articles 135.4, 164, 180 à 182 et 194 à 197, admissible en déduction dans le calcul du revenu du contribuable pour l'année;

"iii. la cession visée au sous-paragraphe i est exigée par l'institution financière véritable à titre de garantie sur le prêt;".

57. (1) Section 183 of the said Act is replaced by the following section:

"**183.** Subject to section 175.2.7, borrowed money used by a taxpayer to repay money previously borrowed or to pay an amount payable for property referred to in paragraph *b* of section 160 or 161 and previously acquired is deemed, for the purposes of this Division and sections 160, 175.2.2 and 175.2.3, to be used for the purposes for which the money previously borrowed was used or was deemed, under this section, to have been used, or to acquire property in respect of which the amount was so payable, as the case may be."

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1993.

58. (1) Section 238 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) is a deemed disposition under section 242 as it read before 1 January 1993, or any of sections 281, 283, 299 to 300, 436, 440, 444, 450, 450.6, 653, 785.1, 785.2, 832.1, 861, 862 and 999.1;".

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(*b*) from 1 January 1993, in all other cases.

59. (1) Section 241.0.1 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(*b*) the amount, if any, by which the amount of prescribed assistance that the taxpayer, or a person with whom the taxpayer was not dealing at arm's length, received or is entitled to receive in respect of the share exceeds any loss otherwise determined from the disposition of the share or of the property substituted for the share before the particular time by the taxpayer or the person."

(2) Subsection 1 applies from the taxation year 1991.

60. (1) Sections 242 to 247.1 of the said Act are repealed.

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(*b*) from 1 January 1993, in all other cases.

61. (1) Section 255 of the said Act, amended by section 123 of chapter 22 of the statutes of 1994, is again amended by replacing subparagraph iii of paragraph *l* by the following subparagraph:

"iii. does not exceed the aggregate of the following amounts, to the extent that those amounts are included in computing the loss:

(1) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the taxpayer in that year or payable by the taxpayer in respect of that year to a province or a Canadian municipality in respect of the property, and

(2) interest, paid by the taxpayer in that year or payable by the taxpayer in respect of that year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property;".

(2) Subsection 1 applies from the taxation year 1988.

62. (1) Section 264.1 of the said Act is amended by replacing the words "paragraph *b* of subsection 6 of section 127.2" by the words "subsection 6 of section 127.2".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

63. (1) Section 264.2 of the said Act is amended by replacing the words "paragraph *b* of subsection 2 of section 127.3" by the words "subsection 2 of section 127.3".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

64. (1) Section 264.4 of the said Act is amended by adding the following paragraph:

"However, where a particular amount was included under subparagraph ii of paragraph *a* of section 105 in computing the individual's income for a taxation year that ended after 31 December 1987 and before 1 January 1990, the reference in subparagraph ii of subparagraph *b* of the first paragraph to "3/2" shall, in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount, be read as "4/3"."

(2) Subsection 1 applies from the taxation year 1988.

65. (1) Section 264.5 of the said Act is amended by adding the following paragraph:

"However, where a particular amount was included under subparagraph ii of paragraph *a* of section 105 in computing the trust's income for a taxation year that ended after 31 December 1987 and before 1 January 1990, the reference in subparagraph ii of subparagraph *b* of the first paragraph to "3/2" shall, in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount, be read as "4/3"."

(2) Subsection 1 applies from the taxation year 1988.

66. (1) Section 277.1 of the said Act, enacted by section 134 of chapter 22 of the statutes of 1994, is amended by replacing the portion before paragraph *a* by the following:

"**277.1** Notwithstanding any other provision of this Act, where at any time a taxpayer disposes of a remainder interest in immovable property, except as a result of a transaction to which section 459 would otherwise apply or by way of a gift to a donee described in the definition of "total charitable gifts" or "total Crown gifts" in section 752.0.10.1, to a person or partnership and retains a life estate

or an estate *pur autre vie*, in this Division called the "life estate", in the property, the taxpayer is deemed".

(2) Subsection 1 applies in respect of dispositions occurring after 20 December 1991.

67. (1) Section 280 of the said Act is amended by replacing paragraph *d* by the following paragraph:

"(*d*) the time at which the taxpayer is deemed, under sections 433 to 451 or paragraph *b* of section 785.2, to have disposed of the property; and".

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(*b*) from 1 January 1993, in all other cases.

68. (1) Section 280.3 of the said Act is replaced by the following section:

"**280.3** For the purposes of this Title, where a taxpayer has disposed of a former business property that was in part a building and in part the land, or an interest therein, subjacent to, or immediately contiguous to and necessary for the use of, the building, the amount by which the proceeds of disposition of one such part determined without regard to this section exceed the adjusted cost base to the taxpayer of that part is, to the extent that the taxpayer so elects in his fiscal return filed under this Part for the year in which he acquired a replacement property for the former business property, deemed not to be proceeds of disposition of that part and to be proceeds of disposition of the other part."

(2) Subsection 1 applies in respect of dispositions occurring after 21 December 1992.

69. (1) Section 284 of the said Act is replaced by the following section:

"**284.** For the purposes of this Title and sections 93 to 104, where section 281, to the extent that it concerns property that commences to be used to gain income, or paragraph *b* of section 99 would otherwise apply for a taxation year in respect of any property

of a taxpayer, the taxpayer is deemed not to have begun to use the property for the purpose of gaining income if he so elects in respect of the property in his fiscal return for the year under this Part.

However, if in his fiscal return under this Part for a subsequent taxation year the taxpayer rescinds his election in respect of the property, the taxpayer is deemed to have begun to so use the property on the first day of that subsequent year."

(2) Subsection 1 applies from the taxation year 1992.

70. (1) Section 301 of the said Act is amended

(1) by replacing the portion before paragraph *b* by the following:

"**301.** Where a share of the capital stock of a corporation is acquired by a taxpayer in exchange for a capital property of the taxpayer that is another share of the corporation or a capital property of the taxpayer that is a bond, debenture or note of the corporation which confers on the holder the right to make the exchange and no consideration other than that share is received by the taxpayer, the following rules apply:

(*a*) except for the purposes of section 157.6, the exchange is deemed not to be a disposition of property;";

(2) by adding, after paragraph *c*, the following paragraph:

"(*d*) where the exchanged capital property is taxable Canadian property of the taxpayer, the share acquired by the taxpayer on the exchange is also deemed to be taxable Canadian property of the taxpayer."

(2) Subsection 1 applies in respect of exchanges occurring after 21 December 1992 and reorganizations beginning after that date.

71. (1) The said Act is amended by inserting, after section 301.1, the following section:

"**301.2** Sections 301 and 301.1 do not apply in respect of an exchange to which section 518, 529 or 541 applies."

(2) Subsection 1 applies in respect of exchanges occurring after 21 December 1992 and reorganizations beginning after that date.

72. (1) The said Act is amended by inserting, after section 306.1, the following section:

"**306.2** Notwithstanding any other provision of this Part, where at any particular time a corporation becomes resident in Canada, the cost to any shareholder that is not at that time resident in Canada of any share of the capital stock of the corporation is deemed to be equal to the lesser of that cost otherwise determined and the paid-up capital in respect of the share immediately after that time."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1992.

73. (1) The said Act is amended by inserting, after section 308.3, the following section:

"**308.3.1** Notwithstanding section 308.3, section 308.1 applies to a dividend received by a corporation where the dividend is received as part of a series of transactions or events in which

(*a*) a person who is resident in a country other than Canada or a partnership any member of which is resident in a country other than Canada, such person or partnership being referred to in this section as the "foreign vendor", disposes of property that is

i. a share of the capital stock of the particular corporation referred to in section 308.3 or of a transferee corporation in relation to the particular corporation that is taxable Canadian property of the foreign vendor or, where the foreign vendor is a partnership, would be taxable Canadian property of the foreign vendor if the foreign vendor were not resident in Canada, or

ii. property the fair market value of which, at any time during the course of the series of transactions or events, is derived principally from one or more shares which, if owned by the foreign vendor, would be shares described in subparagraph i; and

(*b*) the property disposed of by the foreign vendor or any other property acquired by any person or partnership in substitution for it is acquired by a person, other than the particular corporation, or partnership that, at any time during the course of the series of transactions or events, deals at arm's length with the foreign vendor."

(2) Subsection 1 applies in respect of dividends received after 4 May 1993, other than a dividend received as part of a series of transactions or events in which a foreign vendor was obliged on

4 May 1993 to dispose of property described in paragraph *a* of section 308.3.1 of the Taxation Act, enacted by subsection 1, under a written agreement entered into before 5 May 1993.

74. (1) Section 310 of the said Act, replaced by section 26 of chapter 64 of the statutes of 1993 and by section 138 of chapter 22 of the statutes of 1994, is again replaced by the following section:

"**310.** The amounts a taxpayer is required to include in computing his income under section 309 include those in respect of a registered retirement savings plan or a registered retirement income fund, to the extent provided in Title IV of Book VII, and those provided for in sections 900, 935.4 to 935.6, 935.9, 935.10.1, 965.20, 965.49, 965.50, 968 and 968.1."

(2) Subsection 1 applies from the taxation year 1993. However, for the period preceding 17 December 1993, section 310 of the Taxation Act, enacted by subsection 1, shall be read without reference to "900,".

75. (1) Section 311 of the said Act is amended by replacing paragraphs *e* and *e*.1 by the following paragraphs:

"(*e*) a prescribed benefit paid under a government assistance program, except to the extent otherwise required to be included in the taxpayer's income;

"(*e*.1) a benefit paid under the Program for Older Worker Adjustment according to the terms of the agreement made following the approval obtained under Order in Council 1396-88 dated 14 September 1988;".

(2) Subsection 1 applies in respect of benefits received after 31 October 1991.

76. (1) Section 312 of the said Act, amended by section 27 of chapter 64 of the statutes of 1993, by section 139 of chapter 22 of the statutes of 1994 and by section 32 of chapter 1 of the statutes of 1995, is again amended

(1) by striking out, in the French text of paragraphs *a*, *b*.0.1 and *b*.2, the words "d'un arrêt,";

(2) by replacing paragraph *c*.2 by the following paragraph:

"(*c*.2) any amount received out of or under, or as proceeds of disposition of, an annuity where the payment made for the acquisition of the annuity was deductible in computing the taxpayer's income by virtue of paragraph *f* of section 339 or by virtue of section 923.3, as it read immediately before its repeal, or was made in circumstances to which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied;".

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991. However, where paragraph 1 of subsection 1 refers to paragraph *b*.0.1 of section 312 of the Taxation Act, it shall not apply before the taxation year 1993.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1992.

77. (1) Section 316 of the said Act, replaced by section 35 of chapter 1 of the statutes of 1995, is again replaced by the following section:

"**316.** A taxpayer who assigned or transferred before the end of a taxation year to a person with whom the taxpayer was not dealing at arm's length at that time the right to an amount that would otherwise be included in computing the taxpayer's income for the year shall include in computing the taxpayer's income for that year the part of that amount that relates to the period in the year throughout which he was resident in Canada, unless the income is from property that the taxpayer also assigned or transferred or from the portion of a retirement pension partitioned under sections 158.3 to 158.8 of the Act respecting the Québec Pension Plan (chapter R-9) or any comparable provision of a similar plan, within the meaning of that Act."

(2) Subsection 1 applies from the taxation year 1992. However, where section 316 of the Taxation Act, enacted by subsection 1, applies before 1 January 1994, it shall be read as follows:

"**316.** A taxpayer who assigned or transferred before the end of a taxation year to a person with whom the taxpayer was not dealing at arm's length at that time the right to an amount that would otherwise be included in computing the taxpayer's income for the year shall include in computing the taxpayer's income for that year the part of that amount that relates to the period in the year throughout which he was resident in Canada, unless the income is from property that the taxpayer also assigned or transferred or from an assignment of any portion of a retirement pension partitioned

under section 65.1 of the Canada Pension Plan (Revised Statutes of Canada, 1985, chapter C-8) or any comparable provision of a provincial pension plan as defined in section 3 of that Act."

78. (1) The said Act is amended by inserting, after section 317, the following section:

"**317.1** A taxpayer shall not include, by virtue of section 317, an amount that he may not, by reason of subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), include in computing his income for the purposes of that Act."

(2) Subsection 1 applies in respect of transfers occurring after 31 December 1991.

79. (1) Section 336 of the said Act, amended by section 95 of chapter 15 of the statutes of 1993, by section 29 of chapter 64 of the statutes of 1993, by section 143 of chapter 22 of the statutes of 1994, by section 38 of chapter 1 of the statutes of 1995 and by section 91 of chapter 18 of the statutes of 1995, is again amended

(1) by striking out, in the French text of paragraphs *a*, *a*.0.1 and *b*.0.1 of subsection 1, the words "d'un arrêt,";

(2) by replacing paragraph *d* of subsection 1 by the following paragraph:

"(*d*) an overpayment of an amount described in paragraph *a* of section 311, of a pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), of a benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, of a benefit under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), of a benefit described in paragraph *e* or *e*.1 of section 311, or of a training allowance under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19), received by an individual and included in computing his income for the year or a preceding taxation year, up to the amount reimbursed by him in the year otherwise than under Part VII of the Unemployment Insurance Act;";

(3) by striking out, in the French text of subsection 2, the words "un arrêt,".

(2) Paragraphs 1 and 3 of subsection 1 apply to taxation years ending after 30 November 1991. However, where paragraph 1 of subsection 1 refers to paragraph *a*.0.1 of subsection 1 of section 336 of the Taxation Act, it shall not apply before the taxation year 1993.

(3) Paragraph 2 of subsection 1 applies in respect of repayments made after 31 December 1990. However, where paragraph *d* of subsection 1 of section 336 of the Taxation Act, enacted by subsection 1, applies to a repayment made before 1 November 1991, it shall be read as follows:

"(*d*) an overpayment of a retiring allowance described in paragraph *a* of section 311, of a pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), of a benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, of a benefit under the Labour Adjustment Benefits Act (Revised Statutes of Canada, 1985, chapter L-1) or under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), of a benefit under the Program for Older Worker Adjustment according to the terms of the agreement made following the approval obtained under Order in Council 1396-88 dated 14 September 1988, of an income assistant payment pursuant to an agreement under section 5 of the Department of Labour Act (Revised Statutes of Canada, 1985, chapter L-3), or of a training allowance under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19), received by an individual and included in computing his income for the year or a preceding taxation year, up to the amount reimbursed by him in the year otherwise than under Part VII of the Unemployment Insurance Act;".

80. (1) Section 359 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

"(*b*) "mining business" means an activity described in subparagraph *a* or *a*.1 of the first paragraph of section 363 with respect to minerals or in any of subparagraphs *b* to *e*, *f*.1 or *g* of the first paragraph of that section, and a transaction concerning a property described in any of paragraphs *a* to *f* of section 370 that may reasonably be related to minerals;

"(*c*) "oil business" means an activity described in subparagraph *a* or *a*.1 of the first paragraph of section 363, except with respect to minerals, or in subparagraph *f* of the first paragraph of that section, and a transaction concerning a property described in any of

paragraphs *a* to *f* of section 370, that may reasonably be related to petroleum or natural gas, and that is not contemplated in paragraph *b*;".

(2) Subsection 1 applies from the taxation year 1993.

81. (1) Section 359.1 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) to renounce, before 1 March of the first calendar year beginning after that period, on the prescribed form to the person in respect of the share, an amount in respect of the Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses so incurred by it not exceeding the consideration received by the corporation for the share."

(2) Subsection 1 applies in respect of shares issued under an agreement entered into after 28 February 1986.

82. (1) The said Act is amended by inserting, after section 359.1, the following section:

"**359.1.1** For the purposes of this Division, a renunciation made by a corporation under section 359.2, 359.2.1, 359.4 or 359.6 in respect of a share is effective on the date on which the renunciation is made by the corporation or on an earlier date set out in the form prescribed for the purposes of section 359.12."

(2) Subsection 1 applies in respect of expenses incurred after 28 February 1986. However, where section 359.1.1 of the Taxation Act, enacted by subsection 1, applies in respect of expenses incurred before 3 December 1992, it shall be read without reference to "359.2.1,".

83. (1) Section 359.2 of the said Act is amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**359.2** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation incurred Canadian exploration expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first

calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of";

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

"(*a*) the amount by which the consideration for the share exceeds the aggregate of other amounts renounced under this section or section 359.2.1, 359.4 or 359.6 by the corporation in respect of the share on or before the date on which the renunciation is made, or";

(3) by striking out the third paragraph.

(2) Paragraphs 1 and 3 of subsection 1 apply in respect of expenses incurred after 28 February 1986.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 2 December 1992.

84. (1) The said Act is amended by inserting, after section 359.2, the following sections:

"**359.2.1** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the later of 3 December 1992 and the particular day the agreement was entered into and ending 24 months after the end of the month that included that particular day, the corporation incurred Canadian development expenses described in paragraph *a* or *a*.1 of section 408 or that would be described in paragraph *d* of that section if the words "expenses described in paragraphs *a* to *c*" in that paragraph were read as "expenses described in paragraph *a* or *a*.1", the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

(*a*) the assistance that it has received, is entitled to receive, or can reasonably be expected to receive at any time, and that can reasonably be related to those expenses or Canadian development activities to which those expenses relate, other than assistance that can reasonably be attributed to expenses referred to in paragraph *b*,

(*b*) any of those expenses that are prescribed Canadian exploration and development overhead expenses of the corporation, and

(*c*) all amounts that are renounced by the corporation on or before the day on which the renunciation is made by any other renunciation under this section or section 359.4 in respect of those expenses.

"**359.2.2** A corporation is deemed not to have renounced any particular amount under section 359.2.1 in respect of a share where

(*a*) the particular amount exceeds the amount by which the consideration for the share exceeds the aggregate of other amounts renounced under section 359.2, 359.2.1, 359.4 or 359.6 by the corporation in respect of the share on or before the day on which the renunciation is made;

(*b*) the particular amount exceeds the amount by which the cumulative Canadian development expense of the corporation on the effective date of the renunciation, computed before taking into account any amounts renounced under section 359.2.1 by the corporation on the day on which the renunciation is made, exceeds the aggregate of all amounts renounced by the corporation under this section in respect of any other share on the day on which the renunciation is made, and effective on or before the effective date of the renunciation; or

(*c*) the particular amount relates to Canadian development expenses incurred by the corporation in a calendar year and the total amounts renounced, on or before the day on which the renunciation is made, under section 359.2.1 in respect of Canadian development expenses incurred by the corporation in that calendar year or by another corporation associated with the corporation at the time the other corporation incurred such expenses exceeds $2,000,000."

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

85. (1) Section 359.3 of the said Act is replaced by the following section:

"**359.3** Subject to sections 359.11 to 359.12.0.1, where a corporation renounces an amount to a person under section 359.2 or 359.2.1, the following rules apply:

(*a*) the Canadian exploration expenses or Canadian development expenses to which the amount relates are deemed to be Canadian exploration expenses incurred in that amount by the person on the effective date of the renunciation; and

(*b*) the Canadian exploration expenses or Canadian development expenses to which the amount relates are, except in respect of that renunciation, deemed on and after the effective date of the renunciation never to have been Canadian exploration expenses or Canadian development expenses incurred by the corporation."

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

86. (1) Section 359.4 of the said Act is amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**359.4** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation incurred Canadian development expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of";

(2) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

"(*c*) the aggregate of amounts that are renounced by the corporation on or before the date on which the renunciation is made by any other renunciation under this section or section 359.2.1 in respect of those expenses.";

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

"(*a*) the amount by which the consideration for the share exceeds the aggregate of other amounts renounced by the corporation in respect of the share under this section or section 359.2, 359.2.1 or 359.6 on or before the date on which the renunciation is made, or";

(4) by striking out the third paragraph.

(2) Paragraphs 1 and 4 of subsection 1 apply in respect of expenses incurred after 28 February 1986.

(3) Paragraphs 2 and 3 of subsection 1 apply in respect of expenses incurred after 2 December 1992.

87. (1) Section 359.6 of the said Act is amended

(1) by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**359.6** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation incurred Canadian oil and gas property expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of";

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

"(*a*) the amount by which the consideration for the share exceeds the aggregate of other amounts renounced by the corporation in respect of the share under this section or section 359.2, 359.2.1 or 359.4 on or before the day on which the renunciation is made, or";

(3) by striking out the third paragraph.

(2) Paragraphs 1 and 3 of subsection 1 apply in respect of expenses incurred after 28 February 1986.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 2 December 1992.

88. (1) Section 359.8 of the said Act is amended

(1) by replacing the portion before paragraph *b* by the following:

"**359.8** Where a corporation that issues a flow-through share to a person under an agreement incurs, within 60 days after the end of a calendar year, Canadian exploration expenses or Canadian development expenses, the corporation is, for the purposes of section 359.2 or 359.2.1, as the case may be, deemed to have incurred the expenses on the effective date of the renunciation, provided that

(*a*) the expenses are expenses described in paragraph *a*, *b*.1 or *c* of section 395 or in paragraph *a* or *a*.1 of section 408,";

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

"(*d*) within 90 days after the end of the year, the corporation renounces an amount in respect of the expenses to the person in respect of the share in accordance with section 359.2 or 359.2.1 and the effective date of the renunciation is the last day of the year."

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1992.

89. (1) Section 359.9 of the said Act is replaced by the following section:

"**359.9** A corporation is deemed

(*a*) not to have renounced under section 359.2, 359.2.1, 359.4 or 359.6 any expenses that are deemed to have been incurred by it because of a renunciation under this Chapter by another corporation that is not related to it;

(*b*) not to have renounced under section 359.2.1 to a corporation, trust or partnership any Canadian development expenses if, in respect of the renunciation, it has a prohibited relationship with the corporation, trust or partnership and if the expenses are not expenses renounced to another corporation that renounces under section 359.2 any Canadian exploration expense deemed to have been incurred by it because of the renunciation under section 359.2.1;

(*c*) not to have renounced under section 359.2.1 any Canadian development expenses deemed to have been incurred by it because of a renunciation under section 359.4; and

(*d*) not to have renounced under section 359.2 to a corporation, trust or partnership any Canadian exploration expenses that are deemed to have been incurred by it because of a renunciation under section 359.2.1 if, in respect of the renunciation under section 359.2,

it has a prohibited relationship with the corporation, trust or partnership and if the expenses are not expenses ultimately renounced by another corporation under section 359.2 to an individual, other than a trust, or to a corporation, trust or partnership with which that other corporation does not have, in respect of that ultimate renunciation, a prohibited relationship."

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

90. (1) The said Act is amended by inserting, after section 359.9, the following section:

"**359.9.1** For the purposes of section 359.9, where a corporation, in paragraph *b* referred to as the "shareholder corporation", trust or partnership gave consideration under a particular agreement for the issue of a flow-through share of a particular corporation, the particular corporation has, in respect of a renunciation under section 359.2 or 359.2.1 in respect of the share, a prohibited relationship

(*a*) with the trust if, at any time after the particular agreement was entered into and before the share is issued to the trust, the particular corporation or any corporation related to it is beneficially interested in the trust;

(*b*) with the shareholder corporation if, immediately before the particular agreement was entered into, the shareholder corporation was related to the particular corporation; or

(*c*) with the partnership if any part of the amount renounced would, but for section 359.12, be included, because of paragraph *d* of section 395, in the Canadian exploration expense of

i. the particular corporation, or

ii. any other corporation that, at any time after the particular agreement was entered into and before that part of the amount renounced would, but for this paragraph, be incurred, would, if flow-through shares issued by the particular corporation under agreements entered into at the same time as or after the time the particular agreement was entered into were disregarded, be related to the particular corporation."

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

91. (1) Section 359.11 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**359.11** Where, in a fiscal period of a partnership, an expense is or, but for this section, would be incurred by the partnership as a consequence of a renunciation of an amount under section 359.2, 359.2.1, 359.4 or 359.6, the partnership shall, on or before the last day of the third month following the end of that fiscal period, file with the Minister the prescribed form indicating the share of the expense attributable to each member of the partnership at the end of that fiscal period."

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

92. (1) Section 359.12 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**359.12** Where a corporation renounces an amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses under section 359.2, 359.2.1, 359.4 or 359.6, the corporation shall file the prescribed form in respect of the renunciation with the Minister before the end of the first month following the month in which the renunciation is made."

(2) Subsection 1 applies in respect of renunciations made after 2 December 1992.

93. (1) The said Act is amended by inserting, after section 359.12.1, the following section:

"**359.12.1.1** Where a corporation renounces an amount under section 359.2, 359.2.1, 359.4 or 359.6 after the period during which the corporation would, but for this section, be entitled to renounce the amount, the amount is deemed, except for the purposes of this section and sections 359.12 and 359.12.2, to have been renounced at the end of the period if

(*a*) the corporation renounces the amount on or before the day that is 90 days after the end of that period, or after the day that is 90 days after the end of that period where, in the opinion of the Minister, the circumstances are such that it would be just and equitable that the amount be renounced; and

(*b*) the corporation pays to the Minister the penalty payable under section 359.12.2 in respect of the renunciation on or before the day that is 90 days after the day of the renunciation."

(2) Subsection 1 applies in respect of renunciations made after 28 February 1993. However, where section 359.12.1.1 of the Taxation Act, enacted by subsection 1, applies in respect of renunciations relating to periods that end before 7 December 1995, it shall be read by replacing, in paragraph *a*, the words "the end of that period" by "7 December 1995" and, in paragraph *b*, the words "the day of the renunciation" by "the later of the day of the renunciation and 7 December 1995".

94. (1) Section 359.12.2 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following:

"**359.12.2** For the purposes of sections 359.12.1 and 359.12.1.1, the penalty in respect of the late filing of a document referred to in any of sections 359.10 to 359.12.0.1, or in respect of a renunciation referred to in section 359.12.1.1, is equal to the lesser of $15,000 and";

(2) by adding, after paragraph *b*, the following paragraph:

"(*c*) where the penalty is in respect of a renunciation referred to in section 359.12.1.1, the greater of $100 and 0.25% of the amount of the renunciation."

(2) Subsection 1 applies in respect of renunciations made after 28 February 1993.

95. (1) Section 359.13 of the said Act is replaced by the following section:

"**359.13** A corporation may renounce an amount under section 359.2, 359.2.1, 359.4 or 359.6 in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by it only to the extent that, but for the renunciation, it would be entitled to claim a deduction in respect of the expenses in computing its income for the purposes of this Part."

(2) Subsection 1 applies in respect of renunciations made after 2 December 1992.

96. (1) Section 359.14 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**359.14** Where a corporation has renounced an amount under section 359.2, 359.2.1, 359.4 or 359.6, sections 38 to 40.1 of the Act respecting the Ministère du Revenu (chapter M-31) apply, adapted as required and without restricting their generality, for the purpose of permitting the Minister to verify or ascertain".

(2) Subsection 1 has effect from 3 December 1992.

97. (1) Section 359.15 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**359.15** Where the aggregate of all amounts that a corporation purports to renounce to persons under section 359.2, 359.2.1, 359.4 or 359.6 in respect of expenses incurred by it in any period ending on the effective date of the purported renunciation exceeds the total amount of those expenses in respect of which it may renounce amounts under that section, the corporation shall".

(2) Subsection 1 applies in respect of renunciations made after 2 December 1992.

98. (1) Section 359.19 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**359.19** Notwithstanding sections 359.2, 359.2.1, 359.4 and 359.6, a corporation is not entitled to renounce an amount under any of the said sections at any time to another person where at that time the corporation".

(2) Subsection 1 applies in respect of renunciations of outlays made or expenses incurred after 2 December 1992.

99. (1) Section 363 of the said Act is replaced by the following section:

"**363.** A development corporation is, for the purposes of this Chapter, a corporation whose principal business is any of, or a combination of,

(*a*) the production, refining or marketing of petroleum, petroleum products or natural gas,

(*a*.1) exploring or drilling for petroleum or natural gas,

(*b*) mining or exploring for minerals,

(*c*) the processing of mineral ores for the purpose of recovering metals or minerals from the ores,

(*d*) the processing or marketing of metals or minerals that were recovered from mineral ores and that include metals or minerals recovered from mineral ores processed by the corporation,

(*e*) the fabrication of metals,

(*f*) the operation of a pipeline for the transmission of oil or gas,

(*f*.1) the production or marketing of calcium chloride, sodium chloride, gypsum, kaolin or potash, and

(*g*) the manufacturing of products, where the manufacturing involves the processing of calcium chloride, sodium chloride, gypsum, kaolin or potash.

A development corporation is also, for the purposes of this Chapter, a corporation all or substantially all of the assets of which are shares of the capital stock or indebtedness of one or more development corporations that are related to the corporation otherwise than because of a right referred to in paragraph *b* of section 20."

(2) Subsection 1 applies from the taxation year 1993. However, it shall not apply

(*a*) to the taxation years 1993 to 1996 of a corporation if the corporation so elects by notifying the Minister of Revenue in writing before the end of the sixth month following the month in which this Act is assented to;

(*b*) in respect of transactions and events that occurred before the taxation year 1993.

100. (1) Section 395 of the said Act is amended

(1) by replacing paragraph *a* by the following paragraph:

"(*a*) any expense including an expense for a geological, geophysical or geochemical survey, other than an expense incurred

in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well, incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of an accumulation of petroleum or natural gas, other than a mineral resource, in Canada;";

(2) by replacing subparagraph i of paragraph *b* by the following subparagraph:

"i. it is determined that the well is the first well capable of production in commercial quantities from an accumulation of petroleum or natural gas not previously known to exist, other than a mineral resource, or";

(3) by replacing subparagraph iv of paragraph *b*.1 by the following subparagraph:

"iv. the certificate referred to in subparagraph iv of paragraph *d* of the definition of "Canadian exploration expenses" in subsection 6 of section 66.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in respect of a well has been filed with the Minister, in respect of the well, on or before the day that is six months after the end of the taxation year of the taxpayer in which the drilling of the well was commenced;".

(2) Paragraph 3 of subsection 1 applies to taxation years ending after 30 November 1991.

101. (1) Section 399 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) all amounts deducted, or required to be deducted, in computing his income for a taxation year ending before that time in respect of such expenses;".

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

102. (1) Section 399.6 of the said Act is amended by replacing paragraph *c* by the following paragraph:

"(*c*) that was renounced by him under section 359.2.1, 359.4 or 417;".

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

103. (1) Section 400 of the said Act is replaced by the following section:

"**400.** A development corporation may deduct, in computing its income for a taxation year, any amount not exceeding the lesser of

(*a*) the aggregate of

i. the amount by which its cumulative Canadian exploration expenses at the end of the year exceed the amount, designated by it for the year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under subsection 14.1 of section 66 of that Act, and

ii. the amount by which the aggregate determined under subparagraph i of paragraph *a* of section 418.31.1 in respect of the corporation for the year exceeds the amount that would be determined in respect of the corporation for the year under paragraph *d* of section 330 if the aggregate last referred to in that paragraph *d* were not taken into account; and

(*b*) the amount by which the amount that would be its income for the year if no deduction, other than a prescribed deduction, were allowed under this section and sections 360 and 361 exceeds the aggregate of all amounts each of which is an amount deducted by the corporation under sections 738 to 749 in computing its taxable income for the year."

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

104. (1) Section 406 of the said Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

"(*a*) of all amounts deducted or required to be deducted in respect of those expenses under section 400 in computing the income of the joint exploration corporation for any taxation year preceding the particular taxation year; and".

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

105. (1) Section 412 of the said Act is amended

(1) by replacing subparagraph ii of paragraph *b* by the following subparagraph:

"ii. the amount by which the amount determined under the first paragraph of section 412.1 exceeds the amount determined under the second paragraph of that section;";

(2) by striking out subparagraph iii of paragraph *b*;

(3) by replacing paragraph *g* by the following paragraph:

"(*g*) the amount by which the aggregate of all amounts determined under section 418.12 in respect of a taxation year of the taxpayer ending at or before that time, in this paragraph referred to as the "relevant time", exceeds the aggregate of all amounts each of which is the least of

i. the amount that would be determined under the second paragraph of section 418.19, at a time, in this paragraph referred to as the "particular time", that is the end of the latest taxation year of the taxpayer ending at or before the relevant time, in respect of the taxpayer as a corporation referred to in that section 418.19 in respect of a disposition, in this paragraph referred to as the "original disposition", of Canadian resource property by a person who is an original owner of the property because of the original disposition, if

(1) where the taxpayer has disposed of all or part of the property in circumstances in which section 418.19 applied, that section continued to apply to the taxpayer in respect of the original disposition as if each of the subsequent corporations contemplated in that section 418.19 were the same person as the taxpayer, and

(2) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the particular time were made before the particular time;

ii. the amount by which the aggregate of all amounts each of which became receivable at or before the particular time and before 1 January 1993 by the taxpayer and is included in computing the amount determined under subparagraph *b* of the second paragraph of section 418.21 in respect of the original disposition exceeds the amount by which

(1) where the taxpayer disposed of all or part of the property before the particular time in circumstances in which section 418.21 applied, the amount that would be determined at the particular time under subparagraph *a* of the second paragraph of section 418.21 in respect of the original disposition if that subparagraph continued to apply to the taxpayer in respect of the original disposition as if each of the subsequent corporations contemplated in that section 418.21 were the same person as the taxpayer or, in any other case, the amount determined at the particular time under subparagraph *a* of the second paragraph of section 418.21 in respect of the original disposition, exceeds

(2) the amount that would be determined at the particular time under subparagraph *b* of the second paragraph of section 418.21 in respect of the original disposition if that subparagraph were read without reference to the words "or by the corporation" or "or the corporation", wherever they appear therein, and if amounts that became receivable after 31 December 1992 were not taken into account; and

iii. nil, where

(1) after the original disposition and at or before the particular time, the taxpayer disposed of all or part of the property in circumstances in which section 418.19 applied, otherwise than by way of an amalgamation or merger or solely because of the application of paragraph *a* of section 418.26, and

(2) the winding-up of the taxpayer began at or before the relevant time or the taxpayer's disposition referred to in subparagraph 1, other than a disposition under an agreement in writing entered into before 22 December 1992, occurred after 21 December 1992;".

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years ending after 17 February 1987.

(3) Paragraph 3 of subsection 1 applies to taxation years ending after 21 December 1992. However, it shall apply in respect of a taxpayer to taxation years ending after 17 February 1987 where the taxpayer so elects by notifying the Minister of Revenue in writing before the end of the sixth month after the end of the taxpayer's taxation year that includes the day on which this Act is assented to.

106. (1) The said Act is amended by inserting, after section 412, the following section:

"**412.1** The first amount referred to in subparagraph ii of paragraph *b* of section 412 is the aggregate of all amounts each of which would be determined under the second paragraph of section 418.19, immediately before the time, in this section referred to as the "relevant time", when such proceeds of disposition became receivable, in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.19 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

(*a*) amounts that became receivable at or after the relevant time were not taken into account; and

(*b*) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the relevant time were made before the relevant time.

The second amount referred to in subparagraph ii of paragraph *b* of section 412 is the total of

(*a*) all amounts that would be determined under the second paragraph of section 418.19 at the relevant time in respect of the taxpayer and an original owner of the property or of any other property acquired by the taxpayer with the property in circumstances in which section 418.19 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

i. amounts that became receivable after the relevant time and amounts described in subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 that became receivable at the relevant time were not taken into account, and

ii. each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable at or before the relevant time were made before the relevant time; and

(*b*) such portion of the amount otherwise determined under subparagraph ii of paragraph *b* of section 412 as was otherwise applied to reduce the amount otherwise determined under that paragraph."

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

107. (1) Section 418.6 of the said Act is amended, in paragraph *b*,

(1) by replacing the portion before subparagraph i by the following:

"(*b*) of any amount which in respect of the disposition by the taxpayer before that time of property referred to in paragraph *a*, *c* or *d* of section 370 or in paragraph *f* of section 370 in respect of property referred to in paragraph *a*, *c* or *d* of that section is equal to the amount by which";

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

"ii. the total of the amount determined under section 418.6.1 and the amount determined under section 418.6.2;";

(3) by striking out subparagraph iii.

(2) Paragraph 1 of subsection 1 applies in respect of dispositions occurring in taxation years beginning after 31 December 1984.

(3) Paragraphs 2 and 3 of subsection 1 apply to taxation years ending after 17 February 1987.

108. (1) The said Act is amended by inserting, after section 418.6, the following sections:

"**418.6.1** The first amount referred to in subparagraph ii of paragraph *b* of section 418.6 is the amount by which the aggregate of all amounts that would be determined under the second paragraph of section 418.21, immediately before the time, in this section and in section 418.6.2 referred to as the "relevant time", when such proceeds of disposition became receivable, in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.21 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, exceeds the amount described in the second paragraph, if

(*a*) amounts that became receivable at or after the relevant time were not taken into account;

(*b*) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the relevant time were made before the relevant time; and

(*c*) the second paragraph of section 418.21 were read without reference to "10% of".

The amount referred to in the first paragraph as being described in the second paragraph is the aggregate of

(*a*) all amounts that would be determined under the second paragraph of section 418.21 at the relevant time in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.21 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

i. amounts that became receivable after the relevant time were not taken into account,

ii. each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable at or before the relevant time were made before the relevant time, and

iii. the second paragraph of section 418.21 were read without reference to "10% of"; and

(*b*) such portion of the amount determined under this section as was otherwise applied to reduce the amount otherwise determined under paragraph *b* of section 418.6.

"**418.6.2** The second amount referred to in subparagraph ii of paragraph *b* of section 418.6 is the amount by which the aggregate of all amounts that would be determined under the second paragraph of section 418.19, immediately before the relevant time, in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.19 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, exceeds the amount described in the second paragraph, if

(*a*) amounts that became receivable at or after the relevant time were not taken into account; and

(*b*) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the relevant time were made before the relevant time.

The amount referred to in the first paragraph as being described in the second paragraph is the aggregate of

(*a*) all amounts that would be determined under the second paragraph of section 418.19 at the relevant time in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.21 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

i. amounts that became receivable after the relevant time and amounts described in subparagraph i of subparagraph *b* of the second paragraph of section 418.19 that became receivable at the relevant time were not taken into account, and

ii. each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable at or before the relevant time were made before the relevant time; and

(*b*) such portion of the amount otherwise determined under this section as was otherwise applied to reduce the amount otherwise determined under paragraph *b* of section 418.6."

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

109. (1) Section 418.12 of the said Act is replaced by the following section:

"**418.12** For the purposes of subparagraph *a* of the second paragraph of section 358, as it applies in respect of dispositions occurring before 13 November 1981, paragraph *g* of section 412 and paragraph *b* of section 418.5, the amount determined under this section for a taxation year in respect of a taxpayer is equal to the amount by which the aggregate of all amounts deducted under section 418.6 in computing the taxpayer's cumulative Canadian oil

and gas property expense at the end of the year exceeds the total of all amounts included under section 418.5 in computing the taxpayer's cumulative Canadian oil and gas property expense at the end of the year and the aggregate determined under subparagraph i of paragraph *c* of section 418.31.1 in respect of the taxpayer for the year."

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

110. (1) Section 418.17 of the said Act is amended by replacing subparagraph 2 of subparagraph ii of subparagraph *a* of the third paragraph by the following subparagraph:

"(2) the amount by which 10% of the amount described in the second paragraph for the year in respect of the original owner exceeds the aggregate of all amounts each of which would, but for this subparagraph ii, subparagraph ii of paragraph *b* and subparagraph ii of paragraph *f* of section 418.26, be determined under this paragraph for the year in respect of the particular property or other foreign resource property owned by the original owner immediately before being acquired with the particular property by the corporation or a predecessor owner of the particular property, exceeds".

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

111. (1) Section 418.18 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

"(*b*) deducted or required to be deducted under section 400 or 401 in computing the income of the original owner for any taxation year, or designated by the original owner for any taxation year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) pursuant to subsection 14.1 of section 66 of that Act."

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

112. (1) Section 418.19 of the said Act is amended

(1) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

"(*b*) the aggregate of

i. all amounts each of which is a particular amount, reduced by the portion thereof described in the fourth paragraph, that became receivable by a predecessor owner of the particular property or the corporation in the year or a preceding taxation year and that

(1) was included by the predecessor owner or the corporation in computing an amount determined under subparagraph i of paragraph *b* of section 412 at the end of the year, and

(2) can reasonably be regarded as attributable to the disposition of a property, in the fourth paragraph referred to as a "relevant mining property", that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property, and

ii. all amounts each of which is a particular amount, reduced by the portion thereof described in the fifth paragraph, that became receivable by a predecessor owner of the particular property or the corporation after 31 December 1992 and in the year or a preceding taxation year and that

(1) is designated in respect of the original owner by the predecessor owner or the corporation, as the case may be, on the prescribed form filed with the Minister within six months after the end of the taxation year in which the particular amount became receivable,

(2) was included by the predecessor owner or the corporation in computing an amount determined under subparagraph i of paragraph *b* of section 418.6 at the end of the year, and

(3) can reasonably be regarded as attributable to the disposition of a property, in the fifth paragraph referred to as a "relevant oil and gas property", that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property.";

(2) by adding, after the third paragraph, the following paragraphs:

"The particular amount mentioned in subparagraph i of subparagraph *b* of the second paragraph shall be reduced by the

portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under that paragraph in respect of another original owner of a relevant mining property who is not a predecessor owner of a relevant mining property or who became a predecessor owner of a relevant mining property before the original owner became a predecessor owner of a relevant mining property.

The particular amount mentioned in subparagraph ii of subparagraph *b* of the second paragraph shall be reduced by the portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under the second paragraph of section 418.21 in respect of the original owner or under the second paragraph, or the second paragraph of section 418.21, in respect of another original owner of a relevant oil and gas property who is not a predecessor owner of a relevant oil and gas property or who became a predecessor owner of a relevant oil and gas property before the original owner became a predecessor owner of a relevant oil and gas property."

(2) Subsection 1 applies to taxation years ending after 17 February 1987. However, a designation referred to in subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 of the Taxation Act, enacted by paragraph 1 of subsection 1, that is made by a taxpayer who so notifies the Minister of Revenue in writing before the end of the sixth month that begins after the end of the taxpayer's taxation year that includes the day on which this Act is assented to shall be deemed to have been made in accordance with subparagraph 1 of that subparagraph ii.

113. (1) Section 418.21 of the said Act is amended

(1) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

"(*b*) the aggregate of all amounts each of which is a particular amount, reduced by the portion thereof described in the fourth paragraph, that became receivable by a predecessor owner of the particular property or the corporation in the year or a preceding taxation year and that

i. was included by the predecessor owner or the corporation in computing an amount determined under subparagraph i of paragraph *b* of section 418.6 at the end of the year, and

ii. can reasonably be regarded as attributable to the disposition of a property, in the fourth paragraph referred to as a "relevant oil and gas property", that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property.";

(2) by adding, after the third paragraph, the following paragraph:

"The particular amount mentioned in subparagraph *b* of the second paragraph shall be reduced by the portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under the second paragraph, or the second paragraph of section 418.19, in respect of another original owner of a relevant oil and gas property who is not a predecessor owner of a relevant oil and gas property or who became a predecessor owner of a relevant oil and gas property before the original owner became a predecessor owner of a relevant oil and gas property."

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

114. (1) Section 418.26 of the said Act is amended

(1) by replacing the portion before paragraph *a* by the following:

"**418.26** Where, at any time after 12 November 1981, control of a corporation has been acquired by a person or group of persons, or a corporation ceases to be exempt from tax under this Part on its taxable income, for the purposes of the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24) and of this Part, other than sections 359.2, 359.2.1, 359.2.2, 359.4, 359.6 and 359.13, relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, in this section referred to as "resource expenses", incurred by the corporation before that time, the following rules apply:";

(2) by replacing, in the French text, the words "frais miniers" by the words "frais relatifs à des ressources" in paragraph *c*, in subparagraph i of paragraph *e* and in the portion of paragraph *f* before subparagraph i;

(3) by replacing the words "particular corporation" wherever they occur in the portion of paragraph *e* before subparagraph ii, in the portion of paragraph *f* before subparagraph i and in paragraph *g* by the words "particular person".

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years ending after 2 December 1992.

(3) Paragraph 3 of subsection 1 applies in respect of amalgamations occurring after 21 December 1992.

115. (1) Section 418.31 of the said Act is amended

(1) by replacing the portion of paragraph *b*.1 before subparagraph i by the following:

"(*b*.1) for the purposes of the second paragraph of section 418.18, the cumulative Canadian exploration expense of the original owner determined immediately after the disposition that was deducted under section 400 or 401 in computing the original owner's income for the year is deemed to be equal to the lesser of";

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

"(*b*.2) any amount, other than the amount determined under paragraph *b*.1, that was deducted under section 400 or 401 by the original owner for the year or a subsequent taxation year is deemed, for the purposes of the second paragraph of section 418.18, not to be in respect of the cumulative Canadian exploration expense of the original owner determined immediately after the disposition;";

(3) by striking out, in paragraphs *c*.2 and *d*.2, the words "for greater certainty,".

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

116. (1) Sections 418.33 and 418.34 of the said Act are replaced by the following sections:

"**418.33** Where in a taxation year a predecessor owner of Canadian resource properties disposes of Canadian resource properties to a corporation in circumstances in which any of sections 418.16, 418.18, 418.19 and 418.21 or section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), to the extent that section 86.4 of the Regulation respecting the

application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2) refers to subsection 25 of section 29 of the Income Tax Act Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) applies,

(*a*) for the purpose of applying any of those sections to the predecessor owner in respect of its acquisition of any Canadian resource property owned by it immediately before the disposition, it is deemed, after the disposition, never to have acquired any such properties except for the purpose of determining the following amounts:

i. an amount deductible under section 418.16 or 418.18 for the year,

ii. where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition was by way of an amalgamation or merger, an amount deductible under section 418.19 or 418.21 for the year; and

iii. the amount under paragraph *b* of section 412, subparagraph i or ii of paragraph *g* of that section or paragraph *b* of section 418.6; and

(*b*) where the corporation or another corporation acquires any of the properties on or after the disposition in circumstances in which section 418.19 or 418.21 applies, amounts that become receivable by the predecessor owner after the disposition in respect of Canadian resource properties retained by it at the time of the disposition are deemed, for the purpose of applying section 418.19 or 418.21 to the corporation or the other corporation in respect of the acquisition, not to have become receivable by the predecessor owner.

"**418.34** Where after 5 June 1987 a predecessor owner of foreign resource properties disposes of all or substantially all of its foreign resource properties to a corporation in circumstances in which section 418.17 applies, for the purpose of applying that section to the predecessor owner in respect of its acquisition of any of those properties, or other foreign resource properties retained by it at the time of the disposition which were acquired by it in circumstances in which that section 418.17 applied, it is deemed, after the disposition, never to have acquired the properties."

(2) Subsection 1, where it replaces section 418.33 of the Taxation Act, applies in respect of dispositions occurring in taxation years ending after 17 February 1987, and where it replaces section 418.34 of that Act, it applies to taxation years ending after that date.

117. (1) Section 424 of the said Act is amended by replacing subsection 1 by the following subsection:

"**424.** (1) Where at any time property of a corporation is appropriated in any manner to or for the benefit of a shareholder of the corporation gratuitously or for consideration that is less than the property's fair market value and a sale of the property at its fair market value would have contributed to increase the corporation's income or to reduce a loss of the corporation, the corporation is deemed, at that time, to have disposed of the property and to have received proceeds of disposition therefor equal to its fair market value at that time."

(2) Subsection 1 applies in respect of appropriations occurring after 21 December 1992.

118. (1) Section 432 of the said Act is replaced by the following section:

"**432.** For the purposes of this Division, a right or property does not include intangible capital property, land included in the inventory of a business, a Canadian resource property, a foreign resource property or an interest in a life insurance policy, other than an annuity contract of a taxpayer where the payment made by him for its acquisition was deductible in computing his income because of paragraph *f* of section 339, or was made in circumstances in which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied."

(2) Subsection 1 applies from the taxation year 1992.

119. (1) Sections 433 and 434 of the said Act are replaced by the following sections:

"**433.** For the purposes of paragraph *a* of section 330 and subparagraph i of paragraph *b* of each of sections 412 and 418.6, an individual who dies is deemed to have, immediately before his death, disposed of each property owned by him, to the disposition of which the said paragraph or either of the said subparagraphs applies, and received proceeds of disposition therefor equal to its fair market value immediately before the death.

"**434.** An individual who dies is deemed to have, immediately before his death, disposed of each property that was land included in the inventory of a business of the individual and received proceeds of disposition therefor equal to its fair market value immediately before the death."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

120. (1) Section 435 of the said Act, amended by section 161 of chapter 22 of the statutes of 1994, is replaced by the following section:

"**435.** Notwithstanding sections 433 and 434, where any property referred to therein was owned by an individual who was resident in Canada immediately before his death and, on or after and as a consequence of the death, that property is transferred or assigned to the spouse of the individual or to a trust described in section 440, if it can be shown within the period ending 36 months after the death of the individual or, where written application therefor has been made to the Minister by the individual's legal representative before the expiry of that period, within such longer period as the Minister considers reasonable, that the property vested indefeasibly in the spouse or trust,

(*a*) in the case of a Canadian resource property or a foreign resource property to which section 433 applies, the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to such amount as is specified by the individual's legal representative in the individual's fiscal return filed under paragraph *c* of subsection 2 of section 1000, to the extent that the amount does not exceed the fair market value of the property immediately before the death, and the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to the amount included in computing the income of the individual under paragraph *a* of section 330 or, as the case may be, in the amount referred to in subparagraph i of paragraph *b* of section 412 or 418.6 in respect of the property;

(*b*) in the case of a property to which section 434 applies, the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to its cost amount to the individual immediately before the death, and the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to those proceeds."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

121. (1) Section 436 of the said Act, replaced by section 163 of chapter 22 of the statutes of 1994, is again replaced by the following section:

"**436.** An individual who dies is deemed to have, immediately before his death, disposed of each capital property of the individual and received proceeds of disposition therefor equal to the fair market value of the property immediately before the death, and any person who acquires the property as a consequence of the death is deemed to have acquired it at the time of the death at a cost equal to its fair market value immediately before the death."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

122. (1) Section 437 of the said Act, amended by section 164 of chapter 22 of the statutes of 1994, is again amended by replacing the portion of paragraph *b* before subparagraph i by the following:

"(*b*) the person is deemed, in respect of the intangible capital property, to have acquired a capital property at the time of the death of the individual at a cost equal to the proceeds of disposition determined under paragraph *a*, except where the person continues to carry on the business of the individual, in which case the person is deemed to have, at the time of the individual's death, acquired an intangible capital property and disbursed therefor an intangible capital amount equal to the aggregate of".

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

123. (1) Section 438.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of deaths occurring after 30 June 1989.

124. (1) Section 439 of the said Act, amended by section 168 of chapter 22 of the statutes of 1994, is replaced by the following section:

"**439.** For the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where depreciable property of a prescribed class of a deceased individual is deemed under section 436 to be acquired by a person, except where the individual's proceeds of disposition of the property under section 436 are redetermined under sections 93.1 to 93.3, and the capital cost to the individual of the property exceeds the amount determined under section 436 to be the cost to the person of the property, the following rules apply:

(*a*) the capital cost to the person of the property is deemed to be equal to the capital cost to the individual of the property; and

(*b*) the excess is deemed to have been allowed to the person as depreciation in respect of the property for the taxation years that ended before the acquisition."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

125. (1) The said Act is amended by inserting, after section 439, the following section:

"**439.1** Notwithstanding section 436, where property of a deceased individual is deemed under section 436 to be acquired by a person and the individual's proceeds of disposition of the property under section 436 are redetermined under sections 93.1 to 93.3, the following rules apply:

(*a*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where the property was depreciable property of a prescribed class and the amount that was the capital cost to the individual of the property exceeds the amount so redetermined under sections 93.1 to 93.3,

i. the capital cost to the person of the property is deemed to be equal to the capital cost to the individual of the property, and

ii. the excess is deemed to have been allowed to the person as depreciation in respect of the property for the taxation years that ended before the acquisition; and

(*b*) where the property is land, other than land to which paragraph *a* applies, the cost to the person of the property is deemed to be equal to the amount that was the individual's proceeds of disposition of the property as redetermined under sections 93.1 to 93.3."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

126. (1) Section 440 of the said Act, amended by section 169 of chapter 22 of the statutes of 1994, is again amended, in the first paragraph,

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

"(*a*) subject to subparagraph *a*.1, the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to the following amount, and the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to those proceeds:

i. where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the individual of the property immediately before his death, and

ii. in any other case, the adjusted cost base of the property to the individual immediately before his death;";

(2) by replacing subparagraph ii of subparagraph *a*.1 by the following subparagraph:

"ii. the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to its cost to the individual, and".

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

127. (1) Section 444 of the said Act, amended by section 174 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

"(*a*) the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to the following amount, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds:

i. where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the individual of the property immediately before his death, and

ii. where the property is land, other than land to which subparagraph i applies, or a share of the capital stock of a family farm corporation, the adjusted cost base of the property to the individual immediately before his death;";

(2) by replacing subparagraph ii of subparagraph *a*.1 of the first paragraph by the following subparagraph:

"ii. the child is deemed to have acquired the property at the time of the death at a cost equal to the cost to the individual of the property, and";

(3) by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where depreciable property of a prescribed class of the individual is deemed under subparagraph *a* to be acquired by the child as a consequence of the individual's death, except where the individual's proceeds of disposition of the property under subparagraph *a* are redetermined under sections 93.1 to 93.3, and the capital cost to the individual of the property exceeds the amount determined under subparagraph *a* to be the cost to the child of the property, the following rules apply:

i. the capital cost to the child of the property is deemed to be equal to the capital cost to the individual of the property, and

ii. the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition;";

(4) by adding, after subparagraph *b* of the first paragraph, the following subparagraph:

"(*c*) notwithstanding subparagraph *a*, where property of an individual is deemed under subparagraph *a* to be acquired by the child as a consequence of the individual's death, and the individual's proceeds of disposition of the property under subparagraph *a* are redetermined under sections 93.1 to 93.3, the following rules apply:

i. for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where the property was depreciable property of a prescribed class and the capital cost to the individual of the property exceeds the amount so redetermined under sections 93.1 to 93.3,

(1) the capital cost to the child of the property is deemed to be equal to the capital cost to the individual of the property, and

(2) the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition, and

ii. where the property is land, other than land to which subparagraph i applies, the cost to the child of the property is deemed to be equal to the amount that was the individual's proceeds of disposition of the property as redetermined under sections 93.1 to 93.3.";

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

"(*a*) the first paragraph applies without reference to subparagraphs *a* and *a*.1 thereof, and as if the references to subparagraph *a* in subparagraphs *b* and *c* of that paragraph were read as references to subparagraph *b* of this paragraph; and

"(*b*) the individual is deemed to have, immediately before his death, disposed of the property referred to in the first paragraph and received proceeds of disposition therefor equal to such amount as the individual's legal representative elects in respect of the property, in accordance with section 450.5, in the individual's fiscal return under this Part for the year in which the individual died, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

128. (1) Section 450 of the said Act, amended by section 177 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) the trust is deemed to have, immediately before the spouse's death, disposed of the property and received proceeds of disposition therefor equal to the following amount, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds:

i. where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the trust of the property immediately before the spouse's death, and

ii. where the property is land, other than land to which subparagraph i applies, or a share of the capital stock of a family farm corporation, the adjusted cost base to the trust of the property immediately before the spouse's death;";

(2) by replacing subparagraph ii of subparagraph *b*.1 of the first paragraph by the following subparagraph:

"ii. the child is deemed to have acquired the property at the time of the spouse's death at a cost equal to the cost to the trust of the property, and";

(3) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

"(*c*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where depreciable property of a prescribed class of the trust is deemed under subparagraph *b* to be acquired by the child as a consequence of the spouse's death, except where the trust's proceeds of disposition of the property under subparagraph *b* are redetermined under sections 93.1 to 93.3, and the capital cost to the trust of the property exceeds the amount determined under subparagraph *b* to be the cost to the child of the property, the following rules apply:

i. the capital cost to the child of the property is deemed to be equal to the capital cost to the trust of the property, and

ii. the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition; and";

(4) by adding, after subparagraph *c* of the first paragraph, the following subparagraph:

"(*d*) notwithstanding subparagraph *b*, where property of the trust is deemed under subparagraph *b* to be acquired by the child as a consequence of the spouse's death, and the trust's proceeds of disposition of the property under subparagraph *b* are redetermined under sections 93.1 to 93.3, the following rules apply:

i. for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where the property was depreciable property of a prescribed class and the capital cost to the trust of the property exceeds the amount so redetermined under sections 93.1 to 93.3,

(1) the capital cost to the child of the property is deemed to be equal to the capital cost to the trust of the property, and

(2) the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition, and

ii. where the property is land, other than land to which subparagraph i applies, the cost to the child of the property is deemed to be equal to the trust's proceeds of disposition of the property as redetermined under sections 93.1 to 93.3.";

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

"However, if the trust referred to in the first paragraph so elects in its fiscal return under this Part for its taxation year in which the spouse died, the following rules apply:

(*a*) the first paragraph applies without reference to subparagraphs *b* and *b*.1 thereof, and as if the references to subparagraph *b* in subparagraphs *c* and *d* of that paragraph were read as references to subparagraph *b* of this paragraph; and

(*b*) the trust is deemed to have, immediately before the spouse's death, disposed of the property referred to in the first paragraph and received proceeds of disposition therefor equal to such amount as the trust elects in respect of the property, in accordance with section 450.5, in the trust's fiscal return under this Part for the year in which the spouse died, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

129. (1) Section 450.5 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) where

i. the property is depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the individual of the property immediately before his death or to the trust immediately before the spouse's death, as the case may be;

ii. the property is land, other than land to which subparagraph i applies, or a share of the capital stock of a family farm corporation, or an interest in a family farm partnership, the adjusted cost base to the individual of the property immediately before his death or to the trust immediately before the spouse's death, as the case may be."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

130. (1) The said Act is amended by inserting, after section 450.9, the following sections:

"**450.10** For the purposes of Divisions I to III and, where a provision of either of those Divisions, other than this section, applies, for the purposes of sections 93 to 104 and Chapter III of Title III, but not for the purposes of any regulations made under paragraph *a* of section 130, the capital cost to an individual, or to a trust to which section 450 applies, of depreciable property of a prescribed class disposed of immediately before the death of the individual or, as the case may be, of the spouse referred to in that section 450, shall, in respect of property that was not disposed of by the individual or the trust before that time, be the amount that it would be, if

(*a*) paragraph *b* of section 99 were read without reference to "the lesser of the following amounts" in the portion before subparagraph i thereof and without reference to subparagraph ii thereof;

(*b*) subparagraph i of paragraph *d* of section 99 were read as follows:

"i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by him of the property to gain income is of the whole of the use regularly made of it;"; and

(*c*) section 99 were read without reference to paragraph *d*.1 thereof.

"**450.11** Where two or more depreciable properties of a prescribed class are disposed of at the same time as a consequence of an individual's death, Divisions I to III and paragraph *a* of the definition of "cost amount" in section 1 apply as if each property so

disposed of were separately disposed of in the order designated by the individual's legal representative or, in the case of a trust referred to in section 450, by the trust and, where the taxpayer's legal representative or the trust, as the case may be, does not designate an order, in the order designated by the Minister."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

131. (1) Section 490 of the said Act is amended by replacing, in the French text, the words "d'une entreprise d'utilité publique ou d'un service public" by the words "d'une entreprise de service public".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

132. (1) Section 491 of the said Act is amended by replacing paragraph *e* by the following paragraph:

"(*e*) compensation received under the regulations made under section 9 of the Aeronautics Act (Revised Statutes of Canada, 1985, chapter A-2), an amount received under the "Gallantry Awards Order" made by the Government of Canada, or a pension payment, an allowance or compensation that is received under the Pension Act (Revised Statutes of Canada, 1985, chapter P-6), the Merchant Navy Veteran and Civilian War-related Benefits Act (Revised Statutes of Canada, 1985, chapter C-31) or the War Veterans Allowance Act (Revised Statutes of Canada, 1985, chapter W-3); or".

(2) Subsection 1 has effect from 1 July 1992.

133. Section 492.2 of the said Act, enacted by section 38 of chapter 64 of the statutes of 1993, is repealed.

134. (1) Section 502.0.2 of the said Act is amended by replacing, in paragraph *a*, the words "subparagraph ii of paragraph *b* of subsection 1 of section 89" by the words "paragraph *b* of the definition of "capital dividend account" in subsection 1 of section 89", and the words "subparagraph iv of paragraph *b* of subsection 1 of section 89" by the words "paragraph *d* of the definition of "capital dividend account" in subsection 1 of section 89".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

135. (1) Section 502.0.3 of the said Act is amended by replacing the words "subparagraph iv of paragraph *b* of subsection 1 of section 89" by the words "paragraph *d* of the definition of "capital dividend account" in subsection 1 of section 89".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

136. (1) Section 502.0.4 of the said Act is amended by replacing, in paragraph *a*, the words "subparagraph ii of paragraph *b* of subsection 1" by the words "paragraph *b* of the definition of "capital dividend account" in subsection 1", wherever they appear.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

137. (1) Section 504 of the said Act is amended by replacing subparagraph iii of paragraph *f* of subsection 2 by the following subparagraph:

"iii. from a transaction by which the paid-up capital in respect of that class of shares or in respect of shares of another class for which shares of that class were substituted was reduced by the corporation, to the extent of the reduction in paid-up capital that resulted from the transaction."

(2) Subsection 1 applies in respect of transactions occurring after 13 July 1990. However, where subparagraph iii of paragraph *f* of subsection 2 of section 504 of the Taxation Act, enacted by subsection 1, applies in respect of transactions occurring before 21 December 1992, the English text thereof shall be read as follows:

"iii. from the reduction by the corporation of the paid-up capital in respect of that class of shares or in respect of shares of another class for which shares of that class were substituted."

138. (1) The said Act is amended by inserting, after section 504.1, the following section:

"**504.2** For the purposes of subparagraph ii of paragraph *f* of subsection 2 of section 504, where the property acquired by the corporation consists of shares of any class of the capital stock of another corporation resident in Canada, in this section referred to as the "particular corporation", and, immediately after the acquisition, the particular corporation is connected, within the meaning of the

regulations, with the corporation, the contributed surplus of the corporation that arose on the acquisition is deemed to be the lesser of

(*a*) the amount added to the contributed surplus of the corporation on the acquisition, and

(*b*) the amount by which the paid-up capital in respect of the shares at the time of the acquisition exceeded the fair market value of any consideration given by the corporation for the shares."

(2) Subsection 1 applies in respect of transactions occurring after 20 December 1992.

139. (1) Section 524.0.1 of the said Act, enacted by section 197 of chapter 22 of the statutes of 1994, is amended

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

$$\text{"}(A \times \frac{B}{C}) - 2[(D + E) - (F + G)].\text{"};$$

(2) by adding, after subparagraph *c* of the second paragraph, the following subparagraphs:

"(*d*) D is the amount that would be included under section 105 in computing the taxpayer's income as a result of the disposition if paragraph *b* of that section were read as follows:

"(*b*) in any other case, the excess shall be included in computing the taxpayer's income from that business for the year.";

"(*e*) E is the amount that would be deemed under section 105 to be a taxable capital gain of the taxpayer as a result of the disposition if subparagraph ii of paragraph *a* of that section were read as follows:

"ii. the amount by which the excess exceeds the amount determined under subparagraph i is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property by him in the year and, for the purposes of Title VI.5 of Book IV, that property is deemed to have been disposed of by him in the year;";

"(*f*) F is the amount included under section 105 in computing the taxpayer's income as a result of the disposition; and

"(*g*) G is the amount deemed under section 105 to be a taxable capital gain of the taxpayer as a result of the disposition."

(2) Subsection 1 applies in respect of dispositions of property to a corporation after the beginning of its first taxation year that begins after 30 June 1988.

140. (1) Section 535 of the said Act is amended, in paragraph *b*,

(1) by replacing the portion before subparagraph 1 of subparagraph i by the following:

"(*b*) the taxpayer must add, in computing the adjusted cost base of all shares of any class of the capital stock of the corporation mentioned therein owned by the taxpayer immediately after the disposition, the proportion that the fair market value, immediately after the disposition, of all shares of that class owned by him is of the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation then owned by him, of the amount by which the cost amount to the taxpayer immediately before the disposition of the property disposed of exceeds

i. in the case of capital property, the aggregate of the proceeds of disposition of the property and, where the property disposed of by the taxpayer is a share of the capital stock of a corporation, the aggregate of all amounts each of which is an amount that, but for section 239 and paragraph *a*, would be deducted";

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

"ii. in the case of an intangible capital property, the excess determined under subparagraph ii of paragraph *b* of section 107 in respect of the taxpayer as a result of the disposition of the property."

(2) Subsection 1 applies, in the case of a corporation, in respect of dispositions by it of property occurring after the beginning of its first taxation year that begins after 30 June 1988 and, in any other case, in respect of dispositions of property in respect of a business occurring after the beginning of the first fiscal period, that begins after 31 December 1987, of the business. However, where subparagraph i of paragraph *b* of section 535 of the Taxation Act, as amended by paragraph 1 of subsection 1, applies in respect of dispositions occurring before 14 July 1990, it shall be read as follows:

"i. in the case of capital property, the proceeds of the disposition, and".

141. (1) Section 536 of the said Act, amended by section 198 of chapter 22 of the statutes of 1994, is again amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

"(*a*) the taxpayer and the corporation from which he acquired the share were, immediately before the exchange, not dealing with each other at arm's length, otherwise than by reason of a right referred to in paragraph *b* of section 20 that is a right of the corporation to acquire the exchanged share, or the taxpayer and the corporation made an election referred to in section 518 or 529 immediately after the exchange in respect of the exchanged share;".

(2) Subsection 1 applies in respect of exchanges of shares occurring after 21 December 1992.

142. (1) Section 541 of the said Act is replaced by the following section:

"**541.** This Chapter applies where at a particular time after 6 May 1974, in the course of a reorganization of the capital of a corporation, a taxpayer disposes to the corporation of capital property that is shares of a particular class of the capital stock of the corporation that are then owned by him for consideration receivable by him from the corporation that includes another share of such capital stock, except where section 518 or 529 applies."

(2) Subsection 1 applies in respect of reorganizations beginning after 21 December 1992.

143. (1) Section 544 of the said Act, amended by section 199 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing subsection 4 by the following subsection:

"(4) Where there has been an amalgamation of a corporation and one or more of its subsidiary wholly-owned corporations or two or more corporations each of which is a subsidiary wholly-owned corporation of the same person, the new corporation is deemed, for the purposes of sections 85 to 91 and 95 to 98 of the Act respecting the application of the Taxation Act (1972, chapter 24) and sections 332.1, 332.2, 359.1 to 359.17, 362 to 418.36, 419.1 to 419.4 and 419.6, to be the same corporation as, and a continuation of, each predecessor corporation, except that this subsection shall in no respect affect the determination of any predecessor corporation's fiscal period, taxable income or tax payable.";

(2) by replacing subsection 5 by the following subsection:

"(5) For the purposes of subsections 3 and 4, this subsection and the second paragraph of section 547.1, and notwithstanding section 1, "subsidiary wholly-owned corporation" of a particular person means a corporation all the issued and outstanding shares of the capital stock of which are owned by

(*a*) the particular person;

(*b*) a corporation that is a subsidiary wholly-owned corporation of the particular person; or

(*c*) any combination of persons each of which is a person described in paragraph *a* or *b*."

(2) Subsection 1 applies in respect of amalgamations occurring after 21 December 1992.

144. (1) Section 550.7 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**550.7** Where there has been an amalgamation of two or more corporations each of which is a development corporation, within the meaning of section 363, or a corporation that at no time carried on business and a predecessor corporation entered into an agreement with a person, at a particular time, under which the corporation issued or agreed to issue, for consideration given by the person, a share that was a flow-through share or that would have been a flow-through share if it had been issued, the following rules apply for the purposes of section 359.8 and for the purpose of renouncing an amount under section 359.2, 359.2.1, 359.4 or 359.6 in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation:".

(2) Subsection 1 applies in respect of amalgamations occurring after 2 December 1992.

145. (1) Section 560.2 of the said Act, amended by section 205 of chapter 22 of the statutes of 1994, is again amended by replacing the second paragraph by the following paragraph:

"However, where a person or a group of persons has acquired, at any time, control of a corporation by succession or will, that person or group of persons is deemed, at that time and at any time before that time, for the purposes of the first paragraph and of paragraph *b* of section 739 where it applies to the first paragraph, to have dealt at arm's length with the person who bequeathed the shares, or from whom the shares were inherited, and with each other person who is related to that person."

(2) Subsection 1 applies in respect of windings-up beginning after 20 December 1991.

146. (1) Chapter IX.1 of Title IX of Book III of Part I of the said Act is repealed.

(2) Subsection 1 has effect

(*a*) in respect of a corporation that is deemed, under paragraph *a* of subsection 2 of section 10, to have made an election, from the time referred to in that paragraph *a*;

(*b*) in respect of a corporation that has made a valid election under paragraph *b* of subsection 2 of section 10, from the time after the corporation is granted articles of continuance or other similar constitutional documents in respect of which the election has been made;

(*c*) in all other cases, from 1 January 1993.

147. (1) The heading of Chapter X of Title IX of Book III of Part I of the said Act is replaced by the following heading:

"DEFINITIONS AND GENERAL PROVISIONS".

(2) Subsection 1 has effect from 15 June 1994.

148. (1) The said Act is amended by inserting, after section 570, the following section:

"**570.1** For the purposes of paragraph *c* of section 570, a corporation formed at any time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, two or more corporations is a Canadian corporation because it is resident in Canada at that time and was incorporated in Canada only if

(*a*) that reorganization took place under the laws of Canada or a province, and

(*b*) each of those corporations was, immediately before that time, a Canadian corporation.

The first paragraph does not apply in respect of a reorganization occurring as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or as a result of the distribution of the property to the other corporation on the winding-up of the corporation."

(2) Subsection 1 has effect from 15 June 1994.

149. (1) The said Act is amended by inserting, after section 605, the following sections:

"**605.1** For the purposes of this Part, where at a particular time a person resident in Canada becomes a member of a partnership, or a person who is a member of a partnership becomes resident in Canada, and immediately before the particular time no member of the partnership is resident in Canada, the following rules apply for the purpose of computing the partnership's income for fiscal periods ending after the particular time:

(*a*) where, at or before the particular time, the partnership held depreciable property of a prescribed class, other than taxable Canadian property,

i. no amount shall be included in determining the amounts under subparagraphs i, ii.1, ii.2 and iv to vi.1 of paragraph *e* of section 93 in respect of the acquisition or disposition before the particular time of the property, and

ii. where the property is the partnership's property at the particular time, the property is deemed to have been acquired, immediately after the particular time, by the partnership at a capital cost equal to the lesser of its fair market value and its capital cost to the partnership otherwise determined;

(*b*) in the case of the partnership's property that is inventory, other than inventory of a business carried on in Canada, or non-depreciable capital property, other than taxable Canadian property, of the partnership at the particular time, its cost to the partnership is deemed to be, immediately after the particular time, equal to the lesser of its fair market value and its cost to the partnership otherwise determined;

(*c*) any loss in respect of the disposition of a property, other than inventory of a business carried on in Canada or taxable Canadian property, by the partnership before the particular time is deemed to be nil; and

(*d*) where 4/3 of the eligible intangible capital amount in respect of a business carried on at the particular time outside Canada by the partnership exceeds the total of the fair market value of each intangible capital property in respect of the business at that time, the partnership is deemed to have, immediately after that time, disposed of intangible capital property in respect of the business for proceeds equal to the excess and to have received those proceeds.

"**605.2** For the purposes of section 605.1, where it can reasonably be considered that one of the main reasons that there is a member of the partnership who is resident in Canada is to avoid the application of that section, the member is deemed not to be resident in Canada."

(2) Subsection 1 applies to a partnership where a person or another partnership becomes a member of the partnership after 21 December 1992, or where a member of the partnership becomes resident in Canada after 30 August 1993. However, where section 605.1 of the Taxation Act, enacted by subsection 1, applies before 1 May 1994, it shall be read without reference to paragraph *d*.

150. (1) Section 635 of the said Act is amended by replacing paragraph *c* by the following paragraph:

"(*c*) does not exceed his share of the aggregate of the following amounts, to the extent that those amounts are included in computing the loss of the partnership from the farming business for its taxation year ending in the year:

(1) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year to a province or a Canadian municipality in respect of the property, and

(2) interest paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property; and".

(2) Subsection 1 applies from the taxation year 1988.

151. (1) Section 640 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**640.** Subject to sections 428 to 451, 785.1 and 785.2 and notwithstanding any other provision of this Part, the taxpayer referred to in section 639 is deemed not to have disposed of and to continue to have an interest in the partnership, in this Chapter referred to as a "residual interest", until such time as all his rights to receive any property as consideration for his interest in the partnership immediately before the time that he ceased to be a member of the partnership are satisfied in full."

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(*b*) from 1 January 1993, in all other cases.

152. (1) Section 656 of the said Act, replaced by section 227 of chapter 22 of the statutes of 1994, is amended by replacing paragraphs *a* and *b* by the following paragraphs:

"(*a*) the capital cost to the trust of the property on its deemed reacquisition under section 653 is deemed to be the same as before the deemed disposition thereof under that section; and

"(*b*) the excess is deemed to have been allowed to the trust as depreciation in respect of the property in computing the trust's income for the taxation years that ended before the deemed reacquisition under section 653 of the property by the trust."

(2) Subsection 1 applies to days determined under section 653 of the Taxation Act that are after 31 December 1992.

153. (1) Section 668.4 of the said Act, amended by section 235 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing the definition of "eligible immovable property gain" by the following definition:

" "eligible immovable property gain" of a trust has the meaning that would be assigned by the definition of that expression in the first paragraph of section 726.6.1 if the reference in that definition to "non-qualifying immovable property" were read as "non-qualifying immovable property as defined in section 668.4";";

(2) by replacing paragraphs *a* and *b* of the definition of "eligible taxable capital gains" by the following paragraphs:

"(*a*) its annual gains limit for the year, within the meaning that would be assigned by subparagraph *b* of the first paragraph of section 726.6 if the reference in that subparagraph *b* to "non-qualifying immovable property" were read as "non-qualifying immovable property as defined in section 668.4", and

"(*b*) the amount by which its cumulative gains limit at the end of the year, within the meaning that would be assigned by subparagraph *c* of the first paragraph of section 726.6 if, where that subparagraph *c* refers to subparagraph i of subparagraph *b* of the first paragraph of that section, the reference in that subparagraph i to "non-qualifying immovable property" were read as "non-qualifying immovable property as defined in section 668.4", exceeds the aggregate of all amounts designated under sections 668.1 and 668.2 by the trust in respect of beneficiaries in taxation years before that year;";

(3) by replacing the definition of "eligible immovable property loss" by the following definition:

" "eligible immovable property loss" of a trust has the meaning that would be assigned by the definition of that expression in the first paragraph of section 726.6.1 if the reference in that definition to "non-qualifying immovable property" were read as "non-qualifying immovable property as defined in section 668.4"."

(2) Paragraphs 1 and 3 of subsection 1 and paragraph 2 of that subsection, where it replaces paragraph *a* of the definition of "eligible taxable capital gains" in section 668.4 of the Taxation Act, apply from the taxation year 1992.

(3) Paragraph 2 of subsection 1, where it replaces paragraph *b* of the definition of "eligible taxable capital gains" in section 668.4 of the Taxation Act, applies from the taxation year 1985. However, where it applies to taxation years preceding the taxation year 1992, that paragraph *b*, enacted by paragraph 2 of subsection 1, shall be read as follows:

"(*b*) the amount by which its cumulative gains limit at the end of the year, within the meaning of subparagraph *c* of the first paragraph of section 726.6, if that subparagraph were read without reference to subparagraph 3 of its subparagraph ii, exceeds the aggregate of all amounts designated under sections 668.1 and 668.2 by the trust in respect of a beneficiary in a taxation year before that year."

154. (1) Section 677 of the said Act is amended by replacing the portion of the second paragraph before subparagraph *a* by the following:

"For the purposes of this Chapter, "testamentary trust" in a taxation year means a trust or succession that arose upon and in consequence of the death of an individual, including a trust referred to in section 7.4.1, but does not include".

(2) Subsection 1 applies from the taxation year 1990.

155. (1) Section 682 of the said Act is replaced by the following section:

"**682.** Instead of making the payments required by sections 1025, 1026 and 1026.0.1, the testamentary trust shall pay to the Minister, within 90 days after the end of each taxation year, the tax payable under this Part by it for the year."

(2) Subsection 1 applies from the taxation year 1994.

156. (1) Section 686 of the said Act is amended by replacing subsection 3 by the following subsection:

"(3) Where at any time a corporation disposes of all or part of the capital interest in a trust that is not a prescribed trust, its capital loss from the disposition is deemed to be the amount of its loss otherwise determined minus the amount by which the aggregate of all amounts each of which was received by the trust before that time and, where the trust is a unit trust, after 31 December 1987, and designated by it under section 666 or 667 in respect of the corporation exceeds such portion of the amounts thus received as can reasonably be considered to have resulted in a reduction under this subsection of its capital loss otherwise determined from the disposition before that time of an interest in the trust."

(2) Subsection 1 applies from the taxation year 1988.

157. (1) Section 690 of the said Act is amended

(1) by replacing subparagraph ii of subparagraph *a* of the first paragraph by the following subparagraph:

"ii. all amounts each of which is the cost amount to the trust, immediately before the transfer, of each such other property;";

(2) by striking out subparagraph iii of subparagraph *a* of the first paragraph;

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

"ii. all amounts each of which is the cost amount to the trust, immediately before that time, of each other property;";

(4) by striking out subparagraph iii of subparagraph *a* of the second paragraph.

(2) Subsection 1 has effect from 14 July 1990.

158. (1) Section 725 of the said Act, amended by section 53 of chapter 64 of the statutes of 1993, is again amended

(1) by striking the word "or" at the end of paragraph *b*;

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

"(*c*) a social assistance payment based on a means, needs or income test and included in computing his income either by reason of section 311.1 or by reason of section 317 as a supplement or spouse's allowance received under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or any similar payment made under a provincial law; or".

(2) Subsection 1 applies from the taxation year 1991.

159. (1) Section 725.2 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) the amount that the individual is required to pay to acquire the share under the agreement, determined without reference to any change in the value of a currency of a country other than Canada relative to Canadian currency during the period between the time the agreement was made and the time the share was acquired, is

equal to or greater than the amount by which the fair market value of the share at the time the agreement was made exceeds the amount paid by the individual to acquire the right to acquire the share, or, where the rights under the agreement were acquired by the individual as a result of one or more dispositions of rights to which section 49.4 applied, the amount payable by the individual to acquire the old share under the exchanged option, determined without reference to any change in the value of a currency of a country other than Canada relative to Canadian currency during the period between the time the agreement was made and the time the share was acquired, that was disposed of in consideration for the new option in the first such disposition was equal to or greater than the amount by which the fair market value of the old share at the time the agreement in respect of the exchanged option was made exceeds the amount paid by the individual to acquire the right to acquire the old share;".

(2) Subsection 1 applies from the taxation year 1992.

160. (1) Section 726.4.10 of the said Act, amended by section 55 of chapter 64 of the statutes of 1993 and by section 54 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraphs i and ii of paragraph *a* by the following subparagraphs:

"i. the aggregate of the expenses, except those described in section 726.4.12, incurred in Québec by the individual after 30 June 1988 and before that time but not after 31 December 1996, and which are

(1) Canadian exploration expenses that would be described in paragraph *a* or *c* of section 395 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec", described in paragraph *d* of the said section 395 if the reference therein to "expenses described in paragraphs *a* to *b*.1, *c* and *c*.1" were replaced by a reference to "expenses that would be described in paragraph *a* or *c*, if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec" ", or described in paragraph *e* of the said section 395 if the reference therein to "an expense described in paragraphs *a* to *c*.1" were replaced by a reference to "any expense that would be described in paragraph *a* or *c*, if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec" ", or

(2) Canadian development expenses that would be described in paragraph *a* or *a*.1 of section 408 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec", described in paragraph *d* of the said section 408 if the reference

therein to "expense described in paragraphs *a* to *c*" were replaced by a reference to "expense that would be described in paragraph *a* or *a*.1, if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec" ", which are deemed, under paragraph *a* of section 359.3, to be Canadian exploration expenses of the individual by reason of a renunciation to the individual under section 359.2.1; exceeds

"ii. the aggregate of all amounts of assistance, within the meaning of paragraph *c*.0.1 of section 359, which a person, including a partnership, has received, is entitled to receive or becomes, at any time, entitled to receive in respect of an expense referred to in subparagraph i, to the extent that the assistance has not reduced the Canadian exploration expenses of the individual by reason of subparagraph *a* of the first paragraph of section 359.2, or, by reason of paragraph *a* of section 359.2.1, the Canadian development expenses deemed to be Canadian exploration expenses of the individual;".

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

161. (1) Section 726.4.12 of the said Act, amended by section 56 of chapter 64 of the statutes of 1993 and by section 55 of chapter 1 of the statutes of 1995, is again amended by replacing paragraph *b* by the following paragraph:

"(*b*) any amount relating to Canadian exploration expenses or Canadian development expenses that is renounced by a corporation that is not a qualified corporation, effective after 30 June 1988 and not later than 31 December 1996, pursuant to section 359.2 or 359.2.1, as the case may be, in respect of a share;".

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

162. (1) Section 726.4.13 of the said Act is replaced by the following section:

"**726.4.13** Where an expense incurred before a particular time is included in the aggregate determined under subparagraph i of paragraph *a* of section 726.4.10 in respect of an individual and, after that time, a person, including a partnership, becomes entitled to receive assistance, within the meaning of paragraph *c*.0.1 of section 359, in respect of that expense, the assistance must be included in the aggregate referred to in subparagraph ii of that paragraph *a* in respect of the individual at the time the expense was incurred, to the

extent that it has not reduced the amount of the expense by reason of subparagraph *a* of the first paragraph of section 359.2 or paragraph *a* of section 359.2.1."

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

163. (1) Section 726.4.15 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**726.4.15** In this Title, a qualified corporation is a corporation all of the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses in respect of which an amount is renounced under section 359.2 or 359.2.1 or at the time the expenses referred to in paragraph *e* of section 395, as the case may be, are incurred, and throughout the 12-month period preceding that time, fulfils the following conditions:".

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

164. (1) Section 726.6 of the said Act, amended by section 247 of chapter 22 of the statutes of 1994, is again amended, in the first paragraph,

(1) by replacing, in the French text, subparagraph 1 of subparagraph i of subparagraph *a*.2 by the following subparagraph:

"1° les articles 147, 160, 163, 176, 176.4 ou 178, à l'égard d'un emprunt que le particulier a utilisé soit pour faire un paiement en contrepartie d'un contrat de rente d'étalement, soit pour payer une prime en vertu d'un régime enregistré d'épargne-retraite, soit pour verser un montant à un régime de pension agréé ou à un régime de participation différée aux bénéfices, ou qui a été utilisé pour acquérir un bien que le particulier a utilisé à ces fins;";

(2) by replacing subparagraph 2 of subparagraph i of subparagraph *a*.2 by the following subparagraph:

"(2) section 177, the first paragraph of section 360 or section 371, 401, 413, 414 or 418.7;";

(3) by replacing subparagraph iv of subparagraph *a*.2 by the following subparagraph:

"iv. 50% of the aggregate of all amounts each of which is an amount deducted under section 371, 401, 413, 414 or 418.7 in computing his income for the year in respect of expenses incurred and renounced under section 359.2, 359.2.1, 359.4 or 359.6 by a corporation or in respect of expenses incurred by a partnership of which he was a specified member in the fiscal period of the partnership in which the expense was incurred, other than any such expense that would be referred to in subparagraph i of paragraph *a* of section 726.4.10 if the reference therein to "30 June 1988" were a reference to "31 December 1988";";

(4) by replacing subparagraphs i and ii of subparagraph *c* by the following subparagraphs:

"i. the aggregate of all amounts determined under subparagraph i of subparagraph *b* in respect of the individual for the year or preceding taxation years that end after 31 December 1984, exceeds

"ii. the aggregate of

(1) all amounts determined under subparagraph ii of subparagraph *b* in respect of the individual for the year or preceding taxation years that end after 31 December 1984,

(2) the amount deducted by the individual under subparagraph iii of subparagraph *c* of the first paragraph of section 28 in computing his income for the taxation year 1985,

(3) all amounts deducted by the individual under this Title in computing his taxable income for preceding taxation years, and

(4) the individual's cumulative net investment loss at the end of the year;".

(2) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1992.

(3) Paragraph 4 of subsection 1 applies from the taxation year 1985. In this regard, notwithstanding sections 1010 to 1011 of the Taxation Act, such assessments and determinations as are necessary may be made by the Minister of Revenue in respect of any taxation years to give effect to paragraph 4 and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

165. (1) Section 726.6.1 of the said Act, amended by section 248 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing paragraphs *b* to *d* of the definition of "non-qualifying immovable property" in the first paragraph by the following paragraphs:

"(*b*) a share of the capital stock of a corporation, other than a qualified small business corporation share of the individual or a share of the capital stock of a family farm corporation of the individual, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the corporation or by persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the corporation or by such persons, principally in a qualified business carried on by the corporation or by such persons, but not including a share of the capital stock of a corporation the fair market value of which is derived principally from immovable property owned by another corporation, a partnership or a trust, or any combination thereof, the shares of the capital stock of which, or the interests in which, as the case may be, would, if they were disposed of by the individual at the time of the disposition, not be non-qualifying immovable property of the individual;

"(*c*) an interest in a partnership, other than an interest in a family farm partnership of the individual, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was property of the partnership or persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was property of the partnership or such persons, principally in a qualified business carried on by one or more persons as members of the partnership or by persons described in any of those subparagraphs 1 to 6, but not including an interest in a partnership the fair market value of which is derived principally from immovable property owned by another partnership, a corporation or a trust, or any combination thereof, the shares of the capital stock of which, or the interests in which, as the case may be, would, if they were disposed of by the individual at the time of the disposition, not be non-qualifying immovable property of the individual;

"(*d*) an interest in a trust the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the trust or persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the trust or such persons, principally in a qualified business carried on by the trust or by such persons, but not including an interest in a trust the fair market value of which is derived principally from immovable property owned by another trust, a corporation or a partnership, or any combination thereof, the shares of the capital stock of which, or the interests in which, as the case may be, would, if they were disposed of by the individual at the time of the disposition, not be non-qualifying immovable property of the individual; or";

(2) by replacing, in the French text of subparagraph ii of subparagraph *f* of the second paragraph, the word "charité" by the word "bienfaisance".

(2) Paragraph 1 of subsection 1 applies from the taxation year 1992.

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 30 November 1991.

166. (1) Section 726.6.2 of the said Act is amended

(1) by replacing the portion before subparagraph *a* of the second paragraph by the following:

"**726.6.2** For the purposes of the definition of "small business corporation" in section 1, of subparagraph *a* of the first paragraph of section 451, of the definitions of "qualified small business corporation share" and "share of the capital stock of a family farm corporation" in the first paragraph of section 726.6.1, and of the second paragraph of section 726.6.1, the following rules apply:

(*a*) where a person, in this section referred to as the "insured", whose life was insured under an insurance policy owned by a particular corporation, owned particular shares of the capital stock of the particular corporation, any corporation connected with the particular corporation or with which the particular corporation is connected or any other corporation connected with any such corporation or with which any such corporation is connected, within the meaning of the regulations,

i. the fair market value of the life insurance policy is deemed, at any time before the death of the insured, to be its cash surrender value, within the meaning of paragraph *d* of section 966, at that time, and

ii. the total fair market value of assets described in the second paragraph, other than assets described in subparagraphs i to iii of paragraph *c* of the definition of "qualified small business corporation share" in the first paragraph of section 726.6.1, subparagraphs i to iii of paragraph *b* of the definition of "share of the capital stock of a family farm corporation" in that first paragraph, or paragraphs *a* to *d* of the definition of "small business corporation" in section 1, as the case may be, of any of those corporations not in excess of the fair market value of the assets immediately after the death of the insured is deemed, until the later of the redemption, acquisition or cancellation referred to in subparagraph *b* of the second paragraph and the date that is 60 days after the payment of the proceeds under the policy, not to exceed the cash surrender value, within the meaning of paragraph *d* of section 966, of the life insurance policy immediately before the death of the insured; and

(*b*) the fair market value of an asset of a particular corporation that is a share of the capital stock or indebtedness of another corporation with which the particular corporation is connected is deemed to be nil.

The assets referred to in subparagraph ii of subparagraph *a* of the first paragraph are";

(2) by adding, after the second paragraph, the following paragraphs:

"For the purposes of subparagraph *b* of the first paragraph, a particular corporation is connected with another corporation only where

(*a*) the particular corporation is connected, within the meaning of subparagraph *a* of the second paragraph of section 726.6.1, with the other corporation; and

(*b*) the other corporation is not connected, within the meaning of the regulations if the latter were read without reference to paragraph *b* of section 739, with the particular corporation.

Subparagraph *b* of the first paragraph applies only in determining whether a share of the capital stock of another

corporation with which the particular corporation is connected is a qualified small business corporation share or a share of the capital stock of a family farm corporation and in determining whether the other corporation is a small business corporation."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1991. In addition, where the portion of the first paragraph of section 726.6.2 of the Taxation Act before subparagraph *a*, replaced by subsection 1, applies in respect of dispositions occurring after 17 June 1987 and before 1 January 1992, the English text thereof shall be read as if the reference therein to "qualified small business corporation" were a reference to "small business corporation".

167. (1) Section 737.14 of the said Act, amended by section 66 of chapter 1 of the statutes of 1995, is again amended by replacing, in the English text of the second paragraph, the words "in respect of that international financial centre" by the words "in respect of the international banking centre business".

(2) Subsection 1 applies to taxation years beginning after 2 May 1991.

168. (1) Section 740.7 of the said Act is amended by adding, after subparagraph ii of paragraph *a*, the following subparagraph:

"iii. a share that was, at the time the dividend referred to in section 740.5 was received, a share described in section 21.6.1 during the applicable period referred to in that section;".

(2) Subsection 1 has effect from 22 December 1992.

169. (1) Section 743 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) where the taxpayer is a corporation, the aggregate of all amounts each of which is a taxable dividend on the share received by the taxpayer, to the extent of the amount thereof that was deductible in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year by reason of sections 738 to 745 or section 845 or 1091, or a dividend, other than a taxable dividend or a dividend deemed under section 1106 or 1116 to be a capital gains dividend on the share received by the taxpayer;".

(2) Subsection 1 applies in respect of the determination of losses arising in taxation years ending after 31 December 1989. It shall also apply in respect of the determination of losses arising in a taxpayer's taxation year ending after 31 December 1984 and before 1 January 1990 where the taxpayer has notified the Minister of Revenue in writing, with supporting evidence, in accordance with subsection 2 of section 279 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16), that the taxpayer has made a valid election with the Minister of National Revenue, under paragraph *b* of subsection 6 of section 84 of the Act to amend the Income Tax Act, the Canada Pension Plan, the Cultural Property Export and Import Act, the Income Tax Conventions Interpretation Act, the Tax Court of Canada Act, the Unemployment Insurance Act, the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and certain related Acts (Statutes of Canada, 1991, chapter 49), concerning the application of subsection 4 of section 112 of the Income Tax Act (Statutes of Canada) in respect of the determination of any loss arising in any such taxation year, in which case, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to the election, such assessments of tax, interest and penalties as are necessary shall be made by the Minister of Revenue and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

170. (1) Section 744 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) where the holder of the share is a corporation, the aggregate of all amounts each of which is a taxable dividend on the share received before that time by the holder, to the extent of the amount thereof that was deductible in computing the holder's taxable income or taxable income earned in Canada for any taxation year by reason of this Title or section 845 or 1091, or a dividend, other than a taxable dividend or a dividend deemed under section 1106 or 1116 to be a capital gains dividend on the share received before that time by the holder,".

(2) Subsection 1 applies to taxation years ending after 31 December 1989. It shall also apply to a taxpayer's taxation year ending after 31 December 1984 and before 1 January 1990 where the taxpayer has notified the Minister of Revenue in writing, with supporting evidence, in accordance with subsection 3 of section 279 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16), that the taxpayer has made a valid election with

the Minister of National Revenue, under paragraph *b* of subsection 7 of section 84 of the Act to amend the Income Tax Act, the Canada Pension Plan, the Cultural Property Export and Import Act, the Income Tax Conventions Interpretation Act, the Tax Court of Canada Act, the Unemployment Insurance Act, the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and certain related Acts (Statutes of Canada, 1991, chapter 49), concerning the application of subsection 4.1 of section 112 of the Income Tax Act (Statutes of Canada) to any such taxation year, in which case, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to the election, such assessments of tax, interest and penalties as are necessary shall be made by the Minister of Revenue and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

171. (1) Section 744.1 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) where the taxpayer is a corporation, the aggregate of all amounts each of which is a taxable dividend on the share received by the taxpayer, to the extent of the amount thereof that was deductible in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year by reason of sections 738 to 745, 845 or 1091, or a dividend, other than a taxable dividend or a dividend deemed under section 1106 or 1116 to be a capital gains dividend on the share received by the taxpayer, and".

(2) Subsection 1 applies in respect of the determination of losses arising in taxation years ending after 31 December 1989. It shall also apply in respect of the determination of losses arising in a taxpayer's taxation year ending after 31 December 1984 and before 1 January 1990 where the taxpayer has notified the Minister of Revenue in writing, with supporting evidence, in accordance with subsection 2 of section 279 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16), that the taxpayer has made a valid election with the Minister of National Revenue under paragraph *b* of subsection 6 of section 84 of the Act to amend the Income Tax Act, the Canada Pension Plan, the Cultural Property Export and Import Act, the Income Tax Conventions Interpretation Act, the Tax Court of Canada Act, the Unemployment Insurance Act, the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and certain related Acts (Statutes of Canada, 1991, chapter 49), concerning the application of subsection 4.2 of section 112 of the

Income Tax Act (Statutes of Canada) in respect of the determination of losses arising in any such taxation year, in which case, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to the election, such assessments of tax, interest and penalties as are necessary shall be made by the Minister of Revenue and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

172. (1) Section 745 of the said Act is amended

(1) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

"(*b*) the amount determined by the formula

$$\frac{A \times B}{C} ."; $$

(2) by adding, after the second paragraph, the following paragraph:

"For the purposes of the formula in subparagraph *b* of the second paragraph,

(*a*) A is the aggregate of all amounts each of which is the amount determined in respect of a share exchanged by the acquirer at the time referred to in the first paragraph equal to the lesser of

i. the aggregate of all amounts each of which is received or designated by the acquirer in respect of a taxable dividend, a capital dividend or a life insurance capital dividend on the exchanged share, and

ii. the adjusted cost base to the acquirer of the exchanged share immediately before that time;

(*b*) B is the adjusted cost base to the acquirer of the acquired share immediately after the exchange; and

(*c*) C is the adjusted cost base to the acquirer of all acquired shares immediately after the exchange."

(2) Subsection 1 applies in respect of losses arising in taxation years subsequent to 1991.

173. (1) Section 752.0.10.1 of the said Act, enacted by section 67 of chapter 64 of the statutes of 1993 and amended by section 350 of chapter 22 of the statutes of 1994 and by section 73 of chapter 1 of the statutes of 1995, is again amended, in the French text,

(1) by inserting, after the definition of "total des dons à l'État", the following definition:

" « total des dons de bienfaisance » d'un particulier pour une année d'imposition signifie l'ensemble des montants dont chacun représente la juste valeur marchande d'un don, autre qu'un don dont la juste valeur marchande est incluse dans le total des dons à l'État, le total des dons de biens admissibles ou le total des dons de biens culturels du particulier pour l'année ou aurait été ainsi incluse pour une année d'imposition antérieure si le présent chapitre s'était appliqué à cette année antérieure, que le particulier a fait au cours de l'année ou au cours de l'une des cinq années d'imposition précédentes à l'une des entités suivantes si les conditions prévues à l'article 752.0.10.2 sont remplies à l'égard de ce montant:

a) un organisme de bienfaisance enregistré;

b) une association canadienne de sport amateur prescrite;

c) un organisme artistique reconnu par le ministre sur recommandation du ministre de la Culture et des Communications;

d) une corporation de logement résidant au Canada et exonérée d'impôt en vertu du paragraphe *b* de l'article 995;

e) une municipalité canadienne;

f) l'Organisation des Nations unies ou ses organismes;

g) une université étrangère prescrite qui compte ordinairement, parmi ses élèves, des élèves venant du Canada;

h) une oeuvre de bienfaisance étrangère à laquelle Sa Majesté du chef du Canada ou d'une province a fait un don au cours de l'année d'imposition du particulier ou au cours des 12 mois qui ont précédé cette année;";

(2) by replacing, in paragraph *a* of the definition of "total des dons de biens admissibles", the word "charité" by the word "bienfaisance";

(3) by striking out the definition "total des dons de charité".

(2) Paragraphs 1 and 3 of subsection 1 apply from the taxation year 1993. However, where the definition of "total des dons de bienfaisance" in section 752.0.10.1 of the Taxation Act, enacted by subsection 1, applies

(*a*) in respect of gifts made after 13 May 1994, the portion of that definition before paragraph *a* shall be read without reference to the words ", le total des dons de biens admissibles";

(*b*) before 17 June 1994, paragraph *c* of that definition shall be read without reference to the words "et des Communications", and paragraph *g* of that definition shall be read as if the references therein to "élèves" were references to "étudiants".

(3) Paragraph 2 of subsection 1 applies in respect of gifts made after 12 May 1994.

174. (1) Section 752.0.24 of the said Act, amended by section 78 of chapter 64 of the statutes of 1993, is again amended, in the first paragraph,

(1) by replacing the portion before subparagraph *a* by the following:

"**752.0.24** Where an individual is resident in Canada only during part of a taxation year, the following rules apply for the purpose of computing his tax payable under this Part for the year:";

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

"i. such amount deductible under sections 752.0.8, 752.0.9, 752.0.10.6, 752.0.11 to 752.0.13.4 and 752.0.18.1 as can reasonably be considered wholly applicable to any period in the year throughout which the individual is resident in Canada, computed as if that period were a whole taxation year, and".

(2) Subsection 1, subject to subsection 3, applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of an individual who has made an election under subsection 2 of section 18.

(3) Where subparagraph i of subparagraph *a* of the first paragraph of section 752.0.24 of the Taxation Act, enacted by subsection 1, applies to the taxation year 1992, it shall be read as follows:

"i. such amount deductible under sections 752.0.8, 752.0.9 and 752.0.11 to 752.0.13.1.1 as can reasonably be considered wholly applicable to any period in the year throughout which the individual is resident in Canada, computed as if that period were a whole taxation year, and".

175. (1) The said Act is amended by inserting, before section 776.1.1, the following section:

"**776.1.0.1** In section 776.1.1, "qualifying trust" in respect of an individual means a trust governed by a registered retirement savings plan where

(*a*) the individual makes contributions to the trust and those contributions, and no other funds, can reasonably be considered to have been used by the trust to purchase a share described in section 776.1.1, and

(*b*) the annuitant under the plan is the individual or a spouse of the individual."

(2) Subsection 1 applies from the taxation year 1992.

176. (1) Section 776.1.1 of the said Act is replaced by the following section:

"**776.1.1** An individual who is not a dealer acting as an intermediary or as firm underwriter may deduct from his tax otherwise payable for a taxation year under this Part, computed without reference to sections 752.1 to 752.5, 20% of the amount he pays, or that is paid by a qualifying trust in respect of the individual, in the year or within the following 60 days, to such extent as he did not deduct it for a preceding taxation year, for the purchase, as first purchaser, of a class "A" share issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1)."

(2) Subsection 1 applies from the taxation year 1992.

177. (1) Section 777 of the said Act is replaced by the following section:

"**777.** In this Chapter, "estate of the bankrupt" and "bankruptcy" have the meanings assigned by the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3), and "bankrupt" means a corporation or an individual in bankruptcy."

(2) Subsection 1 has effect from 30 November 1992.

178. (1) Section 779 of the said Act, replaced by section 276 of chapter 22 of the statutes of 1994 and by section 92 of chapter 1 of the statutes of 1995, is again replaced by the following section:

"**779.** Except for the purposes of Title VII of Book V, sections 935.4, 935.9 and 935.10.1 and Division II.13 of Chapter III.1 of Title III of Book IX, the taxation year of the bankrupt is deemed to commence on the date of the bankruptcy and the current taxation year is deemed to end on the day before such date."

(2) Subsection 1 applies from the taxation year 1993. However, where section 779 of the Taxation Act, enacted by subsection 1, applies to the taxation year 1993, it shall be read as follows:

"**779.** Except for the purposes of Title VII of Book V, sections 935.4, 935.9 and 935.10.1, the taxation year of the bankrupt is deemed to commence on the date of the bankruptcy and the current taxation year is deemed to end on the day before such date."

179. (1) The said Act is amended by inserting, after section 785, the following:

"TITLE I.1

"CHANGE OF RESIDENCE

"**785.1** For the purposes of this Part, where at a particular time a taxpayer becomes resident in Canada, the following rules apply:

(*a*) where the taxpayer is a corporation or a trust,

i. the taxpayer's taxation year that would otherwise include the particular time is deemed to have ended immediately before the particular time and a new taxation year of the taxpayer is deemed to have begun at the particular time, and

ii. for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer is deemed not to have established a fiscal period before the particular time;

(*b*) the taxpayer is deemed to have disposed, at the time, in this section referred to as the "time of disposition", that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to the fair market value of the property at the time of disposition, other than

i. property that would be taxable Canadian property if the taxpayer had been resident in Canada at no time in the taxpayer's last taxation year that began before the particular time,

ii. property that is described in the inventory of a business carried on by the taxpayer in Canada at the time of disposition,

iii. intangible capital property in respect of a business carried on by the taxpayer in Canada at the time of disposition,

iv. property in respect of which the taxpayer elected under the first paragraph of section 243, as it read in its application before 1 January 1993, or subparagraph ii of paragraph *b* of section 785.2, in respect of the last preceding time the taxpayer ceased to be resident in Canada, and

v. a right under an agreement to acquire shares of the capital stock of a corporation where sections 48 to 58 would apply if the taxpayer disposed of the right to a person with whom the taxpayer was dealing at arm's length;

(*c*) the taxpayer is deemed to have acquired at the particular time each property deemed by paragraph *b* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property; and

(*d*) where the taxpayer was, immediately before the particular time, a foreign affiliate of another taxpayer that is resident in Canada,

i. the taxpayer is deemed to have been a controlled foreign affiliate, within the meaning assigned by section 572, of the other taxpayer immediately before the particular time, and

ii. such amount as is prescribed shall be included in the foreign accrual property income, within the meaning assigned by section 579, of the taxpayer for the taxpayer's taxation year ending immediately before the particular time.

"**785.2** For the purposes of this Part, where a taxpayer ceases to be resident in Canada at a particular time, the following rules apply:

(*a*) where the taxpayer is a corporation or a trust,

i. the taxpayer's taxation year that would otherwise include the particular time is deemed to have ended immediately before the particular time and a new taxation year of the taxpayer is deemed to have begun at the particular time, and

ii. for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer is deemed not to have established a fiscal period before the particular time;

(*b*) the taxpayer is deemed to have disposed, at the time, in this paragraph and paragraph *d* referred to as the "time of disposition", that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to the fair market value of the property at the time of disposition, which proceeds are deemed to have been received by the taxpayer at the time of disposition, other than

i. where the taxpayer is an individual,

(1) prescribed property or property that would be taxable Canadian property if the taxpayer had been resident in Canada at no time in the taxpayer's last taxation year that began before the particular time, and

(2) property that is described in the inventory of a business carried on by the taxpayer in Canada at the particular time,

ii. where the taxpayer is an individual other than a trust, capital property not described in subparagraph 1 or 2 of subparagraph i in respect of which, on or before the date on or before which the taxpayer is required to file a fiscal return under this Part for the taxation year in which the taxpayer ceased to be resident in Canada, the taxpayer elects in prescribed manner and furnishes to the Minister security acceptable to the Minister for the payment of the tax that would otherwise be payable by the taxpayer under this Part for the year,

iii. where the taxpayer is an individual other than a trust and was, during the 10 years preceding the particular time, resident in Canada for a period or periods totalling 60 months or less, property that was owned by the taxpayer at the time the taxpayer last became resident in Canada, or acquired by the taxpayer by succession or will after the taxpayer last became resident in Canada, and

iv. a right under an agreement to acquire shares of the capital stock of a corporation where sections 48 to 58 would apply if the taxpayer disposed of the right to a person with whom the taxpayer was dealing at arm's length;

(*c*) the taxpayer is deemed to have reacquired, at the particular time, each property deemed by paragraph *b* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property;

(*d*) notwithstanding paragraphs *b* and *c*, where a taxpayer who is an individual other than a trust so elects in prescribed manner, on or before the date on or before which the taxpayer is required to file a fiscal return under this Part for the taxation year that includes the particular time, in respect of any property described in subparagraph 1 or 2 of subparagraph i of paragraph *b*, except prescribed property for the purposes of that subparagraph 1, the taxpayer is deemed to have disposed of the property at the time of disposition for proceeds equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to those proceeds;

(*e*) capital property in respect of which a taxpayer elects under subparagraph ii of paragraph *b* is deemed to be taxable Canadian property of the taxpayer from the particular time until the earlier of

i. the time when the taxpayer disposes of the property, and

ii. the time when the taxpayer next becomes resident in Canada; and

(*f*) where the taxpayer elects under subparagraph ii of paragraph *b* or paragraph *d*,

i. the taxpayer's income for the taxation year that includes the particular time is deemed to be the greater of that income otherwise determined and the lesser of

(1) that income determined without reference to this section, and

(2) that income determined without reference to subparagraph ii of paragraph *b* and paragraph *d*, and

ii. the amount of each of the taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for the taxation year that includes the particular time is deemed to be the lesser of that amount otherwise determined and the greater of

(1) that amount determined without reference to this section, and

(2) that amount determined without reference to subparagraph ii of paragraph *b* and paragraph *d*.

"**785.3** Where a corporation formed at a particular time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, two or more corporations, each of which is referred to in this section as a "predecessor", is

(*a*) resident in Canada at the particular time, a predecessor that was not immediately before the particular time resident in Canada is deemed to have become resident in Canada immediately before that time; or

(*b*) not resident in Canada at the particular time, a predecessor that was immediately before that time resident in Canada is deemed to have ceased to be resident in Canada immediately before that time.

The first paragraph does not apply to reorganizations occurring because of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or because of the distribution of the property to the other corporation on the winding-up of the corporation."

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed under that paragraph *a* to have made an election;

(*b*) from 1 January 1993, in all other cases.

180. Section 800 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**800.** A credit union may, in computing its income for a taxation year, deduct the aggregate of the payments it makes to its members in the year or within twelve months thereafter, as bonus interest payments or pursuant to allocations in proportion to the loans made to its members."

181. (1) Section 801 of the said Act is replaced by the following section:

"**801.** Notwithstanding any other provision of this Part, a payment received or receivable by a member of a credit union in respect of a share of the capital stock of the credit union is deemed, where the share is not listed on a prescribed stock exchange, to have been received or to be receivable from the credit union as interest except if the payment is made or is to be made as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation of the share by the credit union, to the extent of the paid-up capital of that share. Such payment as interest is deductible in computing the income of the credit union."

(2) Subsection 1 applies in respect of transactions occurring after 21 December 1992.

182. (1) Section 802 of the said Act, replaced by section 277 of chapter 22 of the statutes of 1994, is again replaced by the following section:

"**802.** Notwithstanding any other provision of this Part, an amount that is deemed under section 801 to be received or receivable as interest is deemed not to be received or receivable as a dividend."

(2) Subsection 1 applies in respect of transactions occurring after 21 December 1992.

183. (1) Section 806.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**806.1** For the purposes of this Title, except paragraph *b* of section 804 where paragraph *a* of subsection 1 of section 771 refers to it, the second paragraph of section 808, subparagraphs i and ii of paragraph *c* of section 810 and paragraph *a* of section 815, a subsidiary

wholly-owned corporation of a particular corporation described in section 804 is deemed to be a deposit insurance corporation, and any member institution of the particular corporation is deemed to be a member institution of the subsidiary, where all or substantially all of the property of the subsidiary has at all times since the subsidiary was incorporated consisted of".

(2) Subsection 1 applies from the taxation year 1992.

184. (1) The said Act is amended by inserting, after section 832.9, the following:

"CHAPTER II.1

"CONVERSION OF INSURANCE CORPORATIONS INTO MUTUAL CORPORATIONS

"**832.10** Where an insurance corporation that is a Canadian corporation applies an amount in payment for shares of the corporation purchased or otherwise acquired by it under a mutualization proposal under Division III of Part VI of the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or, where the corporation is incorporated under the laws of a province, under a law of that province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with that law,

(*a*) sections 111 to 119.1 do not apply to require the inclusion, in computing the income of a shareholder of the corporation, of any part of that amount; and

(*b*) no part of that amount is deemed, for the purposes of sections 846 to 850, to have been paid to shareholders or, for the purposes of sections 504 to 510.1 and 517, to have been received as a dividend."

(2) Subsection 1 has effect from 1 June 1992.

185. (1) Section 834 of the said Act is repealed.

(2) Subsection 1 has effect from 1 June 1992.

186. (1) Section 835 of the said Act is amended by inserting, after paragraph *e*, the following paragraph:

"(*e*.1) "life insurance policy in Canada" means a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected;".

(2) Subsection 1 has effect from 1 January 1993.

187. (1) Section 850 of the said Act, amended by section 93 of chapter 1 of the statutes of 1995, is again amended by replacing paragraph *b* by the following paragraph:

"(*b*) the aggregate of

i. the taxes payable under this Part by the insurer, except those which, but for section 846, would not have been payable,

ii. all amounts determined under paragraph *a* of clause F of the definition of "surplus funds derived from operations" in subsection 12 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the Government of Canada and the government of a province other than Québec, and

iii. the taxes payable under Parts I.3 and VI of the Income Tax Act by the insurer;".

(2) Subsection 1 applies from the taxation year 1992.

188. (1) The said Act is amended by inserting, after section 851.27, the following section:

"**851.27.1** Sections 119.2 to 119.11 apply to a congregation or one of the business agencies of the congregation that is a corporation as if, except for the purposes of paragraph *a* of section 119.4 and of section 119.5 other than paragraphs *a* and *c* thereof, the property of the congregation and that of its business agencies were not deemed to be the property of an *inter vivos* trust and as if the congregation and its business agencies were not deemed to act and to have always acted as agents of the trust in respect of their business or other activities."

(2) Subsection 1 applies from the taxation year 1992.

189. (1) Sections 852 and 853 of the said Act are replaced by the following sections:

"**852.** In this Title, "profit sharing plan" at a particular time means an arrangement

(*a*) under which payments computed by reference to an employer's profits from the employer's business, the profits from the business of a corporation with which the employer does not deal

at arm's length or the profits from the business of the employer and of any such corporation, are required to be made by the employer to a trustee under the arrangement for the benefit of employees of the employer or of a corporation with which the employer does not deal at arm's length; and

(*b*) in respect of which the trustee has, since the later of the beginning of the arrangement and the end of 1949, allocated, either contingently or absolutely, to those employees

i. in each year that ended at or before the particular time, all amounts received in the year by the trustee from the employer or from a corporation with which the employer does not deal at arm's length,

ii. in each year ending at or before the particular time, all profits for the year from the property of the trust, determined without regard to any capital gain made by the trust or capital loss sustained by it at any time after 31 December 1955,

iii. in each year that ended after 31 December 1971 and at or before the particular time, all capital gains and capital losses of the trust for the year,

iv. in each year that ended after 31 December 1971, before 1 January 1993 and at or before the particular time, 100/15 of the aggregate of all amounts each of which is deemed by section 864 to have been paid on account of tax under this Part in respect of an employee because the employee ceased to be a beneficiary under the plan in the year, and

v. in each year that ended after 31 December 1991 and at or before the particular time, the aggregate of all amounts each of which is an amount that an employee is entitled to deduct under section 864 in computing his income because the employee ceased to be a beneficiary under the plan in the year.

"**853.** For the purposes of section 852, where the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments shall be made out of profits, the arrangement is deemed, if the employer so elects in prescribed manner, to be an arrangement under which payments computed by reference to the employer's profits are required."

(2) Subsection 1 applies from the taxation year 1992. In addition, where an amount was paid to a person before 1 January 1993 without first having been allocated to the person, it shall be deemed for the purposes of section 852 of the Taxation Act, enacted by subsection 1, to have been allocated to that person.

190. (1) Section 855 of the said Act is replaced by the following section:

"**855.** No tax is payable under this Part by a trust for a taxation year throughout which the trust is governed by a profit sharing plan."

(2) Subsection 1 applies from the taxation year 1993.

191. (1) Section 859 of the said Act is replaced by the following section:

"**859.** An employee who is a beneficiary under a profit sharing plan must include in computing his income for a taxation year each amount that is allocated to him, contingently or absolutely, by the trustee under the plan at any time in the year, except in the case of an allocation in respect of an amount described in any of subparagraphs *a* to *d* of the first paragraph of section 857 or a dividend received by the trust from a taxable Canadian corporation."

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of a taxpayer who makes the election provided for in subsection 2 of section 193.

192. (1) Section 864 of the said Act is replaced by the following section:

"**864.** Where a person ceases at any time in a taxation year to be a beneficiary under a profit sharing plan and does not again become a beneficiary under the plan after that time and in the year, the person may deduct in computing his income for the year the amount determined by the formula

$$A - B - \frac{C}{4} - D.$$

For the purposes of the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is an amount included in computing the person's income for the year or a preceding taxation year, other than an amount received before that time under the plan or an amount under the plan that the person is entitled at that time to receive, because of an allocation, other than an allocation to which section 860 applies, to the person made contingently under the plan before that time;

(*b*) B is the portion of the amount that is included in the aggregate determined under subparagraph *a* because of subsection 2 of section 497;

(*c*) C is the aggregate of all taxable dividends deemed to be received by the person because of an allocation under section 863 in respect of the plan; and

(*d*) D is the aggregate of all amounts deductible under this section in computing the person's income for a preceding taxation year because the person ceased to be a beneficiary under the plan in a preceding taxation year."

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of a taxpayer who so elects by notifying the Minister of Revenue in writing before the end of the sixth month after the month in which this Act is assented to.

193. (1) Section 869 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of a taxpayer who so elects by notifying the Minister of Revenue in writing before the end of the sixth month after the month in which this Act is assented to.

194. Section 890.0.3 of the said Act is amended by replacing, in the English text, the words "by this Act" by the words "by that Act".

195. (1) Section 890.6 of the said Act is replaced by the following section:

"**890.6** For the purposes of this Part, where a resident's contribution has been made under a plan or arrangement, in this section referred to as the "plan", the following rules apply:

(*a*) the plan is deemed, in respect of its application to all resident's contributions made under the plan and all property that can reasonably be considered to be derived from those contributions, to be a separate arrangement, in this section referred to as the "residents' arrangement", independent of the plan in respect of its application to all other contributions and property that can reasonably be considered to derive from those other contributions;

(*b*) the residents' arrangement is deemed to be a retirement compensation arrangement; and

(*c*) each person and partnership to whom a contribution is made under the residents' arrangement is deemed to be a custodian of the residents' arrangement."

(2) Subsection 1 has effect from 9 October 1986. However, where section 890.6 of the Taxation Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read as if the references therein to "cotisation" and "cotisations" were references to "contribution" and "contributions", respectively.

196. (1) The said Act is amended by inserting, after section 890.6, the following section:

"**890.6.1** For the purposes of section 890.6, "resident's contribution" means such part of a contribution made under a plan or arrangement, in this section referred to as the "plan", at a time when the plan would, but for subparagraph *l* of the second paragraph of section 890.1, be a retirement compensation arrangement as

(*a*) is not a prescribed contribution; and

(*b*) can reasonably be considered to have been made in respect of services rendered by an individual to an employer in a period

i. throughout which the individual was resident in Canada and rendered services to the employer that were primarily services rendered in Canada or services rendered in connection with a business carried on by the employer in Canada, or a combination of such services, and

ii. at the beginning of which the individual had been resident in Canada throughout at least 60 of the 72 preceding calendar months, where the individual was not resident in Canada at any time before the period and became a member of the plan before the end of the month after the month in which the individual became resident in Canada.

For the purposes of subparagraph *b* of the first paragraph, where benefits provided to an individual under a particular plan or arrangement are replaced by benefits under another plan or arrangement, the other plan or arrangement is deemed, in respect of the individual, to be the same plan or arrangement as the particular plan or arrangement."

(2) Subsection 1 has effect from 9 October 1986. However, where section 890.6.1 of the Taxation Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read as if the references therein to "cotisation" were references to "contribution".

197. (1) Section 905.1 of the said Act is amended

(1) by replacing, in subparagraph ii of paragraph *a* and paragraphs *b* and *c*, the words "paragraph *j* of subsection 1 of section 146" by the words "the definition of "retirement savings plan" in subsection 1 of section 146";

(2) by replacing, in paragraph *e*, the words "paragraph *f* of subsection 1 of section 146" by the words "subsection 1 of section 146".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

198. (1) Section 908 of the said Act, amended by section 96 of chapter 64 of the statutes of 1993, is replaced by the following section:

"**908.** In this Title, "refund of premiums" means

(*a*) any amount paid to a spouse of the annuitant out of or under a registered retirement savings plan of the annuitant, where the annuitant died before the date provided for the first payment of benefits and that amount was paid as a consequence of the death, or

(*b*) if the annuitant had no spouse at the time of his death, any amount paid out of or under a registered retirement savings plan of the annuitant after the death to a child or grandchild of the annuitant, who was, at the time of the death, financially dependent on the annuitant for support.

In this Title, "retirement income" has the meaning assigned by subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

For the purposes of subparagraph *b* of the first paragraph, it is presumed that a child or grandchild was not financially dependent on the annuitant at the time of the annuitant's death if the income of the child or grandchild for the taxation year immediately preceding the taxation year in which the annuitant died exceeded the amount used under paragraph *c* of subsection 1 of section 118 of the Income Tax Act for that preceding year."

(2) Subsection 1, where it enacts the first and third paragraphs of section 908 of the Taxation Act, applies in respect of deaths occurring after 31 December 1992.

(3) Subsection 1, where it enacts the second paragraph of section 908 of the Taxation Act, applies to taxation years ending after 30 November 1991.

199. (1) Section 915.2 of the said Act is replaced by the following section:

"**915.2** Where the annuitant under a registered retirement savings plan dies after 29 June 1978 and the date provided by the plan for the first payment of benefits is after 29 June 1978, the annuitant is deemed to have received, immediately before death, as a benefit out of or under a registered retirement savings plan, an amount equal to the amount by which the fair market value of all the property of the plan at the time of death exceeds, where the annuitant died after the date provided by the plan for the first payment of benefits, the fair market value at the time of the death of the portion of the property that, as a consequence of the death, becomes receivable by a person who was the annuitant's spouse immediately before the death, or would become so receivable should that person survive throughout the entire period for which a guaranteed term annuity is provided for under the plan.

However, the annuitant contemplated in the first paragraph may deduct from the amount he is deemed to have received under that paragraph an amount not exceeding the amount determined by the formula

$$A \times \left[1 - \frac{(B + C - D)}{(B + C)}\right].$$

For the purposes of the formula in the second paragraph,

(*a*) A is the aggregate of all refunds of premiums in respect of the plan;

(*b*) B is the fair market value of the property of the plan at the particular time that is the later of the end of the first calendar year that begins after the death of the annuitant and the time immediately after the last time that any refund of premiums in respect of the plan is paid out of or under the plan;

(*c*) C is the aggregate of all amounts paid out of or under the plan after the death of the annuitant and before the particular time; and

(*d*) D is the lesser of the fair market value of the property of the plan at the time of the annuitant's death and the aggregate of all amounts determined in respect of the plan under paragraphs *b* and *c*."

(2) Subsection 1 applies in respect of deaths occurring after 31 December 1992.

200. (1) Section 917.1 of the said Act is replaced by the following section:

"**917.1** Where, at any particular time, an amount is credited or added to a deposit with a depositary referred to in subparagraph iii of paragraph *b* of the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement savings plan the annuitant under which was alive during the calendar year in which the amount is credited or added or during the preceding calendar year, the amount is deemed not to be received by the annuitant or any other person solely because of the crediting or adding."

(2) Subsection 1 applies to taxation years ending after 30 November 1991. However, where section 917.1 of the Taxation Act, enacted by subsection 1, applies in respect of deaths occurring before 1 January 1993, it shall be read as follows:

"**917.1** Where, at any particular time, an amount is credited or added to a deposit with a depositary referred to in subparagraph iii of paragraph *b* of the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement savings plan the annuitant under which was alive during the year in which the amount is credited or added, the amount is deemed not to be received by the annuitant solely because of the crediting or adding."

201. Section 920 of the said Act is amended

(1) by replacing, in the French text, subsection 1 by the following subsection:

"**920.** 1. Malgré l'article 919, une fiducie qui y est visée doit payer un impôt en vertu de la présente partie sur son revenu imposable pour une année d'imposition si elle contracte un emprunt dans l'année ou a, depuis le 18 juin 1971, contracté un emprunt qu'elle n'a pas remboursé avant le début de l'année.";

(2) by replacing, in the English text, subsection 2 by the following subsection:

"(2) The rule provided for in subsection 1 does not apply in the case of borrowed money used in carrying on a business."

202. (1) Sections 921 and 921.1 of the said Act are replaced by the following sections:

"**921.** Where section 920 does not apply, a trust governed by a registered retirement savings plan that carries on a business in a taxation year must, notwithstanding section 919, pay tax under this Part on the amount by which the amount that its taxable income for the year would be if it had no incomes or losses from sources other than that business, exceeds such portion of the taxable income as can reasonably be considered to be income from, or from the disposition of, qualified investments within the meaning of subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

"**921.1** Notwithstanding section 919, a trust governed by a registered retirement savings plan must pay tax under this Part on its taxable income for each taxation year after the year following the year in which the last annuitant under the plan died."

(2) Subsection 1 applies from the taxation year 1993.

203. (1) Section 935.1 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

(1) by inserting, after the definition of "benefit" in the first paragraph, the following definition:

" "completion date", in respect of an amount received by an individual, means

(*a*) where the amount was received before 2 March 1993, 1 October 1993, and

(*b*) in any other case, 1 October 1994;";

(2) by replacing paragraph *a* of the definition of "eligible amount" in the first paragraph by the following paragraph:

"(*a*) the amount is received after 25 February 1992 and before 2 March 1994 pursuant to the written request of the individual on the prescribed form on which the individual sets out the location of a qualifying home that the individual has begun, or intends not later than one year after its acquisition by the individual to begin, using as a principal place of residence,";

(3) by replacing paragraph *c* of the definition of "eligible amount" in the first paragraph by the following paragraph:

"(*c*) the individual acquires the qualifying home, or replacement property for the qualifying home, after 25 February 1992 and before the completion date in respect of the amount,";

(4) in the definition of "eligible amount" in the first paragraph, by striking out the word "and" at the end of paragraph *e*, by adding the word "and" at the end of paragraph *f* and by adding the following paragraph:

"(*g*) if the particular time is after 1 March 1993, neither the individual, nor another individual who was, at any time after 25 February 1992 and before the particular time, a spouse of the individual, received an eligible amount before 2 March 1993;";

(5) by replacing paragraph *b* of the definition of "excluded premium" in the first paragraph by the following paragraph:

"(*b*) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund, deferred profit sharing plan or a provincial pension plan prescribed for the purposes of paragraph *v* of section 60 of the Income Tax Act, or";

(6) by replacing subparagraphs i and ii of paragraph *b* of the definition of "excluded withdrawal" in the first paragraph by the following subparagraphs:

"i. the individual died before the end of the calendar year that includes the completion date in respect of the amount and was resident in Canada throughout the period beginning immediately after the amount was received and ending at the time of the death, or

"ii. the amount is repaid before the end of the calendar year described in subparagraph i to a registered retirement savings plan in respect of which the person is the issuer, or, where the individual was not resident in Canada at the time the individual filed a fiscal return under this Part for the taxation year in which the amount was received by the individual, before the earlier of the end of the calendar year described in subparagraph i and the day on which the individual filed that return, and the issuer is notified of the repayment on the prescribed form submitted to the issuer at the time the repayment is made;";

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

"Where an amount would, if subparagraph 1 of subparagraph ii of subparagraph *c* of the first paragraph of section 935.2 were read without reference to the words ", acquires the qualifying home or a replacement property for the qualifying home before the day that is one year after the completion date,", be an eligible amount, subparagraph ii of paragraph *b* of the definition of "excluded withdrawal" in the first paragraph applies in respect of the amount as if the first reference therein to "described in subparagraph i" were read as "following the calendar year described in subparagraph i"."

(2) Subsection 1 applies from the taxation year 1992.

204. (1) Section 935.2 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

(1) by replacing the portion of subparagraph *c* of the first paragraph before subparagraph ii by the following:

"(*c*) except for the purposes of this paragraph, an individual is deemed to have acquired, before the completion date in respect of the amount, a qualifying home in respect of which the individual withdrew an amount described in paragraph *a* of the definition of "eligible amount" in the first paragraph of section 935.1 where

i. neither a qualifying home nor a replacement property for the qualifying home has been acquired by the individual before that completion date, and";

(2) by replacing subparagraph 1 of subparagraph ii of subparagraph *c* of the first paragraph by the following subparagraph:

"(1) the individual is obliged under the terms of a written agreement in effect on that completion date to acquire the qualifying home, or a replacement property for the qualifying home, on or after that day, acquires the qualifying home or a replacement property for the qualifying home before the day that is one year after that completion date, and is resident in Canada throughout the period beginning on that completion date and ending on the earlier of 1 October in the first calendar year beginning after that date and the earliest of any day on which the individual acquires the qualifying home or a replacement property for the qualifying home, or";

(3) in the first paragraph, by striking out the word "and" at the end of subparagraph *b* and by adding after subparagraph *c* the following subparagraphs:

"(*d*) where an individual or a spouse of the individual receives an eligible amount before 2 March 1993, at a particular time after 1 March 1993 and before 1 April 1993 the individual receives another amount that would, if the reference to "1 March 1993" in paragraph *g* of the definition of "eligible amount" in the first paragraph of section 935.1 were read as "31 March 1993", be an eligible amount, and the written request described in paragraph *a* of the said definition of "eligible amount" pursuant to which the other amount was received was made before 2 March 1993, except for the purposes of paragraphs *a* to *f* of the said definition of "eligible amount" and the purposes of this paragraph,

i. the other amount is deemed to have been received by the individual on 1 March 1993 and not at the particular time, and

ii. any premium paid by the individual or the individual's spouse after 1 March 1993 and before the particular time under a registered retirement savings plan is deemed to have been paid on 1 March 1993; and

"(*e*) where at a particular time after 1 March 1994 and before 1 April 1994, an individual receives an amount that would, if the reference to "2 March 1994" in paragraph *a* of the definition of "eligible amount" in the first paragraph of section 935.1 were read as "1 April 1994", be an eligible amount, and the written request described in paragraph *a* of the said definition of "eligible amount" pursuant to which the amount was received was made before 2 March 1994, except for the purposes of paragraphs *b* to *g* of the said definition of "eligible amount" and the purposes of this paragraph,

i. that amount is deemed to have been received by the individual on 1 March 1994 and not at the particular time, and

ii. any premium paid by the individual or the individual's spouse after 1 March 1994 and before the particular time under a registered retirement savings plan is deemed to have been paid on 1 March 1994.";

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

"The period to which subparagraph 2 of subparagraph ii of subparagraph *c* of the first paragraph refers is the period beginning at the time the individual first withdrew an amount described in paragraph *a* of the definition of "eligible amount" in the first paragraph of section 935.1 and ending before the completion date in respect of the amount, in respect of the qualifying home."

(2) Subsection 1 applies from the taxation year 1992.

205. (1) Section 935.4 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

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

"**935.4** An individual shall include in computing the income of the individual for a particular taxation year ending after 31 December 1994 the amount determined by the formula

$$\frac{(A - B - C)}{(15 - D)} - E.";$$

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

"i. where the particular year is the taxation year 1995, an amount equal to zero, and";

(3) by replacing subparagraph *d* of the second paragraph by the following subparagraph:

"(*d*) D is the lesser of 14 and the number of taxation years of the individual ending in the period beginning on 1 January 1995 and ending at the beginning of the particular year; and";

(4) by replacing subparagraph i of subparagraph *e* of the second paragraph by the following subparagraph:

"i. where the particular year is the taxation year 1995, the aggregate of all amounts each of which is an amount designated by the individual under section 935.3 for the particular year or any of the three preceding taxation years, and".

(2) Subsection 1 applies from the taxation year 1992.

206. (1) Section 935.7 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended by replacing paragraph *b* by the following paragraph:

"(*b*) except for the purposes of sections 935.9 and 935.10.1, the spouse is deemed to have received an eligible amount at the time of the individual's death equal to the amount that would, but for this section, be determined in respect of the individual under section 935.6."

(2) Subsection 1 applies from the taxation year 1992.

207. (1) The heading of Chapter III of Title IV.1 of Book VII of Part I of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is replaced by the following heading:

"AMOUNTS TO BE INCLUDED FOR
THE TAXATION YEARS 1992 AND 1993".

(2) Subsection 1 applies from the taxation year 1992.

208. (1) Section 935.9 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

(1) by replacing paragraph *a* by the following paragraph:

"(*a*) the net premium balance for the year of the individual, and";

(2) by replacing subparagraph i of paragraph *b* by the following subparagraph:

"i. all eligible amounts received by the individual before 2 March 1993, and";

(3) by replacing subparagraph 2 of subparagraph ii of paragraph *b* by the following subparagraph:

"(2) the amount by which the aggregate of all eligible amounts received before 2 March 1993 by the individual's spouse exceeds the net premium balance for the year of the individual's spouse."

(2) Subsection 1 applies from the taxation year 1992.

209. (1) Section 935.10 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended by replacing the portion before paragraph *a* by the following:

"**935.10** In section 935.9, the net premium balance for the taxation year 1992 of an individual is the amount by which".

(2) Subsection 1 applies from the taxation year 1992.

210. (1) The said Act is amended by inserting, after section 935.10, enacted by section 290 of chapter 22 of the statutes of 1994, the following sections:

"**935.10.1** There shall be included in computing the income for the taxation year 1993 of an individual who was resident in Canada at the end of that year an amount equal to the lesser of

(*a*) the net premium balance for the year of the individual, and

(*b*) the aggregate of

i. all eligible amounts received after 1 March 1993 and before 2 March 1994 by the individual, and

ii. the lesser of

(1) the aggregate of all premiums, other than excluded premiums in respect of the individual, paid by the individual after 2 December 1992 and before 2 March 1994 under a registered retirement savings plan under which the individual's spouse is the annuitant, and

(2) the amount by which the aggregate of all eligible amounts received after 1 March 1993 and before 2 March 1994 by the individual's spouse exceeds the net premium balance for the year of the individual's spouse.

"**935.10.2** In section 935.10.1, the net premium balance for the taxation year 1993 of an individual is the amount by which

(*a*) the aggregate of all premiums, other than excluded premiums in respect of the individual, paid by the individual after 2 December 1992 and before 2 March 1994 under a registered retirement savings plan under which the individual or the individual's spouse is the annuitant, exceeds

(*b*) the aggregate of all amounts each of which is an amount received by the individual or the individual's spouse after 2 December 1992 and before 1 January 1995 and included under section 929 or 931.1 in computing the individual's income for the taxation year 1992, 1993 or 1994, other than an amount in respect of which an amount is deductible under paragraph *b* of section 924.1 in computing the income of the individual or in respect of premiums paid by the individual after 1 March 1994."

(2) Subsection 1 applies from the taxation year 1992.

211. (1) Section 935.11 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is replaced by the following section:

"**935.11** Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest and penalties as are necessary to give effect to sections 935.9 and 935.10.1."

(2) Subsection 1 applies from the taxation year 1992.

212. (1) Section 958 of the said Act is amended by replacing, in paragraph *a*, the words "subparagraph i, ii, iv, vii or ix of paragraph *e* of section 204" by the words "paragraph *a*, *b*, *d*, *f* or *h* of the definition of "qualified investment" in section 204", and the words "subparagraph ii of paragraph *g* of subsection 1 of section 146" by the words "paragraph *b* of the definition of "qualified investment" in subsection 1 of section 146".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

213. (1) Section 961.1.5 of the said Act, amended by section 291 of chapter 22 of the statutes of 1994, is again amended

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

"(*b*) "carrier" of a retirement income fund has the meaning assigned by subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);";

(2) by inserting, after paragraph *c*, the following paragraph:

"(*c*.1) "designated benefit" of an individual in respect of a registered retirement income fund means the aggregate of

i. such amounts paid out of or under the fund after the death of the last annuitant thereunder to the legal representative of that annuitant

(1) as would, had they been paid under the fund to the individual, have been refunds of premiums within the meaning assigned by the first paragraph of section 908, if the fund were a registered retirement savings plan under which the date provided for the first payment of benefits was subsequent to the death, and

(2) as are designated jointly by the legal representative and the individual on the prescribed form filed with the Minister; and

ii. amounts paid out of or under the fund after the death of the last annuitant thereunder to the individual that would be refunds of premiums within the meaning assigned by the first paragraph of section 908 had the fund been a registered retirement savings plan under which the date provided for the first payment of benefits was subsequent to the death;";

(3) by replacing subparagraphs i to iii of paragraph *d* by the following subparagraphs:

"i. the first individual to whom the carrier has undertaken to make the payments described in the definition of "retirement income fund" in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund, where the first individual is alive at that time;

"ii. after the death of the first individual, a spouse, in this subparagraph referred to as the "surviving spouse", of the first individual to whom the carrier has undertaken to make payments described in the definition of "retirement income fund" in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund after the death of the first individual, where the surviving spouse is alive at that time and the undertaking was made pursuant to an election described in the said definition of the first individual or with the consent of the legal representative of the first individual; and

"iii. after the death of the surviving spouse, another spouse of the surviving spouse to whom the carrier has undertaken, with the consent of the legal representative of the surviving spouse, to make payments described in the definition of "retirement income fund" in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund after the death of the surviving spouse, where that other spouse is alive at that time."

(2) Paragraphs 1 and 3 of subsection 1 apply to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies in respect of deaths occurring after 31 December 1992.

214. (1) Sections 961.8 and 961.8.1 of the said Act are replaced by the following sections:

"**961.8** A designated benefit of an individual in respect of a registered retirement income fund that is received by the legal representative of the last annuitant under the fund is deemed to be received by the individual out of or under the fund at the time it is received by the legal representative and, except for the purposes of paragraph *c*.1 of section 961.1.5, not to be received out of or under the fund by any other person.

"**961.8.1** Where, at any particular time, an amount is credited or added to a deposit with a depositary referred to in paragraph *d* of the definition of "carrier" in subsection 1 of section 146.3 of the

Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement income fund the annuitant under which was alive during the calendar year in which the amount is credited or added or during the preceding calendar year, the amount is deemed not to be received by the annuitant or any other person solely because of the crediting or adding."

(2) Subsection 1 applies to taxation years ending after 30 November 1991. However, where section 961.8.1 of the Taxation Act, enacted by subsection 1, applies in respect of deaths occurring before 1 January 1993, it shall be read as follows:

"**961.8.1** Where, at a particular time, an amount is credited or added to a deposit with a depositary referred to in paragraph *d* of the definition of "carrier" in subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement income fund the annuitant under which is alive during the year in which the amount is credited or added, the amount is deemed not to be received by the annuitant solely because of the crediting or adding."

215. Section 961.13 of the said Act is amended by replacing, in the French text, paragraph *a* by the following paragraph:

"*a*) si elle contracte un emprunt dans l'année ou a contracté un emprunt qu'elle n'a pas remboursé avant le début de l'année; ou".

216. (1) Section 961.14 of the said Act is replaced by the following section:

"**961.14** Where section 961.13 does not apply, a trust governed by a registered retirement income fund that carries on a business in a taxation year shall, notwithstanding section 961.12, pay tax under this Part on the amount by which the amount that its taxable income for the year would be if it had no incomes or losses from sources other than that business, exceeds such portion of the taxable income as can reasonably be considered to be income from, or from the disposition of, qualified investments within the meaning of subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)."

(2) Subsection 1 applies from the taxation year 1993.

217. (1) Section 961.16.1 of the said Act is replaced by the following section:

"**961.16.1** Notwithstanding sections 961.12 to 961.16, a trust governed by a registered retirement income fund shall pay tax under this Part on its taxable income for each taxation year after the year following the year in which the last annuitant under the fund died."

(2) Subsection 1 applies from the taxation year 1993.

218. (1) Section 961.17.1 of the said Act is replaced by the following section:

"**961.17.1** Where the last annuitant under a registered retirement income fund dies, that annuitant is deemed to have received, immediately before death, an amount out of or under a registered retirement income fund equal to the fair market value of the property of the fund at the time of the death.

However, the annuitant referred to in the first paragraph may deduct from the amount he is deemed to have received under that paragraph an amount not exceeding the amount determined by the formula

$$A \times \left[1 - \frac{(B + C - D)}{(B + C)}\right].$$

For the purposes of the formula in the second paragraph,

(*a*) A is the aggregate of all designated benefits of individuals in respect of the fund;

(*b*) B is the fair market value of the property of the fund at the particular time that is the later of the end of the first calendar year beginning after the death of the annuitant and the time immediately after the last time that any designated benefit in respect of the fund is received by an individual;

(*c*) C is the aggregate of all amounts paid out of or under the fund after the death of the last annuitant and before the particular time; and

(*d*) D is the lesser of the fair market value of the property of the fund at the time of the death of the last annuitant thereunder and the aggregate of all amounts determined in respect of the fund under paragraphs *b* and *c*."

(2) Subsection 1 applies in respect of deaths occurring after 31 December 1992.

219. (1) Title V.2 of Book VII of Part I of the said Act is replaced by the following Title:

"TITLE V.2

"ELECTION IN RESPECT OF A SHARE OF THE CAPITAL STOCK OF A QUALIFIED CORPORATION OR OF A UNIT IN A QUALIFIED TRUST

"**961.23** In this Title,

"qualified corporation" at any time means a corporation described in paragraph *c*.2 of section 998 where, at that time, all the issued and outstanding shares of the capital stock of the corporation are identical to each other or held by one person;

"qualified trust" has the meaning assigned by subsection 5 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

"**961.24** For the purposes of sections 921.2, 926, 933, 961.15, 961.19 and 961.20, where, at any particular time, a taxpayer which is a trust governed by a registered retirement savings plan or a registered retirement income fund acquires, holds or disposes of a unit in a qualified trust, the qualified trust may, to the extent that it has made a valid election, in respect of a period, under subsection 1 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), elect in prescribed manner, in respect of that period, to have the following rules apply:

(*a*) the taxpayer is deemed not to acquire, hold or dispose of at that time, as the case may be, the unit;

(*b*) where the taxpayer holds the unit at that time, the taxpayer is deemed to hold at that time that proportion, referred to in this

section as the "specified portion", of each property, in this section referred to as a "relevant property", held by the qualified trust at that time that one or, where the unit is a fraction of a whole unit, that fraction, is of the number of units of the qualified trust outstanding at that time;

(*c*) the cost amount to the taxpayer at that time of the specified portion of a relevant property is deemed to be equal to the specified portion of the cost amount at that time to the qualified trust of the relevant property;

(*d*) where that time is the later of the time the qualified trust acquires the relevant property and the time the taxpayer acquires the unit, the taxpayer is deemed to acquire the specified portion of a relevant property at that time;

(*e*) where that time is the time the specified portion of a relevant property is deemed under paragraph *d* to have been acquired, the fair market value of the specified portion of the relevant property at that time is deemed to be the specified portion of the fair market value of the relevant property at the time of its acquisition by the qualified trust;

(*f*) where that time is the time immediately before the time the qualified trust disposes of a particular relevant property, the taxpayer is deemed to dispose of, immediately after that time, the specified portion of the particular relevant property for proceeds equal to the specified portion of the proceeds of disposition to the qualified trust of the particular relevant property;

(*g*) where that time is the time immediately before the time the taxpayer disposes of the unit, the taxpayer is deemed to dispose of, immediately after that time, the specified portion of each relevant property for proceeds equal to the specified portion of the fair market value of that relevant property at that time; and

(*h*) where the taxpayer is deemed because of this section to have acquired a portion of a relevant property as a consequence of the acquisition of the unit by the taxpayer and the acquisition of the relevant property by the qualified trust, and subsequently to have disposed of the specified portion of the relevant property, the specified portion of the relevant property is, for the purpose of determining the consequences under this Act of the disposition and without affecting the proceeds of disposition of the specified portion of the relevant property, deemed to be the portion of the relevant property the taxpayer is deemed to have acquired.

"**961.24.1** For the purposes of sections 950, 954 and 957, where, at any time, a taxpayer which is a trust governed by a registered home ownership savings plan acquires, holds or disposes of a unit in a qualified trust, the qualified trust may elect in prescribed form, in respect of the period determined in section 961.24.3, to have the rules provided in paragraphs *a* to *h* of section 961.24 apply.

"**961.24.2** Sections 961.24 and 961.24.1 apply in respect of an election made by a qualified corporation as if

(*a*) the references to "in a qualified trust" were read as "of the capital stock of a qualified corporation";

(*b*) the references to "unit" and "units" were read as "share" and "shares", respectively; and

(*c*) the references to "qualified trust" were read as "qualified corporation".

"**961.24.3** The election by a qualified trust or a qualified corporation under section 961.24.1 shall apply for the period beginning 15 months before the day of filing thereof, or on such later time as is designated in the election, and ending at such time as the election is revoked by the qualified trust or the qualified corporation filing with the Minister a notice of revocation, or at such earlier time within the 15-month period before the day on which the notice of revocation is filed with the Minister as is designated in the notice of revocation.

"**961.24.4** Where a qualified trust or a qualified corporation elects under section 961.24 or 961.24.1,

(*a*) it shall, not more than 30 days after making the election, notify each person who, before the election is made and during the period for which the election is made, held a unit in the qualified trust or a share of the capital stock of the qualified corporation, as the case may be, of the election; and

(*b*) where any person who holds a unit in the qualified trust or a share of the capital stock of the qualified corporation during the period for which the election is made makes a written request to the qualified trust or the qualified corporation for information that is necessary for the purpose of determining the consequences under this Part of the election for that person, the qualified trust or the qualified corporation, as the case may be, shall provide the person with that information not more than 30 days after the receipt of the request."

(2) Subsection 1 applies, subject to subsection 3, in respect of periods occurring after 31 December 1985. However, where Title V.2 of Book VII of Part I of the Taxation Act, enacted by subsection 1, applies in respect of a period occurring before 1 January 1992, it shall be read without reference to

(*a*) the definition "qualified corporation" in section 961.23;

(*b*) section 961.24.2;

(*c*) the words "or a qualified corporation" and "or the qualified corporation" in section 961.24.3.

(3) Subsection 1, where it enacts section 961.24.4 of the Taxation Act, applies in respect of elections made after 21 December 1992.

220. (1) Section 965.11 of the said Act, amended by section 112 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *c* by the following paragraph:

"(*c*) promissory notes or other debt securities obtained in the ordinary course of its business and held by a bank, a body governed by the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or by the Act respecting insurance (chapter A-32), a corporation holding a licence or otherwise authorized by the laws of Canada or a province to offer its services there as a trustee, or any other corporation whose principal business is the lending of money or the purchasing of debts;".

(2) Subsection 1 has effect from 1 June 1992.

221. (1) Section 968 of the said Act, amended by section 306 of chapter 22 of the statutes of 1994, is again amended by replacing the second paragraph by the following paragraph:

"For the purposes of the first paragraph, a life insurance policy does not include a policy that is, or is issued pursuant to, a registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, a registered retirement income fund, an income-averaging annuity, or an annuity contract where the cost of the annuity contract is deductible by the holder under paragraph *f* of section 339 in computing his income or where the holder acquired the annuity contract in circumstances to which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied."

(2) Subsection 1 applies in respect of dispositions occurring after 31 August 1992.

222. (1) Section 985.6 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following:

"**985.6** Le ministre peut, de la manière prévue aux articles 1064 et 1065, révoquer l'enregistrement d'une oeuvre de bienfaisance dans le cas où:";

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

"(*b*) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts that are at least equal to the aggregate of the amounts that would be determined for the year under paragraphs *a* and *a*.1 of section 985.9 in respect of the organization if it were a charitable foundation."

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992. In addition, where paragraph *b* of section 985.6 of the Taxation Act, replaced by the said paragraph 2, applies to taxation years ending after 30 November 1991, the French text thereof shall be read as if the references therein to "activités charitables" and "fondation de charité" were references to "activités de bienfaisance" and "fondation de bienfaisance", respectively.

223. (1) Section 985.9 of the said Act, amended by section 123 of chapter 64 of the statutes of 1993, is again amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following:

"**985.9** Le montant visé au paragraphe *a*.1 de l'article 985.1 pour une année d'imposition à l'égard d'une fondation de bienfaisance est l'ensemble:";

(2) by inserting, after paragraph *a*, the following paragraph:

"(*a*.1) 80% of the aggregate of all amounts each of which is the amount of a gift received by the foundation in a preceding taxation year, to the extent that the amount of the gift is expended in the year and was excluded from the disbursement quota of the foundation because of paragraph *a* of section 985.9.1 for a taxation year that begins after 31 December 1993, or because of paragraph *b* of the said section 985.9.1;";

(3) by replacing, in the French text, paragraphs *b* and *c* by the following paragraphs:

"*b*) dans le cas d'une fondation privée, de l'ensemble des montants, autres qu'un don désigné, qu'elle a reçus dans son année d'imposition précédente d'un organisme de bienfaisance enregistré;

"*c*) dans le cas d'une fondation publique, de 80 % de l'ensemble des montants, autres qu'un don désigné, qu'elle a reçus dans son année d'imposition précédente d'un organisme de bienfaisance enregistré;".

(2) Paragraphs 1 and 3 of subsection 1 apply to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992.

224. (1) Section 985.9.2 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *b* by the following:

"**985.9.2** Pour l'application du paragraphe *d* de l'article 985.9, le montant pour une année d'imposition à l'égard d'une fondation de bienfaisance est égal à la proportion, représentée par le rapport entre le nombre de jours compris dans cette année et 365, de 4,5 % de l'excédent:

a) du montant prescrit pour l'année à l'égard des biens, autres qu'un bien prescrit, ou de la partie de tels biens dont la fondation était propriétaire à un moment quelconque au cours des 24 mois précédents et qui n'étaient pas utilisés directement à des activités de bienfaisance ou à l'administration; sur";

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

"(*b*) the aggregate of the amount determined under paragraph *b* of section 985.9 in respect of the foundation for the year and 5/4 of the aggregate of the amounts determined under paragraphs *a*, *a*.1 and *c* of the said section 985.9 in respect of the foundation for the year."

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992.

225. (1) Section 985.15 of the said Act is replaced by the following section:

"**985.15** A registered charity may, with the approval of the Minister, accumulate property for a particular purpose, on such terms and conditions, and over such period of time, as specified in the approval; any property so accumulated, including any income related thereto, is deemed to have been expended on charitable activities carried on by the charity in the taxation year in which it was so accumulated and not to have been expended in any other taxation year."

(2) Subsection 1 applies to taxation years beginning after 31 December 1992. In addition, where section 985.15 of the Taxation Act, replaced by subsection 1, applies to taxation years ending after 30 November 1991, the French text thereof shall be read as if the references therein to "organisme de charité" and "activités charitables" were references to "organisme de bienfaisance" and "activités de bienfaisance", respectively.

226. (1) Section 985.21 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *b* by the following:

"**985.21** Les dépenses excédentaires visées à l'article 985.20 sont l'excédent de l'ensemble des montants dépensés dans l'année par l'organisme de bienfaisance pour des activités de bienfaisance qu'il a exercées lui-même ou des dons à un donataire reconnu, sur:

a) dans le cas d'une fondation de bienfaisance, son contingent des versements pour l'année;";

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

"(*b*) in the case of a charitable organization, the aggregate of the amounts that would be determined for the year under paragraphs *a* and *a*.1 of section 985.9 in respect of the organization if it were a charitable foundation."

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992. In addition, where paragraph *b* of section 985.21 of the Taxation Act, replaced by paragraph 2 of subsection 1, applies to taxation years ending after 30 November 1991, the French text thereof shall be read as if the references therein to "oeuvre de charité" and "fondation de charité" were references to "oeuvre de bienfaisance" and "fondation de bienfaisance", respectively.

227. (1) Section 999.1 of the said Act, amended by section 312 of chapter 22 of the statutes of 1994, is again amended by replacing paragraph *a*.1 by the following paragraph:

"(*a*.1) for the purpose of computing the corporation's income for its first taxation year ending after that time, the corporation is deemed to have deducted under Chapter III of Title III of Book III and Chapters II and III of Title V of Book VI in computing its income for its taxation year ending immediately before that time, the greatest amount that could have been claimed or deducted for that year as a reserve under those provisions;".

(2) Subsection 1 applies from the taxation year 1992.

228. (1) Section 1015 of the said Act, amended by section 110 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing paragraph *n* by the following paragraph:

"(*n*) a prescribed benefit under a government assistance program,";

(2) by striking out paragraph *n*.1.

(2) Subsection 1 applies in respect of payments made after 31 October 1991.

229. (1) Section 1031 of the said Act, amended by section 164 of chapter 1 of the statutes of 1995, is again amended by replacing the first and second paragraphs by the following paragraphs:

"**1031.** Notwithstanding any other provision of a fiscal law and subject to the second paragraph, an individual to whom section 785.2 applies who must pay for a taxation year tax exceeding that which would be payable in the absence of the said section may, if he furnishes to the Minister security acceptable to the Minister, elect, in prescribed form on or before the day on or before which the individual is required to file a fiscal return for the taxation year in which the individual ceased to be resident in Canada, to pay all or any portion of such excess in equal annual instalments as specified in the election by the individual.

For the purposes of the first paragraph,

(*a*) the number of equal annual instalments provided in the election is deemed to be the lesser of 6 and such other number as is specified in the election by the individual;

(*b*) the first instalment shall be paid on or before the day on or before which the taxpayer is required to file a fiscal return for the taxation year in which he ceased to be resident in Canada, and each subsequent instalment shall be paid on or before the anniversary of that day in the years following that year."

(2) Subsection 1 applies in respect of changes in residence occurring after 31 December 1992. However, where the first paragraph of section 1031 of the Taxation Act, enacted by subsection 1, applies in respect of a notice of assessment issued before 1 July 1994, it shall be read as if the reference therein to "Notwithstanding any other provision of a fiscal law" were a reference to "Notwithstanding any other provision of this Part".

230. (1) Section 1038 of the said Act, amended by section 172 of chapter 64 of the statutes of 1993 and by section 171 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing the portion of the third paragraph before subparagraph *a* by the following:

"For the purposes of this section and section 1040, any individual required to make a payment for a particular taxation year under section 1026 is deemed to have been liable to make payments based on a method described in the said section 1026, whichever method

gives rise to the least total amount required to be paid for the particular year on or before each of the dates referred to in the latter paragraph, computed by reference to";

(2) by replacing the portion of the fourth paragraph before subparagraph *a* by the following:

"For the purposes of this section and section 1040, any corporation required to make a payment for a taxation year under section 1027 is deemed to have been liable to make payments based on a method described in subparagraph *a* of the first paragraph of the said section 1027, whichever method gives rise to the least total amount required to be paid for the year on or before each of the dates referred to in the latter subparagraph, computed by reference to".

(2) Subsection 1 applies from the taxation year 1992.

231. Section 1049.0.1 of the said Act is replaced by the following section:

"**1049.0.1** Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement or omission in any renunciation that is effective as of a particular date and that is made under section 359.2, 359.2.1, 359.4, 359.6, 381, 406, 417 or 418.13 is liable to a penalty of 25% of the amount by which the amount set out in the renunciation in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses exceeds the amount in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the section to renounce as of that particular date."

232. (1) Section 1090 of the said Act, amended by section 334 of chapter 22 of the statutes of 1994 and by section 182 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *k* of the first paragraph by the following subparagraph:

"(*k*) the amount that, under section 968 or 968.1, would be included in computing his income in respect of an interest in a life insurance policy in Canada if he had been resident in Canada throughout the year;".

(2) Subsection 1 has effect from 1 January 1993.

233. (1) Section 1092 of the said Act, amended by section 185 of chapter 64 of the statutes of 1993 and by section 350 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing, in the French text, the portion of paragraph *b* before subparagraph i by the following:

"*b*) a un revenu, pour l'application du paragraphe *g* de chacun des articles 1089 et 1090, égal à l'ensemble :";

(2) by adding the word "and" at the end of subparagraph ii of paragraph *b*;

(3) by striking out the word "and" at the end of subparagraph iii of paragraph *b*.

(2) Subsection 1 applies from the taxation year 1993.

234. (1) Section 1108 of the said Act, amended by section 340 of chapter 22 of the statutes of 1994, is again amended, in subparagraph *e* of the first paragraph,

(1) by replacing the portion before subparagraph i by the following:

"(*e*) "non-qualifying immovable property" of a particular corporation or a trust, other than a personal trust, means property disposed of by the particular corporation or the trust after 29 February 1992 that at the time of its disposition is";

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

"ii. a share of the capital stock of a corporation, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period immediately preceding that time while it was owned by the corporation or a corporation related to the corporation, or throughout all or substantially all of the period preceding that time during which it was owned by the corporation or a corporation related to the corporation, principally in a qualified business carried on by the corporation or a corporation related to it, but not including a share of the capital stock of a corporation the fair market value of which is derived principally from immovable property owned by another corporation the shares of the capital stock of which would, if owned by the particular corporation or the trust, not be non-qualifying immovable property of the particular corporation or the trust,".

(2) Subsection 1 applies from the taxation year 1992.

235. (1) The said Act is amended by inserting, after section 1129.45, enacted by section 191 of chapter 1 of the statutes of 1995, the following:

"PART III.11

"ADDITIONAL TAX FOR MANUFACTURERS OF TOBACCO PRODUCTS

"**1129.46** In this Part, unless the context indicates otherwise,

"corporation" has the meaning assigned by section 1;

"establishment" has the meaning assigned by section 1;

"Minister" means the Minister of Revenue;

"taxation year" has the meaning assigned by section 1.

"**1129.47** Every corporation having an establishment in Québec at any time in a taxation year shall pay a tax for that year equal to the product obtained by multiplying the amount determined under section 1129.48 in respect of the corporation for the year by the proportion that

(*a*) the number of days in the year that are after 8 February 1994 and before 9 February 1997, is of

(*b*) the number of days in the year.

"**1129.48** The amount referred to in section 1129.47 in respect of a corporation for a taxation year is equal to the lesser of

(*a*) the tax payable by the corporation for its taxation year 1993 under Part IV, and

(*b*) the amount determined in respect of the corporation for the year by the formula

A x B.

For the purposes of the formula in subparagraph *b* of the first paragraph,

(*a*) A is the amount that would be determined in respect of the corporation for the year under the definition of "Part I tax on tobacco manufacturing profits" in subsection 2 of section 182 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), if the reference therein to "21%" were read as "4.45%"; and

(*b*) B is the ratio between the business carried on by the corporation in Québec in the year and the total business carried on by the corporation in Canada or in Québec and elsewhere in the year, as determined by regulation.

"**1129.49** Every corporation shall pay to the Minister, on or before the later of 6 January 1996 and the last day of the second month after the end of its taxation year, its tax payable under this Part for the year.

"**1129.50** Except where inconsistent with this Part, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024 and sections 1037 to 1079.16 apply to this Part, with the necessary modifications."

(2) Subsection 1 applies to taxation years ending after 8 February 1994. However, where section 1129.50 of the Taxation Act, enacted by subsection 1, applies in respect of notices of assessment issued before 1 July 1994, the reference therein to sections 1037 to 1079.16 shall be read as a reference to sections 1030 to 1079.16.

236. (1) The said Act, amended by chapters 15, 51 and 64 of the statutes of 1993, by chapters 13, 14, 16 and 22 of the statutes of 1994 and by chapters 1, 18 and 36 of the statutes of 1995, is again amended

(1) by replacing, in the French text, the words "hydrocarbures apparentés" by the words "hydrocarbures connexes" in subparagraphs i, ii and iv of subparagraph *b* of the first paragraph of section 89, in subparagraphs i, ii and iv of paragraph *b* of subsection 1 of section 144, in paragraphs *a* and *b* of section 370, in section 375, in paragraph *b* of section 399.7, in subparagraphs *a* and *f* of the second paragraph of section 418.15, and in the portion of section 425 before paragraph *a*;

(2) by replacing, in the French text, the words "mauvaises créances" by the words "créances irrécouvrables" in paragraph *a* of section 141, in section 264.6, in the heading of Division XII of Chapter

IV of Title IV of Book III of Part I, and in subparagraph 7 of subparagraph iii of subparagraph *b* of the first paragraph of section 308.6;

(3) by replacing, in the French text, the words "mauvaise créance" by the words "créance irrécouvrable" wherever they occur in section 142, in the portion of section 142.1 before paragraph *a*, in subparagraphs 1 and 2 of subparagraph i of paragraph *a* of section 142.1, in the heading of Division III.3 of Chapter IV of Title IV of Book III of Part I, in the first paragraph of section 299, in the portion of section 300 before paragraph *a*, in paragraph *d* of section 398, in paragraph *c* of sections 411 and 418.5, and in the first paragraph of section 736.0.3.1;

(4) by replacing, in the French text, the words "dépenses en immobilisations" by the words "dépenses en capital" in paragraph *a* of section 223, in sections 726.4.41 and 726.4.46, in subparagraph *a* of the first paragraph of sections 726.4.48 to 726.4.50, and in the first paragraph of section 1029.8.7.2;

(5) by replacing, in the French text, the word "charité" by the word "bienfaisance" wherever it occurs in subparagraph *c* of the second paragraph of section 274.0.1, in paragraph *b* of section 421.2, in subsection 2 of section 497, in subparagraph i of paragraph *b* and paragraph *c* of section 660, in the heading of Title V of Book IV of Part I, in paragraphs *c*, *i* and *k* of section 710, in sections 752.0.10.3 and 752.0.10.5, in paragraph *c* of section 752.0.10.6, in sections 752.0.10.12 and 752.0.10.13, in paragraph *f* of section 851.23, in the portion of section 851.33 before subparagraph *a* of the first paragraph, in the heading of Chapter III.1 of Title I of Book VIII of Part I, in paragraphs *a* to *g* of section 985.1, in the portion of section 985.1.1 before subparagraph *b* of the first paragraph, in the second paragraph of section 985.1.1, in the portion of section 985.2 before paragraph *a*, in paragraph *c* of section 985.2, in paragraph *b* of section 985.2.1, in sections 985.2.2, 985.3 and 985.4.3, in section 985.5 except where it refers, in paragraph *a* of subsection 2, to an "oeuvre de charité canadienne prescrite", in the first paragraph of section 985.5.2, in paragraph *c* of section 985.7, in section 985.8.1, in paragraphs *a* and *c* of section 985.9.1, in the portion of section 985.9.3 before paragraph *a*, in paragraph *a* of section 985.9.4, in the portion of section 985.14 before paragraph *a*, in paragraphs *c* and *d* of section 985.14, in sections 985.16, 985.17, 985.20, 985.22 and 985.23, in the portion of section 985.25 before paragraph *a*, in section 996, in paragraph *b* of section 998, in subsection 1 of section 1000, in the portion of section 1063 before paragraph *a*, in subparagraphs *a* and *a*.1 of the first paragraph and in the third paragraph of section 1069, and in the third paragraph of section 1143;

(6) by striking out, in the French text, the words “d’un arrêt,” or “de l’arrêt,”, as the case may be, wherever they occur in sections 312.1 and 313.0.1, in the portion of section 313.0.5 before paragraph *b*, in sections 336.0.1 and 336.1, in the portion of section 336.4 before paragraph *b*, in subparagraph i of paragraph *a* of section 462.0.1, in section 913, in subparagraph *b* of the second paragraph of section 961.17, in paragraph *b* of section 965.0.9, and in the first paragraph of section 1034.0.1;

(7) by striking out, in the French text, the words “un arrêt,” in the first paragraph of section 313, in the portion of section 313.0.5 before paragraph *a*, and in the portion of section 336.4 before paragraph *a*;

(8) by replacing, in the French text, the words “et que l’arrêt,” by the words “et que” in sections 313.0.1 and 336.1;

(9) by replacing, in the French text, the word “charitable” or “charitables”, as the case may be, by the words “de bienfaisance” wherever it occurs in section 752.0.10.5, in paragraph *c* of subsection 3 of section 797, in paragraph *d* of section 985.1, in subparagraph *a* of the first paragraph of section 985.1.2, in the portion of section 985.2 before paragraph *a*, in the portion of section 985.2.1 before paragraph *a*, in section 985.2.2, in the portion of section 985.2.3 before paragraph *b*, in the portion of section 985.2.4 before paragraph *b*, in section 985.3, in paragraphs *b* and *d* of section 985.7, in paragraph *b* of section 985.8, and in sections 985.8.1 and 985.20;

(10) by replacing, in the French text, the words “dépense en immobilisations” or “dépense en immobilisation”, as the case may be, by the words “dépense en capital” in subparagraph iii of paragraph *g*.1 of section 1029.8.1, in paragraphs *c* and *d* of section 1029.8.5.1, in the portion of paragraph *g* of section 1029.8.5.1 before subparagraph i, in paragraph *h* of section 1029.8.5.1, in paragraph iii of the definition of “dépense de frais généraux” in section 1029.8.9.1, in paragraphs *c* and *d* of section 1029.8.15.1, in the portion of paragraph *g* of section 1029.8.15.1 before subparagraph i, and in paragraph *h* of section 1029.8.15.1;

(11) by replacing “1030” by “1034” in section 1086.4;

(12) by replacing “1030” by “1037” in sections 1086.7, 1129.4, 1129.12, 1129.15, 1129.27, 1129.37, 1129.41, 1129.45 and 1145, in the first paragraph of section 1159.7, and in sections 1173.4, 1175 and 1185.

(2) Paragraphs 1 to 10 of subsection 1 apply to taxation years ending after 30 November 1991. However,

(*a*) where paragraph 5 of subsection 1 refers to paragraph *k* of section 710 of the Taxation Act, it shall not apply to taxation years ending before 13 May 1994, and where it refers to sections 752.0.10.3, 752.0.10.5, 752.0.10.6, 752.0.10.12, 752.0.10.13 and 851.33 and to paragraph *b* of section 985.1 of that Act, it shall not apply to taxation years preceding the taxation year 1993; and

(*b*) where paragraph 10 of subsection 1 refers to sections 1029.8.1 and 1029.8.9.1 of the Taxation Act, it shall not apply to taxation years ending before 21 May 1993.

(3) Paragraphs 11 and 12 of subsection 1 apply in respect of notices of assessment issued after 30 June 1994. However, where paragraph 12 refers to section 1129.37 of the Taxation Act, it shall not apply in respect of notices of assessment issued before 31 January 1995.

237. Notwithstanding any other provision of the said Act or of this Act, no provision of this Act shall operate to modify the amount of interest payable by a life insurance corporation under the Taxation Act in respect of a period, or part of a period, that is before 15 March 1993.

ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

238. (1) The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by inserting, after section 5, the following section:

"**5.1** In this Act and the regulations, in the Taxation Act (chapter I-3) and the regulations made thereunder, and in any Act amending those Acts and any regulation amending those regulations, a reference to the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) or to a provision of those Acts, is, where the reference applies prior to the date in the dates of application listed in section 71 or 73 of the Income Tax Application Rules that applies in the circumstances, deemed to be a reference to the Income Tax Act (Statutes of Canada), to the Income Tax Application Rules, 1971 (Statutes of Canada), or to the corresponding provision of those Acts."

(2) Subsection 1 has effect from 1 December 1991.

ACT RESPECTING THE MINISTÈRE DU REVENU

239. (1) Section 14.7 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by striking out, in the French text, the words "d'un arrêt,".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

240. (1) Section 20 of the said Act, amended by section 39 of chapter 79 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

"Any such amount must be kept by the person who deducted, withheld or collected it, distinctly and separately from the person's own funds, for payment to Her Majesty in right of Québec in the manner and at the time provided under a fiscal law. An amount equal to the amount thus deducted, withheld or collected must be considered to form a separate fund not forming part of the property of that person, whether or not the amount has in fact been held separately from the patrimony of that person or from that person's own funds."

(2) Subsection 1 has effect from 15 June 1994.

241. (1) Section 24.0.1 of the said Act, amended by section 11 of chapter 46 of the statutes of 1994, by sections 204 and 362 of chapter 1 of the statutes of 1995 and by section 48 of chapter 43 of the statutes of 1995, is again amended

(1) by replacing, in the English text, the portion of the first paragraph before subparagraph *a* by the following:

"**24.0.1** Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay an amount it was required to pay as an employer under the Act respecting the Québec Pension Plan (chapter R-9), the Act respecting labour standards (chapter N-1.1) or the Act to foster the development of manpower training (1995, chapter 43), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:";

(2) by replacing, in subparagraph *b* of the first paragraph, the words "Bankruptcy Act" by the words "Bankruptcy and Insolvency Act".

(2) Paragraph 1 of subsection 1 has effect from 1 January 1994. However, where the portion of the first paragraph of the English text of section 24.0.1 of the Act respecting the Ministère du Revenu before subparagraph *a*, enacted by subsection 1, applies

(*a*) before 21 December 1994, that portion shall be read as follows:

"**24.0.1** Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay its employer's contribution under the Act respecting the Québec Pension Plan (chapter R-9), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:";

(*b*) after 20 December 1994 and before 22 June 1995, that portion shall be read as follows:

"**24.0.1** Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay an amount it was required to pay as an employer under the Act respecting the Québec Pension Plan (chapter R-9) or the Act respecting labour standards (chapter N-1.1), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:".

(3) Paragraph 2 of subsection 1 has effect from 30 November 1992.

242. (1) Section 34 of the said Act is amended, in subsection 2,

(1) by replacing, in the French text of the first paragraph, the word "charité" by the word "bienfaisance";

(2) by adding, after the second paragraph, the following paragraph:

"The registers and books shall be kept in such manner that the information contained in them will enable the Minister to determine whether there are any grounds for the revocation of the registration under section 1063 of the Taxation Act (chapter I-3)."

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBEC

243. (1) Section 34.1.4 of the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5), enacted by section 222 of chapter 64 of the statutes of 1993 and amended by section 358 of chapter 22 of the statutes of 1994 and section 219 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph 1 of subparagraph iv of paragraph *a* by the following subparagraph:

"(1) section 310 of the said Act, to the extent that section 310 refers to section 931.1, 935.10.1, 965.20 or 965.49 of the said Act;".

(2) Subsection 1 applies from the year 1993.

244. (1) Section 34.1.7 of the said Act, enacted by section 222 of chapter 64 of the statutes of 1993 and replaced by section 220 of chapter 1 of the statutes of 1995, is amended by replacing "1030" by "1034".

(2) Subsection 1 applies in respect of notices of assessment issued after 30 June 1994.

ACT RESPECTING THE QUÉBEC PENSION PLAN

245. (1) Section 76 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), amended by section 13 of chapter 15 of the statutes of 1993 and section 227 of chapter 64 of the statutes of 1993, and replaced by section 226 of chapter 1 of the statutes of 1995, is again amended by replacing "1030" by "1037".

(2) Subsection 1 applies in respect of notices of assessment issued after 30 June 1994.

ACT RESPECTING THE QUÉBEC SALES TAX

246. (1) Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 364 of chapter 22 of the statutes of 1994, by section 23 of chapter 23 of the statutes of 1994 and by section 247 of chapter 1 of the statutes of 1995, is again amended by replacing, in the French text of the definition of "organisme de bienfaisance", the word "charité" by the word "bienfaisance".

(2) Subsection 1 has effect from 1 July 1992.

ACT TO AGAIN AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

247. (1) Section 92 of the Act to again amend the Taxation Act and other fiscal legislation (1990, chapter 59) is amended by replacing, in the portion of subsection 2 before paragraph 1, "1 January 1992" by "1 January 1993".

(2) Subsection 1 has effect from 14 December 1990.

ACT TO AGAIN AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

248. (1) Section 5 of the Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25), amended by section 374 of chapter 16 of the statutes of 1993, is again amended by replacing, in the portion of subsection 3 before section 21.33 of the Taxation Act, enacted by subsection 3, "1 January 1993" by "1 July 1994".

(2) Subsection 1 has effect from 20 June 1991.

ACT TO AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

249. (1) Section 256 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16) is amended

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

"(2) This section applies from the taxation year 1991.";

(2) by striking out subsection 3.

(2) Subsection 1 has effect from 15 June 1993.

ACT TO AMEND THE TAXATION ACT,
THE ACT RESPECTING THE QUÉBEC SALES TAX
AND OTHER FISCAL PROVISIONS

250. (1) Section 41 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other fiscal provisions (1994, chapter 22) is amended by replacing the portion of subsection 3 before paragraph *d* of the definition of "cost amount" in section 1 of the Taxation Act, enacted by subsection 3, by the following:

"(3) Paragraph 4 of subsection 1, where it replaces paragraph *d* of the definition of "cost amount" in section 1 of the Taxation Act, applies, in the case of a corporation, to taxation years of the corporation commencing after 30 June 1988 and, in any other case, to fiscal periods commencing after 31 December 1987. However, for the period preceding 14 July 1990, paragraph *d* of that definition, enacted by paragraph 4 of subsection 1, shall be read as follows:".

(2) Subsection 1 has effect from 17 June 1994.

251. (1) Section 247 of the said Act is amended

(1) by replacing the portion of subsection 3 before subparagraph 2 of subparagraph i of subparagraph *b* of the first paragraph of section 726.6 of the Taxation Act, enacted by that subsection 3, by the following:

"(3) Paragraph 4 of subsection 1 applies from the taxation year 1985. In this regard, notwithstanding sections 1010 to 1011 of the Taxation Act, such assessments and determinations as are necessary may be made by the Minister of Revenue in respect of any taxation years to give effect to paragraph 4 and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications. However, where subparagraph 2 of subparagraph i of subparagraph *b* of the first paragraph of section 726.6 of the Taxation Act, enacted by paragraph 4 of subsection 1, applies to the taxation years 1985 to 1991, it shall be read as follows:";

(2) by adding, after subsection 3, the following subsection:

"(4) Paragraph 5 of subsection 1 applies from the taxation year 1988."

(2) Subsection 1 has effect from 17 June 1994.

252. This Act comes into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 89
(1995, chapter 50)

An Act to amend the Professional Code

Introduced 11 May 1995
Passage in principle 9 June 1995
Passage 1 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill amends the Professional Code to introduce the provisions necessary to ensure that the expenditures incurred by the Office des professions du Québec will be borne by the members of the professional orders.

In addition, provisions are added to require the Office to assume the cost relating to the salaries, fees or indemnities and travel and lodging expenses of the chairman or substitute chairman of the committee on discipline as well as those relating to attendance allowances of, and the reimbursement of expenses incurred by, the persons serving as representatives of the public on the Bureau and on the review committee of the order.

Finally, the bill provides for transitional measures in respect of the determination of the first two contributions of the members of a professional order.

Bill 89

An Act to amend the Professional Code

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Professional Code (R.S.Q., chapter C-26) is amended by replacing section 16 by the following sections:

"**16.** The fiscal year of the Office ends on March 31.

"**16.1** The Office shall file with the Minister, on or before June 30 each year, its financial statements and a report upon its activities for the preceding fiscal year.

The financial statements and the activities report shall contain any information required by the Minister.

The Minister shall table the financial statements and the report before the National Assembly within 30 days of receiving them if it is in session or, if it is not sitting, within 30 days of resumption.

"**16.2** The Office shall send to the Minister, at his request, statistical data, reports or other information on its activities within the time and in the form prescribed by the Minister.

"**16.3** The Office shall send its budget estimates to the Minister on the date he determines.

The budget estimates shall be submitted to the Government for approval.

"**16.4** The books and accounts of the Office shall be audited each year by the Auditor General and whenever the Government so orders.

The auditor's report shall be sent with the activities report and the financial statements of the Office.

"**16.5** The Government may, on the terms and conditions it determines,

(1) authorize the Office to contract loans by notes, bonds or otherwise;

(2) secure payment in capital and interest of any loan contracted by the Office and any of its obligations;

(3) authorize the Minister of Finance to advance to the Office any amount considered necessary for the performance of its obligations or the exercise of its functions and powers.

The sums required for the carrying out of subparagraphs 2 and 3 of the first paragraph shall be taken out of the consolidated revenue fund.

"**16.6** The sums received by the Office shall be applied to the payment of its activities and obligations.

"**16.7** The Office may not make payments or assume obligations, except those provided for in section 16.5, for an amount that exceeds, in the same fiscal year, the sums at its disposal for the year in which the payments are made or the obligations assumed.

This section shall not operate to prevent the Office from making commitments for more than one fiscal year.

"**16.8** The Office may invest, on a short-term basis, the funds placed at its disposal under this Act,

(1) in securities issued or guaranteed by the Government of Canada, Québec or any other Canadian province;

(2) by deposits in a bank or financial institution registered with the Régie de l'assurance-dépôts du Québec or in certificates, notes or other short-term securities or papers issued or guaranteed by a bank or such an institution."

2. Section 19.1 of the said Code, enacted by section 12 of chapter 40 of the statutes of 1994, is amended by inserting, after subparagraph 3 of the first paragraph, the following subparagraph:

"(4) the amount of the contribution provided for in section 196.4 and determined under Chapter VIII.1."

3. Section 46 of the said Code, replaced by section 40 of chapter 40 of the statutes of 1994, is amended by replacing the word "contributions" in the first line of paragraph 2 by the word "assessments" and by adding the words "as well as the amount of the contribution owed by him under Chapter VIII.1" at the end of the same paragraph.

4. Section 78 of the said Code, amended by section 68 of chapter 40 of the statutes of 1994, is again amended

(1) by replacing the words "prescribed by regulation of the Government, to an expense" in the fifth and sixth lines of the fourth paragraph by the words "determined by the Government, to an attendance";

(2) by adding, at the end of the fourth paragraph, the following sentence: "The allowance and the amount of reimbursement shall be payable by the Office."

5. Section 123.3 of the said Code, enacted by section 110 of chapter 40 of the statutes of 1994, is amended by adding, at the end of the fourth paragraph, the following: "The persons appointed in accordance with this paragraph shall be entitled, to the extent and on the conditions determined by the Government, to an attendance allowance and to the reimbursement of reasonable expenses incurred by them in the exercise of that function. The allowance and the amount of reimbursement shall be payable by the Office."

6. Section 125 of the said Code, amended by section 112 of chapter 40 of the statutes of 1994, is again amended by adding, at the end, the words "and shall be payable by the Office".

7. Section 138 of the said Code, replaced by section 121 of chapter 40 of the statutes of 1994, is amended by adding, at the end, the following paragraph:

"The travel and lodging expenses of the members of the committee shall be determined by the Government and shall be payable by the order, except those of the chairman or substitute chairman, which shall be payable by the Office."

8. Section 151 of the said Code, replaced by section 128 of chapter 40 of the statutes of 1994, is amended by striking out the fourth paragraph.

9. The said Code is amended by inserting, after section 196, the following:

"CHAPTER VIII.1

"FINANCIAL CONTRIBUTIONS

"**196.1** For the purposes of this chapter, the words "year of reference" mean the fiscal year of the Office used as the basis for computing the contribution fixed under section 196.4.

"**196.2** The expenditures incurred by the Office in a fiscal year shall be payable by the members of the professional orders.

"**196.3** For every fiscal year of the Office, each member of a professional order is required to pay a contribution equal to the total of the expenditures incurred by the Office for a year of reference, divided by the total number of members entered on the rolls of all orders on the last day of the year of reference.

"**196.4** The Government shall fix, for each fiscal year of the Office, the amount of the contribution of each member of an order.

The Office shall send to each order a written request for remittance of the contribution of each of its members on or before 1 January preceding the fiscal year of the Office in respect of which the contribution is fixed.

For the purposes of this section, the first year of reference used as the basis for computing the contribution determined by the Government for the fiscal year 1997-98 begins on 1 April 1994 and ends on 31 March 1995.

"**196.5** Where, for a particular fiscal year, the total amount of the contributions paid under section 196.3 is less than or is more than the amount of the expenditures incurred by the Office, the contribution of each member, established in accordance with section 196.3, shall be increased or reduced, as the case may be.

The increase or reduction shall be determined by establishing the difference between the expenditures incurred by the Office for that fiscal year and the total amount of contributions paid for the year of reference and dividing that difference by the total number of members entered on the roll of every order on the last day of that fiscal year. The charge payable pursuant to section 196.8 shall be deducted when the increase or reduction is determined.

For the purposes of this section, the fiscal year 1998-99 is the first particular fiscal year for which the contribution of each member established in accordance with section 196.3 is increased or reduced. The year of reference used as the basis for computing the contribution begins on 1 April 1995 and ends on 31 March 1996.

"**196.6** Each order is required to collect the contribution of each person entered on the roll from 1 April following the date of the written request for remittance referred to in the second paragraph of section 196.4.

"**196.7** The order shall remit the contributions of its members to the Office on or before 1 May following the date of the written request for remittance referred to in the second paragraph of section 196.4. The contributions collected after that date must be remitted to the Office by the order on or before 31 March following the date of the request for remittance.

"**196.8** Every person or group and every department or other government body shall pay the charge determined by regulation of the Government after consultation with the Office and the Interprofessional Council in respect of any request they submit to the Office or of any act that must be performed by the Office in the exercise of its functions."

TRANSITIONAL AND FINAL PROVISIONS

10. Notwithstanding sections 196.4 and 196.6 to 196.8 of the Professional Code, enacted by section 9 of this Act, the amount of the contribution each member of an order is required to pay to finance the activities of the Office is $15.05 for the fiscal year 1995-96 and $15.05 for the fiscal year 1996-97. The year of reference used as the basis for computing the contributions begins on 1 April 1993 and ends on 31 March 1994.

The Office shall send a written request for remittance of the contribution of its members to each order on or before the 30th day after the date of coming into force of this Act.

Each person entered on the roll of an order on 1 April 1996 or at any other time in the fiscal year 1996-97 is required to pay the contribution and to remit it to his order. The order is required to remit to the Office the contributions of its members on or before 1 May 1996. The contributions collected after 1 May 1996 must be remitted to the Office by the order on or before 31 March 1997.

11. For the purposes of section 196.3, expenditures incurred by the Office for the years of reference 1993-94, 1994-95 and 1995-96 shall be increased by the amount of expenditures directly related to the remuneration of the employees of the Office and incurred by other bodies for the benefit of the Office.

12. Funds committed out of the appropriations granted to the Ministère de la Justice for the fiscal year 1995-96 for the purposes of the "Organization and Regulation of the Professions" program constitute advances granted to the Office, which shall be repaid to that program on or before 1 March 1996.

The funds so repaid and the uncommitted appropriations constitute a reserve to increase, with the approval of the Conseil du trésor, any of the appropriations granted for the other programs of the Ministère de la Justice.

13. This Act comes into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 92
(1995, chapter 51)

An Act to amend the Code of Penal Procedure and other legislative provisions

Introduced 10 May 1995
Passage in principle 22 June 1995
Passage 6 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill makes various amendments to the Code of Penal Procedure.

Provision is made, subject to certain conditions, for the electronic drawing up and signing of documents, including statements of offence and offence reports for the conversion of such documents into hard copy and for the digitization of documents drawn up and signed in paper form.

In addition, it will be possible to serve a statement of offence by ordinary mail but such service will be deemed to be completed only if the defendant has transmitted a plea, the whole amount of the fine and costs or part thereof, or a preliminary application.

As concerns the execution of judgments, changes are made to the powers of the collector. Moreover, the equivalence between the amount of sums due and time of imprisonment that was established in the Schedule to the Code has been removed and the equivalence between such amounts and the duration of compensatory work has been modified. Also introduced in the bill is a provision permitting the suspension of a driver's licence for non-payment of fines relating to parking violations. To ensure the payment of fines for traffic or parking violations, the bill provides for the towing or immobilizing of the vehicle of the offender if it is parked on a public road or on municipal land.

Among the other amendments to the Code, one is designed to facilitate service of a statement of offence on the owner or lessee of a commercial vehicle or bus or on a carrier. The bill relaxes or adds greater precision to certain rules of procedure, particularly as concerns the summoning of witnesses, the giving of evidence, preliminary applications, the rectification of judgments and appeals.

Finally, the bill changes the amount of certain fines prescribed by the Act respecting labour relations, vocational training and manpower management in the construction industry.

LEGISLATION AMENDED BY THIS BILL:

– Code of Penal Procedure (R.S.Q., chapter C-25.1);

– Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20).

Bill 92

An Act to amend the Code of Penal Procedure and other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 10 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended by inserting the words "on request" after the word "transmitted" in the fourth line of the third paragraph.

2. Article 15 of the said Code is amended by replacing the words "on the statement of offence" in the fourth line of the second paragraph by the words "in the statement of offence, either on the statement itself if it is in paper form, or in a document electronically appended to the statement if it is drawn up electronically or digitized".

3. The said Code is amended by inserting, after article 20, the following article:

"**20.1** Service of a summons may also be made by ordinary mail or, where the witness may be so reached, by fax machine or by electronic means. If the witness is a peace officer, he may also be summoned by means of a notice sent to him in the manner agreed to between the prosecutor and the authority to whom the peace officer reports."

4. Article 24 of the said Code is amended by adding, at the end of the second paragraph, the words "or from a judge of the judicial district referred to in the second paragraph of article 187".

5. Article 42 of the said Code is replaced by the following article:

"**42.** A judge before whom a witness is called to appear who finds that the witness has failed to appear before him or has left the place of the hearing without having been released from the obligation of remaining in attendance may

(1) order that a new summons be served on the witness by a peace officer or a bailiff or by registered, certified or priority mail; or

(2) issue a warrant of arrest if he is satisfied that the witness can give useful evidence and, on the strength of proof of the receipt of the summons, that he was duly summoned, or that the witness is attempting to evade justice."

6. The said Code is amended by replacing article 62 by the following articles:

"**62.** A statement of offence or any offence report, including in electronic or hard copy form, has the same value and effect as evidence given under oath by the peace officer or the person entrusted with the enforcement of an Act who issued the statement or drew up the report, if he attests in the statement or report that he personally ascertained the facts stated therein.

The same applies to a copy of a statement of offence or offence report certified by a person authorized to do so by the prosecutor and to an electronically duplicated statement of offence or offence report certified in the manner set out in article 68.1.

"**62.1** The form, including the electronically-generated form, of an offence report shall be prescribed by regulation.

A statement of offence that has been issued but has not been served on the defendant may serve as an offence report.

"**62.2** To be produced as evidence in electronic or hard copy form, a statement of offence or offence report that has been drawn up electronically or digitized and any hard copy thereof must meet the security standards for electronic data and documentation in penal matters established by regulation.

The same applies to other proceedings drawn up electronically, digitized or converted to hard copy by the prosecutor, a government department or body or the office of the court which the prosecutor wishes to produce as evidence or which may be required in such form for the purposes of this Code.

"**62.3** Where the prosecutor produces a proceeding as evidence in electronic or hard copy form, he is not required to prove the integrity or reliability of the proceeding unless the defendant establishes, upon a preponderance of evidence, that the proceeding was modified after its electronic generation or upon its conversion into hard copy.

A proceeding in electronic form or a hard copy thereof is proof of its contents, in the absence of any evidence to the contrary, if it is otherwise admissible in evidence.

"**62.4** To produce as evidence a document in electronic form, other than a proceeding of the prosecution, or a hard copy thereof, which is otherwise admissible in evidence, the prosecutor or the defendant must establish the integrity and reliability of the document upon a preponderance of evidence, notably on the basis of the security measures taken to prevent any modification of the document after its electronic generation or upon its conversion into hard copy.

"**62.5** A judge or court clerk who is not equipped to receive a proceeding or other document in electronic form is not required to do so. He may in such case require that the party concerned file a hard copy of the document."

7. Article 66 of the said Code is amended by replacing the second paragraph by the following paragraph:

"Proof that the authorization was not granted or was suspended or that conditions or restrictions were attached to the authorization may be established by means of an attestation signed by the person having the authority to issue such authorization."

8. The said Code is amended by inserting, after article 66, the following article:

"**66.1** The sending of a document by the prosecutor, a government department or body or the office of the court may be attested by means of an extract from the record certified by the person having custody thereof and indicating that the document was sent or by means of a writing signed by the person who sent the document."

9. Article 67 of the said Code is amended by replacing the words "according to law" in the first line by the words "under or for the purposes of an Act".

10. The said Code is amended by inserting, after article 67, the following article:

"**67.1** Notwithstanding article 62.4, where a document establishing the ownership of an immovable pursuant to article 65 or a document referred to in article 66 or 67 is produced as evidence by a party in electronic or hard copy form, the party is not required to prove the integrity or reliability of the document unless the opposing party establishes, upon a preponderance of evidence, that the document was modified after its electronic generation or upon its conversion into hard copy."

11. Article 68 of the said Code is replaced by the following articles:

"**68.** A copy of a document in paper form, including a hard copy, has the same probative value as the original if it is certified by the person who is authorized under an Act to issue copies of the document or by the person entrusted with the enforcement of an Act.

"**68.1** Where a proceeding in electronic form has been electronically duplicated or converted into hard copy in accordance with the security standards for electronic data and documentation in penal matters established by regulation, the duplicate or hard copy, if certified by a person authorized therefor under an Act or by the person entrusted with the enforcement of an Act, or by means of an electronic certification procedure meeting those standards, has the same probative value as the proceeding that has been duplicated.

The same applies to a document referred to in article 62.4 or 67.1 that has been electronically duplicated or converted into hard copy, if the duplicate or hard copy is certified by a person authorized therefor under an Act or by the person entrusted with the enforcement of an Act, or by means of an electronic certification procedure, and security measures considered adequate have been taken in respect of the electronic duplication and certification procedures to ensure the integrity and reliability of the document."

12. The said Code is amended by inserting, after article 70, the following article:

"**70.1** The signature of the Attorney General's prosecutor on a statement of offence may be affixed by means of an automatic device or in the form of an engraved, lithographed or printed facsimile, or electronically as prescribed by regulation."

13. Article 71 of the said Code is amended

(1) by inserting the words ", including a digitized signature or a signature affixed by means of an automatic device," after the word "signature" in the first line;

(2) by inserting, after paragraph 3, the following paragraph:

"(3.1) the person having custody of the record or who signed the writing referred to in article 66.1;";

(3) by inserting the words "kept under or for the purposes of an Act" after the word "register" in the first line of paragraph 4;

(4) by replacing paragraph 5 by the following paragraph:

"(5) the person who certified a copy which he is authorized to issue under an Act or which the person entrusted with the enforcement of an Act authorized him to issue;";

(5) by adding, after paragraph 7, the following paragraph:

"(8) the person who attested receipt of the plea of guilty or of the whole amount of the fine and costs imposed on the defendant.";

(6) by adding, after the first paragraph, the following paragraph:

"Likewise, the prosecutor is not required to prove the validity of an electronic certification procedure prescribed by regulation unless the defendant contests such validity and the judge is of the opinion that proof thereof must be established."

14. Article 76 of the said Code is amended by replacing the third paragraph by the following paragraph:

"The security is payable in cash, by money order, by cheque certified by a Québec financial institution or by any other instrument of payment offering the same guarantees, or by means of a credit card or a transfer of funds to an account of the creditor in a financial institution."

15. Article 111 of the said Code is amended by replacing the words "at the office of the Court of Québec in the judicial district where the search was made." in the fourth and fifth lines by the following: "either at the office of the Municipal Court or of the Court of Québec in the judicial district where the search warrant was

issued or, if the search was made without a warrant, at the office of the Court of Québec in the judicial district where the search was made.

If the search was made in a judicial district other than the judicial district where the search warrant was issued, the person from whom the thing was seized or the person in charge of the premises may obtain a copy of the minutes at the office of the Court of Québec in the judicial district where the search was made."

16. Article 137 of the said Code is amended by adding the following sentence at the end of the second paragraph: "Such prior notice may, where applicable, be given with the statement of offence, specifying that the application for forfeiture is to be made at the time of the judgment."

17. Article 141 of the said Code is amended by inserting, after the first paragraph, the following paragraph:

"Where a defendant has transmitted or is deemed to have transmitted a plea of guilty without indicating his intention to contest the penalty imposed on him, or is deemed to have transmitted a plea of not guilty, a judge having jurisdiction in the judicial district referred to in the second paragraph of article 187 also has jurisdiction to decide an application under article 137."

18. Article 145 of the said Code is replaced by the following article:

"**145.** The form, including the electronically-generated form, of a statement of offence shall be prescribed by regulation."

19. Article 146 of the said Code is amended

(1) by replacing the words "an offence served pursuant to article 158" in paragraph 2 by the words "a parking violation";

(2) by adding, at the end of paragraph 4, the words "if the statement is drawn up electronically or digitized, the date of service shall also be indicated in a document electronically appended to the document".

20. The said Code is amended by inserting, after article 157, the following article:

"**157.1** Service of a statement of offence may also be made by ordinary mail after the commission of the offence.

In such case, service is deemed completed if the defendant transmits, in respect of the statement of offence, a plea, the whole amount of the fine and costs requested or part thereof or a preliminary application. Moreover, service is deemed to have been made on the day the plea, amount or application is received by the prosecutor.

The attestation of service may be made by producing an extract from the record indicating the date of receipt of the plea, amount or application, certified by the person having custody of the record."

21. The said Code is amended by inserting, after article 158, the following article:

"**158.1** Where the offence is imputable to the owner or lessee of a commercial vehicle or bus within the meaning of the Highway Safety Code (chapter C-24.2) or to a carrier as defined in article 519.2 of that Code, the statement of offence may be served, at the time of the commission of the offence, by delivering a duplicate of the statement to any person having custody or control of the vehicle.

The person having served a statement of offence shall promptly send notice thereof to the defendant at his residence or place of business or, in the case of a legal person, to its head office or to one of its places of business or the place of business of one of its agents. The sending of such notice does not operate to vary any time limit fixed by this Code. However, if the defendant alleges that he received no such notice, the judge may either proceed with the trial and render a judgment or order that notice be given to the defendant and adjourn the trial for such purpose."

22. The said Code is amended by inserting, after article 166.1, the following article:

"**166.2** The defendant may, at any time before the trial, enter a plea of guilty or pay the whole amount of the fine and costs requested and the amount of additional costs prescribed by regulation in respect of such cases."

23. Article 169 of the said Code is amended by adding, at the end of the first paragraph, the following sentence: "Where a defendant is deemed to have transmitted a plea of not guilty, a preliminary application may also be made by the prosecutor to a judge having jurisdiction to conduct the trial in the judicial district referred to in the second paragraph of article 187."

24. The said Code is amended by inserting, after article 180, the following article:

"**180.1** Where the fine requested from the defendant is greater than the minimum fine prescribed by law, a judge having jurisdiction to conduct the trial in the judicial district where the proceedings have been instituted or in the judicial district referred to in the second paragraph of article 187 may, on an application without prior notice by the prosecutor, order that the statement of offence be amended so as to reduce the fine. The prosecutor shall inform the defendant thereof."

25. The said Code is amended by inserting, after article 184, the following article:

"**184.1** The details provided pursuant to article 178 and the amendments made to a count pursuant to article 179 or to a statement of offence pursuant to article 180, 180.1 or 184 may be recorded in the minutes or in a document electronically appended to the statement of offence if the latter is drawn up electronically or digitized."

26. The said Code is amended by inserting, after article 191, the following article:

"**191.1** Where the defendant or both parties are absent, the clerk may transmit to the judge a proceeding received in electronic or hard copy form from the prosecutor or file any other type of document in such form in the record of the court."

27. The French text of article 195 of the said Code is amended by replacing the word "incapable" in the second line of the first paragraph and in the second line of the second paragraph by the word "empêché".

28. The said Code is amended by inserting, after article 218, the following article:

"**218.1** The clerk of the court may, in accordance with the security standards for electronic data and documentation in penal matters, convert into electronic form documents in paper form admitted in evidence or filed in the record of the court and use, store and archive them in electronic form.

Such documents may thereafter be used, in accordance with article 62.3, in electronic or hard copy form for the purposes of this Code."

29. The said Code is amended by inserting, after article 225, the following article:

"**225.1** A written judgment may be rendered in paper form or in electronic form.

Where a judge hearing an application against a judgment is not equipped to receive a document in electronic form, he may direct the clerk of the court to convert the judgment, and any other document filed in electronic form in the record of the court, into hard copy. In the case of a judgment deemed to be rendered under article 165, the prosecutor shall convert into hard copy all documents relevant to the application."

30. Article 226 of the said Code is replaced by the following article:

"**226.** The judge or the clerk may record the judgment in minutes the form, including the electronically-generated form, of which shall be prescribed by order of the Minister of Justice."

31. Article 241 of the said Code is amended

(1) by replacing the word "Where" in the first line by the words "Subject to articles 350 and 351, where";

(2) by striking out the second sentence.

32. Article 243 of the said Code is amended

(1) by striking out the words ", except the judgment referred to in article 165," in the first and second lines;

(2) by adding the following paragraph:

"No correction unfavourable to the defendant may be made to a judgment referred to in article 165."

33. Article 301 of the said Code is amended by adding the following paragraph:

"He shall also give notice to the Attorney General of any judgment granting leave to appeal and transmit to him a copy of the application for leave to appeal provided for in article 296."

34. Article 302 of the said Code is amended by replacing the second paragraph by the following paragraph:

"At the request of a judge of the Court of Appeal, the clerk of the court where the appealed judgment was rendered shall transmit the record forthwith to the office of the Court of Appeal, in accordance with the rules of practice."

35. The French text of article 310 of the said Code is amended by replacing the word "valable" in the fourth line of the second paragraph by the word "sérieux".

36. Article 311 of the said Code is amended by replacing the third paragraph by the following paragraphs:

"A copy of the notice of abandonment must be transmitted to the office of the court where the appealed judgment was rendered. The same applies to the record transmitted, at the request of a judge of the Court of Appeal, to the office of the Court of Appeal.

A copy of the notice of abandonment must also be transmitted to the Attorney General."

37. The said Code is amended by inserting, after article 322, the following articles:

"**322.1** Where an order to pay an amount of money becomes executory, the collector may summon the defendant to appear before a judge or the clerk of the court in the district where the judgment was rendered or in the district of the defendant's residence so that the defendant can be examined as to the property he owns and his sources of income.

Where the defendant is a legal person, the summons shall be addressed to one of its senior officers; where the defendant is a foreign partnership or legal person carrying on business in Québec, the summons shall be addressed to its agent.

«**322.2** A judge may, on the motion of the collector, order a defendant to produce all documents allowing his financial situation to be established and authorize the examination before the clerk of any person who is in a position to provide information regarding the defendant's situation."

38. Article 324 of the said Code is amended by inserting the words "or before a judge having jurisdiction in the judicial district

where the warrant was executed" after the word "district" in the seventh line of the second paragraph.

39. The said Code is amended by inserting, after article 332, the following articles:

"**332.1** Where an order to pay an amount of money has been issued for a parking or traffic violation under an Act, regulation or by-law, the local collector may also cause a peace officer, a bailiff or an employee designated by a municipality to seize and immobilize, tow away or impound a motor vehicle registered in the name of the defendant, without fulfilling the formalities of seizure provided for in the Code of Civil Procedure, in order that the vehicle be disposed of by judicial sale; the seized party or a third person may oppose the seizure in accordance with the said Code.

"**332.2** A motor vehicle may be immobilized or towed away only if it is parked on a public road or on land belonging to a municipality.

Where a motor vehicle is immobilized, a notice shall be posted in plain view on the vehicle to warn the driver that the vehicle has been immobilized and that any attempt to move the vehicle could damage it. The notice shall also indicate where the driver may apply to have the immobilizing device removed.

"**332.3** Unless he makes a written agreement with the collector, the defendant may not recover possession of the motor vehicle until he has paid the fine and costs, including reasonable immobilization, towing or impounding costs as prescribed by by-law of the municipality in which the payment order was issued."

40. Article 333 of the said Code is amended by inserting the words "and is convinced, after examining the defendant's financial situation, that the defendant is unable to pay" after the word "defendant" in the second line.

41. Article 339 of the said Code is replaced by the following article:

"**339.** Upon completion of the work, the person or body referred to in article 334 shall make a report to the collector on the carrying out of the work.

On the signing of the report by the collector, the defendant is released from payment of the sums due."

42. Article 348 of the said Code is amended by striking out the first two paragraphs.

43. Article 351 of the said Code is amended

(1) by replacing the word "may" in the second line by the word "shall";

(2) by replacing the word "Sentences" in the third line by the words "Moreover, sentences".

44. Article 356 of the said Code is amended by striking out the words ", if the defendant consents thereto," in the third line of the first paragraph.

45. Article 364 of the said Code is amended by replacing the words "other than a parking infraction." in the third line of the second paragraph by the following: "In the case of a parking violation, a notice is required only in respect of an offence under sections 380, 381, 382, the second paragraph of section 383, sections 384, 385 and paragraphs 1 to 7 and 8 of section 386 of the Highway Safety Code or a similar offence under a municipal by-law".

46. Article 367 of the said Code is amended

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

"(1) prescribe the form, including the electronically-generated form, of statements of offence and offence reports, which may vary according to the offence;

"(1.1) in order to ensure the integrity and reliability of proceedings that are drawn up electronically, digitized or converted into hard copy by the prosecutor, a government department or body or the office of the court, establish security standards for electronic data and documentation in penal matters; such standards may vary according to the proceeding, the nature of the information contained in the proceeding and according to whether the proceeding is drawn up electronically or digitized; such standards may, in particular, pertain to

(*a*) the origin or source of the proceeding;

(*b*) authenticity of signatures and how signatures may be affixed to a proceeding;

(*c*) access to and consultation of a proceeding;

(*d*) conversion of a proceeding into hard copy;

(*e*) digitization of a proceeding drawn up in paper form and subsequent conversion of the proceeding into hard copy;

(*f*) electronic transmission, transfer, use, storage and archiving of a proceeding;

(*g*) electronic certification of a proceeding;

(*h*) electronic duplication of a proceeding;

(*i*) compatibility of electronic systems;";

(2) by striking out the words "and determine how it may be paid" in the second and third lines of paragraph 6.

47. The French text of the said Code is amended by replacing the words "siège social" wherever they appear in articles 20, 21, 23, 142 and 372 by the word "siège".

48. The schedule to the said Code is replaced by the following schedule:

"SCHEDULE

"DETERMINATION OF THE EQUIVALENCE BETWEEN THE AMOUNT OF THE SUMS DUE AND THE DURATION OF COMPENSATORY WORK

(*Article 336*)

For the portion of the sums due between:	One hour of compensatory work is equivalent to:
$1 and $500:	$10
$501 and $5 000:	$20
$5 001 and $10 000:	$40
$10 001 and $15 000:	$60
$15 001 and $20 000:	$80
$20 001 and $25 000:	$100
$25 001 and $30 000:	$120
$30 001 and $35 000:	$140
$35 001 and $40 000:	$160
$40 001 and $45 000:	$180
$45 001 and $50 000:	$200
$50 001 and over:	$320".

49. The English text of the said Code is amended by replacing the word "on" by the word "with"

(1) in the third line of the third paragraph of article 10;

(2) in the first line of the first paragraph of article 38;

(3) in the last paragraph of article 41.

50. The figures "$400", "$700", "$1 400", "$1 600", "$3 200" and "$4 000" wherever they appear in sections 83, 83.1, 83.2, 119, 119.1, 119.3 and 119.4 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) and in paragraph 4 of section 122 of the said Act, amended by section 61 of chapter 61 of the statutes of 1993, are replaced by the figures "$200 to $400", "$350 to $700", "$700 to $1 400", "$800 to $1 600", "$1 600 to $3 200" and "$2 000 to $4 000", respectively.

51. The provisions of this Act come into force on the date or dates to be fixed by the Government, except sections 46 and 50 which come into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 93
(1995, chapter 52)

An Act to amend the Transport Act

Introduced 10 May 1995
Passage in principle 19 June 1995
Passage 4 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill amends the Transport Act to define more clearly the scope of certain regulatory provisions concerning the transportation of schoolchildren and to give the Minister of Transport the power to authorize, subject to the conditions he determines, the addition of security equipment other than regulated equipment to vehicles used for the transportation of schoolchildren.

In addition, the bill provides that any uncontested application made to the Commission des transports du Québec may be heard by a person designated in accordance with the Act. It also provides that carriers cannot receive, as compensation, any remuneration other than the remuneration calculated in accordance with the rates and tariff in force or in accordance with the prescribed standard rates and tariffs.

Bill 93

An Act to amend the Transport Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Transport Act (R.S.Q., chapter T-12) is amended by inserting, after section 4.1, the following section:

"**4.2** The Minister may, by order, authorize a carrier to add safety equipment not regulated under paragraph *a* of section 5 to a road vehicle used for the transportation of schoolchildren.

The order shall indicate the period and conditions of use of the safety equipment. The order takes effect from the date of its publication in the *Gazette officielle du Québec*."

2. Section 5 of the said Act is amended by inserting, after paragraph *a*, the following paragraph:

"(*a*.1) determine which of the provisions of a regulation relating to the transportation of schoolchildren made under paragraph *a* constitute an offence and indicate, for each offence, the minimum and maximum amounts of the fine to which the offender is liable, which shall be from $100 to $300, from $400 to $1 200 or from $800 to $2 400, depending on the seriousness of the offence;".

3. Section 17.8 of the said Act is amended

(1) by replacing the words "and decide an uncontested matter relating to the transfer of a taxi or bulk trucking permit or to vehicle leasing" in the second and third lines by the words "any uncontested application and decide it";

(2) by adding the following paragraph:

"Where an application cannot be granted, it must be referred to a member of the Commission who shall decide it."

4. Section 47 of the said Act is amended

(1) by replacing the words “a remuneration” in the first line of the first paragraph by the words “remuneration or receive as payment”;

(2) by replacing the word “a” in the second line of the second paragraph by the words “or receive as payment”.

5. Section 74.3 of the said Act is amended by striking out the second paragraph.

6. This Act comes into force on 7 December 1995, except section 2 which comes into force on the date to be fixed by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 99
(1995, chapter 58)

An Act to amend the Building Act

Introduced 19 June 1995
Passage in principle 1 December 1995
Passage 8 December 1995
Assented to 11 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

The object of this bill is to amend the Building Act to supplement the financial guarantee provisions which apply to the acquisition of buildings by consumers or to any construction work carried out for consumers.

The bill provides in particular that a contractor who has joined a guaranty plan is required to repair construction defects covered by the plan and that if the contractor fails to do so, the manager of the plan is to make those repairs. In such a case, subrogation operates in favour of the manager. The bill also establishes the additional qualifications required of the manager of a guaranty plan and the rules applicable to the sums constituting the reserves held by such a manager. It also establishes the criteria to be met by an arbitration body in order to be recognized by the Régie du bâtiment du Québec.

Lastly, the bill provides that the first regulation of the Régie du bâtiment concerning financial guarantees applicable to the new residential building sector will not be subject to section 17 of the Regulations Act, will come into force on the date determined by the Government and its application will require to be assessed not later than four years after its coming into force.

Bill 99

An Act to amend the Building Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 77 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing the words "natural person, a non-profit organization or a cooperative" in the fourth and fifth lines of the first paragraph by the word "person".

2. Section 78 of the said Act is amended by replacing the words "natural person, a non-profit organization or a cooperative" in the fourth and fifth lines of the first paragraph by the word "person".

3. Section 79 of the said Act is amended by inserting the words "to a person" after the word "give" in the first line and by striking out the words "the natural person, the cooperative or the non-profit organization" in the third line.

4. The said Act is amended by inserting, after section 79, the following sections:

"**79.1** Every contractor required to join a guaranty plan under section 77 or 78 is bound to repair any defect in construction resulting from the failure to carry out or from the carrying out of construction work covered by the plan. The contractor must also, where applicable, complete the carrying out of the work or pay the compensation prescribed by regulation of the Board.

Should the contractor fail to repair such defects and, where applicable, to complete the work or pay the compensation, the manager of the plan shall make the repairs and, where applicable, complete the work or pay the compensation.

"**79.2** Subrogation operates in favour of the manager of a guaranty plan who remedies the contractor's failure to perform his obligations under the plan."

5. Section 81 of the said Act is replaced by the following sections:

"**81.** A guaranty plan must be managed by a legal person whose sole object is to manage the financial guarantees provided for in this chapter; such person must be authorized by the Board in accordance with a regulation of the Board, and have an establishment in Québec.

"**81.1** The reserves held in currency or in the form of investments by the manager of a guaranty plan to guarantee the performance of its obligations are unseizable and unassignable."

6. Section 82 of the said Act is amended by replacing the words "a guarantee contract to a natural person, a non-profit organization or a cooperative other than those" in the first and second lines by the words "to a person a guarantee contract other than a contract".

7. The said Act is amended by inserting, after section 83, the following section:

"**83.1** Only a body that meets the following criteria may be authorized by the Board to conduct the arbitration of disputes arising out of guaranty plans:

(1) it is devoted exclusively to dispute arbitration;

(2) it has established a panel of arbitrators whose integrity has been established and who satisfy the conditions determined by regulation of the Board;

(3) it applies an arbitration procedure that includes the arbitration rules prescribed by regulation of the Board;

(4) it has established a tariff of arbitration costs that has been approved by the Board and that pertains to arbitration expenses, including expenses incurred by such body and the cost of its services, arbitrators' fees and provisions for expenses;

(5) it satisfies any other condition prescribed by regulation of the Board.

The body shall publish an annual compilation of the decisions of its arbitrators."

8. Section 185 of the said Act is amended by striking out subparagraph *f* of paragraph 19.5.

9. The first regulation made by the Régie du bâtiment du Québec for the implementation of section 77 of the Building Act pertaining to financial guarantees applicable to the new residential building sector is not subject to the coming into force requirement set out in section 17 of the Regulations Act (R.S.Q., chapter R-18.1).

The regulation comes into force on the date or dates determined by the Government. However, for the purposes of section 85 of the Building Act, the regulation is deemed to come into force on the day of its publication in the *Gazette officielle du Québec*.

10. Not later than 4 years after the coming into force of the regulation referred to in section 9, the Régie du bâtiment du Québec shall assess the application of the regulation and, after consultation with the persons concerned, shall report to the Minister, not later than 6 months after that date, on the advisability of maintaining the application of the regulation or of amending it.

11. This Act comes into force on 11 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 103
(1995, chapter 59)

An Act to amend the Public Buildings Safety Act

Introduced 14 June 1995
Passage in principle 28 November 1995
Passage 8 December 1995
Assented to 11 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTE

This bill amends the Public Buildings Safety Act to eliminate the requirements pertaining to the obligation for owners to hold inspection certificates for certain classes of public buildings. It also repeals technical requirements which are obsolete or which are already contained in regulations governing the building sector administered by the Régie du bâtiment du Québec.

Bill 103

An Act to amend the Public Buildings Safety Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 6 of the Public Buildings Safety Act (R.S.Q., chapter S-3) is amended by striking out paragraph 4.

2. Section 12 of the said Act is amended by striking out subsection 3.

3. Sections 13 to 16, 18 to 20 and 22 to 32 of the said Act are repealed.

4. Section 36 of the said Act, amended by section 59 of chapter 12 of the statutes of 1994, is replaced by the following section:

"**36.** Every owner of a public building who hinders the work of an inspector or obstructs him in the exercise of his functions is guilty of an offence and is liable to the fine prescribed in section 35."

5. This Act comes into force on 11 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 104
(1995, chapter 53)

An Act to again amend the Environment Quality Act

Introduced 13 June 1995
Passage in principle 28 November 1995
Passage 6 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTE

This bill proposes to amend the Environment Quality Act in relation to the publication in a newspaper of a notice concerning the depollution attestation of an industrial establishment.

Bill 104

An Act to again amend the Environment Quality Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 31.20 of the Environment Quality Act (R.S.Q. chapter Q-2) is amended by replacing the first paragraph by the following paragraph:

"**31.20** The Minister shall publish a notice of his intention to issue or to refuse to issue a depollution attestation in a daily or weekly newspaper having general circulation in the region in which the industrial establishment is located."

2. Section 31.21 of the said Act is amended by replacing, in the French text, the words "les publications" in the first line of the first paragraph by the words "la publication".

3. Section 31.22 of the said Act is amended by replacing the words ", a depollution attestation to the applicant and make a public announcement of the issuance of the attestation by publishing a notice in a daily or weekly newspaper published in the region in which the industrial establishment is located or, if no daily or weekly newspaper is published in the region, in a daily or weekly newspaper having general circulation throughout the region" in paragraph 1 by the words "a depollution attestation to the applicant".

4. Section 31.25 of the said Act is amended by replacing the figure "31.22" in the second line of the last paragraph by the figure "31.21.1".

5. Section 31.28 of the said Act is amended

(1) by striking out the words "and make a public announcement of the issuance of the attestation" in subparagraph 1 of the third paragraph;

(2) by replacing the figure "31.22" in the second line of the last paragraph by the figure "31.21.1".

6. Section 31.41 of the said Act is amended

(1) by striking out paragraph 12;

(2) by replacing the figure "31.22" in the first line and in the third line of paragraph 13 by the figure "31.21.1".

7. This Act comes into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 105
(1995, chapter 54)

Plant Protection Act

Introduced 20 June 1995
Passage in principle 30 November 1995
Passage 5 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill replaces the Plant Protection Act.

Under the bill, nursery operators will no longer be required to obtain a permit, and the existing power as regards the annual inspection of nurseries is replaced by a general power of inspection to be exercised according to the risk of diseases and insects being spread. In addition, inspectors will be authorized to impose measures to prevent the spread of diseases and destructive insects, to take specimens and to seize and confiscate plants.

The bill authorizes the Minister to order the implementation of special measures such as plant treatment, plant segregation and, if required, plant destruction, in cases where destructive insects or diseases constitute a threat to the crops of an entire sector. The Minister may also in such circumstances order treatment of the soil and disinfection of premises where plants are found.

Lastly, the bill empowers the Government to establish, by regulation, a list of the diseases and destructive insects covered by the Act. It also contains penal and transitional provisions.

Bill 105

Plant Protection Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND INTERPRETATION

1. The object of this Act is to ensure the protection of plants, other than plants to which Division II of Chapter II of Title III of the Forest Act (R.S.Q., chapter F-4.1) applies, against diseases and destructive insects.

The medium in which a plant grows or any medium which may serve as a rooting medium shall be regarded as a plant for the purposes of this Act.

2. This Act applies to every owner or custodian of premises, including vehicles, where plants are found.

3. The Government shall make regulations determining the diseases and destructive insects to which this Act applies.

CHAPTER II

PLANT PROTECTION

4. The Minister shall designate persons to act as inspectors for the carrying out of plant protection measures.

5. Every owner or custodian of premises where plants are grown or kept for purposes of sale shall report to the Minister any facts indicating that a disease or destructive insect has reached epidemic proportions in the plants.

6. Where an inspector has reasonable cause to believe that a disease or destructive insects are affecting plants and are likely to spread, he may require the owner or custodian of the premises where the plants are found to apply any treatment or take any measure he considers appropriate, in particular, segregation of the plants affected, treatment of the soil, and disinfection of the premises, of the equipment and of any vehicle that has been used to transport the plants or that could spread the disease or the insects.

A written notice to that effect from the inspector shall be delivered in person, by bailiff or by registered or certified mail to the owner or custodian of the premises where the plants are found and, where applicable, to the owner or custodian of the vehicle. The notice must specify the obligations of the owner or custodian and the manner in which and the time within which they are to be performed.

7. If the owner or custodian fails to comply with the notice of the inspector, the inspector may himself carry out the required measures at the expense of the owner or custodian. The sums involved bear interest at the rate determined under section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

8. Any inspector having reasonable cause to believe that there is a high and immediate risk of the spread of a disease or a high and immediate risk of an insect epidemic may require the destruction of the plants found in the premises and the disinfection of the premises, of the equipment and, where applicable, of any vehicle used to transport the plants.

A written notice to that effect from the inspector shall be delivered in person, by bailiff or by registered or certified mail to the owner or custodian of the premises and, where applicable, to the owner or custodian of the vehicle. The notice must specify the time within which and, where necessary, the manner in which the plants are to be destroyed.

If the owner or custodian fails to comply with the notice of the inspector, the inspector may confiscate the plants and cause them to be destroyed at the expense of the owner or custodian. The sums involved bear interest at the rate determined under section 28 of the Act respecting the Ministère du Revenu.

This section applies even where the risk is attributable to a disease or insect not mentioned in the regulations.

9. An owner or custodian to whom a notice has been delivered under section 6 or 8 is prohibited from holding for purposes of sale, offering for sale or on consignment, selling, exchanging, giving, transporting or causing to be transported any plant affected by a disease or by a destructive insect, and from using a vehicle to which the notice applies.

Such prohibition is lifted when an inspector considers that the risk of the spread of the disease or epidemic has been reduced to an acceptable level. The inspector shall in that case give a written attestation to the owner or custodian.

10. Where a destructive insect or a disease constitutes a threat to the crops of an entire sector determined by the Minister and the urgency of the situation so requires, the Minister may order every owner or custodian of premises where plants are found to segregate, treat or destroy the plants, to treat the soil and to disinfect the premises, the equipment and any vehicle used to transport the plants or that could spread the disease or the insects, within the time fixed by him and according to his instructions.

The Minister may also order such owners or custodians to take any other measure to reduce the risk of the spread of the disease or epidemic. He may also prohibit the keeping of plants for purposes of sale and the offering for sale, consignment, sale, exchange, gift or transport of the plants.

The order must set out the Minister's reasons and refer to any minutes, analysis or study report, or any other technical report on which the order is based.

A certified copy of the order shall be delivered in person, by bailiff or by registered or certified mail to every owner or custodian concerned. The order takes effect on the date of the delivery.

This section applies even where the threat is posed by a disease or insect not mentioned in a regulation.

11. If the owner or custodian fails to comply with the order of the Minister, an inspector may himself carry out the order or cause it to be carried out at the expense of the owner or custodian.

An inspector may also, where an order for the destruction of plants is not complied with, confiscate the plants for destruction at the expense of the owner or custodian.

The sums involved bear interest at the rate determined under section 28 of the Act respecting the Ministère du Revenu.

12. The carrying out of any measure ordered by an inspector or by the Minister does not give rise to any claim for damage resulting therefrom, except in cases of bad faith.

CHAPTER III

INSPECTION, SEIZURE AND CONFISCATION

13. An inspector who has reasonable cause to believe that a plant or equipment to which this Act applies can be found on certain premises may, in the performance of his duties,

(1) enter the premises at any reasonable time and make inspections, and, in the case of a vehicle, order that it be immobilized;

(2) examine any plant, equipment or soil, open any container found on the premises, and take specimens free of charge;

(3) take photographs of the premises, plant, equipment or soil;

(4) require the production of any book, account, register, record or document for examination or for the purpose of making copies or extracts, if he has reasonable cause to believe that they contain information related to the application of this Act.

14. The owner or custodian of premises being inspected, as well as every person on the premises, is required to lend assistance to the inspector in the exercise of his functions.

The inspector shall, on request, identify himself and produce a certificate of his capacity signed by the Minister.

15. No person may in any manner hinder an inspector in the exercise of his functions, mislead him by false declarations or refuse to furnish information he is entitled to obtain under this Act.

16. No judicial proceedings may be instituted against the Minister or an inspector for acts performed in good faith in the exercise of his functions.

17. An inspector may, in the exercise of his functions, seize a plant or equipment to which this Act applies, if he has reasonable

cause to believe that the plant or the equipment has been used to commit an offence under this Act, or that an offence has been committed in connection with the plant or equipment, or where an owner or a custodian of premises where a plant is found has failed to comply with an order.

An inspector may also, in the exercise of his functions, seize a vehicle if he has reasonable cause to believe that it has been used to commit an offence under this Act or that it could spread a disease or a destructive insect.

18. The Government may make regulations prescribing the sampling, seizure or confiscation procedures applicable in the course of an inspection and establish the form and content of any certificate, report or minutes to be completed by an inspector.

19. The owner or custodian of the seized property shall have custody thereof. However, the inspector may, if he considers it expedient, move the seized property to other premises for purposes of custody. The custodian shall also have custody of any seized property produced as evidence, unless the judge having received it in evidence decides otherwise.

Custody of the seized property shall be maintained until it is disposed of in accordance with sections 21 to 25 or, if proceedings are instituted, until the judge disposes of it otherwise.

20. No person may use or remove seized property or allow seized property to be used or removed except with the authorization of the inspector.

21. Any seized plant, equipment or vehicle must be returned to its owner or custodian where

(1) a period of 90 days has elapsed from the date of the seizure and no proceedings have been instituted; or

(2) the inspector is of the opinion, after a verification during that period, that no offence under this Act or infringement of an order has been committed, or that the owner or custodian of the seized property has, since the seizure, complied with the provisions of this Act or with an order.

22. The owner or custodian of seized property may apply to a judge for the return of the property.

The application must be served on the seizor or, if proceedings are instituted, on the prosecutor.

The judge shall grant the application if he is of the opinon that the applicant will suffer serious or irreparable injury as a result of the continued detention of the property and that returning the property will not hinder the course of justice.

23. Any seized plant, equipment or vehicle whose owner or custodian is unknown or cannot be found shall be confiscated 90 days after the date of seizure. It shall be disposed of in accordance with the Minister's instructions.

24. On the application of the seizor, a judge may order that the period of maintenance under seizure be extended for a maximum period of 90 days.

25. On rendering a verdict of guilty for an offence under a provision of this Act, a judge may, on the application of one of the parties and where a seizure has been made under section 17, order the confiscation of the seized property.

Advance notice of the application for confiscation shall be given to the person from whom the property was seized and to the other party, except where they are in the presence of the judge.

The Minister shall determine the manner in which the property confiscated under this section is to be disposed of.

CHAPTER IV

PENAL PROVISIONS

26. Every owner or custodian of premises where plants are found who contravenes section 5 or 9 is liable to a fine of not less than $500 nor more than $2 000.

In the case of a subsequent offence, the offender is liable to a fine of not less than $1 000 nor more than $4 000.

27. Every person who contravenes section 15 is liable to a fine of not less than $1 000 nor more than $3 000.

In the case of a subsequent offence, the offender is liable to a fine of not less than $2 000 nor more than $6 000.

CHAPTER V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

28. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

29. This Act replaces the Plant Protection Act (R.S.Q., chapter P-39), except the list of insects and diseases set out in section 15 of that Act, which remains in force until the coming into force of a regulation under section 3.

30. The Regulation respecting the list of names of insects and diseases to which the Plant Protection Act applies (R.R.Q., c. P-39, r.1) remains in force until it is replaced by a regulation under section 3.

31. This Act comes into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 106
(1995, chapter 55)

An Act to amend the Act respecting the Québec Pension Plan and the Automobile Insurance Act

Introduced 21 June 1995
Passage in principle 28 November 1995
Passage 6 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill introduces, in respect of persons entitled both to a disability pension under the Act respecting the Québec Pension Plan and to an income replacement indemnity under the Automobile Insurance Act, a new method to coordinate the payment of those benefits so as to ensure that uniform taxation rules are applied to these persons.

In addition, the bill includes measures to facilitate the payment of benefits and to allow such financial adjustments as are necessary between the Régie des rentes du Québec and the Société de l'assurance automobile du Québec for the application of the new provisions.

LEGISLATION AMENDED BY THIS BILL:

– Automobile Insurance Act (R.S.Q., chapter A-25);

– Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).

Bill 106

An Act to amend the Act respecting the Québec Pension Plan and the Automobile Insurance Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 105.1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is replaced by the following section:

"**105.1** Notwithstanding paragraph *b* of section 105, a disability pension shall be payable to a contributor for a disability resulting from an accident within the meaning of the Automobile Insurance Act (R.S.Q., chapter A-25) only if the amount of income replacement indemnity to which the contributor is entitled under that Act is less than the amount of disability pension that would otherwise be payable to him. The amount of the pension shall, in such a case, correspond to the difference between the amount of disability pension otherwise payable and the amount of the income replacement indemnity; the pension shall be paid to the contributor through the Société de l'assurance automobile du Québec.

Even if the contributor's disability pension is reduced or no pension is payable to him, the other provisions of this Act remain applicable in respect of the contributor as if the pension to which he would have otherwise been entitled were payable to him, in particular the provisions relating the adjustment of the contributory period, partition of the unadjusted pensionable earnings and entitlement to, and computation of, the other benefits."

2. Section 148 of the said Act is amended by replacing the words "a replacement indemnity" in the third and fourth lines by the words "an indemnity referred to in section 105.1 or 105.2" and in the sixth line by the words "such an indemnity".

3. The said Act is amended by inserting, after section 180.2, the following section:

"**180.3** The Board shall pay to the Société de l'assurance automobile du Québec, on a monthly basis, a total amount corresponding to the amounts of disability pension which, by reason of section 105.1, cannot be paid to the contributors referred to in that section."

4. Section 83.22 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by adding, at the end, the following paragraph:

"An income replacement indemnity may not be paid in a single payment if the person who is entitled to it is a person to whom section 105.1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) applies."

5. Section 83.28 of the said Act is amended by adding, at the end, the following paragraph:

"The Société shall also, at the request of the Régie des rentes du Québec, deduct from the income replacement indemnity payable to a person under this Act the amount of disability pension which was paid to such person under the Act respecting the Québec Pension Plan but which should not have been paid by reason of section 105.1 of the said Act. The Société shall remit the deducted amount to the Régie des rentes du Québec."

6. Section 83.68 of the said Act is replaced by the following section:

"**83.68** Where, by reason of an accident, a victim is entitled to both an income replacement indemnity payable under this Act and a disability benefit payable under an income security programme of another jurisdiction equivalent to the programme established by he Act respecting the Québec Pension Plan, the income replacement indemnity is reduced by the amount of disability benefit payable to the victim under such a programme."

7. Section 29 of the Automobile Insurance Act (R.S.Q., chapter A-25), as it read prior to 1 January 1990, which had been maintained in force by the Act to amend the Automobile Insurance Act and other legislation (1989, chapter 15) in respect of persons who suffered bodily injury before that date, ceases to apply.

8. This Act applies to contributors whose disability results from an accident within the meaning of the Automobile Insurance Act, regardless of the date of the accident.

9. The provisions of this Act have effect from 1 January 1996.

10. This Act comes into force on the date to be fixed by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 109
(1995, chapter 56)

An Act to amend the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons

Introduced 29 November 1995
Passage in principle 6 December 1995
Passage 6 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTE

This bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons to authorize the Government to grant, by regulation and in particular circumstances, to certain registrants from another province of Canada, subject to reciprocity, an exemption as regards the requirement to designate an attorney.

Bill 109

An Act to amend the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 4 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) is amended

(1) by adding, at the end of the first paragraph, the words ", unless exempted from that requirement by regulation";

(2) by replacing the words "Ce dernier" in the first line of the second paragraph in the French text by the words "Le fondé de pouvoir".

2. Section 97 of the said Act is amended by adding, at the end, the following paragraph:

"The Government may also, by regulation and in particular circumstances, grant, in respect of another province of Canada and subject to reciprocity, an exemption to certain registrants as regards the requirement to designate an attorney set out in section 4. Such a regulation may be made to give effect to an intergovernmental agreement."

3. This Act comes into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 110
(1995, chapter 57)

An Act to amend the Act respecting the Société du parc industriel et portuaire de Bécancour

Introduced 29 November 1995
Passage in principle 6 December 1995
Passage 6 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTE

The purpose of this bill is to confirm that the Société du parc industriel et portuaire de Bécancour has a clear title to any immovable now owned by the Société and situated in its territory of activity. It also ensures that persons having acquired immovables situated in the present territory of the Société from the Société or from the Société du parc industriel du centre du Québec have a clear title thereto. Furthermore, any real right a person may have been entitled to claim in respect of any such immovable becomes a personal claim against the Société.

Bill 110

An Act to amend the Act respecting the Société du parc industriel et portuaire de Bécancour

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Société du parc industriel et portuaire de Bécancour (R.S.Q., chapter S-16.001) is amended by inserting, after section 43, the following sections:

"**43.1** The Société is declared to be the sole owner of the immovables comprised in the territory described in Schedule I which are owned by the Société on 7 December 1995 and

(1) were acquired by the Société du parc industriel du centre du Québec before 15 May 1971 and are not referred to in section 26*a* of the Central Québec Industrial Park Corporation Act (1968, chapter 60) enacted by section 5 of chapter 63 of the statutes of 1971; or

(2) were acquired by the Société or by the Société du parc industriel du centre du Québec, as the case may be, on or after 15 May 1971.

Every real right that may have subsisted upon those immovables on 7 December 1995 is extinguished, unless it was granted by the Société or the Société du parc industriel du centre du Québec.

"**43.2** The Société or the Société du parc industriel du centre du Québec, as the case may be, is also declared to have been, on the date of alienation, the sole owner of the immovables now comprised in the territory described in Schedule I, alienated by the Société or the Société du parc industriel du centre du Québec between 17 April 1970 and 7 December 1995 and which:

(1) had been acquired by the Société du parc industriel du centre du Québec before 15 May 1971 and were not referred to in section 26*a* of the Central Québec Industrial Park Corporation Act (1968, chapter 60) enacted by section 5 of chapter 63 of the statutes of 1971; or

(2) had been acquired by the Société or by the Société du parc industriel du centre du Québec, as the case may be, on or after 15 May 1971.

Every real right that may have subsisted upon those immovables is extinguished from the date of their respective alienations, unless it was granted by the Société or the Société du parc industriel du centre du Québec.

"**43.3** Any person who, but for sections 43.1 and 43.2, would have been entitled to claim before the courts any real right on all or part of the immovables referred to in those sections shall henceforth have a personal claim against the Société for an amount equal to the value of the real right, calculated on 7 December 1995. Such a personal claim is prescribed on the date occurring 10 years after 7 December 1995."

2. This Act comes into force on 7 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 113
(1995, chapter 60)

An Act to prohibit the establishment or enlargement of certain waste elimination sites

Introduced 1 December 1995
Passage in principle 7 December 1995
Passage 7 December 1995
Assented to 11 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill provides that from the date of its introduction in the National Assembly the establishment or enlargement of a sanitary landfill site, dry materials disposal site or solid waste incinerator will be prohibited, except in a region where in the Government's opinion the situation requires it. In the latter case, the Government will also have the power, in urgent situations, to exempt a project from some or all of the environmental impact assessment procedure.

However, the ban imposed on the establishment or enlargement of such waste elimination sites will not apply to projects already authorized or in respect of which a notice or application to the Minister of the Environment and Wildlife has already been filed on the date of introduction of the bill.

The provisions contained in the bill will apply temporarily as they will cease to have effect upon the coming into force of regulatory provisions replacing the Regulation respecting solid waste.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting the establishment and enlargement of certain waste elimination sites (R.S.Q., chapter E-13.1).

Bill 113

An Act to prohibit the establishment or enlargement of certain waste elimination sites

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. From 1 December 1995, the establishment or enlargement of the following waste elimination sites is prohibited:

(1) sanitary landfill sites;

(2) dry materials disposal sites;

(3) solid waste incinerators.

For the purposes of this Act, the waste elimination sites referred to in subparagraphs 1, 2 and 3 above are the sites to which the Regulation respecting solid waste (R.R.Q., 1981, chapter Q-2, r.14) applies. In addition, the term "enlargement" means any modification resulting in an increase of the landfill, disposal or incineration capacity of the site concerned.

2. Notwithstanding the provisions of section 1, the Government may lift the prohibition set out therein if, in its opinion, the situation in a particular region requires the establishment or enlargement of a waste elimination site referred to in that section.

If, in the opinion of the Government, the situation further requires expeditious action, the Government may also, notwithstanding any provision to the contrary in the Act respecting the establishment and enlargement of certain waste elimination sites (R.S.Q., chapter E-13.1) or in the Environment Quality Act (R.S.Q., chapter Q-2), exempt a project from some or all of the environmental impact assessment and review procedure provided for in Division IV.1 of Chapter I of the Environment Quality Act; in

such a case, the decision of the Government must include a description of the situation justifying such exemption.

Where a project is totally exempted from the environmental impact assessment procedure pursuant to the preceding paragraph, the Government shall issue the certificate provided for in section 31.5 of the Environment Quality Act subject to the conditions determined by the Government; moreover, in the case of waste elimination sites to which the Act respecting the establishment and enlargement of certain waste elimination sites applies, section 3 of that Act remains applicable.

3. The prohibition imposed by section 1 does not apply to

(1) waste elimination site establishment or enlargement projects in respect of which a certificate was issued under section 31.5 or 54 of the Environment Quality Act before 1 December 1995; or

(2) waste elimination site establishment or enlargement projects in respect of which the notice required by section 31.2 of the said Act or an application for the certificate referred to in section 54 of the said Act was filed before 1 December 1995, and in respect of which the decision of the Government or of the Minister to grant or refuse the certificate of authorization or of conformity applied for has yet to be made on that date.

4. Any contravention of the provisions of section 1 renders the offender liable to the penalties set out in section 106 of the Environment Quality Act.

The provisions of the first paragraph of section 109.1.1 and of sections 109.1.2, 109.2, 110, 110.1, 112, 114, 115 and 116.1 of the said Act are applicable.

5. The provisions of this Act are not applicable to the territories referred to in the second paragraph of section 31.9, section 133 and section 168 of the Environment Quality Act.

6. Section 5 of the Act respecting the establishment and enlargement of certain waste elimination sites is repealed.

7. This Act comes into force on 11 December 1995.

This Act will cease to have effect on the date of coming into force of regulatory provisions replacing the Regulation respecting solid waste.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 120
(1995, chapter 61)

An Act to amend the Act respecting the Régie du logement and the Civil Code of Québec

Introduced 6 December 1995
Passage in principle 7 December 1995
Passage 7 December 1995
Assented to 11 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill amends the Act respecting the Régie du logement to authorize the Government to prescribe mandatory use of a form for written leases and of a form for the writing required in the case of oral leases.

The bill also amends the Civil Code of Québec for that same purpose and provides consequential amendments.

Bill 120

An Act to amend the Act respecting the Régie du logement and the Civil Code of Québec

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 108 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended

(1) by replacing the words "1652.8 of the Civil Code of Lower Canada" in the first and second lines of subparagraph 2 of the first paragraph by the words "1913 of the Civil Code of Québec";

(2) by replacing the words "1658.15 to 1658.17 of the Civil Code of Lower Canada" in the first and second lines of subparagraph 3 of the first paragraph by the words "1952 and 1953 of the Civil Code of Québec";

(3) by replacing the words "contemplated in articles 1651.1, 1651.2 and 1658.21 of the Civil Code of Lower Canada" in the second and third lines of subparagraph 5 of the first paragraph by the words "referred to in articles 1895 and 1896 of the Civil Code of Québec, and in the case of the lease or writing referred to in the first paragraph of article 1895 of the Civil Code of Québec, prescribing the mandatory use of the lease form from the Régie du logement or of the writing produced by the board, and fixing the sales price thereof";

(4) by replacing the words "1650 to 1665.6 of the Civil Code of Lower Canada" in the second line of subparagraph 6 of the first paragraph by the words "1892 to 2000 of the Civil Code of Québec".

2. Article 1895 of the Civil Code of Québec (1991, chapter 64) is amended

(1) by adding, at the end of the first paragraph, the following sentence: "The lease or writing shall be made on the form the use of which is made mandatory by the regulations of the Government.";

(2) by replacing the words "give him the copy of the lease or of the prescribed writing" in the last paragraph by the words "comply with these prescriptions".

3. This Act comes into force on the date to be fixed by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 122
(1995, chapter 62)

An Act respecting section 40 of the Act respecting labour relations, vocational training and manpower management in the construction industry

Introduced 7 December 1995
Passage in principle 8 December 1995
Passage 8 December 1995
Assented to 11 December 1995

Québec Official Publisher
1995

EXPLANATORY NOTES

The object of this bill is to confirm the existence of section 40 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) which, by interpretation of section 70 of the Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions (1993, chapter 61) and section 9 of the Act respecting the consolidation of the statutes and regulations (R.S.Q., chapter R-3), was repealed.

In addition, the bill reproduces the text of section 40.

Bill 122

An Act respecting section 40 of the Act respecting labour relations, vocational training and manpower management in the construction industry

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 40 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20), repealed by interpretation of paragraph 1 of section 70 of the Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions (1993, chapter 61) and the second paragraph of section 9 of the Act respecting the consolidation of the statutes and regulations (R.S.Q., chapter R-3), is deemed not to have been repealed.

The text of section 40 read and shall be read as follows:

"**40.** Every employer of the construction industry must be a member of the employers' association and send his assessment to the Commission with his monthly report.

The Commission shall remit to the employers' association the assessments so received with a nominal roll. The assessment must be uniform, according to the basis chosen by the employers' association."

2. This Act comes into force on 11 December 1995.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FIFTH LEGISLATURE

Bill 238
(Private)

An Act respecting certain acquisitions by the Sainte-Marguerite Salmon Club and by the Club de pêche Sainte-Marguerite

Introduced 11 May 1995
Passage in principle 5 December 1995
Passage 5 December 1995
Assented to 7 December 1995

Québec Official Publisher
1995

Bill 238
(Private)

An Act respecting certain acquisitions by the Sainte-Marguerite Salmon Club and by the Club de pêche Sainte-Marguerite

WHEREAS the "Sainte-Marguerite Salmon Club" was incorporated by chapter 70 of the statutes of 1886, which came into force on 21 June 1886;

Whereas, in the French text, paragraph 4 of section 2 of the said Act read as follows: "D'acquérir de temps à autre et de posséder, avec l'approbation du lieutenant-gouverneur en conseil, telles autres propriétés foncières que pourront exiger les besoins du club;", the corresponding provision of the English text giving the club the power: "To acquire from time to time, and hold, with the approval of the Lieutenant-Governor in Council, such other real estate as the wants of the club may require;";

Whereas, thereafter, the Sainte-Marguerite Salmon Club became the owner of various immovables by concession from the Government or by purchase from the owner but did not solicit the approval of the Lieutenant-Governor in Council in the weeks or months following the acquisitions;

Whereas, on 5 July 1950, the Sainte-Marguerite Salmon Club filed with the Lieutenant-Governor in Council a petition having as its object the approval of certain acts of acquisition of immovables, whereas following such petition the Government made Order in Council 810 dated 12 July 1950 purporting to validate the possession of the real estate already acquired by the corporation and described in the petition filed in record 5319/50 of the Department of the Attorney-General, and whereas that record cannot be located;

Whereas the name "Sainte-Marguerite Salmon Club" was replaced by "Club de pêche Sainte-Marguerite" and then by "Corporation de pêche Ste-Marguerite Inc.";

Whereas the Corporation de pêche Ste-Marguerite Inc. claims to have located in its records a copy of the petition it filed in 1950, whereas it gave access to that document to the Minister of Justice, whereas in all likelihood the document is indeed a copy of the petition filed in 1950, and whereas a list of the acts mentioned in the document is given in Schedule A;

Whereas the Club de pêche Sainte-Marguerite became the owner of various immovables in 1974 and in 1987, by the acts mentioned in Schedule B, but did not submit those acts to the Government for approval in the following weeks or months;

Whereas the expression "real estate" in the English text of paragraph 4 of section 2 of chapter 70 of the statutes of 1886 has a general meaning and whereas it is possible that the expression could be seen to cover acts whereby the Sainte-Marguerite Salmon Club, under whichever name it bore, acquired an immovable real right other than ownership, for example, a servitude in favour of one of its immovables on a neighbouring immovable;

Whereas, however, although it is relatively frequent that private Acts constituting legal persons have limited the value of or the annual income from immovables which those legal persons could acquire, or have subjected the acquisition of immovables by those legal persons to the authorization of the Lieutenant-Governor in Council or of the Government, no case would appear to exist in which a private Act constituting a legal person has required that the acquisition by the legal person of immovable real rights other than ownership and in particular, servitudes, be subject to the authorization of the Lieutenant-Governor in Council or of the Government;

Whereas in public Acts currently in force, no provisions would appear to exist requiring legal persons or certain of them to obtain the approval of the Government to acquire by agreement immovable real rights other than ownership and in particular, servitudes, and whereas in all likelihood the same was true in 1886;

Whereas it is therefore probable that, when in force, paragraph 4 of section 2 of chapter 70 of the statutes of 1886 was construed to apply solely to the acts whereby the Sainte-Marguerite Salmon Club, under whichever name it bore, acquired ownership of

immovables and not to the acts whereby it acquired immovable real rights other than ownership and in particular, servitudes;

Whereas section 2 of chapter 70 of the statutes of 1886 was replaced by section 1 of chapter 109 of the statutes of 1991, whereas the new section 2 does not contain any provision requiring the Corporation to obtain the approval of the Government to acquire immovables, whereas chapter 109 of the statutes of 1991 came into force on 12 December 1991, and whereas owing to the Government not having power over acquisitions of immovables by the Corporation de pêche Ste-Marguerite Inc., it is doubtful whether the Government could now approve acquisitions of immovables made by that legal person, under whichever name it bore, between 21 June 1886 and 11 December 1991;

Whereas the Government of Québec intends to acquire from the Corporation de pêche Ste-Marguerite Inc. certain of the immovables referred to in this Act in connection with the establishment of the Parc marin du Saguenay, and whereas it is advisable that the defects in title affecting those immovables be corrected;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The acts mentioned in Schedule A or B may not be annulled on the ground that they were not approved by the Lieutenant-Governor in Council or by the Government.

2. Between 21 June 1886 and 11 December 1991, paragraph 4 of section 2 of chapter 70 of the statutes of 1886 did not require the Sainte-Marguerite Salmon Club, under whichever name it bore, to submit the acts whereby it acquired immovable real rights other than ownership and in particular, servitudes, to the Lieutenant-Governor in Council or to the Government for approval.

3. Publication of this Act at the registry office of the registration division of Saguenay is effected by the filing of a true copy of the said document with a notice containing the description of the immovables assigned to the Sainte-Marguerite Salmon Club by the acts mentioned in Schedule A and of those assigned to the Club de pêche Sainte-Marguerite by the acts mentioned in Schedule B.

4. This Act comes into force on 7 December 1995.

SCHEDULE A
(*Sections 1 and 3*)

Acts mentioned in the copy kept by
the Corporation de pêche Ste-Marguerite Inc.
of the petition filed on 5 July 1950
by the Sainte-Marguerite Salmon Club

Date of act	Assignor	Registration number at the registry office of the registration division of Saguenay
18 April 1907	Government of Québec	—
18 August 1917	Walter M. Brackett	2483
5 October 1939	Solitude Salmon Club	8386 corrected by the act registered under No. 8410
12 September 1940	Louis Durand	8634
12 September 1940	Pierre Savard	8635
12 September 1940	Léon Dufour	8636
12 September 1940	Raoul Gauthier	8637
16 September 1940	David Durand	8644
3 October 1942	Louis Gravel	9108
3 October 1942	Omer Gauthier	9110

SCHEDULE B
(*Sections 1 and 3*)

Acts signed in 1974 or 1987

Date	Assignor	Registration number at the registry office of the registration division of Saguenay
17 June 1974	J. Rodolphe Théberge	81827
11 May 1987	Rénald Béchard	144897

Regulations and other acts

Gouvernement du Québec

O.C. 1693-95, 20 December 1995

An Act respecting the Ministère du Revenu
(R.S.Q., c. M-31)

Fiscal administration
— Amendments

Regulation to amend a Regulation to amend the Regulation respecting fiscal administration and the Regulation respecting fiscal administration

WHEREAS under section 96 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31), the Government may make regulations, in particular, to exempt from the duties provided for by a fiscal law, under the conditions which it prescribes, an Indian or person of Indian descent, within the meaning of the regulations, and any prescribed person, and to determine the nature, duration and conditions of realization of the security which the Minister of Revenue may require as a condition of issue or continuance in force of a registration certificate or permit issued under a fiscal law;

WHEREAS the Regulation to amend the Regulation respecting fiscal administration made by Order in Council 472-95 dated 5 April 1995 and the Regulation respecting fiscal administration (R.R.Q., 1981, c. M-31, r. 1) were made under that Act;

WHEREAS it is expedient to amend those Regulations in order to implement a fiscal measure announced by the Minister of Finance in a Minister's Statement on 21 December 1994 concerning, in particular, the harmonization of Québec's fiscal regulations with the federal government's order amending the Indian Income Tax Remission Order;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made notwithstanding the publication requirement in section 8 of that Act if the authority making it is of the opinion that the fiscal nature of the norms established, amended or repealed therein warrants it;

WHEREAS under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the fiscal nature of the norms established, amended or repealed therein warrants it;

WHEREAS the Government is of the opinion that the fiscal nature of the norms established, amended or repealed by the Regulation warrants the lack of prior publication and such coming into force;

WHEREAS under section 27 of the Regulations Act, a regulation may take effect before the date of its publication in the *Gazette officielle du Québec* where the Act under which it is made expressly provides therefor;

WHEREAS under the second paragraph of section 97 of the Act respecting the Ministère du Revenu, every regulation made under section 96 of that Act concerning, in particular, an exemption from duties provided for by a fiscal law may, once published and if it so provides, apply to a period prior to its publication, but not prior to the 1972 taxation year;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Revenue:

THAT the Regulation attached hereto, entitled Regulation to amend a Regulation to amend the Regulation respecting fiscal administration and the Regulation respecting fiscal administration, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend a Regulation to amend the Regulation respecting fiscal administration and the Regulation respecting fiscal administration

An Act respecting the Ministère du Revenu
(R.S.Q., c. M-31, s. 96, 1st par., subpar. *e*, and 2nd par., and s. 97)

Regulation to amend the Regulation respecting fiscal administration

1. The Regulation to amend the Regulation respecting fiscal administration, made by Order in Council 472-95 dated 5 April 1995, is amended by substituting the following for subsection 2 of section 5:

"**2.** Subsection 1, where it makes sections 96R9 to 96R12 of the Regulation respecting fiscal administration, applies to the 1992 to 1994 taxation years. Notwithstanding the foregoing, where:

(a) sections 96R10 to 96R12 of the Regulation, made by that subsection 1, apply to the 1992 taxation year, they shall be read with "Part I" substituted for "Parts I and I.1";

(b) section 96R10 of the Regulation, made by that subsection 1, applies to the 1994 taxation year, paragraph *a* of that section shall be read as follows:

"*(a)* the amounts that are required to be included in computing his income from that office or that employment for the year and that are payable to him by an employer resident in a reserve, where he has held that office or that employment continuously from a date prior to 1 January 1994; are of".".

Regulation respecting fiscal administration

2. 1. The Regulation respecting fiscal administration (R.R.Q., 1981, c. M-31, r. 1), amended by the Regulations made by Orders in Council 80-82 dated 13 January 1982 (Suppl., p. 909), 499-82 dated 3 March 1982 (Suppl., p. 910), 1408-84 dated 13 June 1984, 1876-84 dated 16 August 1984, 2728-84 dated 12 December 1984, 251-85 dated 6 February 1985, 1863-85 dated 11 September 1985, 2584-85 dated 4 December 1985, 1240-86 dated 13 August 1986, 1270-86 dated 20 August 1986, 1930-86 dated 16 December 1986, 1725-88 dated 16 November 1988, 879-89 dated 7 June 1989, 922-89 dated 14 June 1989, 1798-90 dated 19 December 1990, 49-91 dated 16 January 1991, 497-92 dated 1 April 1992, 647-92 dated 29 April 1992, 993-92 dated 30 June 1992, 1078-92 dated 15 July 1992, 1498-93 dated 27 October 1993, 748-94 dated 18 May 1994, 960-94 dated 22 June 1994, 385-95 dated 22 March 1995 and 472-95 dated 5 April 1995, is further amended in section 96R9:

(1) by striking out the definitions of the expressions "Indian territory" and "Oujé-Bougoumou territory";

(2) by substituting the words "Loi sur les Indiens" for the words "Loi sur les indiens" in the French version of the definition of the expression "Indian";

(3) by striking out the words "or in an Indian territory" in the definition of the expression "person of Indian descent"; and

(4) by substituting the following for the definition of the expression "reserve":

""reserve" has the meaning assigned to it by paragraph *b* of section 488R2 of the Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r. 1). (*réserve*)".

2. Subsection 1 applies to the 1992, 1993 and 1994 taxation years.

3. 1. Section 96R10 of the Regulation is amended by striking out the words "or in an Indian territory" in paragraph *a*.

2. Subsection 1 applies to the 1992 and 1993 taxation years.

4. The Regulation is amended by renumbering sections 96R9, 96R10 and 96R11, made by section 4 of the Regulation to amend the Regulation respecting fiscal administration made by Order in Council 385-95 dated 22 March 1995, as sections 96R15, 96R16 and 96R17 respectively. In addition, in section 96R11, renumbered as section 96R17 by this section, a reference to section 96R16 is substituted for the reference to section 96R10.

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

9510

O.M., 1995

Order of the Minister of Public Security dated 18 December 1995

Rules to amend the Lottery Scheme Rules

WHEREAS under the second paragraph of section 20 of the Act respecting lotteries, publicity contests and amusement machines (R.S.Q., c. L-6), the Régie des alcools, des courses et des jeux may make rules relating to the organization, management, conduct and operation of lottery schemes;

WHEREAS under the third paragraph of section 20 of the Act, every rule made under that statutory provision by the Régie des alcools, des courses et des jeux shall be submitted to the Minister of Public Security for approval;

WHEREAS at its meeting of 21 September 1995, the Board made the Rules to amend the Lottery Scheme Rules, attached hereto;

WHEREAS it is expedient to approve those Rules;

THEREFORE, the Minister of Public Security:

APPROVES the Rules to amend the Lottery Scheme Rules, attached hereto.

Québec, 18 December 1995

SERGE MÉNARD,
Minister of Public Security

Rules to amend the Lottery Scheme Rules

An Act respecting lotteries, publicity contests and amusement machines
(R.S.Q., c. L-6, s. 20, 2nd par.)

1. The Lottery Scheme Rules made by the Régie des alcools, des courses et des jeux at its meeting of 14 December 1984, amended by the Rules made by the Board at its meetings of 22 February and 22 May 1985, 26 August 1986, 25 October 1989, 7 March and 21 October 1991 and 8 July 1992, and published in the *Gazette officielle du Québec*, Part 2, on 13 March and 5 June 1985, 10 September 1986, 8 November 1989, 15 May and 6 November 1991 and 29 July 1992 are further amended by substituting:

(1) in paragraph 1 of section 29, the percentage "15 %" for the percentage "20 %";

(2) in paragraph 1.1 of that section, the percentage "20 %" for the percentage "25 %".

2. Section 30 is amended by substituting the following for the first paragraph:

"**30**. In the case of a drawing or a benefit casino, the licence holder is authorized to spend no more than 15 % of the gross profit on payment of the scheme's administration expenses. In the case of a bingo, that percentage is 20 %.".

3. These Rules come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.

9514

Draft Regulations

Draft Regulation

An Act respecting the marketing of agricultural, food and fish products
(R.S.Q., c. M-35.1)

Fees exigible by the Régie des marchés agricoles et alimentaires du Québec

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Régie des marchés agricoles et alimentaires du Québec may make the Regulation respecting the fees exigible by the Régie des marchés agricoles et alimentaires du Québec, the text of which appears below, upon the expiry of 45 days following this publication.

Any person may obtain additional information or send comments in writing about the Draft Regulation by contacting M[e] Claude Régnier, Secretary Régie des marchés agricoles et alimentaires du Québec, 201, boulevard Crémazie Est, Montréal (Québec), H2M 1L3; telephone: (514) 873-4024, fax: (514) 873-3984.

CLAUDE RÉGNIER,
Secretary of the Régie des marchés agricoles et alimentaires du Québec

Regulation respecting the fees exigible by the Régie des marchés agricoles et alimentaires du Québec

An Act respecting the marketing of agricultural, food and fish products
(R.S.Q., c. M-35.1, s. 41.1)

1. The Régie des marchés agricoles et alimentaires du Québec shall issue free of charge and upon application:

(1) to each of the persons and parties addressing the Régie, a copy of the vouchers and documents filed during the hearing and of the decision rendered based on the hearing;

(2) to each permit holder, a copy of his permit; and

(3) to the parties to the agreement, a copy of the attestation of homologation of the agreement.

2. The Régie shall issue to any applicant a copy of any document it holds, upon payment of:

(1) $0.25 per page for a printed document;

(2) $10.00 per floppy disk for a computerized document;

(3) $10.00 per audiocassette.

Where the fees exigible amount to more than $100, the Régie shall receive a partial payment equivalent to half of the approximate amount of the fees before forwarding the requested documents.

The Régie shall deduct $5 from the fees exigible under subparagraph 1 of the first paragraph.

3. Any person may obtain a copy of the following documents for a period of one year following the date of his application or during the period from 1 January to 31 December of the year in which he files his application, upon payment of the following fees:

(1) all decisions: $375;

(2) a specific category of decisions: $200;

(3) all attestations of homologation of an agreement: $600;

(4) all homologated agreements: $1 200;

(5) a specific part of the attestations of homologation of an agreement: $150; and

(6) a specific part of the homologated agreements: $300.

4. The Régie shall distribute free of charge a copy of the annual register of factory permits issued pursuant to the provisions of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., c. P-30) to each permit holder, to a certified association representing the permit holders or to every person contemplated in section 48 of that Act. Any other person may obtain a copy upon payment of $10.

5. Any person applying for a permit to operate under the Dairy Products and Dairy Products Substitutes Act shall pay $100 with his application.

Any person applying for an amendment to a permit to operate a dairy plant or a plant manufacturing dairy substitutes shall pay $25 with his application.

6. The Régie shall distribute free of charge a copy of a list of persons who have deposited a guarantee of financial liability that it administers or a copy of a list of the holders of permits issued under the Act respecting the marketing of agricultural, food and fish products (R.S.Q., c. M-35.1), to the certified associations representing them or to the producer marketing boards applying therefor. Any other person may obtain a copy upon payment of $10.

7. For any investigation and inspection work carried out under Chapter XII of Title III of the Act respecting the marketing of agricultural, food and fish products, the Régie shall bill the agency making the application:

(1) $50 per hour of work or $230 per day of work, whichever is less;

(2) the costs of meals and lodging paid; and

(3) the travelling expenses paid or, failing that, expenses calculated at a rate of $0.30 per kilometre.

This section does not apply to investigation and inspection work pertaining to the application of the "Règlement sur les livres, registres et rapports des entreprises laitières" (1993, 125 *G.O.* II, 8417).

8. Any person who registers for a training course on grain grading shall pay $75 with his application.

For any verification of that training or for any upgrading session, the Régie shall bill the person or agency making the application:

(1) $29 per hour of work;

(2) the costs of meals and lodging paid; and

(3) the travelling expenses paid or, failing that, expenses calculated at a rate of $0.30 per kilometre.

9. Any person who registers for the upgrading program for grain handlers shall pay $35 with his application.

10. The Régie shall determine, once a year and free of charge, the accuracy of the hygrometers used to determine the moisture content of grain, pursuant to section 52 of the Regulation respecting grain made by Order in Council 1724-92 dated 2 December 1992.

Any person may ask the Régie to determine the accuracy of the same hygrometer, more than once during a single 12-month period, upon payment of the fees provided for in the second paragraph of section 8.

11. Any person may ask the Régie to check the performance of a grain dryer or a grain cleaner or to make a sketch of a layout project for installing those devices, upon payment of the fees provided for in the second paragraph of section 8.

12. Any person may obtain from the Régie the authorization to use its software entitled "Calcul des coûts d'opération des centres régionaux" upon payment of $300; that amount includes installation of the software in the proper computer and the necessary operating instructions.

13. Any person may ask the Régie to program the HP 48-G, HP 27-S and HP 42-S calculators to replace the moisture conversion tables 919/3,5 and the specific grain weight tables upon payment of:

(1) $25 for the HP 48-G model;

(2) $50 for the HP 27-S and HP 42-S models.

14. As of 1 April 1996, the amounts fixed in this Regulation shall be indexed on 1 April of each year, on the basis of the cumulative rate of increase in the general Consumer Price Index for Canada, as determined by Statistics Canada for the 12-month period ending on 31 January preceding that indexation.

The amounts thus indexed shall be reduced to the nearest dollar where they contain a fraction of a dollar less than $0.50; they shall be increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than $0.50.

The Régie shall inform the public of the indexation carried out under this section through Part 1 of the *Gazette officielle du Québec* and by any other means it considers appropriate.

15. The fees exigible pursuant to this Regulation do not include the applicable taxes.

16. The Public Protector and the Auditor General are exempted from the fees provided for in this Regulation.

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

9515

Draft Regulation

An Act respecting the Société québécoise de développement de la main-d'oeuvre
(R.S.Q., c. S-22.001)

Fees payable for certain services offered by the Société québécoise de développement de la main-d'oeuvre

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting fees payable for certain services offered by the Société québécoise de développement de la main-d'oeuvre, the text of which appears below, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Chairman and Chief Executive Officer of the Société québécoise de développement de la main-d'oeuvre, 425, rue Saint-Amable, 6e étage, Québec (Québec), G1R 5T7.

DIANE BELLEMARE,
Chairman and Chief Executive Officer

Regulation to amend the Regulation respecting fees payable for certain services offered by the Société québécoise de développement de la main-d'oeuvre

An Act respecting the Société québécoise de développement de la main-d'oeuvre
(R.S.Q., c. S-22.001, s. 24)

1. The Regulation respecting fees payable for certain services offered by the Société québécoise de développement de la main-d'oeuvre, made by Order in Council 1238-93 dated 1 September 1993, is amended by inserting the following section after section 6:

"**6.1** The amounts of the fees payable provided for in this Regulation shall be indexed on 1 April of each year on the basis of the rate of increase in the general Consumer Price Index for Canada for the 12-month period ending on 31 December of the year preceding the indexing, as determined by Statistics Canada.

The amounts indexed in the prescribed manner shall be reduced to the nearest dollar where they contain a fraction of a dollar less than $0.50; they shall be increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than $0.50.

The Minister of State for Concerted Action and Minister of Employment shall inform the public, through Part I of the *Gazette officielle du Québec* and, where the Minister considers it appropriate, by any other means, of the indexing calculated under this section.".

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

9513

Draft Regulation

Building Act
(R.S.Q., c. B-1.1)

Guarantee plan for new residential buildings

Notice is hereby given, according to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation respecting the guarantee plan for new residential buildings", the text of which appears below, may be approved by the Government upon the expiry of 45 days following this publication.

The purpose of the Regulation is to establish a compulsory guarantee plan for all contractors working in the new residential buildings sector as defined therein.

For that purpose, it sets forth parameters with regard to the following:

- identification of the buildings covered by the guarantee;
- coverage of the guarantee;
- exclusions from the guarantee;
- limits of the guarantee.

The Draft Regulation also provides for a procedure for implementing the guarantee, and for recourse to arbitration where a buyer or contractor contests a decision of the manager of a plan.

The qualifications required of any person authorized to manage a guarantee plan, as well as the conditions a contractor must meet in order to join a guarantee plan, are also determined in the Draft Regulation.

Further information may be obtained by contacting Mr. Pierre D. Tarte, Guarantee Plan Coordinator, Régie du bâtiment du Québec, 545, boulevard Crémazie Est,

6e étage, Montréal (Québec), H2M 2V2 (tel.: 514-864-2500; fax: 514-873-3418).

Any interested person having comments to make on the subject is asked to send them in writing, before the expiry of the 45-day period, to Mr. Jean-Claude Riendeau, Chairman, Régie du bâtiment du Québec, 545, boulevard Crémazie est, 6e étage, Montréal (Québec), H2M 2V2.

LOUISE HAREL,
Minister of Employment

Regulation respecting the guarantee plan for new residential buildings

Building Act
(R.S.Q., c. B-1.1, s. 185, pars. 19.3 to 19.6 and 38, and s. 192; 1995, c. 58)

CHAPTER I
INTERPRETATION AND APPLICATION

DIVISION I
INTERPRETATION

1. In this Regulation, unless the context indicates otherwise, "accountant" means a member of a professional order of accountants specified in Schedule I to the Professional Code (R.S.Q., c. C-26) who is authorized, under the Act constituting that order, to practise the professional accounting activity required by the application of a provision of this Regulation; (*comptable*)

"actuary" means a Fellow of the Canadian Institute of Actuaries; (*actuaire*)

"approved plan" means a guarantee plan meeting the standards and criteria established by this Regulation and approved by the Board; (*plan approuvé*)

"beneficiary" means a natural or legal person, a partnership, a non-profit organization or a cooperative that enters into a contract with a contractor for the sale or construction of a new residential building and, in the case of the common portions of a building held in divided co-ownership, the syndicate of co-owners; (*bénéficiaire*)

"building" means the building itself, including the installations and equipment necessary for its use, specifically, the artesian well, connections with municipal or government services, the septic tank and its absorption field and the agricultural drain; (*bâtiment*)

"contractor" means a person holding a general contractor's licence authorizing him to carry out or have carried out, in whole or in part, for a beneficiary, construction work on a new residential building governed by this Regulation; (*entrepreneur*)

"manager" means a person authorized by the Régie du bâtiment du Québec to manage a guarantee plan, or a provisional manager designated by the Board under section 83 of the Building Act (R.S.Q., c. B-1.1). (*administrateur*)

DIVISION II
APPLICATION

2. This Regulation applies to guarantee plans guaranteeing the performance of the contractor's legal and contractual obligations provided for in Chapter II and resulting from a contract entered into with a beneficiary for the sale or construction of

(1) the following new buildings intended mainly for residential purposes and not held in divided co-ownership by the beneficiary of the guarantee:

(a) a detached, semi-detached or row-type single-family dwelling;

(b) a multifamily building, from a duplex to a quintuplex;

(c) a multifamily building comprising more than 5 dwelling units and held by a non-profit organization or a cooperative;

(2) the following new buildings intended mainly for residential purposes and held in divided co-ownership by the beneficiary of the guarantee:

(a) a detached, semi-detached or row-type single-family dwelling;

(b) a multifamily building, from a duplex up, of a building height of less than 4 stories; and

(3) the buildings specified in subparagraphs 1 or 2 and acquired by the contractor from a syndic, municipality or mortgage lender.

For the purposes of this Regulation, the terms "storey", "building height" and "first storey" have the meaning given to them in the Regulation respecting the professional qualification of building contractors and owner-builders, made by Order in Council 876-92 dated 10 June 1992.

The intended use of a building is established on the date of conclusion of the contract and is presumed valid for the term of the guarantee. The guarantee applies to the entire building.

3. No guarantee plan may be offered unless it meets the standards and criteria established by this Regulation and is approved by the Board.

4. No change may be made to an approved plan unless the change meets the standards and criteria established by this Regulation.

5. Any provision of a guarantee plan which is irreconcilable with this Regulation is invalid.

CHAPTER II
MINIMUM GUARANTEE

DIVISION I
GUARANTEE AND REQUIRED MEMBERSHIP

6. Any person wishing to become a contractor for the new residential buildings referred to in section 2 shall, in accordance with Division I of Chapter IV, join a plan guaranteeing the performance of the legal and contractual obligations provided for in section 7 and resulting from a contract entered into with a beneficiary.

DIVISION II
CONTENT OF THE GUARANTEE

7. The guarantee plan shall guarantee the performance of the contractor's legal and contractual obligations to the extent and in the manner prescribed by this Division.

§1. Guarantee for Buildings Not Held in Divided Co-ownership

I. **Coverage of the Guarantee**

8. For the purposes of this subdivision,

"acceptance of the building" means the act whereby the beneficiary declares that he accepts the building which is ready to be used for its intended purpose and on which some work is to be completed or corrected, where applicable. From the time of that acceptance, the beneficiary may take possession of the building; (*réception du bâtiment*)

"completion of the work" means completion of the work related to the building and provided for in the original contract entered into between the beneficiary and the contractor, and completion of the additional work agreed to in writing between the parties; (*parachèvement des travaux*)

"end of the work" means the date on which all the contractor's work agreed upon in writing with the beneficiary and related to the building is completed and the building is ready to be used for its intended purpose. (*fin des travaux*)

9. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations before the acceptance of the building, shall cover,

(1) in the case of a contract of sale,

(a) either the partial payments by the beneficiary; or

(b) completion of the work, where the beneficiary holds the ownership titles and where an agreement to that effect is entered into with the manager;

(2) in the case of a contract of enterprise,

(a) either the partial payments by the beneficiary, provided that no unjustified profit for the latter results therefrom; or

(b) completion of the work; and

(3) the relocation, moving and storage of the beneficiary's property where,

(a) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor, unless the partial payments are reimbursed; or

(b) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor so that the manager may complete the building.

10. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations after acceptance of the building, shall cover

(1) completion of the work related to the building, for which notice is given in writing at the time of acceptance;

(2) repairs to apparent defects or poor workmanship as described in article 2111 of the Civil Code of Québec, of which notice is given in writing at the time of acceptance;

(3) repairs to non-apparent poor workmanship existing at the time of acceptance or discovered within 1 year after acceptance as provided for in articles 2113 and 2120 of the Civil Code of Québec, and of which notice is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the poor workmanship;

(4) repairs to latent defects within the meaning of article 1726 or 2103 of the Civil Code of Québec which are discovered within 2 years following acceptance of the building and of which notice is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the latent defects within the meaning of article 1739 of the Civil Code of Québec; and

(5) repairs to faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec, which appears within 5 years following the end of the work and of which notice is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months after the discovery or occurrence of the defect or, in the case of gradual defects or vices, after their first manifestation.

Failure to comply with accepted practice or with a standard applicable to the building constitutes poor workmanship, unless such failure does not affect the quality, safety or use of the building.

11. Where the manager intervenes to complete or correct work related to a building, the beneficiary shall have any sum still owing kept by his financial institution or pay such sum into a trust account with an advocate, a notary or the manager of the plan for the final payment of the work that will be carried out by the manager to complete or correct the work provided for in the original contract or the additional work provided for in any written agreement entered into with the contractor.

II. **Exclusions from the Guarantee**

12. The guarantee excludes

(1) repairs to defects in the materials and equipment supplied and installed by the beneficiary;

(2) repairs made necessary by normal behaviour of materials, such as cracks or shrinkage;

(3) repairs made necessary by a fault of the beneficiary, such as inadequate maintenance or misuse of the building, as well as by alterations, deletions or additions made by the beneficiary;

(4) deterioration brought about by normal wear and tear;

(5) repairs made necessary following an event of force majeure, such as an earthquake, a flood or exceptional climatic conditions;

(6) repairs to damage resulting from the contractor's extra-contractual civil liability;

(7) repairs to damage resulting from contaminated soil, and replacement of the soil itself;

(8) the obligation to supply the building with natural gas or electricity;

(9) parking areas or storage rooms located outside the building containing the dwelling units, and any works located outside the building such as swimming pools, earthwork, sidewalks, driveways or surface water drainage systems;

(10) promises of a vendor concerning costs for use or energy consumption of appliances, systems or equipment included in the construction of a building, and

(11) claims from the persons who contributed to the construction of the building.

However, the exclusions as provided for in subparagraphs 2, 5 and 7 do not apply if the contractor failed to comply with accepted practice or with a standard in force applicable to the building.

III. **Limits of the Guarantee**

13. The guarantee of a plan for a detached, semi-detached or row-type single-family dwelling is limited per address to,

(1) for partial payments, $30 000;

(2) for coverage for relocation, moving and storage, on the presentation of vouchers, and provided that no unjustified profit for the beneficiary results therefrom, $5 000 as follows:

(a) reimbursement of reasonable actual costs incurred for moving and storage;

(b) reimbursement of reasonable actual costs incurred for relocation, including meals and accommodation, without exceeding, on a daily basis:

— for 1 person:	$75;
— for 2 persons:	$100;
— for 3 persons:	$125;
— for 4 persons or more:	$150;

(3) for completion and repair of defects and poor workmanship, the amount entered in the contract of enterprise or contract of sale, without ever exceeding $200 000; and

(4) for coverage for the obligation to supply water, both in quantity and quality, in the event that repairs are impossible, the amount of the damages suffered by the beneficiary, without ever exceeding the lesser of the two amounts mentioned in paragraph 3; coverage applies in the case of a contract of enterprise, provided that the obligation is included in the contract entered into between the beneficiary and the contractor.

14. The guarantee of a plan for a multifamily building is limited to,

(1) for partial payments, $30 000 per building;

(2) for coverage for relocation, moving and storage, on the presentation of vouchers, and provided that no unjustified profit for the beneficiary results therefrom, $5 000 per building, as follows:

(a) reimbursement of reasonable actual costs incurred for moving and storage;

(b) reimbursement of reasonable actual costs incurred for relocation, including meals and accommodation, without exceeding, on a daily basis:

— for 1 person:	$75;
— for 2 persons:	$100;
— for 3 persons:	$125;
— for 4 persons or more:	$150;

(3) for completion and repair of defects and poor workmanship, the lesser of

(a) the amount entered in the contract of enterprise or contract of sale; or

(b) an amount equal to $100 000 multiplied by the number of dwelling units contained in the building, without ever exceeding $1 500 000; and

(4) for coverage for the obligation to supply water, both in quantity and quality, in the event that repairs are impossible, the amount of the damages suffered by the beneficiary, without ever exceeding the lesser of the two amounts mentioned in paragraph 3; coverage applies in the case of a contract of enterprise, provided that the obligation is included in the contract entered into between the beneficiary and the contractor.

15. The guarantee of a plan applies only to a building that has no beneficiary at the end of the work, provided that acceptance of the building occurs within 24 months after the end of the work.

However, that guarantee is limited to the guarantee pertaining to

(1) apparent defects and poor workmanship;

(2) existing non-apparent poor workmanship within the meaning of articles 2113 and 2120 of the Civil Code of Québec, for which the guarantee is calculated from the time of acceptance;

(3) latent defects within the meaning of article 1726 or 2103 of the Civil Code of Québec, for which the guarantee is calculated from the time of acceptance; and

(4) faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec, for which the guarantee is limited to the remaining term of the guarantee.

16. The guarantee of a plan is transferable to a subsequent purchaser who is a beneficiary within the meaning of the guarantee, for the remaining term of the guarantee, even if that beneficiary acquired the building from a syndic, a municipality or a hypothecary lender.

IV. **Implementation of the Guarantee**

17. Each building covered by a guarantee shall be inspected before it is accepted. The contractor and the beneficiary shall carry out the inspection together, using a pre-established list of items to be checked. Such list shall be supplied by the manager and shall be adapted to the class of building concerned. The beneficiary may be assisted by a person of his choice.

The inspection shall be deferred where acceptance of the building takes place after the end of the work.

18. Any claim made under the guarantee plan is subject to the following procedure:

(1) within the guarantee period of 1, 2 or 5 years, as the case may be, the beneficiary shall give notice to the contractor in writing of the construction defect found and send a copy of that notice to the manager in order to suspend the prescription;

(2) at least 15 days after notice by the beneficiary has been sent, the beneficiary shall notify the manager in writing if he is dissatisfied with the contractor's intervention or if the contractor has failed to intervene; he shall pay to the manager fees in the amount of $100 for opening the file. Those fees are reimbursed to him if the decision rendered is in his favour, in whole or in part, or if an agreement is entered into between the parties concerned;

(3) within 15 days after receipt of the notice prescribed in paragraph 2, the manager shall ask the contractor to intervene and to inform him, within 15 days, of the measures he intends to take to remedy the situation concerning which the beneficiary has given notice;

(4) within 15 days after the expiry of the period granted to the contractor under paragraph 3, the manager shall carry out an inspection on the premises;

(5) within 20 days following the inspection, the manager shall produce a detailed written report stating whether or not the matter has been settled and shall send a copy thereof by registered mail to the parties concerned;

(6) where the claim has not been settled, the manager shall decide on the claim and, where applicable, shall order the contractor to correct the work within the period he indicates which has been agreed upon with the beneficiary;

(7) where the contractor fails to correct the work and the manager's decision is not contested in arbitration by one of the parties, the manager shall take charge of the corrections within the period agreed upon with the beneficiary, in particular, where applicable, by preparing a corrective specification, by calling for tenders, by choosing contractors and by supervising the work.

V. **Remedy**

19. A beneficiary or contractor who is dissatisfied with a decision of the manager shall, in order for the garantee to apply, submit the dispute to arbitration within 15 days following receipt by registered mail of the manager's decision.

20. The beneficiary, the contractor and the manager are bound by the arbitration decision as soon as it is rendered by the arbitrator.

The arbitrator's decision is final and not subject to appeal.

21. Arbitration fees are shared equally between the plaintiff and the manager.

22. Where applicable, the arbitrator shall decide on the amount of reasonable fees for a relevant expert's report to be reimbursed to the plaintiff by the manager, where the plaintiff wins the case in whole or in part.

23. The expenses incurred by the beneficiary, contractor and manager for the arbitration are borne by each one of them.

24. A manager who compensates a beneficiary under this subdivision is subrogated in his rights up to and including the sums he has paid.

§2. Guarantee for Buildings Held in Divided Co-ownership

I. **Coverage of the Guarantee**

25. For the purposes of this subdivision,

"acceptance of the common portions" means the act whereby a building professional chosen by the syndicate of co-owners declares the date of the end of the work on those portions. That acceptance takes place following receipt of a notice of the end of work sent by the contractor to each known beneficiary and to the syndicate of co-owners; (*réception des parties communes*)

"acceptance of the private portion" means the act whereby the beneficiary declares that he accepts the private portion which is ready to be used for its intended purpose and on which some work is to be completed or corrected, where applicable; (*réception de la partie privative*)

"common portions" means those that are part of the building and that are listed in the constituting act of co-ownership or, in the absence of specific provisions in that act, those listed in article 1044 of the Civil Code of Québec; (*parties communes*)

"completion of the work" means completion of the work related to the building and provided for in the original contract entered into between the beneficiary and the contractor, and completion of the additional work agreed to in writing between the parties; (*parachèvement des travaux*)

"end of the work on the common portions" means the date on which all the contractor's work agreed upon in writing with the beneficiary and pertaining to the common portions is completed and the building is ready to be used for its intended purpose; (*fin des travaux des parties communes*)

"end of the work on the private portions" means the date on which all the contractor's work agreed upon in writing with the beneficiary and pertaining to his private portion is completed or, at the latest, the date of the end of the work on the common portions. (*fin des travaux des parties privatives*)

26. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations before acceptance of the private portion and the common portions, shall cover,

(1) in the case of a contract of sale,

(a) either the partial payments by the beneficiary; or

(b) completion of the work, where the beneficiary holds the ownership titles and where an agreement to that effect is entered into with the manager;

(2) in the case of a contract of enterprise,

(a) either the partial payments by the beneficiary, provided that no unjustified profit for the latter results therefrom; or

(b) completion of the work; and

(3) the relocation, moving and storage of the beneficiary's property where

(a) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor, unless the partial payments are reimbursed; or

(b) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor so that the manager may complete the building.

27. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations after acceptance of the private portion and the common portions, shall cover

(1) completion of the work, of which notice is given in writing at the time of acceptance of the private portion;

(2) repairs to apparent defects or poor workmanship as described in article 2111 of the Civil Code of Québec, of which notice is given in writing at the time of acceptance;

(3) repairs to non-apparent poor workmanship existing at the time of acceptance or discovered within 1 year after acceptance as provided for in articles 2113 and 2120 of the Civil Code of Québec, and of which notice is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the poor workmanship;

(4) repairs to latent defects within the meaning of article 1726 or 2103 of the Civil Code of Québec which are discovered within 2 years following acceptance and of which notice is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the latent defects within the meaning of article 1739 of the Civil Code of Québec; and

(5) repairs to faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec, which appear within 5 years following the end of the work on the common portions and of which notice is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months after the discovery or occurrence of the defect or, in the case of gradual defects or vices, after their first manifestation.

Failure to comply with accepted practice or with a standard in force applicable to the building constitutes poor workmanship, unless such failure does not affect the quality, safety or use of the building.

28. Where the manager intervenes to complete or correct work related to a building, the beneficiary shall have any sum still owing kept by his financial institution or pay such sum into a trust account with an advocate, a notary or the manager of the plan for the final payment of the work that will be carried out by the manager to complete or correct the work provided for in the original contract or the additional work provided for in any written agreement entered into with the contractor.

II. **Exclusions from the Guarantee**

29. The guarantee excludes

(1) repairs to defects in the materials and equipment supplied and installed by the beneficiary of a private portion;

(2) repairs made necessary by normal behaviour of materials, such as cracks or shrinkage;

(3) repairs made necessary by a fault of the beneficiary such as inadequate maintenance or misuse of the building, as well as alterations, deletions or additions made by the beneficiary;

(4) deterioration brought about by normal wear and tear;

(5) repairs made necessary following an event of force majeure, such as an earthquake, a flood or exceptional climatic conditions;

(6) repairs to damage resulting from the contractor's extra-contractual civil liability;

(7) repairs to damage resulting from contaminated soil, including replacement of the soil itself;

(8) the obligation to supply the building with natural gas or electricity;

(9) parking areas or storage rooms located outside the building containing the dwelling units, and any works outside the building such as swimming pools, earthwork, sidewalks, driveways or surface water drainage systems;

(10) promises of a vendor concerning costs for use or energy consumption of appliances, systems or equipment included in the construction of a building; and

(11) claims from the persons who contributed to the construction of the building.

However, the exclusions as provided for in subparagraphs 2, 5 and 7 do not apply if the contractor failed to comply with accepted practice or with a standard in force applicable to the building.

III. **Limits of the Guarantee**

30. The guarantee of a plan for a building held in divided co-ownership is limited to,

(1) for partial payments, $30 000 per fraction provided for in the declaration of co-ownership;

(2) for coverage for relocation, moving and storage, on presentation of vouchers and provided that no unjustified profit for the beneficiary results therefrom, $5 000 per fraction provided for in the declaration of co-ownership, as follows:

(a) reimbursement of reasonable actual costs incurred for moving and storage;

(b) reimbursement of reasonable actual costs incurred for relocation, including meals and accommodation, without exceeding, on a daily basis:

— for 1 person:	$75;
— for 2 persons:	$100;
— for 3 persons:	$125;
— for 4 persons or more:	$150;

(3) for completion and repair of defects and poor workmanship to a detached, semi-detached or row-type single-family dwelling, the amount entered in the contract of enterprise or in the contract of sale, without ever exceeding $200 000;

(4) for completion and repair of defects and poor workmanship to a a multifamily building, the lesser of

(a) the total amount of the purchase price of the fractions contained in the building or the total amount entered in the contract of enterprise;

(b) an amount equal to $100 000 multiplied by the number of private portions contained in the building, without exceeding $2 000 000 per building; or

(5) for coverage for the obligation to supply water, both in quantity and quality, in the event that repairs are impossible, the amount of the damages suffered by the beneficiary, without ever exceeding the lesser of the two amounts mentioned in paragraph 3; coverage applies in the case of a contract of enterprise, provided that the obligation is included in the contract entered into between the beneficiary and the contractor.

31. The guarantee of a plan applies only to a private portion that has no beneficiary at the end of the work, provided that acceptance of the private portion occurs within 24 months after the end of the work.

However, that guarantee is limited to the guarantee pertaining to

(1) apparent defects and poor workmanship;

(2) existing non-apparent poor workmanship within the meaning of articles 2113 and 2120 of the Civil Code of Québec, for which the guarantee is calculated from the end of the work on the common portions;

(3) latent defects within the meaning of article 1726 or 2103 of the Civil Code of Québec, for which the guarantee is calculated from the time of acceptance of the private portion but shall never exceed 2 years following the end of the work on the common portions; and

(4) faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec, for which the guarantee is limited to the remaining term of the guarantee.

32. The guarantee of a plan is transferable to a subsequent purchaser who is a beneficiary within the meaning of the guarantee, for the remaining term of the guarantee, even if that beneficiary acquired the private unit from a syndic, a municipality or a hypothecary lender.

IV. **Implementation of the Guarantee**

33. Each private portion covered by the guarantee shall be inspected before it is accepted. The contractor and the beneficiary shall carry out the inspection together, using a pre-established list of items to be checked. Such list shall be supplied by the manager. The beneficiary may be assisted by a person of his choice.

The inspection shall be deferred where acceptance of the private portion takes place after the end of the work on the common portions.

The common portions covered by the guarantee shall be inspected before they are accepted. The contractor, the building professional chosen by the syndicate of co-owners and the latter shall carry out the inspection using a pre-established list of items to be checked. Such list shall be supplied by the manager.

34. Any claim made under the guarantee plan is subject to the following procedure:

(1) within the guarantee period of 1, 2 or 5 years, as the case may be, the beneficiary shall give notice to the contractor in writing of the construction defect found and send a copy of that notice to the manager in order to suspend the prescription;

(2) at least 15 days after notice by the beneficiary has been sent, the beneficiary shall notify the manager in writing if he is unsatisfied with the contractor's intervention or if the contractor has failed to intervene; he shall pay to the manager fees in the amount of $100 for opening the file. Those fees shall be reimbursed to him if the decision to be rendered is in his favour, in whole or in part, or if an agreement is entered into between the parties concerned;

(3) within 15 days after receipt of the notice prescribed in paragraph 2, the manager shall ask the contractor to intervene and to inform him, within 15 days, of the measures he intends to take to remedy the situation of which the beneficiary has given notice;

(4) within 15 days after the expiry of the period granted to the contractor in paragraph 3, the manager shall carry out an inspection on the premises;

(5) within 20 days following the inspection, the manager shall produce a detailed written report stating whether or not the matter has been settled and shall send a copy thereof by registered mail to the parties concerned;

(6) where the claim has not been settled, the manager shall decide on the claim and, where applicable, shall order the contractor to correct the work within the period he indicates which has been agreed upon with the beneficiary;

(7) where the contractor fails to correct the work and the manager's decision is not contested in arbitration by one of the parties, the manager shall take charge of the corrections within the period agreed upon with the beneficiary, in particular, where appplicable, by preparing a corrective specification, by calling for tenders, by choosing contractors and by supervising the work.

V. **Remedy**

35. A beneficiary or contractor who is dissatisfied with a decision of the manager shall, in order for the guarantee to apply, submit the dispute to arbitration within 15 days following receipt by registered mail of the manager's decision.

36. The beneficiary, contractor and manager are bound by the decision as soon as it is rendered by the arbitrator.

The arbitrator's decision is final and not subject to appeal.

37. The arbitration fees are shared equally between the plaintiff and the manager.

38. Where applicable, the arbitrator shall decide on the amount of reasonable fees for a relevant expert's report to be reimbursed to the plaintiff by the manager, where the plaintiff wins the case in whole or in part.

39. The expenses incurred by the beneficiary, contractor and manager are borne by each one of them.

40. A manager who compensates a beneficiary under this subdivision is subrogated in his rights up to and including the sums he has paid.

CHAPTER III
MANAGER OF THE GUARANTEE PLAN

DIVISION I
QUALIFICATIONS REQUIRED OF THE MANAGER

41. Only a person having the status of legal person whose sole purpose is to manage financial guarantees within the meaning of Chapter V of the Building Act may obtain authorization from the Board to manage an approved plan.

42. Authorization from the Board is granted to a legal person meeting the following conditions:

(1) none of its directors or officers lends his name to another person;

(2) where applicable, it has been discharged if it was declared bankrupt less than 3 years ago;

(3) it has not been issued a winding-up order;

(4) neither it nor any of its directors or officers has, in the 5 years preceding the application, been convicted of an indictable offence triable only on indictment and connected with the business of manager, unless it or he has obtained a pardon;

(5) none of its directors or officers has been a director or an officer of a partnership or legal person which has, in the 5 years preceding the application, been convicted of an indictable offence triable only on indictment and connected with the business of manager, unless it or he has obtained a pardon;

(6) none of its directors or officers was a director or an officer of a partnership or legal person in the 12 months preceding the latter's bankruptcy occurring less than 3 years ago;

(7) none of its directors or officers has been a director or an officer of a manager whose authorization by the Board was withdrawn less than 3 years ago under section 83 of the Building Act;

(8) its organization structure provides that its directors, officers and key staff called on to participate in decision-making are recruited from among persons who, because of their activities, could make a special contribution to the management of the guarantee plan, and that at least 3 of those persons are from the field of consumer affairs, from financial institutions and from government;

(9) its internal by-laws concerning conflict of interest in particular and applying to persons acting within its organization structure are equivalent to the rules set out in articles 1310 and following of the Civil Code of Québec. Those rules stipulate, among other things, that no contractor may have access, at any time, to nominative information of a fiscal nature or to other information contained in the file of a peer; and

(10) its fiscal year is the calendar year.

DIVISION II
CONDITIONS TO BE FULFILLED BY THE MANAGER

§1. *Documents and Information*

43. A legal person applying for authorization to manage an approved plan shall supply the Board with

(1) its name, address and principal establishment and, where applicable, a copy of the registration of the declaration of corporate name as well as the name, address of domicile, date of birth, social insurance number and telephone number of all its directors and officers and of the person responsible for its operations in Québec, where applicable;

(2) information concerning its legal structure, a certified true copy of its deed of incorporation and any amendments thereto;

(3) any judgment delivered against it or any of its directors or officers, in the 5 years preceding the application, for an indictable offence triable only on indictment and connected with the business of manager, unless it or he has obtained a pardon;

(4) 2 copies of its guarantee plan and of its guarantee contract;

(5) the security prescribed in section 58, a certificate of insurance coverage required under section 62 or any other equivalent guarantee, and a certified true copy of the text of any insurance or equivalent guarantee prescribed in section 47, in the second paragraph of section 48 and in section 63;

(6) the inspection program and the pre-established list of items to be checked, provided for in sections 68 and 69;

(7) for the first 3 years of operation, a business plan as defined in the dictionary of accounting and financial management entitled Dictionnaire de la comptabilité et de la gestion financière, by L. Ménard *et al.*, Canadian Institute of Chartered Accountants, Ordre des experts comptables-France, Institut des Réviseurs d'Entreprise-Bélgique, 1994;

(8) a copy of its internal by-laws; and

(9) financial forecasts prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, including an actuary's opinion on the assumptions used in their preparation.

It shall also supply the Board with a statement signed by an officer generally or specifically authorized for that purpose certifying

(1) that the officer is filing the application for authorization on behalf of the legal person;

(2) that neither the legal person nor any of its directors or officers is in any of the situations specified in paragraph 2, 3, 4, 5, 6 or 7 of section 42, where applicable; and

(3) that the legal person undertakes to pay, before the beginning of its operations, the contribution indicated in section 47.

§2. Management

44. Except in the case of a legal person constituted for the sole purpose of managing an approved plan, the manager shall manage the approved plan separately from his other business and, in particular, keep separate accounts and bank transactions.

45. For that purpose, the manager shall post separately and identifiably, in the financial statements of the approved plan, the portion of his general or other expenses allotted to the approved plan.

46. Subject to section 49, any sum received by the manager in consideration of a guarantee contract and the income generated by those sums shall be deposited in separate bank accounts or be invested in bonds or other debt securities issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, the International Bank for Reconstruction and Development, a municipality or a school board in Canada or a fabrique in Québec, or in deposit accounts or deposit certificates of a financial institution for a term not to exceed 5 years.

§3. Solvency

47. The manager shall, before the beginning of his operations, pay a contribution of $1 500 000. If he undertakes to obtain and to keep in force additional insurance or any other equivalent guarantee of at least $1 000 000 over and above the reserve account, the contribution that he shall pay is $500 000.

48. The manager shall maintain an excess amount of assets over liabilities at least equal or superior to the contribution prescribed in section 47 or to the aggregate of

(1) the amount obtained by multiplying the provision for outstanding claims provided for in section 56 by 15 %; and

(2) the amount obtained by multiplying the reserve provided for in section 54 and the additional sum provided for in section 57 by 15 %.

The percentage of 15 % referred to in subparagraphs 1 and 2 of the first paragraph shall be reduced to 5 % if the manager holds additional insurance or any other equivalent guarantee of at least $1 000 000 over and above the reserve account or of 10 % of that account, covering the obligations that he assumes for the duration of the coverage provided by the guarantee certificate already obtained.

The amount by which assets exceed liabilities may be used only for the purposes of the approved plan.

49. The manager shall keep, at all times, in a separate trust account called “reserve account”, sums or investments sufficient to guarantee the obligations resulting from the approved plan.

50. For that purpose, the manager shall immediately deposit in the reserve account, according to the classes of buildings concerned, the amounts indicated in the table appearing in Schedule I. Those amounts shall in no case be less than 60 % of any sum received in consideration of a guarantee certificate issued under the approved plan.

51. The reserve account may be used by the manager only for one of the following purposes:

(1) to pay a claim originating from a guarantee certificate issued under the approved plan for which a sum was deposited in that account under section 50;

(2) to reimburse the sums due to the contractor following the cancellation of a guarantee certificate for which a sum was deposited in that account under section 50;

(3) to pay the external claims settlement costs related to a claim originating from a guarantee certificate for which a sum was deposited in that account under section 50; or

(4) to pay the internal claims settlement costs directly related to a claim originating from a guarantee certificate for which a sum was deposited in that account under section 50.

However, where, at the end of each fiscal year, the reserve account exceeds the actuarial reserve referred to in section 56, the excess amount may be used by the manager for other purposes than those specified in the first paragraph.

52. Where the reserve account is entrusted to a depositary in the form of a deposit, the term and other conditions are determined in accordance with the agreement between the manager and the depositary. The term agreed upon may not, however, exceed 5 years.

53. Where the depositary of the reserve account is a trust company, the manager may also choose the investments to be made with those funds. In that case, the

funds may be invested only by the trust company and only in bonds or other debt securities issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, the International Bank for Reconstruction and Development, a municipality or a school board in Canada or a fabrique in Québec, or in deposit accounts or deposit certificates of a financial institution for a term not to exceed 5 years.

All income from the reserve account shall be paid at least annually.

54. The minimum reserve to be kept at the end of each of the manager's fiscal years in the reserve account shall never be less than the following percentages of the reserve provided for in section 50, based on the time elapsed since the issue of the guarantee certificate:

Time elapsed since the issue of guarantee certificate	Percentage
(1) less than 1 year	95 %
(2) 1 year or more but less than 2 years	85 %
(3) 2 years or more but less than 3 years	75 %
(4) 3 years or more but less than 4 years	65 %
(5) 4 years or more but less than 5 years	50 %
(6) 5 years or more but less than 6 years	25 %
(7) 6 years or more	0 %.

55. The reserve account, including the assets held in respect of the provisions referred to in section 56, are non-transferable and non-seizable.

56. The manager and his actuary shall ensure that they establish an actuarial reserve consisting of the minimum reserve referred to in section 54, of an additional reserve over and above that minimum reserve where the actuary is of the opinion that the minimum reserve does not constitute a good and sufficient provision to guarantee the obligations resulting from the guarantee certificate issued by the manager, and of a good and sufficient provision for outstanding claims, which are claims submitted and not settled and claims incurred but not reported.

57. The manager shall, where applicable, deposit in the reserve account an additional sum equal to the difference between the actuarial reserve and the amount of the reserve account.

§4. Security

58. The manager shall furnish security in the amount of $ 50 000.

59. The security may, among other things, be in cash or in bonds or other debt securities issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, a municipality or a school board in Québec.

60. The security shall be kept by the Board, either to compensate the beneficiaries of the approved plan where the manager or his insurer fails to perform the obligations resulting from the plan, or to reinsure the obligations of the plan where the interest of the beneficiaries so requires.

However, interest on the security shall remain payable to the manager or shall be credited to the manager.

61. The manager may withdraw or replace the bonds and other debt securities making up his security, provided that the security remains in compliance with this Regulation.

§5. Insurance

62. The manager shall obtain and keep in force insurance or any other equivalent guarantee to cover the obligations he assumes during the entire duration of coverage of the guarantee certificates, and shall send confirmation thereof to the Board.

63. The manager shall file with the Board a true copy of the text of any insurance or equivalent guarantee invoked to reduce in any way the amount of the contribution established in accordance with this Regulation. The insurance or the equivalent guarantee shall be acceptable to the Board.

§6. Annual Report

64. The manager shall, no later than 4 months after the end of each fiscal year, supply the Board with an annual report of the approved plan stating its situation.

The annual report shall include financial statements for the plan's latest fiscal year, financial statements that shall be prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards.

The annual report shall also be accompanied by experience data sent on a form supplied by the Board.

The annual report shall also include the actuary's report and the changes made during the fiscal year to the guarantee plan and to the guarantee contract.

The actuarial reserve appearing in the financial statements shall be certified by an actuary to the effect that it constitutes a provision which is good and sufficient to guarantee the obligations resulting from the guarantee certificates issued by the manager. Otherwise, the financial statements shall indicate which amount should be deposited in the reserve account in order to constitute a provision which is good and sufficient, in accordance with the actuary's report certifying that it was calculated on the basis of adequate assumptions with regard to the manager's financial situation and the contracts he concludes.

Every 3 years, the annual report shall also include, for the following 3 years of operation, a business plan as defined in the Dictionnaire de la comptabilité et de la gestion financière by L. Ménard *et al.*, Canadian Institute of Chartered Accountants, Ordre des experts comptables-France, Institut des Réviseurs d'Entreprise-Bélgique, 1994.

65. Where the funds accumulated in the reserve account represent an amount less than that which is declared to constitute a good and sufficient provision by the actuary's certificate, the manager shall, before filing the financial statements of the approved plan, deposit in the reserve account a sum equal to the difference.

§7. Other Conditions

66. Any decision by the manager to refuse or cancel the contractor's membership in the approved plan shall be in writing and give reasons therefor.

67. The manager is subject to the arbitration procedure determined by this Regulation where the contractor contests a decision by the manager to refuse or cancel his membership in the approved plan, or where a person contests a decision of the manager concerning a claim.

He shall also, without delay, send to the arbitration body the file on the decision that is subject to arbitration.

68. The manager shall, to ensure implementation of the approved plan, establish an inspection program including the various construction steps of a building and taking into account, in particular, the experience of the contractors, the nature of the construction projects and the categories of the buildings concerned.

69. The manager shall supply each contractor with a pre-established list of items to be checked, adapted to the class of building concerned, for the purposes of inspection prior to acceptance.

70. The manager shall immediately send to the Board any information which could call into question the issue, validity or renewal of a contractor's licence.

71. The manager shall ensure that the contractors receive training with regard to the content of the approved plan and the contract resulting therefrom.

72. The manager shall draw up and keep updated a register indicating, for each contractor, the class of building covered by the guarantee, the address of the construction site and the arbitration awards concerning the contractor.

The register is public and may be consulted free of charge during the manager's business hours.

The manager shall issue to any person who so requests a copy or an excerpt of the register, in consideration of expenses not exceeding the cost of its reproduction and transmission.

73. The manager shall, with regard to the confidentiality of information communicated to him by such persons as contractors, bankers or consumers, comply with the Act respecting the protection of personal information in the private sector (R.S.Q., c. P-39.1).

On the beneficiary's request, the manager shall provide access to the file concerning the beneficiary's building which may include, among other things, reports concerning inspection, intervention, observed defects and remedies thereto, plans and specifications, experts' opinions used for the manager's report and other similar documents.

74. For the purposes of this Regulation, the manager shall, where the contractor is absent or fails to intervene, assume each and every obligation of the contractor within the scope of the approved plan.

CHAPTER IV
STANDARDS AND CRITERIA OF GUARANTEE PLANS AND OF GUARANTEE CONTRACTS

75. In addition to the guarantee requirements set out in Chapter II, the guarantee plan shall include the standards and criteria prescribed in Divisions I and II of this Chapter.

76. No guarantee contract may be offered unless it complies with the rules established in Division III of this Chapter and is approved by the Board.

77. No change may be made to a guarantee contract unless the change complies with the rules established in Division III of this Chapter.

DIVISION I
MEMBERSHIP OF THE CONTRACTOR

78. To join a guarantee plan and obtain a certificate of accreditation, a person shall

(1) complete an application for membership on the form supplied by the manager and return the form to the manager;

(2) satisfy the financial criteria prescribed in this Division;

(3) sign the membership agreement supplied by the manager and setting forth the obligations listed in Schedule II;

(4) hold security in the amount of $30 000 against fraud, embezzlement or misappropriation of funds;

(5) submit complete financial statements audited or accompanied by a review engagement report and drawn up by an accountant. Those statements shall be dated and signed by a person in authority. In addition, financial statements shall be dated no later than 4 months after the end of the undertaking's fiscal year;

(6) produce a document certifying that the shareholders, directors and guarantors have been discharged from any personal bankruptcy and have not been involved in the bankruptcy of a construction firm for at least 3 years;

(7) produce the personal balance sheet of each director, shareholder, guarantor and partner, duly completed, dated and signed;

(8) declare all his obligations towards third parties and towards affiliates or other companies, such as a legal hypothec or security towards third parties;

(9) produce a certified true copy of the deed of incorporation of his undertaking;

(10) pay the membership fees required by the manager; and

(11) produce a document certifying that he has applied to the Board for a contractor's licence.

79. The manager shall be notified of the amalgamation, sale or assignment of a partnership or legal person, or of a change to its corporate name, name, board of directors or officers within 30 days of the event.

80. The manager shall issue a certificate of accreditation if the conditions prescribed in this Chapter are met.

81. The manager shall remain the owner of the certificate of accreditation.

The holder of a certificate shall not transfer it.

82. The holder of a valid certificate of accreditation shall display that certificate in a conspicuous place at his principal establishment in Québec.

83. The holder of a certificate of accreditation who ceases to be entitled thereto shall notify the manager thereof in writing within 30 days following the date on which his entitlement ends.

§1. General Membership Conditions for All Buildings

I. **Type A Undertaking** (An undertaking working, in whole or in part, in the construction of residential buildings for less than 4 years)

84. Such an undertaking shall

(1) hold security of a minimum value of $50 000 in the form of

(a) personal security;

(b) a letter of guarantee from a bank;

(c) a hypothecary guarantee; or

(d) security of a third person;

(2) supply interim financial statements every 4 months;

(3) supply, on a monthly basis, the statement of accounts receivable and accounts payable;

(4) meet the following financial criteria, where it is possible to calculate them:

(a) working capital ratio	1.15;
(b) debt/equity ratio	75 %;
(c) net worth (10 % of sales)	10 %;

(d) gross earnings 18 %;

(e) net earnings 5 %.

All the above financial criteria shall be calculated using the average obtained over the last 3 years; and

(5) where an undertaking possesses affiliates or related companies, the manager may require a consolidated balance sheet or financial statements from each of those companies.

In this subdivision, the financial criteria shall have the meaning given to them in the Dictionnaire de la comptabilité et de la gestion financière by L. Ménard *et al.*, Canadian Institute of Chartered Accountants, Ordre des experts comptables-France, Institut des Réviseurs d'Entreprise-Belgique, 1994.

II. **Type B Undertaking** (An undertaking working, in whole or in part, in the construction of residential buildings for not less than 4 years)

85. Such an undertaking shall

(1) hold security of a minimum value of $50 000 in the form of

(a) personal security;

(b) a letter of guarantee;

(c) a hypothecary guarantee; or

(d) security of a third person;

(2) meet the following financial criteria:

(a) working capital ratio 1.15;

(b) debt/equity ratio 75 %;

(c) net worth (10 % of sales) 10 %;

(d) gross earnings 18 %;

(e) net earnings 5 %.

All the above financial criteria shall be calculated using the average obtained over the last 3 years; and

(3) where an undertaking possesses affiliates or related companies, the manager may require a consolidated balance sheet or financial statements from each of those companies.

***§2**. Additional Membership Conditions for Multifamily Buildings Not Held in Divided Co-ownership and Comprising More than 5 Dwelling Units*

86. An undertaking planning to work on multifamily buildings not held in divided co-ownership and comprising more than 5 dwelling units shall also supply the manager with

(1) a certificate of financing;

(2) plans of architecture, structure, mechanics and electricity with a seal and approved by the municipality;

(3) a complete ground analysis;

(4) a follow-up and a certificate of conformity by recognized professionals;

(5) a copy of the building permit issued by the municipality; and

(6) a copy of the preliminary contracts.

***§3**. Additional Membership Conditions for Multifamily Buildings Held in Divided Co-ownership of a Building Height of Less than 4 Stories and Comprising More than 5 Private Units*

87. An undertaking planning to work on multifamily buildings held in divided co-ownership of a building height of less than 4 stories and comprising more than 5 private units shall also supply the manager with

(1) a certificate of financing;

(2) plans of architecture, structure, mechanics and electricity with a seal and approved by the municipality;

(3) a complete ground analysis;

(4) a copy of the memorandum provided for in article 1787 and following of the Civil Code of Québec;

(5) a copy of the building permit issued by the municipality; and

(6) a copy of the preliminary contracts.

88. Where an undertaking fails to meet the requirements set forth in sections 84 to 87 or when it is impossible to calculate the financial criteria set forth in subparagraph 4 of the first paragraph of section 84, the manager may require any other condition for the same purposes.

§4. Term of Membership

89. Membership is valid for 1 year.

Notwithstanding the first paragraph, the term of membership of a person who already holds a licence issued under the Building Act corresponds to the remaining duration of the licence thus amended.

90. Membership takes effect only from the date on which the Board issues the appropriate licence to the contractor.

§5. Renewal of Membership

91. The contractor's membership is renewed if he sends to the manager, at least 30 days before the expiry date of his membership, an application for renewal demonstrating that he meets the conditions prescribed in this Regulation to obtain a certificate of accreditation and if he pays the fees required by the manager.

92. An application for renewal may be received after the period prescribed in section 91 but before the expiry date of the membership if the contractor demonstrates that he had a valid reason not to comply with that section.

§6. Cancellation of Membership

93. The manager may cancel a membership where the contractor is in any of the following situations:

(1) he no longer meets one of the conditions prescribed in this Regulation to obtain a certificate of accreditation;

(2) he is reticent or makes a false declaration;

(3) he fails to pay fees for membership, membership renewal or registration;

(4) his constructions fail to meet the quality criteria required by the manager;

(5) he fails to carry out the repairs required in accordance with the manager's requirements;

(6) the manager was required to make a payment following the contractor's failure to perform his obligations pertaining to reimbursement of partial payments, to completion of the work and to the guarantee against defects and poor workmanship, faulty design, construction or production of the work, or the unfavourable nature of the ground;

(7) he does not do business with contractors licensed by the Board;

(8) where the contractor is a legal person, one or more of its shareholders, directors or officers has or have been, at any time whatsoever, shareholders, directors or officers of another accredited or formerly accredited legal person having failed to perform the obligations required of it under a membership agreement; or

(9) he fails to send the documents required by the manager or to furnish the guarantees or security required by the manager under this Regulation.

94. The contractor's membership is invalid once the contractor no longer holds the appropriate contractor's licence issued by the Board.

95. On the death of a holder of a certificate of accreditation, the executor, heir or legatee, the liquidator of the succession or the deceased's legal representative may continue his activities for up to 90 days from the date of the death.

§7. Special Provisions

96. The rights of the beneficiary are not affected by the cessation of effect of the contractor's membership.

97. A beneficiary who has entered into a contract for the sale or construction of a building provided for in section 2 with a contractor who is a member of an approved plan but who does not hold the appropriate certificate of accreditation does not lose the benefit of the guarantee applicable to that building.

DIVISION II
ARBITRATION

§1. Application for Arbitration

98. Any dispute pertaining to the manager's decision concerning a claim or the refusal or cancellation of the contractor's membership shall be dealt with exclusively by the arbitrator appointed under this Division.

The interested parties who apply for arbitration are,

(1) for a claim, the beneficiary or the contractor; and

(2) for membership, the contractor.

An application for arbitration concerning the cancellation of a contractor's membership shall not suspend the enforcement of the manager's decision, unless the arbitrator decides otherwise.

99. An application for arbitration shall be sent to an arbitration body authorized by the Board within 15 days following receipt by registered mail of the manager's decision. The body shall appoint an arbitrator from a list of persons drawn up by it beforehand and sent to the Board.

100. As soon as the arbitration body receives an application for arbitration, it shall notify the other interested parties and the manager.

101. As soon as that notice is received, the manager shall send to the arbitration body the file on the decision that is subject to arbitration.

102. As soon as the arbitrator is appointed, the arbitration body shall give the interested parties the explanatory document prescribed in paragraph 6 of section 120.

103. Before or during the arbitration proceedings, an interested party or the manager may request provisional measures, provided that they are binding only on the beneficiary, the contractor and the manager concerned.

§2. Arbitrators

104. Only natural persons with experience in guarantee plans or having the required professional training in matters related to the questions raised by the arbitration, such as in finance, accounting, construction techniques or law, may be accredited as arbitrators with the arbitration body.

105. If the arbitrator is unable to fulfil his mission or fails to perform his duties within the periods prescribed, an interested party or the manager may address the arbitration body for revocation of the arbitrator's mandate.

106. A decision on the recusation or revocation of an arbitrator is final and is not subject to appeal.

107. In the case of an arbitrator's recusation, revocation, death or incapacity to act, the arbitration body shall replace him by a new arbitrator who shall decide on the resumption or continuation of the hearing. The new arbitrator shall act within the periods prescribed in sections 109 and 114.

108. An arbitrator shall decide in accordance with the rules of law; he shall also appeal to fairness where circumstances warrant.

§3. Hearing

109. The hearing of an application for arbitration shall begin within 30 or 15 days of its receipt, depending on whether the application concerns a claim or membership.

110. The arbitrator shall give to the interested parties and to the manager or to their representatives at least 5 days' notice in writing of the date, time and place of the hearing and, where applicable, notice of the date on which he will inspect the property or visit the premises.

111. The following questions shall be referred to the ordinary courts:

(1) the imposition of a conservatory measure with regard to a third party;

(2) the issue of a mandate against a witness compelled to give evidence but refusing to appear;

(3) the case of an unwilling witness;

(4) the homologation of an arbitration award.

§4. Arbitration Award

112. An arbitration award, once it is made, is binding on the interested parties and on the manager.

An arbitration award is final and not subject to appeal.

113. An arbitration award shall not be put into compulsory execution unless it has been homologated in accordance with the procedure prescribed in articles 946 to 946.6 of the Code of Civil Procedure (R.S.Q., c. C-25).

114. An arbitration award in writing and giving reasons therefor shall be sent to the interested parties and to the manager within 30 or 15 days following the date of the end of the hearing, depending on whether the decision concerns a claim or membership.

The interested parties may agree to an additional period.

115. The plaintiff and the manager shall assume payment of arbitration fees in equal shares.

However, where the dispute concerns an application for membership, arbitration fees shall be assumed by the party losing the case.

Only the arbitration body may draw up an account of arbitration fees for payment thereof. That account shall be paid before the execution of the arbitration award begins.

116. The arbitrator shall, where applicable, decide on the amount of reasonable fees for a relevant expert's opinion to be reimbursed by the manager to the plaintiff where the latter wins the case in whole or in part.

This section does not apply to a dispute concerning the contractor's membership.

117. Expenses incurred by the interested parties and by the manager for the arbitration shall be borne by each one of them.

118. The arbitration body shall keep the arbitration files for 2 years from the filing of the arbitration award or, in case of a legal challenge of that decision, until the final decision of a court of justice disposing thereof.

§5. Arbitration Body

119. Only a body devoted entirely to the arbitration of disputes may be authorized by the Board to organize the arbitration provided for in this Regulation.

120. Authorization of the Board is granted to a body meeting the following conditions, in addition to the conditions provided for by the Act:

(1) it has a mechanism for updating the list indicating each arbitrator's area of expertise and available to any interested person on request;

(2) it has a permanent program for training arbitrators on the content of the guarantee plan such as the guarantees themselves and related notions of civil law, the terms and conditions of contractors' membership in the plan and the arbitration procedure;

(3) it has a code of ethics applicable to arbitrators;

(4) it has an arbitration service accessible in each administrative region of Québec, with arbitrators living in each region, except in special circumstances;

(5) it has an accelerated arbitration procedure consisting of, in addition to the rules prescribed in this Division, provisions concerning

(a) the application for arbitration;

(b) the preparation of the file;

(c) the appointment, competence and powers of the arbitrator;

(d) the obligation of the arbitrator to inform the parties; and

(e) the order of the arbitration procedures, in particular the periods, the recusation and revocation of the arbitrator, the summoning of witnesses and the arbitration award; and

(6) it has an explanatory document concerning the arbitration procedure, in particular with regard to

(a) the right of the interested parties to be represented by a person of their choice;

(b) the rules of procedure and of evidence to be followed;

(c) the procedure for summoning witnesses and experts;

(d) the possibility of inspecting the property or visiting the premises;

(e) the recording of an agreement between the beneficiary, the contractor and the manager or of discontinuance in an arbitration award; and

(f) the procedure for homologating an arbitration award.

121. The arbitration body shall ensure that the interested parties have produced all the necessary documents in support of their application or defense and that the arbitrator has a complete file.

122. The arbitration body shall provide administrative support for the arbitrators' activities, with due respect for the autonomy and independence of each of its arbitrators.

123. The arbitration body shall publish annually a compilation of arbitration awards made under this Division.

DIVISION III
RULES PERTAINING TO GUARANTEE CONTRACTS

124. In addition to the text of the guarantee prescribed in subdivision 1 or 2 of Division II of Chapter II, where applicable, the guarantee contract shall include

(1) the names and addresses of the beneficiary and the contractor;

(2) the number of the contract, its date, and the address of the place where it is signed by the contractor;

(3) a description of the building covered by the guarantee;

(4) the manager's name, address, and telephone and fax numbers;

(5) the contractor's accreditation number and licence number; and

(6) the compulsory nature of the guarantee.

125. The guarantee contract shall indicate that its content has been approved by the Régie du bâtiment du Québec and specify the number and date of the Board's decision.

126. The guarantee contract shall be drawn up clearly and legibly, at least in duplicate. It shall be typed or printed.

127. The contractor's signature shall be affixed on the last page of the copies of the guarantee contract following all the stipulations.

128. The signature affixed by the contractor is binding on the manager.

129. The contractor shall give a copy of the duly signed guarantee contract to the beneficiary and send a copy thereof to the manager.

130. The beneficiary is required to perform his obligations set forth in the contract entered into with the contractor only from the time he is in possession of a copy of the duly signed guarantee contract.

131. Any clause of a guarantee contract that is irreconcilable with this Regulation is void.

132. The beneficiary may not, by special agreement, waive the rights granted to him by this Regulation.

CHAPTER V
FINAL PROVISIONS

133. Only those buildings for which the preliminary contract or the contract of enterprise is signed between a beneficiary and an accredited contractor whose construction work begins from the date of coming into force of this Regulation are covered by the guarantee.

134. Once approved by the Government, this Regulation will come into force on the date or dates determined by the Government.

However, for the purposes of section 85 of the Building Act, this Regulation is deemed to come into force on the day of its publication in the *Gazette officielle du Québec*.

SCHEDULE I
(s. 50)

INITIAL RESERVE

Buildings covered	**Initial reserve, in dollars per guarantee certificate**
Detached, semi-detached or row-type single-family dwelling, held or not held in divided co-ownership;	
Multifamily building from a duplex to a quintuplex, not held in divided co-ownership;	475
Multifamily building comprising more than 5 dwelling units and held by a non-profit organization or a cooperative, not held in divided co-ownership.	
Multifamily building of a building height of less than 4 stories, held in divided co-ownership.	700

SCHEDULE II
(s. 78)

OBLIGATIONS OF THE CONTRACTOR

The contractor shall undertake

(1) to meet the membership criteria required by the manager under a regulation of the Régie du bâtiment du Québec respecting the guarantee plan for new residential buildings;

(2) to notify the manager that notice of intention or of a proposition has been filed in respect of an insolvent person under section 65.1 of the Bankruptcy and Insolvency Act (R.S.C. (1985) c. B-3);

(3) to comply with accepted practice or with a standard in force applicable to the building;

(4) without restricting his liability under the laws in force in Québec, to honour the guarantee required of him under the guarantee plan approved by the Board and, where applicable, to complete the work or to repair the defects and poor workmanship covered by the guarantee, once the manager is of the opinion that a claim is founded, except in the case of a dispute;

(5) to compensate the manager for any loss incurred or to reimburse any payment he has made following his failure to honour the guarantee required of him under the guarantee plan;

(6) to register with and pay immediately to the manager the premium specified for each class of building upon the occurrence of the first of the following events:

(a) the signing of the preliminary contract or the contract of enterprise;

(b) the issue of the building permit; or

(c) the beginning of construction work on the building covered;

(7) to perform each and every obligation required of him by the manager as part of the guarantee plan for any building covered, whether or not the building is registered with the manager;

(8) to give notice to the manager, on the form supplied by him, of each and every partial payment made to him for the purchase of any building covered, as soon as each payment is made;

(9) to submit to the manager, on the form supplied by him, a list of work on the building of which notice was given in writing at the time of acceptance of the building or of the private portion, as the case may be, and which must be completed;

(10) to supply, on the manager's request, plans for the design or completion of the architecture, structure, mechanics, plumbing and electricity, as well as the specifications for a building covered;

(11) to send, on the manager's request, continuous supervision reports and the certificate of conformity prepared by a building professional independent of the contractor, where applicable;

(12) to give notice of the end of the work on the common portions to each known beneficiary and to the syndicate of co-owners and to notify thereof the manager and any future purchaser of a private portion at the time of conclusion of the contract;

(13) to carry out an inspection prior to acceptance, with the beneficiary or with the building professional designated by the syndicate of co-owners and the latter, where applicable, using a pre-established list of items to be checked supplied by the manager, to give a duly completed copy thereof to the beneficiary and to the building professional and to send the findings thereof to the manager on request;

(14) to give notice to the manager of the end of the work where the beneficiary is unknown and to notify thereof the future purchaser at the time of conclusion of the contract;

(15) to produce, on the manager's request, the periodic reports and the certificates of conformity drawn up by an architect or engineer at the time of construction of any building for which supervision of construction work is required in accordance with the codes and standards in force;

(16) to comply with the inspection program set up by the manager, to provide access to the construction work site of each building covered to any duly appointed representative of the manager and to file the reports ensuing therefrom where applicable;

(17) to collaborate with any duly appointed representative of the manager;

(18) where applicable, to take all necessary measures to ensure the preservation of the building; and

(19) to pay the required fees for membership in the plan or for membership renewal, for each inspection required by the manager and for arbitration, where applicable.

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

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