

Gazette officielle du Québec

Part 2 Laws and Regulations

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PROVINCE OF QUÉBEC

2nd SESSION

35th LEGISLATURE

QUÉBEC, 12 JUNE 1997

OFFICE OF THE LIEUTENANT-GOVERNOR

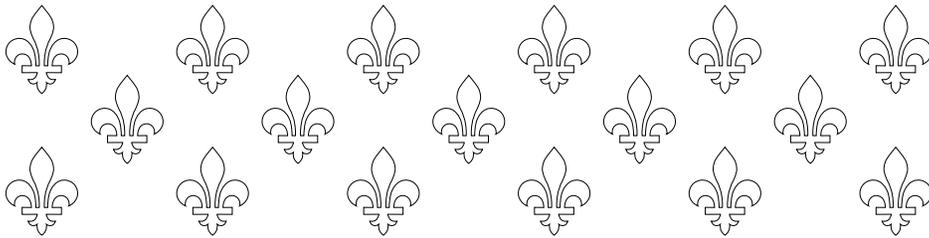
Québec, 12 June 1997

This day, at thirty-seven minutes past eleven o'clock in the morning, His Excellency the Lieutenant-Governor was pleased to sanction the following bills :

40	An Act to amend the Charter of the French language	108	An Act to amend the Taxation Act and other legislative provisions of a fiscal nature
57	An Act to amend the Act respecting fabriques and other legislative provisions	110	An Act to amend the Act respecting the Société des alcools du Québec and other legislative provisions
64	An Act to amend the Act respecting the professional status and conditions of engagement of performing, recording and film artists and other legislative provisions	111	An Act to amend the Forest Act
79	An Act to establish the Commission des lésions professionnelles and amending various legislative provisions	112	An Act to amend the Act respecting elections and referendums in municipalities
95	An Act to establish a fund to combat poverty through reintegration into the labour market	120	An Act to amend the Act respecting the Inspector General of Financial Institutions and other legislative provisions
97	An Act respecting the Centre de recherche industrielle du Québec	139	An Act to amend the Securities Act
106	An Act to amend the Press Act	140	An Act to amend the Act respecting safety in sports
		142	An Act to amend the Act respecting prescription drug insurance and amending various legislative provisions

147 An Act respecting certain flat glass setting or
installation work

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



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 40
(1997, chapter 24)

An Act to amend the Charter of the French language

Introduced 10 June 1996
Passage in principle 13 March 1997
Passage 6 June 1997
Assented to 12 June 1997

**Québec Official Publisher
1997**

EXPLANATORY NOTES

This bill amends the Charter of the French language, firstly to establish a Commission to be known as the Commission de protection de la langue française.

The Commission will consist of three members, including a chairman, and will be responsible for ensuring compliance with the Charter. The Commission will be empowered to carry out inspections and inquiries and, where necessary, to refer matters to the Attorney General so that he may institute appropriate penal proceedings where required.

The bill also makes changes to better define the penal aspects of the Charter as regards product labelling, the presentation of menus, the distribution of certain publications, the marketing of games and toys and the amount of the fines.

The bill introduces a provision requiring that all computer software be available in French except if no French version exists.

Lastly, the bill amends the provision of the Charter requiring members of professional orders to provide documents in French, and the provisions governing, among other things, the concurrent holding of positions by the president of the Office de la langue française and by the chairman and secretary of the Conseil de la langue française.

Bill 40

An Act to amend the Charter of the French language

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 30.1 of the Charter of the French language (R.S.Q., chapter C-11) is amended

(1) by replacing the words “When, before a member of a professional corporation draws up a notice, opinion, report, expertise or other document concerning a person who calls upon his services, the person asks to have it in French, the member shall furnish it in French” in the first, second, third and fourth lines by the words “The members of the professional orders must, where a person who calls upon their services so requests, provide a French copy of any notice, opinion, report, expertise or other document they draw up concerning that person,”;

(2) by adding, at the end, the following sentence : “The request may be made at any time.”

2. Section 45 of the said Charter is amended by adding, at the end, the words “, or because he has demanded that a right arising from the provisions of this chapter be respected”.

3. The said Charter is amended by inserting, after section 52, the following section :

“52.1 All computer software, including game software and operating systems, whether installed or uninstalled, must be available in French unless no French version exists.

Software can also be available in languages other than French, provided that the French version can be obtained on terms, except price where it reflects higher production or distribution costs, that

are no less favourable and that it has technical characteristics that are at least equivalent.”

4. Section 53 of the said Charter is repealed.

5. Section 54 of the said Charter is amended

(1) by replacing the words “Except as provided by regulation of the Government, it is forbidden to offer toys or games to the public which require the use of a non-French vocabulary for their operation” in the first, second and third lines by the words “Toys and games, except those referred to in section 52.1, which require the use of a non-French vocabulary for their operation are prohibited on the Québec market” ;

(2) by replacing the words “on no less favourable terms on the Québec market” in the fourth line by the words “on the Québec market on no less favourable terms”.

6. The said Charter is amended by inserting, after section 54, the following section :

“54.1 The Government may, by regulation and on the conditions it fixes, provide for exceptions to the application of sections 51 to 54.”

7. Section 83 of the said Charter is amended by adding, after the first paragraph, the following paragraph:

“The Government shall appoint a substitute member to act whenever a member is absent or unable to act.”

8. Section 100 of the said Charter is amended by striking out the second paragraph.

9. Section 101 of the said Charter is amended

(1) by replacing the word “five” in the first line by the word “seven”;

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

“The president shall exercise his functions on a full-time basis.”

10. Section 105 of the said Charter is repealed.

11. The said Charter is amended by inserting, after section 106, the following section :

“106.1 The president of the Office may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places his personal interest and that of the Office in conflict. However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided it is renounced or disposed of with diligence.”

12. Section 112 of the said Charter is amended by striking out the words “and persons designated under section 118.1” in the first and second lines.

13. Section 114 of the said Charter is amended

(1) by replacing the word “terminology” in the first line of paragraph *b* by the word “linguistic”;

(2) by replacing the period at the end of paragraph *g* by a semi-colon;

(3) by adding, after paragraph *g*, the following paragraph :

“(h) make recommendations concerning the terms and expressions it recommends, and publish its recommendations in the *Gazette officielle du Québec*.”

14. Sections 116 and 117 of the said Charter are replaced by the following section:

“116. The departments and agencies of the civil administration may establish linguistic committees and determine their composition and operation.

The mission of a linguistic committee established by the Office or by departments or agencies shall be to

(a) assist departments and agencies in improving the quality of the French language;

(b) identify terminological deficiencies and problematical terms and expressions in its designated field, and indicate the terms and expressions it recommends. Such terms and expressions shall be submitted to the Office for standardization or recommendation.”

15. Sections 118.1 to 118.5 of the said Charter are repealed.

16. The said Charter is amended by inserting, after section 151, the following section:

“151.1 Every business firm that fails to comply with the obligations imposed by sections 136 to 146 and 151 with regard to the francization process applicable to it commits an offence and is liable to the penalties provided for in section 205.”

17. The said Charter is amended by inserting, after Title II, the following title :

“TITLE III

“THE COMMISSION DE PROTECTION DE LA LANGUE FRANÇAISE

“CHAPTER I

“ESTABLISHMENT AND MISSION

“157. A commission is hereby established, under the name of Commission de protection de la langue française, and is charged with ensuring compliance with this Charter.

“CHAPTER II

“ORGANIZATION

“158. The Commission shall consist of three members, appointed by the Government, including a chairman who shall have the direction of the Commission.

“159. The members of the Commission shall be appointed for a term of not more than five years.

On the expiry of their term, the members of the Commission shall remain in office until replaced or reappointed.

“160. Only the chairman shall exercise his functions on a full-time basis. The remuneration, employee benefits and other conditions of employment of the chairman shall be fixed by the Government.

The Government shall fix the fees and allowances of the other members of the Commission.

“161. The chairman may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places his

personal interest and that of the Commission in conflict. However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided it is renounced or disposed of with diligence.

Where a member of the Commission other than the chairman is in the situation referred to in the first paragraph, the member must, on pain of forfeiture of office, disclose his interest in writing to the chairman and refrain from taking part in any discussion or decision involving the enterprise in which the interest is held.

“162. Two members of the Commission, including the chairman, constitute a quorum. In the case of a tie-vote, the chairman has a casting vote.

“163. If the chairman is absent or unable to act, the Government shall designate a person to replace the chairman, on the conditions it fixes.

“164. The members of the staff of the Commission shall be appointed in accordance with the Public Service Act (chapter F-3.1.1).

“165. The Commission shall have its head office at the place determined by the Government.

“CHAPTER III

“INSPECTIONS AND INQUIRIES

“166. The Commission may, for the purposes of this Charter, make inspections and inquiries.

“167. The Commission shall act on its own initiative or following the filing of a complaint.

Where a complaint has been filed, the chairman may exercise, alone, the powers of the Commission.

“168. Every complaint must be filed in writing ; it must set out the grounds on which it is based and state the identity of the complainant. The Commission shall provide assistance to complainants in drawing up their complaints.

“169. The Commission shall refuse to act if the complaint is manifestly unfounded or in bad faith.

The Commission may refuse to act if an appropriate recourse is available to the complainant or if it considers that the circumstances do not justify its intervention.

Where it refuses to act, the Commission shall inform the complainant of its decision, giving the reasons on which it is based. The Commission shall inform the complainant of the recourses available, if any.

“170. The Commission shall forward records concerning a firm to which section 136, 139 or 151 applies to the Office de la langue française to enable the Office to propose corrective measures, where necessary, to be taken by the firm within the time limit fixed by the Commission after consultation with the Office.

If the corrective measures are not taken within the time fixed, the Commission shall undertake an inquiry.

The Commission may, in the same manner and for the same purposes, forward the record of a firm not referred to in the first paragraph to the Office.

“171. The Commission may designate, generally or specially, any person to make an inquiry or an inspection.

“172. The Commission has the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

Where necessary, the Commission may confer such powers and immunity on any person it designates.

“173. No proceedings may be instituted against a person making an inspection or an inquiry by reason of any act or omission done in good faith in the exercise of his functions.

“174. A person making an inspection for the purposes of this Act may, during business hours, provided it is at a reasonable time, enter any place open to the public. In the course of the inspection, the person may, in particular, examine any product or document, make copies, and require any relevant information.

The person must, at the request of any interested person, identify himself and produce the certificate attesting his capacity.

“175. The Commission may, for the purposes of this chapter, require a person to forward any relevant document or information within the time it fixes.

“176. No person may hinder, in any way, the actions of the Commission or of a person designated by the Commission when acting in the exercise of their functions, mislead the Commission or the person by withholding information or making false statements, or refuse to provide any information or document the Commission or the person is entitled to obtain.

“177. Where the Commission is of the opinion that this Charter or a regulation thereunder has been contravened, it shall give the alleged offender formal notice to comply therewith within the time indicated. If the alleged offender fails to comply, the Commission shall refer the matter to the Attorney General so that he may, where required, institute appropriate penal proceedings.

In the case of a contravention of section 78.1 or 176, the Commission shall refer the matter directly to the Attorney General, without giving prior formal notice.

“CHAPTER IV

“MISCELLANEOUS PROVISIONS

“178. The Commission may, as regards certain administrative services, enter into pooling agreements with the Office.

“179. The Commission must file with the Minister, not later than 31 October every year, a report of its activities for the preceding fiscal year.

The Minister shall table the report in the National Assembly within 30 days following its receipt or, if the Assembly is not sitting, within 30 days of resumption.”

18. Section 190 of the said Charter is amended by adding, after the third paragraph, the following paragraph :

“The chairman and the secretary shall exercise their functions on a full-time basis.”

19. Section 194 of the said Charter is repealed.

20. The said Charter is amended by inserting, after section 197, the following section :

“197.1 The chairman and the secretary of the Conseil may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places their personal interest and that of the Conseil in conflict. However, forfeiture is not incurred if the interest devolves to them by succession or gift, provided it is renounced or disposed of with diligence.”

21. Section 205 of the said Charter is amended

(1) by replacing the figure “\$50” in the first line of paragraph *a* by the figure “\$250”;

(2) by replacing the figure “\$75” in the second line of paragraph *a* by the figure “\$500”;

(3) by replacing the figure “\$75” in the first line of paragraph *b* by the figure “\$500”;

(4) by replacing the figure “\$700” in the second line of paragraph *b* by the figure “\$1,000”.

22. The said Charter is amended by inserting, after section 205, the following section :

“205.1 Every person who contravenes any of the provisions of sections 51 to 54 by distributing, selling by retail sale, renting, offering for sale or rental or otherwise marketing, for consideration or free of charge, or by possessing for such purposes,

(1) a product, if the inscriptions on the product, on its container or wrapping, or on a document or object supplied with it, including the directions for use and the warranty certificates, are not in conformity with the provisions of this Charter,

(2) computer software, including game software and operating systems, or a game or toy that is not in conformity with the provisions of this Charter, or

(3) a publication that is not in conformity with the provisions of this Charter,

commits an offence and is liable to the fines provided for in section 205.

The operator of an establishment where menus or wine lists that are not in conformity with the provisions of section 51 are presented to the public also commits an offence and is liable to the fines provided for in section 205.

The burden of proof concerning the exceptions provided for in sections 52.1 and 54, or pursuant to section 54.1, lies with the person who invokes the exceptions.”

23. Section 212 of the said Charter is amended by inserting the words “, that of the Commission de protection de la langue française” after the words “Office de la langue française” in the second and third lines.

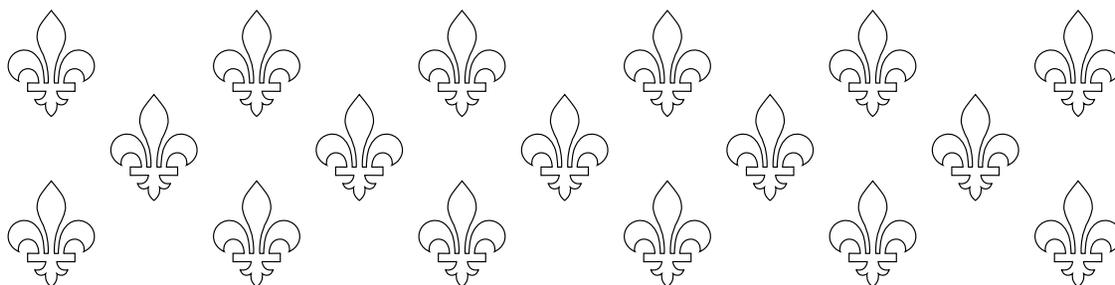
24. The English text of section 51 of the said Charter is amended by replacing the words “leaflet, brochure or card” in the second line of the first paragraph by the words “document or object”.

TRANSITIONAL AND FINAL PROVISIONS

25. Every regulatory provision made under section 53 of the Charter of the French language remains in force.

26. The records of verifications being made by the Office de la langue française on the date of coming into force of section 166 shall be transferred to the Commission de protection de la langue française.

27. The provisions of this Act come into force on the date or dates to be fixed by the Government.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 57
(1997, chapter 25)

**An Act to amend the Act respecting
fabriques and other legislative provisions**

**Introduced 14 November 1996
Passage in principle 28 May 1997
Passage 10 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

This bill amends the Act respecting fabriques in order to facilitate the application of its provisions.

The bill explicitly authorizes bishops to establish pension plans and group insurance plans for the benefit of pastors and other persons remunerated by the fabriques. It also enables bishops to delegate some of their powers, in particular in relation to the approval of contracts to be concluded by the fabriques.

In addition, the bill makes various changes to the internal management of the fabriques, namely by creating the office of vice-chairman and by simplifying the rules that govern the calling of fabrique meetings and meetings of parishioners. It also explicitly authorizes the fabriques to maintain columbariums.

Lastly, the bill updates certain definitions or rules included in the Act respecting fabriques and provides for consequential amendments to the Act respecting Roman Catholic cemetery corporations and the Roman Catholic Bishops Act.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting Roman Catholic cemetery corporations (R.S.Q., chapter C-69);
- Roman Catholic Bishops Act (R.S.Q., chapter E-17);
- Act respecting fabriques (R.S.Q., chapter F-1).

Bill 57

AN ACT TO AMEND THE ACT RESPECTING FABRIQUES AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING FABRIQUES

1. Section 1 of the Act respecting fabriques (R.S.Q., chapter F-1) is amended

(1) by replacing the word “cleric” in the first line of paragraph *a* by the word “person”;

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

“(e) “diocese”: a territory under the jurisdiction of a bishop and situated in whole or in part in Québec; this term includes an archdiocese, a diocese, an archeparchy, an eparchy, an exarchate, a vicariate apostolic, a military ordinariate, a prefecture apostolic, a territorial prelacy and a territorial abbey;”;

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

“(f) “bishop”: the cleric who, according to the rules of the Roman Catholic Church, is appointed to administer a diocese; this term includes an archbishop, a diocesan bishop, an archeparch, an eparch, an exarch, a vicar apostolic, a military ordinary, a prefect apostolic, a territorial prelate, a territorial abbot, an apostolic administrator, a diocesan administrator, a vicar general, a pro-vicar in a vicariate apostolic, a pro-prefect in a prefecture apostolic and a vicar deputed to a vicariate apostolic or to a prefecture apostolic;”;

(4) by replacing the word “cleric” in paragraph *l* by the word “person”;

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

“(o) “vice-chairman”: the member of the *fabrique* specifically appointed by the bishop to call and preside over, in a parish or chapelry, the *fabrique* meeting where the chairman is absent or unable to act or refuses to act, and to preside over the meeting of the parishioners in such cases.”

2. Section 4 of the said Act is amended

(1) by replacing the words “and cemeteries” in the second line of paragraph *a* by the words “and of cemeteries and columbariums”;

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

“(c) close down a cemetery or order that bodies shall no longer be buried and that ashes shall no longer be deposited there ;

“(c.1) close down a columbarium or order that ashes shall no longer be deposited there ;”;

(3) by replacing the words “the chairmen and auxiliary clerics” in the first and second lines of paragraph *e* by the words “chairmen, vice-chairmen, auxiliary clerics, pastoral associates and pastoral trainees” ;

(4) by replacing the words “stole fees” in the first line of paragraph *f* by the words “diocesan dues” ;

(5) by replacing paragraph *g* by the following paragraphs :

“(g) fix the remuneration and allowances payable by *fabriques* to pastors, ministering clerics, auxiliary clerics, pastoral associates and pastoral trainees, and specify the method and conditions of payment thereof ;

“(g.1) establish group insurance plans for the benefit of pastors, ministering clerics, auxiliary clerics, pastoral associates and pastoral trainees, conclude contracts for that purpose with insurers authorized to offer such plans and fix the terms and conditions of payment of the premiums ;

“(g.2) establish pension plans for the benefit of pastors, ministering clerics, auxiliary clerics, pastoral associates and pastoral trainees, conclude contracts for that purpose with persons authorized to offer such plans and fix the terms and conditions of payment of contributions ;

“(g.3) require *fabriques* to pay all or part of the premiums or contributions payable under the plans referred to in paragraphs *g.1* and *g.2* ;”;

(6) by adding, at the end, the following paragraphs :

“(i) delegate to a person, partnership or body all or part of the powers conferred on him by sections 23, 26, 27, 28 and 31.

Group insurance plans or pension plans established pursuant to paragraph *g.1* or *g.2* may include stipulations applicable to persons remunerated by the *fabriques* but not mentioned in paragraph *g.1* or *g.2*. However, those persons shall not be required to become members of such plans.”

3. Section 5 of the said Act is amended

(1) by replacing the words “and cemeteries” in the second line of paragraph *a* by the words “, cemeteries and columbariums” ;

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

“(b) determine the conditions governing eligibility for Roman Catholic funerals;

“(b.1) determine the conditions governing eligibility for interments in Roman Catholic cemeteries and for depositing ashes in Roman Catholic cemeteries or columbariums;”;

(3) by inserting the word “, columbariums” after the word “parsonages” in the first line of paragraph *e*;

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

“(h) define the functions of a pastoral associate and of a pastoral trainee.”

4. Section 17 of the said Act is amended by replacing paragraph *h* by the following paragraphs:

“(h) the name of the cleric who holds the office of bishop of the diocese, pastor of a parish or ministering cleric of a chapelry, the name of the person who holds the office of chairman and the name of the member of the *fabrique* who holds the office of vice-chairman;

“(i) the status of bishop’s delegate, for the purposes of paragraph *i* of section 4 and section 45 or 52.”

5. Section 18 of the said Act is amended

(1) by inserting the word “, columbariums” after the word “cemeteries” in the second line of paragraph *c*;

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

“(i) invest its funds in accordance with the provisions of the Civil Code of Québec respecting investments presumed sound, and in securities of legal persons holding and administering ecclesiastical or religious property;”;

(3) by replacing the words “or cemetery” in the third line of paragraph *n* by the words “, cemetery or columbarium”;

(4) by replacing the words “its immovables” in the second line of paragraph *o* by the words “the immovables owned by the *fabrique*”;

(5) by replacing paragraph *p* by the following paragraph:

“(p) remunerate the pastor or ministering cleric of the parish or chapelry whose property is held by the *fabrique*, the clerics who conduct divine service there, pastoral associates, pastoral trainees and the other persons in its employ and, where expedient, grant them allowances;”;

(6) by replacing paragraph *u* by the following paragraph:

“(u) pay the contributions or premiums payable under a pension plan or group insurance plan for the benefit of the pastor or ministering cleric of the parish or chapelry whose property is held by the *fabrique*, the clerics who conduct divine service there, pastoral associates, pastoral trainees and the other persons in its employ.”

6. Section 19 of the said Act is amended

(1) by inserting, after subparagraph *a* of the first paragraph, the following subparagraph:

“(a.1) cases of emergency within the meaning of section 43;”;

(2) by replacing the word “officiers” in the French text of subparagraph *b* by the word “dirigeants”;

(3) by adding, at the end of the first paragraph, the following subparagraph:

“(f) the conditions for the concession of recesses in a columbarium held by the *fabrique*.”

7. Section 21 of the said Act is amended by striking out the word “corporate” in the third line.

8. Section 25 of the said Act is amended

(1) by replacing the words “surname, given names” in the first line of subparagraph *c* of the first paragraph by the word “name”;

(2) by replacing the first sentence of the second paragraph by the following sentence: “Such registers are proof of their contents in the absence of any evidence to the contrary.”

9. Section 42 of the said Act is amended by inserting the words “chairman or of” after the words “office of”.

10. Section 43 of the said Act is amended by adding, at the end, the following paragraph:

“In the case of an emergency, the members of the *fabrique* may be convened orally for an immediate meeting. Deliberations shall, however, be restricted to the resolution of the urgent problem.”

11. Section 44 of the said Act is amended

(1) by striking out the words “present at a meeting” in the first line;

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

“The member’s mere presence at the meeting is a waiver unless he attends the meeting specifically to object to the deliberations on the ground that the meeting was not called in accordance with the rules.”

12. Section 45 of the said Act is amended by replacing the fourth paragraph by the following paragraph :

“If the chairman and the vice-chairman are absent or unable to act or refuse to act, the bishop or his delegate may preside over the *fabrique* meeting; the bishop or delegate is then considered to be a member of the *fabrique* and enjoys the same voting rights as the chairman.”

13. Section 51 of the said Act is amended by replacing the second paragraph by the following paragraphs :

“The notice shall be published, at least six clear days before the date of the meeting, as follows :

(1) it shall be read at Sunday masses ;

(2) it shall be posted on the church door ; or

(3) it shall be reproduced in a periodical printed for parishioners and of which copies are available at the church.

If the *fabrique* places other premises, in addition to the church, at the disposal of the parishioners for Sunday masses or other divine services, the notice must be made public in those premises in any manner set out in this section, with the necessary modifications.”

14. Section 52 of the said Act is amended by replacing the words “chairman. However, if the chairman is absent or unable to act or refuses to do so” in the first and second lines by the words “chairman or the vice-chairman. However, if they are absent or unable to act or refuse to act”.

15. The following provisions of the said Act are amended by replacing the word “corporation” or “corporations” by the words “legal person” or “legal persons”:

— paragraphs *g* and *h* of section 1 ;

— section 10 ;

— the fourth paragraph of section 11 ;

— section 21.1 ;

- section 22 ;
- the schedule.

16. The following provisions of the said Act are amended by replacing the words “corporate seat” by the words “head office” :

- section 15 ;
- section 16 ;
- paragraph *b* of section 17 ;
- the portion of the first paragraph of section 25 before subparagraph *a* ;
- the second paragraph of section 30 ;
- section 41 ;
- the schedule.

ACT RESPECTING ROMAN CATHOLIC CEMETERY CORPORATIONS

17. Section 1 of the Act respecting Roman Catholic cemetery corporations (R.S.Q., chapter C-69) is amended by replacing paragraph *d* by the following paragraph :

“(d) “bishop” means the cleric who, according to the rules of the Roman Catholic Church, is appointed to administer a diocese; this term includes an archbishop, a diocesan bishop, an archeparch, an eparch, an exarch, a vicar apostolic, a military ordinary, a prefect apostolic, a territorial prelate, a territorial abbot, an apostolic administrator, a diocesan administrator, a vicar general, a pro-vicar in a vicariate apostolic, a pro-prefect in a prefecture apostolic and a vicar deputed to a vicariate apostolic or to a prefecture apostolic;”.

ROMAN CATHOLIC BISHOPS ACT

18. Section 1 of the Roman Catholic Bishops Act (R.S.Q., chapter E-17) is amended by replacing paragraphs *a* and *b* by the following paragraphs :

“(a) “diocese” means a territory under the jurisdiction of a bishop and situated in whole or in part in Québec; this term includes an archdiocese, a diocese, an archeparchy, an eparchy, an exarchate, a vicariate apostolic, a military ordinariate, a prefecture apostolic, a territorial prelacy and a territorial abbey;

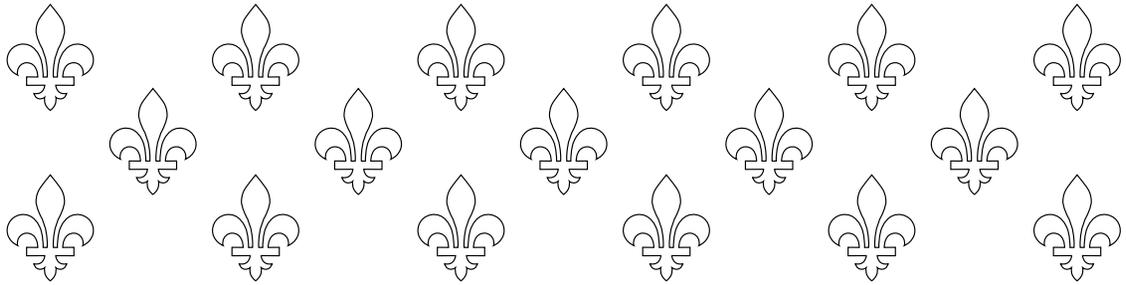
“(b) “bishop” means the cleric who, according to the rules of the Roman Catholic Church, is appointed to administer a diocese; this term includes an archbishop, a diocesan bishop, an archeparch, an eparch, an exarch, a vicar apostolic, a military ordinary, a prefect apostolic, a territorial prelate, a territorial abbot, an apostolic administrator, a diocesan administrator, a pro-vicar in a vicariate apostolic and a pro-prefect in a prefecture apostolic;”.

FINAL PROVISIONS

19. No contract concluded by bishops before 12 June 1997 to establish group insurance plans or pension plans for the benefit of persons referred to in paragraphs *g.1* and *g.2* of section 4 of the Act respecting fabriques and other persons in the employ of a *fabrique* may be cancelled on the ground that the bishops were not empowered to conclude them.

Similarly, no reimbursement of premiums or contributions or of indemnities or pensions paid under those plans may be claimed on the ground that the bishops were not empowered to conclude the contracts by which they were established.

20. This Act comes into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 64
(1997, chapter 26)

**An Act to amend the Act respecting the
professional status and conditions of
engagement of performing, recording and
film artists and other legislative provisions**

**Introduced 13 November 1996
Passage in principle 26 November 1996
Passage 11 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

This bill amends the Act respecting the professional status and conditions of engagement of performing, recording and film artists to provide for the recognition of producers' associations. Recognition will be granted by the Commission currently known as the "Commission de reconnaissance des associations d'artistes", henceforth to be known as the "Commission de reconnaissance des associations d'artistes et des associations de producteurs".

An application for the recognition of a producers' association must specify the field of activities to which it applies. Recognition will be granted to an association whose object is the study, defence and promotion of its members' interests, and that is the most representative in terms of the economic activities of producers and the number of members working in the field of activities defined by the Commission.

A recognized artists' association will be empowered to negotiate and conclude a group agreement with a recognized producers' association. The agreement will bind every producer belonging to the recognized association, as well as every other producer working in its field of activities. Producers and associations of producers that do not have recognition will nevertheless be able to negotiate and conclude collective agreements of lesser scope than those concluded by recognized associations of producers.

The bill also introduces various amendments designed to facilitate mediation and the arbitration of disputes and grievances. It prescribes a time limit for filing a competing application for recognition, extends the term of recognition of an association from three to five years, limits the term of an initial group agreement to three years, (two years if it results from an arbitration award), but sets no limit on subsequent agreements, requires the filing of a group agreement with the Commission before it can take effect, and allows producers to deduct artists' dues at source. The parties have one year, once a notice to initiate the negotiation of a group agreement has been sent, to reach agreement on matters concerning the deduction at source before resorting to arbitration.

The bill includes a provision designed to protect the production contracts signed by artists, following the sale of a producer's business.

Lastly, the bill contains a transitional measure concerning arbitration in connection with the deduction of artists' dues at source, in cases where a notice to initiate negotiation has already been sent when the new provisions come into force. The bill also contains amendments designed to harmonize terminology with that used in the Civil Code of Québec.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (R.S.Q., chapter S-32.01);
- Act respecting the professional status and conditions of engagement of performing, recording and film artists (R.S.Q., chapter S-32.1).

Bill 64

AN ACT TO AMEND THE ACT RESPECTING THE PROFESSIONAL STATUS AND CONDITIONS OF ENGAGEMENT OF PERFORMING, RECORDING AND FILM ARTISTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 3 of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (R.S.Q., chapter S-32.1) is amended by replacing the words “business firm” in the first line by the words “partnership or legal person”.

2. Section 4 of the said Act is amended by replacing the word “Crown” by the words “Government and on government departments and bodies”.

3. Section 9 of the said Act is amended by replacing the words “Commission de reconnaissance” in the second line of paragraph 2 by the words “Commission de reconnaissance des associations d’artistes et des associations de producteurs”.

4. Section 10 of the said Act is amended by replacing paragraph 2 by the following paragraph :

“(2) establishing classes of members and determining the rights of each class, in particular the right to take part in meetings and the right to vote;”.

5. The said Act is amended by inserting, after section 11, the following sections :

“11.1. No artist or person acting on behalf of an artist or a recognized artists’ association shall seek to dominate, hinder or finance the formation or the activities of any association of producers, or to prevent any person from participating therein.

No producer or person acting on behalf of a producer or an association of producers shall seek to dominate, hinder or finance the formation or the activities of a recognized artists’ association, or to prevent any person from participating therein.

“11.2. No person shall use intimidation or threats to induce anyone to become, refrain from becoming or cease to be a member of an artists’ association or an association of producers.”

6. Section 14 of the said Act is amended

(1) by replacing the word “third” in the first line of paragraph 2 by the word “fifth”;

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

“However, where an artists’ association has filed an application for recognition in respect of a sector with the Commission, no other artists’ association may file an application for that sector or for part of that sector except within the 20 days following the publication of a notice under section 16.”

7. Section 16 of the said Act is amended by adding, at the end of the second paragraph, the following sentence : “The Commission must state, in the notice, the closing date for filing an application for recognition for the sector or part of the sector concerned, and for addressing the Commission under section 17.”

8. Section 17 of the said Act is amended

(1) by inserting the words “or association of producers” after the word “producer” in the second line of the first paragraph;

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

“An address to the Commission must be presented within 20 days following the publication of a notice under section 16.”

9. The said Act is amended by inserting, after section 18, the following section :

“18.1. Where an application for recognition for a sector has been filed with the Commission, and where another association has filed an application for that sector or part of that sector, the parties may, jointly, request that the Commission appoint a mediator.

The remuneration and expenses of the mediator shall be borne by the parties.”

10. Section 24 of the said Act is amended

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

“(4) to fix the amount that a member or non-member of the association may be required to pay;” ;

(2) by inserting the words “where there is no group agreement,” before the words “to establish” in the first line of paragraph 6;

(3) by replacing the word “may” in the first line of paragraph 7 by the word “must”.

11. Section 26 of the said Act is amended, in the French text, by inserting the words “d’artistes” after the word “reconnue” in the third line.

12. The said Act is amended by inserting, after section 26, the following sections :

“26.1. As soon as the notice of negotiation provided for in section 28 is sent, a recognized artists’ association and an association of producers or a producer who is not a member of an association of producers may agree, in writing, that a producer shall withhold the amount referred to in paragraph 4 of section 24 from the remuneration paid by the producer to an artist.

Where an agreement in writing is entered into between the parties or a decision is made by an arbitrator under the third paragraph, the producer is required to remit to the recognized artists’ association, at the established intervals, the amounts withheld together with a statement indicating the amount withheld for each artist.

One year after the notice provided for in section 28 has been given, one of the parties may, if no agreement on withholding or group agreement has been entered into, apply to the Commission for the designation of an arbitrator who shall fix the amount to be withheld and determine the terms and conditions applicable to the withholding of that amount. The provisions of Book VII of the Code of Civil Procedure (chapter C-25), adapted as required, apply to the arbitration.

The expenses and remuneration of the arbitrator shall be borne by the parties.

“26.2. The alienation of a producer’s enterprise, or a change in its legal structure by way of amalgamation or otherwise, does not terminate the contract of an artist.

The contract is binding on the successor of the producer. The successor is, in particular, bound to pay such remuneration as may become payable to an artist initially under contract with the producer, if the productions to which the contract relates are transferred to the new producer.”

13. Section 27 of the said Act is amended

(1) by replacing the words “association and the association of producers or a producer who is not a member of an association of producers” in the first and second lines of the first paragraph by the words “artists’ association and an unrecognized association of producers or a producer who is not a member of an association of producers”;

(2) by adding, at the end of the first paragraph, the following sentence: “Where an association of producers is recognized for a field of activities, the recognized artists’ association shall not negotiate or conclude a group agreement except with that association.”;

(3) by adding, at the end of the second paragraph, the words “and the economic conditions prevailing in small production enterprises”;

(4) by striking out the third paragraph.

14. Section 28 of the said Act is amended

(1) by inserting the word “artists’” after the word “recognized” in the first line of the first paragraph;

(2) by inserting the word “artists’” after the word “recognized” in the first line of the second paragraph.

15. Section 31 of the said Act is amended by adding, at the end, the following paragraph:

“The expenses and the remuneration of the mediator shall be borne by the Commission.”

16. Section 32 of the said Act is amended by adding, at the end of the third paragraph, the following sentence: “The mediator shall submit his report to the Commission and to the parties.”

17. Section 33 of the said Act is replaced by the following sections:

“33. During the negotiation of a first group agreement, either party may apply to the Commission for the designation of an arbitrator if the intervention of the mediator has not been successful.

During the negotiation of any subsequent group agreement, the application for the designation of an arbitrator must be made jointly by the parties to the preceding agreement.

The arbitration award has the same effect as a group agreement.

The expenses and remuneration of the arbitrator shall be borne by the Commission.

“33.1. Sections 76 and 78, the first paragraph of section 79, sections 80 to 91 and sections 93 and 93.7 of the Labour Code (chapter C-27), adapted as required, apply to the arbitration provided for in section 33.”

18. Section 34 of the said Act is amended

(1) by inserting the word “artists’” after the word “recognized” in the second line of the first paragraph;

(2) by inserting the word “artists’” after the word “recognized” in the third line of the second paragraph.

19. Sections 35 and 36 of the said Act are replaced by the following sections :

“35. A certified copy of the group agreement and of the schedules to the agreement must be filed with the Commission within 60 days of signing. The same rule applies to any amendment subsequently made to the group agreement.

Once filed, a group agreement has effect retroactively from the date of coming into force specified in the agreement, if any, or from the date of signing.

The party filing the group agreement shall notify the other party of the filing.

“35.1. The group agreement shall include a grievance arbitration procedure.

“35.2. If, when a grievance is to be submitted to arbitration, the parties cannot agree on the appointment of an arbitrator or the group agreement does not provide for the appointment of an arbitrator, one party may apply to the Commission for the appointment of an arbitrator.

“36. The term of a first group agreement shall not exceed three years. If the first group agreement results from an arbitration award, the term shall not exceed two years.”

20. Section 37 of the said Act is amended

(1) by inserting the words “or, as the case may be, the same field of activities” after the word “sector” in the second line of the first paragraph;

(2) by adding, at the end of the second paragraph, the following sentence :
“However, the minimum conditions of employment contained in the group agreement shall continue to apply until the date of expiry of the group agreement or until a new group agreement is entered into with another association that is granted recognition in the same sector or in the same field of activities.”

21. The said Act is amended by inserting, after section 37, the following section :

“37.1. A recognized artists’ association must, before engaging in concerted action, give five days’ prior notice to the producer concerned and, where applicable, to the association of which the producer is a member.

The association of producers and the producer who is not a member of an association must, likewise, give five days’ prior notice to the recognized association of which the artists concerned are members.”

22. Section 39 of the said Act is amended by inserting the words “or an association of producers” after the word “producer” in the fifth line.

23. Section 40 of the said Act is amended

(1) by inserting the word “unrecognized” before the word “association” in the third line ;

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

“In the case of an agreement concluded with a recognized association of producers, the group agreement binds every producer who is a member of the recognized association as well as any other producer working in the field of activities of the recognized association, even if the association is dissolved.”

24. The said Act is amended by inserting, after section 42, the following chapter:

“CHAPTER III.1

“RECOGNITION OF AN ASSOCIATION OF PRODUCERS

“42.1. Every association of producers which

(1) is an association having as its object the study, defence and promotion of the interests of its members ;

(2) is, in the opinion of the Commission, the most representative as regards the economic activity of producers and the number of members working in a field of activities defined by the Commission,

is entitled to recognition.

“42.2. Every producer is free to join an association of producers and to take part in the establishment, activities and administration of such an association.

“42.3. An association of producers may apply for recognition for one or more fields of activity.

“42.4. No association of producers may be recognized unless it adopts by-laws

(1) prescribing membership requirements based on the exercise, by the producers, of an activity corresponding to the field of activities for which the association has applied for recognition;

(2) establishing classes of members and determining the rights of each class, in particular the right to take part in meetings and to vote;

(3) conferring on the members to whom a draft group agreement applies the right to vote by secret ballot on the content of the agreement if it contains a clause that entails a change in the rates of remuneration established by an existing agreement binding the association and an artists' association;

(4) prescribing that all decisions as to membership requirements shall be submitted to the qualified members for approval;

(5) making the calling of a general meeting or the polling of the members mandatory where 10% of the members request it.

“42.5. Sections 11, 12 and 14 to 23, paragraphs 1 to 4 and 7 of section 24 and section 25, adapted as required, apply to an association of producers.

However, the percentage required for an application under section 20 is calculated on the basis of the number of producers working in the field of activities for which the association has been recognized and the economic activities of all the producers in that field of activities during the year preceding the application.”

25. The said Act is amended by adding the words “ET DES ASSOCIATIONS DE PRODUCTEURS” after the words “D’ARTISTES” in the heading of Chapter IV.

26. Section 43 of the said Act is amended by adding the words “et des associations de producteurs” after the words “d’artistes” in the second line.

27. Section 49 of the said Act is amended by replacing the word “incapacité” in the first line of the French text by the word “empêchement”.

28. Section 56 of the said Act is amended

(1) by adding, at the end of subparagraph 1 of the first paragraph, the words “or an association of producers”;

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

“(3) to designate a mediator for the purposes of sections 18.1 and 31;”;

(3) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) to designate an arbitrator for the purposes of sections 26.1 and 33;”;

(4) by adding, after subparagraph 5 of the first paragraph, the following subparagraph:

“(6) to draw up, annually, a list of mediators and arbitrators, after consultation with recognized artists’ associations and associations of producers.”

29. Section 57 of the said Act is amended by inserting the words “and, where applicable, fields of activity” after the word “sectors” in the first line.

30. Section 58 of the said Act is amended by inserting the words “or, where applicable, a field of activity” after the word “sector” in the third line.

31. Section 59 of the said Act is amended

(1) by inserting the words “or, as the case may be, the producers” after the word “artists” in the second line;

(2) by replacing the words “relations between artists and producers” in the third line by the words “their relations”;

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

“The Commission may also take into account the interest that producers may have to group together according to the shared characteristics of their activities.”

32. Section 60 of the said Act is amended by inserting the words “, associations of producers” after the word “association” in the second line.

33. Section 63 of the said Act is amended by inserting the words “or field of activities” after the word “sector” in the first line of the second paragraph.

34. Section 70 of the said Act is amended

(1) by inserting the figures “11.1 or 11.2, the second paragraph of section 26.1, sections” after the word “section” in the first line;

(2) by adding, at the end of paragraph 1, the words “or a person acting on an artist’s behalf”;

(3) by inserting the words “or an association of producers,” after the word “association” in the second line of paragraph 2;

(4) by replacing the words “, agent or advisor of an artists’ association or producer” in the second and third lines of paragraph 2 by the words “, a person acting on behalf of an artists’ association, a producer or an association of producers, or any advisor thereof”;

(5) by inserting the words “or association of producers” after the word “association” in the third line of paragraph 3.

35. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by orders in council 556-96 and 557-96 dated 15 May 1996, 821-96 dated 3 July 1996, and 1051-96 dated 28 August 1996, as well as by section 49 of chapter 21 of the statutes of 1994 and section 20 of chapter 46 of the statutes of 1995, is again amended by replacing the words “Commission de reconnaissance des associations d’artistes” in paragraph 1 by the words “Commission de reconnaissance des associations d’artistes et des associations de producteurs”.

36. Section 10 of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (R.S.Q., chapter S-32.01) is amended by inserting the words “et des associations de producteurs” after the word “artistes” in the second line.

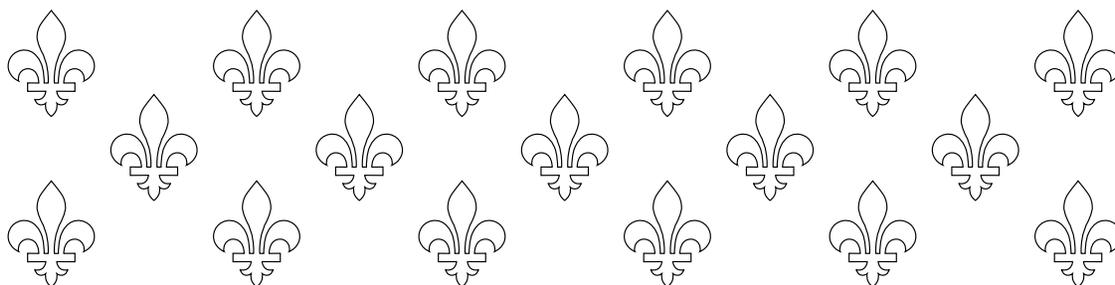
37. Section 40 of the said Act is amended by replacing the words “place of business” in the first line of the first paragraph by the word “establishment”.

38. Section 48 of the said Act is amended by inserting the words “et des associations de producteurs” after the word “artistes” in the first line.

39. Unless otherwise indicated by the context, a reference to the Commission de reconnaissance des associations d’artistes in any other Act or in a regulation, by-law, order in council, order, proclamation, ordinance, contract, agreement, undertaking or other document is a reference to the Commission de reconnaissance des associations d’artistes et des associations de producteurs.

40. Where the notice provided for in section 28 of the Act is sent before 12 June 1997, the application for the designation of an arbitrator pursuant to section 26.1 may be made one year after that date.

41. The provisions of this Act come into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 79
(1997, chapter 27)

**An Act to establish the Commission des lésions
professionnelles and amending various
legislative provisions**

**Introduced 14 November 1996
Passage in principle 3 December 1996
Passage 6 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

The purpose of this bill is to reform the entire process for contesting decisions made under the Act respecting industrial accidents and occupational diseases and the Act respecting occupational health and safety.

The bill amends the Act respecting industrial accidents and occupational diseases to establish an employment injuries board to be known as the “Commission des lésions professionnelles”, charged with hearing and deciding contestations of decisions made by the Commission de la santé et de la sécurité du travail after an administrative review. The employment injuries board will consist of two divisions, the financial matters division and the employment injuries prevention and compensation division.

The bill provides for the composition of the board and the functions, duties and powers of its members. It also determines the mode of operation of the board, the functions of the president and vice-presidents, the number of sittings, and the rules of evidence and procedure applied to proceedings before the employment injuries board.

The bill amends the procedure for the medical assessment of a worker who has suffered an employment injury to allow the physician in charge of a worker to file an additional medical report if there is a difference of opinion between that physician and the health professional having examined the worker at the request of the employer or at the request of the Commission de la santé et de la sécurité du travail.

The bill abolishes the conciliation services offered as part of the review process at the Commission de la santé et de la sécurité du travail. It also eliminates the review boards established under the Act respecting occupational health and safety and replaces them with an administrative review process carried out on the basis of the record by a civil servant of the Commission.

Lastly, the bill contains transitional and concordance provisions and provisions of a technical nature.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting the Barreau du Québec (R.S.Q., chapter B-1);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

Bill 79

AN ACT TO ESTABLISH THE COMMISSION DES LÉSIONS PROFESSIONNELLES AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING INDUSTRIAL ACCIDENTS AND
OCCUPATIONAL DISEASES

1. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by striking out the definition of “board of appeal”.

2. Section 43 of the said Act is amended by replacing the words “415 and 415.1” in the second line by the words “429.25, 429.26 and 429.32”.

3. The said Act is amended by inserting, after section 205, the following section:

“205.1. If the report of the health professional designated for the purposes of section 204 calls into question the findings of the physician in charge of the worker regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212, the latter may, within 30 days of the date of receipt of the report of the health professional, provide the Commission, on the form prescribed by the Commission, with an additional report to support his findings and include, where applicable, any consultation report containing reasons. The physician in charge of the worker shall inform the worker as soon as possible of the content of his report.

The Commission may submit the reports including the additional report, if any, to the Bureau d'évaluation médicale established under section 216.”

4. Section 212 of the said Act is amended by striking out the words “, in order that the Commission submit it to the Bureau d'évaluation médicale established by section 216” in the third and fourth lines of the second paragraph.

5. The said Act is amended by inserting, after section 212, the following section:

“212.1. If the report of the health professional obtained under section 212 calls into question the findings of the physician in charge of the worker

regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of that section, the latter may, within 30 days of the date of receipt of the report of the health professional, provide the Commission, on the form prescribed by the Commission, with an additional report to support his findings and include, where applicable, any consultation report containing reasons. The physician in charge of the worker shall inform the worker as soon as possible of the content of his report.

The Commission shall submit the reports including the additional report, if any, to the Bureau d'évaluation médicale established under section 216."

6. Section 217 of the said Act is amended by replacing the words "206 and 212" in the second line by the words "205.1, 206 and 212.1".

7. Section 218 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

"However, the Minister or the person designated by the Minister for that purpose may, if he considers it advisable owing to the complexity of a case, designate more than one member of the Bureau."

8. Section 241 of the said Act is amended by replacing the words "Every application for review and every appeal bearing on" in the first line by the words "An application for review filed under section 358 or a proceeding brought under section 359 in respect of".

9. Section 252 of the said Act is amended by replacing the word "jurisdiction" in the first line of the French text by the word "compétence".

10. Section 262 of the said Act is amended by adding, at the end, the following paragraph:

"Subject to section 263, the decision has effect immediately, even if it is contested before the Commission des lésions professionnelles."

11. The said Act is amended by replacing the words "RIGHT OF APPEAL" in the heading of Chapter XI by the words "PROCEEDING BEFORE THE COMMISSION DES LÉSIONS PROFESSIONNELLES".

12. Section 349 of the said Act is amended by replacing the words "decide any matter or" in the first line by the words "examine and decide any".

13. Section 351 of the said Act is amended by striking out the words "is not bound to follow the ordinary rules of evidence in civil matters ; it" in the first and second lines of the second paragraph.

14. Section 358 of the said Act is amended

(1) by striking out the words “by a review office established under the Act respecting occupational health and safety (chapter S-2.1)” in the third and fourth lines of the first paragraph;

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

“However, a person may not apply for the review of any matter of a medical nature in respect of which the Commission is bound under section 224, for the review of a decision made by the Commission under Division III of Chapter VII or for the review of the refusal of the Commission to reconsider its decision pursuant to the first paragraph of section 365.”

15. The said Act is amended by inserting, after section 358, the following sections:

“358.1. An application for review must be made in writing. The application must state briefly the main grounds on which it is based and the subject of the decision to which it pertains.

“358.2. The Commission may extend the time limit prescribed in section 358 or relieve a person of the consequences of a failure to act within the allotted time, if it is established that the application for review could not reasonably have been made within that time.

“358.3. After giving the parties an opportunity to present observations, the Commission shall make a decision on the basis of the record; it may confirm, quash or amend the initial decision or order and, if appropriate, make the decision or order that should, in its opinion, have been made initially.

Sections 224.1 and 233 apply in such a case to the Commission and it shall decide accordingly.

“358.4. The review shall be carried out by the chairman of the board of directors and chief executive officer of the Commission, or by any person designated by him.

“358.5. The decision shall be in writing and give the reasons on which it is based, be notified to the parties, and state their right to contest the decision before the Commission des lésions professionnelles and the time limit for doing so.”

16. Section 359 of the said Act is replaced by the following section:

“359. A person who believes he has been wronged by a decision made following an application under section 358 may, within 45 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

17. The said Act is amended by inserting, after section 359, the following section:

“359.1. A person who believes he has been wronged by a decision made by the Commission under Division III of Chapter VII may, within 45 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

18. Section 362 of the said Act is amended by replacing the words “of a review office shall have effect immediately, notwithstanding appeal,” in the first and second lines by the words “under section 358.3 shall have effect immediately, even if it is contested before the Commission des lésions professionnelles,”.

19. Section 363 of the said Act is amended by replacing the words “a review office or the board of appeal” in the first line by the words “the Commission, following a decision under section 358.3, or the Commission des lésions professionnelles”.

20. Section 364 of the said Act is amended by replacing the words “of a review office or of the board of appeal” in the first line of the first paragraph by the words “made by the Commission, following an application under section 358, or by the Commission des lésions professionnelles”.

21. Section 365 of the said Act is amended

(1) by replacing the words “of a review office” in the second and third lines of the first paragraph by the words “rendered under section 358.3”;

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

“Before reconsidering a decision, the Commission shall inform the persons to whom it has notified the decision.”

22. Sections 365.1 and 365.2 of the said Act are repealed.

23. Section 366 of the said Act is amended by striking out the words “or 365.2”.

24. Chapter XII of the said Act is replaced by the following chapter:

“CHAPTER XII**“COMMISSION DES LÉSIONS PROFESSIONNELLES****“DIVISION I****“ESTABLISHMENT**

“367. A board, to be known as the “Commission des lésions professionnelles”, is hereby established.

“368. The head office of the board shall be situated at the place determined by the Government ; notice of the address of the head office, and of any change in its address, shall be published in the *Gazette officielle du Québec*.

The board shall have one office at Québec and one office at Montréal. It may also have an office in any other administrative region, if warranted by the number of proceedings in that region. The board may not, however, have an office in an immovable where the Commission already has an office.

“DIVISION II**“JURISDICTION**

“369. The board shall, to the exclusion of any other tribunal, make determinations on

- (1) proceedings brought under section 359, 359.1, 450 or 451 ;
- (2) proceedings brought under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1).

“370. The board shall sit in divisions. The divisions are

- (1) the financial matters division ;
- (2) the employment injuries prevention and compensation division.

“371. Proceedings under section 359 that relate to a decision made pursuant to Chapter IX or Chapter X shall be decided by the financial matters division.

“372. Proceedings under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1), proceedings under section 359 other than those referred to in section 371, and proceedings under section 359.1, 450 or 451 shall be decided by the employment injuries prevention and compensation division.

“373. Within each division of the board, proceedings shall be heard and decided by one commissioner.

“374. Within the employment injuries prevention and compensation division, two members, one from an employers’ association and one from a union association, shall sit with and advise the commissioner.

The member from an employers’ association shall be appointed in accordance with the fourth paragraph of section 385. The member from a union association shall be appointed in accordance with the fifth paragraph of that section.

“375. Commissioners may sit in either division of the board.

“376. A commissioner has the authority to decide, alone, any application prior to the hearing of a case.

“DIVISION III

“FUNCTIONS, DUTIES AND POWERS

“377. The board has the power to decide any question of law or fact necessary for the exercise of its jurisdiction.

It may confirm, quash or amend a contested decision or order and, if appropriate, make the decision or order that should, in its opinion, have been made initially.

“378. The board and its commissioners are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

They are also vested with all the powers necessary for the performance of their duties ; they may, in particular, make any order they consider appropriate to safeguard the rights of the parties.

No judicial proceedings may be brought against them by reason of an act done in good faith in the performance of their duties.

“379. The members referred to in section 374 may, in order to advise the commissioner, ask questions during the hearing of a case and express their opinion to the commissioner when the case is taken under advisement.

No judicial proceedings may be brought against the members by reason of an act done in good faith in the performance of their duties.

“380. The board may, in a proceeding contesting a decision under section 358.3 that cancels an income replacement indemnity granted by the Commission, order that the execution of the contested decision be postponed

as regards that conclusion and that the effects of the initial decision be maintained for the time it indicates if the beneficiary demonstrates that there is an emergency or that he would suffer serious harm were the initial decision of the Commission to cease to have effect.

The beneficiary's application shall be heard and decided by preference.

“381. The board shall forward to the Minister, not later than 30 June each year, a report on its activities during the preceding fiscal year.

It may, in its annual report, make recommendations in respect of the Acts, regulations, policies, programs and administrative procedures coming under its jurisdiction.

The Minister shall table the annual report before the National Assembly within 30 days of receiving it if the Assembly is sitting, or within 30 days of resumption.

The report shall not designate by name any person concerned by the matters brought before the board.

The board shall provide to the Minister any additional information he requires concerning its activities.

“382. The board shall establish a computerized jurisprudence database and a digitized minute book, and take all necessary steps to ensure that they are accessible to board members, assessors, conciliators and to such other members of its personnel as it designates.

The information contained in the jurisprudence database is public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

“383. The board shall publish, periodically, a compilation of the decisions it has made.

It shall omit the names of the persons concerned by a decision when it is of the opinion that the decision contains information of a confidential nature the disclosure of which could be prejudicial to the persons concerned.

The decisions published by the board are public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

“384. The board may enter into an agreement with any person, association, partnership or body and with the Government or with any of its departments or bodies.

It may also, according to law, enter into an agreement with a government inside or outside Canada or any department or body of such a government or with an international organization or a body of such an organization.

“DIVISION IV

“APPOINTMENT OF MEMBERS

“**385.** The board shall be composed of members, some of whom shall be commissioners.

The commissioners shall be advocates or notaries. They shall be appointed by the Government after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

The members other than the commissioners shall be either from employers’ associations or from union associations.

The members from employers’ associations shall be appointed by the Government from among the persons whose names appear on a list drawn up annually by the board of directors of the Commission for each region in which the board has an office.

The members from union associations shall be appointed by the Government from among the persons whose names appear on a list drawn up annually by the said board of directors for each region in which the board has an office.

The Minister may draw up a list under the fourth or fifth paragraph if the board of directors of the Commission has failed to do so.

“**386.** Where a person whose name appears on a list referred to in the fourth, fifth or sixth paragraph of section 385 dies, resigns or is unable to act, the board of directors of the Commission if it entered the person’s name on the list or the Minister, as the case may be, may remove the person’s name from the list and enter another person’s name.

“DIVISION V

“RECRUITMENT AND SELECTION OF MEMBERS

“**387.** Only a person who has the qualifications required by law and at least ten years’ experience pertinent to the exercise of the functions of the board may be a commissioner of the board.

“**388.** Commissioners shall be appointed by the Government from among persons declared to be qualified according to the recruiting and selection procedure established by government regulation. The regulation shall, in particular,

- (1) determine the publicity that must be given to the recruiting procedure and the content of such publicity;
- (2) determine the procedure by which a person may become a candidate;
- (3) authorize the establishment of selection committees to assess the aptitude of candidates and formulate an opinion concerning them;
- (4) fix the composition of the committees and mode of appointment of committee members;
- (5) determine the selection criteria to be taken into account by the committees;
- (6) determine the information a committee may require from a candidate and the consultations it may hold.

“389. The names of the persons declared to be qualified for appointment as commissioners shall be recorded in a register kept at the Ministère du Conseil exécutif.

“390. A declaration of aptitude shall be valid for a period of 18 months or for such period as is determined by government regulation.

“391. Members of a selection committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

“DIVISION VI

“TERM OF OFFICE AND RENEWAL

“392. Subject to the exceptions that follow, the term of office of a commissioner is five years and the term of office of a member other than a commissioner is one year, except for the first two years of existence of the board during which the member's term of office is two years.

“393. The Government may determine a shorter term of office of a fixed duration in the instrument of appointment of a commissioner where the candidate so requests for a valid reason or where required by special circumstances stated in the instrument of appointment.

“394. The term of office of a commissioner shall be renewed for five years, after consultation with the Conseil consultatif du travail et de la main-d'oeuvre,

(1) unless the commissioner is notified otherwise at least three months before the expiry of his term by the agent authorized therefor by the Government; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of his term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where required by special circumstances stated in the instrument of renewal.

“395. The renewal of the term of office of a commissioner shall be examined according to the procedure established by government regulation. The regulation shall, in particular,

- (1) authorize the establishment of committees;
- (2) fix the composition of the committees and the mode of appointment of committee members;
- (3) determine the criteria to be taken into account by the committees;
- (4) determine the information a committee may require from the member and the consultations it may hold.

“396. Members of an examination committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

“DIVISION VII

“PREMATURE TERMINATION OF OFFICE AND SUSPENSION

“397. The term of office of a member may terminate prematurely only on his retirement or resignation, or on his being dismissed or otherwise removed from office in the circumstances referred to in this division.

“398. To resign, a member must give the Minister reasonable notice in writing and send a copy to the president of the board.

The resignation takes effect on the date it is accepted by the Minister.

“399. The Government may remove a member from office for loss of a qualification required by law for holding the office of member, or if, in the

opinion of the Government, a permanent disability prevents the member from performing the duties of his office satisfactorily. Permanent disability is ascertained by the Conseil de la justice administrative, after an inquiry conducted at the request of the Minister or of the president of the board.

Sections 193 to 197 of the Act respecting administrative justice (1996, chapter 54), adapted as required, apply in such circumstances.

“400. The Government may also dismiss a member if the Conseil de la justice administrative so recommends, after an inquiry following a complaint concerning a failure to observe the code of ethics, to perform the duties imposed by this chapter or to comply with the requirements relating to conflict of interest or incompatible offices. It may also suspend or reprimand the member.

A complaint must be in writing and must set out briefly the grounds on which it is based. The complaint is sent to the seat of the Conseil de la justice administrative.

The provisions of sections 184 to 192 of the Act respecting administrative justice, adapted as required, apply to the examination of the complaint.

“DIVISION VIII

“OTHER PROVISION REGARDING TERMINATION OF DUTIES

“401. Any member may, with the authorization of and for the time determined by the president of the board, continue to perform his duties after the expiry of his term of office in order to conclude the cases he has begun to hear but has yet to determine; he shall be considered to be a supernumerary member for the time required.

The first paragraph does not apply to a member who has been dismissed or otherwise removed from office.

“DIVISION IX

“REMUNERATION AND OTHER CONDITIONS OF OFFICE

“402. The Government shall make regulations determining

(1) the mode of remuneration of the members and the applicable standards and scales;

(2) the conditions subject to which and the extent to which a member may be reimbursed the expenses incurred in the performance of his duties.

The Government may make regulations determining other conditions of office applicable to all or certain members, including benefits other than a pension plan.

The regulatory provisions may vary according to whether they apply to a commissioner or a member other than a commissioner or to a member charged with an administrative office within the board.

The regulations come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec* or on any later date indicated therein.

“403. The Government shall fix, in accordance with the regulations, the remuneration, benefits and other conditions of office of the members.

“404. Once fixed, a member’s remuneration may not be reduced.

However, additional remuneration attaching to an administrative office within the board shall cease upon termination of such office.

“405. The pension plan of commissioners shall be determined pursuant to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) or the Act respecting the Civil Service Superannuation Plan (chapter R-12), as the case may be.

“406. A public servant appointed as a member of the board ceases to be subject to the Public Service Act (chapter F-3.1.1) for all matters concerning such office ; for the duration of his term of office, he is on full leave without pay for the purpose of performing his duties of office.

“DIVISION X

“ADMINISTRATIVE OFFICE

“407. The Government shall designate, among the commissioners, a president and at least two vice-presidents.

They shall be designated by the Government after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

“408. The Minister shall designate a vice-president to replace the president or another vice-president temporarily when required.

If the vice-president so designated is himself absent or unable to act, the Minister shall designate another vice-president as a replacement.

“409. The administrative office of the president or a vice-president is of a fixed duration determined in the instrument of appointment or renewal.

“410. The administrative office of the president or a vice-president may terminate prematurely only on his relinquishing such office, on the premature termination or non-renewal of his term of office as a member of the board, or on his being dismissed or otherwise removed from his administrative office in the circumstances referred to in this division.

“411. The Government may dismiss the president or a vice-president from his administrative office for loss of a qualification required by law for the holding of such office.

The Government may also remove them from administrative office if the Conseil de la justice administrative so recommends, after an inquiry conducted at the Minister’s request concerning a lapse pertaining only to administrative duties. Sections 193 to 197 of the Act respecting administrative justice, adapted as required, apply in such circumstances.

“DIVISION XI

“ETHICS AND IMPARTIALITY

“412. Before taking office, every commissioner shall take an oath, solemnly affirming the following: “ I (...) swear that I will exercise the powers and fulfill the duties of my office impartially and honestly and to the best of my knowledge and abilities.”

The oath shall be taken before the president of the board. The president of the board shall take the oath before a judge of the Court of Québec.

The writing evidencing the oath shall be sent to the Minister.

“413. The Government shall, after consulting the president, establish a code of ethics applicable to the members of the board.

The content of the code may vary according to whether it applies to a commissioner or to a member other than a commissioner.

The code shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, or on any later date indicated therein.

“414. The code of ethics shall set out the rules of conduct and the duties of the members towards the public, the parties, their witnesses and the persons representing them ; it shall, in particular, define the conduct that is derogatory to the honour, dignity or integrity of the members. It may, in addition, determine the activities or situations that are incompatible with the office they hold, their obligations as regards the disclosure of their interests, and the functions they may exercise gratuitously.

“415. A member may not, on pain of forfeiture of office, have a direct or indirect interest in any enterprise that could cause a conflict between his personal interest and his duties of office, unless the interest devolves to him by succession or gift and he renounces it or disposes of it with dispatch.

“416. In addition to observing conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics established under this Act, a member must refrain from pursuing an activity or placing himself in a situation incompatible, within the meaning of the code of ethics, with the exercise of his office.

“417. Commissioners shall devote themselves exclusively to their office.

They may, however, carry out any other mandate entrusted to them by order of the Government after consultation with the president of the board.

“DIVISION XII

“MANAGEMENT AND ADMINISTRATION

“418. In addition to the powers and duties that may otherwise be assigned to him, the president is charged with the administration and general management of the board.

The duties of the president include

(1) fostering the participation of commissioners in the formulation of guiding principles for the board so as to maintain a high level of quality and coherence of decisions;

(2) designating a commissioner with responsibility for the administration of each office of the board;

(3) coordinating, assigning and supervising the work of the members who shall comply with his orders and directives in that regard;

(4) seeing to the observance of standards of ethical conduct;

(5) promoting the professional development of the commissioners as regards the exercise of their functions.

“419. Upon the appointment of a commissioner, the president shall assign him to one or more regions in which the board has an office.

The president may change such an assignment for the proper dispatch of the business of the board.

“420. The president shall determine which commissioners are to be called upon to sit at the sittings of the board.

“**421.** Where, for the purposes of section 374, two members must sit with a commissioner, the president shall call upon the members appointed under the fourth paragraph of section 385, in the order in which their names are entered on the list drawn up by the Government for the region in which they are appointed, until one declares himself able to act; that person shall then be designated by the president to sit at the hearing he indicates.

The president shall proceed in the same manner to designate a member appointed under the fifth paragraph of section 385, using the list of members drawn up by the Government.

“**422.** The president may, if he considers it expedient, assign one or more assessors appointed under section 423 to a commissioner.

The president may also, if he considers it expedient owing to the complexity or importance of a proceeding, designate three commissioners to hear and decide the case, one of whom shall preside at the proof and hearing.

“**423.** The president shall appoint full-time assessors, whose function is to sit with a commissioner and advise him on any question of a medical, professional or technical nature.

“**424.** The president may, in order to expedite the business of the board, appoint part-time or temporary assessors and determine their fees.

Such assessors are not members of the personnel of the board.

“**425.** The president shall appoint conciliators, whose function is to meet with the parties and endeavour to reach an agreement.

“**426.** The president shall establish a code of ethics applicable to assessors and conciliators, and shall see that it is observed.

The code of ethics may prescribe separate rules for conciliators and assessors.

The code of ethics comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

“**427.** Each year, the president shall present a plan to the Minister in which he shall state his management objectives aimed at ensuring the accessibility of the board and the quality and promptness of its decision-making process and give an account of the results achieved in the preceding year.

“**428.** Each month, the president shall forward, to the Minister, in addition to any information otherwise requested by the Minister:

(1) the number of days on which hearings were held and the average number of hours devoted to them;

(2) the number of postponements granted;

(3) the number of cases in which a conciliation meeting took place, the nature thereof, together with the number of such cases in which an agreement was reached between the parties;

(4) the number of cases heard, the nature thereof and the places and dates of the hearings;

(5) the number of cases taken under advisement, the nature thereof and the time devoted to advisement;

(6) the number of decisions made;

(7) the number of decisions made that have the effect of confirming or quashing an opinion given by a member of the Bureau d'évaluation médicale;

(8) the time devoted to proceedings, from the filing of the introductory application to the beginning of the hearing and the making of the decision.

“**429.** The president may delegate all or part of his powers and duties to the vice-presidents or to a commissioner responsible for the management of a regional office.

“**429.1.** In addition to the powers and duties that may otherwise be assigned to them or delegated to them by the president, the vice-presidents shall assist and advise the president in the performance of his duties and perform their administrative duties under the president's authority.

“DIVISION XIII

“SITTINGS

“**429.2.** The sittings of the board, in both divisions, shall be presided by a commissioner.

“**429.3.** The board may sit at any place in Québec, even on a holiday. Where a hearing is held in a locality where a court sits, the clerk of the court shall allow the board to use, free of charge, the premises used by the court, unless they are being used for sittings of the court.

“**429.4.** Where a member who has been called upon to sit at a sitting dies, resigns or is unable to act, the board shall immediately designate a replacement, following the same procedure as for the designation of the member being replaced.

“DIVISION XIV**“PERSONNEL AND MATERIAL AND FINANCIAL RESOURCES**

“429.5. The secretary, the full-time assessors, the conciliators and the other members of the personnel of the board shall be appointed and remunerated in accordance with the Public Service Act.

No judicial proceedings may be brought against them for any act done in good faith in the performance of their duties.

“429.6. The secretary shall have custody of the records of the board.

“429.7. The minutes of a sitting signed by the commissioner who presided are authentic.

The documents emanating from the board are authentic if they are signed, as are copies if they are certified true, by the president, a vice-president or the secretary, or by any person designated by the president for that purpose.

“429.8. Once proceedings have been completed, the parties shall reclaim the exhibits they produced and the documents they filed.

The exhibits or documents not reclaimed by the parties may be destroyed after the expiry of one year from the date of the final decision of the board or of the proceeding terminating the proceedings, unless the president decides otherwise and, in particular, decides to transmit the exhibits or documents to the Commission so that it may complete its file.

“429.9. The financial year of the board shall end on 31 March.

“429.10. Each year, the president shall submit the budgetary estimates of the board for the following financial year to the Minister according to the form, tenor and schedule determined by the Minister.

The estimates shall be submitted to the Government for approval.

“429.11. The books and accounts of the board shall be audited by the Auditor General each year and whenever ordered by the Government.

“429.12. The sums required for the application of this chapter shall be taken out of the fund of the board.

The fund shall consist of the sums paid into it annually by the board for the purposes of this chapter, in the amount and on the terms and conditions determined by the Government.

“DIVISION XV**“RULES OF EVIDENCE AND PROCEDURE**

“429.13. Before making a decision, the board shall give the parties an opportunity to be heard.

“429.14. The board may proceed on the record if it considers it appropriate and if the parties consent thereto.

“429.15. If a duly summoned party does not appear at the time fixed for the hearing without having provided a valid excuse for his absence, or chooses not to be heard, the board may nonetheless proceed with the hearing of the matter and make a decision.

“429.16. The Commission may intervene before the board at any time until the end of the proof and hearing.

Where the Commission wishes to intervene, it shall send a notice to that effect to each of the parties and to the board; it is then considered to be a party to the proceeding.

The same applies to the worker concerned by a proceeding relating to the application of section 329.

“429.17. The parties may be represented by the person of their choice.

“429.18. The board may accept a written proceeding despite a defect of form or an irregularity.

“429.19. The board may extend a time limit or relieve a person of the consequences of a failure to act within the allotted time if it is established that the person could not reasonably have acted within that time and if, in the opinion of the board, no other party suffers serious harm therefrom.

“429.20. In the absence of provisions applicable to a particular case, the board may remedy the inadequacy by any procedure consistent with this Act or with its rules of procedure.

“429.21. The board may, by way of a by-law passed by a majority of the commissioners, make rules of evidence, procedure and practice specifying the manner in which the rules established under this division are to be applied. The rules shall, in particular, provide for the preparation of a hearing role.

The by-law shall be submitted to the Government for approval.

“429.22. A proceeding is brought by means of an application filed in the office of the board of the region in which the domicile of the worker is located or, if the worker is domiciled outside Québec, of a region in which the employer has an establishment.

Where no worker is party to the proceeding, the proceeding is brought at the office of the board of a region in which the employer has an establishment.

If a proceeding is brought in a region where the board does not have an office, the application is filed at the head office of the board.

“429.23. The application shall

(1) identify the decision or order in respect of which the proceeding is brought;

(2) contain a short statement of the grounds invoked in support of the proceeding;

(3) set out the conclusion sought;

(4) contain any other information required by the rules of evidence, procedure and practice of the board.

“429.24. The rules pertaining to the notice provided for in article 95 of the Code of Civil Procedure (chapter C-25), adapted as required, apply in every case in which a party alleges that a provision referred to in the said article is inapplicable constitutionally or is invalid or inoperative, including in respect of the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 of the 1982 volume of the Acts of the Parliament of the United Kingdom) or of the Charter of human rights and freedoms (chapter C-12).

“429.25. Upon receipt of an application, the board shall forward a copy to the other parties and to the Commission.

“429.26. Within 20 days of receipt of a copy of the application, the Commission shall send to the board and to every party a copy of the record in its possession respecting the contested decision.

“429.27. The board may, on an application, dismiss a proceeding it considers improper or dilatory or subject it to certain conditions.

“429.28. Where, on examining the application and the contested decision, the board ascertains that the Commission failed to rule upon certain questions although it was required to do so by law, it may, if the date of the hearing has not been fixed, suspend the case for the time it fixes so that the Commission may act.

If, at the expiry of the allotted time, the proceeding is maintained, the board shall hear it as though it were a proceeding in respect of the original decision.

“429.29. Cases in which the subject-matter in dispute is substantially the same or which could suitably be combined, whether or not the same

parties are involved, may be joined by order of the president or of a person designated by the president on the conditions he fixes.

An order made under the first paragraph may be revoked by the board upon hearing the matter if, of its own initiative or at the request of a party, it comes to the conclusion that the interest of justice will be better served by doing so.

“429.30. A proceeding must be heard and decided by preference

(1) if it is made under section 359 and its object is the reduction or suspension of an indemnity established under subparagraph *e* of paragraph 2 of section 142;

(2) if it is made under section 37.3 of the Act respecting occupational health and safety (chapter S-2.1) and its object is to determine whether a worker can be reassigned to other duties;

(3) if it is made under section 193 of that Act and its object is the closing of the whole or part of a place of employment or the exercise of a right of refusal;

(4) in any other case, if the president considers it appropriate.

“429.31. A proceeding must be heard and decided by preference

(1) if it is made under section 359 in respect of the existence of an employment injury other than a recurrence, relapse or aggravation, or the fact that the person is a worker or is considered to be a worker;

(2) if it is made under section 359 and its object is the date or the foreseeable period of consolidation of the worker's employment injury, or the existence or the assessment of the worker's functional disability;

(3) in any other case, if the president considers it appropriate.

“429.32. The board shall have access to the record in the possession of the Commission respecting the contested decision.

“429.33. The president or the commissioner designated by him may, if he considers it useful and if the circumstances of the case allow it, call the parties to a pre-hearing conference.

“429.34. The pre-hearing conference is held by a commissioner. The purpose of the pre-hearing conference is

(1) to define the questions to be dealt with at the hearing;

(2) to assess the advisability of clarifying and specifying the pretensions of the parties and the conclusions sought;

- (3) to ensure that all documentary evidence is exchanged by the parties ;
- (4) to plan the conduct of the proceedings and proof at the hearing ;
- (5) to examine the possibility for the parties of admitting certain facts or of proving them by means of sworn statements ;
- (6) to examine any other question likely to simplify or accelerate the conduct of the hearing.

In the employment injuries prevention and compensation division, the members referred to in section 374 may participate in the conference if they are available to do so.

“429.35. Minutes of the pre-hearing conference shall be drawn up and signed by the parties and by the commissioner who called the parties to the conference.

Agreements and decisions recorded in the minutes shall, as far as they may apply, govern the conduct of the proceeding, unless the board, when hearing the matter, permits a derogation therefrom to prevent an injustice.

“429.36. The board shall, so far as possible, facilitate the holding of a hearing at a date and time when the parties and their witnesses, if any, are able to attend without unduly disrupting their usual occupations.

“429.37. Notice shall be sent to the parties within reasonable time before the hearing, stating

- (1) the purpose, date, time and place of the hearing ;
- (2) that the parties have the right to be assisted or represented ;
- (3) that the board has the authority to proceed, without further delay or notice, despite the failure of a party to appear at the time and place fixed if no valid excuse is provided.

“429.38. The board may hear the parties by any means provided for in its rules of evidence, procedure and practice.

“429.39. A party who wishes to cause witnesses to be heard and to produce documents shall proceed in the manner prescribed in the rules of evidence, procedure and practice of the board.

“429.40. A commissioner may visit premises or order an expert appraisal by a qualified person he designates to examine and assess the facts of a case.

In the employment injuries prevention and compensation division, the commissioner shall be accompanied by the members referred to in section 374.

The owner, lessee or occupant of premises that the commissioner wishes to visit must facilitate their access thereto.

“429.41. Where a commissioner is unable to continue a hearing, another member designated by the president may, with the consent of the parties, continue the hearing and, in the case of oral evidence already produced, rely on the notes and minutes of the hearing or, as the case may be, on the stenographer’s notes or on the recording of the hearing.

The same applies where a hearing is continued after the member sitting at the hearing ceases to exercise his functions.

“429.42. A member who has knowledge of a valid cause for his recusation must declare that cause in a writing filed in the record and must advise the parties of it.

“429.43. A party may, at any time before the decision and provided he acts with dispatch, apply for the recusation of a member seized of the case if he has good reason to believe that a cause for recusation exists.

The application for recusation shall be addressed to the president. Unless the member removes himself from the case, the application shall be decided by the president or by a member designated by the president.

“DIVISION XVI

“CONCILIATION

“429.44. If the parties to a proceeding consent thereto, the board may appoint a conciliator who shall meet with the parties and endeavour to reach an agreement.

“429.45. Nothing said or written in the course of conciliation may be admitted as evidence, unless the parties consent thereto.

“429.46. Every agreement shall be recorded in writing, and any document to which it refers shall be attached thereto. The agreement must be signed by the conciliator and by the parties, and is binding on the parties.

The agreement shall be confirmed by a commissioner to the extent that it is in accordance with law ; in such a case, the agreement constitutes a decision of the board which terminates the proceedings.

The decision is mandatory and binding on the parties.

“429.47. Where no agreement has been reached or the board refuses to confirm an agreement, the latter shall hold a hearing as soon as possible.

“429.48. Conciliators shall not disclose anything revealed to them or learned by them in the exercise of their functions, or produce personal notes or any document made or obtained in the course of their duties before a court or before a body or person exercising judicial or quasi-judicial functions.

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person shall have access to such a document, unless the document is used as the basis for an agreement and for the decision confirming an agreement.

“DIVISION XVII

“DECISIONS

“429.49. The decision of the board shall be made, in each division, by the commissioner alone.

Where a case is heard by more than one commissioner, it shall be decided by the majority of the commissioners having heard it.

The decision of the board is final, may not be appealed from and must be complied with without delay by every person to whom it applies.

“429.50. Every decision by the board must be in writing, give the reasons on which it is based, be signed and be notified to the parties and to the Commission.

Within the employment injuries prevention and compensation division, the decision of the commissioner shall set out the opinion expressed by the members referred to in section 374 sitting with him and the reasons on which the opinion is based.

“429.51. The board must make its decision within nine months after the application is filed and within three months after the matter is taken under advisement.

However, in the case of a proceeding under section 429.31, the board must make its decision within 90 days after the application is filed and within 60 days after the matter is taken under advisement.

Failure by the board to observe these time limits shall not cause the matter to be withdrawn from the commissioner, or invalidate a decision or order made by the commissioner after the expiry of the time limit.

“429.52. A matter heard by a commissioner and on which he has not made a determination at the time he ceases to exercise his functions shall be heard again; if such a matter was heard by more than one commissioner, it shall be decided by the other commissioners.

Where opinions are equally divided on a question, it shall be referred to the president who shall decide according to law.

“429.53. A president or a commissioner called upon to hear a matter pursuant to section 429.52 may, with the consent of the parties, rely, as regards oral evidence, on the notes and minutes of the hearing or, as the case may be, on the stenographer’s notes or on the recording of the hearing. If the president or commissioner finds them insufficient, he may recall a witness or require any other evidence.

“429.54. Any member referred to in section 374 who has ceased to exercise his functions when a matter is taken under advisement shall be replaced.

The member shall, in that case, rely, as regards evidence, on the stenographer’s notes of the hearing or, as the case may be, on the stenographer’s notes or on the recording of the hearing.

“429.55. A decision or order containing an error in writing or in calculation or any other clerical error may be corrected, on the record and without further formality, by the commissioner who made the decision or order.

Where a commissioner is unable to act or has ceased to hold office, another commissioner designated by the president may correct the decision.

“429.56. The board, on an application, may review or revoke any decision or order it has made

(1) where a new fact is discovered which, had it been known in time, could have warranted a different decision;

(2) where a party, owing to reasons considered sufficient, could not be heard;

(3) where a substantive or procedural defect is of a nature likely to invalidate the decision.

In the case described in subparagraph 3 of the first paragraph, the decision or order may not be reviewed or revoked by the commissioner who made the decision or order.

“429.57. A proceeding for review or revocation is brought by means of an application filed with the employment injuries division within a reasonable time after the decision concerned or after a new fact likely to warrant a different decision is discovered. The application shall refer to the decision concerned and state the grounds invoked in support of the application. It shall contain any other information required by the rules of evidence, procedure and practice.

The board shall forward a copy of the application to the other parties who may respond, in writing, within 30 days of receipt.

The board shall examine the case on the record, except where a party asks to be heard or the board determines, of its own initiative, that a hearing is appropriate.

“429.58. A decision of the board is mandatory according to the terms and conditions stated therein, provided it has been notified to the parties.

Compulsory execution of decisions is effected by deposit at the office of the clerk of the Superior Court in the district in which the proceeding was brought.

Upon the deposit, the decision of the board becomes executory as if it were a final and unappealable judgment of the Superior Court and has all the effects thereof.

“429.59. Except on a question of jurisdiction, none of the recourses provided in articles 33 and 834 to 846 of the Code of Civil Procedure may be exercised, and no injunction may be granted against the board or against any of its members acting in their official capacity.

A judge of the Court of Appeal may, on a motion, quash by summary procedure any judgment, order or injunction granted contrary to this section.”

25. Section 433 of the said Act is replaced by the following section:

“433. The amount due is payable upon the expiry of the time for filing an application for review under section 358 or the time for bringing a proceeding under section 359 or, if the application has been filed or the proceeding brought, on the day of the final decision confirming the decision of the Commission.”

26. Section 436 of the said Act is amended by replacing the words “board of appeal” in the second line by the word “board”.

27. Section 450 of the said Act is amended

(1) by replacing the words “bring an appeal” in the second line of the second paragraph by the words “contest the decision”;

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

“A proceeding brought under any of the said Acts precludes any proceeding under any other of them and the decision made binds both agencies.”

28. Section 451 of the said Act is amended

(1) by replacing the words “bring an appeal” in the second line of the second paragraph by the words “contest the decision”;

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

“A proceeding brought under any of the said Acts precludes any proceeding under any other of them and the decision made binds the Commission for the purposes of each of the said Acts.”

29. Section 570.1 of the said Act is amended by replacing the words “appealed from” in the third line of the first paragraph by the words “contested before the board”, by replacing the word “appeal” in the second line of the second paragraph by the word “contestation” and by replacing the words “of, or appeal from,” in the first and second lines of the third paragraph by the words “contestation of”.

30. Section 590 of the said Act is replaced by the following section:

“**590.** The Minister of Labour is responsible for the administration of this Act.”

31. Schedules VI and VII to the said Act are repealed.

FINAL PROVISIONS

ACT RESPECTING THE BARREAU DU QUÉBEC

32. Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing the words “or the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001)” in the sixth, seventh and eighth lines of paragraph 3 of paragraph *a* of subsection 2 by the words “, the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001) or the Commission des lésions professionnelles established under the said Act”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

33. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by adding the words “the Commission des lésions professionnelles if they are commissioners” after the words “the Commission d’appel en matière de lésions professionnelles if they are employed full-time” in paragraph 3.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

34. Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended

(1) by striking out the definition of “ “review office” ”;

(2) by replacing the definition of “ “board of appeal” ” by the following definition:

“ “Commission des lésions professionnelles” means the Commission des lésions professionnelles established by the Act respecting industrial accidents and occupational diseases (chapter A-3.001);”.

35. Section 20 of the said Act is amended by replacing the words “an appeal” in the second line of the first paragraph by the words “a contestation before the Commission des lésions professionnelles”.

36. Section 36 of the said Act is amended by replacing the word “appeal” in the fourth line of the third paragraph by the words “contestation before the Commission des lésions professionnelles”.

37. Section 37.1 of the said Act is amended by replacing the words “thereof by a review office” in the third line by the words “to the Commission in accordance with sections 358.1 to 358.5 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001)”.

38. Section 37.2 of the said Act is replaced by the following section:

“37.2. The Commission shall proceed by preference with an application for review under section 37.1.

The decision made by the Commission on the application has effect immediately, even if it is contested before the Commission des lésions professionnelles.”

39. Section 37.3 of the said Act is replaced by the following section:

“37.3. Any person who believes he has been wronged by a decision made by the Commission following an application under section 37.1, may, within 10 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

40. Section 172 of the said Act is amended

(1) by replacing the words “hear and decide any matter or question” in the fourth line of the first paragraph by the words “and decide any question”;

(2) by replacing the words “an inquiry or hearing” in the first line of the second paragraph by the words “the examination of a question”;

(3) by replacing the words “an inquiry or hearing” in the first line of the third paragraph by the words “the examination of a question”.

41. Section 176 of the said Act is amended by replacing the words “, hear and decide any matter or” in the first and second lines by the words “and decide any”.

42. Chapter IX.1 of the said Act is repealed.

43. Section 191.1 of the said Act is amended by replacing the words “a review office” in the second line by the words “the Commission in accordance with sections 358.1 to 358.5 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001)”.

44. Section 191.2 of the said Act is amended by replacing the words “review office” in the second line by the word “Commission”.

45. Section 192 of the said Act is replaced by the following section :

“**192.** A decision made by the Commission following an application under section 191.1 has effect immediately, notwithstanding any contestation before the Commission des lésions professionnelles.”

46. Section 193 of the said Act is replaced by the following section :

“**193.** Any person who believes he has been wronged by a decision made by the Commission following an application under section 191.1, may, within 10 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

47. Section 223 of the said Act is amended

(1) by replacing subparagraph 37 of the first paragraph by the following subparagraph :

“(37) establishing rules applicable to the examination and decision of questions over which an inspector or the Commission has jurisdiction or over which certain persons or the executive committee have jurisdiction pursuant to section 172;”;

(2) by replacing the words “an investigation or hearing held under section 172 or held by a revision office” in the second and third lines of subparagraph 40 of the first paragraph by the words “the examination of a question under section 172”;

(3) by striking out subparagraph 40.1 of the first paragraph.

48. Section 223.1 of the said Act is amended

(1) by replacing the words “an appeal” in the second line of paragraph 1 by the words “a contestation”;

(2) by replacing the words “an appeal” in the second line of paragraph 4 by the words “a contestation”.

49. Section 228 of the said Act is amended

(1) by striking out the words “and sections 358 and 359” in the first line;

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

“A decision of the Commission may be contested before the Commission des lésions professionnelles in accordance with section 359.1 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).”

TRANSITIONAL PROVISIONS

50. All matters pending before a review office on the date of coming into force of section 42 of this Act shall be continued and decided in accordance with sections 358.2 to 358.5 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 15 of this Act, unless the hearing of the matter was commenced before that date, in which case the matter shall be continued before the review office which was seized of the matter.

Sections 359 and 362 to 364 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by sections 16 and 18 to 20 of this Act and adapted as required, shall apply to the decision of the review office.

51. Notwithstanding section 42 of this Act, a review office established under Chapter IX.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) shall continue to exist and shall retain its jurisdiction to hear and decide any matter pending before it on the date of coming into force of section 42, the hearing of which was commenced before that date.

52. All matters pending before the Commission d’appel en matière de lésions professionnelles on the date of coming into force of section 24 of this Act shall be continued and decided by the Commission des lésions professionnelles established under section 367 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

However, all matters the hearing of which was commenced before that date shall be continued before the commissioner who was seized of the matter; that commissioner shall exercise his jurisdiction in the capacity of commissioner of the Commission des lésions professionnelles.

If the commissioner who was seized of the matter ceases to be a commissioner, section 401 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, applies to him.

In the cases described in the second and third paragraphs, the commissioner shall sit alone.

53. Where a review or appeal proceeding before a review office or before the Commission d'appel en matière de lésions professionnelles was provided for by the law as it read before being amended by this Act, the review or appeal proceeding shall be maintained before the authorities that replace them, with respect to any decision made before the coming into force of sections 24 and 42 of this Act, if the time for bringing the proceeding prescribed by the law as it read before being amended by this Act has not expired.

54. Where this Act shortens a prescribed period, the new period applies, but begins to run upon the coming into force of this Act. However, the period prescribed by the law as it read before being amended by this Act is maintained where it would in fact be extended if the new period was applied.

55. The rules of evidence, procedure and practice applicable before the Commission des lésions professionnelles, including the provisions governing introductory procedures, conciliation, pre-hearing conferences and hearings, shall apply, according to the state of the record, to all matters that were pending on the date of coming into force of section 24 and are to be continued before the Commission des lésions professionnelles. However, the Commission des lésions professionnelles may set aside those rules and apply the former rules if it considers that the application of the provisions as amended by this Act would cause prejudice to a party.

The former rules of evidence, procedure and practice shall remain applicable to matters pending the hearing of which was commenced before the coming into force of section 24 of this Act.

56. Until a by-law containing rules of evidence, procedure and practice is made under section 429.21 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, the rules that applied before the Commission d'appel en matière de lésions professionnelles shall continue to apply as suppletive provisions, but only insofar as such rules are compatible with the rules introduced by this Act.

57. Notwithstanding section 385 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, the commissioners of the Commission d'appel en matière de lésions professionnelles whose terms of office have not expired on (*insert here the date preceding the date of coming into force of this section*) shall

become commissioners of the Commission des lésions professionnelles, without administrative duties, for the unexpired portion of their terms.

Upon the expiry of their terms of office, such persons shall become subject to the appointment renewal procedure set out in sections 394 and 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

58. Notwithstanding section 385 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, the commissioners of the Commission d'appel en matière de lésions professionnelles who, on (*insert here the date preceding the date of coming into force of this section*), hold office as commissioners of the said commission, despite the expiry of their term, shall become commissioners of the Commission des lésions professionnelles and shall be subject to the appointment renewal procedure set out in sections 394 and 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act; however, in such a case, the time limit of three months provided in section 394 shall be calculated from the date occurring six months after the coming into force of this section.

59. Notwithstanding section 42 of this Act, the persons who are chairmen of the review offices established under the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) on (*insert here the date preceding the date of coming into force of this section*) are declared to be qualified for appointment as commissioners of the Commission des lésions professionnelles, and their names shall be recorded in the register provided for in section 389 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act; the candidacy of such persons shall be examined by the committee charged with examining renewals of terms of office, which may, after consulting the Conseil consultatif du travail et de la main-d'oeuvre, recommend to the Government that they be appointed.

60. The qualifications required by law, including the 10 years of experience pertinent to the exercise of the functions of the Commission des lésions professionnelles, shall not be required of persons who become commissioners of the said commission pursuant to sections 57 and 58, even upon a subsequent renewal of appointment, as long as they remain members.

The same applies to persons declared to be qualified pursuant to section 59.

61. Persons who become commissioners of the Commission des lésions professionnelles pursuant to sections 57 and 58 shall, within 60 days, take the oath prescribed by section 412 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

62. Until the code of ethics applicable to the members of the Commission des lésions professionnelles has been established in accordance with section

413 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, and has come into force, the members of the Commission des lésions professionnelles are bound to comply with the following obligations, and any failure by a member to comply with them may be grounds for a complaint against the member.

The members must perform their duties honestly, and must avoid placing themselves in situations that hinder the honest performance of their duties; their behaviour must be fully compatible with the requirements of honour, dignity and integrity inherent in their office.

63. Until the coming into force of section 165 of the Act respecting administrative justice (1996, chapter 54), the Government may determine the authority responsible for receiving and examining a complaint and for instituting an inquiry in accordance with section 399, 400 or 411 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

64. The persons who become commissioners of the Commission des lésions professionnelles pursuant to sections 57 and 58 shall continue to receive the remuneration they received before the coming into force of this Act; notwithstanding the coming into force of a regulation respecting remuneration and other conditions of employment, if the remuneration they receive is greater than that prescribed regulation, they shall continue to receive their former remuneration until parity is reached.

If the commissioner held administrative office prior to the coming into force of this Act, any additional remuneration attached to such office shall cease upon the commissioner ceasing, pursuant to this Act, to hold administrative office; such additional remuneration shall correspond to the difference between the annual salary of the commissioner holding administrative office and the maximum on the salary scale applicable to a commissioner of the Commission d'appel en matière de lésions professionnelles.

65. Any benefits other than the pension plan and the other conditions of employment of the commissioners, as they existed before the coming into force of this Act, shall continue to apply to them until the coming into force of a regulation respecting remuneration and other conditions of employment.

66. The members of the personnel of the Commission de la santé et de la sécurité du travail who, on (*insert here the date of the day preceding the coming into force of section 42 of this Act*), are assigned to the administration of Chapter IX.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) shall become, as determined by the Government after agreement between the bodies concerned, members of the personnel of the Commission des lésions professionnelles established by section 24 of this Act.

67. The Commission des lésions professionnelles shall succeed to the Commission d'appel en matière de lésions professionnelles; persons who are

members of the personnel of the Commission d'appel en matière de lésions professionnelles on (*insert here the date preceding the coming into force of section 24 of this Act*) become, as determined by the Government, members of the personnel of the Commission des lésions professionnelles established by section 24 of this Act.

The records, documents and archives of the Commission d'appel en matière de lésions professionnelles shall become the records, documents and archives of the Commission des lésions professionnelles.

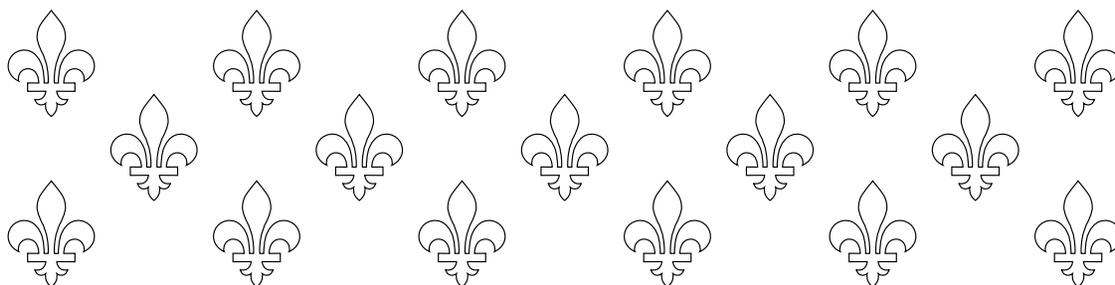
68. The Minister must forward to the Government his assessment of the Bureau d'évaluation médicale established under section 216 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001).

The assessment must indicate, in particular, the results obtained by the Bureau following the implementation of the measures taken since the coming into force of this Act to improve the operation of the Bureau.

The assessment shall be tabled by the Minister in the National Assembly within 15 days of receipt or, if the Assembly is not sitting, within 15 days of resumption.

The competent committee of the National Assembly shall examine the assessment.

69. This Act comes into force on the date or dates to be fixed by the Government.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 97
(1997, chapter 29)

An Act respecting the Centre de recherche industrielle du Québec

Introduced 18 March 1997
Passage in principle 13 May 1997
Passage 6 June 1997
Assented to 12 June 1997

Québec Official Publisher
1997

EXPLANATORY NOTES

The object of this bill is to enable the Centre de recherche industrielle du Québec to continue as a legal person established in the public interest with share capital.

The purpose of the Centre will be to design, develop and test equipment, products or processes and operate, on its own or with partners, the equipment, products and processes it has developed or to which it holds the rights.

The bill amends the composition of the board of directors of the Centre which, in future, will consist of nine members appointed by the Government, including a president and general manager. In addition, it contains conflict of interest rules and provides for the defence of directors who are prosecuted.

The bill also contains financial provisions specifying, in particular, the authorized share capital of the Centre and the terms and conditions with which the Centre must comply when making the financial commitments within its purview. Lastly, the bill includes transitional provisions.

Bill 97

AN ACT RESPECTING THE CENTRE DE RECHERCHE INDUSTRIELLE DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

ESTABLISHMENT AND ORGANIZATION

1. The industrial research centre known as the “Centre de recherche industrielle du Québec”, established by chapter 62 of the statutes of 1969, shall be continued under this Act as a legal person established in the public interest with share capital.

2. The Centre may be designated by the acronym “CRIQ”.

3. The head office of the Centre shall be in the territory of the Communauté urbaine de Québec. Notice of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

The board of directors of the Centre may hold its meetings anywhere in Québec.

4. The Centre is a mandatary of the Government.

The property of the Centre forms part of the domain of the State, but the performance of the obligations of the Centre may be levied against its property.

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

5. The board of directors of the Centre is composed of

(1) the president and general manager, who is a member of the board *ex officio*, and

(2) eight other members appointed by the Government for a term not exceeding three years.

6. The Government shall appoint a chairman from among the members of the board of directors. The chairman shall preside at meetings of the board and see to its proper operation.

The offices of president and general manager and of chairman of the board of directors may be held by the same person.

7. At the expiry of their terms, the members of the board of directors shall remain in office until they are replaced or reappointed.

8. The Government shall appoint the president and general manager of the Centre for a term not exceeding five years. He shall be responsible for the administration and direction of the Centre within the scope of the by-laws and policies of the Centre.

The president and general manager shall perform his duties on a full-time basis.

9. The Government shall determine the remuneration, employment benefits and other conditions of employment of the president and general manager.

The other members of the board of directors shall receive no remuneration, except in such cases, to such extent and on such conditions as the Government may determine. However, they shall be entitled to the reimbursement of expenses incurred in the performance of their duties subject to the conditions and to the extent determined by the Government.

10. The members of the personnel of the Centre shall be appointed according to the staffing plan and the standards established by by-law of the Centre. The by-law shall also determine the standards and scales of remuneration, employment benefits and other conditions of employment of the personnel members.

11. No member of the board of directors holding office on a full-time basis with the Centre or one of its subsidiaries may, on pain of forfeiture of office, have a direct or indirect interest in an enterprise causing his personal interest to conflict with that of the Centre or one of its subsidiaries. However, forfeiture of office is not incurred where the interest devolves by succession or gift, provided it is renounced or disposed of with dispatch.

Any member of the board of directors, other than a member holding office on a full-time basis with the Centre or one of its subsidiaries, who has a direct or indirect interest in an enterprise causing his personal interest to conflict with that of the Centre or one of its subsidiaries must, on pain of forfeiture of office, disclose his interest and withdraw from the meeting while any matter connected with the enterprise in which he has an interest is being discussed and voted on.

Any member of the personnel of the Centre or one of its subsidiaries who has a direct or indirect interest in an enterprise causing his personal interest to conflict with that of the Centre or one of its subsidiaries must, on pain of forfeiture of office, disclose his interest in writing to the chairman of the board of directors of the Centre or, as the case may be, of the subsidiary.

12. The Centre shall assume the defence of any director of the Centre prosecuted by a third person for an act done in the performance of his duties and shall pay the damages, if any, resulting from that act, unless the director has committed a grievous offence or a personal offence separable from the performance of his duties.

Notwithstanding the foregoing, in a penal or criminal proceeding, the Centre shall assume the payment of the expenses of a director of the Centre only if he had reasonable grounds to believe that his conduct was in conformity with the law or if he has been discharged or acquitted.

13. The Centre shall assume the expenses of a director of the Centre if, having prosecuted him for an act done in the performance of his duties, it loses its case and the court so decides.

If the Centre wins its case only in part, the court may determine the amount of the expenses to be assumed by the Centre.

14. The Centre shall fulfil the obligations provided for in sections 12 and 13 in respect of any person who acted at its request as a director for a legal person of which the Centre is a shareholder or creditor.

CHAPTER II

OBJECTS AND POWERS

15. The objects of the Centre are as follows :

- (1) to design, develop and test equipment, products or processes ;
- (2) to operate, on its own or with partners, the equipment, products and processes it has developed or to which it holds the rights ;
- (3) to gather and disseminate technological and industrial information and data ;
- (4) to carry on any activity related to standardization and certification.

For such purposes, the Centre may act as an adviser and provide services in its areas of expertise.

16. The Centre shall carry out any mandate entrusted to it by the Government in any field related to its objects all or part of the costs of which are borne by the Government.

17. The Minister, within the scope of his responsibilities, may issue directives to the Centre concerning its objectives and policies. The directives must first be submitted to the Government for approval.

Every directive is binding on the Centre and must be tabled in the National Assembly within 15 days of its approval by the Government or, if the Assembly is not sitting, within 15 days of resumption.

18. The inventions, discoveries, improvements, processes and equipment made by a person within the scope of a contract of employment, of enterprise or for services which binds the person to the Centre shall be the property of the Centre, unless the contract provides otherwise.

19. The by-laws of the Centre are not subject to ratification by the shareholder.

20. The provisions of Part II of the Companies Act (R.S.Q., chapter C-38), except the provisions of sections 159 to 162, 179, 184, 189 and subsection 3 of section 196, and the provisions of sections 89.1 to 89.4 of Part I of the said Act apply to the Centre.

CHAPTER III

FINANCIAL PROVISIONS

21. The authorized share capital of the Centre is \$65,000,000. It is divided into 650,000 shares having a par value of \$100 each.

22. The shares of the Centre form part of the domain of the State and are allotted to the Minister of Finance.

23. The Minister of Finance may, with the approval of the Government, pay to the Centre, out of the consolidated revenue fund, the sum of \$65,000,000 for 650,000 fully paid-up shares of its share capital. A certificate shall be issued to the Minister for the shares.

The payment may be made in one or several instalments; if it is made in several instalments, each must be authorized by the Government.

24. Following a reduction in the share capital of the Centre and an equivalent repayment of capital to the Minister of Finance under the Act respecting the reduction of the share capital of legal persons established in the public interest and of their subsidiaries (1994, chapter 45), the Minister of Finance may, with the authorization of the Government and subject to the conditions it determines, subscribe for shares of the Centre, the value of which shall not exceed the amount of the repayment. The shares shall be paid for out of the consolidated revenue fund. The certificates shall be issued when the shares are fully paid up.

25. The Government may, subject to the terms and conditions it determines, transfer to the Centre the ownership of any property forming part of the domain of the State.

Where the consideration consists of shares of the share capital of the Centre, share certificates shall be issued by the Centre to the Minister of Finance for the value of the consideration.

26. Registration in the land register of the transfer of property under section 25 is obtained by filing a notice designating the immovable transferred and indicating the number of the order in council authorizing the transfer.

The provisions of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) do not apply to such a transfer.

27. The Government may, subject to the terms and conditions it determines,

(1) guarantee repayment of the principal of and payment of the interest on any loan contracted by the Centre or one of its subsidiaries as well as the performance of any of their obligations ;

(2) give any undertaking relating to the carrying out or financing of a project of the Centre or of one of its subsidiaries ;

(3) authorize the Minister of Finance to advance to the Centre or one of its subsidiaries any amount considered necessary for the pursuit of their objects.

The sums required for the carrying out of this section shall be taken out of the consolidated revenue fund.

28. The Centre or a subsidiary of the Centre shall not, unless authorized by the Government,

(1) acquire or hold shares of a legal person, or shares in a partnership, beyond the limits or contrary to the terms and conditions determined by the Government ;

(2) transfer shares of a legal person, or shares in a partnership, beyond the limits or contrary to the terms and conditions determined by the Government ;

(3) contract a loan which increases total outstanding borrowings beyond the amount determined by the Government ;

(4) grant loans or make any other financial commitment beyond the limits or contrary to the terms and conditions determined by the Government ;

(5) acquire or transfer assets beyond the limits or contrary to the terms and conditions determined by the Government ;

(6) accept a gift or legacy to which a charge or condition is attached.

The amounts, limits and terms and conditions fixed under this section may apply to the group consisting of the Centre and its subsidiaries or to one or several members of that group.

This section does not apply to transactions between the Centre and its subsidiaries or between the subsidiaries.

29. For the purposes of this Act, a legal person or partnership is a subsidiary of the Centre if the Centre holds more than 50% of the voting rights attached to all issued and outstanding shares of the legal person or more than 50% of the shares of the partnership, or may elect or appoint the majority of its directors.

30. The Government shall determine the dividends payable by the Centre.

CHAPTER IV

ACCOUNTS AND REPORTS

31. The fiscal year of the Centre shall end on 31 March.

32. The Centre shall, on or before 30 June each year, file with the Minister its financial statements and activity report for the preceding fiscal year.

The financial statements and the activity report shall include all information required by the Minister.

33. The Minister shall table the activity report and the financial statements of the Centre in the National Assembly within 15 days of receiving them or, if the Assembly is not sitting, within 15 days of resumption.

34. The Centre shall prepare, according to the form, tenor and intervals fixed by the Government, a development plan which must include the activities of its subsidiaries. The plan must be submitted to the Government for approval.

35. The books and accounts of the Centre shall be audited every year, and also whenever so ordered by the Government, by the Auditor General or, with the authorization of the Government, by an auditor designated by the Centre. The auditor's report shall accompany the activity report and the financial statements of the Centre.

36. The minutes of the meetings of the board of directors, approved by the board and certified by the chairman of the board of directors, the secretary or any other person authorized by the Centre are authentic. The same applies to documents and copies emanating from the Centre or forming part of its records, when so certified.

37. No act, document or writing shall be binding upon the Centre or may be attributed to it unless it is signed by the chairman of the board of directors or by the president and general manager or, only to the extent determined by by-law, by a member of the personnel of the Centre designated by the president and general manager.

The by-law may, subject to the conditions it determines, allow the signature to be affixed to the documents listed therein by means of an automatic device. It may, in the same manner, allow a facsimile of a signature to be engraved, lithographed or printed on the documents listed therein. Such a facsimile has the same value as the signature itself.

38. The Centre shall provide the Minister with any information he requires concerning its activities.

CHAPTER V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

39. The Centre shall remit to the Minister of Finance, subject to the terms and conditions he determines, an amount equal to the accumulated assets of the Centre as at 31 March 1997. The Minister shall subscribe for and pay the Centre for shares of a value equivalent to that amount. A certificate shall be issued to the Minister for the shares.

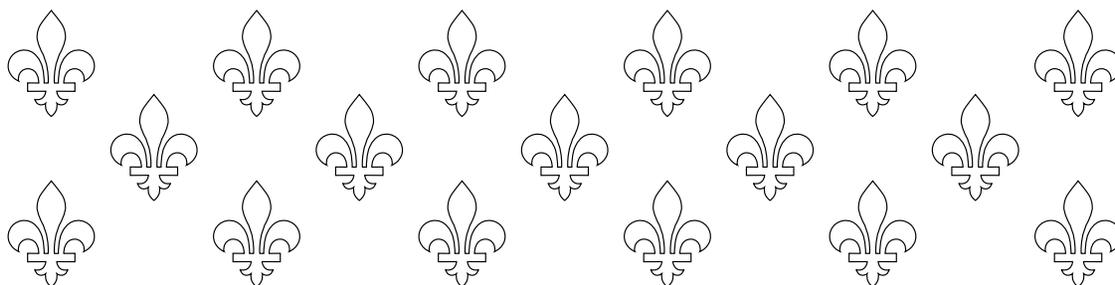
40. The terms of office of the members of the Centre in office on (*insert here the date of coming into force of this Act*), except the general manager's term which is, for its unexpired portion and subject to same conditions, continued as president and general manager of the Centre, shall end on that date.

41. This Act replaces the Act respecting the Centre de recherche industrielle du Québec (R.S.Q., chapter C-8).

Every reference to that Act or to any of its provisions is a reference to this Act or to the corresponding provision of this Act.

42. The Minister of Industry, Trade, Science and Technology is responsible for the administration of this Act.

43. This Act comes into force on the date to be fixed by the Government.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 106
(1997, chapter 30)

An Act to amend the Press Act

Introduced 24 April 1997
Passage in principle 28 May 1997
Passage 5 June 1997
Assented to 12 June 1997

Québec Official Publisher
1997

EXPLANATORY NOTE

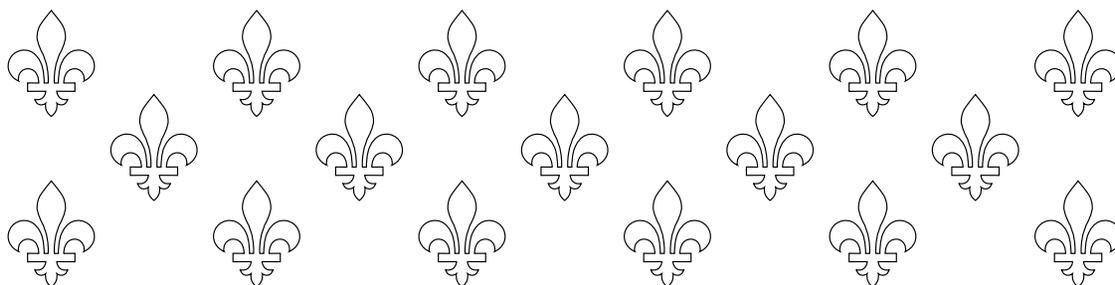
This bill amends the Press Act to render applicable to newspapers that are distributed free of charge, including the various regional and local weeklies, the retraction process which is presently available under the Act only to newspapers published for sale purposes.

Bill 106

AN ACT TO AMEND THE PRESS ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** Section 1 of the Press Act (R.S.Q., chapter P-19) is amended by replacing the words “and distribution” in the second and third lines by the words “or distribution free of charge”.
- 2.** This Act comes into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 108
(1997, chapter 31)

**An Act to amend the Taxation Act and other
legislative provisions of a fiscal nature**

**Introduced 8 May 1997
Passage in principle 21 May 1997
Passage 6 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

The main object of this bill is to harmonize the fiscal legislation in Québec with that of Canada. It consequently gives effect primarily to various harmonization measures contained in the Budget Speech delivered by the Minister of Finance on 9 May 1995.

Amendments are also introduced to give effect to certain harmonization measures contained in Information Bulletins 95-5, 96-1 and 96-2 issued by the Ministère des Finances respectively on 8 September 1995, 26 January 1996 and 24 April 1996.

The bill amends the Act respecting municipal taxation to introduce an amendment to reflect changes made to the Taxation Act in respect of the notion of fiscal period.

The bill amends the Taxation Act primarily to bring amendments similar to those brought to the Income Tax Act by federal Bills C-11 (S.C., 1996, chapter 11), assented to on 29 May 1996, C-36 (S.C., 1996, chapter 21) and C-12 (S.C., 1996, chapter 23), assented to on 20 June 1996, and C-70 (S.C., 1997, chapter 10) assented to on 20 March 1997. In particular, the amendments concern

(1) the elimination of the possibility granted to individuals and certain entities carrying on a business to defer the tax on income from the business by electing a fiscal period that does not correspond to the calendar year;

(2) the elimination, from 1 January 1999, of the mechanism allowing a family trust to defer the 21-year realization rule;

(3) the elimination of the rules concerning the distribution of trust income to a preferred beneficiary, except where the beneficiary has a severe and prolonged mental or physical impairment;

(4) the requirement that a tax-exempt corporation constituted exclusively to carry on scientific research and experimental development (R&D) file a form in which it reports its R&D work and expenditures;

(5) the rules applicable in respect of the filing of a fiscal return by an individual carrying on a business and that individual's spouse

for a taxation year in order to extend the filing deadline from 30 April of the following year to 15 June of that year.

The bill amends the Act respecting the Ministère du Revenu to reflect the repeal of the Act to promote industrial development by means of fiscal advantages, and to extend the rules concerning solidary liability for source deductions to any person having influence over the property or affairs of another person and who authorizes or causes an amount required to be deducted at source to be paid by or on behalf of that other person.

The bill also amends other legislation to make various technical and consequential amendments and changes in terminology.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 1);
- Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 63);
- Act to harmonize certain legislative provisions of a fiscal nature with the Civil Code of Québec (1997, chapter 3).

Bill 108

AN ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS OF A FISCAL NATURE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING MUNICIPAL TAXATION

1. (1) Section 220.3 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 27 of chapter 14 of the statutes of 1996 and by section 7 of chapter 3 of the statutes of 1997, is again amended by replacing, in the second paragraph, the words “fiscal period, within the meaning of section 1” by the words “fiscal period, within the meaning assigned by Part I”.

(2) Subsection 1 has effect from 1 January 1995.

TAXATION ACT

2. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 11 of chapter 1 of the statutes of 1995, by section 1 of chapter 49 of the statutes of 1995, by section 12 of chapter 63 of the statutes of 1995, by section 8 of chapter 39 of the statutes of 1996, by section 13 of chapter 3 of the statutes of 1997 and by section 10 of chapter 14 of the statutes of 1997, is again amended

(1) by replacing the definition of “bank” by the following definition :

““bank” means a bank to which the Bank Act (Statutes of Canada, 1991, chapter 46) applies;”;

(2) by replacing the definition of “prescribed class” by the following definition :

““prescribed class” means a class prescribed under subparagraph *e* of the first paragraph of section 1086;”;

(3) by inserting the following definitions, which are to be ordered alphabetically :

““balance-due day” of a taxpayer for a taxation year means

(a) where the taxpayer is a corporation, the last day of the two-month period ending after the end of the year;

(b) where the taxpayer is a trust, the day that is 90 days after the end of the year;

(c) where the taxpayer is a person who died in the year, or after the end of the year but on or before 30 April in the following calendar year, the later of 30 April in that calendar year and the day that is six months after the day of death;

(d) in the case of any other person, 30 April in the following calendar year;”;

““filing-due date” of a taxpayer for a taxation year means the day on or before which the taxpayer’s fiscal return under this Part for the year is required to be filed or would be required to be filed if tax under this Part were payable by the taxpayer for the year;”;

(4) by striking out the definition of “fiscal period”;

(5) by replacing, in the definition of “amount”, the portion of paragraph *a* before subparagraph *i* by the following:

“(a) in any case where section 187.2 or 187.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or any of sections 21.4.3, 21.10, 21.10.1, 740.1 to 740.3.1 and 740.5 applies to a stock dividend, the amount of the stock dividend is equal to the greater of”;

(6) by inserting the following definition, which is to be ordered alphabetically:

““scientific research and experimental development” has the meaning assigned by the regulations under subsection 2 of section 222;”;

(7) by inserting the following definition, which is to be ordered alphabetically:

““professional corporation” means a corporation incorporated under any Act other than an Act of the legislature of Québec, that carries on the professional practice of an accountant, dentist, advocate, physician, veterinarian or chiropractor;”.

(2) Paragraph 1 of subsection 1 has effect from 1 June 1992.

(3) Paragraph 3 of subsection 1, where it enacts the definition of “balance-due day”, applies from the taxation year 1995, and where it enacts the definition of “filing-due date”, has effect from 1 January 1994.

(4) Paragraph 4 of subsection 1 applies to fiscal periods that begin after 31 December 1994.

(5) Paragraph 6 of subsection 1 applies in respect of work performed after 27 February 1995 except, for the purposes of section 991 of the said Act, in respect of work performed pursuant to an agreement in writing entered into before 28 February 1995.

(6) Paragraph 7 of subsection 1 has effect from 1 January 1995.

3. (1) Section 7 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section :

“7. In this Part and the regulations, unless the context indicates otherwise, “fiscal period” of a business or a property of a person or partnership means the period for which the person’s or partnership’s accounts in respect of the business or property are made up for purposes of assessment under this Part.

However, a fiscal period may not end

(a) in the case of a corporation, more than 53 weeks after the period began ;

(b) in the case of one of the following persons or of the following partnership, after the end of the calendar year in which the period began unless, in the case of a business, the business is not carried on in Canada or is a prescribed business :

i. an individual, other than a testamentary trust or an individual in respect of whom any of sections 980 to 999.1 applies,

ii. a particular partnership of which an individual, other than a testamentary trust or an individual in respect of whom any of sections 980 to 999.1 applies, a professional corporation, or a partnership in respect of which this subparagraph applies, would, if the fiscal period of the particular partnership ended at the end of the calendar year in which the period began, be a member in the fiscal period, or

iii. a professional corporation that would, if the fiscal period ended at the end of the calendar year in which the period began, be in the fiscal period a member of a partnership in respect of which subparagraph ii applies ;

(c) in any other case, more than 12 months after the period began.

For the purposes of this section, the activities of a person in respect of whom any of sections 980 to 999.1 applies are deemed to be a business.”

(2) Subsection 1 applies to fiscal periods that begin after 31 December 1994.

4. (1) The said Act is amended by inserting, after section 7, the following sections :

“7.0.1. For the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 7 and of section 7.0.3, a person or partnership that would not have a share of any income or loss of a partnership for a fiscal period of the partnership, if the fiscal period ended at the end of the calendar year in which it began, is deemed not to be a member of the partnership in that fiscal period.

“7.0.2. Where a fiscal period of a business or a property of a person or partnership ends at a particular time, the subsequent fiscal period of the business or property of the person or partnership is deemed to begin immediately after that time.

“7.0.3. Subparagraph *b* of the second paragraph of section 7 does not apply to a fiscal period of a business carried on, throughout the period of time that began at the beginning of the fiscal period and ended at the end of the calendar year in which the fiscal period began, by an individual, otherwise than as a member of a partnership, or by an individual as a member of a partnership if, throughout that period of time, each member of the partnership is an individual and the partnership is not a member of another partnership, where

(*a*) in the case of a business carried on by an individual otherwise than as a member of a partnership, or as a member of a partnership no member of which is a testamentary trust, an election in prescribed form to have subparagraph *b* of the second paragraph of section 7 not apply is filed with the Minister by the individual on or before the individual’s filing-due date, and with the individual’s fiscal return under this Part, for the taxation year that includes the first day of the first fiscal period of the business that begins after 31 December 1994; and

(*b*) in the case of a business carried on by an individual as a member of a partnership a member of which is a testamentary trust, an election in prescribed form to have subparagraph *b* of the second paragraph of section 7 not apply is filed with the Minister by the individual on or before the earliest of the filing-due dates of the members of the partnership for a taxation year that includes the first day of the first fiscal period of the business that begins after 31 December 1994.

“7.0.4. Section 7.0.3 does not apply to a particular fiscal period of a business where, in a preceding fiscal period or throughout the period of time that began at the beginning of the particular fiscal period and ended at the end of the calendar year in which the particular fiscal period began, the expenditures made in the course of carrying on the business were primarily the cost or capital cost of a tax shelter.

“7.0.5. Section 7.0.3 does not apply to a fiscal period of a business carried on by an individual that begins after the beginning of a particular taxation year of the individual where

(*a*) an election in prescribed form to revoke an election filed under section 7.0.3 in respect of the business is filed with the Minister; and

(b) the election to revoke is filed

i. in the case of an individual who is not a member of a partnership, or who is a member of a partnership no member of which is a testamentary trust, by the individual on or before the individual's filing-due date, and with the individual's fiscal return under this Part, for the particular taxation year, and

ii. in the case of an individual who is a member of a partnership a member of which is a testamentary trust, by the individual on or before the earliest of the filing-due dates of the members of the partnership for a taxation year that includes the first day of the first fiscal period of the business that begins after the beginning of the particular taxation year.

“7.0.6. For the purposes of this Part, no change in the time when a fiscal period ends may be made without the concurrence of the Minister.”

(2) Subsection 1 applies to fiscal periods that begin after 31 December 1994.

5. (1) The said Act is amended by inserting, after section 7.18, enacted by section 12 of chapter 14 of the statutes of 1997, the following section :

“7.19. Except as otherwise provided, no provision of this Act shall be read or construed

(a) to require the inclusion or permit the deduction, either directly or indirectly, in computing a taxpayer's income, taxable income or taxable income earned in Canada, for a taxation year or in computing a taxpayer's income or loss for a taxation year from a source in Canada or from sources in another place, of any amount to the extent that the amount has already been directly or indirectly included or deducted, as the case may be, in computing such income, taxable income, taxable income earned in Canada or loss, for the year or any preceding taxation year ;

(b) to permit the deduction, either directly or indirectly, in computing a taxpayer's taxes payable under this Act for a taxation year of any amount to the extent that the amount has already been directly or indirectly deducted in computing such taxes payable for the year or any preceding taxation year ; or

(c) to consider an amount to have been paid on account of a taxpayer's taxes payable under this Act for a taxation year to the extent that the amount has already been considered to have been paid on account of such taxes payable for the year or any preceding taxation year.”

(2) Subsection 1 applies to taxation years that end after 19 July 1995.

6. (1) Section 30 of the said Act is repealed.

(2) Subsection 1 applies to taxation years that end after 19 July 1995.

7. (1) Section 38 of the said Act, amended by section 19 of chapter 49 of the statutes of 1995 and by section 261 of chapter 63 of the statutes of 1995, is again amended by replacing the third paragraph by the following paragraph:

“Nor is he required to include therein the value of any benefit under a retirement compensation arrangement, an employee benefit plan or an employee trust or under a salary deferral arrangement, except to the extent that the value of the benefit is included under section 37 because of section 47.11, the value of any benefit that was a benefit in relation to the use of an automobile, except if the benefit related to the use of an automobile owned or leased by him and is not referred to in section 41.1.2, or the value of any benefit derived from counselling services received by him or a person related to him in respect of 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 from counselling services in respect of his re-employment or retirement.”

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

8. (1) Sections 41.2 and 41.2.1 of the said Act are repealed.

(2) Subsection 1 applies from the taxation year 1996.

9. (1) Section 41.3 of the said Act, amended by section 26 of chapter 49 of the statutes of 1995, is replaced by the following section:

“**41.3.** To the extent that the cost to a person of purchasing a property or service or an amount payable by a person for the purpose of leasing property is taken into account in determining an amount required under any of sections 36 to 47.17 to be included in computing the income of an individual for a taxation year, that cost or that amount payable, as the case may be, shall include any tax that was payable by the person in respect of the property or service or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the property or service is to be put.”

(2) Subsection 1 applies from the taxation year 1996.

10. (1) Section 86 of the said Act, amended by section 31 of chapter 49 of the statutes of 1995, is again amended by replacing subsection 1 by the following subsection:

“**86.** (1) Subject to sections 217.2 to 217.16, where an individual is a proprietor of a business, the individual’s income from the business for a taxation year is deemed to be the individual’s income from the business for the fiscal periods of the business that end in the year.”

(2) Subsection 1 applies from the taxation year 1995.

11. (1) Section 87 of the said Act, amended by section 21 of chapter 1 of the statutes of 1995, by section 32 of chapter 49 of the statutes of 1995, by section 26 of chapter 63 of the statutes of 1995, by section 27 of chapter 39 of the statutes of 1996, by section 71 of chapter 3 of the statutes of 1997 and by section 29 of chapter 14 of the statutes of 1997, is again amended by replacing paragraph *x* by the following paragraph :

“(x) an amount that, where the taxpayer is an individual who is a member of a partnership or an employee of a member of a partnership and the partnership makes an automobile available in the year to the taxpayer or to a person related to the taxpayer, would be included, by reason of section 41, in computing the taxpayer’s income for the year if the taxpayer were employed by the partnership;”.

(2) Subsection 1 applies from the taxation year 1996.

12. (1) Section 87.4 of the said Act is amended by replacing, in the first paragraph, the words “the day on or before which his fiscal return under this Part for the year is required to be filed, or would be required to be filed if the taxpayer had tax payable under this Part” by the words “the taxpayer’s filing-due date”.

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

13. Section 101.3 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the words “For the purposes of section 101, where a prescribed amount is required to be added in computing” by the words “For the purposes of section 101, where a prescribed amount must be taken into account to determine”.

14. (1) Section 101.6 of the said Act is amended by replacing, in the portion before paragraph *a*, the words “the day on or before which he is required to file his fiscal return under this Part” by the words “his filing-due date”.

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

15. (1) Sections 112.2 and 112.2.1 of the said Act are repealed.

(2) Subsection 1 applies from the taxation year 1996.

16. (1) Section 112.3 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section :

“**112.3.** To the extent that the cost to a person of purchasing a property or service or an amount payable by a person for the purpose of leasing property is taken into account in determining an amount required under this division to be included in computing a taxpayer’s income for a taxation year, other than such an amount that is the value of a benefit determined under

section 117, that cost or that amount payable, as the case may be, shall include any tax that was payable by the person in respect of the property or service or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the property or service is to be put.”

(2) Subsection 1 applies from the taxation year 1996.

17. Section 135.9 of the said Act, amended by section 21 of chapter 3 of the statutes of 1997, is again amended by replacing, in the French text of the second paragraph, the word “voituriers” by the word “transporteurs”.

18. (1) Section 157.11 of the said Act is replaced by the following section :

“**157.11.** An election under section 157.10 shall be made by notifying the Minister in writing on or before the earliest of the payer’s and recipient’s filing-due dates for the taxation year in which the payment to which the election relates was made.”

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

19. Section 159 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs :

“(a) for advertising space in an issue of a newspaper or periodical dated after 31 December 1975, for an advertisement directed primarily to a market in Canada ; or

“(b) for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking, within the meaning of paragraph *a* of section 159R8 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), if such amount is disbursed or expended after 21 September 1976.”

20. (1) Section 175.1 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by replacing, in the French text of subsections 1 and 2, the word “déboursé” by the word “débours”, wherever it appears ;

(2) by replacing subsection 3 by the following subsection :

“(3) For the purposes of subsection 1, an outlay or expense is deemed not to include a payment that is referred to in subsection 1 of section 222 by reason of the fact that it is a payment to which subsection 1 of section 222 first refers that is described in paragraph *b* of section 222.1, or is a payment to which that subsection 1 then refers, and that

(a) is made by the taxpayer to a person or partnership with which the taxpayer deals at arm’s length ; and

(b) is not an expenditure in respect of scientific research and experimental development related to a business of the taxpayer and undertaken in Canada on behalf of the taxpayer.”

(2) Paragraph 2 of subsection 1 applies in respect of payments made after 31 December 1995.

21. Section 175.4 of the said Act, amended by section 273 of chapter 39 of the statutes of 1996 and by section 48 of chapter 14 of the statutes of 1997, is again amended, in the English text, by replacing the portion before paragraph *a* by the following:

“**175.4.** Notwithstanding any other provision of this Act, an individual or a partnership of which the individual is a member shall not, in computing his or its income from a business for a taxation year or a fiscal period, as the case may be, deduct an amount in respect of an amount otherwise deductible for any part, in this division referred to as the “work space”, of a self-contained domestic establishment in which the individual resides, except to the extent that the work space is either”.

22. (1) Sections 175.5 and 175.6 of the said Act, replaced by section 49 of chapter 14 of the statutes of 1997, are again replaced by the following sections:

“**175.5.** Where a work space is described in paragraph *a* or *b* of section 175.4, the amount in respect of the work space that is deductible by the individual or partnership referred to in that section in computing the income of the individual or partnership from the business referred to in that section for a taxation year or fiscal period, as the case may be, shall not exceed the lesser of

(a) the aggregate of all amounts each of which is,

i. where the individual or the partnership has made an expenditure that may reasonably be considered to relate to both the part of the establishment, other than the work space, and the work space, the product obtained by multiplying the amount that would, but for this section, be deductible in computing the income of the individual or partnership from the business for the taxation year or fiscal period, as the case may be, in respect of the expenditure, by 50%, and

ii. in any other case, an amount that would, but for this section, be deductible in computing the income of the individual or partnership from the business for the taxation year or fiscal period, as the case may be, in respect of the work space; and

(b) the income of the individual or partnership from the business for the taxation year or fiscal period, as the case may be, computed without reference to expenditures in respect of which subparagraph *a* applies and sections 217.2 to 217.16.

For the purposes of subparagraph *i* of subparagraph *a* of the first paragraph, an amount paid or payable by the partnership as rent pertaining to the work space is deemed to be an expenditure that may reasonably be considered to relate to both the part of the establishment, other than the work space, and the work space.

“175.6. Where the amount determined under subparagraph *a* of the first paragraph of section 175.5, in respect of a business of an individual or partnership for the taxation year or fiscal period, as the case may be, preceding a particular taxation year or fiscal period, as the case may be, exceeds the amount determined under subparagraph *b* of that first paragraph, in respect of the business of the individual or partnership for that preceding taxation year or fiscal period, as the case may be, the following rules apply :

(*a*) for the purposes of section 175.4, the excess amount is deemed, for the purpose of computing the income of the individual or partnership from the business for the particular taxation year or fiscal period, as the case may be, to be an amount otherwise deductible for the particular taxation year or fiscal period, as the case may be, in respect of a work space that is described in paragraph *a* or *b* of section 175.4 for the particular taxation year or fiscal period, as the case may be ;

(*b*) for the purposes of section 175.5, the excess amount is deemed, for the particular taxation year or fiscal period, as the case may be, to be an amount referred to in subparagraph *ii* of subparagraph *a* of the first paragraph of that section.”

(2) Subsection 1, where it enacts section 175.5 of the said Act, applies to taxation years or fiscal periods that begin after 9 May 1996. Furthermore, where section 175.5 of the said Act, replaced by subsection 1, applies to taxation years that end after 31 December 1994, it shall be read with the words “and sections 217.2 to 217.16” added after the words “without reference to the amount”.

(3) Subsection 1, where it enacts section 175.6 of the said Act, applies to taxation years or fiscal periods that begin after 9 May 1996. However, where that section 175.6 applies to the first taxation year of an individual that begins after that date, it shall be read as follows :

“175.6. Where, for the taxation year of an individual that is before the individual’s first taxation year that begins after 9 May 1996, the amount that would, but for section 175.5, have been deductible by the individual in computing the individual’s income for that preceding taxation year from the business referred to in section 175.4, exceeds the individual’s income referred to in section 175.5 for the preceding taxation year from the business, the following rules apply :

(*a*) for the purposes of section 175.4, the excess amount is deemed, for the purpose of computing the individual’s income from the business for the first

taxation year, to be an amount otherwise deductible for that first taxation year in respect of a work space that is described in paragraph *a* or *b* of section 175.4 for that first taxation year ;

(*b*) for the purposes of section 175.5, the excess amount is deemed, for the first taxation year, to be an amount referred to in subparagraph ii of subparagraph *a* of the first paragraph of that section.”

23. (1) Section 189.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of appointments made after 31 December 1995.

24. (1) Section 190 of the said Act is amended by replacing subsection 1 by the following subsection :

“**190.** (1) Where an individual who was the sole proprietor of a business disposed of it during a fiscal period of the business, the fiscal period is, if the individual so elects and section 7.0.3 does not apply in respect of the business, deemed to have ended at the time it would have ended if the individual had not disposed of the business during the fiscal period.”

(2) Subsection 1 applies to fiscal periods that begin after 31 December 1994.

25. (1) Section 191 of the said Act is repealed.

(2) Subsection 1 has effect from 28 February 1992.

26. (1) Section 191.4 of the said Act is amended by inserting the words “, as it read before its repeal,” before the words “for the purposes of”.

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

27. (1) The said Act is amended by inserting, before Division IX of Chapter V of Title III of Book III of Part I, the following :

“DIVISION VIII.1

“ADDITIONAL BUSINESS INCOME

“**217.2.** Where an individual, other than a testamentary trust, carries on a business in a taxation year, a particular fiscal period of the business begins in the year and ends after the end of the year, and the individual has elected under section 7.0.3 in respect of the business and the election has not been revoked, there shall be included in computing the individual’s income for the year from the business, the amount determined by the formula

$$(A - B) \times \frac{C}{D}$$

For the purposes of the formula in the first paragraph,

(a) A is the total of the individual's income from the business for the fiscal periods of the business that end in the year;

(b) B is the lesser of

i. the aggregate of all amounts each of which is an amount included in the total determined under subparagraph *a* in respect of the business and that is deemed to be a taxable capital gain for the purposes of Title VI.5 of Book IV, and

ii. the aggregate of all amounts deducted under the said Title VI.5 in computing the individual's taxable income for the year;

(c) C is the number of days on which the individual carries on the business that are both in the year and in the particular fiscal period; and

(d) D is the number of days on which the individual carries on the business that are in fiscal periods of the business that end in the year.

“217.3. Where an individual, other than a testamentary trust, begins carrying on a business in a taxation year but not earlier than the beginning of the first fiscal period of the business that begins in the year and ends after the end of the year, in this section referred to as the “particular fiscal period”, and the individual has elected under section 7.0.3 in respect of the business and the election has not been revoked, there shall be included in computing the individual's income for the year from the business the lesser of

(a) the amount designated in the individual's fiscal return under this Part for the year; and

(b) the amount determined by the formula

$$(A - B) \times \frac{C}{D}$$

For the purposes of the formula in subparagraph *b* of the first paragraph,

(a) A is the individual's income from the business for the particular fiscal period;

(b) B is the lesser of

i. the aggregate of all amounts each of which is an amount included in the amount determined under subparagraph *a* in respect of the business and that is deemed to be a taxable capital gain for the purposes of Title VI.5 of Book IV, and

ii. the aggregate of all amounts deducted under the said Title VI.5 in computing the individual's taxable income for the individual's taxation year that includes the end of the particular fiscal period;

(c) C is the number of days on which the individual carries on the business that are both in the year and in the particular fiscal period; and

(d) D is the number of days on which the individual carries on the business that are in the particular fiscal period.

“217.4. An individual shall deduct in computing the individual's income for a taxation year from a business the amount included under section 217.2 or 217.3 in computing the individual's income for the preceding taxation year from the business.

“217.5. For the purposes of Division VIII.2, where at the end of the year 1994 an individual carried on a particular business no fiscal period of which ended at that time, and an amount is included under section 217.2 in computing the individual's income for the individual's taxation year 1995 in respect of the particular business or another business that would, if section 217.12 applied for the purposes of this section, be included in the particular business, the individual's income on 31 December 1995 in respect of the particular business or the other business, as the case may be, is deemed, subject to section 217.8, to be equal to the amount that would have been included in computing the individual's income under section 217.2 if

(a) subparagraph *a* of the second paragraph of section 217.2 were read as follows:

“(a) A is the total of the individual's income from the business for the fiscal periods of the business that end in the year, determined as if paragraphs *a* to *d* of section 217.11 applied in computing that income;”;

(b) subparagraph ii of subparagraph *b* of the second paragraph of section 217.2 were read as follows:

“ii. the aggregate of the maximum amounts deductible under the said Title VI.5 in computing the individual's taxable income for the year;”.

“217.6. For the purposes of Division VIII.2, where at the end of the year 1994 an individual carried on a particular business no fiscal period of which ended at that time, and an amount is included under section 217.3 in computing the individual's income for the individual's taxation year 1995 in respect of another business that would, if section 217.12 applied for the purposes of this section, be included in the particular business, the individual's income on 31 December 1995 in respect of the other business is deemed to be equal to the amount that would have been included in computing the individual's income under section 217.3 if

(a) subparagraph *a* of the second paragraph of section 217.3 were read as follows:

“(a) A is the individual’s income from the business for the particular fiscal period, determined as if paragraphs *a* to *d* of section 217.11 applied in computing that income;”; and

(b) subparagraph ii of subparagraph *b* of the second paragraph of section 217.3 were read as follows:

“ii. the aggregate of the maximum amounts deductible under the said Title VI.5 in computing the individual’s taxable income for the individual’s taxation year that includes the end of the particular fiscal period;”.

“217.7. For the purposes of Division VIII.2, where at the end of the year 1995 an individual carried on a business as a member of a partnership no fiscal period of which ended at the end of the year 1994, an amount is included under section 217.3 in computing the individual’s income for the individual’s taxation year 1995 in respect of the business and the conditions set out in the second paragraph are met, the individual’s income on 31 December 1995 in respect of the business is deemed to be equal to the amount that would have been included in computing the individual’s income under section 217.3 if

(a) subparagraph *a* of the second paragraph of section 217.3 were read as follows:

“(a) A is the individual’s income from the business for the particular fiscal period, determined as if paragraphs *a* to *d* of section 217.11 applied in computing that income;”;

(b) subparagraph ii of subparagraph *b* of the second paragraph of section 217.3 were read as follows:

“ii. the aggregate of the maximum amounts deductible under the said Title VI.5 in computing the individual’s taxable income for the individual’s taxation year that includes the end of the particular fiscal period;”; and

(c) the individual were deemed, for the purposes of subparagraphs *c* and *d* of the second paragraph of section 217.3, to have carried on the business on the days on which the professional corporation referred to in the second paragraph carried on the business.

The conditions to which the first paragraph refers are as follows:

(a) the business was carried on by a professional corporation as a member of the partnership at the end of the year 1994;

(b) the professional corporation transferred its interest in the partnership to the individual before the end of the year 1995;

(c) the individual is a practising member of the professional order under the authority of which the professional corporation practised the profession;

(d) the individual was a specified shareholder of the professional corporation immediately before the transfer; and

(e) the professional corporation does not have a share of the income or loss of the partnership for the first fiscal period of the partnership that ends after the end of the year 1995.

“217.8. Where an amount was included under section 217.2 in computing an individual’s income for the taxation year 1995 from a business and the individual’s income on 31 December 1995 in respect of the business, otherwise determined under section 217.5 for the purposes of Division VIII.2, exceeds the amount determined under the second paragraph, the individual’s income on 31 December 1995 in respect of the business is deemed, for the purposes of section 217.13 in respect of the individual’s taxation year 1996 and subsequent taxation years, to be equal to the amount determined under the second paragraph.

The amount to which the first paragraph refers is equal to the amount that would be the individual’s income on 31 December 1995, otherwise determined under section 217.5 for the purposes of Division VIII.2, in respect of the business referred to therein, if

(a) subparagraph *a* of the second paragraph of section 217.2 were read as follows:

“(a) A is the individual’s income from the business for the particular fiscal period, determined as if paragraphs *a* to *d* of section 217.11 applied in computing that income;”;

(b) subparagraph ii of subparagraph *b* of the second paragraph of section 217.2 were read as follows:

“ii. the aggregate of the maximum amounts deductible under the said Title VI.5 in computing the individual’s taxable income for the individual’s taxation year that includes the end of the particular fiscal period;” ; and

(c) subparagraph *d* of the second paragraph of section 217.2 were read as follows:

“(d) D is the number of days on which the individual carries on the business that are in the particular fiscal period.”

“217.9. Sections 217.2 and 217.3 do not apply in computing an individual’s income for a taxation year from a business where

(a) the individual dies or otherwise ceases to carry on the business in the taxation year; or

(b) the individual becomes a bankrupt in the calendar year in which the taxation year ends.

“DIVISION VIII.2

“RESERVE IN RESPECT OF INCOME ON 31 DECEMBER 1995

“217.10. In this division,

“income on 31 December 1995” in respect of a business carried on by a taxpayer means the amount determined by the formula

$$(A - B - C + D) \times E;$$

“qualifying fiscal period” of a business of a taxpayer means

(a) where at the end of the year 1994 the taxpayer carried on the business and no fiscal period of the business ended at that time, a fiscal period of the business that begins after the beginning of the taxpayer’s taxation year that includes the end of the year 1995 and ends

i. at the end of the year 1995 because of subparagraph *b* of the second paragraph of section 7 or because of the said subparagraph *b* and of section 190, or

ii. immediately before the end of the year 1995 because of subparagraph *b* of the second paragraph of section 7 and of the second paragraph of section 601;

(b) a fiscal period of the business that ends at the end of the year 1995 because of subparagraph *b* of the second paragraph of section 7 where

i. the taxpayer is an individual who carries on the business as a member of a partnership at the end of the year 1995,

ii. the individual acquired the individual’s interest in the partnership in the year 1995 from a professional corporation,

iii. the professional corporation carried on the business at the end of the year 1994 as a member of the partnership and does not have a share of the income or loss of the partnership for the fiscal period,

iv. the individual is a practising member of the professional order under the authority of which the professional corporation practised the profession, and

v. the individual was a specified shareholder of the professional corporation immediately before acquiring the interest in the partnership; and

(c) where the taxpayer is a professional corporation that has a taxation year that ends at the end of the year 1995 because of subparagraph *b* of the second paragraph of section 7, and at the end of the year 1994 the business was carried on by the professional corporation as a member of a partnership, or by an individual referred to in the second paragraph, a fiscal period of the business that ends in the taxation year ;

“specified percentage”, in relation to a taxpayer, for a particular taxation year in respect of a business means

(a) where the first taxation year in which a qualifying fiscal period of the business ends is the taxation year 1995, or any of sections 217.5 to 217.7 applies in respect of the business, and the particular taxation year ends in

- i. the year 1995, 95%,
- ii. the year 1996, 85%,
- iii. the year 1997, 75%,
- iv. the year 1998, 65%,
- v. the year 1999, 55%,
- vi. the year 2000, 45%,
- vii. the year 2001, 35%,
- viii. the year 2002, 25%,
- ix. the year 2003, 15%, and
- x. any year that is after the year 2003, 0% ;

(b) where the first taxation year in which a qualifying fiscal period of a business of the taxpayer ends is the taxation year 1996 and the particular taxation year ends in

- i. the year 1996, 95%,
- ii. the year 1997, 85%,
- iii. the year 1998, 75%,
- iv. the year 1999, 65%,
- v. the year 2000, 55%,
- vi. the year 2001, 45%,

- vii. the year 2002, 35%,
- viii. the year 2003, 25%,
- ix. the year 2004, 15%, and
- x. any year that is after the year 2004, 0%.

An individual to which paragraph *c* of the definition of “qualifying fiscal period” in the first paragraph refers means an individual

(*a*) who transferred an interest in the partnership to the professional corporation before the end of the year 1995;

(*b*) who is a practising member of the professional order under the authority of which the professional corporation practises the profession;

(*c*) who was a specified shareholder of the professional corporation immediately after the transfer; and

(*d*) who does not have a share of the income or loss of the partnership for the first fiscal period of the partnership that ends in 1995.

For the purposes of the formula in the definition of “income on 31 December 1995” in the first paragraph,

(*a*) *A* is the aggregate of all amounts each of which is the taxpayer’s income from the business for a qualifying fiscal period;

(*b*) *B* is the aggregate of all amounts each of which is the taxpayer’s loss from the business for a qualifying fiscal period;

(*c*) *C* is the lesser of

i. the aggregate of all amounts each of which is an amount included in computing the taxpayer’s income or loss from the business for a qualifying fiscal period and that is deemed to be a taxable capital gain for the purposes of Title VI.5 of Book IV, and

ii. the aggregate of the maximum amounts deductible under the said Title VI.5 in computing the taxpayer’s taxable income for the taxation year in which the qualifying fiscal period ends;

(*d*) *D* is

i. where the taxpayer is a professional corporation, the total salary or wages deductible in computing an amount determined under paragraph *a* or *b* that is payable by the professional corporation to an individual

(1) who is a practising member of the professional order under the authority of which the professional corporation practised the profession, and

(2) who is a specified shareholder of the professional corporation, and

ii. in any other case, nil; and

(e) E is,

i. where the taxpayer is a professional corporation a taxation year of which ended at the end of the year 1995 because of subparagraph *b* of the second paragraph of section 7, the amount determined by the formula

$$\frac{F - G}{F}, \text{ and}$$

ii. in any other case, 1.

For the purposes of the formula in subparagraph i of subparagraph *e* of the third paragraph,

(a) F is the number of days in all qualifying fiscal periods of the business; and

(b) G is the number of days in the taxation year.

“217.11. For the purposes of the definition of “income on 31 December 1995” in the first paragraph of section 217.10, a taxpayer’s income or loss from a business for a qualifying fiscal period shall be computed as if

(a) this Part were read without reference to subparagraph *b* of the second paragraph of section 194;

(b) the taxpayer had made the election referred to in section 215 in respect of the business for the qualifying fiscal period;

(c) the maximum amount deductible in respect of any reserve, allowance or other amount were deducted in computing the taxpayer’s income; and

(d) the taxpayer had not received any taxable dividend.

“217.12. For the purposes of the definition of “qualifying fiscal period” in the first paragraph of section 217.10 and subparagraph i of paragraphs *b* and *c* of section 217.15, a particular business of a taxpayer is deemed to include another business substituted therefor, or for which the particular business was substituted, where

(a) all or substantially all of the gross revenue of the particular business is derived from the sale, leasing, rental or development of properties or the rendering of services; and

(b) all or substantially all of the gross revenue of the other business is derived from the sale, leasing, rental or development, as the case may be, of properties similar to those contemplated in paragraph *a* or the rendering of services similar to those contemplated in paragraph *a*.

“217.13. Subject to section 217.15, where a taxpayer carries on a business in a particular taxation year, there may be deducted in computing the taxpayer’s income for the year from the business, as a reserve in respect of income on 31 December 1995, such amount as the taxpayer claims not exceeding the least of

(a) the specified percentage for the particular taxation year of the taxpayer’s income on 31 December 1995 in respect of the business;

(b) where an amount was deductible under this section in computing the taxpayer’s income for a preceding taxation year from the business, the amount included under section 217.14 in computing the taxpayer’s income for the particular taxation year from the business; and

(c) the taxpayer’s income for the particular taxation year computed before deducting any amount under this section in respect of the business or under any of sections 346.1 to 346.4 and 485.17.

“217.14. There shall be included in computing a taxpayer’s income for a taxation year from a business the amount deducted under section 217.13 in computing the taxpayer’s income therefrom for the preceding taxation year.

“217.15. No deduction shall be made under section 217.13 in computing a taxpayer’s income for a taxation year from a business where

- (a) at the end of the year or at any time in the following taxation year,
- i. the taxpayer’s income from the business is exempt from tax under this Part, or
 - ii. the taxpayer is not resident in Canada and does not carry on the business through an establishment in Canada;

(b) the taxpayer is a corporation and its taxation year ends immediately before another taxation year

i. at the beginning of which the business is not carried on principally by the corporation nor by members of a partnership of which the corporation is a member,

ii. in which the corporation becomes a bankrupt, or

iii. in which the corporation is dissolved, otherwise than in circumstances to which the rules in sections 556 to 564.1 and 565 apply, or wound up; or

(c) the taxpayer is an individual, and

i. at the beginning of the taxation year, the business is not carried on principally by the individual nor by members of a partnership of which the individual is a member,

ii. the individual dies or becomes a bankrupt in the calendar year in which the taxation year ends, or

iii. the individual is a trust that ceases to exist in the taxation year.

“217.16. Where it may reasonably be considered that one of the main reasons a person carries on a business or is a member of a partnership is to avoid the application of subparagraph i of paragraph *b* or *c* of section 217.15, the person is deemed, for the purposes of those subparagraphs, not to carry on the business and not to be a member of the partnership.”

(2) Subsection 1 has effect from 1 January 1995.

28. (1) Section 222 of the said Act, amended by section 59 of chapter 39 of the statutes of 1996 and by section 71 of chapter 3 of the statutes of 1997, is again amended, in subsection 1,

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

“222. (1) A taxpayer who carries on a business in Canada in a taxation year may deduct in computing the taxpayer’s income from the business for the year an amount not exceeding the aggregate of all amounts each of which is an expenditure of a current nature made by the taxpayer in the year or in a preceding taxation year ending after 31 December 1973 on scientific research and experimental development related to a business of the taxpayer and directly undertaken in Canada by or on behalf of the taxpayer, or by way of a payment described in section 222.1, or by way of a payment to be used for scientific research and experimental development carried on in Canada that is related to a business of the taxpayer, where the taxpayer is entitled to exploit the results of that scientific research and experimental development and the payment was made to one of the following entities:” ;

(2) by striking out paragraph *d*.

(2) Paragraph 1 of subsection 1 applies to taxation years that begin after 31 December 1995. Furthermore, where the portion of subsection 1 of section 222 of the said Act before paragraph *a*, replaced by subsection 1, applies in respect of payments made, after 31 December 1995, in a taxation year that begins before 1 January 1996, it shall be read without reference to “where the taxpayer is a corporation”.

(3) Paragraph 2 of subsection 1 applies in respect of payments made after 31 December 1995.

29. (1) Section 222.1 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section:

“**222.1.** The payment to which subsection 1 of section 222 first refers is

(a) a payment made to a corporation resident in Canada to be used for scientific research and experimental development carried on in Canada that is related to a business of the taxpayer, where the taxpayer is entitled to exploit the results of that scientific research and experimental development; or

(b) a payment, where the taxpayer is a corporation, made to an entity described in paragraph *c* of the said subsection 1, for scientific research and experimental development that is basic research or applied research carried on in Canada the primary purpose of which is the use of results therefrom by the taxpayer in conjunction with other scientific research and experimental development activities undertaken or to be undertaken by or on behalf of the taxpayer that relate to a business of the taxpayer, and that has the technological potential for application to other businesses of a type unrelated to that carried on by the taxpayer.”

(2) Subsection 1 applies in respect of payments made after 31 December 1995.

30. (1) Section 225 of the said Act, amended by section 60 of chapter 39 of the statutes of 1996 and by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by replacing, in paragraph *b*, the words “at the time of filing of his fiscal return” by the words “on or before the taxpayer’s filing-due date”;

(2) by replacing, in paragraph *b.1*, the words “at the time the taxpayer files his fiscal return” by the words “on or before the taxpayer’s filing-due date”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

31. (1) Section 226.1 of the said Act is amended by replacing the words “at the time the taxpayer files his fiscal return” by the words “on or before the taxpayer’s filing-due date”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

32. (1) Section 230.0.0.4 of the said Act, enacted by section 29 of chapter 1 of the statutes of 1995, is replaced by the following section:

“**230.0.0.4.** Any election made under subparagraph *c* of the first paragraph of section 230 for a taxation year by a taxpayer shall be filed in prescribed form by the taxpayer, on the day on which the taxpayer first files a prescribed form referred to in section 230.0.0.4.1 for the year.”

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

33. (1) The said Act is amended by inserting, after section 230.0.0.4, enacted by section 29 of chapter 1 of the statutes of 1995, the following section:

“230.0.0.4.1. Subject to section 230.0.0.5, no amount in respect of an expenditure that would be made by a taxpayer in a taxation year that begins after 31 December 1995 if this Act were read without reference to section 482 may be deducted under sections 222 to 224 by the taxpayer in computing the taxpayer’s income unless the taxpayer files with the Minister the prescribed form containing the prescribed information in respect of the expenditure on or before the day that is 12 months after the taxpayer’s filing-due date for the year.”

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

34. (1) Section 230.0.0.5 of the said Act, enacted by section 61 of chapter 39 of the statutes of 1996, is replaced by the following section:

“230.0.0.5. A taxpayer is not required to file the prescribed form referred to in section 230.0.0.4.1 in respect of an expenditure that would be made in a taxation year by the taxpayer if this Act were read without reference to section 482 where the expenditure is reclassified by the Minister on an assessment of the taxpayer’s tax payable under this Part for the year, or on a determination that no tax under this Part is payable by the taxpayer for the year, as an expenditure in respect of scientific research and experimental development.”

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

35. (1) The said Act is amended by inserting, after section 230.0.0.5, enacted by section 61 of chapter 39 of the statutes of 1996, the following section:

“230.0.0.6. For the purposes of this division, an expenditure that is made by a taxpayer in a taxation year and that would, but for subsection 1 of section 175.1, have been deductible under this division in computing the taxpayer’s income for the year, is deemed not to be made by the taxpayer in the year and to be made by the taxpayer in the subsequent taxation year to which the expenditure may reasonably be considered to relate.”

(2) Subsection 1 applies in respect of expenditures made at any time.

36. Section 230.1 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by striking out the words “the year” wherever they appear in paragraph *c*.

37. (1) Section 236.1 of the said Act is amended by striking out, in the third paragraph, “of subsection 2”.

(2) Subsection 1 has effect from 20 July 1995.

38. (1) Section 247.3 of the said Act is replaced by the following section:

“**247.3.** An election made under section 247.2 by an individual for a taxation year shall be made on or before the individual’s filing-due date for the year.”

(2) Subsection 1 applies from the taxation year 1995.

39. (1) Section 257 of the said Act, amended by section 73 of chapter 39 of the statutes of 1996, by section 71 of chapter 3 of the statutes of 1997 and by section 55 of chapter 14 of the statutes of 1997, is again amended

(1) by inserting, after subparagraph i.3 of paragraph *l*, the following subparagraph:

“i.4 if the taxpayer is a member of the partnership who was a specified member of the partnership at all times since becoming a member of the partnership or the taxpayer is at the particular time a limited partner of the partnership for the purposes of section 261.1, the amount

(1) deducted under section 217.13 in computing the taxpayer’s income for the taxation year in respect of the interest, where the particular time is in the taxpayer’s first taxation year in which a qualifying fiscal period, within the meaning of the first paragraph of section 217.10, of the business carried on by the taxpayer as a member of the partnership ends and is after the end of that period, and

(2) where the particular time is in any other taxation year, deducted under section 217.13 in respect of the interest in computing the taxpayer’s income for the taxation year preceding that other year;”;

(2) in subparagraph vi of paragraph *l*, by inserting, after the words “amounts added”, the words “in respect of the partnership”;

(3) in subparagraph ii of paragraph *n*, by inserting, after the words “amounts added”, the words “in respect of the trust”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1995.

40. (1) Section 257.2 of the said Act is amended by replacing, in the portion before paragraph *a*, the words “the date on or before which the taxpayer’s fiscal return under this Part for the year is required to be filed” by the words “his filing-due date for the year”.

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

41. (1) The said Act is amended by inserting, after section 257.2, the following section :

“**257.3.** Subparagraph i.4 of paragraph *l* of section 257 does not apply in respect of a taxpayer’s interest in a partnership where

(a) the particular time referred to in the said subparagraph i.4 is immediately before a disposition of the taxpayer’s interest in the partnership and no amount is deductible under section 217.13 in respect of the interest in computing the taxpayer’s income for the taxpayer’s taxation year following the taxation year that includes the particular time ;

(b) the taxpayer has income on 31 December 1995 in respect of the business referred to in the said subparagraph i.4 because of sections 217.2 to 217.9 ; or

(c) the taxpayer’s partnership interest was held by the taxpayer on 22 February 1994 and is an excluded interest, within the meaning assigned by section 261.6, at the end of the fiscal period of the partnership that includes the particular time.”

(2) Subsection 1 has effect from 1 January 1995.

42. (1) Section 286.1 of the said Act is replaced by the following section :

“**286.1.** Where at any time a property that was acquired by a taxpayer for the purpose of gaining or producing income ceases to be used for that purpose and becomes the principal residence of the taxpayer, sections 281 to 283 shall not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately thereafter if the taxpayer so elects by notifying the Minister in writing on or before the earlier of the day that is 90 days after a demand by the Minister for an election is sent to the taxpayer and the taxpayer’s filing-due date for the taxation year in which the property is actually disposed of by the taxpayer.”

(2) Subsection 1 applies from the taxation year 1995.

43. (1) Section 297 of the said Act is amended by replacing paragraph *b* by the following paragraph :

“(b) if he has filed his amended fiscal return on or before his filing-due date for that subsequent year.”

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

44. (1) Section 312 of the said Act, amended by section 32 of chapter 1 of the statutes of 1995, by section 76 of chapter 49 of the statutes of 1995 and by section 290 of chapter 14 of the statutes of 1997, is again amended by striking out paragraph *e*.

(2) Subsection 1 applies from 1 January 1998.

45. (1) Section 336 of the said Act, amended by section 38 of chapter 1 of the statutes of 1995, by section 91 of chapter 18 of the statutes of 1995, by section 79 of chapter 49 of the statutes of 1995, by section 36 of chapter 63 of the statutes of 1995 and by section 63 of chapter 14 of the statutes of 1997, is again amended, in subsection 1,

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

“(d) an overpayment of any amount described in paragraph *a* of section 311, of any pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), of any benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, of any benefit under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), or of any benefit described in paragraph *e* or *e.1* of section 311, received by an individual and included in computing the individual’s income for the year or a preceding taxation year, to the extent of the amount repaid by the individual in the year otherwise than by virtue of Part VII of the Employment Insurance Act;”;

(2) by replacing, in subparagraph iv of paragraph *e*, the words “Employment and Immigration Commission” by the words “Employment and Insurance Commission”.

(2) Paragraph 1 of subsection 1 applies from 1 January 1998.

(3) Paragraph 2 of subsection 1 has effect from 12 July 1996.

46. (1) Section 358.0.1 of the said Act, amended by section 273 of chapter 39 of the statutes of 1996 and by section 66 of chapter 14 of the statutes of 1997, is again amended, in the first paragraph,

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

“i. that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual’s spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, or to carry on research or any similar work in respect of which the individual received a grant, and”;

(2) by replacing, in subparagraph ii of subparagraph *b*, the words “paragraph *e*, *g* or *h*” by the words “paragraph *g* or *h*”.

(2) Subsection 1 applies from 1 January 1998.

47. (1) Section 399 of the said Act, amended by section 101 of chapter 49 of the statutes of 1995 and by section 111 of chapter 39 of the statutes of 1996, is again amended by replacing paragraph *g* by the following paragraph:

“(g) that portion of the aggregate of all amounts deducted by the taxpayer under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for a taxation year ending before that time that may reasonably be attributed to an expenditure made in a preceding taxation year that is a qualified Canadian exploration expenditure, within the meaning of subsection 9 of section 127 of that Act, as it read for that preceding taxation year;”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

48. (1) Section 399.1 of the said Act is replaced by the following section:

“399.1. For the purposes of paragraph *e* of section 399, where, pursuant to a designation by a trust, an amount is required, under subsection 7 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to be added in computing the investment tax credit, within the meaning of subsection 9 of section 127 of the said Act, of a taxpayer at the end of his taxation year, the portion thereof that can reasonably be considered to relate to an expenditure that, for a taxation year, is a qualified Canadian exploration expenditure, within the meaning of subsection 9 of section 127 of that Act, as it read for that year, of the trust is deemed to have been received by the trust at the end of its taxation year in respect of which the designation was made as assistance from a government in respect of that expenditure.”

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

49. (1) Section 481 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997 and by section 78 of chapter 14 of the statutes of 1997, is again amended by replacing the portion of paragraph *b* of subsection 1 before subparagraph *i* by the following:

“(b) where the taxpayer and that person file an agreement in prescribed form on or before the taxpayer’s filing-due date for that third year;”.

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

50. (1) Section 485.21 of the said Act, enacted by section 142 of chapter 39 of the statutes of 1996 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing, in paragraph *a*, the words “the day on or before which the parent is required to file a fiscal return pursuant to section 1000” by the words “the parent’s filing-due date”.

(2) Subsection 1 has effect from 22 February 1994.

51. (1) Section 485.45 of the said Act, enacted by section 142 of chapter 39 of the statutes of 1996 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing subparagraph i of paragraph *a* by the following subparagraph :

“i. on or before the later of

(1) the debtor’s filing-due date for the taxation year or fiscal period, as the case may be, that includes that time, and

(2) the transferee’s filing-due date for the taxation year or fiscal period, as the case may be, that includes that time, or”.

(2) Subsection 1 has effect from 22 February 1994.

52. (1) Section 485.46 of the said Act, enacted by section 142 of chapter 39 of the statutes of 1996 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing paragraph *a* by the following paragraph :

“(a) the partnership is required to file a fiscal return under this Part for the fiscal period on or before the latest of the filing-due dates of the members of the partnership during the fiscal period for the taxation year in which that fiscal period ends ; and”.

(2) Subsection 1 has effect from 22 February 1994.

53. (1) Section 500 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing, in the second paragraph, the words “the day on or before which its fiscal return for its taxation year in which such dividend becomes payable is required to be filed, the order in which the said dividend is” by the words “its filing-due date for its taxation year in which such dividends become payable, the order in which they are”.

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

54. (1) Section 518 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section :

“**518.** A taxpayer who, in a taxation year, disposes of property owned by him which is eligible property to a taxable Canadian corporation for consideration that includes a share of the capital stock of the corporation may elect jointly with the latter, in prescribed form and on or before the earliest of the filing-due dates of those taxpayers for the taxation year in which the disposition occurs, that the rules provided in this chapter apply.”

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

55. (1) Section 600 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing paragraph *d* by the following paragraph :

“(d) in computing each income or loss of the partnership for a taxation year, no account shall be taken of sections 145, and 217.2 to 217.9, paragraphs *d* and *e* of section 330 and section 418.12, and no deduction is permitted under section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), section 217.13, the first paragraph of section 360 or sections 362 to 418.14;”.

(2) Subsection 1 has effect from 1 January 1995.

56. (1) Section 601 of the said Act, amended by section 164 of chapter 39 of the statutes of 1996 and by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the second paragraph by the following paragraph :

“However, an individual who is a member of a partnership immediately before its dissolution or who is a member of a partnership that would, but for section 618, have been dissolved at a particular time, may for the purpose of computing his income and if section 7.0.3 does not apply in respect of the partnership, elect that the fiscal period of the partnership be deemed to have ended immediately before the time it would normally have ended if the partnership had continued to exist.”

(2) Subsection 1 applies to fiscal periods that begin after 31 December 1994.

57. (1) Section 603 of the said Act, amended by section 47 of chapter 1 of the statutes of 1995, replaced by section 165 of chapter 39 of the statutes of 1996 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the portion before paragraph *a* by the following :

“**603.** Where a taxpayer who was a member of a partnership in a fiscal period has, for the purpose of computing the taxpayer’s income from the partnership for the fiscal period, made or executed an agreement, a designation or an election under or in respect of the regulations made under section 104 or any of sections 7.0.3, 7.0.5, 96, 110.1, 156, 180 to 182, 184, 199, 215, 216, 230, 279, 280.3, 299, 485.6, 485.9, 485.10, 485.11, 485.42 to 485.52 and 614 that, but for this section, would be a valid agreement, designation or election, the following rules apply :”.

(2) Subsection 1 has effect from 1 January 1995.

58. (1) Section 608 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section :

“**608.** For the purposes of sections 7 to 7.0.6, 217.2 to 217.16, 600, 607, 634 and 635, where the principal activity of a partnership is carrying on a

business in Canada and its members have entered into an agreement to allocate a share of the income or loss of the partnership from any source in Canada or from sources in another place to any person described in section 609, that person is deemed to be a member of the partnership and the amount so allocated for a particular fiscal period of the partnership shall be included in computing the person's income for the taxation year in which that fiscal period of the partnership ends."

(2) Subsection 1 has effect from 1 January 1995.

59. (1) Section 613 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section :

"613. Where a partnership carries on a business in Canada at any time, each taxpayer who is deemed under section 608 to be a member of the partnership at that time is deemed, for the purposes of sections 26 and 217.2 to 217.9 and, subject to section 217.16, sections 217.10 to 217.15 and sections 1000 to 1003, to carry on that business in Canada at that time."

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

60. (1) Section 613.3 of the said Act, amended by section 46 of chapter 63 of the statutes of 1995, by section 166 of chapter 39 of the statutes of 1996 and by section 71 of chapter 3 of the statutes of 1997, is again amended by striking out subparagraph ii of paragraph *b*.

(2) Subsection 1 applies in respect of revenue guarantees granted after 31 December 1995.

61. (1) Section 653 of the said Act is amended by replacing subparagraphs *a.1* and *b* of the first paragraph by the following subparagraphs :

"(a.1) where the trust is a pre-1972 spousal trust on 1 January 1993 and the spouse referred to in the definition of "pre-1972 spousal trust" in section 652.1 in respect of the trust was, in the case of a trust created by the will of an individual, alive on 1 January 1976, and, in the case of a trust created by an individual during the individual's lifetime, alive on 26 May 1976, the day that is the later of 1 January 1993 and the day on which that spouse dies ;

"(b) the day of the twenty-first anniversary of the latest of 1 January 1972, the day on which the trust was created and, where applicable, the day determined under subparagraph *a* or *a.1* as those subparagraphs applied from time to time after 31 December 1971 ;"

(2) Subsection 1 applies to taxation years of a trust that end after 11 February 1991.

62. (1) Section 656.4 of the said Act is amended

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

“656.4. Where a trust so elects in prescribed form filed with the Minister within six months after the end of a taxation year of the trust that includes a day before 1 January 1999, in this section referred to as the “disposition day”, that would, but for this section, be determined in respect of the trust under subparagraph *a.1* of the first paragraph of section 653 in the case of a trust described in that subparagraph, or under subparagraph *b* of the first paragraph of section 653 in any other case, and there is at least one individual who is an exempt beneficiary under the trust on the disposition day,

(*a*) for the purposes of sections 653 to 656.3, paragraph *a* of section 657 and section 1031.1, the day determined under subparagraph *a.1* or *b* of the first paragraph of section 653 in respect of the trust is deemed to be the earlier of 1 January 1999 and the first day of the trust’s first taxation year that begins after the first day after the disposition day throughout which there is no individual who is an exempt beneficiary under the trust;”;

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

“(b.1) paragraph *b* does not apply to a transfer made by the trust after 28 February 1995 where the trust filed the election before 1 March 1995;”.

(2) Subsection 1 has effect from 12 February 1991.

63. The said Act is amended by inserting, after section 656.4, the following section:

“656.4.1. Where a trust that has filed an election under section 656.4 before 1 July 1995 applies before 9 December 1997 to the Minister in writing for permission to revoke the election and the Minister grants permission to revoke the election,

(*a*) the election is deemed, otherwise than for the purposes of this section, never to have been made ;

(*b*) any amount payable by the trust under this Part as a penalty shall be reduced by that part of the amount that is attributable to the revocation of the election ; and

(*c*) notwithstanding sections 1010 to 1011, such assessments of tax, interest and penalties under this Part shall be made as are necessary by the Minister to take into account the consequences of the revocation of the election.”

64. (1) Section 657 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by adding, after subparagraph ii of paragraph *a*, the following subparagraph :

“iii. where the trust is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 and the spouse referred to in the said subparagraph *a* in respect of the trust died on a day in the year, the part of the amount that, but for this paragraph, paragraph *b* and section 691, would be the part of its income for the year that became payable in the year to a beneficiary, other than the spouse, and as is attributable to one or more dispositions by the trust before the end of that day of capital properties, other than excluded properties, land described in an inventory of the trust, Canadian resource properties or foreign resource properties ;”;

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

“(b) the lesser of

i. the aggregate of all amounts designated by the trust for the year under section 659, and

ii. the accumulating income of the trust for the year; and”.

(2) Paragraph 1 of subsection 1 applies to taxation years of a trust that end after 19 July 1995.

(3) Paragraph 2 of subsection 1 applies to taxation years of a trust that begin after 31 December 1995.

65. (1) Sections 658 and 659 of the said Act are replaced by the following sections :

“**658.** In this Title,

“accumulating income” of a trust for a taxation year means the amount that would be the income of the trust for the year if that amount were computed

(a) without reference to section 656.3 and paragraph *b* of section 657 ;

(b) as if the greatest amount that the trust was entitled to deduct under paragraph *a* of section 657 in computing its income for the year were so deducted ;

(c) without reference to sections 653 to 656.2 and 691, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, where it is a pre-1972 spousal trust at the end of the year, or where it has elected under section 656.4 for a preceding taxation year ;

(d) as if, where the trust is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 and the spouse referred to in the said subparagraph *a* died on a day in that year, any disposition by the trust before the end of that day of capital property, land described in an inventory of the trust, Canadian resource property or foreign resource property had not occurred ; and

(e) without reference to section 92.5.2, except where that section applies to an amount paid to a trust described in the second paragraph of section 441.1 and before the death of the spouse referred to in that paragraph;

“preferred beneficiary” under a trust for a taxation year of the trust means an individual

(a) who is resident in Canada and a beneficiary under the trust at the end of the year;

(b) in respect of whom paragraphs *a* to *c* of section 752.0.14 apply for the individual’s taxation year in which the taxation year of the trust ends; and

(c) who is

i. the settlor of the trust,

ii. the spouse or former spouse of the settlor of the trust, or

iii. a child, grandchild or great grandchild of the settlor of the trust, or the spouse of any such person;

“settlor”

(a) in relation to a testamentary trust, means the individual referred to in section 677; and

(b) in relation to an *inter vivos* trust,

i. if the trust is created by the transfer, assignment or other disposition of property thereto by not more than one individual and the fair market value of that property and of the property subsequently disposed of to the trust by the same individual exceeds the fair market value, at the time of disposition, of property subsequently disposed of to the trust by any other person, means that individual, and

ii. if the trust is created by the transfer, assignment or any other disposition of property made jointly by an individual and his spouse and by no other person and the rule provided for in paragraph *a* applies to that disposition, means that individual and his spouse.

“659. Where a trust and a preferred beneficiary under the trust for a taxation year of the trust jointly so elect in respect of the year in prescribed manner, such part of the accumulating income of the trust for the year as is designated in the election, not exceeding the allocable amount for the preferred beneficiary in respect of the trust for the year, shall be included in computing the income of the beneficiary for the beneficiary’s taxation year in which the taxation year of the trust ended and shall not be included in computing the income of any beneficiary of the trust for a subsequent taxation year.”

(2) Subsection 1, where it enacts section 658 of the said Act, applies to taxation years of a trust that end after 19 July 1995. However, where the definition of “preferred beneficiary” in section 658 applies to taxation years of a trust that begin before 1 January 1996, it shall be read as follows:

““preferred beneficiary” under a trust means an individual resident in Canada who is a beneficiary under the trust and is the settlor of the trust, the spouse or former spouse of the settlor of the trust, or a child, grandchild or great grandchild of the settlor of the trust, or the spouse of any such person;”.

(3) Subsection 1, where it enacts section 659 of the said Act, applies to taxation years of a trust that begin after 31 December 1995.

66. (1) Section 660 of the said Act, amended by section 236 of chapter 49 of the statutes of 1995, is replaced by the following section:

“**660.** For the purposes of section 659, the allocable amount for a preferred beneficiary under a trust in respect of the trust for a taxation year is

(a) where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or a pre-1972 spousal trust and the spouse referred to in the said subparagraph *a* or in the definition of “pre-1972 spousal trust” in section 652.1, as the case may be, is alive at the end of the year, an amount equal to the trust’s accumulating income for the year, if the preferred beneficiary is that spouse, and, in any other case, nil;

(b) where paragraph *a* does not apply and the beneficiary’s interest in the trust is not solely contingent on the death of another beneficiary who has a capital interest in the trust and who does not have an income interest in the trust, the trust’s accumulating income for the year; and

(c) in any other case, nil.”

(2) Subsection 1 applies to taxation years of a trust that begin after 31 December 1995.

67. (1) Section 664 of the said Act is replaced by the following section:

“**664.** Notwithstanding section 652, any part of the amount that, but for paragraphs *a* and *b* of section 657, would be the income of a trust for a taxation year throughout which it was resident in Canada is, for the purposes of paragraph *a* of section 657 and section 663, deemed to have become payable to an individual in the year if

(a) that part of the amount has not become payable in the year;

(b) that part of the amount was held in trust for an individual who did not attain 21 years of age before the end of the year;

(c) the right to that part of the amount vested in the individual at or before the end of the year otherwise than because of the exercise by any person of, or the failure of any person to exercise, any discretionary power; and

(d) the right to that part of the amount is not subject to any future condition, other than a condition that the individual survive to an age not exceeding 40 years.”

(2) Subsection 1 applies to taxation years of a trust that begin after 31 December 1995.

68. (1) Section 678 of the said Act is replaced by the following section:

“**678.** The taxation year of a testamentary trust is the period for which the accounts of the trust are made up for purposes of assessment under this Part.

The period contemplated in the first paragraph shall however not exceed 12 months and, for the purposes of this Part, no change in the time when such a period ends may be made without the concurrence of the Minister.”

(2) Subsection 1 has effect from 1 January 1995.

69. (1) Section 716.0.1 of the said Act, enacted by section 51 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing, in the first paragraph, the words “the day on or before which it is required to file a fiscal return pursuant to section 1000” by the words “its filing-due date”.

(2) Subsection 1 applies in respect of gifts made after 9 May 1995.

70. (1) Section 726.9.7 of the said Act, enacted by section 186 of chapter 39 of the statutes of 1996, is amended by replacing subparagraph i of paragraph *a* by the following subparagraph:

“i. if the election is in respect of a business of the elector, on or before the individual’s filing-due date for the taxation year in which the fiscal period of the business that includes 22 February 1994 ends, and”.

(2) Subsection 1 applies from the taxation year 1995.

71. (1) Section 726.11 of the said Act, amended by section 188 of chapter 39 of the statutes of 1996, is again amended, in paragraph *a*,

(1) by replacing the words “the day on or before which he is required to file a return of his income” by the words “his filing-due date”;

(2) by striking out the words “pursuant to section 1000”.

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

72. Section 736.0.3.1 of the said Act, amended by section 236 of chapter 49 of the statutes of 1995 and by section 71 of chapter 3 of the statutes of 1997, is again amended by striking out, in the first paragraph, “and sections 191, 210, 211 and 213”.

73. (1) Section 737.8 of the said Act is amended by replacing the words “the day on which he is required to file the return or would be so required if tax were payable by him for the year under this Part” by the words “his filing-due date for the year”.

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

74. (1) Section 737.12.1 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) where the individual died in the year in which the election was filed, the filing-due date in respect of the individual for the year of death; and”.

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

75. (1) Section 737.19 of the said Act, amended by section 68 of chapter 1 of the statutes of 1995, by section 71 of chapter 3 of the statutes of 1997 and by section 107 of chapter 14 of the statutes of 1997, is again amended by striking out paragraph *d*.

(2) Subsection 1 applies in respect of work performed after 27 February 1995.

76. Section 737.20 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended, in the second paragraph,

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

“(a) a subsidiary controlled corporation of the eligible employer;”;

(2) by replacing subparagraph *c* by the following subparagraph:

“(c) a corporation controlling the eligible employer.”

77. (1) Section 752.0.1 of the said Act, amended by section 71 of chapter 1 of the statutes of 1995 and by section 109 of chapter 14 of the statutes of 1997, is again amended by replacing, in paragraph *h*, the words “the day on or before which he is required to file his fiscal return with the Minister under section 1000” by the words “his filing-due date”.

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

78. (1) Section 752.0.10 of the said Act is amended by replacing paragraph *e* by the following paragraph:

“(e) an amount received out of or under a retirement compensation arrangement, a salary deferral arrangement, an employee trust, an employee benefit plan, or a prescribed provincial pension plan;”.

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

79. (1) Section 752.0.10.15 of the said Act, enacted by section 58 of chapter 63 of the statutes of 1995, is amended by replacing the first paragraph by the following paragraph :

“**752.0.10.15.** Where an individual makes a gift of a work of art referred to in section 752.0.10.11.1 in a taxation year, referred to in this section as the “gift year”, to a donee referred to in section 752.0.10.11.1, the individual may, on or before his filing-due date for a subsequent taxation year, referred to in this section as the “year of disposition”, in which the donee disposed of the work of art, file with the Minister for a taxation year referred to in the second paragraph an amended fiscal return in which he shall take into account the tax consequences of that disposition in respect of an amount relating to that taxation year.”

(2) Subsection 1 applies in respect of gifts made after 9 May 1995.

80. (1) Section 752.2 of the said Act, amended by section 61 of chapter 63 of the statutes of 1995, is again amended by replacing the portion before subparagraph *a* of the first paragraph by the following :

“**752.2.** Where an individual dies in a taxation year ending before 1 January 1998 and is resident in Canada at the time of death and the individual’s legal representative files with the individual’s fiscal return for the year an election in prescribed form on or before the filing-due date of the individual for the year, there shall be added to the amount that would, but for this chapter, be the individual’s tax payable for the year under this Part with respect to the return an amount equal to the amount, if any, by which”.

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

81. (1) Section 752.5 of the said Act is amended by replacing the third paragraph by the following paragraph :

“The returns of income must be filed with the Minister on or before the filing-due date of the individual for the year of death.”

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

82. (1) Section 771.1.10 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing subparagraph *i* of paragraph *a* by the following subparagraph :

“i. the aggregate of all amounts each of which is an amount in respect of an eligible business carried on in Canada by the corporation as a member of the partnership equal to the amount by which the aggregate of all amounts each of which is the corporation’s share of the income, determined in accordance with Title XI of Book III, of the partnership for a fiscal period of the business ending in the year or an amount included because of section 217.14 in computing the corporation’s income for the year from the business, exceeds the aggregate of all amounts each of which is an amount deducted in computing the corporation’s income for the year from the business, other than an amount that was deducted by the partnership in computing its income from the business, and”.

(2) Subsection 1 applies from the taxation year 1995.

83. (1) Section 771.5 of the said Act, amended by section 72 of chapter 63 of the statutes of 1995 and by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing paragraph *d* by the following paragraph :

“(d) the corporation filed a return in prescribed form with the Minister on or before its filing-due date for its first taxation year.”

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

84. (1) Section 771.5.1 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the first paragraph by the following paragraph :

“**771.5.1.** For the purposes of paragraph *d* of section 771.5, a return that has not been filed by the corporation contemplated therein within the time specified therein is deemed to have been filed within that time if it is filed, in prescribed form and along with a payment by the corporation of the penalty described in the second paragraph, on or before the corporation’s filing-due date for its third taxation year.”

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

85. (1) Section 785.2 of the said Act, enacted by section 179 of chapter 49 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing, in subparagraph ii of paragraph *b* and paragraph *d*, the words “date on or before which the taxpayer is required to file a fiscal return under this Part” by the words “taxpayer’s balance-due day”.

(2) Subsection 1 applies from the taxation year 1995.

86. (1) Section 815.1 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the words “the day on or before which the member institution is required by section 1000 to file a fiscal return” by the words “the member institutions’s filing-due date”.

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

87. (1) Section 851.29 of the said Act is amended by replacing the words “the day on or before which the trust is required by section 1000 to file a fiscal return” by the words “the trust’s filing-due date”.

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

88. (1) Section 935.3 of the said Act, replaced by section 239 of chapter 39 of the statutes of 1996, is amended by replacing the portion before paragraph *a* by the following :

“**935.3.** An individual may designate a single amount for a taxation year on a prescribed form attached to the fiscal return the individual is required to file under section 1000 for the year or, if a return is not required to be filed for the year, filed with the Minister on or before the individual’s filing-due date for the year, where the amount does not exceed the lesser of”.

(2) Subsection 1 applies from the taxation year 1995.

89. (1) Section 965.11.7.1 of the said Act, amended by section 273 of chapter 39 of the statutes of 1996 and by section 71 of chapter 3 of the statutes of 1997, is again amended, in paragraph *d*, by inserting, after the words “operated as a”, the words “partnership that is a”.

(2) Subsection 1 has effect from 20 March 1997.

90. (1) Section 979.15 of the said Act, amended by section 199 of chapter 1 of the statutes of 1995, is again amended by replacing “paragraph *p*” by “subparagraph *o* of the second paragraph” and, in the French text, by replacing the words “bénéficiaire visé dans” by the words “bénéficiaire visé à”.

(2) Subsection 1 has effect from 15 December 1995.

91. (1) Section 991 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended

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

“**991.** A corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research and experimental development is exempt from tax if it has not acquired control of any other corporation, if it does not carry on any business and if at least 90% of the amount by which the corporation’s gross revenue for the period referred to in section 980 exceeds the aggregate of all amounts paid in the period by the corporation because of subsection 7.1 of section 149 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or section 991.2 is expended in Canada”;

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

“For the purposes of subsection 1 of section 986 and of this section, such corporation shall include in computing its income and in determining its gross revenue all amounts contributed to the corporation to be used for scientific research and experimental development and the amount of all gifts made to it.”

(2) Subsection 1 applies to taxation years that begin after 30 June 1995.

92. (1) The said Act is amended by inserting, after section 991, the following sections :

“991.1. A corporation that is exempt from tax under this Part for a taxation year because of section 991 shall file with the Minister, on or before its filing-due date for the year, the prescribed form containing the prescribed information.

“991.2. Where a corporation fails to file the prescribed form as required by section 991.1 for a taxation year, it is liable to a penalty equal to the amount determined by the formula

$$A \times B.$$

For the purposes of the formula in the first paragraph,

(a) A is the greater of \$250 and 0.75% of the corporation’s taxable income for the year ;

(b) B is the lesser of 12 and the number of months in whole or in part that are in the period that begins on the day on or before which the prescribed form is required to be filed and ends on the day it is filed.”

(2) Subsection 1 applies to taxation years that end after 27 February 1995. However, a form referred to in section 991.1 of the said Act, enacted by subsection 1, that is filed with the Minister of Revenue on or before 9 December 1997 is deemed to have been filed within the time limit prescribed in that section.

93. (1) Section 992 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is replaced by the following section :

“992. In determining the gross revenue of a corporation for the purpose of determining whether the corporation is described by section 991 for a taxation year, there may be deducted an amount not exceeding its gross revenue for the year computed before applying this section, and there shall be included any amount that has been deducted under this section for the preceding taxation year.”

(2) Subsection 1 applies to taxation years that begin after 30 June 1995.

94. (1) Section 1000 of the said Act, amended by section 109 of chapter 1 of the statutes of 1995, by section 236 of chapter 49 of the statutes of 1995, by section 71 of chapter 3 of the statutes of 1997 and by section 177 of chapter 14 of the statutes of 1997, is again amended

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

“(c) in the case of a person who dies before the day following the day that would otherwise be the person’s filing-due date, by the person’s legal representatives on or before the person’s filing-due date or within six months after the day of death;”;

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

“(e) in the case of any other person, by that person, on or before

i. 30 April of the following calendar year,

ii. 15 June of the following calendar year if the person is an individual who carried on a business in the taxation year, unless the expenditures made in the course of carrying on the business were primarily the cost or capital cost of a tax shelter, or if at any time in the taxation year the person is the spouse of such an individual and the person and the individual are not living apart at that time, or

iii. where at any time in the taxation year the person was the spouse of an individual to whom paragraph *c* applies and the person and the individual were not living apart at that time, within the time specified in paragraph *c*; and”;

(3) by adding, after subsection 2, the following subsection:

“(3) For the purposes of paragraph *e* of subsection 2, two persons shall be considered to be living apart at any time if they were living apart at that time, because of a breakdown of their marriage, and the separation lasted for a period of at least 90 days.”

(2) Subsection 1 applies from the taxation year 1995.

95. (1) Section 1012 of the said Act is replaced by the following section:

“**1012.** Where a taxpayer has filed for a taxation year the fiscal return required by section 1000 and an amount referred to in section 1012.1 is subsequently included in computing the taxpayer’s taxable income or claimed as a deduction by the taxpayer or on behalf of the taxpayer for the taxation year by filing with the Minister, on or before the taxpayer’s filing-due date for that subsequent taxation year in respect of that amount, a prescribed form amending the fiscal return for the taxation year, the Minister shall redetermine the taxpayer’s tax for any relevant taxation year, other than a taxation year

preceding the taxation year, to take into account the amount included in computing the taxpayer's taxable income or the deduction claimed."

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

96. (1) Section 1015 of the said Act, amended by section 110 of chapter 1 of the statutes of 1995 and by section 228 of chapter 49 of the statutes of 1995, replaced by section 114 of chapter 63 of the statutes of 1995 and amended by section 290 of chapter 14 of the statutes of 1997, is again amended by striking out subparagraph *j* of the second paragraph.

(2) Subsection 1 applies from 1 January 1998.

97. Section 1015.1 of the said Act is repealed.

98. (1) Section 1026.0.1 of the said Act, enacted by section 115 of chapter 1 of the statutes of 1995, is amended by replacing the words "the date on or before which he is required to file his fiscal return for the year under section 1000" by the words "the individual's balance-due day for the year".

(2) Subsection 1 applies from the taxation year 1995.

99. (1) Section 1029.2 of the said Act, amended by section 199 of chapter 1 of the statutes of 1995, by section 116 of chapter 63 of the statutes of 1995, by section 71 of chapter 3 of the statutes of 1997 and by section 180 of chapter 14 of the statutes of 1997, is again amended, in the first paragraph,

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

"(a) on its balance-due day for the particular year, as partial payment of its tax payable for the particular year under this Part, the lesser of the following amounts:";

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

"(b) on its balance-due day for any of the seven taxation years immediately following the particular year, as partial payment of its tax payable for that subsequent year under this Part, the lesser of the following amounts:".

(2) Subsection 1 applies to taxation years that end after 9 May 1995.

100. (1) Section 1029.7.2 of the said Act, replaced by section 120 of chapter 1 of the statutes of 1995 and by section 122 of chapter 63 of the statutes of 1995, amended by section 71 of chapter 3 of the statutes of 1997 and replaced by section 185 of chapter 14 of the statutes of 1997, is again amended, in the first paragraph, by inserting, after the words "directly or indirectly", the words "in any manner whatever".

(2) Subsection 1 applies in respect of wages paid after 9 May 1996 for the scientific research and experimental development undertaken after that date and in respect of consideration paid under a contract entered into after that date for scientific research and experimental development undertaken after that date.

101. (1) Section 1029.8.0.0.1 of the said Act, enacted by section 127 of chapter 63 of the statutes of 1995, amended by section 71 of chapter 3 of the statutes of 1997 and replaced by section 191 of chapter 14 of the statutes of 1997, is again amended by replacing the portion before paragraph *a* by the following:

“1029.8.0.0.1. A taxpayer shall not be deemed to have paid to the Minister an amount as partial payment of his tax payable for a taxation year under section 1029.7 or 1029.8 in respect of an expenditure that is a portion of a consideration referred to in subparagraph *c* or *e* of the first paragraph of that section, that the taxpayer has paid or the partnership of which he is a member has paid to a person or to a particular partnership under a contract for the purpose of causing to be undertaken, on his behalf, scientific research and experimental development referred to in that subparagraph *c*, or work relating to scientific research and experimental development referred to in that subparagraph *e*, as the case may be, unless he files with the Minister, on or before his filing-due date for the year, a statement in prescribed form containing the following information:”.

(2) Subsection 1 applies in respect of expenditures made after 12 May 1994 under a contract entered into after that date.

102. (1) Section 1029.8.1 of the said Act, amended by section 122 of chapter 1 of the statutes of 1995, by section 236 of chapter 49 of the statutes of 1995, by section 129 of chapter 63 of the statutes of 1995, by section 56 of chapter 3 of the statutes of 1997 and by section 192 of chapter 14 of the statutes of 1997, is again amended

(1) by striking out, in subparagraph *iv* of paragraph *g.1*, the words “and related benefits”;

(2) by striking out paragraph *h*.

(2) Paragraph 1 of subsection 1 has effect from 21 May 1993.

(3) Paragraph 2 of subsection 1 applies in respect of work performed after 27 February 1995.

103. (1) Section 1029.8.9.1 of the said Act, amended by section 131 of chapter 1 of the statutes of 1995, by section 236 of chapter 49 of the statutes of 1995, by section 137 of chapter 63 of the statutes of 1995 and by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by striking out, in paragraph *d* of the definition of “overhead expenditure”, the words “and related benefits”;

(2) by striking out the definition of “scientific research and experimental development”.

(2) Paragraph 1 of subsection 1 has effect from 21 May 1993.

(3) Paragraph 2 of subsection 1 applies in respect of work performed after 27 February 1995.

104. Section 1029.8.16 of the said Act, amended by section 141 of chapter 63 of the statutes of 1995, is again amended, in the English text,

(1) by replacing, in paragraph *a*, the word “receipt” by the words “validation certificate”;

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

“i. where the agreement contemplated in the said section 1029.8.10 or 1029.8.11 has been the object of a validation certificate issued by the Minister of Industry, Trade, Science and Technology, if such certificate was not in force or valid at the time when the expenditure was made or at the time when the scientific research and experimental development was undertaken, where the expenditure was made after the date of issue of the certificate or, if the expenditure was made before the date indicated to that effect on the certificate, where the expenditure was made before the date of issue of the certificate;”.

105. (1) Section 1029.8.17 of the said Act, amended by section 137 of chapter 1 of the statutes of 1995, is again amended

(1) by inserting, after paragraph *b*, the following paragraph:

“(b.1) “taxable supplier” in respect of an amount means

i. a person resident in Canada,

ii. a Canadian partnership, or

iii. a person not resident in Canada, or a partnership that is not a Canadian partnership, where the amount is paid or payable by such person or partnership in the course of carrying on a business through an establishment in Canada;”;

(2) by replacing, in subparagraph *i* of paragraph *c*, the word “payable” by the words “paid or payable by a taxable supplier in respect of the amount;”;

(3) by striking out, in subparagraph *i* of paragraph *c*, the words “, within the meaning of the regulations made pursuant to section 222;”;

(4) by replacing the word “person” wherever it appears in subparagraph i of paragraph *c* by the words “person or partnership”;

(5) by replacing, in subparagraph i of paragraph *c*, the words “because of paragraph *d* of subsection 1 of section 222, or pursuant to subsection 1 of section 222” by the words “under subsection 1 of section 222 by reason of the fact that the amount is a payment to which that subsection 1 first refers that is described in paragraph *a* of section 222.1 or”;

(6) by striking out, in subparagraph ii of paragraph *c*, the words “, within the meaning of the regulations made pursuant to section 222,”.

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years that begin after 31 December 1995.

(3) Paragraphs 3 and 6 of subsection 1 apply in respect of work performed after 27 February 1995.

(4) Paragraph 4 of subsection 1 applies in respect of expenditures made after 12 May 1994 under a contract entered into after that date.

(5) Paragraph 5 of subsection 1 applies in respect of payments made after 31 December 1995.

106. (1) The said Act is amended by inserting, after section 1029.8.17, the following section:

“1029.8.17.0.1. Where there is an arrangement under which an amount is paid or payable by a particular person or partnership to another person or partnership and a particular amount is received or receivable in respect of scientific research and experimental development by a person or partnership, other than the particular person or partnership or the other person or partnership, from a person or partnership that is not a taxable supplier in respect of the particular amount, and one of the main purposes of the arrangement can reasonably be considered to be to cause the particular amount not to be a contract payment, the particular amount is deemed to be a contract payment in respect of scientific research and experimental development.”

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

107. (1) Section 1029.8.19 of the said Act, replaced by section 141 of chapter 1 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997 and by section 290 of chapter 14 of the statutes of 1997, is again amended by replacing the words “at the time the taxpayer files his fiscal return” by the words “on or before the taxpayer’s filing-due date”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

108. (1) Section 1029.8.21.3 of the said Act, enacted by section 145 of chapter 1 of the statutes of 1995 and amended by section 153 of chapter 63 of the statutes of 1995 and by section 210 of chapter 14 of the statutes of 1997, is again amended

(1) by replacing, in the first paragraph, the words “the day on or before which he is required to file his fiscal return for the taxation year following the particular year or, where the taxpayer is not required to file a return for the year following the particular year, on or before the day on or before which he would be required to file his fiscal return for that year if tax were payable by the taxpayer for that year” by the words “the day that is 12 months after the taxpayer’s filing-due date for the particular year”;

(2) by replacing, in the French text of the second paragraph, the words “activités de recherches scientifiques et de” by the words “recherches scientifiques et à du”.

(2) Paragraph 1 of subsection 1 applies to taxation years that begin after 31 December 1995.

(3) Paragraph 2 of subsection 1 applies in respect of work performed after 27 February 1995.

109. (1) Section 1029.8.22 of the said Act, amended by section 457 of chapter 40 of the statutes of 1994, by section 146 of chapter 1 of the statutes of 1995, by sections 154 and 261 of chapter 63 of the statutes of 1995, by section 59 of chapter 3 of the statutes of 1997 and by section 211 of chapter 14 of the statutes of 1997, is again amended, in the first paragraph,

(1) by replacing subparagraphs i and ii of paragraph *a* of the definition of “qualified training expenditure” by the following subparagraphs:

“i. in the case of the qualified corporation, on or before its filing-due date for that taxation year;

“ii. where a qualified corporation is a member of the qualified partnership, on or before the day that is six months after the end of the fiscal period of the qualified partnership;”;

(2) by striking out, in paragraph *c* of the definition of “qualified corporation”, the words “, within the meaning of section 737.13,”.

(2) Paragraph 1 of subsection 1 applies to taxation years that begin after 31 December 1995.

110. (1) Section 1029.8.33.1.1 of the said Act, enacted by section 162 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the words “the day on or before which it is required to file a fiscal return for the taxation year following the particular year or, where the corporation is not required to file a return for

the year following the particular year, on or before the day on or before which it would be required to file its fiscal return for that year if tax were payable by the qualified corporation for that year” by the words “the day that is 12 months after its filing-due date for the particular year”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

111. (1) Section 1029.8.33.3 of the said Act, enacted by section 156 of chapter 1 of the statutes of 1995 and amended by section 165 of chapter 63 of the statutes of 1995 and by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by replacing the words “at the time of the filing of his fiscal return” by the words “on or before the eligible taxpayer’s filing-due date” in the following provisions:

- subparagraph *i* of subparagraph *c* of the first paragraph;
- subparagraph *i* of subparagraphs *c* and *f* of the second paragraph;

(2) by replacing the words “at the time of the filing, by the eligible taxpayer, of his fiscal return for the taxation year of the eligible taxpayer in which the fiscal period of the qualified partnership ends” by the words “on or before the day that is six months after the end of the fiscal period of the qualified partnership” in the following provisions:

- subparagraph *ii* of subparagraph *c* of the first paragraph;
- subparagraph *ii* of subparagraphs *c* and *f* of the second paragraph.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

112. (1) Section 1029.8.33.7.1 of the said Act, enacted by section 170 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended, in the first paragraph, by replacing the words “at the time of the filing of his fiscal return” by the words “on or before the eligible taxpayer’s filing-due date”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

113. (1) Section 1029.8.33.8 of the said Act, enacted by section 156 of chapter 1 of the statutes of 1995, replaced by section 171 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended, in the first paragraph,

(1) by replacing, in subparagraph *a*, the words “at the time of the filing of the eligible taxpayer’s fiscal return” by the words “on or before the eligible taxpayer’s filing-due date”;

(2) by replacing, in subparagraph *i* of subparagraph *b*, the words “at the time of the filing, by the eligible taxpayer, of his fiscal return for the taxation year in which the fiscal period of the partnership in which the expenditure was made ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the expenditure was made”;

(3) by replacing, in subparagraph *ii* of subparagraph *b*, the words “at the time of the filing of his fiscal return for the taxation year in which the fiscal period of the partnership in which the expenditure was made ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the expenditure was made”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

114. (1) Section 1029.8.33.11 of the said Act, enacted by section 173 of chapter 63 of the statutes of 1995, is amended by replacing the words “the day on or before which he is required to file a fiscal return for the taxation year following the particular year or, where the taxpayer is not required to file a return for the year following the particular year, on or before the day on or before which he would be required to file his fiscal return for that year if tax were payable by the taxpayer for that year” by the words “the day that is 12 months after his filing-due date for the particular year”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

115. (1) Section 1029.8.35 of the said Act, amended by section 50 of chapter 21 of the statutes of 1994, by section 175 of chapter 63 of the statutes of 1995, by section 71 of chapter 3 of the statutes of 1997 and by section 220 of chapter 14 of the statutes of 1997, is again amended

(1) in the first paragraph, by replacing the words “the day referred to in subparagraph *b* of the first paragraph of section 1027 in respect of” by the words “the corporation’s balance-due day for” and by striking out the words “, or that would be referred to in that subparagraph *b* if the corporation had a remainder of tax payable for that year”;

(2) by replacing, in subparagraph *ii* of subparagraph *b* of the third paragraph, the words “the time of filing of the corporation’s fiscal return referred to in the first paragraph” by the words “the person’s or the partnership’s filing-due date”;

(3) by replacing, in the fourth paragraph, the words “at the time of the filing of its fiscal return for the year and that it has not repaid at that time” by

the words “on or before the corporation’s filing-due date for the year and that it has not repaid on that date”.

(2) Paragraph 1 of subsection 1 applies to taxation years that end after 9 May 1995.

(3) Paragraph 2 of subsection 1 has effect from 1 January 1994.

(4) Paragraph 3 of subsection 1 has effect from 10 May 1995.

116. (1) Section 1029.8.36.27 of the said Act, enacted by section 157 of chapter 1 of the statutes of 1995 and amended by section 192 of chapter 63 of the statutes of 1995 and by section 71 of chapter 3 of the statutes of 1997, is again amended, in the first paragraph,

(1) by replacing, in subparagraph *a*, the words “at the time of the filing of the qualified corporation’s fiscal return” by the words “on or before the qualified corporation’s filing-due date”;

(2) by replacing, in subparagraph *i* of subparagraph *b*, the words “at the time of the filing, by the qualified corporation, of its fiscal return for that year” by the words “on or before the day that is six months after the end of the fiscal period of the qualified partnership in which the expenditure was incurred”;

(3) by replacing, in subparagraph *ii* of subparagraph *b*, the words “at the time of the filing of its or his fiscal return for the year” by the words “on or before the day that is six months after the end of the fiscal period of the qualified partnership in which the expenditure was incurred”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

117. (1) Section 1029.8.36.29 of the said Act, enacted by section 193 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing the words “the day on or before which it is required to file a fiscal return for the taxation year following the particular year or, where the corporation is not required to file a return for the year following the particular year, on or before the day on or before which it would be required to file its fiscal return for that year if tax were payable by the corporation for that year” by the words “the day that is 12 months after its filing-due date for the particular year”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

118. (1) Section 1029.8.50 of the said Act, amended by section 159 of chapter 1 of the statutes of 1995, by section 202 of chapter 63 of the statutes of 1995 and by section 290 of chapter 14 of the statutes of 1997, is again amended, in the portion of the first paragraph before paragraph *a*,

(1) by replacing the words “on the day referred to in section 1026.0.1 in respect of” by the words “on his balance-due day for”;

(2) by striking out the words “, or that would be referred to in that section if the individual had a remainder of tax payable for that taxation year”.

(2) Subsection 1 applies from the taxation year 1995.

119. (1) Section 1029.8.67 of the said Act, enacted by section 162 of chapter 1 of the statutes of 1995, is amended

(1) by striking out subparagraph iii of paragraph *a* of the definition of “child care expense”;

(2) by replacing, in paragraph *b* of the definition of “earned income”, “paragraph *e*, *g* or *h*” by “paragraph *g* or *h*”.

(2) Subsection 1 applies from 1 January 1998.

120. (1) Section 1031 of the said Act, amended by section 164 of chapter 1 of the statutes of 1995 and by section 229 of chapter 49 of the statutes of 1995, is again amended

(1) by replacing, in the first paragraph, the words “day on or before which the individual is required to file a fiscal return” by the words “individual’s balance-due day”;

(2) by replacing, in subparagraph *b* of the second paragraph, the words “day on or before which the taxpayer is required to file a fiscal return” by the words “individual’s balance-due day”.

(2) Subsection 1 applies from the taxation year 1995.

121. Section 1037 of the said Act is replaced by the following section :

“**1037.** Any tax that is unpaid by a taxpayer on the taxpayer’s balance-due day for the year shall bear interest at the rate fixed under section 28 of the Act respecting the Ministère du Revenu, from the taxpayer’s balance-due day to the day of payment.”

122. (1) Section 1037.1 of the said Act is amended by replacing the words “date on or before which he must file the return or” by the words “individual’s balance-due day or from”.

(2) Subsection 1 applies from the taxation year 1995.

123. Section 1038.1 of the said Act is amended by replacing the words “day on or before which the taxpayer is required to pay to the Minister the balance of his estimated income tax or would be so required if he had such a balance” by the words “taxpayer’s balance-due day”.

124. Section 1040.1 of the said Act is amended by replacing the words “day on or before which the taxpayer is required to pay to the Minister the balance of his estimated income tax or would be so required if he had such a balance” by the words “taxpayer’s balance-due day”.

125. (1) Section 1044 of the said Act, amended by section 214 of chapter 63 of the statutes of 1995, is again amended by replacing, in subparagraph *b* of the second paragraph, the word “reassessed” by the word “assessed”.

(2) Subsection 1 applies to loss carryback applications made after 20 May 1993.

126. (1) Section 1045.0.1 of the said Act, enacted by section 216 of chapter 63 of the statutes of 1995, is replaced by the following section:

“**1045.0.1.** Notwithstanding section 1045, where the failure referred to in that section results solely from the inclusion, in computing an individual’s income for a particular taxation year, of an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 752.0.10.11.1 by a donee referred to in that section, and by reason of the designation of an amount under section 752.0.10.13 for the particular taxation year, section 1045 shall be read with the words “the tax unpaid at the time when the return must be filed” replaced by the words “the tax unpaid on the individual’s filing-due date for the subsequent taxation year in which the disposition was made”.”

(2) Subsection 1 has effect from 10 May 1995.

127. (1) Section 1052 of the said Act is amended by replacing paragraphs *c* and *d* by the following paragraphs:

“(c) the forty-sixth day following the balance-due day in the case of an individual, or following the filing-due date in the case of a corporation;

“(d) the forty-sixth day following the day on which the fiscal return giving rise to the overpayment was filed under sections 1000 to 1003;”.

(2) Subsection 1 applies from the taxation year 1995.

128. (1) Section 1053 of the said Act, amended by section 220 of chapter 63 of the statutes of 1995, is again amended by replacing, in paragraph *b*, the word “reassessed” by the word “assessed”.

(2) Subsection 1 applies to loss carryback applications made after 20 May 1993.

129. Section 1057 of the said Act, amended by section 177 of chapter 1 of the statutes of 1995 and by section 3 of chapter 36 of the statutes of 1995, is again amended by replacing, in the second paragraph, the words “expiration

of the period for filing his or its fiscal return” by the words “filing-due date of the individual”.

130. (1) Section 1086.8 of the said Act, enacted by section 180 of chapter 1 of the statutes of 1995, is amended by replacing the words “the date on or before which the individual must file his fiscal return for the year under section 1000” by the words “his balance-due day, within the meaning of section 1, for the year”.

(2) Subsection 1 applies from the taxation year 1995.

131. (1) Section 1120 of the said Act, amended by section 273 of chapter 39 of the statutes of 1996, is again amended by replacing the second paragraph by the following paragraph:

“However, where a trust’s first taxation year ended after 1971 and the trust has become a mutual fund trust after 1971 and on or before the trust’s filing-due date, within the meaning of section 1, for that year, it is deemed to have been a mutual fund trust from the beginning of that year if it so elected in the fiscal return it was required to file for that year.”

(2) Subsection 1 has effect from 1 January 1994. However, where the second paragraph of section 1120 of the said Act, enacted by subsection 1, applies before 30 October 1996, the French text thereof shall be read with the words “fiducie de fonds commun de placements” replaced by the words “fiducie de fonds mutuels”, wherever they appear.

132. Section 1121.2 of the said Act, amended by section 273 of chapter 39 of the statutes of 1996, is again amended by inserting, in paragraph *a* after the words “section 670”, the words “, as that section read before being repealed,”.

133. (1) Section 1129.2 of the said Act, amended by section 50 of chapter 21 of the statutes of 1994, by section 199 of chapter 1 of the statutes of 1995, by section 71 of chapter 3 of the statutes of 1997 and by section 263 of chapter 14 of the statutes of 1997, is again amended by replacing, in the portion of subparagraph *c* of the first paragraph before subparagraph *i*, the words “at the time of filing its fiscal return for the particular year under Part I” by the words “on or before its filing-due date, within the meaning of section 1, for the particular year”.

(2) Subsection 1 applies to taxation years that begin after 31 December 1995.

134. (1) Section 1129.4.2 of the said Act, enacted by section 264 of chapter 14 of the statutes of 1997, is amended by replacing, in subparagraphs *g* and *h* of the first paragraph, the words “at the time of filing its fiscal return for the particular year under Part I” by the words “on or before its filing-due date, within the meaning assigned by section 1, for the particular year”.

(2) Subsection 1 applies to a multimedia title in respect of which the Société de développement des entreprises culturelles issues a certificate after 9 May 1996.

135. (1) Section 1129.41 of the said Act, enacted by section 191 of chapter 1 of the statutes of 1995 and amended by section 236 of chapter 49 of the statutes of 1995 and by section 261 of chapter 63 of the statutes of 1995, is again amended by replacing “1024,” by “1024 and 1026.0.1,”.

(2) Subsection 1 has effect from 10 May 1995.

136. Section 1130 of the said Act, amended by section 192 of chapter 1 of the statutes of 1995, by section 237 of chapter 63 of the statutes of 1995, by section 271 of chapter 39 of the statutes of 1996, by section 66 of chapter 3 of the statutes of 1997 and by section 269 of chapter 14 of the statutes of 1997, is again amended, in the definition of “long-term debt”,

(1) by replacing, in the French text, paragraph *b* by the following paragraph :

“*b*) dans le cas d’une société de fiducie, d’une société de prêts ou d’une société faisant le commerce de valeurs mobilières, les titres secondaires, au sens donné à cette expression par l’article 2 de la Loi sur les banques, compte tenu des adaptations nécessaires, qu’elle a émis pour un terme d’au moins cinq ans;”;

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

“(c) in the case of a savings and credit union, its subordinated indebtedness, within the meaning that would be assigned by section 2 of the Cooperative Credit Associations Act (Statutes of Canada, 1991, chapter 48) if the definition of that expression were applied with the necessary modifications, issued for a term of not less than five years;”.

137. (1) Section 1137 of the said Act, amended by section 242 of chapter 63 of the statutes of 1995, by section 71 of chapter 3 of the statutes of 1997 and by section 274 of chapter 14 of the statutes of 1997, is again amended by replacing, in subparagraph *i* of paragraph *b.2*, the words “at the time of filing the fiscal return” by the words “on or before its filing-due date, within the meaning assigned by section 1,”.

(2) Subsection 1 applies in respect of eligible acquisition costs incurred after 9 May 1996.

138. Section 1144 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing paragraph *a* by the following paragraph :

“(a) exempting from capital tax, on the conditions prescribed by it, any corporation in the process of winding-up or under sequestration, any inactive

corporation, or any corporation incorporated for cultural or agricultural purposes or for drainage or water supply purposes;”.

139. (1) Section 1159.8 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended, in subparagraphs *b* to *d* of the second paragraph, by inserting, before the word “year”, the word “calendar”.

(2) Subsection 1 applies from the taxation year 1995.

140. Section 1168 of the said Act, amended by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by replacing, in subsection 1, the word “company” by the word “corporation”;

(2) by replacing the word “companies”, wherever it appears in subsection 2, by the word “corporations”.

141. Section 1175.1 of the said Act, enacted by section 286 of chapter 14 of the statutes of 1997, is amended, in the French text of the definition of “passif à long terme”, by replacing the word “contractés” by the word “émis”.

142. (1) Section 1185.1 of the said Act, amended by section 198 of chapter 1 of the statutes of 1995 and by section 71 of chapter 3 of the statutes of 1997, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph :

“(b) the remainder of the tax so estimated for the taxation year, on or before the taxpayer’s balance-due day, within the meaning of section 1, for that year.”

(2) Subsection 1 applies from the taxation year 1995.

143. (1) The said Act, amended by chapters 21 and 40 of the statutes of 1994, by chapters 1, 18, 36, 49 and 63 of the statutes of 1995, by chapters 31 and 39 of the statutes of 1996 and by chapters 3 and 14 of the statutes of 1997, is again amended

(1) by replacing the words “the day on or before which the corporation is required to file a fiscal return pursuant to section 1000” by the words “the corporation’s filing-due date” in the following provisions :

— paragraph *c* of section 418.23;

— paragraph *c* of section 418.24;

(2) by replacing the words “sur un formulaire prescrit” by the words “au moyen du formulaire prescrit” in the French text of the following provisions :

- paragraphs *c* and *e* of section 418.23;
- paragraphs *c* and *e* of section 418.24;
- subparagraph *d* of the first paragraph of section 832.3;
- paragraph *d* of section 832.9;
- the portion of subparagraph ii of paragraph *b* of section 844.4 before subparagraph 1;

(3) by replacing the words “the earlier of the days on or before which either of them is required to file a fiscal return pursuant to section 1000 for its or his taxation year” by the words “the earliest of their filing-due dates for the taxation year” in the following provisions:

- paragraph *e* of section 418.23;
- paragraph *e* of section 418.24;

(4) by striking out the words “, directly or indirectly,” in the following provisions:

- paragraph *b* of section 726.4.14;
- paragraph *b* of section 726.4.15;
- paragraph *b* of section 726.4.17.6;
- paragraph *b* of section 726.4.17.7;

(5) by replacing the words “, sections 210 to 214 and paragraphs *a*, *a.1*, *c*” by the words “and paragraphs *a*, *a.1*” in the following provisions:

- subparagraph *f* of the second paragraph of section 832.3;
- paragraph *b* of section 832.6;

(6) by replacing,

— in subparagraph *d* of the first paragraph of section 832.3, the words “the day that is the earliest of the days on or before which any of the two is required to file his fiscal return with the Minister pursuant to section 1000” by the words “the earliest of their filing-due dates”;

— in paragraph *d* of section 832.9, the words “the day that is the earliest of the days on or before which any of the two is required to file his fiscal return with the Minister pursuant to section 1000” by the words “the earliest of their filing-due dates”;

— in the portion of subparagraph ii of paragraph *b* of section 844.4 before subparagraph 1, the words “the day that is the earliest of the days on or before which any of the two is required to file its fiscal return with the Minister in accordance with section 1000” by the words “the earliest of their filing-due dates”;

(7) by striking out the words “within the meaning of the regulations made pursuant to section 222” in the following provisions:

— the portion of the first paragraph of section 1029.7 before subparagraph *a*;

— the portion of the first paragraph of section 1029.8 before subparagraph *a*;

(8) by replacing,

— in the portion of the first paragraph of section 1029.7 before subparagraph *a*, the words “day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of” by the words “taxpayer’s balance-due day for”;

— in the portion of the first paragraph of section 1029.8 before subparagraph *a*, the words “day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of his” by the words “taxpayer’s balance-due day for the taxpayer’s”;

— in the portion of the first paragraph of section 1029.8.6 before subparagraph *a*, the words “day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of” by the words “taxpayer’s balance-due day for”;

— in the portion of the first paragraph of section 1029.8.7 before subparagraph *a*, the words “day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of his” by the words “taxpayer’s balance-due day for the taxpayer’s”;

— in section 1029.8.9.0.3, the words “day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of” by the words “taxpayer’s balance-due day for”;

— in the first paragraph of section 1029.8.9.0.4, the words “day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of his” by the words “taxpayer’s balance-due day for the taxpayer’s”;

— in the portion of the first paragraph of section 1029.8.10 before subparagraph *a*, the words “day referred to in section 1026.0.1 in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027 in the case of a corporation, in respect of his” by the words “taxpayer’s balance-due day for the taxpayer’s”;

— in the portion of the first paragraph of section 1029.8.11 before subparagraph *a*, the words “day referred to in section 1026.0.1 in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027 in the case of a corporation, in respect of his” by the words “taxpayer’s balance-due day for the taxpayer’s”;

— in the first paragraph of section 1029.8.33.6, the words “day referred to in section 1026.0.1 in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027 in the case of a corporation, in respect of” by the words “taxpayer’s balance-due day for”;

— in the first paragraph of section 1029.8.33.7, the words “day referred to in section 1026.0.1 in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027 in the case of a corporation, in respect of” by the words “taxpayer’s balance-due day for”;

— in section 1029.8.36.53, the words “day referred to in section 1026.0.1 where the taxpayer is an individual, or in subparagraph *b* of the first paragraph of section 1027 where the taxpayer is a corporation, in respect of” by the words “taxpayer’s balance-due day for”;

(9) by striking out

— in the portion of the first paragraph of section 1029.7 before subparagraph *a*, the words “, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the portion of the first paragraph of section 1029.8 before subparagraph *a*, the words “, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the portion of the first paragraph of section 1029.8.6 before subparagraph *a*, the words “, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the portion of the first paragraph of section 1029.8.7 before subparagraph *a*, the words “, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in section 1029.8.9.0.3, the words “, or that would be referred to in that section 1026.0.1 or in that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the first paragraph of section 1029.8.9.0.4, the words “, or that would be referred to in that section 1026.0.1 or in that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the portion of the first paragraph of section 1029.8.10 before subparagraph *a*, the words “, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the portion of the first paragraph of section 1029.8.11 before subparagraph *a*, the words “, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the first paragraph of section 1029.8.33.6, the words “, or that would be referred to in section 1026.0.1 or in subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in the first paragraph of section 1029.8.33.7, the words “, or that would be referred to in section 1026.0.1 or in subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year”;

— in section 1029.8.36.53, the words “, or that would be referred to in that section 1026.0.1 or in that subparagraph *b*, as the case may be, if the taxpayer had a remainder of taxes payable for that taxation year”;

(10) by striking out the words “, other than an expenditure referred to in paragraph *e* of the said subsection 1 which, but for subsection 3 of section 175.1, would not be deductible” in the following provisions:

— subparagraph *a* of the third paragraph of section 1029.7;

— subparagraph *a* of the third paragraph of section 1029.8;

(11) by inserting, before the word “convention”, the words “conference or” in the following provisions:

— subparagraph vi of paragraph *a* of section 1029.8.5.1;

— subparagraph vi of paragraph *a* of section 1029.8.15.1;

(12) by replacing,

— in subparagraph *a* of the first paragraph of section 1029.8.18, the words “at the time of the filing of his fiscal return” by the words “on or before the taxpayer’s filing-due date”;

— in subparagraph *a* of the first paragraph of section 1029.8.18.0.1, the words “at the time of the filing of his fiscal return” by the words “on or before the taxpayer’s filing-due date”;

— in subparagraph *a* of the first paragraph of section 1029.8.32, the words “at the time of filing its or his fiscal return” by the words “on or before the qualified corporation’s or the person’s filing-due date”;

— in subparagraph ii of paragraph *a* of the definition of “qualified manpower expenditure” in the first paragraph of section 1029.8.34, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in subparagraph i of paragraph *b* of the definition of “qualified manpower expenditure” in the first paragraph of section 1029.8.34, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in subparagraph *e* of the second paragraph of section 1029.8.34, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in subparagraph 1 of subparagraph ii of paragraph *a* of the definition of “qualified manpower expenditure” in the first paragraph of section 1029.8.36.0.1, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in subparagraph i of paragraph *b* of the definition of “qualified manpower expenditure” in the first paragraph of section 1029.8.36.0.1, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in subparagraph i of paragraph *b* of the definition of “eligible operating receipts” in the first paragraph of section 1029.8.36.0.1, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in the second paragraph of section 1029.8.36.0.1, the words “at the time of filing its fiscal return” by the words “on or before the corporation’s filing-due date”;

— in the definition of “qualified wages” in the first paragraph of section 1029.8.36.4, the words “at the time of filing its fiscal return” by the words “on or before the qualified corporation’s filing-due date”;

— in subparagraph *a* of the first paragraph of section 1029.8.36.18, the words “at the time of filing its or his fiscal return” by the words “on or before the qualified corporation’s or the person’s filing-due date”;

— in subparagraphs *a* and *c* of the third paragraph of section 1029.8.36.54, the words “at the time of the filing of its fiscal return” by the words “on or before the qualified corporation’s filing-due date”;

— in subparagraph *a* of the second paragraph of section 1029.8.36.55, the words “at the time of the filing of its fiscal return” by the words “on or before the corporation’s filing-due date”;

(13) by replacing,

— in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.18, the words “at the time of the filing of the taxpayer’s fiscal return for that taxation year in which the fiscal period of the partnership in which the wages, part of the consideration or the eligible fee were paid or the qualified expenditure was made, as the case may be, ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the wages, part of the consideration or the eligible fee were paid or the qualified expenditure was made, as the case may be”;

— in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.18.0.1, the words “at the time of the filing of the taxpayer’s fiscal return for that taxation year in which the fiscal period of the partnership in which the qualified expenditure was made, ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the qualified expenditure was made”;

(14) by replacing,

— in subparagraph *ii* of subparagraph *b* of the first paragraph of section 1029.8.18, the words “at the time of the filing of his fiscal return for that taxation year in which the fiscal period of the partnership in which the wages, part of the consideration or the eligible fee were paid or the qualified expenditure was made, as the case may be, ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the wages, part of the consideration or the eligible fee were paid or the qualified expenditure was made, as the case may be”;

— in subparagraph *ii* of subparagraph *b* of the first paragraph of section 1029.8.18.0.1, the words “at the time of the filing of his fiscal return for that taxation year in which the fiscal period of the partnership in which the qualified expenditure was made, ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the qualified expenditure was made”;

— in subparagraph *ii* of subparagraph *b* of the first paragraph of section 1029.8.31, the words “at the time of the filing of its or his fiscal return for the taxation year in which the fiscal period of the partnership in which the training expenditure was made ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the training expenditure was made”;

— in subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.32, the words “at the time of filing its or his fiscal return for the taxation year in which the fiscal period of the partnership in which the training expenditure was made ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the training expenditure was made”;

— in subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.36.18, the words “at the time of filing its or his fiscal return for the taxation year in which the fiscal period of the partnership in which the expenditure was incurred ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the expenditure was made”;

(15) by replacing the words “the day referred to in subparagraph *b* of the first paragraph of section 1027 in respect of” by the words “the corporation’s balance-due day for” in the following provisions :

— the portion of the first paragraph of section 1029.8.25 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.25.1 before subparagraph *a* ;

— the portion of section 1029.8.36.0.2 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.36.5 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.36.6 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.36.7 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.36.55 before subparagraph *a* ;

(16) by striking out the words “, or that would be referred to in that subparagraph *b* if the corporation had a remainder of tax payable for that year” in the following provisions :

— the portion of the first paragraph of section 1029.8.25 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.25.1 before subparagraph *a* ;

— the portion of section 1029.8.36.0.2 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.36.5 before subparagraph *a* ;

— the portion of the first paragraph of section 1029.8.36.6 before subparagraph *a*;

— the portion of the first paragraph of section 1029.8.36.7 before subparagraph *a*;

— the portion of the first paragraph of section 1029.8.36.55 before subparagraph *a*;

(17) by replacing,

— in subparagraph *a* of the first paragraph of section 1029.8.31, the words “at the time of filing the qualified corporation’s fiscal return” by the words “on or before the filing-due date of the qualified corporation”;

— in section 1029.8.36.58, the words “at the time of the filing of the qualified corporation’s fiscal return” by the words “on or before the filing-due date of the qualified corporation”;

(18) by replacing,

— in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.31, the words “at the time of the filing, by the qualified corporation, of its fiscal return for the taxation year in which the fiscal period of the partnership in which the training expenditure was made ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the training expenditure was made”;

— in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.32, the words “at the time of filing, by the qualified corporation, of its fiscal return for the taxation year in which the fiscal period of the partnership in which the training expenditure was made ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the training expenditure was made”;

— in subparagraph *i* of subparagraph *b* of the first paragraph of section 1029.8.36.18, the words “at the time of filing, by the qualified corporation, of its fiscal return for the taxation year in which the fiscal period of the partnership in which the expenditure was incurred ends” by the words “on or before the day that is six months after the end of the fiscal period of the partnership in which the expenditure was made”;

(19) by replacing,

— in section 1029.8.40, the words “day referred to in section 1026.0.1 in respect of his” by the words “individual’s balance-due day for the individual’s”;

— in the first paragraph of section 1029.8.57, the words “day referred to in section 1026.0.1 in respect of” by the words “individual’s balance-due day for”;

— in the first paragraph of section 1029.8.63, the words “day referred to in section 1026.0.1 in respect of his” by the words “individual’s balance-due day for the individual’s”;

— in the portion of the first paragraph of section 1029.8.79 before subparagraph *a*, the words “day referred to in section 1026.0.1 in respect of” by the words “individual’s balance-due day for”;

— in the first paragraph of section 1029.8.89, the words “day referred to in section 1026.0.1 in respect of” by the words “individual’s balance-due day for”;

— in the first paragraph of section 1029.8.94, the words “day referred to in section 1026.0.1 in respect of” by the words “individual’s balance-due day for”;

(20) by striking out the words “, or that would be referred to in that section if the individual had a remainder of tax payable for that taxation year” in the following provisions:

— section 1029.8.40;

— the first paragraph of section 1029.8.57;

— the first paragraph of section 1029.8.63;

— the portion of the first paragraph of section 1029.8.79 before subparagraph *a*;

— the first paragraph of section 1029.8.89;

— the first paragraph of section 1029.8.94;

(21) by replacing the words “day on or before which he is required to file his fiscal return for the subsequent taxation year relating to the disposition and, where the taxpayer is a corporation, referred to in the first paragraph of section 716.0.1, or from the day on or before which he would be required to file such a fiscal return were he required to pay tax under this Part for that subsequent taxation year” by the words “taxpayer’s filing-due date for the subsequent taxation year”, in the following provisions:

— the second paragraph of section 1044.0.1;

— the second paragraph of section 1053.0.1.

(2) Paragraphs 1, 3 and 6 of subsection 1 have effect from 1 January 1994.

(3) Paragraph 7 of subsection 1 applies in respect of work performed after 27 February 1995.

(4) Paragraphs 8 and 9 of subsection 1, where they amend sections 1029.7, 1029.8, 1029.8.6, 1029.8.7, 1029.8.9.0.3, 1029.8.10, 1029.8.11, 1029.8.33.6 and 1029.8.33.7 of the said Act, and paragraphs 15 and 16 of subsection 1, where they amend sections 1029.8.25, 1029.8.25.1 and 1029.8.36.5 to 1029.8.36.7 of the said Act, apply to taxation years that end after 9 May 1995.

(5) Paragraphs 8 and 9 of subsection 1, where they amend section 1029.8.9.0.4 of the said Act, apply in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

(6) Paragraphs 8 and 9 of subsection 1, where they amend section 1029.8.36.53 of the said Act, and paragraphs 19 and 20 of subsection 1 apply from the taxation year 1995.

(7) Paragraph 11 of subsection 1 applies in respect of expenses incurred after 25 January 1995.

(8) Paragraph 12, subject to subsections 9 and 10, and paragraphs 13, 14, 17, 18 and 21 of subsection 1 apply to taxation years that begin after 31 December 1995.

(9) Paragraph 12 of subsection 1, where it amends section 1029.8.36.0.1 of the said Act, and paragraphs 15 and 16 of subsection 1, where they amend section 1029.8.36.0.2 of the said Act, apply to multimedia titles in respect of which the Société de développement des entreprises culturelles issues a certificate after 9 May 1996.

(10) Paragraph 12 of subsection 1, where it amends sections 1029.8.36.54 and 1029.8.36.55 of the said Act, paragraphs 15 and 16 of subsection 1, where they amend section 1029.8.36.55 of the said Act, and paragraph 17 of subsection 1, where it amends section 1029.8.36.58 of the said Act, apply in respect of expenditures incurred after 9 May 1996.

ACT RESPECTING THE MINISTÈRE DU REVENU

144. (1) Section 1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 8 of chapter 31 of the statutes of 1996, is again amended by striking out, in paragraph *a*, “the Act to promote industrial development by means of fiscal advantages (chapter D-9),”.

(2) Subsection 1 applies to taxation years that begin after 22 November 1996.

145. The said Act is amended by inserting, after section 24.0.2, the following section:

”24.0.3. Where a person is vested with the power to authorize or cause a payment to be made for another person of an amount that is subject to deduction at source under section 1015 of the Taxation Act and the person authorizes or causes the amount to be paid, allocated, granted or awarded by

or on behalf of the other person, the person is solidarily liable with the other person for any sum required to be deducted or withheld from that amount under the Taxation Act or the Act respecting the Québec Pension Plan.”

ACT RESPECTING THE QUÉBEC SALES TAX

146. (1) Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 23 of chapter 23 of the statutes of 1994, by section 247 of chapter 1 of the statutes of 1995, by section 246 of chapter 49 of the statutes of 1995, by section 299 of chapter 63 of the statutes of 1995, by section 115 of chapter 3 of the statutes of 1997 and by section 329 of chapter 14 of the statutes of 1997, is again amended, in the definition of “taxation year”,

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

“(1.1) where the person is a partnership described in subparagraph ii of subparagraph *b* of the second paragraph of section 7 of that Act, the fiscal period of the person’s business, determined under section 7 of that Act, and”;

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

“(2) in any other case, the period that would be the taxation year of the person for the purposes of that Act if the person were a corporation other than a professional corporation within the meaning of section 1 of that Act;”.

(2) Subsection 1 applies to fiscal periods that begin after 31 December 1994.

147. (1) Section 437 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Where the net tax for a reporting period of a person is a positive amount, the person shall remit that amount to the Minister,

(a) where subparagraph *b* of paragraph 1 of section 468 applies in respect of a reporting period of a person who is an individual, on or before 30 April of the year following the end of the reporting period; and

(b) in any other case, on or before the day on or before which the return for that period is required to be filed.”

(2) Subsection 1 applies to reporting periods that begin after 31 December 1994.

148. (1) Section 468 of the said Act, amended by section 488 of chapter 63 of the statutes of 1995, is again amended by replacing paragraph 1 by the following paragraph:

“(1) where the reporting period is or would, but for section 466, be the fiscal year of the registrant,

(a) except where subparagraph *b* applies, within three months after the end of the fiscal year; and

(b) if the registrant is an individual whose fiscal year is a calendar year and, for the purposes of the Taxation Act (chapter I-3), the individual carried on a business during the year and the filing-due date of the individual for the year is 15 June of the following year, on or before that day;”.

(2) Subsection 1 applies to reporting periods that begin after 31 December 1994. However, where subparagraph *a* of paragraph 1 of section 468 of the said Act, enacted by subsection 1, applies in respect of reporting periods of a registrant that begin after 31 December 1994 and end before 21 June 1996, it shall be read with the words “three months” replaced by the words “three calendar months”.

149. Where, for the purposes of the Taxation Act (R.S.Q., chapter I-3), the fiscal period of a business of a partnership or that of a business of an individual or trust whose fiscal year, for the purposes of Title I of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), is the fiscal period, ends at the end of 1995 but would have ended after 1995 had a member of the partnership, the individual or the trust, as the case may be, made an election in respect of the fiscal period which the member, individual or trust was entitled to make under sections 7 to 7.0.6 of the Taxation Act, enacted by sections 3 and 4, for the purpose of determining the fiscal year of the partnership, individual or trust for the purposes of Title I of the Act respecting the Québec sales tax, the said sections 7 to 7.0.6 apply only to fiscal periods of the business that begin after 1995.

150. Notwithstanding section 462 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), for the purposes of sections 459, 459.0.1, 459.4 to 460, 461 and 461.1 of that Act, the threshold amount of a person to whom section 149 applies for a particular fiscal year of that person that begins on 1 January 1997 is the greater of

(1) the amount that would be determined under section 462 to be the threshold amount if the number of days referred to in the descriptions of B and D in the formulas provided for in the first paragraph of that section were 365; and

(2) the threshold amount of the person as determined under section 462 for the fiscal year of the person that immediately preceded the particular fiscal year.

ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

151. (1) Section 120 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 1) is amended by inserting, in section 1029.7.2 of the Taxation Act, enacted

by subsection 1, after the words “directly or indirectly”, the words “in any manner whatever”.

(2) Subsection 1 has effect from 30 January 1995.

ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE
QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

152. (1) Section 122 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 63) is amended by inserting, in the first paragraph of section 1029.7.2 of the Taxation Act, enacted by subsection 1, after the words “directly or indirectly”, the words “in any manner whatever”.

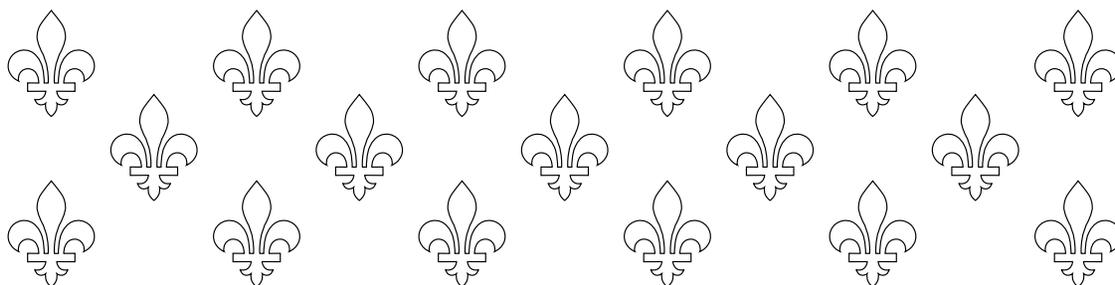
(2) Subsection 1 has effect from 15 December 1995.

ACT TO HARMONIZE CERTAIN LEGISLATIVE PROVISIONS OF A
FISCAL NATURE WITH THE CIVIL CODE OF QUÉBEC

153. (1) Section 71 of the Act to harmonize certain legislative provisions of a fiscal nature with the Civil Code of Québec (1997, chapter 3) is amended in paragraph 13, by inserting, after “— the portion of section 614 before subparagraph *a* of the second paragraph;”, “— subparagraphs *i* to *iv* of subparagraph *a* of the second paragraph of section 614;”.

(2) Subsection 1 has effect from 20 March 1997.

154. This Act comes into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 110
(1997, chapter 32)

**An Act to amend the Act respecting the
Société des alcools du Québec and other
legislative provisions**

**Introduced 29 April 1997
Passage in principle 13 May 1997
Passage 6 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

The object of this bill is to authorize the holder of a brewer's permit to sell, on the production premises, alcoholic beverages he makes, for consumption on the premises or for consumption elsewhere.

The bill specifies the conditions governing such sale so as to make the brewer subject to the same requirements as are applicable to holders of liquor permits.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1);
- Act respecting liquor permits (R.S.Q., chapter P-9.1);
- Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13).

Bill 110

AN ACT TO AMEND THE ACT RESPECTING THE SOCIÉTÉ DES ALCOOLS DU QUÉBEC AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING THE SOCIÉTÉ DES ALCOOLS DU QUÉBEC

1. Section 25 of the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13) is amended by inserting, after the second paragraph, the following paragraph :

“However, the holder may sell, at the place where they are produced, alcoholic beverages he makes, for consumption on the premises at the place indicated on the permit or for consumption elsewhere.”

2. Section 30 of the said Act, amended by section 6 of chapter 34 of the statutes of 1996, is again amended by replacing the word “third” in the third line of the last paragraph by the word “fourth”.

3. Section 30.1.2 of the said Act, enacted by section 7 of chapter 34 of the statutes of 1996, is amended by inserting the words “or to the third paragraph of section 25” after the figure “24.1” in the second line.

4. Section 33.2 of the said Act, enacted by section 9 of chapter 34 of the statutes of 1996, is amended

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

“33.2. Where a permit holder sells alcoholic beverages pursuant to subparagraph 1 or 2 of the second paragraph of section 24.1 or pursuant to the third paragraph of section 25, he is subject to the same requirements as those imposed on the holder of a permit for the sale of alcoholic beverages by sections 62, 66 to 68, 73, 74.1, 75, 77.1 to 78 and 82 to 84.1 of the Act respecting liquor permits. In addition, the holder of a small-scale production permit is subject to the requirement imposed by section 59 of that Act and the holder of a brewer’s permit, to the requirement imposed by section 57 of that Act; however, as regards the sale of alcoholic beverages for consumption elsewhere than at the place where they are produced, both are subject to section 60 of that Act.”;

(2) by inserting the words “, paragraph 6 of section 109 and paragraphs 4 and 5 of section 110 of that Act” after the word “beverages” in the second line of the second paragraph;

(3) by replacing the word “holder” in the third line of the second paragraph by the word “holders”.

5. Section 35 of the said Act, amended by section 12 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or any provision referred to in section 33.2” after the words “or 33.1” in subparagraph 4 of the first paragraph.

6. Section 35.1.1 of the said Act, enacted by section 13 of chapter 34 of the statutes of 1996, is amended by inserting the words “or in the third paragraph of section 25” after the figure “24.1” in the third line.

7. Section 35.4 of the said Act is amended by replacing the word “third” in the fourth line by the word “fourth”.

ACT RESPECTING OFFENCES RELATING TO ALCOHOLIC BEVERAGES

8. Section 88 of the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1), amended by section 42 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or a brewer’s permit” after the word “permit” in the second line of the second paragraph.

9. Section 91.1 of the said Act, amended by section 43 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or a brewer’s permit” after the words “small-scale production permit”.

10. Section 92 of the said Act, amended by section 44 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or a brewer’s permit” after the word “permit” in the second line of paragraph *f*.

11. Section 93 of the said Act is amended by inserting the words “or a brewer’s permit” after the word “permit” in the second line of subparagraph *e* of the first paragraph.

12. Section 103.1 of the said Act, amended by section 45 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or a brewer’s permit” after the words “small-scale production permit” in the first paragraph.

13. Section 109 of the said Act, amended by section 49 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or brewer’s permit” after the words “small-scale production permit” in paragraph 3.

14. Section 112 of the said Act, amended by section 50 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or a brewer’s permit” after the words “small-scale production permit” in paragraph 3.

15. The French text of section 114 of the said Act, amended by section 51 of chapter 34 of the statutes of 1996, is again amended

(1) by replacing the words “qui imite ceux dont se sert la Régie” in paragraph 3 by the words “de la Régie”;

(2) by replacing the words “un autocollant numéroté de la Régie” in paragraph 3 by the words “un autocollant numéroté qui imite celui dont se sert la Régie”.

16. Section 116 of the said Act, amended by section 52 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or a brewer’s permit” after the words “small-scale production permit”.

17. Section 132.1 of the said Act, enacted by section 53 of chapter 34 of the statutes of 1996, is amended by inserting the words “or a brewer’s permit” after the word “permit” in the fourth line.

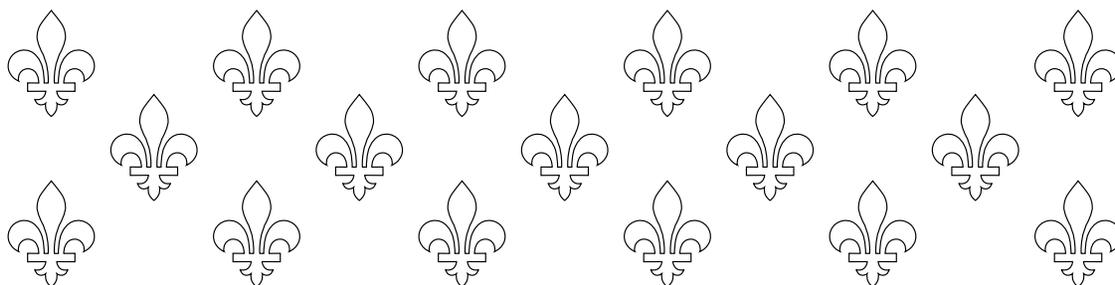
ACT RESPECTING LIQUOR PERMITS

18. Section 72.1 of the Act respecting liquor permits (R.S.Q., chapter P-9.1), amended by section 28 of chapter 34 of the statutes of 1996, is again amended by inserting the words “or of a small-scale beer producer’s permit” after the word “permit” in the third line of subparagraph 3 of the second paragraph.

FINAL PROVISIONS

19. Until the Regulation respecting promotion, advertising and educational programs relating to alcoholic beverages, approved by Order in Council 1529-91 (1991, G.O.2, 4466), is amended to fix the price for the retail sale of beer by the holder of a brewer’s permit, the price fixed under the first and second paragraphs of section 18 of that regulation also applies to the retail sale of beer by the holder of a brewer’s permit for consumption elsewhere than at the place where it is produced.

20. This Act comes into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 111

(1997, chapter 33)

An Act to amend the Forest Act

Introduced 6 May 1997

Passage in principle 21 May 1997

Passage 10 June 1997

Assented to 12 June 1997

**Québec Official Publisher
1997**

EXPLANATORY NOTES

The object of this bill amending the Forest Act is to enable the Minister of Natural Resources to establish, in advance, the dues payable by each holder of a timber supply and forest management agreement, in particular on the basis of the data contained in the annual management plans submitted by the agreement holders, after the data are adjusted to take account of the forest management activities carried out by agreement holders in previous years. The bill specifies the procedure to be followed by the Minister in adjusting the amounts paid by agreement holders based on the dues payable by them under the Forest Act, and sets out provisions relating to the payment of interest on unpaid balances and on excess amounts collected by the Minister. In addition, the Minister is authorized to revise the amount of and the terms of payment applicable to the prescribed dues if he comes to the conclusion that a significant discrepancy is likely to occur between prescribed dues and dues payable under the Forest Act.

The bill also proposes certain amendments that pertain to the forestry fund. The Government is empowered to authorize the payment into the fund of part of the dues collected from the holders of timber supply and forest management agreements. Those sums will be used to finance forest management activities intended to maintain and improve the protection or development of forest resources. The bill also provides that the forestry fund will include the sums collected in respect of the goods and services financed by the fund and that the Minister of Finance will be authorized to deposit into the fund sums borrowed from the financing fund established under the Financial Administration Act.

Under the bill, the measure for reducing the volumes of timber allocated under timber supply and forest management agreements to promote the use of surpluses available in sources of supply other than public forests may be applied differently according to the different classes of wood processing plants. In that respect, the percentage by which volumes are reduced may vary among agreement holders on the basis of certain criteria used for the purpose of evaluating their performance with respect to the use of timber in the plan mentioned in the agreement.

In another connection, the bill provides that the sale of standing timber in public forest reserves may be carried out by public auction.

Finally, the bill provides that the rate applicable to the contribution payable to regional agencies for private forest development by holders of a wood processing plant operating permit may vary according to species or groups of species and to the quality of the timber.

Bill 111

AN ACT TO AMEND THE FOREST ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 6.1 of the Forest Act (R.S.Q., chapter F-4.1) is amended by replacing the word “Interest” in the first line by the words “Subject to the first paragraph of section 73.3.3, interest”.

2. Section 46.1 of the said Act, amended by section 3 of chapter 14 of the statutes of 1996, is again amended

(1) by replacing the words “in respect of a species or a group of species he determines, either of the measures set out in the third and fourth paragraphs” in the fifth and sixth lines of the first paragraph by the words “in respect of agreement holders for any category of wood processing plant he identifies and in respect of a species or a group of species he determines, the measure set out in the third paragraph”;

(2) by replacing the second paragraph enacted by section 3 of chapter 14 of the statutes of 1996 by the following paragraph:

“The Minister may, in September of the year concerned, take the measure set out in the third paragraph or change or terminate any measure taken previously.”;

(3) by replacing the third and fourth paragraphs by the following paragraph:

“The Minister may, for the year concerned, fix a percentage by which the total volume of timber allocated under the agreements of the agreement holders concerned is to be reduced, and determine criteria that may vary according to classes of wood processing plants for the evaluation by the Minister of the performance of the agreement holders as regards the use of ligneous matter in the plant mentioned in the agreement. In order to attain the specified reduction, the Minister shall prescribe that the volume of timber which each agreement holder concerned will be authorized to harvest may not exceed the volumes allocated under the agreement reduced by a percentage that the Minister may cause to vary between agreement holders on the basis of their performance.”;

(4) by replacing the words “The fourth paragraph” in the first line of the last paragraph by the words “This section”.

3. The said Act is amended by inserting, after section 46.1, the following section :

“46.2. A ministerial order under section 46.1 is not subject to the provisions of sections 8 and 17 of the Regulations Act (chapter R-18.1). It shall be published in the *Gazette officielle du Québec* and comes into force on the date indicated therein.”

4. Section 71 of the said Act is replaced by the following section :

“71. Every agreement holder shall pay, in respect of the timber harvested during the term of his forest management permit, such amount of dues as is obtained by multiplying the volume of timber harvested by the applicable unit rate, less any credits to which the agreement holder may be entitled pursuant to this Act. The dues are payable according to the terms and conditions set out in section 73.3.1.”

5. Section 73 of the said Act is repealed.

6. Section 73.1 of the said Act, amended by section 4 of chapter 14 of the statutes of 1996, is again amended by replacing the words “Where financing is in the form of assessments paid to an organization for the protection of the forest, it” in the second sentence of the fourth paragraph by the word “It”.

7. Section 73.3 of the said Act is amended by striking out the words “assessments or other” in the first line.

8. The said Act is amended by inserting, after section 73.3, the following sections :

“73.3.1. Every agreement holder shall, on the dates fixed by the Minister, pay as dues the amount determined prospectively for each date and representing the difference between

(1) the portion of the dues payable by the agreement holder, determined by the Minister on the basis of the volume of timber indicated in the annual management plan submitted by the agreement holder, and on the basis of the unit rate that will be applicable at the beginning of the term of the forest management permit; and

(2) the portion, determined by the Minister, of the value of the silvicultural treatments and other forest management activities to be carried out as stipulated in the annual management plan that may be admitted as payment of dues.

However, the data in the annual management plan is not binding on the Minister who may, for the purpose of calculating the dues payable, adjust the data, on the basis of the agreement holder’s past timber harvests in the case of subparagraph 1 and, in the case of subparagraph 2, on the basis of the agreement holder’s past record in respect of silvicultural treatments and other forest management activities.

At the end of the term of a forest management permit, any amount representing the difference between the dues payable under section 71 and those prescribed under this section shall, where due by the agreement holder, be paid within 30 days of the date of the statement determining the balance due; any amount payable by the Minister must be refunded within 90 days of the end of the term of the permit up to the amounts collected during that term.

“73.3.2. The Minister may, on any of the dates fixed pursuant to the first paragraph of section 73.3.1, deduct from the amount of dues payable under that section any credits, other than credits referred to in subparagraph 2 of the first paragraph of that section, to which the agreement holder may be entitled pursuant to this Act.

“73.3.3. Any balance remaining on the amount of dues payable under section 73.3.1, on the dates fixed by the Minister pursuant to the first paragraph of that section, bears interest from those dates at the rate fixed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31). The interest is capitalized monthly.

Any excess amount collected by the Minister during the term of a forest management permit and not refunded before the expiry of the 90-day limit provided in the third paragraph of section 73.3.1 bears interest, from the expiry of that time limit, at the rate fixed under section 28 of the Act respecting the Ministère du Revenu. The interest is capitalized monthly.

“73.3.4. The Minister may revise the amount and terms and conditions of payment of the dues prescribed in respect of an agreement holder under section 73.3.1 if the Minister determines that, unless a revision is made, there is likely to be a substantial difference between the dues prescribed under that section and the dues payable under section 71.”

9. Section 92.0.1 of the said Act is amended by replacing the first paragraph by the following paragraphs :

“92.0.1. Where, for a particular year, an agreement holder does not harvest the full volume of timber allocated under his agreement, he may do so during the subsequent years preceding the end of the five-year period referred to in section 77, except in respect of a year in which the Minister applies the reduction provided for in section 46.1, after having subtracted the volumes harvested in his forest management unit under section 92.1. Where the application of section 46.1 by the Minister prevents the agreement holder from harvesting that volume before the expiry of the five-year period, the agreement holder may harvest it in the first year after the end of that period in respect of which the Minister does not apply section 46.1.

Where the Minister applies a reduction under section 46.1 in respect of a year, an agreement holder may not in subsequent years harvest that part of the volume of timber allocated under his agreement which was not harvested owing to the application of the reduction.”

10. Section 97 of the said Act is amended

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

“**97.** Subject to section 95.4, the Minister may, on the conditions he determines, sell standing timber and timber harvested in public forest reserves by public auction.”;

(2) by inserting the words “or to standing timber in forest areas the management of which has been entrusted to a person by the Minister under such a contract, or to timber harvested” after the words “section 102” in the second line of the third paragraph.

11. The said Act is amended by inserting, after section 169, the following sections:

“**169.1.** The Minister may, for the carrying out of this Act, authorize a person to verify the data of the register kept in accordance with section 168 and any information required under section 169. The person authorized by the Minister may, to that end,

(1) have access, at any reasonable time, to any place where the authorized person has reasonable cause to believe information necessary to his verification is kept;

(2) examine and make copies of books, registers, plans, accounts, records and other documents relating to the activities governed by this Act and require any information or document related to those activities;

(3) require the permit holder or any other person on the premises to give him reasonable assistance in carrying out his verification.

“**169.2.** On request, the person authorized by the Minister must identify himself and show a certificate, signed by the Minister, attesting his capacity.”

12. Section 170.1 of the said Act is amended by striking out the figure “,73” in the fifth line of the third paragraph.**13.** Section 170.4 of the said Act, enacted by section 17 of chapter 14 of the statutes of 1996, is amended

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

“(1.1) the sums collected after 31 March 1997 in respect of the sale of the property and services financed by the fund;”;

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

“(2) the sums paid into the fund pursuant to section 170.5.1;

“(2.1) the sums paid into the fund by the Minister of Finance pursuant to section 170.5.2 and to the first paragraph of section 170.6;”.

14. The said Act is amended by inserting, after section 170.5 enacted by section 17 of chapter 14 of the statutes of 1996, the following sections :

“170.5.1. The Government may, for the financing of forest management activities referred to in the second paragraph of section 170.2, authorize the payment into the fund of part of the sums paid by holders of timber supply and forest management agreements under section 71 and, to that end, determine for a fiscal year

(1) the percentage of the sums that represents the amount of dues for that year, without regard to the credits referred to in section 71, that may be paid into the fund and the maximum amount of the sums that may be paid into the fund ;

(2) the terms and conditions according to which the sums are paid into the fund as well as the forest management activities to which the sums will be allocated.

“170.5.2. The Minister, as manager of the fund, may borrow from the Minister of Finance sums taken out of the financing fund established under section 69.1 of the Financial Administration Act (chapter A-6).”

15. Section 170.7 of the said Act, enacted by section 17 of chapter 14 of the statutes of 1996, is amended by replacing the words “paragraph 3” by the words “paragraphs 1.1, 2 and 3”.

16. Section 172 of the said Act, amended by section 18 of chapter 14 of the statutes of 1996, is again amended

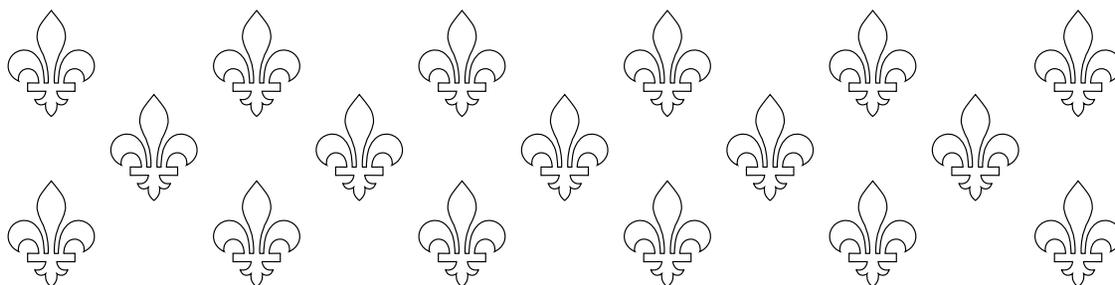
(1) by striking out the words “assessments or other” in the second line of paragraph 3 ;

(2) by inserting the words “, for every species and group of species and for every quality of timber,” after the word “fix” in the first line of paragraph 18.4.

17. Until such time as the Government determines by a regulation under section 8 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2) the persons authorized to sign, on behalf of the Minister of Natural Resources, any deed, document or writing relating to the terms and conditions of payment of dues payable by holders of a timber supply and forest management agreement pursuant to section 73.3.1 of the Forest Act, enacted by section 8 of this Act, the associate deputy minister for regional services, a regional director or the head of a management unit of the Ministère des Ressources naturelles is authorized to sign, on behalf of the Minister, such deeds, documents or writings.

18. The terms and conditions of payment of the dues payable by holders of a timber supply and forest management agreement pursuant to section 73.3.1 of the Forest Act, enacted by section 8 of this Act, are established for the term of the forest management permits issued on 12 June 1997 for the harvests and other forest management activities carried out from the beginning of the term of such permits.

19. This Act comes into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 112
(1997, chapter 34)

**An Act to amend the Act respecting elections
and referendums in municipalities**

**Introduced 1 May 1997
Passage in principle 13 May 1997
Passage 10 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

This bill amends the Act respecting elections and referendums in municipalities to streamline certain procedures and to grant new powers intended to facilitate the process of dividing the territory into electoral districts and the procedure for revising the list of electors.

As regards the process for dividing the territory into electoral districts, the bill eliminates certain transmissions of copies of notices, draft by-laws or by-laws to the Minister of Municipal Affairs or to the Commission de la représentation. It also changes the mandatory content of certain notices required in connection with the dividing of the territory into electoral districts and under the election and referendum procedure.

As regards revision of the list of electors, the bill abolishes filing offices and provides that an application to have a name entered, struck off or corrected must be made directly to a board of revisors. Lastly, the bill makes various amendments to ensure concordance with the Election Act concerning revision of the list of electors.

Bill 112

AN ACT TO AMEND THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 5 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by striking out the words “to the Minister of Municipal Affairs and” in the second and third lines of the second paragraph.

2. Section 7 of the said Act is replaced by the following section :

“7. Where a municipality having a population of under 20,000 is required to divide its territory into electoral districts, it may exempt itself from that requirement by a by-law of its council passed by a two-thirds majority of its members.

Subject to a requirement by operation of law or to the municipality voluntarily submitting itself again to the requirement of dividing its territory into electoral districts, the municipality is no longer required to so divide its territory for the purposes of any general election held from the second calendar year following the calendar year in which the by-law referred to in the first paragraph comes into force.

As soon as practicable after the coming into force of the by-law, the clerk or the secretary-treasurer shall transmit a certified copy thereof to the Commission de la représentation.”

3. Section 10 of the said Act is amended by replacing the second paragraph by the following paragraph :

“The Minister shall transmit a copy of the authorization to the Commission de la représentation.”

4. Section 14 of the said Act is amended by striking out the second paragraph.

5. Section 16 of the said Act is amended by replacing the second paragraph by the following paragraph :

“In addition to or in lieu of the description required under subparagraph 2 of the first paragraph, the notice may include a map or a sketch of the proposed electoral districts.”

6. Section 19 of the said Act is amended

(1) by replacing the words “Aux moins dix jours avant” in the first line of the French text by the words “Au plus tard le dixième jour qui précède”;

(2) by inserting the words “, along with a certified copy of the draft by-law,” after the word “thereof” in the fourth line.

7. Section 22 of the said Act is amended by replacing the second paragraph by the following paragraph:

“In addition to or in lieu of the description required under subparagraph 2 of the first paragraph, the notice may include a map or a sketch of the proposed electoral districts.”

8. Section 26 of the said Act is amended by replacing the words “moins dix jours avant” in the first line of the French text by the words “plus tard le dixième jour qui précède”.**9.** Sections 28 and 29 of the said Act are repealed.**10.** Section 30 of the said Act is amended

(1) by adding, at the end of the first paragraph, the following sentence: “However, a coming into force that is not conditional on the approval provided for in the second paragraph of section 12 shall not occur before the forty-fifth day after the transmission provided for in the second paragraph of section 21, unless the municipality is informed in the meantime that the Commission does not propose any amendment to the by-law.”;

(2) by adding, at the end of the second paragraph, the following sentence: “The council may transmit to the Commission, in lieu of the certified copy of the by-law, a notice indicating that the text in force is identical to the text adopted, and specifying the dates on which it comes into force and is passed.”;

(3) by adding, after the second paragraph, the following paragraph:

“The first and second paragraphs do not apply if the Commission decides, after holding a public meeting, that the division required by the by-law is not to be effected.”

11. Section 31 of the said Act is amended

(1) by striking out the words “or by the Commission, as the case may be” in the third line of the first paragraph;

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

“The Commission shall also make the division where, after holding a public meeting in respect of the by-law passed by the council, it considers that the division required by the by-law is not to be effected.”

12. Section 33 of the said Act is amended by replacing the third paragraph by the following paragraph :

“In addition to or in lieu of the description required under subparagraph 2 of the first paragraph, the notice may include a map or a sketch of the proposed electoral districts.”

13. Section 41 of the said Act is amended by replacing the words “Minister of Municipal Affairs” in the second line of the third paragraph by the words “chief electoral officer”.

14. Section 52 of the said Act is amended by adding, at the end, the following paragraph :

“An elector who has obtained an authorization to vote under the first paragraph of section 219 is, after being admitted to vote under the second paragraph of that section, deemed to have his name entered on the list at the place where it should have been entered.”

15. Section 55 of the said Act is amended by replacing the words “filing office closes on the last day fixed pursuant to section 114” in the second and third lines of the third paragraph by the words “end of the work of the board of revisors on the last day fixed for making applications under section 132”.

16. Section 56 of the said Act is amended by replacing the words “stating the rules governing the registration of co-owners and co-occupants” in the second and third lines by the words “stating that the designated co-owners and co-occupants are entitled to have their names entered on the list of electors, mentioning how they may obtain information on the rules governing their registration,”.

17. Section 66 of the said Act is amended by striking out the words “section 6.3.8 of the Act respecting the Communauté urbaine de Québec (chapter C-37.3),” in the fifth and sixth lines of the second paragraph.

18. Section 68 of the said Act, amended by section 58 of chapter 23 of the statutes of 1995, is again amended

(1) by striking out the words “person acting in a filing office” in the third and fourth lines ;

(2) by replacing the words “investigating assistant” in the fourth line by the words “revising officer”.

19. Section 78 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“The returning officer may, on reasonable grounds, refuse a recommendation made to him. In such a case, he shall fix a time limit for the sending of a new recommendation by the person who sent the recommendation refused.”

20. Section 100.1 of the said Act, enacted by section 23 of chapter 8 of the statutes of 1997, is amended

(1) by striking out the words “, so that the information may be verified by a board of revisors” in the third and fourth lines;

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

“The chief electoral officer shall also transmit a list of the addresses in the territory concerned by the request provided for in section 100 for which no electors’ names are entered on the list.”

21. Subdivision 2 of Division II of Chapter VI of Title I of the said Act is replaced by the following subdivision:

“§ 2. — *Revision*

“A — *Cases where revision is carried out*

“**110.** Where a poll must be held, the list of electors of the municipality or, as the case may be, of the electoral district or ward shall be revised.

Where no poll is to be held, the list may be revised by decision of the returning officer.

Where the holding of a poll ceases to be necessary following the end of the period for filing nomination papers, the returning officer shall decide whether the revision is to be continued or interrupted. If he decides to interrupt the revision, he shall give public notice thereof as soon as practicable.

“B — *Establishment and functioning of the board of revisors*

“**111.** The returning officer shall establish a board of revisors.

The returning officer may establish several boards of revisors and apportion and coordinate their work.

“**112.** Not later than 22 days before polling day, the returning officer shall determine the place where each board of revisors will sit.

The place must, insofar as is practicable, be accessible to handicapped persons.

“**113.** The returning officer shall, not later than 22 days before polling day, inform each party authorized under Chapter XIII or each ticket recognized under Division III of this chapter and each independent candidate concerned of his decision.

“**114.** Each board of revisors shall be composed of three revisors appointed by the returning officer.

The returning officer may be a member of a board.

“**115.** In the case of a municipality having a population of 100,000 or over, if the council is composed of candidates elected at the last general election from more than one party authorized under Chapter XIII, the returning officer shall appoint as revisors a person recommended by the party which elected the greatest number of candidates and another person recommended by the party which elected the second greatest number of candidates.

In the case of an equal number of candidates being elected from each party, the rank of the parties for the purposes of the first paragraph is established according to the aggregate of the votes obtained by the candidates of each party.

“**116.** A party shall make its recommendation by means of a writing signed by the leader of the party or by the person designated by him for that purpose and sent to the returning officer within the time prescribed by the returning officer.

The returning officer may, on reasonable grounds, refuse a recommendation made to him. In such a case, he shall fix a time limit for the sending of a new recommendation by the person who sent the recommendation refused.

For the purposes of this section, the word “leader” has the meaning assigned by section 364.

“**117.** The returning officer shall appoint a person of his choice if the recommendation has not been received within the prescribed time, if the person recommended is not qualified to hold the office or is unable or refuses to do so, or if the party is no longer authorized.

“**118.** The returning officer shall appoint the chairman and the vice-chairman of the board of revisors from among its members.

The returning officer shall be the chairman of the board of which he is a member.

A member recommended by an authorized party may not be appointed chairman of a board of revisors. The member recommended by the authorized party which elected the greatest number of candidates at the last general election shall be appointed vice-chairman of the board.

“**119.** The returning officer may appoint a secretary to the board of revisors, whose chief duties shall be to draw up notices of hearings and summonses, to assist the board in the performance of its work and to record all decisions of the board.

“**120.** The returning officer may appoint any revising officer he considers necessary, whose chief duties shall be to serve notices of hearings and summonses and to gather, at the request of the board of revisors, any information relevant to the making of a decision.

“**121.** Before the beginning of the work of the board of revisors, the returning officer shall provide the revisors with

(1) two copies of the list of electors to be revised, one of which shall be for the use of the revisors and one of which shall be made available for public examination at the place where the board is sitting;

(2) the information transmitted by the chief electoral officer under section 100.1 which is within the competence of the board.

No mention of the date of birth of electors shall be made on the copy deposited for examination.

“**122.** The board of revisors shall sit on the days and at the times fixed by the returning officer, subject to the second paragraph of section 132, during the period beginning on the day on which the public notice of revision is published and ending on the tenth day before polling day.

The returning officer shall, not later than 22 days before polling day, notify each party authorized under Chapter XIII or each ticket recognized under Division III of this chapter and each independent candidate concerned of his decision.

“**123.** Two revisors shall constitute a quorum of the board of revisors.

“**124.** Every question submitted to the board of revisors shall be decided by a majority vote.

In the event of a tie-vote, the chairman or, in his absence, the vice-chairman shall have a casting vote.

“*C — Revision process*

“**125.** Not later than 22 days before polling day, the returning officer shall give a public notice setting forth

(1) the fact that the list of electors will be revised;

(2) the requirements to be met by a person to be an elector and to be entitled to have his name entered on the list;

(3) the place, days and times fixed for examination of the list and the making of applications for entry, striking off or correction ;

(4) the fact that the information and documents provided for in the second paragraph of section 133 must be provided to the board of revisors upon the making of an application for entry by a person domiciled in the territory of the municipality.

Where the notice is given before the end of the period for filing nomination papers, it may indicate that the list will be revised only if the holding of a poll makes revision mandatory.

“**126.** Not later than five days before the last day fixed for the making of applications for entry, striking off or correction, the returning officer shall

(1) cause an extract of the list of electors to be revised for a polling subdivision to be distributed to each address in that subdivision, along with the particulars contained in the public notice of revision ;

(2) forward to each person whose name is entered on the list of electors to be revised a notice that reproduces the particulars concerning that person which appear on the list and that includes the particulars contained in the public notice, and cause to be distributed, where he considers it appropriate, to each residential address for which no elector's name is entered on the list of electors to be revised and which is within the territory of the municipality or, as the case may be, the district or ward concerned by the list to be revised, a notice indicating that no electors' names are entered on the list and that includes the particulars contained in the public notice ; or

(3) post in the polling subdivision, at a place of convenient access to the public and protected from bad weather, the extract of the list of electors to be revised for that subdivision, along with the particulars contained in the public notice.

The individual notices to be forwarded pursuant to subparagraph 2 of the first paragraph to persons having the same address may be combined in one notice.

In the case of a municipality governed by the Municipal Code of Québec (chapter C-27.1), the posting required under subparagraph 3 of the first paragraph may be supplemented or replaced by a posting of the whole list of electors to be revised at places where the public notices of the municipality are posted.

No mention of the date of birth of electors shall be made on the list of electors or extract thereof distributed or posted in accordance with this section.

Where several boards of revisors are established, the only particulars provided for in subparagraph 3 of the first paragraph of section 125 that are to

accompany the extract distributed or posted under the first paragraph of this section or that are to be included in the notice sent or distributed under that paragraph are the particulars concerning the board responsible for the revision of the part of the list corresponding to the extract or including the name of the person to whom the notice is sent or that would include the name of the elector if a name were entered for the address to which the notice is distributed.

“127. Where the returning officer has reasonable grounds to believe that a person whose name is not entered on the list of electors would be entitled to have it entered thereon, that a person whose name is entered on the list is not entitled to have it entered thereon or that a particular entered in respect of the person is inaccurate, he may notify the person and indicate the procedure to be followed to have his name entered, struck off or corrected, as the case may be.

“128. Any person who finds that his name is not entered on the list of electors when it could be must, if he wishes to exercise his right to vote, apply in person to the competent board of revisors to have his name entered on the list.

Any person who finds that his name is entered on the list of electors when it should not be must appear in person before the competent board of revisors to apply to have his name struck off the list.

Any person who finds that his name is entered on the list of electors when he does not wish to have it entered thereon must appear before the competent board of revisors to apply to have his name struck off the list. He may, if he is domiciled in the territory of the municipality, request that the striking off apply only for the purposes of a municipal poll.

Any person who finds that his name is entered on the list of electors for the wrong domicile, immovable or place of business must appear in person before the competent board of revisors to apply to have the erroneous entry struck off the list and, if he wishes to exercise his right to vote, to have his name entered correctly on the list.

Where two boards are competent to each decide one of the applications referred to in the fourth paragraph, the board before which the first application is made becomes competent to decide the other application. That board shall notify the returning officer of its decision concerning the part of the list that is not within its competence, and the returning officer shall send the notice to the other board.

“129. If an elector whose name is entered on the part of the list of electors for a polling subdivision finds that the name of a person who is not entitled to be entered on that part has been entered thereon, he may apply in person to the competent board of revisors to have the name of that person struck off the list.

“**130.** An elector shall apply in person to the competent board of revisors to have an error in the entry of his name, address or date of birth corrected.

“**131.** An application for entry, striking off or correction, other than an application under section 129, may be made by the spouse, including a *de facto* spouse, or a relative of the person entitled to make the application, or by a person who is cohabiting with the person.

For the purposes of the first paragraph, the word “relative” means a father, mother, grandfather, grandmother, father-in-law or step-father, mother-in-law or step-mother, brother, sister, brother-in-law, sister-in-law, son, daughter, grandson, granddaughter, son-in-law or daughter-in-law.

“**132.** Every application must be made to the board of revisors on the days and at the times fixed by the returning officer.

The returning officer shall ensure that the board holds sittings for the purpose of receiving applications on at least two days, at the latest on the second day before the last day of sittings of the board, including at least once in the evening.

According to whether the returning officer decides that the board shall hold sittings for that purpose in the morning, in the afternoon or in the evening, the board shall sit from at least 10:00 a.m. to 1:00 p.m., from 2:30 p.m. to 5:30 p.m. or from 7:00 p.m. to 10:00 p.m., respectively.

“**133.** Every application before a board of revisors shall be made under oath.

The board of revisors may require the person making an application to submit to it any proof necessary for the making of a decision. However, in the case of an application to have the name of a person domiciled in the territory of the municipality entered, the board shall require from the person making the application the former address of the domicile of the person in respect of whom the application is being made as well as two documents, one showing the name and birthdate of the person in respect of whom the application is being made, the other showing the name of that person and the address of the person’s domicile.

“**134.** The board of revisors shall examine the applications made to it as soon as they are received, and shall decide them immediately in all cases where it is possible to do so.

It shall also verify the information provided to its members by the returning officer under section 121.

“**135.** The board of revisors or any member it authorizes for the purpose may make an inquiry to ascertain whether a person whose name is entered on the list of electors or who is applying to have his name entered thereon is so

entitled. The person and any witnesses summoned may be assisted by an advocate.

“136. Where the decision of the board of revisors concerning an application for entry or striking off entails entering or striking off a name for which no application has been made, the board of its own initiative may enter the name or strike it off.

The board may also, of its own initiative, enter or strike off a name or make a correction if, after verifying the information provided to its members by the returning officer under section 121, it decides that a change must be made to the list. Where the board decides that such a change is not warranted, it shall specify that its verification confirmed the accuracy of the information or that it was unable to confirm or refute the accuracy of the information.

Where a correction is made, a name is entered on or struck off a part of the list that is not within the competence of the board, the board shall give notice of its decision to the returning officer who shall transmit the notice to the competent board.

“137. Before striking off or refusing to enter the name of a person, the board of revisors shall give one clear day’s advance notice to the person.

The notice shall be served at the address entered on the list of electors or at any place where the board or the revising officer has reason to believe that the person may be reached.

However, the board is not required to give the notice where

(1) the person is present before the board ;

(2) the board is satisfied with the proof made to it that the person in respect of whom the application for striking off is made is under curatorship or is deceased.

“138. The board of revisors shall transmit its decisions to the returning officer in accordance with the returning officer’s directives.

The returning officer shall incorporate the changes into the list or prepare an abstract of changes.

“139. As soon as practicable after receiving the decisions of the board of revisors, the returning officer shall transmit, free of charge, to each party authorized under Chapter XIII or to each ticket recognized under Division III of this chapter, a copy of the revised list or of an abstract of the changes made to the list submitted to be revised.

The provisions relating to the free distribution of the list of electors to candidates apply, adapted as required, to the revised list and the abstract of changes. However, the returning officer shall transmit free of charge to

candidates who have already obtained free copies of the list submitted to be revised an equal number of copies of the revised list or the abstract of changes made to the list, without those candidates having to request the copies.

“140. The returning officer shall communicate to the chief electoral officer the changes made to the list that concern the persons domiciled in the territory of the municipality, in the manner determined by the chief electoral officer.

The returning officer shall also communicate to the chief electoral officer, if the change entails entering the name of a domiciled person, the former address of the domicile of that person and, if the change entails striking off the name of a domiciled person who requests that the striking off apply only for the purposes of a municipal poll, the request made by that person.

Furthermore, the returning officer shall communicate the decisions of the board of revisors made after the verification under the second paragraph of section 134 that do not entail changes to the list.

“141. The abstract of changes forms part of the list of electors until the changes are incorporated into the list.”

22. Section 146 of the said Act is amended by striking out the words “to the Minister of Municipal Affairs and” in the fourth and fifth lines of the second paragraph.

23. Section 160 of the said Act is amended by replacing the portion before subparagraph 1 of the first paragraph by the following :

“160. The nomination paper for the office of mayor shall include the supporting signatures of not fewer than the following number of electors of the municipality :

- (1) 5 in the case of a municipality having a population of under 5,000 ;
- (2) 10 in the case of a municipality having a population of 5,000 or over but under 20,000 ;
- (3) 50 in the case of a municipality having a population of 20,000 or over but under 50,000 ;
- (4) 100 in the case of a municipality having a population of 50,000 or over but under 100,000 ;
- (5) 200 in other cases.

The nomination paper for the office of councillor shall include the supporting signatures of not fewer than the following number of electors of the municipality :”.

24. Section 181 of the said Act is amended by replacing the words “affix his signature opposite his name in the poll book and indicate the reason which qualifies him to vote” in the second and third lines by the words “declare under oath that he meets the conditions prescribed for voting”.

25. Section 219 of the said Act is amended

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

“**219.** The returning officer may authorize an elector to vote where

(1) the name of the elector does not appear on the copy of the list of electors used at the polling station but appears on the revised list of electors in the returning officer’s possession;

(2) the name of the elector does not appear on any document referred to in subparagraph 1 but was entered or corrected by a board of revisors.”;

(2) by replacing, in the French text, the word “cette” in the first line of the second paragraph by the word “une”;

(3) by adding, after the second paragraph, the following paragraph:

“The returning officer shall send to the chief electoral officer a copy of the authorization given to an elector domiciled in the territory of the municipality unless he is satisfied that the change to the list warranting the authorization was communicated in accordance with section 140.”

26. Section 247 of the said Act is replaced by the following section:

“**247.** The returning officer shall proceed to the addition of the votes by using the statements of the poll delivered with the ballot boxes and compiling the votes cast in favour of each candidate.

The returning officer shall, however, use the statements contained in the ballot boxes if only one copy of the statement of the poll has been drawn up or if a candidate or an elector concerned produces to him a sworn declaration in writing attesting that there is reason to believe that a statement delivered with a ballot box is erroneous or fraudulent and does not correspond to the statement placed in the ballot box, and that the results may be different if the statement placed in the ballot box is used in conducting the addition of the votes.”

27. Section 318 of the said Act is amended by replacing the word “sentence” in the fifth line of the third paragraph by the word “penalty”.

28. Section 340 of the said Act is amended by replacing the words “preparation of a list of electors is not required” in the second line of the first paragraph by the words “returning officer does not prepare a list of electors”.

29. Section 343 of the said Act is amended by replacing the words “12 months” in the third line of the first paragraph by the words “90 days”.

30. Section 344 of the said Act is amended

(1) by replacing the words “it is necessary to prepare” in the first line by the words “the returning officer prepares”;

(2) by replacing the words “the returning officer shall draw up the list” in the third line by the words “he shall do so”.

31. Section 523 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“A qualified voter who obtained an authorization to vote under the first paragraph of section 219 and section 567 is, after being admitted to vote under the second paragraph of section 219 and section 567, deemed to have his name entered on the list at the place where it should have been entered.”

32. Section 526 of the said Act is amended by replacing the words “filing office closes on the last day fixed pursuant to sections 114” in the second and third lines of the third paragraph by the words “end of the work of the board of revisors on the last day fixed for applications to be made under sections 132”.

33. Section 527 of the said Act is amended by replacing the words “stating the rules governing the registration of co-owners and co-occupants” in the second and third lines by the words “stating that the designated co-owners and co-occupants are entitled to have their names entered on the referendum list, mentioning how they may obtain information on the rules governing their registration,”.

34. Section 528 of the said Act is amended by replacing the words “filing office closes on the last day fixed pursuant to sections 114” in the second line of the fifth paragraph by the words “end of the work of the board of revisors on the last day fixed for applications to be made under sections 132”.

35. Section 529 of the said Act is amended by replacing the words “stating the rules governing the designation of the representatives of legal persons” in the second and third lines by the words “stating that legal persons are entitled to designate a representative, mentioning how they may obtain information on the rules governing the designation of a representative,”.

36. Section 539 of the said Act is amended

(1) in the French text, by replacing the words “moins cinq jours avant le jour ou, selon le cas, le premier jour d” in the first and second lines of the first paragraph by the words “plus tard le cinquième jour qui précède celui où commence l”;

(2) by replacing the words “and describe it” in the third line of the fifth paragraph by the words “. In addition to or in lieu of the sketch, the notice may describe the perimeter of the sector”.

37. The said Act is amended by inserting, after section 546, the following section :

“546.1. The chief electoral officer shall transmit to the clerk or the secretary-treasurer the information relating to the electors in respect of whom he is unable to update the entries on the permanent list of electors.

The chief electoral officer shall also transmit a list of the addresses in the territory concerned by the request provided for in section 546 for which no electors’ names are entered on the list.”

38. Section 563 of the said Act, amended by section 69 of chapter 23 of the statutes of 1995, is again amended

(1) by striking out the words “every person appointed to act in a filing office and” in the first and second lines ;

(2) by replacing the words “investigating assistant” in the second line by the words “revising officer”.

39. Section 565 of the said Act, amended by section 70 of chapter 23 of the statutes of 1995, is again amended

(1) by striking out the words “, every person appointed to act in a filing office” in the first and second lines of the first paragraph ;

(2) by replacing the words “investigating assistant” in the second and third lines of the first paragraph by the words “revising officer”.

40. Section 572 of the said Act is amended by replacing the words “and describe it” in the third line of the sixth paragraph by the words “. In addition to or in lieu of the sketch, the notice may describe the perimeter of the sector”.

41. Section 580 of the said Act, amended by section 71 of chapter 23 of the statutes of 1995, is again amended

(1) by striking out the words “, the person appointed to act in a filing office” in the first and second lines of subparagraph 4 of the first paragraph ;

(2) by replacing the words “investigating assistant” in the second line of subparagraph 4 of the first paragraph by the words “revising officer”.

42. Section 586 of the said Act is amended

(1) by inserting the words “and wishes to” after the word “should” in the fourth line of paragraph 1 ;

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

“(3) every person who applies to have the name of a person struck off the list of electors or the referendum list even though he knows that the person is entitled and wishes to be entered on the list;”;

(3) by inserting the words “and who has not obtained an authorization to vote under section 219 and, as the case may be, section 567” after the words “referendum list” in the second line of paragraph 6;

(4) by replacing the words “authorizes a person to vote whose name is not entered on the list of electors or referendum list” in the first, second and third lines of paragraph 7 by the words “grants an authorization to vote to a person he knows is not entitled thereto”.

43. Section 631 of the said Act, amended by section 72 of chapter 23 of the statutes of 1995, is again amended

(1) by striking out paragraph 2;

(2) by replacing the words “person appointed to act in a filing office who does not allow the filing” in the first and second lines of paragraph 4 by the words “member of a board of revisors who does not allow the making”;

(3) by striking out paragraph 5;

(4) by inserting the words “or to refuse to enter a name on the list” after the words “from the list” in the second line of paragraph 7;

(5) by replacing the words “sections 137 and 138” in the third and fourth lines of paragraph 7 by the words “section 137”.

44. Section 659 of the said Act, amended by section 75 of chapter 23 of the statutes of 1995, is again amended by inserting the words “on an application made before a board of revisors,” after the words “a referendum list,” in the second paragraph.

45. Section 888 of the said Act is amended by replacing the figure “142” in the first line of the first paragraph by the figure “139”.

46. The French text of the said Act is amended by replacing the word “ait” by the word “a”, the word “aient” by the word “ont” and the word “soit” by the word “est” wherever they appear in the following provisions :

(1) the second paragraph of section 72;

(2) the second paragraph of section 87;

(3) the second paragraph of section 212;

- (4) the third paragraph of section 359;
- (5) the first paragraph of section 408;
- (6) the first paragraph of section 413;
- (7) section 440;
- (8) the second paragraph of section 538;
- (9) section 608;
- (10) section 614.

47. Sections 28 to 31 of the Act respecting elections and referendums in municipalities, as they read before being repealed or amended by sections 9 to 11 of this Act, continue to apply in respect of any division of territory into electoral districts in progress on 11 June 1997.

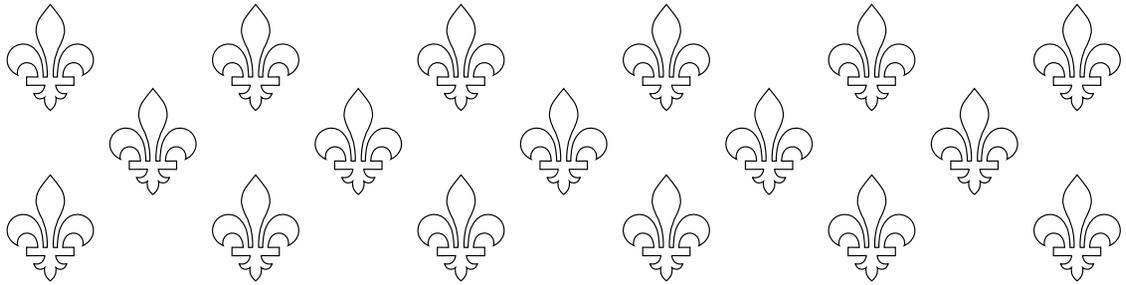
48. Any revision of the list of electors or the referendum list which began before 1 September 1997 under the provisions of subdivision 2 of Division II of Chapter VI of Title I and, where applicable, Chapter V of Title II of the Act respecting elections and referendums in municipalities, as they read before being replaced or amended by section 21, 38 or 39 of this Act, is continued under those provisions and any provision of the same Act referring or relating thereto, notwithstanding their being replaced or amended under this Act.

49. This Act comes into force on 12 June 1997.

However,

(1) sections 14, 15, 18 and 19, paragraph 1 of section 20, sections 21, 25, 31, 32 and 34, section 37, where it enacts the first paragraph of section 546.1 of the Act respecting elections and referendums in municipalities, and sections 38, 39 and 41 to 45 come into force on 1 September 1997;

(2) paragraph 2 of section 20 and section 37, where it enacts the second paragraph of section 546.1 of the Act respecting elections and referendums in municipalities, come into force on 1 September 1997 or on the date fixed for the coming force of paragraph 4 of section 10 of chapter 8 of the statutes of 1997, whichever is later.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 139
(1997, chapter 36)

An Act to amend the Securities Act

Introduced 15 May 1997
Passage in principle 28 May 1997
Passage 10 June 1997
Assented to 12 June 1997

Québec Official Publisher
1997

EXPLANATORY NOTES

The purpose of this bill is to convert the Commission des valeurs mobilières du Québec into an autonomous body with non-budgetary funding. For that purpose, the Commission is endowed with legal personality, and becomes a mandatary of the Government.

The bill provides for the financing of the Commission on the basis of a balance between expenditures and revenue and confers on the Commission the power to perform the acts that are required for its financial management. It requires self-regulatory organizations and workers' funds inspected by the Commission to contribute to the financing of the Commission. In addition, the bill provides that the costs incurred by the Government for the administration of the Securities Act are to be borne by the Commission.

Lastly, the Public Protector Act is amended so as to remain applicable in respect of the Commission. The bill also contains transitional provisions.

LEGISLATION AMENDED BY THIS BILL :

- Public Protector Act (R.S.Q., chapter P-32);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Securities Act (R.S.Q., chapter V-1.1).

Bill 139

AN ACT TO AMEND THE SECURITIES ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

- 1.** Section 275 of the Securities Act (R.S.Q., chapter V-1.1) is repealed.
- 2.** The said Act is amended by inserting, after section 276, the following sections :

“276.1. The Commission is a legal person.

It is a mandatary of the Government.

The property of the Commission forms part of the property of the State, but the execution of its obligations may be levied against its property.

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

“276.2. The Commission may provide consulting and implementation services related to the regulation of the securities market to bodies outside Québec involved in such regulation.

“276.3. The Commission shall advise the Minister on any matter he submits to it concerning securities.

“276.4. The Commission may, in the pursuit of its objects, set up a contingency reserve or, with the authorization of the Government, a designated fund, into which it may deposit part of its revenue.

“276.5. The Commission may establish rules of internal management. The rules of internal management must be approved by the Government and come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date determined by the Government. The rules are also published in the *Bulletin* of the Commission.”

- 3.** The said Act is amended by inserting, after section 278, the following section :

“278.1. The chairman shall coordinate and apportion the work of the Commission between its members. He is responsible for the administration of the Commission and the direction of its personnel.”

4. Section 299 of the said Act is replaced by the following section:

“299. The members of the personnel of the Commission are appointed in accordance with the staffing plan and standards established by by-law of the Commission. The by-law shall also determine the remuneration standards and scales, the employment benefits and the other conditions of employment applicable to the personnel.

The by-law shall be submitted to the Government for approval.”

5. The said Act is amended by inserting, after section 301, the following section:

“301.1. The chairman shall establish a plan of activities for the Commission at such intervals as is determined by the Government.

The plan shall be submitted to the Government for approval.”

6. The said Act is amended by inserting, after section 330, the following chapter:

“CHAPTER VII

“FINANCIAL PROVISIONS

“330.1. All amounts payable to the Commission under this Act shall form part of the revenue of the Commission. Such revenue shall be applied to the payment of its expenditures.

For the purposes of this Act, any amounts deposited into a contingency reserve or fund set up under section 276.4 in the course of a fiscal year shall be regarded as current expenditures.

Likewise, any amounts held in such a reserve or fund do not form part of the surplus referred to in section 330.4.

“330.2. The costs incurred by the Government for the administration of this Act, as determined each year by the Government, shall be borne by the Commission.

“330.3. The chairman of the Commission shall, each year, submit the Commission’s budgetary estimates for the ensuing fiscal year to the Minister in accordance with the conditions determined by the Government.

The budget estimates shall be submitted to the Government for approval.

“330.4. The Commission shall enter in its budgetary estimates, as revenue, any anticipated surplus for the current fiscal year and any other accumulated surplus.

It shall enter, as expenditure, any deficit incurred in the preceding fiscal year.

“330.5. All amounts collected by the Commission shall, upon collection, be deposited in a bank or in a savings and credit union governed by the Savings and Credit Unions Act (chapter C-4.1).

“330.6. The Commission may use any part of its revenue not required for the payment of expenditures or the amounts that constitute the reserve and any fund set up under section 276.4, to make short-term investments

(1) in securities issued or guaranteed by the government of Canada, of Québec or of another Canadian province;

(2) by way of deposit with financial institutions designated by the Government, or in certificates, notes and other short-term securities issued or guaranteed by such financial institutions;

(3) by way of deposit with the Caisse de dépôt et placement du Québec, to be administered by the Caisse in accordance with the investment policy determined by the Commission.

“330.7. The Commission may not, unless authorized by the Government,

(1) contract a loan that causes its total outstanding borrowings to exceed the amount determined by the Government;

(2) make financial commitments in excess of the limits or contrary to the terms and conditions determined by the Government.

The Commission may not receive any gift, bequest or subsidy.

“330.8. The Government may, on the conditions it determines,

(1) guarantee the payment in principal and interest of any borrowing of the Commission;

(2) guarantee the performance of any other obligation of the Commission;

(3) authorize the Minister of Finance to advance to the Commission any sum of money considered necessary for the carrying out of this Act, on the conditions he determines.

Any sum of money that the Government may be called upon to pay pursuant to such guarantees or to advance to the Commission shall be taken out of the consolidated revenue fund.

“330.9. The costs incurred by the Commission for the administration of Title VI shall be borne by the recognized self-regulatory organizations.

Such costs, established for each self-regulatory organization by the Commission at the end of its fiscal year, shall comprise a minimum contribution fixed by the Commission and the amount, if any, by which actual costs exceed the contribution. The actual costs shall be established on the basis of the rate schedule established by regulation.

The certificate issued by the Commission establishing the amount to be paid by each self-regulatory organization is preemptory.

“330.10. The costs incurred by the Commission or, as the case may be, by a person specially designated by the Commission, for the purposes of section 30 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1) and sections 37 and 38 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l’emploi (1995, chapter 48), shall be borne by those Funds. The costs shall be determined annually by the Commission, on the basis of the actual costs; in the case of costs incurred by the Commission, the actual costs are established on the basis of the rate schedule established by regulation.

The certificate issued by the Commission establishing the amount to be paid by each Fund in respect of the costs incurred is preemptory.”

7. Section 331 of the said Act is amended by striking out paragraphs 26.1 to 27.1.

8. The said Act is amended by inserting, after section 331, the following section:

“331.1. The Commission may, by regulation,

(1) prescribe the fees payable for any formality provided for by this Act or the regulations, and for the services provided by the Commission, as well as the terms and conditions of payment;

(2) prescribe the fees payable by an investor for a securities transaction, and the terms and conditions of collection and remittance of the fees to the Commission;

(3) establish the rate schedule referred to in sections 212, 330.9 and 330.10.

The regulations shall be submitted to the Government for approval.”

9. Section 333 of the said Act is replaced by the following section:

“333. In exercising their regulatory powers, the Government and the Commission may establish various classes of persons, securities and transactions and prescribe appropriate rules for each class.”

10. Section 335 of the said Act is replaced by the following section:

“**335.** Draft regulations and regulations made under section 331 or 331.1 shall be published in the *Bulletin* of the Commission.”

11. Section 350 of the said Act is repealed.

12. Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding, after paragraph 4, the following paragraph:

“(5) the Commission des valeurs mobilières du Québec.”

13. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Orders in Council 556-96 and 557-96 dated 15 May 1996, 821-96 dated 3 July 1996, 1051-96 dated 28 August 1996, 1493-96 dated 4 December 1996 and 1589-96 dated 18 December 1996, is again amended

(1) by inserting, in alphabetical order, in paragraphs 1 and 4, the words “the Commission des valeurs mobilières du Québec”;

(2) by inserting, in alphabetical order, in paragraph 3, the words “the Commission des valeurs mobilières du Québec if they are employed full-time”.

14. Schedule I to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by section 860 of chapter 2 of the statutes of 1996, is again amended by striking out the words “the Commission des valeurs mobilières du Québec, appointed after 7 July 1971, except those members who hold office during pleasure” in paragraph 2.

15. A member of the personnel of the Commission who, on 12 June 1997 is a public servant with permanent tenure is entitled to be placed on reserve in the public service if he transmits a notice to that effect to the Commission before 11 August 1997.

16. Every member of the personnel of the Commission who, on 12 June 1997, is a permanent employee of the Commission to whom the Public Service Act (R.S.Q., chapter F-3.1.1) applies may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with that Act.

17. Section 35 of the Public Service Act applies to any personnel member referred to in section 16 who enters a competition for promotion to a position in the public service.

18. Where a personnel member referred to in section 16 applies for a transfer or enters a competition for promotion, he may require the chairman of the Conseil du trésor to give him an assessment of the classification that

would be assigned to him in the public service. The assessment must take account of the classification of the personnel member in the public service on 12 June 1997, as well as the years of experience and the formal training acquired since that date.

If the person concerned is transferred, the deputy minister or the chief executive officer shall assign to him a classification compatible with the assessment referred to in the first paragraph.

If the person concerned is promoted, his new classification must take account of the criteria set out in the first paragraph.

19. If some or all the activities of the Commission are discontinued or if there is a shortage of work, a personnel member referred to in section 16 is entitled to be placed on reserve in the public service with the classification he had on 12 June 1997.

In such a case, the chairman of the Conseil du trésor shall, where applicable, establish his classification taking account of the criteria set out in the first paragraph of section 18.

20. A personnel member placed on reserve pursuant to section 15 or 19 shall remain in the employ of the Commission until the chairman of the Conseil du trésor is able to assign him a position.

21. Subject to the remedies available under a collective agreement, a personnel member referred to in section 16 who is dismissed may bring an appeal under section 33 of the Public Service Act.

22. An association of employees certified in accordance with the provisions of Chapter IV of the Public Service Act that represents a group of employees on 12 June 1997 shall continue to represent those employees within the Commission until the date of expiry of the collective agreements in force on 12 June 1997.

Such an association shall also represent, according to the group concerned, any personnel member subsequently assigned to the Commission, until the date of expiry of the collective agreements referred to in the first paragraph.

The provisions of a collective agreement in force on 12 June 1997 shall continue to apply to such members of the personnel of the Commission, to the extent that they are applicable to them, until their expiry.

However, the provisions of such a collective agreement relating to job security do not apply to personnel members referred to in the second paragraph.

23. The provisions defining the conditions of employment of members of the personnel of the Commission not covered by a collective agreement on 12 June 1997 shall continue to apply, to the extent that they are applicable to them, until they are amended in accordance with the law. Such provisions, except those relating to job security, shall also apply, to the same extent, to persons who become employees of the Commission after 12 June 1997.

In the case of jurists, such provisions shall continue to apply until they are replaced by the conditions of employment defined in the first collective agreement between the Association des juristes de l'État and the Government; the conditions of employment defined in the collective agreement shall apply until 30 June 1998.

The Association des juristes de l'État shall continue to represent, until 30 June 1998, the jurists in the employ of the Commission on 12 June 1997. It shall also represent until the same date jurists who become employees of the Commission after 12 June 1997.

24. The material resources and the records and other documents in the possession of the Commission on 12 June 1997 shall become the property of the Commission.

25. The provisions of the Securities Regulation, in force on 12 June 1997, that relate to the matters referred to in section 331.1 of the Securities Act (R.S.Q., chapter V-1.1), enacted by section 8 of this Act, are deemed to constitute a regulation made by the Commission under section 331.1.

26. Notwithstanding sections 330.1 and 330.4 of the Securities Act, the revenues of the Commission may exceed its approved expenditures for each of the fiscal years 1997-98, 1998-99 and 1999-2000, and the resulting surplus shall be paid into the consolidated revenue fund.

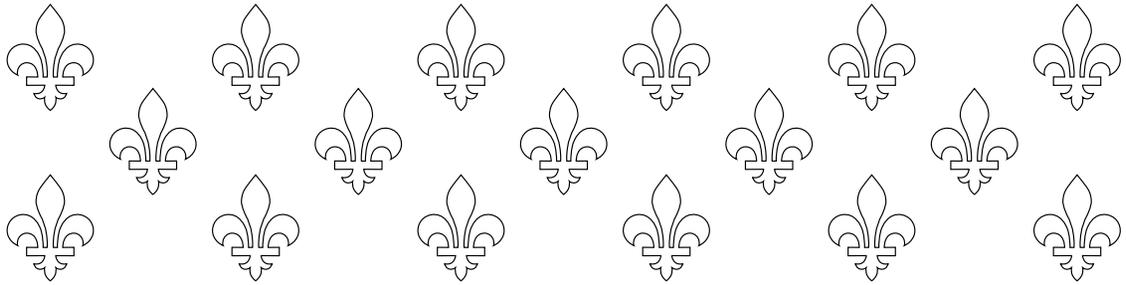
For the 1997-98 fiscal year, the surplus shall be equal to the surplus for the preceding fiscal year, less \$2,000,000.

For the 1998-99 and 1999-2000 fiscal years, the surplus shall be equal to 50% of the surplus for the preceding fiscal year.

For the three said fiscal years, the various rate schedules established by the Commission shall, if necessary, be adjusted to reflect the reduction of the surplus and any variation of the amount of the approved expenditures.

27. Section 276.4 of the Securities Act, enacted by section 2 of this Act, and section 6 have effect from 1 April 1997.

28. This Act comes into force on 12 June 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 140
(1997, chapter 37)

An Act to amend the Act respecting safety in sports

Introduced 15 May 1997
Passage in principle 28 May 1997
Passage 10 June 1997
Assented to 12 June 1997

Québec Official Publisher
1997

EXPLANATORY NOTES

This bill amends the Act respecting safety in sports to insert a new chapter concerning safety in recreational underwater diving.

Under the bill, every person who engages in recreational underwater diving with the aid of compressed gas or provides instruction in this type of diving is required to hold a certificate attesting his level of qualification.

In addition, the bill authorizes the Minister of Municipal Affairs to empower a non-profit organization active in the field of underwater diving to exercise various powers and responsibilities related to the qualification of instructors and divers.

Bill 140

AN ACT TO AMEND THE ACT RESPECTING SAFETY IN SPORTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 14 of the Act respecting safety in sports (R.S.Q., chapter S-3.1) is amended

(1) by replacing the words “or the secretary” in the second line of the first paragraph by the words “, the secretary or a person designated by the chairman”;

(2) by replacing the words “or the secretary” in the first line of the second paragraph by the words “, the secretary or the person designated by the chairman”.

2. The said Act is amended by inserting, after section 46.13, the following chapter:

“CHAPTER V.2

“RECREATIONAL UNDERWATER DIVING

“**46.14.** This chapter applies to underwater diving with the aid of compressed gas other than diving in the practice of a trade or occupation, and to the teaching of that activity.

“**46.15.** The Minister may designate a non-profit organization, established in particular for the purpose of ensuring the safety of underwater divers, to exercise by by-law all or some of the following powers :

(1) determining levels of qualification for divers and instructors ;

(2) determining the content of qualifying examinations for the various levels and the certificates awarded on passage of the examinations ;

(3) determining criteria for the granting of an attestation of equivalency in respect of a diver or instructor qualification awarded in Québec before the coming into force of section 46.17 or 46.18, as the case may be, or in respect of a diver or instructor qualification awarded outside Québec ;

(4) determining the valid period and conditions of validity of a certificate of qualification or attestation of equivalency and the procedure for the renewal of a certificate or attestation ;

(5) determining the fees payable for the taking of examinations and for the obtention or renewal of a certificate of qualification or attestation of equivalency.

Every by-law under the first paragraph must, to take effect, be approved by the Minister.

“46.16. An organization designated under section 46.15 may conduct qualifying examinations and award certificates of qualification and attestations of equivalency, or delegate all or some of those functions to any of its members.

“46.17. Every person who engages in underwater diving, otherwise than during a training course or qualifying examination, must be the holder of a certificate attesting the level of qualification acquired in underwater diving or of an attestation of equivalency referred to in section 46.15.

No holder of a certificate of qualification or attestation of equivalency may undertake a dive for which a higher level of qualification than the level indicated on the certificate or attestation is required.

“46.18. Every person who provides instruction in underwater diving must be the holder of a certificate attesting the level of qualification acquired in underwater diving instruction or of an attestation of equivalency referred to in section 46.15.

No holder of a certificate of qualification or of an attestation of equivalency may provide instruction for which a higher level of qualification than the level indicated on the certificate or attestation is required.

“46.19. Any person who fails a qualifying examination conducted by a person pursuant to a delegation under section 46.16, who is refused admission to an examination conducted by such a person or who is refused a certificate of qualification or an attestation of equivalency by such a person may apply to the organization designated under section 46.15 for a review of the decision.

The organization may confirm, vary or quash any decision submitted to it and make the appropriate decision.

“46.20. An organization designated under section 46.15 may suspend or cancel the certificate of qualification or attestation of equivalency of a holder who has been convicted of an offence under section 46.17 or 46.18 or has failed to comply with the conditions of validity of a certificate or attestation.

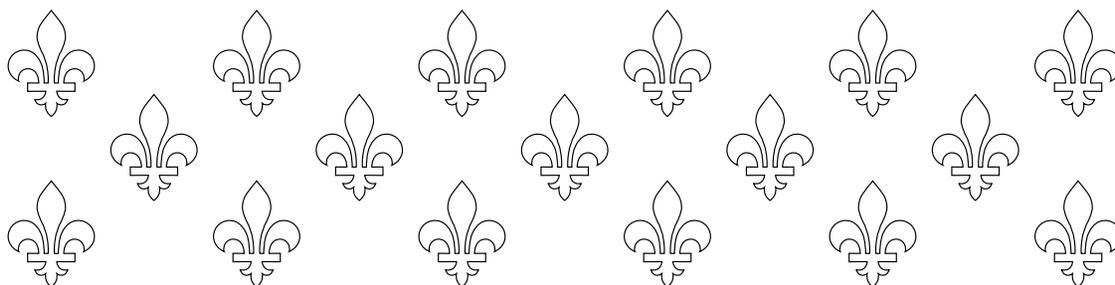
“**46.21.** An organization designated under section 46.15 may refuse to award or to renew a certificate of qualification or attestation of equivalency where the applicant, in the two years preceding the application, was convicted of an offence under section 46.17 or 46.18 or had his certificate or attestation suspended or cancelled.

“**46.22.** An organization designated under section 46.15 must furnish to the Minister any information or any report on its activities that the Minister may require.

The organization may make any recommendation concerning safety in underwater diving to the Minister.

“**46.23.** The Minister may revoke a designation made in respect of an organization under section 46.15.”

3. This Act comes into force on 12 June 1997, except sections 46.17 and 46.18 of the Act respecting safety in sports, enacted by section 2, which come into force on the date to be fixed by the Government.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 142
(1997, chapter 38)

**An Act to amend the Act respecting
prescription drug insurance and
amending various legislative provisions**

**Introduced 6 June 1997
Passage in principle 11 June 1997
Passage 11 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTE

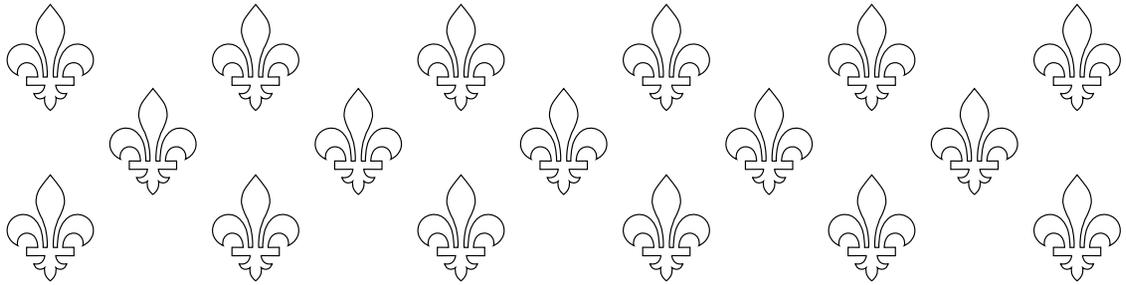
Under this bill, which amends the prescription drug insurance plan, the deductible amount and maximum contribution payable by a person to whom coverage is provided by the Régie de l'assurance-maladie du Québec will be calculated on a monthly, rather than a quarterly, basis.

Bill 142

AN ACT TO AMEND THE ACT RESPECTING PRESCRIPTION DRUG INSURANCE AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

- 1.** The Act respecting prescription drug insurance and amending various legislative provisions (1996, chapter 32) is amended by replacing the word “quarter” wherever it appears in sections 26, 28, 30, 32 and 33 by the word “month”.
- 2.** This Act comes into force on 1 July 1997.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 147
(1997, chapter 39)

**An Act respecting certain flat glass setting or
installation work**

**Introduced 15 May 1997
Passage in principle 28 May 1997
Passage 10 June 1997
Assented to 12 June 1997**

**Québec Official Publisher
1997**

EXPLANATORY NOTES

This bill provides, subject to certain conditions, special wage rates, applicable for a six-month period, for the carrying out of flat glass setting and installation work that would become subject to the Act respecting labour relations, vocational training and manpower management in the construction industry in the event that the Decree respecting the flat glass industry were repealed.

The bill also sets out the powers and rights of the Commission de la construction du Québec in respect of the application of such wage rates.

Bill 147

AN ACT RESPECTING CERTAIN FLAT GLASS SETTING OR INSTALLATION WORK

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. For a period of six months beginning on the date on which the repeal of the Decree respecting the flat glass industry (R.R.Q., 1981, c. D-2, r.52) takes effect, the wage rates determined in a collective labour agreement entered into under the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) do not apply to employees carrying out flat glass setting or installation work if

- (1) the work is subject to the said Act by reason of the repeal of the decree ;
- (2) the work is carried out under a contract entered into before the date on which the repeal of the decree takes effect ; and
- (3) a copy of the contract, dated and signed, is received at the Commission de la construction du Québec not later than 30 days after the date on which the repeal of the decree takes effect.

For the purposes of the first paragraph, any contract received before the expiry of the period referred to in subparagraph 3 of the first paragraph is deemed to have been received on the date on which the repeal of the decree takes effect.

2. During the period and in respect of the work referred to in section 1, the wage rate applicable to an employee shall be the wage rate to which the employee would have been entitled had the decree not been repealed.

3. For the application of the wage rate referred to in section 2 of this Act to an employee, the Commission de la construction du Québec shall have all the powers and rights conferred on it by the Act respecting labour relations, vocational training and manpower management in the construction industry, in particular the powers and rights under section 81 of the said Act.

For the purposes of the first paragraph, the said wage rate is deemed to have been established in a collective labour agreement entered into under the said Act.

4. This Act comes into force on the date to be fixed by the Government.

Regulations and Other Acts

Gouvernement du Québec

O.C. 787-97, 18 June 1997

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10)

Special provisions

— Non-unionizable employees

Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan

WHEREAS under the first paragraph of section 215.0.0.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), enacted by section 44 of Chapter 53 of the Statutes of 1996, Title IV.0.1 of the Act applies to non-unionizable employees who are members of the Government and Public Employees Retirement Plan on 31 December 1996, to persons who become non-unionizable employees after that date and to persons who belong to a category or subcategory of employees determined by regulation;

WHEREAS the second paragraph of section 215.0.0.1 provides that, to benefit from the provisions of Title IV.0.1 or from provisions enacted under that Title, the employees referred to in the first paragraph of that section must comply with the rules, conditions and procedures prescribed by regulation;

WHEREAS under section 215.0.0.2 of the Act, enacted by section 44, the Government may determine, by regulation, in respect of the employee to whom Title IV.0.1 of the Act applies, special provisions which may vary from those provided in the Government and Public Employees Retirement Plan, except the provisions under Chapter VII.1 of Title I of the Act;

WHEREAS under section 215.0.0.4 of the Act, enacted by section 44, Government regulations under Title IV.0.1 of the Act shall be made after the Commission administrative des régimes de retraite et d'assurances has consulted with the Comité de retraite du régime de retraite des employés du gouvernement et des organismes publics in respect of non-unionizable employees and the regulations may have effect 12 months or less before they are adopted;

WHEREAS that pension committee has been consulted;

WHEREAS it is expedient to make the Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan, attached to this Order in Council;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor:

THAT the Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan, attached hereto, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation respecting special provisions applicable to non-unionizable employees who are members of the Government and Public Employees Retirement Plan

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10, ss. 215.0.0.1, 215.0.0.2 and 215.0.0.4; 1996, c. 53, s. 44)

1. This Regulation makes special provisions applicable to non-unionizable employees who are members of the retirement plan provided for in Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), taking into account Title IV.0.1 of that Act.

The non-unionizable employees referred to in this Regulation are persons who are appointed or hired to hold a non-unionizable position designated in Schedule I and who have the classification associated with that position.

2. This Regulation applies to the following persons, to the extent provided for therein:

(1) persons who, on 31 December 1996, are members of the plan as non-unionizable employees and hold a non-unionizable position;

(2) persons who, after that date, become non-unionizable employees and hold such a position.

For the purposes of the first paragraph, the persons designated by the Government are also considered as non-unionizable employees, if their conditions of employment so provide. The positions held by those persons, on the date of their designation, are non-unionizable positions for the purposes of this Regulation.

The persons referred to in the first paragraph are deemed to hold such a position if they benefit from the measures respecting stability of employment provided for in their conditions of employment.

3. The person referred to in the first paragraph of section 2 shall be a member of the plan in respect of unionizable employees in the non-unionizable position he holds while being simultaneously a member of the Pension Plan of Certain Teachers, the Teachers Pension Plan or the Civil Service Superannuation Plan during a period of unpaid leave in respect of the position covered by one of those plans. The foregoing also applies, subject to section 9, in respect of the person referred to in subparagraph 2 of the first paragraph of section 2 as long as he holds a non-unionizable position which corresponds to less than 40 % of the regular time of a full-time employee holding such a position.

4. The provisions of this Regulation apply from 1 January 1997 to persons referred to in subparagraph 1 of the first paragraph of section 2. Those persons shall, to retain their right to benefit from those provisions, hold a non-unionizable position for a period of at least 24 consecutive months which began on the date they hold such a position but not sooner than 1 January 1995.

5. The provisions of this Regulation apply from the date on which the persons referred to in subparagraph 2 of the first paragraph of section 2 hold a non-unionizable position which corresponds to at least 40 % of the regular time of a full-time employee holding such a position.

In order for those persons to retain the right to benefit from those provisions, their service credited in such a position shall not be less, during each year or part thereof comprised within a period of at least 24 consecutive months, than 40 % of the service credited to a full-time employee holding such a position during those years or parts of a year. The days and parts of a day during which a person is not covered by the plan do not entail suspension or termination of that period.

6. The persons who do not meet the conditions provided for in section 4 or 5 lose the right to benefit from the provisions of this Regulation

(1) on the date they cease to hold their non-unionizable position, in the case referred to in section 4;

(2) on the date of the end of the year or part thereof during which the service credited to him is less than the percentage provided for in the second paragraph of section 5 or on the date they cease to be members of the plan if they were not members at the end of that year or part thereof, whichever comes first, in the case referred to in that section.

Where applicable, the persons referred to in the first paragraph shall be members, from the date following the date retained pursuant to that paragraph, to the plan in respect of unionizable employees.

7. For the purposes of sections 4 and 5, the only periods to be considered are periods for which the employee contributed or was exempt, as well as those for which a female employee was granted a maternity leave. Any other period during which an employee is absent without pay shall not be considered and shall only entail, where applicable, suspension of the calculation of the 24-month period provided for in those sections if the employee ceases to meet the conditions provided for therein by reason of such an absence.

8. The person referred to in section 4 or 5 who dies before the 24-month period provided for in those sections is completed and who, at the time of his death, had not lost the right to benefit from the provisions of this Regulation is deemed to have acquired the right to benefit therefrom.

9. The person who met the conditions provided for in section 4 or 5 shall benefit from the provisions of this Regulation in respect of all the positions he holds and that are covered by the plan from the date following the 24-month period provided for in those sections and that person shall, from that date, be a member of the plan in respect of non-unionizable employees in those positions.

10. From 1 January 1997 and subject to section 9, the deduction provided for in section 29 of the Act shall be equal to 6.35 % on the part of the pensionable salary which exceeds 35 % of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9).

11. A person who met the conditions provided for in section 4 or 5 and who ceases to be covered by the plan shall continue to benefit from the provisions of this Regulation if he holds a non-unionizable position again. The foregoing also applies if that person holds an unionizable position within 180 days of the date on which he ceased to be covered by the plan.

12. A person who met the conditions provided for in section 4 or 5 and who receives benefits under the mandatory basic long-term salary insurance plan applicable to management staff in the public and parapublic sectors shall continue to be a member of the plan in respect of non-unionizable employees and to benefit from the provisions of this Regulation as long as he receives such benefits where his employer has terminated the employment relationship. The insurer shall pay the contributions which would have been paid by that person and they shall be credited to the account of the person.

13. If the total credited service is reduced pursuant to section 20 of the Act and if an employee benefits from the provisions of this Regulation during a part of a year, he may not have credited to himself, during that part of a year, more service than the number of contributory days comprised in that part of a year. The foregoing also applies, adapted as required, in respect of the other part of that year during which he does not benefit from those provisions.

14. The special provisions made pursuant to section 10.1 of the Act and applicable to employees who belong to a category of employees determined pursuant to that section shall continue to apply in their respect notwithstanding any incompatible provision in this Regulation.

15. This Regulation comes into force on the date of its making by the Government, but has effect from 1 January 1997.

SCHEDULE I

(s. 1)

NON-UNIONIZABLE POSITIONS

The following positions are non-unionizable positions for the purposes of this Regulation:

I. in the public and parapublic sectors and in bodies whose employees are appointed and remunerated in accordance with the Public Service Act (R.S.Q., c. F-3.1):

(1) management positions or senior executive positions determined according to the classification plans for managers established by the authorities designated for each of the public and parapublic sectors;

(2) the following positions in the public service sector:

(a) human resources management consultant;

(b) labour commissioner;

(c) Attorney General's substitute;

(d) mediator and conciliator;

(II) in government corporations and government bodies in which the conditions of employment and remuneration standards and scales of the staff are determined by the Government or approved by the Conseil du trésor under section 22 of the Financial Administration Act (R.S.Q. c. A-6):

(1) the positions identified in the classification plans for managers approved by the Conseil du trésor and subject to the conditions of employment of managers, where applicable. Those positions must be comparable to management positions in the public service, determined according to the classification plans for the managers in that sector;

(2) mediators of the Conseil des services essentiels;

(3) human resources management consultants who are subject to the conditions of employment of the managers in the body;

III. for the members of the staff of a minister's office or the office of a person referred to in section 124.1 of the Act respecting the National Assembly (R.S.Q., c. A-23.1) and of the other members of the National Assembly:

— the position of chief of staff and, where applicable, the positions of deputy chiefs of staff where their conditions of employment provide that they shall benefit from the conditions of employment of senior managers in the public service;

IV. any other person who holds a position or employment not provided for in paragraphs I to III and who belongs to a class of employees designated pursuant to section 10.1 of the Act;

V. in private institutions and for all other employers covered by the plan:

— positions comparable to management positions in the public and parapublic sectors determined in relation to the classification plans for managers established by the authority designated in the sector in question.

1524

Gouvernement du Québec

O.C. 788-97, 18 June 1997

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10)

Amendment to Schedule I to the Act

Amendment to Schedule I to the Act respecting the Government and Public Employees Retirement Plan

WHEREAS under section 1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the retirement plan applies to employees and persons designated in Schedule I, and employees and persons designated in Schedule II who were not members of a retirement plan on 30 June 1973 or who were appointed or engaged after 30 June 1973;

WHEREAS under the first paragraph of section 220 of the Act, the Government may, by order, amend Schedules I, II, II.1, II.2, III, III.1 and VI, and any such order may have effect 12 months or less before it is made;

IT IS ORDERED, therefore, upon the recommendation of the Minister for Administration and the Public Service and Chairman of the Conseil du trésor:

THAT the Amendment to Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), attached hereto, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Amendment to Schedule I to the Act respecting the Government and Public Employees Retirement Plan

An Act respecting the Government and Public Employees Retirement Plan
(R.S.Q., c. R-10, s. 220)

1. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), amended by Orders in Council 556-96 and 557-96 dated 15 May 1996, 821-96 dated 3 July 1996, 1051-96 dated 28 August 1996, 1493-96 dated 4 December 1996, 1589-96 dated 18 December 1996 and 629-97 dated 13 May 1997, is further amended by inserting the words “le Syndicat de l’enseignement du Grand-Portage” in alphabetical order in paragraph 1.

2. This Order in Council has effect since 1 July 1996.

1525

Gouvernement du Québec

O.C. 812-97, 18 June 1997

Hospital Insurance Act
(R.S.Q., c. A-28)

Regulation
— **Amendments**

Regulation to amend the Regulation respecting the Hospital Insurance Act

WHEREAS under section 8 of the Hospital Insurance Act (R.S.Q., c. A-28), the Government may make regulations for the purposes of the Act;

WHEREAS the Government made the Regulation respecting the Hospital Insurance Act (R.R.Q., 1981, c. A-28, r. 1);

WHEREAS it is expedient to amend the tariffs for private and semi-private rooms in a hospital centre for short-term care, provided for in the Regulation;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) a draft of the Regulation attached to this Order in Order was published in Part 2 of the *Gazette officielle du Québec* of 23 April 1997 on page 1767, with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS that period of time has expired and it is expedient to make the Regulation with amendments;

WHEREAS section 18 of that Act provides that 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 urgency of the situation requires it;

WHEREAS under that section, the reason justifying such a coming into force shall be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies such a coming into force:

since the insurance companies have already notified their customers of changes in the tariffs as of 1 July

1997, the date of the expected coming into force at the time of publication of the draft regulation, it is expedient for the Regulation to come into force on 2 July 1997;

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

THAT the Regulation to amend the Regulation respecting the Hospital Insurance Act, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the Hospital Insurance Act

Hospital Insurance Act
(R.S.Q., c. A-28, s. 8)

1. The Regulation respecting the Hospital Insurance Act (R.R.Q., 1981, c. A-28, r. 1), amended by the Regulations made by Orders in Council 1036-82 dated 28 April 1982 (Suppl., p. 80), 1180-82 dated 19 May 1982 (Suppl., p. 81), 1490-82 dated 23 June 1982 (Suppl., p. 82), 1314-83 dated 22 June 1983, 1523-83 dated 2 August 1983, 1321-84 dated 6 June 1984, 1768-84 dated 8 August 1984, 197-86 dated 26 February 1986, 1257-87 dated 12 August 1987, 1981-88 dated 21 December 1988, 113-90 dated 31 January 1990, 1100-90 dated 1 August 1990, 668-91 dated 15 May 1991, 696-91 dated 22 May 1991, 744-91 dated 29 May 1991, 498-92 dated 1 April 1992, 315-93 dated 10 March 1993, 1379-95 dated 18 October 1995 and 1042-96 dated 21 August 1996, is further amended, in section 10,

(1) by substituting the following for the first and second paragraphs:

“**10.** Tariff: A hospital centre for short-term care shall charge \$63 per day for a private room. That tariff is amended in the following manner:

(a) for a private room with an area of 9.75 to 11.50 square metres, with telephone, washbasin or toilet either private or shared with another room: \$78 per day;

(b) for a room with an area of not less than 11.50 square metres, with telephone, washbasin and toilet either private or shared with another room: \$93 per day;

(c) for a room with an area of not less than 11.50 square metres, with telephone and full bathroom shared with another room: \$109 per day;

(d) for a room with an area of not less than 11.50 square metres, with telephone and full private bathroom: \$125 per day;

(e) for a private room with telephone, private bathroom and adjoining sitting room: \$156 per day.

A hospital centre for short-term care shall charge a beneficiary \$39 per day for a semi-private room. That tariff is amended in the following manner:

(a) for a room with 2 of the following facilities: telephone, washbasin or toilet either private or shared with another room: \$43 per day;

(b) for a room with telephone, washbasin and toilet either private or shared with another room: \$47 per day;

(c) for a room with telephone and full bathroom: \$55 per day.”; and

(2) by substituting “1998” for “1991” in the fifth paragraph.

2. This Regulation comes into force on 2 July 1997.

1526

List of medications 1 July 1997

An Act respecting prescription drug insurance and amending various legislative provisions (1996, c. 32)

Amendment number 1

1. The List of Medications dated 1 July 1997, prepared by the Minister of Health and Social Services pursuant to the Act respecting prescription drug insurance and amending various legislative provisions (1996, c. 32) and published in Part 2 of the *Gazette officielle du Québec* of 25 June 1997, is amended, in subdivision 24:04, CARDIAC DRUGS, by replacing the amount 72.70 by 90.50 and the amount 0.7270 by 90.50 with respect to ALTI-DILTIAZEM CD, 120 mg long-acting capsule.

2. This Amendment comes into force on the date of its publication in the *Gazette officielle du Québec*.

1527

Notice

Code of Civil Procedure
(R.S.Q., c. C-25)

Rules of Practice of the Superior Court of the District of Québec in Civil and Family Matters

Notice is hereby given that the Rules to amend the Rules of Practice of the Superior Court of the District of Québec in Civil and Family Matters, the text of which appears below, were adopted by the judges of the Superior Court appointed for the District of Québec at their annual general meeting of 30 May 1997, in accordance with article 47 of the Code of Civil Procedure (R.S.Q., c. C-25).

Québec, 30 May 1997

RENÉ W. DIONNE,
Associate Chief Justice

Rules to amend the Rules of Practice of the Superior Court of the District of Québec in Civil and Family Matters

Code of Civil Procedure
(R.S.Q., c. C-25, art. 47)

1. The Rules of Practice of the Superior Court of the District of Québec in Civil and Family Matters, adopted by the decision of the judges of the Superior Court of the District of Québec dated 8 May 1987 and amended by their decisions dated 21 October 1992 and 7 August 1996, are further amended by substituting the word “clerk” for the word “prothonotary” in Rule 3.

2. Rule 15 is amended by adding the words “during the judicial year and on Wednesday only during the judicial vacation” after the words “and 12 h”.

3. The following is inserted after Rule 16:

“**16.1** The Chief Justice, or a judge designated by him, may at any time summon any party foreclosed to file a declaration to set, in accordance with Rule 15 of the Rules of practice of the Superior Court of Quebec in civil matters (R.R.Q., 1981, c. C-25, r.8), in order to obtain useful information to prepare the rolls for hearing; the judge may then adopt any course consistent with the rights of the other parties and with the proper administration of justice.”.

4. These Rules come into force on the tenth day following their publication in the *Gazette officielle du Québec*.

Draft Regulations

Draft Regulation

An Act respecting the Société des loteries du Québec (R.S.Q., c. S-13.1)

Bingo

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the By-Law respecting Bingo, adopted by the Société des loteries du Québec, the text of which appears hereinafter, may be submitted to the Government for approval upon the expiry of 45 days following this publication.

The purpose of this By-law is to allow the Société des loteries du Québec to operate a new Bingo lottery scheme.

Additional information can be obtained by asking M^e Lynne Roiter, Vice-president, Corporate Affairs, Loto-Québec, at telephone number (514) 499-5190 or at Fax number (514) 873-8999.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to M^e Lynne Roiter, Vice-president, Corporate Affairs, 500, rue Sherbrooke Ouest, Office 2000, Montréal (Québec), H3A 3G6.

The comments will be forwarded by the company to the Vice-First Minister and State Minister of Economy and Finance, who is responsible for the application of the Act respecting the Société des loteries du Québec.

MICHEL CRÊTE
President and General Manager

By-Law respecting Bingo

Loi sur la Société des loteries du Québec (L.R.Q., c. S-13.1, a.13)

1. This By-law governs a lottery scheme called “Bingo”. It is of a pari-mutuel type or has a pre-determined prize structure and is offered to the public in participating hall.

Bingo is played with tickets issued by the Société des loteries du Québec (the Company). Each ticket contains one or many cards containing six horizontal rows where the first one forms the words “Bingo”, and five vertical columns. Each card contains 25 squares, 24 of which are

imprinted with a number, and the center space is imprinted with the term “Gratuit”

The selected alphanumbers are transmitted by the Company by satellite or other communication device.

2. Only a charitable or religious organization referred to in subparagraph *b* of the first paragraph of section 207 of the Criminal Code (L.R.C. 1985, c. C-46), holder of a bingo licence issued by the Régie des alcools des courses et des jeux and to which the company awards a retailer’s number can offer Bingo.

3. Only the holder of a Bingo ticket can participate in Bingo.

4. The selling price of a Bingo ticket cannot be less than 1 \$ and no ticket may be sold at a price exceeding its face value.

5. No credit may be given to a player, in any form whatsoever.

6. The rules of the game, including the method of prize allocation and the prize to be won, must be reproduced in a document available to the public in participating halls.

7. The alphanumbers are selected by a tumbler or a computer that chooses them randomly.

8. Unless the rules of the game available to the public in participating halls provide otherwise, the player must mark on each card of his ticket the selected alphanumbers that appear on it and he must, once he notices that he has a winning card, declare it outloud, otherwise he is not entitled to the prize.

9. When a card declared a winner is determined, after verification, a winning card, the prize corresponding to the winning card is awarded to the holder of the ticket.

However, if the card declared a winner is determined, after verification, not to be a winning card, the prize cannot be paid to its holder and the game continues for this prize.

10. A prize awarded to a player cannot be claimed later by another player.

If, before awarding the prize, more than one player has declared outloud their card a winning card, and, after verification, there is more than one winning card, the prize is divided equally among the players of valid winning cards.

11. Any ticket for which payment by the player was not made prior to the draw for which it is valid, is void.

It is the same for any ticket that is illegible, mutilated, altered, counterfeited, improperly cut, misprinted, incomplete, erroneously printed or otherwise defective, unless it is possible by the control number to determine that the ticket is really a winning ticket.

The holder of an invalid ticket is not entitled to a prize.

12. All winning tickets must be confirmed by means of its validation number.

13. The value of the prizes offered each year may not be less than 35 % or more than 75 % of the total amount of ticket sales.

14. The holder of a valid ticket, containing a card declared a winner, must claim the prize at the location and within the claiming period indicated on the ticket.

15. The Company and the organizations referred to in section 2 cannot be held liable for the obligations resulting from the use of a ticket if the rules of the game are not respected.

16. An amount equivalent to 50 % of the Bingo's net income is awarded to the charitable or religious organization referred to in section 2.

17. The Company pays from its net income after payment of the amounts provided for in section 16,3 % of the total amount of the pari-mutuel Bingo ticket sales to a dedicated account, whose sums are to be distributed to charitable or religious organizations, holders of a bingo licence issued by the Régie des alcools des courses et des jeux, who do not participate in the Bingo referred to in section 1.

18. The Company pays, from this account, to an organization referred in section 17, an amount corresponding to a maximum of 25 % of the average net income per event that the organization has held by virtue of its last expired bingo licence, as supplied by the Régie des alcools des courses et des jeux, times the number of events indicated in its bingo licence then in force or indicated in its last expired bingo licence if it is a lesser number.

19. No symbol, acronym, name or other characteristic used to identify the games covered by this By-law may be used for advertising or any other purpose without the written authorization of the company.

20. This By-law comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

1521

Draft Regulation

An Act respecting collective agreement decrees (R.S.Q., c. D-2)

Building Materials

— Levy

— Amendments

Notice is hereby given, under the Act respecting collective agreement decrees (R.S.Q., c. D-2), that the Minister of Labour received from the Building Materials Joint Committee, following its meeting of August 19, 1996, a petition requesting him to recommend to the Government that it approve the "Regulation amending the Levy Regulation of the Building Materials Joint Committee". Under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Regulation, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The draft regulation aims to amend the levy rate currently in force for employers and employees governed by the Decree respecting the building materials industry and by the Decree respecting the non-structural metalwork industry in the Montréal region.

For that purpose, it proposes to increase the levy rate from 0.40 % to 0.45 %.

A study of the matter has revealed that the new rate proposed would increase the overall amount of levies by about \$50,000, enabling part of the annual deficit observed since the beginning of this decade to be made up. During the consultation period, the impact of the proposed amendment will be clarified. According to the data contained in the 1995 Annual Report of the Joint Committee, the Decree respecting the building materials industry governs 110 employers and 1,243 employees, whereas the Decree respecting the non-structural metalwork industry in the Montréal region governs 112 employers and 731 employees.

Further information may be obtained by contacting Mr. Gilles Fleury, Direction des décrets, ministère du

Travail, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec), G1R 5S1, (telephone: 418-643-4415; fax: 418-528-0559).

Interested persons with comments to make are asked to send them in writing, before the expiry of the 45-day period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec), G1R 5S1.

JEAN-MARC BOILY,
Deputy Minister of Labour

Regulation amending the Levy Regulation of the Building Materials Joint Committee

An Act respecting collective agreement decrees (R.S.Q., c. D-2, s. 22, par. i)

1. The Regulation respecting the Levy Regulation of the Building Materials Joint Committee, approved by Order in Council 2626-85 dated 11 December 1985 and suspended by the Regulations approved by Orders in Council 1631-90 dated 21 November 1990 and 1184-92 dated 12 August 1992, is amended by replacing sections 2 and 3 by the following:

“**2.** Professional employers shall remit to the Building Materials Joint Committee an amount equal to 0.45 % of their payroll for the employees governed by the Decree.

3. Employees other than those referred to in section 4 shall remit to the Joint Committee an amount equal to 0.45 % of their wages.”.

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

1528

Draft Regulation

An Act respecting government services to departments and public bodies (R.S.Q., c. S-6.1)

Gazette officielle du Québec — Amendments

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 respecting the *Gazette officielle du Québec*, the text of which appears below, may be made

by the Government upon the expiry of 45 days following this publication.

The Draft Regulation proposes changes to the current text of the Regulation respecting the *Gazette officielle du Québec* in order to update the description of the texts published therein, to adjust the subscription rates and publication costs and to introduce rates for the publication of documents in Part 2.

The Draft Regulation will have no significant impact on businesses.

Further information may be obtained by contacting Madame Micheline Baril, Director of Publishing, Direction générale de l'information gouvernementale, 1500D, boulevard Charest Ouest, 1^{er} étage, Sainte-Foy (Québec), G1N 2E5; tel.: (418) 644-3836, fax: (418) 644-7813.

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 Minister of Relations with the Citizens and Immigration, 360, rue McGill, 4^e étage, Montréal (Québec), H2Y 2E9.

ANDRÉ BOISCLAIR,
Minister of Relations with the Citizens and Immigration

Regulation respecting the *Gazette officielle du Québec*

An Act respecting government services to departments and public bodies (R.S.Q., c. S-6.1, s. 26)

DIVISION I CONTENT AND PUBLICATION DATES

1. The *Gazette officielle du Québec* shall comprise 2 parts:

(1) Part 1, entitled “Avis juridiques”; and

(2) Part 2, entitled in English “Laws, Regulations and Other Statutory Instruments” and in French “Lois, règlements et autres actes pris en application des lois”.

Part 1, the French Edition of Part 2 and the English Edition of Part 2 shall be published separately.

2. Part 1 shall contain documents, announcements and notices other than those published in Part 2 and whose publication in the *Gazette officielle du Québec* is required by a law or regulation, or by the Government.

3. The French Edition of Part 2 shall contain the French version of

- (1) Acts assented to;
- (2) proclamations and Orders in Council for the coming into force of Acts;
- (3) regulations and other statutory instruments whose publication in the *Gazette officielle du Québec* is required by law or by the Government;
- (4) Orders in Council, decisions of the Conseil du trésor and minister's orders whose publication is required by law or by the Government;
- (5) rules of practice made by courts of justice and quasi-judicial tribunals;
- (6) drafts of the texts referred to in paragraphs 3 and 5 whose publication in the *Gazette officielle du Québec* is required by law before they are made, adopted or issued by the competent authority or before they are approved by the Government, a minister, a group of ministers or a government body; and
- (7) any other document not referred to in section 2 or in this section and whose publication is required by the Government.

4. The English Edition of Part 2 shall contain the English version of

- (1) Acts assented to;
- (2) proclamations and Orders in Council for the coming into force of Acts;
- (3) regulations and other statutory instruments whose publication in the *Gazette officielle du Québec* is required by law or by the Government;
- (4) rules of practice made by courts of justice and quasi-judicial tribunals;
- (5) drafts of the texts referred to in paragraphs 3 and 4 whose publication in the *Gazette officielle du Québec* is required by law before they are made, adopted or issued by the competent authority or before they are approved by the Government, a minister, a group of ministers or a government body; and
- (6) any other document published in the French Edition of Part 2, where the Government orders that the document also be published in English.

5. Part 1 shall be published at least every Saturday. If a Saturday is a legal holiday, the Québec Official Publisher shall publish Part 1 on the preceding day or on the following Monday.

Part 2 shall be published at least every Wednesday. If a Wednesday is a legal holiday, the Québec Official Publisher shall publish Part 2 on the preceding day or on the following day.

DIVISION II RATES

6. The annual subscription rates for the *Gazette officielle du Québec* are

- (1) \$112.00 for Part 1; and
- (2) \$152.00 for each edition of Part 2.

7. The selling price of an issue of any edition is \$5.80 per copy.

8. The rates to be paid for the translation, where applicable, of notices, announcements and documents published in Part 1 or Part 2 is \$21.82 per 100 words.

9. The rates to be paid for the publication of notices, announcements and documents in Part 1 is \$0.86 per agate line.

Those costs shall be paid by the person or authority requiring such publication or, where publication is ordered by the Government, by the person or authority issuing the notice, announcement or document.

10. The rate to be paid for the publication of documents in Part 2 is \$0.45 per agate line.

The costs shall be paid by

- (1) the minister responsible for the application of an Act, in the case of Acts, Proclamations and Orders in Council for the coming into force of Acts;

- (2) the person or authority making or adopting regulations or other statutory instruments or, where they are adopted by the Government, the minister recommending their adoption, in the case of regulations or other statutory instruments;

- (3) the person or authority recommending the making or issue of Orders in Council, decisions of the Conseil du trésor and minister's orders, in the case of Orders in Council, decisions of the Conseil du trésor and minister's orders;

(4) the court or tribunal adopting the rules of practice, in the case of rules of practice of a court or tribunal;

(5) the person or authority issuing the document in all other cases.

If the costs may be paid by more than one person or authority, they are paid by the issuer of the document.

11. The amounts set forth in sections 6 to 10 shall be indexed on 1 January 1998 and on 1 January of each year thereafter on the basis of the rate of increase in the general Consumer Price Index for Canada for the period ending on 30 September of the preceding year, as determined by Statistics Canada.

The rates and prices that are indexed in the prescribed manner and are less than \$35 shall be reduced to the nearest cent where they contain a fraction of a cent less than 0.5 cents and shall be increased to the nearest cent where they contain a fraction of a cent equal to or greater than 0.5 cents.

The rates and prices that are indexed in the prescribed manner and are equal to or greater than \$35 shall be reduced to the nearest dollar where they contain a fraction of a dollar less than \$0.50 and shall be increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than \$0.50.

The Québec Official Publisher shall publish the result of the annual indexing in the *Gazette officielle du Québec*.

12. The Québec Official Publisher shall send the *Gazette officielle du Québec* free of charge to the public bodies, public servants and other persons listed in Schedule 1.

DIVISION III FINAL PROVISIONS

13. This Regulation replaces the Regulation respecting the *Gazette officielle du Québec*, made by Order in Council 3333-81 dated 2 December 1981.

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

SCHEDULE 1

(s. 12)

Free distribution list			
	Part 1	Part 2	
		French edition	English edition
Lieutenant-Governor	1	1	
Members of the National Assembly	1 each	1 each	
Secretary General of the National Assembly	1	1	
Legislation Director of the National Assembly	2	2	2
Library of the National Assembly	3	3	1
Press gallery of the National Assembly	1	30	
Secretariat of the parliamentary committees		3	
Research services of the political parties	2	2	
Assistant clerk of the Conseil exécutif	1	1	1
Legislation secretariat (Conseil exécutif)	1	1	
Secretariat of the Conseil du trésor	1	1	
Direction générale des affaires juridiques et législatives of the Ministère de la Justice	4	20	9
Direction régionale des services judiciaires in Montréal	1	1	
Direction générale des services judiciaires in Québec City	1	1	
Société québécoise d'information juridique		1	
Library of the Superior Court		1	1
Library of the Court of Appeal		2	1
Library of the Court of Québec	1	1	1
Court of Québec, Civil Division		1	1
Court of Québec, Youth Division		1	1
Centrale des bibliothèques	1	1	1
Administrative library of the Government	3	3	2
Library of the École nationale d'administration publique		1	
Libraries of the law faculties of Québec universities and of the University of Ottawa		1 each	

Free distribution list			
	Part 1	Part 2	
		French edition	English edition
Libraries of the Court Houses	1 each	1 each	
Library of the Supreme Court of Canada		1	1
Library of the Centre de recherche en droit public		1	
Libraries of the Legislatures of the Canadian provinces		1 each	
Library of the Parliament of Canada	1	1	1
Library of UNESCO		1	
Library of the United States Congress		1	
Library of the International Labour Office		1	
Uni-droit library (Rome, Italy)		1	
Library of the Université de Paris (France)		1	
Library of the United Nations		1	
Journal officiel de la République française	1	1	
Parliamentary, government, university and public libraries and bodies designated under the deposit and exchange program of the Government	1 each	1 each	

1523

Draft Regulation

Code of Civil Procedure
(R.S.Q., c. C-25)

Code of Penal Procedure
(R.S.Q., c. C-25.1)

An Act respecting payment of certain Crown witnesses
(R.S.Q., c. P-2.1)

Criminal Code
(R.S.C. (1985), c. C-46)

Indemnities and allowances payable to witnesses summoned before courts of justice — Amendments

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 indemnities and allowances payable to witnesses summoned before courts of justice, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The main purposes of the draft regulation is

(1) to eliminate the obligation imposed on municipalities acting as prosecutor in federal penal matters and in penal matters governed by the statutes of Québec and summoning ordinary witnesses to pay them an indemnity for loss of time;

(2) to eliminate the obligation imposed on municipalities summoning members of municipal police forces as witnesses for penal prosecutions to pay them allowances for meals, lodging and transportation. In such case, the allowances, where they are collected from the defendant, will be paid instead to the municipal authority concerned;

(3) to provide that, where the Regulation prescribes the payment of indemnities or allowances to witnesses summoned by the prosecutor in criminal and federal penal matters, as well as in penal matters governed by the Statutes of Québec, the ministère de la Justice pay the indemnities and allowances when the Attorney General of Québec acts as prosecutor.

The elimination of the indemnities for loss of time payable to ordinary witnesses summoned by municipalities acting as prosecutor in penal matters will have no significant impact on the public, since the witnesses of the prosecutor are in most cases members of municipal police forces.

The other proposed amendments have no impact on the public.

Further information may be obtained by contacting Mr. Jacques Mercier, notary, Direction des Affaires législatives, 1200, route de l'Église, 4^e étage, Sainte-Foy (Québec), G1V 4M1; tel.: (418) 643-7222, fax: (418) 643-9749.

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 Minister of Justice, 1200, route de l'Église, 9^e étage, Sainte-Foy (Québec), G1V 4M1.

PAUL BÉGIN,
Minister of Justice

Regulation to amend the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice

Code of Civil Procedure
(R.S.Q., c. C-25, art. 321)

Code of Penal Procedure
(R.S.Q., c. C-25.1, art. 367, par. 7)

An Act respecting payment of certain Crown witnesses
(R.S.Q., c. P-2.1, s. 2, subs. 1)

Criminal Code
(R.S.C. (1985), c. C-46, s. 840, subs. 2)

1. The Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r.2), amended by the Regulation made by Order in Council 60-96 dated 16 January 1996, is further amended by substituting the following for section 1:

“1. Definitions

In this Regulation,

“witness” means any person summoned to appear before a court having jurisdiction in civil, penal or criminal matters, including the Youth Division of the Court of Québec, in order to testify in accordance with the law;

“witness summoned by the prosecutor” means any person summoned by the prosecutor in criminal matters, in federal penal matters or in penal matters governed by the statutes of Québec.”

2. Section 2 is amended

(1) by substituting the following for the second paragraph of subsection 1:

“Such indemnity is not paid to witnesses summoned by the prosecutor.”; and

(2) by substituting, in the second paragraph of subsection 2, the words “prosecutor in the case of a witness summoned by it in a criminal or penal matter” for the words “Attorney-General in the case of a Crown witness”.

3. The words “the place where he must testify” are substituted for the words “Court House” in section 6.

4. Section 7 is revoked.

5. The following is substituted for paragraph *a* of section 8:

“(a) court officers and public officers having their office in the building where the Court sits;”.

6. The following is substituted for section 9:

“**9.** To the extent prescribed by this Regulation, the ministère de la Justice shall pay the indemnities and allowances to witnesses summoned by the prosecutor:

(a) for a pre-inquiry or a preliminary inquiry held at the instance of the Attorney General of Québec or for the hearing of a criminal prosecution or a federal penal prosecution brought by the Attorney General of Québec;

(b) for the hearing of a prosecution brought under the Code of Penal Procedure (R.S.Q., c. C-25.1) by the Attorney General of Québec.”.

7. The following is substituted for the first paragraph of section 10:

“**10.** A member of the Sûreté du Québec or of a municipal police force who, in the performance of his duties, appears as a witness shall be taxed in accordance with this Regulation, but the amount of the taxation shall not be paid to him by the competent court officer.”.

8. The following is substituted for section 12:

“**12.** In accordance with subsection 2 of section 840 of the Criminal Code (R.S.C. (1985), c. C-46), the fees and allowances mentioned in paragraphs 25 and 26 of the schedule to Part XXVII of that Code shall not be taken or allowed in Québec in proceedings before summary conviction courts and justices under that Part of the Criminal Code. The indemnities and allowances provided for in this Regulation are fixed in lieu of those fees and allowances.”.

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

1522

Parliamentary Committees

Committee on Culture

Notice of General consultations

(1) Immigration planning for the years 1998-2000

The Committee on Culture has been instructed to hold public hearings, beginning on 9 September 1997, as part of the general consultation on the document entitled "L'immigration au Québec de 1998 à 2000: prévoir et planifier". Individuals or organizations wishing to express their opinion on this matter must forward a submission to the Committee on Culture. Submissions must be received by the Commission Secretariat not later than 28 August 1997.

(2) Five-year report of the Commission d'accès à l'information

The Committee on Culture has been instructed to hold public hearings, beginning on 30 September 1997, as part of the general consultation on the five-year report of the Commission d'accès à l'information concerning the implementation of the Act respecting Access to documents held by public bodies and the Protection of personal information and the Act respecting the protection of personal information in the private sector. Individuals or organizations wishing to express their opinion on this matter must forward a submission to the Committee on Culture. Submissions must be received by the Commission Secretariat not later than 10 September 1997.

Twenty-five copies of the submission and of a summary document, printed on letter-size paper, must be sent to the Committee Secretariat. Individuals and organizations wishing their submission to be transmitted to the Press Gallery must submit an additional 35 copies.

Submissions, correspondence and requests for information should be addressed to Mr. Robert Jolicoeur, Clerk of the Committee on Culture, Office 3.29, Honoré-Mercier Building, 835, René-Lévesque Boulevard, Québec (Québec), G1A 1A3, telephone: (418) 643-2722, fax: (418) 643-0248.

Index Statutory Instruments

Abbreviations: **A:** Abrogated, **N:** New, **M:** Modified

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