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PROVINCE OF QUÉBEC

2nd SESSION

35th LEGISLATURE

QUÉBEC, 12 JUNE 1998

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 12 June 1998

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

159 An Act to amend the Act respecting the Ministère des Transports in order to establish the rolling stock management fund

406 An Act to amend the Professional Code

423 An Act to amend the Act respecting immigration to Québec and other legislative provisions

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

431 An Act respecting Investissement-Québec and Garantie-Québec

433 An Act to amend the Professional Code with respect to the title of psychotherapist

434 An Act respecting Société Innovatech du Grand Montréal

435 An Act respecting Société Innovatech Régions ressources

436 An Act respecting Société Innovatech Québec et Chaudière-Appalaches

437 An Act respecting Société Innovatech du sud du Québec

446 An Act to amend the Labour Code

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

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 406
(1998, chapter 14)

An Act to amend the Professional Code

Introduced 18 December 1997
Passage in principle 10 March 1998
Passage 5 June 1998
Assented to 12 June 1998

Québec Official Publisher
1998

EXPLANATORY NOTES

This bill authorizes the Government to issue an order to amalgamate professional orders whose members practise a reserved title profession or to integrate a group of persons into such a professional order where, in the Government's opinion, it is necessary for the protection of the public that they be granted a reserved title.

The bill defines the content of an amalgamation or integration order and determines the conditions subject to which an order may be made.

Finally, the bill proposes consequential amendments pertaining to the content of the letters patent of a professional order.

Bill 406

AN ACT TO AMEND THE PROFESSIONAL CODE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Professional Code (R.S.Q., chapter C-26) is replaced by the following section:

"2. Subject to the inconsistent provisions of a special Act, of the letters patent issued under section 27 or of an integration or amalgamation order made under section 27.2, this Code applies to all professional orders and to their members."

2. Section 12 of the said Code is amended

(1) by replacing the words "or the amalgamation" in the second line of the second paragraph by the words ", the amalgamation";

(2) by inserting the words ", the integration of a group of persons into one of the orders referred to in Division III of Chapter IV" after the words "existing orders" in the second line of the second paragraph;

(3) by inserting the words "the integration or amalgamation orders," after the word "patent," in the third line of the second paragraph.

3. Section 25 of the said Code is amended by inserting the words "or if a group of persons should or should not be integrated into one of the orders referred to in Division III of Chapter IV" after the word "constituted" in the first line.

4. Section 27 of the said Code is amended

(1) by replacing the word ", and" in the second line of the third paragraph by a comma;

(2) by inserting the words ", the various categories of permits on the basis of the professional activities that the members may engage in or the titles they may use, and the conditions and restrictions to which members must submit when engaging in such activities or using such titles" after the word "law" in the fourth line of the third paragraph;

(3) by inserting the words "and operation" after the word "composition" in the ninth line of the third paragraph;

(4) by replacing the word “and” in the tenth line of the third paragraph by a comma;

(5) by replacing the words “is to be elected” in the tenth line of the third paragraph by the words “and the directors are to be elected and the designation of the order”.

5. The said Code is amended by inserting, after section 27.1, the following sections:

“27.2. The Government may, by order, after consultation with the Office, the interprofessional council and the orders concerned, amalgamate two or more orders referred to in Division III of Chapter IV to ensure increased protection of the public.

The Government may, by order, integrate into an order referred to in Division III of Chapter IV a group of persons to whom it considers necessary, for the protection of the public, to grant a reserved title. However, such integration may only be effected after consultation with the Office, the interprofessional council and the order concerned as well as with the organizations, if any, which represent the group of persons concerned.

However, no order may be made under this section less than 60 days after the publication by the Minister of the proposal for amalgamation or integration in the *Gazette officielle du Québec*, with a notice that the proposal will be considered by the Government upon the expiry of 60 days following such publication.

The amalgamation or integration order shall set out the titles, abbreviations and initials reserved for the members of the order concerned, a description of the professional activities they may engage in in addition to those otherwise permitted by law, the categories of permits on the basis of the professional activities that the members may engage in or the titles they may use, and the conditions and restrictions to which the members must submit when engaging in such activities or using such titles.

The amalgamation or integration order may provide for such transitional measures as are considered necessary to facilitate the amalgamation or integration. These measures may, among other matters, pertain to the regulations applicable to the members of the order concerned and the replacement of such regulations, the conditions of admission of those persons, the composition and operation of the Bureau, the duration of the initial term of office of the directors, the manner in which the president and the directors are to be elected and the designation of the order.

The amalgamation or integration order shall be published in the *Gazette officielle du Québec* and shall come into force fifteen days after such publication or on any later date indicated in the order.

The Québec Official Publisher shall insert in the annual volume of statutes a table indicating the date of publication of an order mentioned in the sixth paragraph.

The amalgamation or integration order shall cease to have effect on the day of the coming into force of the provisions amending this Code for the purpose of introducing the titles, abbreviations and initials reserved for the members of the order concerned, a description of the professional activities they may engage in and any other relevant provision. Any transitional measures contained in the order that continue to be useful shall, however, remain in force.

"27.3. The Government may, by order, amend the amalgamation or integration order at any time before the day on which it ceases to have effect.

Section 27.2, adapted as required, applies to the order."

6. Section 38 of the said Code is amended

(1) by replacing the word "or" in the third line by a comma;

(2) by adding, at the end, the words "or in an amalgamation or integration order".

7. Section 62 of the said Code is amended by inserting the words ", the amalgamation or integration order" after the word "order" in the third line.

8. Section 188 of the said Code is amended

(1) by replacing the words "Code or" in the first line by the words "Code, of";

(2) by inserting the words "or of an amalgamation or integration order" after the word "order" in the second line.

9. This Act comes into force on 12 June 1998.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 423
(1998, chapter 15)

An Act to amend the Act respecting immigration to Québec and other legislative provisions

Introduced 5 May 1998
Passage in principle 20 May 1998
Passage 9 June 1998
Assented to 12 June 1998

Québec Official Publisher
1998

EXPLANATORY NOTES

This bill proposes various amendments to the Act respecting immigration to Québec to facilitate its administration.

The bill requires that the Minister prepare an annual immigration plan to be tabled in the National Assembly.

The bill empowers the Minister to issue to a foreign national a certificate of undertaking in place of a selection certificate, and replaces the certificate of identity issued to a foreign national by a certificate of statutory situation.

Under the bill, financial assistance to immigrants for language instruction will no longer be governed by regulations but will be entrusted to the responsibility of the Minister.

The bill also abolishes the requirement that the Minister prescribe forms, except in the case of an undertaking to assist a foreign national to settle in Québec, and allows for the establishment of a fee structure that varies according to the stages in the processing of an application for a selection certificate.

The bill also contains consequential amendments.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting the Barreau du Québec (R.S.Q., chapter B-1);

– Act respecting immigration to Québec (R.S.Q., chapter I-0.2);

– Act to amend the Act respecting the Ministère des Communautés culturelles et de l'Immigration (1993, chapter 70).

Bill 423

AN ACT TO AMEND THE ACT RESPECTING IMMIGRATION TO QUÉBEC AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting immigration to Québec (R.S.Q., chapter I-0.2) is amended by inserting, after section 3, the following:

"3.01. The Minister, having regard to government policy concerning immigrants and foreign nationals, shall establish an annual immigration plan.

The plan shall set out the number of foreign nationals who may settle in Québec and the distribution of that number by class or within a class. That number and its distribution are estimates within the meaning of section 7 of the Immigration Act (Revised Statutes of Canada, 1985, chapter I-2).

The plan shall also indicate the selection activities that are planned for the year concerned.

The plan shall be tabled in the National Assembly not later than 1 November or, if the Assembly is not sitting on that date, not later than the fifteenth day after resumption."

2. Section 3.1 of the said Act is amended

(1) by replacing "file an application" in the first and second lines of the first paragraph by ", except for the classes and in the cases prescribed by regulation, file an application for a selection certificate";

(2) by striking out "on the form prescribed by the Minister and" in the third line of the first paragraph;

(3) by inserting "to the annual immigration plan and" after "regard" in the first line of the second paragraph.

3. Section 3.1.1 of the said Act is amended

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

"3.1.1. In the cases determined by regulation, an undertaking to assist a foreign national to settle in Québec is required.";

(2) by replacing “the forms prescribed” in the sixth line of the last paragraph by “the form prescribed”;

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

“The Minister shall issue a certificate of undertaking to a foreign national in whose respect an undertaking has been made and who is not required to file an application for a selection certificate.”

4. Section 3.1.2 of the said Act is amended

(1) by replacing “a certificate of identity” in the second line of the first paragraph by “a certificate of statutory situation”;

(2) by striking out “on the form prescribed by the Minister and” in the third line of the first paragraph;

(3) by replacing “a certificate of identity” in the first line of the second paragraph by “a certificate of statutory situation”.

5. Section 3.2 of the said Act is amended by striking out “on the form prescribed by the Minister and” in the fourth and fifth lines of the first paragraph.

6. Section 3.2.1 of the said Act is amended by replacing “, a certificate of acceptance or a certificate of identity or” in the second and third lines by “a certificate of acceptance or a certificate of statutory situation or of the application”.

7. Section 3.2.2 of the said Act is amended

(1) by replacing “a certificate of identity or an undertaking” in the second line of the first paragraph by “a certificate of statutory situation, an undertaking or a certificate of undertaking”;

(2) by striking out, in the French text, “ou l’attestation” in the first line of subparagraph *a* of the first paragraph;

(3) by striking out, in the French text, “ou l’attestation” in the first line of subparagraph *b* of the first paragraph;

(4) by striking out, in the French text, “ou de l’attestation” in the first and second lines of subparagraph *c* of the first paragraph.

8. Section 3.2.6 of the said Act, amended by section 9 of chapter 70 of the statutes of 1993, is replaced by the following:

“3.2.6. The Minister may allocate financial assistance to a student receiving linguistic integration services.”

9. Section 3.2.7 of the said Act is amended by striking out the last sentence.

10. Section 3.3 of the said Act, amended by section 11 of chapter 70 of the statutes of 1993, is again amended

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

"(*a*.1) determining the cases where and the classes of foreign nationals for which an application for a selection certificate is not required;";

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

"(*c*) determining the cases where an undertaking to assist a foreign national to settle in Québec is required and the cases where an undertaking ceases to have effect;";

(3) by replacing subparagraph *d*.1 of the first paragraph by the following:

"(*d*.1) determining the cases where a certificate of statutory situation referred to in section 3.1.2 is to be issued and determining, according to the status of the foreign national as established under the Immigration Act (Revised Statutes of Canada, 1985, chapter I-2), types of certificates of statutory situation and the conditions applicable to each type;";

(4) by replacing "a certificate of identity" in the second line of subparagraph *f* of the first paragraph by "a certificate of statutory situation";

(5) by replacing "a certificate of identity" in the first line of subparagraph *f*.1.1 of the first paragraph by "a certificate of statutory situation";

(6) by replacing "of certificate of identity" in the third line of subparagraph *f*.1.1 of the first paragraph by "of certificate of statutory situation";

(7) by replacing subparagraph *f*.2 of the first paragraph by the following:

"(*f*.2) establishing the fees payable for processing an application for an undertaking, a certificate of statutory situation, a selection certificate or a certificate of acceptance, for issuing any such certificate or for subscribing an undertaking, and determining the cases where total or partial exemption from payment is to be granted; the fees may vary in the case of an undertaking according to the family situation of the foreign national, in the case of a certificate of statutory situation according to the authorization allowing the foreign national to be in Canada, in the case of a selection certificate according to the classes of foreign nationals or to the stages in the processing of an application or, in the case of a certificate of acceptance according to the reason for the temporary admission of the foreign national to Québec;";

(8) by striking out subparagraph *i* of the first paragraph;

(9) by striking out the second paragraph.

11. Section 12.3 of the said Act is amended by replacing "a certificate of identity" in the first and second lines of paragraph *a* by "a certificate of statutory situation".

12. Section 12.4 of the said Act is replaced by the following:

"12.4. Every person who contributes to the issue of a selection certificate, a certificate of acceptance, a certificate of undertaking or a certificate of statutory situation to a foreign national or to the subscription of an undertaking in favour of a foreign national in contravention of this Act is guilty of an offence."

13. Section 12.7 of the said Act is amended by replacing "of the selection certificate, the certificate of acceptance or the certificate of identity" in the fourth and fifth lines by "for the selection certificate, the certificate of acceptance, the undertaking or the certificate of statutory situation".

14. Section 8 of the Act to amend the Act respecting the Ministère des Communautés culturelles et de l'Immigration (1993, chapter 70) is repealed.

15. Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1), amended by section 32 of chapter 27 of the statutes of 1997, by section 86 of chapter 43 of the statutes of 1997 and by section 128 of chapter 63 of the statutes of 1997, is again amended by replacing subparagraph 7 of paragraph *a* of subsection 2 by the following subparagraph:

"(7) in matters of immigration, the social affairs division of the Administrative Tribunal of Québec, in the case and subject to the conditions set out in the third paragraph of section 102 of the Act respecting administrative justice;".

16. This Act comes into force on 12 June 1998, except section 8 and paragraph 8 of section 10 which come into force on the date to be fixed by the Government.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 424
(1998, chapter 16)

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

Introduced 7 May 1998
Passage in principle 19 May 1998
Passage 9 June 1998
Assented to 12 June 1998

Québec Official Publisher
1998

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 1996 and in the Minister's Statement on 19 December 1996. In addition, the bill gives effect to various measures contained in the Budget Speeches delivered by the Minister of Finance on 25 March 1997 and 31 March 1998.

The bill amends the Taxation Act primarily to bring amendments similar to those brought to the Income Tax Act by federal Bill C-92 (S.C., 1997, chapter 25), assented to on 25 April 1997. In particular, the amendments

(1) relax the rules relating to the refundable tax credit for child care expenses ;

(2) eliminate the tax treatment of child support payments that are paid pursuant to a first written agreement or court order made after 30 April 1997 or, in certain cases, that are affected by a written agreement or order made before 1 May 1997 ;

(3) eliminate the eligibility of certain scientific reseach and experimental development expenses ;

(4) exclude Canadian oil and gas property expenses from the flow-through share mechanism applicable to the natural resource sector ;

(5) extend from 60 days to 12 months after the year end the period during which certain resource expenses can be incurred and be deductible by the purchaser of a flow-through share ;

(6) concern the insurance sector, in particular, to ensure greater concordance between various provisions used by insurance companies in computing their income for a year and those that appear in their financial statements.

The bill also amends the Taxation Act and various other statutes to make technical amendments, including consequential and terminology-related amendments.

LEGISLATION AMENDED BY THIS BILL:

– Tobacco Tax Act (R.S.Q., chapter I-2);

– Taxation Act (R.S.Q., chapter I-3);

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

– Licenses Act (R.S.Q., chapter L-3);

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

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

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

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

– Fuel Tax Act (R.S.Q., chapter T-1);

– Act respecting the application of the Taxation Act (1972, chapter 24);

– Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1995, chapter 1);

– Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85).

Bill 424

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TOBACCO TAX ACT

1. Section 2 of the Tobacco Tax Act (R.S.Q., chapter I-2) is amended, in the English text of the definition of "person", by replacing the words "an estate" by the words "a succession".

2. Section 2.1 of the said Act is amended by replacing the words "Government departments and agencies and mandataries of the Crown" by the words "on Government departments and bodies and on mandataries of the State".

3. Section 17.4 of the said Act is amended, in the first, second and third paragraphs, by replacing the words "Her Majesty in right of Québec" by the words "the State".

TAXATION ACT

4. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 32 of chapter 85 of the statutes of 1997, is again amended

(1) by replacing, in the English text, the definition of "benefit under a deferred profit sharing plan" by the following:

""benefit under a deferred profit sharing plan" received by a taxpayer in a taxation year means the total of all the amounts received by the taxpayer in the year from a trustee under the plan, minus any amounts deductible under sections 883 and 884 in computing the taxpayer's income for the year;";

(2) by inserting the following definition in the appropriate alphabetical order:

""designated insurance property" has the meaning assigned by section 818;";

(3) by replacing the definition of "office" by the following:

" "office" means the position of an individual entitling the individual to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a minister of the State or Crown, the office of a member of a legislative assembly, a member of the Senate or House of Commons of Canada or a member of an executive council and any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity, and also includes the position of member of the board of directors of a corporation even where the individual neither performs administrative functions within the corporation nor receives stipends or a remuneration to hold that position;";

(4) by inserting the following definition in the appropriate alphabetical order:

" "specified tax consequence" for a taxation year means

(*a*) the consequence of the exclusion from the income or the deduction of an amount referred to in the first paragraph of section 1044;

(*b*) the consequence of a reduction under section 359.15 of an amount purported to be renounced by a corporation after the beginning of the year to a person or partnership under section 359.2 or 359.2.1 because of the application of section 359.8, determined as if the purported renunciation would, but for section 359.15, have been effective only where the requirements in paragraphs *b* and *c* of section 359.8 and the following requirements had been satisfied:

i. the purported renunciation occurred in the first three months of a particular calendar year,

ii. the effective date of the purported renunciation was the last date of the calendar year preceding the particular calendar year,

iii. the corporation agreed in the calendar year preceding the particular calendar year to issue a flow-through share, within the meaning of section 359.1, to a person or partnership;

iv. the amount does not exceed the amount by which the consideration for which the share was issued exceeds the aggregate of all other amounts purported by the corporation to have been renounced under section 359.2 or 359.2.1 in respect of that consideration, and

v. the form prescribed for the purpose of section 359.12 in respect of the purported renunciation is filed by the corporation with the Minister before 1 May of the particular calendar year;";

(5) by replacing, in the English text, paragraphs *a* to *c* of the definition of "cost amount" by the following:

"(*a*) in the case of depreciable property of a prescribed class, the amount that would be that proportion of the undepreciated capital cost to the taxpayer

of property of that class at that time that the capital cost to the taxpayer of the property is of the capital cost to the taxpayer of all property of that class that has not been disposed of by the taxpayer before that time if section 99 were read without reference to paragraph *d*.1 thereof and if paragraph *b* and subparagraph i of paragraph *d* of that section were read as follows:

"(*b*) subject to section 284, where a taxpayer, having acquired property for some other purpose, begins at a particular time to use it to gain income, the taxpayer is deemed to have acquired it at that particular time at a capital cost to the taxpayer equal to the fair market value of the property at that time;";

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

"(*b*) in the case of capital property, other than depreciable property, of the taxpayer, its adjusted cost base to the taxpayer at that time;

"(*c*) in the case of property described in an inventory of the taxpayer, its value at that time as determined for the purpose of computing the taxpayer's income;";

(6) by replacing, in the English text, paragraph *f* of the definition of "cost amount" by the following:

"(*f*) in any other case, the cost to the taxpayer of the property as determined for the purpose of computing the taxpayer's income, except to the extent that that cost has been deducted in computing the taxpayer's income for any taxation year ending before that time;";

(7) by replacing the definition of "employment" by the following:

" "employment" means the position of an individual in the service of some other person, including the State, Her Majesty or a foreign state or sovereign;";

(8) by replacing, in the English text, the definition of "employer" by the following:

" "employer", in relation to an employee, means the person from whom the employee receives remuneration;";

(9) by striking out, in the English text, the definition of "estate";

(10) by replacing the definition of "foreign exploration and development expense" by the following:

" "foreign exploration and development expenses" has the meaning assigned by sections 372 and 372.1;";

(11) by replacing, in the English text, paragraph *a* of the definition of "gross revenue" by the following:

"(*a*) all amounts received or receivable in the year, depending on the method regularly followed by the taxpayer in computing the taxpayer's income, otherwise than as or on account of capital; and";

(12) by replacing, in the English text, the portion of the definition of "home relocation loan" before paragraph *b* by the following:

" "home relocation loan" means a loan made to an individual or the individual's spouse in circumstances where the individual has commenced employment at a new work location in Canada and by reason thereof has moved from the old residence in Canada at which, before the move, the individual ordinarily resided to a new residence in Canada at which, after the move, the individual ordinarily resides, if

(*a*) the distance between the old residence and the new work location is at least 40 kilometres greater than the distance between the new residence and the new work location;";

(13) by replacing the definition of "law" by the following:

" "law" includes any Act other than an Act of the Parliament of Québec;";

(14) by replacing the definition of "mineral" and of "tar sands" by the following:

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

" "tar sands" means a mineral extracted, otherwise than by a well, from a mineral resource that is a deposit of bituminous sands or oil shales and, for the purpose of applying sections 93 to 104 and 130 and any regulations made under paragraph *a* of section 130 in respect of property acquired after 6 March 1996, includes material extracted by a well from a deposit of bituminous sands or oil shales;";

(15) by replacing, in the English text, paragraphs *a* to *c* of the definition of "personal or living expenses" by the following:

"(*a*) the expenses of properties maintained by any person for the use or benefit of the taxpayer or any person connected with the taxpayer by blood relationship, marriage or adoption, but does not include expenses in respect of properties maintained in connection with a business carried on for profit or with a reasonable expectation of profit;

"(*b*) the expenses, premiums or other costs of an insurance policy, annuity contract or other like contract if the proceeds of the policy or contract are payable to or for the benefit of the taxpayer or a person connected with the taxpayer by blood relationship, marriage or adoption; and

"(*c*) expenses of properties maintained by a succession or trust for the benefit of the taxpayer as one of the beneficiaries;";

(16) by replacing paragraph *d* of the definition of "home relocation loan" by the following:

"(*d*) the loan is designated by the individual to be a home relocation loan, but in no case shall more than one loan in respect of a particular move, or more than one loan at any particular time, be designated as a home relocation loan by the individual;";

(17) by replacing the portion of the definition of "mineral resource" before paragraph *a* by the following:

"" "mineral resource" means a base or precious metal deposit, a coal deposit, a bituminous sands deposit or oil shale deposit, or a mineral deposit in respect of which the principal mineral extracted is";

(18) by replacing, in the English text, the portion of the definition of "retiring allowance" before paragraph *b* by the following:

"" "retiring allowance" means an amount, other than an amount received as a consequence of the death of an employee, a pension benefit or a benefit referred to in the third paragraph of section 38 in respect of counselling services described therein, received by a taxpayer or, after the taxpayer's death, by a dependent or a relative of the taxpayer or by the legal representative of the taxpayer

(*a*) on or after retirement of the taxpayer from an office or employment in recognition of the taxpayer's long service; or";

(19) by replacing the definition of "exempt income" by the following:

"" "exempt income" means property received or acquired by a person in such circumstances that it is, because of any provision of this Part, not included in computing the person's income, but does not include a dividend on a share;";

(20) by inserting the following definition in the appropriate alphabetical order:

" "bituminous sands" means sands or other rock materials containing naturally occurring hydrocarbons, other than coal, which hydrocarbons have

(*a*) a viscosity, determined in a prescribed manner, equal to or greater than 10,000 centipoise; or

(*b*) a density, determined in a prescribed manner, equal to or less than 12 degrees API;";

(21) by replacing, in the English text, paragraph *b* of the definition of "specified member" by the following:

"(*b*) any member of the partnership, other than a member who is actively engaged in those activities of the partnership business that are other than the financing of the partnership business, or is carrying on a business similar to that carried on by the partnership in its taxation year, otherwise than as a member of a partnership, on a regular, continuous and substantial basis throughout that part of the fiscal period or taxation year during which the business of the partnership is ordinarily carried on and during which the member is a member of the partnership;";

(22) by inserting, in the English text, the following definition in the appropriate alphabetical order:

"" "succession" has the meaning assigned by section 646;".

(2) Paragraph 2 of subsection 1 applies from the taxation year 1997.

(3) Paragraph 4 of subsection 1 applies from the taxation year 1996. In addition, there are no specified tax consequences for taxation years that ended before 1 January 1996.

(4) Paragraph 10 of subsection 1 applies to taxation years that end after 5 December 1996.

(5) Paragraphs 14, 17 and 20 of subsection 1 have effect from 7 March 1996.

(6) Paragraph 19 of subsection 1 has effect from 1 January 1997.

5. Section 1.2 of the said Act is amended, in the English text, by replacing the portion before paragraph *b* by the following:

"1.2. For the purposes of this Part, other than paragraph *a* of section 618 and Title VI.5.1 of Book IV, the following rules apply:

(*a*) where a person has disposed of or exchanged a particular property and acquired other property in substitution therefor and subsequently, by one or more further transactions, has acquired other property in substitution for that property or for property already acquired in substitution, the property acquired by any such transaction is deemed to have been substituted for the particular property; and".

6. (1) Section 2.2 of the said Act is replaced by the following:

"2.2. For the purposes of sections 2.1, 312.3, 312.4, 313 to 313.0.5, 336.0.2, 336.0.3, 336.0.6 to 336.4, 440, 441.1, 454, 456.1 and 462.0.1, the definition of "pre-1972 spousal trust" in section 652.1, sections 653, 656.3, 656.5 and 913, subparagraph *b* of the second paragraph of section 961.17, sections 965.0.9, 965.0.11, 971.2 and 971.3 and Division II.11 of Chapter III.1 of Title III of Book IX, "spouse" and "former spouse" of a particular individual include another individual of the opposite sex who is a party to an annulled or annullable marriage, as the case may be, with the particular individual."

(2) Subsection 1 has effect from 1 January 1997. In addition, where section 2.2 of the said Act, replaced by subsection 1, applies

(1) after 30 November 1995 and before 10 May 1996, it shall be read with "subsection 2 of section 336" replaced by "subsections 2 and 2.1 of section 336";

(2) after 9 May 1996, it shall be read with "subsection 2 of section 336" replaced by "subsections 2 to 2.2 of section 336".

7. Section 7.1 of the said Act is amended, in the English text, by replacing paragraphs *a* and *b* by the following:

"(*a*) under or as a consequence of the terms of the will or other testamentary instrument of the taxpayer or the taxpayer's spouse or as a consequence of the law governing the intestacy of the taxpayer or the taxpayer's spouse; or

"(*b*) as a consequence of a disclaimer, release or surrender by a person who was a beneficiary under the will or other testamentary instrument or on the intestacy of the taxpayer or the taxpayer's spouse."

8. Section 7.2 of the said Act is replaced, in the English text, by the following:

"7.2. A release or surrender by a person who was a beneficiary under the will or other testamentary instrument or on the intestacy of a taxpayer with respect to any property that was property of the taxpayer immediately before the taxpayer's death is deemed, for the purposes of this Part, not to be a disposition of the property by that person."

9. (1) Section 7.11.1 of the said Act is replaced by the following:

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

(2) Subsection 1 has effect from 1 January 1997.

10. Section 8 of the said Act is replaced, in the English text, by the following:

"8. An individual is deemed to have been resident in Québec throughout a taxation year if, at any time in the year, the individual

(*a*) sojourned in Québec for a period of, or periods the total of which is, 183 days or more and was ordinarily resident outside Canada;

(*b*) was a member of the Canadian Armed Forces and was resident in Québec immediately before leaving Canada on military service in a foreign country;

(*c*) was an ambassador, Member of Parliament, officer, high commissioner, minister, servant or senator of Canada, or an agent-general, officer or servant of a province, and was resident in Québec immediately prior to election, employment or appointment by Canada or the province or received representation allowances in respect of the year;

(*d*) performed services in a country other than Canada under a prescribed international development assistance program of the Government of Québec or Canada and was resident in Québec at any time in the six month period preceding the day on which those services commenced;

(*e*) was the spouse of an individual to whom paragraph *b*, *c* or *d* applies living with that individual and was resident in Québec in any previous year; or

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

11. Section 9 of the said Act is amended by replacing the second paragraph by the following:

"The same applies to the taxpayer's spouse referred to in paragraph *e* of section 8 and the taxpayer's child referred to in paragraph *f* of that section."

12. Section 12 of the said Act is replaced, in the English text, by the following:

"12. The establishment of a taxpayer means a fixed place where the taxpayer carries on the taxpayer's business or, if there is no such place, the taxpayer's principal place of business. An establishment also includes an office, a branch, a mine, an oil or gas well, a farm, a timberland, a factory, a warehouse or a workshop.

Without restricting the generality of the first paragraph, a corporation has an establishment in each province of Canada in which an immovable owned by the corporation and used principally for the purpose of earning or producing gross revenue that is rent is situated."

13. Section 13 of the said Act is replaced, in the English text, by the following:

"13. Where a taxpayer carries on a business through an employee, agent or mandatary, established in a particular place, who has general authority to contract for the taxpayer's employer or mandator or who has a stock of merchandise owned by the taxpayer's employer or mandator from which the taxpayer regularly fills orders which the taxpayer receives, the taxpayer is deemed to have an establishment in that place.

However, a taxpayer is not deemed to have an establishment for the sole reason that the taxpayer has business dealings through a commission agent, a broker or other independent agent or maintains an office or warehouse solely for the purchase of merchandise; similarly, the taxpayer is not deemed to have an establishment in a place solely because of the taxpayer's control over a subsidiary carrying on business in that place."

14. Section 20 of the said Act is amended, in the English text, by replacing paragraph *c* by the following:

"(*c*) a shareholder of two or more corporations is, as shareholder of one of the corporations, deemed to be related to himself, herself or itself as shareholder of each of the other corporations."

15. Section 21 of the said Act is amended, in the English text, by replacing paragraph *c* by the following:

"(*c*) persons are connected by adoption if one has been adopted, either legally or in fact, and would be connected with the other by blood relationship or by marriage if filiation by adoption were filiation by blood."

16. Section 21.9.2 of the said Act is amended, in the English text, by replacing the first paragraph by the following:

"21.9.2. The rule provided by section 21.8 does not apply, in the case provided for in paragraph *b* of section 21.9.1, where the owner's right could be exercised by reason of a default under the terms or conditions of the share or any agreement that related to, and was entered into at the time of, the issuance of the share."

17. Section 21.18 of the said Act is amended, in the English text, by replacing paragraphs *a* to *d* by the following:

"(*a*) a taxpayer is deemed to own each share of the capital stock of a corporation owned at that time by a person with whom the taxpayer does not deal at arm's length;

"(*b*) each beneficiary of a trust is deemed to own that proportion of all the shares of the capital stock of a corporation that are owned by the trust at that time that the fair market value at that time of the beneficial interest of the beneficiary in the trust is of the fair market value at that time of all beneficial interests in the trust;

"(*c*) each member of a partnership is deemed to own that proportion of all the shares of the capital stock of a corporation that are property of the partnership at that time that the fair market value at that time of the member's interest in the partnership is of the fair market value at that time of the interests of all members in the partnership;

"(*d*) an individual who performs services on behalf of a corporation that would be carrying on a personal services business if the individual or any person related to the individual were at that time a specified shareholder of the corporation is deemed to be a specified shareholder of the corporation at that time if the individual, or any person or partnership with whom the individual does not deal at arm's length, is, or by virtue of any arrangement, may become, entitled, directly or indirectly, to not less than 10% of the assets or the shares of any class of the capital stock of the corporation or any corporation related thereto; and".

18. Section 21.20.3 of the said Act is replaced, in the English text, by the following:

"21.20.3. Shares of the capital stock of a corporation that are owned at any time by a child who is under 18 years of age are deemed, for the purposes of determining whether the corporation is associated at that time with any other corporation that is controlled, directly or indirectly in any manner whatever, by the father or the mother of the child or by a group of persons of which the father or mother is a member, to be owned at that time by the father or the mother, as the case may be, unless, having regard to all the circumstances, it may reasonably be considered that the child manages the business and affairs of the corporation and does so without a significant degree of influence by the father or mother."

19. Section 21.20.5 of the said Act is replaced, in the English text, by the following:

"21.20.5. For the purposes of sections 21.20 to 21.24, a person who owns shares in two or more corporations is deemed, as shareholder of one of the corporations, to be related to himself, herself or itself as shareholder of each of the other corporations."

20. Section 21.26 of the said Act is amended, in the English text, by replacing paragraphs *b* and *c* by the following:

"(*b*) in the case of a loan or lending asset acquired by the taxpayer, the cost to the taxpayer of the loan or lending asset;

"(*c*) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount by which the principal amount of the loan or lending asset at the time it was so acquired exceeds the cost to the taxpayer of the loan or lending asset that was included in computing the taxpayer's income for any taxation year ending at or before the particular time;".

21. Section 21.27 of the said Act is amended, in the English text,

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

"(*a*) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount by which the cost to the taxpayer of the loan or lending asset exceeds the principal amount of the loan or lending asset at the time it was so acquired that was deducted in computing the taxpayer's income for any taxation year ending at or before the particular time;";

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

"(*b*) all amounts that the taxpayer received at or before the particular time as, on account or in lieu of payment of, or in satisfaction of, the principal amount of the loan or lending asset;".

22. Section 21.28 of the said Act is amended, in the English text, by replacing paragraph *b* of the definition of "securities lending arrangement" by the following:

"(*b*) it may reasonably be expected, at the particular time, that the borrower will, at a later time, transfer or return to the lender a security, in this chapter referred to as an "identical security", that is identical to the security transferred or lent by the lender to the borrower at the particular time,".

23. Section 21.30 of the said Act is amended, in the English text, by replacing the portion before paragraph *a* by the following:

"21.30. For the purposes of this Part, where, at any time, a lender receives property in satisfaction of or in exchange for the lender's right under a securities lending arrangement to receive the transfer or return of an identical security and the property received at that time is neither an identical property nor an amount deemed, under section 21.31, to have been received as proceeds of disposition, the following rules apply:".

24. (1) Section 22 of the said Act is amended

(1) by replacing, in the English text, the first paragraph by the following:

"22. Every person who is an individual resident in Québec on the last day of a taxation year or a corporation having an establishment in Québec at any time in a taxation year shall pay a tax on the taxable income of the individual or the corporation, as the case may be, for that taxation year.";

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

"The tax payable under sections 750 and 758 to 766.1 by an individual referred to in the first paragraph who carries on a business in Canada but outside Québec is equal to the proportion of the tax that would be determined under those sections but for this paragraph that the individual's income earned in Québec is of the individual's income earned in Québec and elsewhere, as determined by the regulations."

(2) Subsection 1 applies from the taxation year 1995.

25. Section 23 of the said Act is amended, in the English text,

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

"23. When an individual ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is, for the purposes of section 22, the last day on which the individual was resident in Canada.

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

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

"(*b*) the amount that would be the individual's taxable income earned in Canada referred to in section 1091 for any period of the year other than that mentioned in subparagraph *a* if at no time in the year the individual had been resident in Canada, computed as if that period were a whole taxation year and, for the purposes of such computation, an individual who ceased to be resident in Canada in the year in the circumstances mentioned in section 1093 is deemed to have ceased to be resident in Canada in a previous year in the same circumstances.

However, the aggregate of the deductions permitted by Book IV which are referred to in the second paragraph and the deductions mentioned in section 1091, in respect of the individual for the year, shall not exceed the aggregate of the amounts that would have been deductible in computing the individual's

taxable income for the year had the individual been resident in Canada throughout that year."

26. Section 24 of the said Act is replaced, in the English text, by the following:

"24. The taxable income of an individual referred to in section 22 for a taxation year is the individual's income for the year plus the additions provided for in Book IV and minus the deductions permitted by that Book, except where the individual was resident in Canada for only part of that taxation year. In the latter case, the individual's taxable income shall be computed in the manner described in section 23, whether the individual is an individual who became resident in Canada in the year or an individual who ceased to be resident in Canada in the year."

27. (1) Section 25 of the said Act, amended by section 34 of chapter 85 of the statutes of 1997, is again amended

(1) by replacing, in the English text, the first paragraph by the following:

"25. Every individual resident in Canada but outside Québec on the last day of a taxation year shall, if the individual carried on a business in Québec at any time in the year, pay a tax on the individual's income earned in Québec for the year as determined under Part II.";

(2) by replacing, in the second paragraph, "sections 750 and 751" and "those sections" by "section 750" and "that section", respectively;

(3) by replacing, in the English text, the third paragraph by the following:

"For the purposes of this section, where an individual ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is the last day on which the individual was resident in Canada."

(2) Paragraph 2 of subsection 1 applies from the taxation year 1995.

28. (1) Section 26 of the said Act is amended

(1) by replacing, in the English text, the first paragraph by the following:

"26. Every individual who was not resident in Canada at any time in a taxation year and who, in the taxation year or a previous taxation year, was employed in Québec, carried on a business in Québec or disposed of a taxable Québec property, shall pay a tax on the individual's income earned in Québec for the year as determined under Part II.";

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

"The tax payable under sections 750 and 752.1 to 766.1 by an individual referred to in the first paragraph is equal to the proportion, which cannot exceed 1, of the tax that would, but for this paragraph, be payable under those sections on the individual's taxable income earned in Canada as determined under Part II if the individual were resident in Québec, that the individual's income earned in Québec is of the individual's income earned in Canada as determined in accordance with section 1090."

(2) Subsection 1 applies from the taxation year 1995.

29. Section 28 of the said Act is replaced, in the English text, by the following:

"28. A taxpayer shall, to determine the income of the taxpayer for a taxation year for the purposes of this Part,

(*a*) add the aggregate of the taxpayer's income for the year, other than the taxable capital gains from dispositions of property, from each source inside and outside Canada;

(*b*) add to the aggregate so determined the amount by which

i. the taxpayer's taxable capital gains for the year from dispositions of property other than precious property and the taxpayer's taxable net gain for the year from dispositions of precious property, exceed

ii. the amount by which the taxpayer's allowable capital losses for the year from dispositions of property other than precious property exceed the taxpayer's allowable business investment losses for the year; and

(*c*) subtract from the total so determined

i. the deductions permitted by Title VI in computing the taxpayer's income for the year, except those taken into account in computing the aggregate of the income referred to in paragraph *a* and, if there is any remainder,

ii. the losses incurred in the year by the taxpayer from an office, employment, business or property and the taxpayer's allowable business investment losses for the year."

30. (1) Section 29 of the said Act, amended by section 35 of chapter 85 of the statutes of 1997, is again amended by replacing subparagraph *a* of the third paragraph by the following:

"(*a*) subject to subparagraph *b*, the deductions permitted in computing the income of the taxpayer under this Part, except those permitted by paragraphs *c* to *e* and *j* of section 336, sections 336.0.3 and 336.0.4, paragraphs *b* to *g* and *i* of section 339 and sections 340 and 341, shall be applied separately to the income from each of those places;".

(2) Subsection 1, where it replaces subparagraph *a* of the third paragraph of section 29 of the said Act to strike out the reference to paragraphs *a* to *b*.0.1 of subsection 1 of section 336 of the said Act and to add a reference to sections 336.0.3 and 336.0.4 of the said Act, applies from the taxation year 1997.

31. Section 32 of the said Act is replaced, in the English text, by the following:

"32. Subject to this Part, an individual's income for a taxation year from an office or employment is the salary, wages and other remuneration, including gratuities, received by the individual in the year."

32. Section 35 of the said Act is replaced, in the English text, by the following:

"35. The presumption provided in section 34 may be rebutted if it is established that, irrespective of when the agreement, if any, was made and the terms thereof, the payment was not made for services rendered or to be rendered, to prompt an individual to accept an office or employment or in consideration for a covenant with reference to what the employee is, or is not, to do before the employee becomes or after the employee ceases to be an employee."

33. (1) Section 36 of the said Act is amended

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

"36. An individual shall, in computing the income of the individual for the year from an office or employment, include all amounts the individual receives or benefits from in that year or which are allocated to the individual for that year, and that are provided for in this chapter.";

(2) by replacing, in the English text, the second paragraph by the following:

"Such amounts include the fees received by the individual because of, or in the course of, an office or employment, including director's fees."

(2) Subsection 1 applies from the first pay period of an employer that begins after 31 December 1997.

34. Section 37 of the said Act is replaced, in the English text, by the following:

"37. The amounts that an individual is required to include in computing the income of the individual include the value of board, lodging and other benefits of any kind whatever received or enjoyed by the individual because of, or in the course of, the individual's office or employment and the allowances received by the individual, including any amount received, without having to account for its use, for personal or living expenses or for any other purpose."

35. Section 37.0.1.1 of the said Act is amended, in the English text,

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

"37.0.1.1. For the purposes of section 37, the value of the benefit received or enjoyed by an individual for a taxation year where, because of a previous, the current or an intended office or employment of the individual, the individual is provided coverage during the year under a plan for the insurance of persons, is equal to";

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

"(*a*) any premium paid in respect of an individual, because of the individual's office or employment with an employer, under a plan for the insurance of persons, by a person to whom the employer is related, is deemed to be a premium paid by the employer and not by the person to whom the employer is related;";

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

"(*c*) where, in a taxation year, an employer pays, under a plan for the insurance of persons, an additional premium in respect of the coverage or benefits under the plan enjoyed by the employees for a period prior to that year, the additional premium is deemed to be a premium paid at that time in respect of the coverage or benefits enjoyed by the employees for that year and not in respect of the coverage or benefits enjoyed by the employees for the preceding year;".

36. Section 37.0.1.2 of the said Act is amended, in the English text,

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

"(*b*) the aggregate of

i. the portion of the aggregate described in subparagraph *a* that the individual has reimbursed to the employer during the year, and";

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

"However, where, for a particular period, included in the year, throughout which the individual is not entitled to benefit from the provisions of the Health Insurance Act, the benefits enjoyed by the individual in relation to particular coverage under the plan covers at least all the services that would be insured in the individual's respect under the said Act for the particular period if the individual were entitled to benefit from the provisions of that Act at that time, the amount referred to in subparagraph *a* of the first paragraph for the particular period in respect of the individual in relation to the particular coverage is deemed to be the amount that would otherwise be determined

under that subparagraph for the particular period in respect of the individual in relation to the particular coverage if the exception provided for therein were disregarded, if the premium referred to therein were reduced by the amount prescribed for the particular period in respect of the individual in relation to the particular coverage and if the tax referred to therein were reduced to the portion of the tax which can reasonably be attributed to the premium so reduced."

37. Section 37.0.1.3 of the said Act is amended, in the English text, by replacing paragraphs *a* and *b* by the following:

"(*a*) where the amount paid to the employer as a dividend, return or refund of premiums is based on the experience of all coverage and benefits provided by the plan, the proportion of the particular amount that the premium paid by the employer in respect of the coverage and benefits enjoyed by the individual for any period of the year under the plan is of the premium paid by the employer in respect of the coverage and benefits enjoyed by all the employer's employees for any period of the year under the plan;

"(*b*) where the amount paid to the employer as a dividend, return or refund of premiums is based on the experience of only certain coverage and benefits provided by the plan, called "particular coverage and benefits" in this paragraph, the proportion of the particular amount that the premium paid by the employer in respect of the particular coverage and benefits enjoyed by the individual for any period of the year under the plan is of the premium paid by the employer in respect of the particular coverage and benefits enjoyed by all the employer's employees for any period of the year under the plan."

38. Section 37.0.1.5 of the said Act is amended, in the English text,

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

"(*b*) where the risk to an employer, or to a person related to the employer, in relation to a particular plan for the insurance of persons, is reduced by the fact that the employer, or the person related to the employer, has purchased excess of loss insurance from an insurer,";

(2) by replacing the portion of paragraph *c* before subparagraph *a* of the second paragraph of section 37.0.1.4 of the said Act, enacted by that paragraph *c*, by the following:

"(*c*) where, for a particular period, included in the year, throughout which the individual is not entitled to benefit from the provisions of the Health Insurance Act, the particular benefits enjoyed by the individual in relation to particular coverage under the plan covers at least all the services that would be insured in respect of the individual under the said Act for the particular period if the individual were entitled to benefit from the provisions of that Act at that time, subparagraph *a* of the second paragraph of section 37.0.1.4 shall, in

respect of such particular coverage and benefits, apply without reference to paragraph *a* and read as follows:".

39. Section 37.0.1.6 of the said Act is amended, in the English text, by replacing the portion before subparagraph *a* of the first paragraph by the following:

"37.0.1.6. For the purposes of section 37.0.1.4, where the plan for the insurance of persons provides identical coverage to the employer's employees under Québec jurisdiction and to the employer's other employees, the employer must elect, from among the following data in the employer's possession, the data which will best reflect the coverage provided under the plan to those of the employer's employees under Québec jurisdiction:".

40. Sections 37.0.2 and 37.1 of the said Act are replaced, in the English text, by the following:

"37.0.2. An individual shall, in computing the income of the individual for the year from an office or employment, include all amounts received by the individual in the year as an allowance or reimbursement in respect of an amount that would, if the individual were entitled to no reimbursements or allowances, be deductible under Chapter III in computing the individual's income, except to the extent that the amounts so received are otherwise included in computing the individual's income for the year or are taken into account in computing the amount that is deducted under Chapter III by the individual for the year or a preceding taxation year.

"37.1. An individual referred to in section 487.1 shall, in computing the income of the individual for the year from an office or employment, include every amount deemed by section 487.1 to be a benefit received in the year by the individual."

41. Section 38 of the said Act is amended, in the English text,

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

"38. An individual is not required in computing the income of the individual to include the value of benefits derived from contributions paid in respect of the individual by the individual's employer under";

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

"(*b*) a group insurance plan, in relation to coverage against the loss of all or part of the income from an office or employment;";

(3) by replacing the second and third paragraphs by the following:

"Similarly, the individual is not required in computing the individual's income to include the value of any benefit derived from group coverage which, otherwise than under an insurance plan referred to in subparagraph *b* of the first paragraph, is provided to the individual under a plan, against the loss of all or part of the income from an office or employment, or the value of any benefit derived from the payment by the individual's employer of the tax provided for under the Retail Sales Tax Act (chapter I-1) or under Title III of the Act respecting the Québec sales tax (chapter T-0.1), in respect of such group coverage or of the contributions paid by the individual's employer under subparagraph *b* or *g* of the first paragraph in respect of the individual.

"Furthermore, the individual is not required in computing the individual's income to include 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 the individual and is not referred to in section 41.1.2, or the value of any benefit derived from counselling services received by the individual or a person related to the individual 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 the re-employment or retirement of the individual."

42. Section 39.2 of the said Act is amended, in the English text,

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

"**39.2.** An individual who is a Member of the National Assembly or a member of the Legislature of another province is not required in computing the income of the individual for a taxation year to include an amount equal to the amount by which

(*a*) the portion of the allowance the individual receives in the year for expenses incident to the discharge of the individual's duties, which does not exceed one-half of the maximum fixed amount provided by law as payable to the individual by way of salary, indemnity and other remuneration in respect of attendance at a session; exceeds";

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

"i. 6% of the individual's income for the year from that office, determined with reference to the allowance the individual receives in the year for expenses incident to the discharge of the individual's duties,".

43. Section 39.3 of the said Act is replaced, in the English text, by the following:

"39.3. An individual who is an elected member of a municipal council, a member of the council or executive committee of an urban community, regional county municipality or other similar body established under an Act of the Parliament of Québec, a member of a municipal utilities commission or corporation or any other similar body administering such a service or a member of a public or separate school board or any other similar body administering a school district, is not required in computing the income of the individual for a taxation year to include the allowance the individual receives in the year from the municipality or body for expenses incident to the discharge of the individual's duties, other than an allowance the individual is not otherwise required to include in computing the individual's income, to the extent that the allowance does not exceed one-half of the amount, determined without reference to that allowance, paid to the individual in the year by the municipality or body by way of salary or other remuneration."

44. Section 40.1 of the said Act is amended, in the English text, by replacing the portion before paragraph *b* by the following:

"40.1. For the purposes of paragraph *e* of section 39 and paragraphs *a* and *c* of section 40, an allowance received in the year by the individual referred to therein for the use of a motor vehicle in connection with or in the course of the individual's office or employment is deemed not to be a reasonable allowance

(*a*) where the measurement of the use of the vehicle for the purpose of the allowance is not based solely on the number of kilometres for which the motor vehicle is used in connection with or in the course of the office or employment; or".

45. Section 41 of the said Act is replaced, in the English text, by the following:

"41. Where an employer or a person related to the employer makes an automobile available to an employee of the employer, or to a person related to the employee, in the year, the employee shall, in computing the income of the employee, include the amount by which a reasonable amount corresponding to the value of such right of use for the total number of days in the year during which the automobile was made so available exceeds the aggregate of all amounts each of which is an amount, other than an expense related to the operation of the automobile, paid in the year to the employer or a person related to the employer by the employee or the person related to the employee for the use of the automobile."

46. Section 41.0.1 of the said Act is amended, in the English text,

(1) by replacing the portion of the first paragraph before the formula by the following:

"41.0.1. For the purposes of section 41, a reasonable amount corresponding to the value of the right of use of an automobile for the total number of days, in this section referred to as the "total available days", in a year during which the automobile is made available to an individual or to a person related to the individual by an employer or a person related to the employer, both of whom are in this section referred to as "the employer", is deemed to be equal to the amount determined by the formula";

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

"i. the total number of kilometres that the automobile is driven, otherwise than in connection with or in the course of the individual's office or employment, during the total available days, that total number of kilometres however being deemed to be equal to the product referred to in subparagraph ii unless the individual is required by the employer to use the automobile in connection with or in the course of the office or employment and all or substantially all of the distance travelled by the automobile during the total available days is in connection with or in the course of the office or employment, and";

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

"(*f*) F is the part of the amount determined under subparagraph *e* that may reasonably be regarded as having been payable to the lessor in respect of all or part of the cost to the lessor of insuring against loss of, or damage to, the automobile or liability resulting from the use or operation of the automobile."

47. Section 41.0.2 of the said Act is amended, in the English text,

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

"41.0.2. Where, in a year, an individual is employed principally in selling or leasing automobiles, an automobile owned by the individual's employer is made available by the employer to the individual or to a person related to the individual, and the employer has acquired one or more automobiles, the reasonable amount corresponding to the value of the right of use determined under section 41.0.1 shall, at the option of the employer, be computed as if";

(2) by replacing subparagraphs i and ii of paragraph *b* by the following:

"i. the quotient obtained by dividing the cost to the employer of all new automobiles acquired by the employer in the year for sale or lease in the course of the employer's business by the number of new automobiles so acquired, and

"ii. the quotient obtained by dividing the cost to the employer of all automobiles acquired by the employer in the year for sale or lease in the course of the employer's business by the number of automobiles so acquired."

48. Section 41.1.1 of the said Act is amended, in the English text, by replacing the portion of the first paragraph before the formula by the following:

"41.1.1. Where, in computing the income of the individual for a taxation year as income from an office or employment, a reasonable amount corresponding to the value of the right of use of an automobile is determined under sections 41 to 41.0.2, and an amount in respect of the operation, otherwise than in connection with or in the course of the individual's office or employment, of the automobile for the period or periods in the year during which the automobile was made available to the individual or a person related to the individual is paid or payable by the individual's employer or a person related to the individual's employer, each of whom is in this section referred to as the "payor", the individual shall, in computing the individual's income for the year from an office or employment, include the amount determined by the formula".

49. Section 41.1.2 of the said Act is replaced, in the English text, by the following:

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

50. Section 42 of the said Act is amended, in the English text, by replacing the portion before subparagraph ii of paragraph *b* by the following:

"42. Notwithstanding sections 36 and 37, an individual who is not entitled to the deduction provided for in section 737.25 is not required, in computing the income of the individual for a taxation year from an office or employment, to include any amount received or enjoyed by the individual because of, or in the course of, the office or employment that is the value of, or an allowance, not in excess of a reasonable amount, in respect of expenses the individual has incurred

(*a*) for the individual's board and lodging for a period during which the individual was required by the individual's duties to be away from the individual's principal place of residence, or to be at the special work site referred to in subparagraph i or at the location referred to in subparagraph ii, for not less than 36 hours, if such board and lodging were

i. at a special work site at which the duties performed by the individual were of a temporary nature and if the individual maintained at another location a self-contained domestic establishment as the individual's principal place of residence that was, throughout the period, available for the individual's occupancy and not rented to any other person, and to which, by reason of distance, the individual could not reasonably be expected to have returned daily from the special work site, or

ii. at a location at which, by virtue of its remoteness from any established community, the individual could not reasonably be expected to establish and maintain a self-contained domestic establishment; or

(*b*) for transportation, in respect of a period described in paragraph *a* during which the individual received board and lodging, or a reasonable allowance in respect of board and lodging, from the individual's employer, between

i. the individual's principal place of residence and the special work site referred to in subparagraph i of paragraph *a*, or".

51. Section 42.0.1 of the said Act, amended by section 42 of chapter 85 of the statutes of 1997, is again amended, in the English text, by replacing the portion before paragraph *a* by the following:

"42.0.1. Notwithstanding sections 36 and 37, an individual is not required in computing the income of the individual for a taxation year from an office or employment to include any amount received or enjoyed by the individual because of, or in the course of, the individual's office or employment that is the value of a benefit, or an allowance, not in excess of a reasonable amount, in respect of expenses incurred by the individual for".

52. Section 43 of the said Act is amended

(1) by replacing, in the English text, subsection 1 by the following:

"43. (1) An individual shall, in computing the income of the individual, include the amounts payable on a periodic basis that the individual receives in respect of the loss of all or part of the individual's income from an office or employment, pursuant to an insurance plan to which the individual's employer has made a contribution, not exceeding the limit fixed under subsection 2.";

(2) by replacing paragraphs *a* and *b* of subsection 2 by the following:

"(*a*) the aggregate of all such amounts received by the individual pursuant to the plan before the end of the year and after the later of the end of the year 1971 and the end of the last year in which any such amount was included in the individual's income; exceeds

"(*b*) the aggregate of the contributions made by the individual under the plan before the end of the year and after the later of the end of the year 1967 and the end of the last year in which any amount referred to in paragraph *a* was included in the individual's income."

53. Section 43.2 of the said Act is replaced, in the English text, by the following:

"43.2. An individual shall, in relation to a multi-employer insurance plan, include in computing the income of the individual for a taxation year the portion, which can reasonably be attributed to a plan for the insurance of persons, otherwise than in relation to coverage against the loss of all or part of the income from an office or employment, and which relates to work performed by the individual, of the aggregate of all amounts each of which is an amount that corresponds to the total contribution which, because of a previous, the current or an intended office or employment of the individual, was paid, for any period of the year, by an employer of the individual to the administrator of the multi-employer insurance plan and the related tax, within the meaning of subparagraph *d* of the second paragraph of section 37.0.1.1."

54. Section 43.3 of the said Act is replaced, in the English text, by the following:

"43.3. Where the amount established in accordance with the second paragraph for a taxation year in respect of an individual in relation to a multi-employer insurance plan exceeds the amount referred to in section 43.2 for the year in respect of the individual in relation to that plan, the individual shall include the excess in computing the income of the individual for the year.

The amount which must be established for a taxation year in respect of an individual in relation to a multi-employer insurance plan is equal to the amount that would be established for the year under sections 37.0.1.1 to 37.0.1.6 in respect of the individual in relation to the coverage, other than coverage against the loss of all or part of the income from an office or employment, enjoyed by the individual under the plan for any period of the year, if the administrator of the plan was the employer of all the employees who enjoy coverage under the plan during the year and if those employees were employees of the administrator and enjoyed that coverage by reason of an office or employment with the latter.

For the purposes of the second paragraph, no amount paid by an individual during the year as contribution to the plan shall be taken into account in computing the amount determined under section 37.0.1.2 or 37.0.1.4 in respect of the individual otherwise than because of a previous, the current or an intended office or employment of the individual.

In addition, for the purposes of this Title, except the third paragraph and this paragraph, where it may reasonably be considered that, at any time in a taxation year, an individual enjoys, otherwise than because of a previous, the current or an intended office or employment of the individual, all or part of a coverage under a multi-employer insurance plan, other than coverage against the loss of all or part of the income from an office, employment or business,

(*a*) the individual is deemed to be an employee who, during the year, enjoys that coverage, or part thereof, by reason of an office or employment; and

(*b*) the value of the benefit derived from that coverage or part thereof is deemed to be referred to in section 38."

55. Section 47 of the said Act is replaced, in the English text, by the following:

"47. For the purposes of this chapter, an individual shall, in computing the income of the individual, include the amounts allocated to the individual under a profit-sharing plan as provided by Title I of Book VII, except those referred to in section 860, and the amounts required by section 857 to be included in computing the individual's income."

56. Section 47.1 of the said Act is replaced, in the English text, by the following:

"47.1. An individual shall, in computing the income of the individual for a taxation year, include all amounts allocated to the individual for that year by a trustee under an employee trust and all amounts received by the individual in the year out of or under an employee benefit plan or from the disposition of any interest in any such plan."

57. Section 47.2 of the said Act is replaced by the following:

"47.2. Notwithstanding section 47.1, an individual is not required in computing the income of the individual to include an amount received in respect of an employee benefit plan, to the extent that such amount represents a return of amounts contributed to the plan by the individual or a deceased employee of whom the individual is an heir or legal representative, a death benefit or an amount that would, but for the deduction provided for in sections 3 and 4, be a death benefit, or a pension benefit attributable to services rendered by a person in a period throughout which the person was not resident in Canada."

58. Section 47.4 of the said Act is replaced, in the English text, by the following:

"47.4. For the purposes of section 47.2, where an amount is received in a taxation year by an individual from an employee benefit plan that was in a preceding year an employee trust, that amount is deemed to be the return of the amounts contributed to the plan by the individual, up to the amount by which the lesser of the amounts determined under paragraph *a* or *b* of section 47.5 exceeds the aggregate of all amounts previously received out of the plan by the individual or a deceased person of whom the individual is an heir or legal representative at a time when the plan was an employee benefit plan, to the extent that the latter amounts were deemed by this section to be a return of amounts contributed to the plan."

59. Section 47.5 of the said Act is amended, in the English text, by replacing paragraphs *a* and *b* by the following:

"(*a*) the amount by which the aggregate of all amounts allocated to the individual or a deceased person of whom the individual is an heir or legal representative, by a trustee of the plan at a time when the plan was an employee trust, exceeds the aggregate of all amounts previously paid out of the plan to or for the benefit of the individual or the deceased person at that time; and

"(*b*) the portion of the amount by which the cost amount to the plan of its property immediately before it ceased to be an employee trust exceeds the liabilities of the plan at that time that the amount determined under paragraph *a* in respect of the individual is of the aggregate of amounts determined under that paragraph in respect of all individuals who were beneficiaries under the plan immediately before it ceased to be an employee trust."

60. Section 47.6 of the said Act is amended, in the English text, by replacing the first paragraph by the following:

"47.6. For the purposes of this division, "employee benefit plan" means an arrangement under which contributions are made by an employer or by a person with whom the employer does not deal at arm's length to another person, referred to in this Part as the "custodian" of an employee benefit plan, and under which one or more payments are to be made to or for the benefit of employees or former employees of the employer or persons who do not deal at arm's length with any such employee or former employee, other than a payment that, if this chapter were read without reference to the third paragraph of section 38 and to section 47.1, would not be required to be included in computing the income of the recipient."

61. Section 47.10 of the said Act is amended, in the English text, by replacing the portion before paragraph *a* by the following:

"47.10. An individual shall, in computing the income of the individual for a taxation year, include an amount equal to the amount by which the aggregate of all amounts received by any person as benefits, other than amounts received by or from a trust governed by a salary deferral arrangement, in the year out of or under a salary deferral arrangement in respect of the individual exceeds the amount by which".

62. Section 47.12 of the said Act is replaced, in the English text, by the following:

"47.12. Where at the end of a taxation year any person has a right under a salary deferral arrangement, other than a trust governed by a salary deferral arrangement, in respect of an individual to receive a deferred amount, an amount equal to any interest or other additional amount that accrued to, or for the benefit of, that person to the end of the year in respect of the deferred amount is deemed at the end of the year, for the purposes only of section 47.11, to be a deferred amount that the person has a right to receive under the arrangement."

63. Section 47.13 of the said Act is amended, in the English text, by replacing paragraph *a* by the following:

"(*a*) was in respect of services rendered by an employee who was not resident in Canada at the time the services were rendered, or was resident in Canada for a period, in this section referred to as an "excluded period", of not more than 36 of the 72 months preceding the time the services were rendered and was an employee to whom the arrangement applied before the employee became resident in Canada; and".

64. Section 47.14 of the said Act is amended, in the English text,

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

"47.14. For the purposes of this Part, other than this section, where deferred amounts under a salary deferral arrangement in respect of an individual, in this section referred to as "that arrangement", are required to be included as benefits under section 37 in computing the individual's income and that arrangement is part of a plan or arrangement, in this section referred to as "the plan", under which amounts or benefits not related to the deferred amounts are payable or provided, the following rules apply:

(*a*) that arrangement is deemed to be a separate arrangement independent of other parts of the plan of which it is a part;

(*b*) where any person has a right to a deferred amount under that arrangement, an amount received by the person as a benefit at any time out of or under the plan is deemed to have been received out of or under that arrangement except to the extent that it exceeds the amount by which";

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

"ii. the aggregate of all deferred amounts received by any person before that time out of or under the plan that were deemed by this paragraph to have been received out of or under that arrangement, and all deferred amounts under that arrangement that were deducted under section 78.2 in computing the individual's income for the year or a preceding taxation year."

65. Section 47.15 of the said Act is amended, in the English text, by replacing the first paragraph by the following:

"47.15. For the purposes of this division, a salary deferral arrangement in respect of an individual means a plan or arrangement, whether funded or not, under which any person has a right in a taxation year to receive an amount after the end of the year where it is reasonable to consider that one of the main purposes for the creation or existence of the right is to postpone tax payable under this Part by the individual in respect of an amount that is, or is on account or in lieu of, salary or wages of the individual for services rendered by the individual in the year or a preceding taxation year."

66. Section 47.16 of the said Act is amended, in the English text, by replacing paragraphs *j* and *k* by the following:

"(*j*) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for the services of the athlete as such with a team that participates in a league having regularly scheduled games,

"(*k*) a plan or arrangement under which an individual has a right to receive a bonus or similar payment in respect of services rendered by the individual in a taxation year to be paid within three years following the end of the year, or".

67. Section 49 of the said Act is replaced, in the English text, by the following:

"49. Subject to section 49.2, an employee who acquires a share under the agreement referred to in section 48 is deemed to receive because of the employee's office or employment, in the taxation year in which the employee acquires the share, a benefit equal to the amount by which the value of the share at the time the employee acquires it exceeds the aggregate of the amount paid or to be paid to the corporation by the employee for the share and the amount paid by the employee to acquire the right to acquire the share."

68. Section 49.2 of the said Act is amended, in the English text,

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

"49.2. Section 49 shall be read with the words "in which the employee acquires the share" replaced by the words "in which the employee disposes of or exchanges the share" where";

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

"(*b*) the share is acquired by an employee who, at the time immediately after the agreement was made, was dealing at arm's length with the particular corporation, the Canadian-controlled private corporation, the share of the capital stock of which has been agreed to be sold or issued by the particular corporation, and the Canadian-controlled private corporation that is the employer of the employee."

69. Section 50 of the said Act is replaced, in the English text, by the following:

"50. An employee who transfers or disposes of rights under the agreement referred to in section 48 in respect of shares to a person with whom the employee is dealing at arm's length, is deemed to receive because of the employee's office or employment, in the taxation year in which the employee makes the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights."

70. Section 51 of the said Act is amended, in the English text, by replacing the first paragraph by the following:

"51. If rights of the employee under the agreement referred to in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a person who exercises the employee's right to acquire shares under the agreement, the employee is deemed, subject to the second paragraph, to receive because of the employee's office or employment, in the taxation year in which the person acquired the shares, a benefit equal to the amount by which the value of the shares at the time that person acquired them exceeds the aggregate of the amount paid or to be paid to the corporation by that person for the shares and the amount paid by the employee to acquire the right to acquire the shares."

71. Section 52 of the said Act is amended by replacing, in the English text, the first paragraph by the following:

"52. If rights of the employee under the agreement referred to in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a particular person who transfers or disposes of the rights to another person with whom the particular person is dealing at arm's length, the employee is deemed, subject to the second paragraph, to receive because of the employee's office or employment, in the taxation year in which the particular person made the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights."

72. Sections 52.1 and 53 of the said Act are replaced, in the English text, by the following:

"52.1. Where an employee has died and, immediately before the death, the employee owned a right to acquire shares under the agreement referred to in section 48, the employee is deemed to have received because of the employee's office or employment, in the taxation year in which the employee died, a benefit equal to the amount by which the value of the right immediately after the death exceeds the amount paid by the employee to acquire the right, and sections 50 to 52 do not apply.

"53. Where a trustee holds a share for an employee in any manner whatever, the employee is deemed, for the purposes of this division and sections 725.2 and 725.3, to acquire the share at the time the trustee commences so to hold it and to exchange or dispose of the share at the time the trustee exchanges it or disposes of it to any person other than the employee."

73. Section 58.1 of the said Act is replaced, in the English text, by the following:

"58.1. A market maker who is an employee shall, in computing the income of the market maker for the year from an office or employment, include every amount the market maker is required to include under Title VIII of Book VII in computing income."

74. Section 59 of the said Act is replaced, in the English text, by the following:

"59. An individual shall not, in computing the income of the individual for a taxation year from an office or employment, deduct any amount except as provided in this chapter and only to the extent that such amount may reasonably be regarded as applicable to that office or employment."

75. Section 62.0.1 of the said Act is amended, in the English text, by replacing the portion before paragraph *c* by the following:

"62.0.1. The amount that may be deducted by an individual under section 62 in computing the income of the individual for a taxation year from an office or employment shall be reduced by the least of

(*a*) 6% of the commissions and other similar amounts determined by reference to the sales made or contracts negotiated, that the individual received in the year in relation to such office or employment;

(*b*) the amount that, but for this section, would be deductible by the individual under section 62 in computing the individual's income for the year from such office or employment; and".

76. Section 63 of the said Act, replaced by section 47 of chapter 85 of the statutes of 1997, is again replaced, in the English text, by the following:

"63. An individual may deduct amounts expended by the individual in the year, other than motor vehicle expenses, for travelling in the course of the individual's office or employment, if the individual is required to perform all or part of the duties of the office or employment away from the employer's place of business or in different places and is required under the contract of employment to pay the travel expenses incurred by the individual in the performance of the duties of the office or employment.

An individual shall not claim any deduction under this section if the individual receives an allowance for travel expenses that is not required to be included in computing the individual's income for the year because of paragraph *e* of section 39 or paragraph *a* or *b* of section 40, or if the individual claims a deduction for the year under section 62, 65.1, 66 or 67."

77. Sections 63.1 and 64 of the said Act are replaced, in the English text, by the following:

"63.1. An individual may deduct amounts expended by the individual in the year in respect of motor vehicle expenses incurred for travelling in the course of the individual's duties, if the individual is required to carry on all or part of the duties away from the place of business of the individual's employer or in different places and is required under the contract of employment to pay the motor vehicle expenses incurred by the individual in the performance of the individual's duties.

An individual shall not claim any deduction under this section if the individual receives an allowance for the use of a motor vehicle that is not required to be included in computing the individual's income for the year because of section 39 or 40, or if the individual claims a deduction for the year under section 62.

"64. An individual who is entitled, in the year, to a deduction under section 62, 63 or 63.1 may also deduct any interest paid by the individual in the year on borrowed money used for the purpose of purchasing, or an amount payable for the purchase of, a motor vehicle that is used by the individual in the performance of the individual's duties, and such part of the capital cost of such a motor vehicle as is allowed by regulation.

The individual may also deduct any interest paid by the individual in the year on borrowed money used for the purpose of purchasing an aircraft that is required for use in the performance of the individual's duties, and such part of the capital cost of the aircraft as is allowed by regulation."

78. Sections 64.2 and 64.3 of the said Act are replaced, in the English text, by the following:

"64.2. Notwithstanding any other provision of this Act, an individual who uses an aircraft that is owned or rented by the individual for travelling in the course of the individual's duties shall not deduct the aggregate of the amounts that would otherwise be deductible pursuant to section 62, 63 or 64, in respect of the aircraft, except to the extent that such aggregate is reasonable in the circumstances having regard to the cost and availability of other modes of transportation.

"64.3. No amount may be deducted in the year by an individual under section 62, 63 or 63.1, unless the individual files with the Minister, together with the individual's fiscal return for the year under this Part, a prescribed form signed by the individual's employer certifying that the conditions set out in that section were met in the year in respect of the individual."

79. Sections 65 to 66 of the said Act are replaced, in the English text, by the following:

"65. An individual shall not, in computing a deduction under section 62 or 63, deduct an amount expended for a meal unless the meal is consumed during a period while the individual was required by the individual's duties to

be away, for not less than 12 hours, from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment to which the individual ordinarily reports for work is located.

"65.1. An individual who regularly collects or delivers goods for the individual's employer by means of vehicles that are used by the employer to transport goods away from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment to which the individual ordinarily reports for work is located, may deduct the amounts disbursed by the individual in the year for meals and lodging while the individual is required by the individual's duties to be away for not less than 12 consecutive hours from that territory or metropolitan area or to go to a place located at least 80 kilometres from that territory or metropolitan area, to the extent that the individual is not reimbursed and is not entitled to be reimbursed in respect thereof.

"66. Where an individual is an employee of a person whose principal business is transport and the individual's duties require the individual, regularly, to travel away from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment to which the individual ordinarily reports for work is located, on vehicles used by the employer for transport, the individual may deduct the amounts disbursed by the individual in the year for meals and lodging while the individual is so away from that territory or metropolitan area, to the extent that the individual is not reimbursed and is not entitled to be reimbursed in respect thereof."

80. Section 67 of the said Act is amended, in the English text, by replacing the first and second paragraphs by the following:

"67. An individual who is employed by a railway company may deduct the amounts disbursed by the individual in the year for meals and lodging while performing, away from the individual's ordinary place of residence, the duties of a relieving telegrapher or station agent or of a maintenance and repair worker.

"There may also be deducted any such amounts disbursed by the individual while

(*a*) away from the local municipal territory and, as the case may be, the metropolitan area where the individual's home terminal is located; and

(*b*) at a location from which, by reason of distance from the place where the individual maintains a self-contained domestic establishment in which the individual resides and actually supports a spouse or a person dependent on the individual for support and connected with the individual by blood relationship, marriage or adoption, the individual cannot reasonably be expected to return daily to that place."

81. (1) Section 87 of the said Act, amended by section 49 of chapter 85 of the statutes of 1997, is again amended

(1) by inserting, after paragraph *e*, the following paragraph:

"(*e*.1) where the taxpayer is an insurer, any amount prescribed in respect of the insurer for the year;";

(2) by adding, after paragraph *z*.3, the following paragraph:

"(*z*.4) 25% of the taxpayer's resource loss for the year, as determined by regulation."

(2) Paragraph 1 of subsection 1 applies from the taxation year 1996.

(3) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 1996.

82. (1) Section 89 of the said Act is amended

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

"89. A taxpayer shall, in computing the income of the taxpayer from a business or property for a taxation year, include any amount that becomes receivable in the year, by virtue of an obligation imposed by statute or a contractual obligation substituted for an obligation imposed by statute, by a person referred to in section 90, as a royalty, tax, rental or bonus, or as an amount that can reasonably be regarded as being in lieu of any such amount, or in respect of the late receipt or non-receipt of any such amount, and that can reasonably be regarded as being in relation to

(*a*) the acquisition, development or ownership of a Canadian resource property of the taxpayer in respect of which the obligation imposed by statute or the contractual obligation, as the case may be, applied, or;";

(2) by inserting, after subparagraph i of subparagraph *b* of the first paragraph, the following subparagraph:

"i.1 of sulphur from a natural accumulation of petroleum or natural gas, from an oil or gas well or from a mineral resource;";

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

"For the purposes of subparagraph *b* of the first paragraph, the natural accumulation of petroleum or natural gas, the oil or gas well or the mineral resource referred to therein must be situated in Canada and be property in respect of which the taxpayer has an interest to which the obligation imposed by statute or the contractual obligation, as the case may be, applies."

(2) Subsection 1 applies to taxation years that begin after 31 December 1996.

83. Section 90 of the said Act is replaced by the following:

"90. Section 89 applies where the amount mentioned therein becomes receivable by the State or Her Majesty in right of Canada or a province, by a mandatary of the State or Her Majesty in right of Canada or a province, or by a corporation, commission or association that is controlled by the State or Her Majesty in right of Canada or a province or a mandatary of the State or Her Majesty in right of Canada or a province."

84. (1) The said Act is amended by inserting, after section 96.1, the following section:

"96.2. For the purpose of determining whether property meets the prescribed criteria in respect of prescribed energy conservation property, the Technical Guide to Class 43.1, as amended from time to time and published by the Department of Natural Resources of Canada, shall apply conclusively with respect to engineering and scientific matters."

(2) Subsection 1 applies in respect of property acquired after 21 February 1994. However, where section 96.2 of the said Act, enacted by subsection 1, applies before 12 January 1995, it shall be read with "Department of Natural Resources" replaced by "Department of Energy, Mines and Resources".

85. (1) Section 97 of the said Act is replaced by the following:

"97. Where one or more depreciable properties of a taxpayer that were included in a prescribed class, in this section referred to as the "old class", become included at any time, in this section referred to as the "transfer time", in another prescribed class, in this section referred to as the "new class", the following rules apply for the purpose of determining at any subsequent time the undepreciated capital cost to the taxpayer of depreciable property of the old class and the new class:

(*a*) for the purposes of subparagraph i of paragraph *e* of section 93, each of those depreciable properties is deemed to be property of the new class acquired before the subsequent time and never to have been included in the old class; and

(*b*) the taxpayer shall deduct in computing the total depreciation allowed to the taxpayer before the subsequent time in respect of property of the old class, and add in computing the total depreciation allowed to the taxpayer before the subsequent time in respect of property of the new class, an amount equal to the greater of

i. the amount by which the aggregate of all amounts each of which is the capital cost to the taxpayer of each of those depreciable properties exceeds the undepreciated capital cost to the taxpayer of depreciable property of the old class at the transfer time, and

ii. the aggregate of all amounts each of which is an amount that would have been deducted under paragraph *a* of section 130 in respect of a depreciable property that is one of those depreciable properties in computing the taxpayer's income for a taxation year that ended before the transfer time and at the end of which the property was included in the old class, had the property been the only property included in a separate prescribed class and had the rate prescribed by the regulations made under that paragraph *a* in respect of that separate prescribed class been the effective rate that was used by the taxpayer to determine the amounts deducted by the taxpayer under that paragraph *a* in respect of property of the old class for the year."

(2) Subsection 1 applies in respect of properties of a prescribed class that, after 31 December 1996, become included in property of another prescribed class.

86. Section 99 of the said Act is amended, in the English text,

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

"(*a*) where a taxpayer, having acquired property to gain income, begins at a later time to use it for some other purpose, the taxpayer is deemed to have disposed of it at that time for proceeds of disposition equal to its fair market value and to have reacquired it immediately thereafter at a cost equal to that fair market value;";

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

"(*b*) subject to section 284, where a taxpayer, having acquired property for some other purpose, begins at a particular time to use it to gain income, the taxpayer is deemed to have acquired it at that time at a capital cost to the taxpayer equal to the lesser of";

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

"ii. the aggregate of its cost to the taxpayer at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and 3/4 of the amount by which the fair market value of the property at that time exceeds the aggregate of the cost to the taxpayer of the property at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and 4/3 of the amount deducted by the taxpayer under Title VI.5 of Book IV in respect of the amount by which the fair market value of the property at that time exceeds the cost to the taxpayer of the property at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*;";

(4) by replacing subparagraph i of paragraph *d* by the following:

"i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that

time depreciable property of that class at a capital cost equal to the aggregate of the proportion of the lesser of its fair market value at that time, and its cost to the taxpayer at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of the property, and 3/4 of the amount by which the amount deemed under section 283 to be the taxpayer's proceeds of disposition of the property in respect of the change in the use made of the property exceeds the aggregate of that proportion of the cost to the taxpayer of the property at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a*, that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of the property, and 4/3 of the amount deducted by the taxpayer under Title VI.5 of Book IV in respect of the amount by which the amount deemed under section 283 to be the taxpayer's proceeds of disposition of the property in respect of the change in the use made of the property exceeds that proportion of the cost to the taxpayer of the property at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of the property;";

(5) by replacing subparagraph ii of paragraph *d* by the following:

"ii. where the proportion of the use made of the property to gain income has decreased at a particular time, the taxpayer is deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition are deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of it;";

(6) by replacing subparagraph iii of paragraph *d*.1 by the following:

"iii. where the cost or capital cost, as the case may be, of the property to the transferor immediately before the transferor disposed of it exceeds the capital cost of the property to the particular person or partnership at that time determined without reference to this paragraph, the capital cost of the property to the particular person or partnership at that time is deemed to be an amount equal to the cost or capital cost, as the case may be, of the property to the transferor immediately before the transferor disposed of it and the excess is deemed to have been allowed as depreciation to the particular person or partnership in respect of the property under regulations made under paragraph *a* of section 130 in computing the income of the particular person or partnership for taxation years ending before the acquisition of the property by the particular person or partnership;";

(7) by replacing paragraph *d*.1.1 by the following:

"(*d*.1.1) where a taxpayer is deemed by subparagraph *a* of the first paragraph of section 726.9.2 to have disposed of and reacquired a property that immediately before the disposition was a depreciable property, the taxpayer is deemed to have acquired the property from himself, herself or itself and, in so having acquired the property, not to have been dealing with himself, herself or itself at arm's length;";

(8) by replacing subparagraph ii of paragraph *d*.4 by the following:

"ii. the amount that immediately before that time was the cost amount to that person of the passenger vehicle minus, as the case may be, the amount deducted by that person under paragraph *a* of section 130 in respect of the passenger vehicle in computing income for that person's taxation year in which that person disposed of the passenger vehicle, and";

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

"(*e*) for the purposes of this Part, a taxpayer who has acquired prescribed property between 3 December 1970 and 1 April 1972 for use in a prescribed manufacturing or processing business carried on by the taxpayer, is deemed to have acquired that property at a capital cost equal to 115% of the amount that, but for this paragraph and section 180, would have been the capital cost of that property, if that property was not used for any purpose whatever before it was acquired by the taxpayer."

87. Section 101.5 of the said Act is amended, in the English text,

(1) by replacing, in paragraph *a*, the word "estates" by the word "successions";

(2) by replacing the word "estate" wherever it appears in paragraph *b* by the word "succession".

88. (1) The said Act is amended by inserting, after section 101.7, the following section:

"101.8. For the purposes of this Part,

(*a*) where a taxpayer, to acquire a property prescribed in respect of the taxpayer, is required under the terms of a contract entered into after 6 March 1996 to make a payment to the State, to Her Majesty in right of Canada or a province or to a Canadian municipality in respect of costs incurred or to be incurred by the recipient of the payment, the taxpayer is deemed to have acquired the property at the later of the time the payment is made and the time at which those costs are incurred at a capital cost equal to the portion of that payment made by the taxpayer that can reasonably be regarded as being in respect of those costs;

(*b*) where at any time after 6 March 1996 a taxpayer incurs a cost on account of capital for the building of, for the right to use or in respect of, a prescribed property, and the amount of the cost would, if this paragraph did not apply, not be included in the capital cost to the taxpayer of depreciable property of a prescribed class, the taxpayer is deemed to have acquired the property at that time at a capital cost equal to the amount of the cost;

(*c*) where a taxpayer acquires an intangible property as a consequence of making a payment to which subparagraph *a* of this paragraph applies or incurring a cost to which subparagraph *b* of this paragraph applies,

i. the property referred to in subparagraph *a* or *b* of this paragraph is deemed to include the intangible property, and

ii. the portion of the capital cost referred to in subparagraph *a* or *b* of this paragraph that applies to the intangible property is deemed to be equal to the amount determined by the formula

$$A \times B/C;$$

(*d*) any property deemed by subparagraph *a* or *b* of this paragraph to have been acquired at any time by a taxpayer as a consequence of making a payment or incurring a cost is deemed

i. to have been acquired for the purpose for which the payment was made or the cost was incurred, and

ii. to be owned by the taxpayer at any subsequent time that the taxpayer benefits from the property.

In the formula provided for in subparagraph ii of subparagraph *c* of the first paragraph,

(*a*) A is the lesser of the amount of the payment made or cost incurred and the amount described in subparagraph *c* of this paragraph;

(*b*) B is the fair market value of the intangible property at the time the payment was made or the cost was incurred; and

(*c*) C is the fair market value at the time the payment was made or the cost was incurred of all intangible properties acquired as a consequence of making the payment or incurring the cost."

(2) Subsection 1 applies to taxation years that end after 6 March 1996.

89. (1) Section 133.3 of the said Act is replaced by the following:

"133.3. A taxpayer shall not deduct the amounts paid by the taxpayer as judicial or extrajudicial expenses incurred in respect of a divorce, a judicial separation, a written separation agreement, a right to receive an original

amount that is a support amount as defined in the first paragraph of section 312.3 or an original obligation to pay an amount that is a support amount as defined in the first paragraph of section 336.0.2."

(2) Subsection 1 has effect from 1 January 1997.

90. (1) The said Act is amended by inserting, after section 133.3, the following section:

"133.4. A taxpayer shall not, in computing the income of the taxpayer from a business or property for a taxation year, deduct any amount paid or payable by the taxpayer for services in respect of a retirement savings plan or retirement income fund under which the taxpayer is the annuitant."

(2) Subsection 1 applies in respect of amounts paid or payable after 5 March 1996.

91. (1) Section 144 of the said Act is amended, in subsection 1,

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

"144. (1) A taxpayer shall not deduct any amount paid or payable by virtue of an obligation imposed by statute or a contractual obligation substituted for an obligation imposed by statute, to a person referred to in section 90, as a royalty, tax, rental or bonus, or as an amount that can reasonably be regarded as being in lieu of any such amount, or in respect of the late payment or non-payment of any such amount, and that can reasonably be regarded as being in relation to";

(2) by inserting, after subparagraph i of paragraph *b*, the following subparagraph:

"i.1. sulphur from a natural accumulation of petroleum or natural gas situated in Canada, from an oil or gas well situated in Canada or from a mineral resource situated in Canada;".

(2) Subsection 1 applies to taxation years that begin after 31 December 1996.

92. (1) Section 152 of the said Act is amended by replacing the second paragraph by the following:

"The same applies to reserves in respect of insurance policies, except that in computing an insurer's income for a taxation year from an insurance business, other than a life insurance business, carried on by it, there may be deducted any amount not exceeding the amount prescribed in respect of the insurer for the year."

(2) Subsection 1 applies from the taxation year 1996.

93. (1) Section 157 of the said Act is amended

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

"(*n*) such portion claimed by the taxpayer of an amount that is an outlay or expense made or incurred by the taxpayer before the end of the year that is a cost to the taxpayer of any substance injected before that time into a natural reservoir to assist in the recovery of petroleum, natural gas or related hydrocarbons to the extent that that portion was not otherwise deducted in computing the taxpayer's income for the year or deducted in computing the taxpayer's income for any preceding taxation year;";

(2) by inserting, after paragraph *n*, the following paragraph:

"(*n*.1) the tax, if any, under Part III.14, under Part XII.6 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or under a law of a province other than Québec under which tax similar to that payable under Part III.14 is imposed, paid in the year or payable in respect of the year by the taxpayer, depending on the method regularly followed by the taxpayer in computing the taxpayer's income;".

(2) Paragraph 1 of subsection 1 applies from the taxation year 1996.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1997.

94. Section 157.1 of the said Act is replaced by the following:

"157.1. The deduction allowed under paragraph *j* of section 157, as it read before being struck out, to a taxpayer for a fiscal period referred to therein shall be reduced by an amount equal to 3% of that proportion of the lesser of the cost amount to the taxpayer of the taxpayer's qualifying inventory that was disposed of during the fiscal period by the taxpayer in a specified transaction to a person with whom the taxpayer was not dealing at arm's length and the cost amount to the taxpayer of the taxpayer's qualifying inventory at the beginning of the fiscal period, that the number of days in the fiscal period and after the date of disposition is of 365."

95. Section 157.2 of the said Act is amended by replacing paragraphs *a* and *b* by the following:

"(*a*) "qualifying inventory" means tangible property described in paragraph *j* of section 157, as it read before being struck out, other than an immovable or an interest therein or property of a taxpayer that becomes property of a new corporation by virtue of an amalgamation or merger;

"(*b*) "specified transaction" means a distribution by a corporation of qualifying inventory on or in the course of its winding-up, a disposition by a taxpayer of all or a substantial part of the taxpayer's qualifying inventory, or a disposition at a particular time of qualifying inventory by a taxpayer one of

the principal purposes of which is to permit a person with whom the taxpayer does not deal at arm's length to obtain a deduction in respect thereof under paragraph *j* of section 157, as it read before being struck out, for that person's first fiscal period commencing after the particular time, but does not include any such distribution or disposition by a taxpayer to another person during a fiscal period of that other person that ends at least 11 months after the commencement of the fiscal period of the taxpayer during which the distribution or disposition occurs."

96. (1) Section 157.2.0.1 of the said Act is amended by replacing paragraph *b* by the following:

"(*b*) the amount of such outlay or expense described in that paragraph *n* that was made or incurred by the taxpayer in the year and not otherwise deducted in computing the taxpayer's income for the year."

(2) Subsection 1 applies from the taxation year 1996.

97. (1) The said Act is amended by inserting, after section 157.6, the following section:

"157.6.1. An insurer may, in computing the income of the insurer for a taxation year, deduct the amount included under paragraph *e*.1 of section 87 by the insurer in computing the insurer's income for the preceding taxation year."

(2) Subsection 1 applies from the taxation year 1996.

98. Section 157.15 of the said Act is replaced, in the English text, by the following:

"157.15. Notwithstanding sections 128 and 133, a taxpayer may deduct, in computing the income of the taxpayer from a business for a taxation year, the portion, which can reasonably be attributed to a plan for the insurance of persons, otherwise than in relation to coverage against the loss of all or part of the income from a business, of the aggregate of all amounts each of which is the total contribution relating to work performed in connection with that business and payable by the taxpayer for a period in the year, otherwise than because of a previous, the current or an intended office or employment of another person, to the administrator of a multi-employer insurance plan, within the meaning of section 43.1, and of the tax, within the meaning of subparagraph *d* of the second paragraph of section 37.0.1.1, relating thereto."

99. (1) Section 171 of the said Act is amended by replacing the second paragraph by the following:

"However, the outstanding debts referred to in sections 169 and 170 do not include an amount outstanding at the particular time in respect of a debt or other obligation to pay an amount to an insurance corporation not resident in

Canada to the extent that the amount outstanding was, for the insurance corporation's taxation year that included the particular time, designated insurance property in respect of an insurance business carried on in Canada through an establishment."

(2) Subsection 1 applies from the taxation year 1997.

100. The heading of Division II of Chapter V of Title III of Book III of Part I of the said Act is replaced by the following:

"STATE AND FEDERAL CROWN BODIES".

101. Section 192 of the said Act is amended

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

"192. This Part, except section 985, applies to a State body or a federal Crown body, unless otherwise provided by the regulations.";

(2) by replacing, in the English text, the second and third paragraphs by the following:

"Any income or loss from a business carried on by a body, as a mandatary of Her Majesty, that is a prescribed body for the purposes of the third paragraph, or from a property of Her Majesty administered by such a body shall be treated, for the purposes of this Part, as if it were an income or loss of the body from the business or the property.

"Notwithstanding any other provision of this Part, a prescribed body and any corporation controlled by it are deemed not to be private corporations."

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

"193. Where land of Her Majesty has been transferred, for purposes of disposition, to a body that is a prescribed body for the purposes of the third paragraph of section 192, the acquisition of the property by the body and any disposition thereof are deemed not to have been in the course of the business carried on by the body."

103. (1) The said Act is amended by inserting, after section 230.0.0.3, the following sections:

"230.0.0.3.1. For the purposes of subparagraphs *b* and *c* of the first paragraph of section 230, expenditures incurred by a taxpayer in a taxation year do not include expenses incurred in the year in respect of salary or wages of a specified employee of the taxpayer to the extent that those expenses exceed the amount determined by the formula

$$A \times B/365.$$

In the formula provided for in the first paragraph,

(*a*) A is 5 times the amount of the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (chapter R-9), for the calendar year in which the taxation year ends; and

(*b*) B is the number of days in the taxation year during which the employee is a specified employee of the taxpayer.

"230.0.0.3.2. For the purposes of subparagraphs *b* and *c* of the first paragraph of section 230, where in a taxation year of a corporation that ends in a particular calendar year, the corporation employs an individual who is a specified employee of the corporation, the corporation is associated with another corporation, in this section referred to as the "associated corporation", in a taxation year of the associated corporation that ends in the particular calendar year, and the individual is a specified employee of the associated corporation in that taxation year of the associated corporation, the expenditures incurred by the corporation in its taxation year or years that end in the calendar year and by each associated corporation in its taxation year or years that end in the particular calendar year do not include expenses incurred in those taxation years in respect of salary or wages of the specified employee unless the corporation and all of the associated corporations have filed with the Minister an agreement referred to in section 230.0.0.3.3 in respect of those years in respect of that employee or section 230.0.0.3.5 applies to those corporations in respect of those years in respect of that employee.

"230.0.0.3.3. Where none of the members of a group of corporations that are associated with each other in a taxation year that ends in a particular calendar year and of which an individual is a specified employee has, in that taxation year, an establishment in a province other than Québec, all of the members of the group of associated corporations file, in respect of their taxation years that end in the particular calendar year, an agreement with the Minister in which they allocate an amount in respect of the individual to one or more of them for those years and the amount so allocated or the aggregate of the amounts so allocated, as the case may be, does not exceed the amount determined by the following formula, the maximum amount that may be claimed in respect of salary or wages of the individual for the purposes of subparagraphs *b* and *c* of the first paragraph of section 230 by each of the corporations for each of those years is the amount so allocated to it for each of those years:

$$A \times B/365.$$

In the formula provided for in the first paragraph,

(*a*) A is 5 times the amount of the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (chapter R-9), for the particular calendar year; and

(*b*) B is the lesser of 365 and the number of days in those taxation years during which the individual was a specified employee of one or more of the corporations.

"230.0.0.3.4. An agreement referred to in the first paragraph of section 230.0.0.3.3 is deemed not to have been filed by a taxpayer with the Minister unless it is in prescribed form, and, where the taxpayer is a corporation, it is accompanied by, where the directors of the corporation are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made or, where the directors of the corporation are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made.

"230.0.0.3.5. Where one of the members of a group of corporations that are associated with each other in a taxation year that ends in a particular calendar year and of which an individual is a specified employee has, in that taxation year, an establishment in a province other than Québec and an amount in respect of the individual is allocated, in accordance with subsection 9.3 of section 37 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to one or more of them for each of their taxation years that ends in the particular calendar year, the maximum amount that may be claimed in respect of salary or wages of the individual for the purposes of subparagraphs *b* and *c* of the first paragraph of section 230 by each of the corporations for each of those years is the amount so allocated to it for each of those years.

Where, in respect of a taxation year, a member of a group of associated corporations referred to in the first paragraph files, in respect of an individual, an agreement with the Minister of National Revenue in accordance with subsection 9.3 of section 37 of the Income Tax Act, the member is required to file with the Minister, in respect of that year, a copy of the agreement.

"230.0.0.3.6. For the purposes of this section and sections 230.0.0.3.2, 230.0.0.3.3 and 230.0.0.3.5, each of the following is deemed to be a corporation associated with a particular corporation:

(*a*) an individual related to the particular corporation;

(*b*) a partnership of which a majority interest partner is an individual related to the particular corporation or a corporation associated with the particular corporation; and

(*c*) a limited partnership of which a member whose liability as a member is not limited is an individual related to the particular corporation or a corporation associated with the particular corporation."

(2) Subsection 1, where it enacts sections 230.0.0.3.1 to 230.0.0.3.4 and 230.0.0.3.6 of the said Act, applies to taxation years that begin after 5 March

1996. However, where it applies to a taxation year preceding the taxation year 1998,

(1) section 230.0.0.3.2 of the said Act, enacted by subsection 1, shall be read with "or section 230.0.0.3.5 applies to those corporations in respect of those years in respect of that employee" struck out;

(2) section 230.0.0.3.3 of the said Act, enacted by subsection 1, shall be read with "Where none of the members of a group of corporations that are associated with each other in a taxation year that ends in a particular calendar year and of which an individual is a specified employee has, in that taxation year, an establishment in a province other than Québec, all of the members of the group of associated corporations", in the first paragraph, replaced by "Where all of the members of a group of corporations that are associated with each other in a taxation year that ends in a particular calendar year and of which an individual is a specified employee";

(3) section 230.0.0.3.6 of the said Act, enacted by subsection 1, shall be read with ", 230.0.0.3.3 and 230.0.0.3.5", in the portion before paragraph *a*, replaced by "and 230.0.0.3.3".

(3) Subsection 1, where it enacts section 230.0.0.3.5 of the said Act, applies from the taxation year 1998.

104. (1) Section 255 of the said Act, amended by section 58 of chapter 85 of the statutes of 1997, is again amended by replacing subparagraph i of paragraph *i* by the following:

"i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer's share, other than a share under an agreement referred to in section 608, of the income of the partnership from any source for that fiscal period, computed as if this Part were construed without reference to the words "one-half of" in section 105 as it applied to each fiscal period of the partnership ending before 1 April 1977 and without reference to the fractions set out in sections 107, 231 and 265, and as if paragraph *l*, paragraph *z*.4 of section 87, sections 89 to 91, 144, 144.1, 145 and 425, paragraph *j* of section 157, as it read before being struck out, paragraph *b* of each of sections 200 and 201, Division XV of Chapter IV, paragraphs *g* and *h* of section 489, as they read before being struck out, subsection 2 of section 497, and the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24), as they read before their repeal, in respect of income from the operation of new mines, did not exist;".

(2) Subsection 1, where it adds, in subparagraph i of paragraph *i* of section 255 of the said Act, a reference to paragraph *z*.4 of section 87 thereof, applies for the purpose of computing the adjusted cost base of property after 31 December 1996.

105. (1) Section 257 of the said Act is amended

(1) by replacing paragraphs *e* and *h* by the following:

"(*e*) where the property was received as consideration for a payment or loan referred to in section 383, as it read in respect of the payment or loan, which the taxpayer made or consented to before 20 April 1983 to a joint exploration corporation, within the meaning of section 382, as a shareholder corporation of such a corporation, in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the joint exploration corporation, or where the property was substituted for such a property, such portion of the payment or loan as may reasonably be considered to relate to an agreed portion referred to in section 381, 406, 417 or 418.13, as it read in respect of the agreed portion;

"(*h*) where the property is a share of the capital stock of a joint exploration corporation, within the meaning of section 382, resident in Canada to which the taxpayer has, after 31 December 1971, made a contribution of capital otherwise than by way of a loan, which contribution was included in computing the adjusted cost base of the property by virtue of paragraph *e* of section 255, such portion of the contribution as may reasonably be considered to be part of an agreed portion referred to in section 381, 406, 417 or 418.13, as it read in respect of the agreed portion;";

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

"i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer's share, other than a share under an agreement referred to in section 608, of any loss of the partnership from any source for that fiscal period, computed as if this Part were construed without reference to the words "one-half of" in section 105, as it applied to each fiscal period of the partnership ending before 1 April 1977 and without reference to the fractions set out in sections 107 and 231, and as if paragraph *z*.4 of section 87, sections 89 to 91, 144, 144.1, 145, 205 to 207, 235, 236.2 to 241, 264, 271, 273, 288, 293, 425 and 744.1, paragraph *j* of section 157, as it read before being struck out, Division XV of Chapter IV, paragraphs *g* and *h* of section 489, as they read before being struck out, and the second paragraph of section 741 did not exist, except to the extent that all or a portion of such a loss may reasonably be considered to have been included in the taxpayer's limited partnership loss in respect of the partnership for the taxpayer's taxation year in which that fiscal period ended;";

(3) by replacing, in subparagraph ii of paragraph *l*, "(1972, chapter 24)" by "(chapter I-4)".

(2) Paragraph 2 of subsection 1, where it adds, in subparagraph i of paragraph *l* of section 257 of the said Act, a reference to paragraph *z*.4 of section 87 of the said Act, applies for the purpose of computing the adjusted cost base of property after 31 December 1996.

106. Section 308.6 of the said Act is amended, in subparagraph i of subparagraph *b* and subparagraph *c* of the first paragraph, by replacing "section 157" by "section 157 as it read, before being struck out, in respect of that period,".

107. (1) Section 312 of the said Act, amended by section 62 of chapter 85 of the statutes of 1997, is again amended

(1) by striking out paragraphs *a* to *b*.2;

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

"(*c*.2) an amount received out of or under, or as proceeds of disposition of, an annuity where the payment made for the acquisition of the annuity was

i. deductible in computing the taxpayer's income because of paragraph *f* of section 339 or because of section 923.3, as it read immediately before its repeal,

ii. made in circumstances to which, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), subsection 21 of section 146 of that Act applied; or

iii. made pursuant to or under a deferred profit sharing plan by a trustee under the plan to purchase the annuity for a beneficiary under the plan;";

(3) in paragraph *f*, by striking out "of subsection 1" and by replacing the word "sous-paragraphe" by the word "paragraphe" wherever it appears in the French text;

(4) by replacing, in the English text, paragraph *g* by the following:

"(*g*) the amount by which the aggregate of all amounts, other than an amount described in paragraph *i* of section 311, an amount received in the course of business and an amount received because of, or in the course of, an office or employment, received by the taxpayer in the year as a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer, other than a prescribed prize, exceeds the amount determined under section 312.2 in respect of the taxpayer; and".

(2) Paragraph 1 of subsection 1 applies in respect of amounts received after 31 December 1996.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1996.

108. (1) Section 312.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of amounts received after 31 December 1996.

109. (1) The said Act is amended by inserting, after section 312.2, the following sections:

"312.3. In this chapter,

"child support amount" means any support amount that is not identified in the agreement or order under which it is receivable as being solely for the support of a recipient who is a spouse or former spouse of the payer or who is the father or mother of a child of the payer;

"commencement day" in respect of an agreement or order means

(*a*) where the agreement or order is made after 30 April 1997, the day it is made; and

(*b*) where the agreement or order is made before 1 May 1997, the day that is after 30 April 1997 and is the earliest of

i. the day specified as the commencement day by the payer and recipient of the child support amount payable or receivable, as the case may be, under the agreement or order, in a joint election filed with the Minister in prescribed form,

ii. where the agreement or order is varied after 30 April 1997 to change the child support amounts payable to the recipient, the day on which the first payment of the varied amount is required to be made,

iii. where a subsequent agreement or order is made after 30 April 1997, the effect of which is to change the total child support amounts payable to the recipient by the payer, the commencement day of the first such subsequent agreement or order, and

iv. the day specified in the agreement or order, or any variation thereof, as the commencement day for the purposes of this Part;

"support amount" means, subject to the second paragraph, an amount receivable as an allowance on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and a child of the recipient, if the recipient has discretion as to the use of the amount, and

(*a*) the recipient is the spouse or former spouse of the payer, the recipient and payer are living separate and apart because of the breakdown of their marriage and the amount is receivable under an order of a competent tribunal or under a written agreement; or

(*b*) the payer is the father or mother of a child of the recipient and the amount is receivable under an order made by a competent tribunal in accordance with the laws of a province.

For the purposes of the definition of "support amount" in the first paragraph, a support amount does not include an amount described in that definition that, if paid and received, would not be required to be included in computing the income of the recipient of the amount if

(*a*) paragraphs *a* to *b*.1 of section 312 applied in respect of an amount received after 31 December 1996 and were read without reference to the words "and throughout the remainder of the year"; and

(*b*) section 312.4 were disregarded.

"312.4. A taxpayer shall also include the aggregate of all amounts each of which is an amount determined by the formula

$$A - (B + C).$$

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is a support amount received after 31 December 1996 and before the end of the year by the taxpayer from a particular person where the taxpayer and the particular person were living separate and apart at the time the amount was received;

(*b*) B is the aggregate of all amounts each of which is a child support amount that became receivable by the taxpayer from the particular person under an agreement or order on or after the commencement day and before the end of the year in respect of a period that began after that commencement day; and

(*c*) C is the aggregate of all amounts each of which is a support amount received after 31 December 1996 by the taxpayer from the particular person and included in the taxpayer's income for a preceding taxation year.

"312.5. A taxpayer shall also include any amount received under an order of a competent tribunal as a reimbursement of an amount deducted under any of paragraphs *a* to *b* of subsection 1 of section 336, as it read for that preceding year, in computing the taxpayer's income for a preceding taxation year, or that could have been so deducted were it not for section 334.1, as it read for that preceding year, or deducted under section 336.0.3 in computing the taxpayer's income for the year or a preceding taxation year."

(2) Subsection 1, where it enacts section 312.3 of the said Act, has effect from 1 January 1997.

(3) Subsection 1, where it enacts sections 312.4 and 312.5 of the said Act, applies in respect of amounts received after 31 December 1996.

110. (1) Section 313 of the said Act is replaced by the following:

"313. For the purposes of sections 312.4 and 752.0.6, where an order or agreement, or any variation thereof, provides for the payment of an amount to a taxpayer or for the benefit of the taxpayer, a child in the taxpayer's custody or both the taxpayer and a child in the taxpayer's custody, the amount or any part thereof, when payable, is deemed to be payable to and receivable by the taxpayer and, when paid, is deemed to have been paid to and received by the taxpayer."

(2) Subsection 1 applies in respect of amounts received after 31 December 1996.

111. (1) The said Act is amended by inserting, after section 313, the following section:

"313.0.0.1. For the purposes of section 312.3, where an order, or any variation thereof, provides for the payment of an amount to a taxpayer or for the benefit of the taxpayer, a child in the taxpayer's custody or both the taxpayer and a child in the taxpayer's custody and the amount or any part thereof is paid by the Minister under the Act to facilitate the payment of support (chapter P-2.2) otherwise than out of the sums collected from the debtor of support, the amount or any part thereof, when paid, is deemed to have been receivable by the taxpayer under the order."

(2) Subsection 1 applies in respect of amounts received after 31 December 1996.

112. (1) Sections 313.0.1 to 313.0.3 of the said Act are replaced by the following:

"313.0.1. Where an amount, other than an amount that is otherwise a support amount, became payable in a taxation year by a person, in this section and in section 313.0.2 referred to as the "particular person", under an order of a competent tribunal or under a written agreement, in respect of an expense incurred in the year or the preceding taxation year for the maintenance of a taxpayer described in the second paragraph, a child in the taxpayer's custody or both the taxpayer and a child in the taxpayer's custody and the order or agreement provides that this section and section 336.1 apply to any amount paid or payable thereunder, the amount by which the aggregate of all amounts each of which is such an amount payable exceeds the amount determined under section 313.0.3 is, for the purposes of this chapter and section 752.0.6, deemed to be an amount payable to and receivable by the taxpayer as an allowance on a periodic basis, and the taxpayer is deemed to have discretion as to the use of that amount.

The taxpayer to whom the first paragraph refers is

(*a*) the spouse or former spouse of the particular person; or

(*b*) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, the father or mother of a child of the particular person.

"313.0.2. For the purposes of section 313.0.1, an expense does not include an expenditure in respect of a self-contained domestic establishment in which the particular person resides or an expenditure for the acquisition of tangible property that is not an expenditure on account of a medical or educational expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the taxpayer described in the second paragraph of that section 313.0.1 resides.

"313.0.3. The amount referred to in the first paragraph of section 313.0.1 is the amount by which

(*a*) the aggregate of all amounts each of which is an amount included in the aggregate determined under that paragraph in respect of the acquisition or improvement of a self-contained domestic establishment in which the taxpayer described in the second paragraph of that section 313.0.1 resides, including any payment of principal or interest in respect of a loan made or indebtedness incurred to finance, in any manner whatever, such acquisition or improvement; exceeds

(*b*) the aggregate of all amounts each of which is an amount equal to 20% of the original principal amount of a loan or indebtedness described in paragraph *a*."

(2) Subsection 1 applies in respect of amounts received after 31 December 1996.

113. (1) Section 313.0.5 of the said Act is replaced by the following:

"313.0.5. For the purposes of this chapter, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount received before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder, the following rules apply:

(*a*) the amount is deemed to have been received thereunder;

(*b*) the agreement or order is deemed, except for the purpose of this section, to have been made on the day on which the first such amount was received.

However, where the agreement or order is made after 30 April 1997 and varies a child support amount payable to the recipient from the last such amount received by the recipient before 1 May 1997, each varied amount of child support received under the agreement or order is deemed to have been receivable under an agreement or order the commencement day of which is

the day on which the first payment of the varied amount is required to be made."

(2) Subsection 1 applies in respect of amounts received after 31 December 1996.

114. (1) Section 336 of the said Act, amended by section 45 of chapter 31 of the statutes of 1997, by section 110 of chapter 63 of the statutes of 1997 and by section 65 of chapter 85 of the statutes of 1997, is again amended

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

"336. The amounts referred to in section 334 include";

(2) by striking out paragraphs *a* to *b*.1 of subsection 1;

(3) by replacing, in the French text of the portion of paragraph *e*.1 of subsection 1 before subparagraph i, the words "présent sous-paragraphe" by the words "présent paragraphe";

(4) by replacing, in the English text of subparagraph ii of paragraph *f* of subsection 1, the word "estate" by the word "succession";

(5) by striking out subsections 2 to 2.2.

(2) Paragraph 2 of subsection 1, where it strikes out paragraphs *a* to *b*.0.1 of subsection 1 of section 336 of the said Act, and paragraph 5 of subsection 1, where it strikes out subsection 2 of section 336 of the said Act, applies in respect of amounts paid after 31 December 1996.

(3) Paragraph 2 of subsection 1, where it strikes out paragraph *b*.1 of subsection 1 of section 336 of the said Act, has effect from 1 January 1997.

(4) Paragraph 5 of subsection 1, where it strikes out subsections 2.1 and 2.2 of section 336 of the said Act, applies in respect of amounts reimbursed after 31 December 1996. In addition,

(1) where subsection 2.1 of section 336 of the said Act, struck out by that paragraph 5, applies in respect of amounts reimbursed before 1 January 1997, it shall be read with the words "to and received by the person" added after the word "paid";

(2) where subsection 2.2 of section 336 of the said Act, struck out by that paragraph 5, applies in respect of amounts reimbursed before 1 January 1997, it shall be read with the words "to have been paid in that year under the decree, order or judgment" replaced by the words "to have been paid to and received by the person in that year under the decree, order or judgment".

115. (1) Section 336.0.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of amounts paid after 31 December 1996.

116. (1) The said Act is amended by inserting, before section 336.1, the following sections:

"336.0.2. In this chapter,

"child support amount" means any support amount that is not identified in the agreement or order under which it is payable as being solely for the support of a recipient who is a spouse or former spouse of the payer or who is the father or mother of a child of the payer;

"commencement day" in respect of an agreement or order has the meaning assigned by the first paragraph of section 312.3;

"support amount" means, subject to the second paragraph and except for the purposes of paragraphs *a* and *b* of section 336.0.5, an amount payable as an allowance on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and a child of the recipient, if the recipient has discretion as to the use of the amount, and

(*a*) the recipient is the spouse or former spouse of the payer, the recipient and payer are living separate and apart because of the breakdown of their marriage and the amount is payable under an order of a competent tribunal or under a written agreement; or

(*b*) the payer is the father or mother of a child of the recipient and the amount is payable under an order made by a competent tribunal in accordance with the laws of a province.

For the purposes of the definition of "support amount" in the first paragraph, a support amount does not include an amount described in that definition that, if paid and received, would not be required to be included in computing the income of the recipient of the amount if

(*a*) paragraphs *a* to *b*.1 of section 312 applied in respect of an amount received after 31 December 1996 and were read without reference to the words "and throughout the remainder of the year"; and

(*b*) section 312.4 were disregarded.

"336.0.3. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct the aggregate of all amounts each of which is an amount determined by the formula

$$A - (B + C).$$

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is a support amount paid after 31 December 1996 and before the end of the year by the taxpayer to a particular person, where the taxpayer and the particular person were living separate and apart at the time the amount was paid;

(*b*) B is the aggregate of all amounts each of which is a child support amount that became payable by the taxpayer to the particular person under an agreement or order on or after the commencement day and before the end of the year in respect of a period that began after that commencement day; and

(*c*) C is the aggregate of all amounts each of which is a support amount paid by the taxpayer to the particular person after 31 December 1996 and deductible in computing the taxpayer's income for a preceding taxation year.

"336.0.4. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct the amount by which an amount paid by the taxpayer in the year or one of the two preceding taxation years under an order of a competent tribunal as a repayment of an amount included under any of paragraphs *a* to *b*.1 of section 312, as it read for a preceding taxation year, in computing the taxpayer's income for that preceding year, or that should have been so included had the taxpayer not made the election provided for in section 309.1, as it read for that preceding year, or included under section 312.4 in computing the taxpayer's income for the year or a preceding taxation year, to the extent that the amount was not deducted in computing the taxpayer's income for a preceding taxation year, exceeded the portion of the amount in respect of which section 334.1 applied for a preceding taxation year, as that section read for that preceding year.

"336.0.5. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct any amount paid by the taxpayer as judicial or extrajudicial expenses incurred for any of the following purposes, to the extent that the taxpayer has not been reimbursed, is not entitled to be reimbursed, and did not deduct the amount in computing the taxpayer's income for a preceding taxation year:

(*a*) for the purpose of collecting an amount owing to the taxpayer that is a support amount as defined in the first paragraph of section 312.3;

(*b*) for the purpose of obtaining a review of the right to receive an amount that is a support amount as defined in the first paragraph of section 312.3; and

(*c*) for the purpose of obtaining a review of the obligation to pay an amount that is a support amount.

"336.0.6. For the purposes of sections 336.0.3 and 752.0.6, where an order or agreement, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, a child in the

person's custody or both the person and a child in the person's custody, the amount or any part thereof, when payable, is deemed to be payable to and receivable by that person and, when paid, is deemed to have been paid to and received by that person.

"336.0.7. For the purposes of sections 336.0.2 and 336.0.3, where an order, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, a child in the person's custody or both the person and a child in the person's custody, the amount or any part thereof is paid by the Minister under the Act to facilitate the payment of support (chapter P-2.2) otherwise than out of the sums collected from the taxpayer, and in a particular taxation year the taxpayer reimburses the Minister for all or any part of that amount, the amount so reimbursed is deemed to have been payable in that year under the order and to have been paid to and received by the person in that year.

"336.0.8. For the purposes of sections 336.0.2 and 336.0.3, where an order or agreement, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, a child in the person's custody or both the person and a child in the person's custody, a benefit is paid by the Minister of Employment and Solidarity under Chapter II of the Act respecting income security (chapter S-3.1.1) because the taxpayer fails to pay all or part of the amount that the taxpayer is required to pay, and in a particular taxation year the taxpayer reimburses the Minister of Employment and Solidarity for all or part of that benefit, the amount so reimbursed is deemed to have been payable in that year under the order or agreement and to have been paid to and received by the person in that year."

(2) Subsection 1, where it enacts sections 336.0.2 and 336.0.5 of the said Act, has effect from 1 January 1997.

(3) Subsection 1, where it enacts sections 336.0.3, 336.0.4 and 336.0.6 of the said Act, applies in respect of amounts paid after 31 December 1996.

(4) Subsection 1, where it enacts sections 336.0.7 and 336.0.8 of the said Act, applies in respect of amounts reimbursed after 31 December 1996. However, where section 336.0.8 of the said Act, enacted by subsection 1, applies in respect of amounts that are reimbursed before 25 June 1997, it shall be read with the words "Employment and Solidarity" replaced by the words "Income Security".

117. (1) Sections 336.1 to 336.4 of the said Act are replaced by the following:

"336.1. Where an amount, other than an amount that is otherwise a support amount, became payable by a taxpayer in a taxation year under an order of a competent tribunal or under a written agreement, in respect of an expense incurred in the year or the preceding taxation year for the maintenance of a person described in the second paragraph, a child in the person's custody

or both the person and a child in the person's custody and the order or agreement provides that this section and section 313.0.1 apply to any amount paid or payable thereunder, the amount by which the aggregate of all amounts each of which is such an amount payable exceeds the amount determined under section 336.3 is deemed, for the purposes of this chapter and of section 752.0.6, to be an amount payable by the taxpayer to and receivable by the person as an allowance on a periodic basis, and the person is deemed to have discretion as to the use of that amount.

The person to whom the first paragraph refers is

(*a*) the spouse or former spouse of the taxpayer; or

(*b*) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, the father or mother of a child of the taxpayer.

"336.2. For the purposes of section 336.1, an expense does not include an expenditure in respect of a self-contained domestic establishment in which the taxpayer mentioned in the first paragraph of that section resides or an expenditure for the acquisition of tangible property that is not an expenditure on account of a medical or educational expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the person described in the second paragraph of that section resides.

"336.3. The amount referred to in the first paragraph of section 336.1 is equal to the amount by which

(*a*) the aggregate of all amounts each of which is an amount included in the aggregate determined under that paragraph in respect of the acquisition or improvement of a self-contained domestic establishment in which the person described in the second paragraph of that section 336.1 resides, including any payment of principal or interest in respect of a loan made or indebtedness incurred to finance, in any manner whatever, such acquisition or improvement; exceeds

(*b*) the aggregate of all amounts each of which is an amount equal to 20% of the original principal amount of a loan or indebtedness described in paragraph *a*.

"336.4. For the purposes of this chapter, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount paid before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder, the following rules apply:

(*a*) the amount is deemed to have been paid thereunder; and

(*b*) the agreement or order is deemed, except for the purpose of this section, to have been made on the day on which the first such amount was paid.

However, where the agreement or order is made after 30 April 1997 and varies a child support amount payable to the recipient from the last such amount paid to the recipient before 1 May 1997, each varied amount of child support paid under the agreement or order is deemed to have been payable under an agreement or order the commencement day of which is the day on which the first payment of the varied amount is required to be made."

(2) Subsection 1 applies in respect of amounts paid after 31 December 1996.

118. (1) Section 359 of the said Act is amended by replacing paragraph *d* by the following:

"(*d*) "oil or gas well" means any well, other than an exploratory probe or a well drilled from below the surface of the earth, drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a natural accumulation of petroleum or natural gas, but, for the purpose of applying sections 93 to 104 and 130 and any regulations made for the purpose of paragraph *a* of section 130 in respect of property acquired after 6 March 1996, does not include a well for the extraction of material from a deposit of bituminous sands or oil shales."

(2) Subsection 1 has effect from 7 March 1996.

119. (1) Section 359.1 of the said Act is amended by replacing subparagraphs *a* and *b* of the first paragraph by the following:

"(*a*) to incur, in the period that begins on the day the agreement was entered into and ends 24 months after the end of the month that includes that day, Canadian exploration expenses or Canadian development expenses in an amount not less than the consideration for which the share is to be issued, and

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

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

120. (1) Section 359.1.1 of the said Act is replaced by the following:

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

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

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

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

"359.2. Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, in the period that begins on the day the agreement was entered into and ends 24 months after the end of the month that includes that day, the corporation incurred Canadian exploration expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year that begins after that period, renounce to the person in respect of the share the amount by which the part of those expenses incurred by it on or before the effective date of the renunciation, which part is in this section referred to as the "specified expenses", exceeds the aggregate of

(*a*) the assistance that the corporation has received, is entitled to receive, or may reasonably expect to receive at any time, and that can reasonably be related to the specified expenses or to Canadian exploration activities to which the specified expenses relate, other than assistance that can reasonably be related to expenses referred to in subparagraph *b* or *b*.1;

(*b*) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation;";

(2) by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

"(*b*.1) all specified expenses each of which is a cost of, or for the use of, seismic data

i. that had been acquired, otherwise than as a consequence of performing work that resulted in the creation of the data, by any other person before the cost was incurred,

ii. in respect of which a right to use had been acquired by any other person before the cost was incurred, or

iii. all or substantially all of which resulted from work performed more than one year before the cost was incurred; and";

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

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

(2) Paragraph 1 of subsection 1 applies in respect of expenses incurred after 29 February 1996.

(3) Paragraph 2 of subsection 1 applies in respect of costs incurred after 5 March 1996, other than costs incurred under an agreement in writing entered into before 6 March 1996.

(4) Paragraph 3 of subsection 1 applies in respect of renunciations made after 31 December 1998.

122. (1) Section 359.2.1 of the said Act is amended by replacing the portion before paragraph *c* by the following:

"359.2.1. Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation, the corporation's paid-up capital amount at the time the consideration was given was not more than $15,000,000, and during the period beginning on the later of 3 December 1992 and the particular day the agreement was entered into and ending on the day that is 24 months after the end of the month that included that particular day, the corporation incurred Canadian development expenses described in paragraph *a* or *a*.1 of section 408 or that would be described in paragraph *d* of that section if the words "expenses described in paragraphs *a* to *c*" in that paragraph were read as "expenses described in paragraph *a* or *a*.1", the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year that begins after that period, renounce to the person in respect of the share the amount by which the part of those expenses incurred by it on or before the effective date of the renunciation, which part is in this section referred to as the "specified expenses", exceeds the aggregate of

(*a*) the assistance that the corporation has received, is entitled to receive, or may reasonably expect to receive at any time, and that can reasonably be related to the specified expenses or Canadian development activities to which the specified expenses relate, other than assistance that can reasonably be related to expenses referred to in paragraph *b*;

(*b*) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation;".

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992, except where it inserts, in the portion of section 359.2.1 of the said Act before paragraph *a*, ", the corporation's paid-up capital amount at the time the consideration was given was not more than $15,000,000", in which case subsection 1 applies in respect of renunciations made after 5 March 1996, other than renunciations made before 1 January 1999 in respect of consideration given before 6 March 1996 or under an agreement in writing entered into before 6 March 1996 or under the terms of a final prospectus, preliminary prospectus, offering memorandum, registration statement or notice filed before 6 March 1996 with a public authority in Canada in accordance with securities legislation of a province.

123. (1) Section 359.2.2 of the said Act is amended

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

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

(2) by replacing, in paragraph *c*, "$2,000,000" by "$1,000,000".

(2) Paragraph 1 of subsection 1 applies in respect of renunciations made after 31 December 1998.

(3) Paragraph 2 of subsection 1 applies in respect of renunciations made after 5 March 1996, other than a renunciation made before 1 January 1999 in respect of consideration given before 6 March 1996 or under an agreement in writing entered into before 6 March 1996 or under the terms of a final prospectus, preliminary prospectus, offering memorandum, registration statement or notice filed before 6 March 1996 with a public authority in Canada in accordance with securities legislation of a province.

124. (1) The said Act is amended by inserting, after section 359.2.2, the following sections:

"359.2.3. For the purposes of section 359.2.1, a corporation's paid-up capital amount at any time is the aggregate of

(*a*) its paid-up capital determined for its last taxation year that ended more than 30 days before that time; and

(*b*) the aggregate of all amounts each of which is the paid-up capital of another corporation associated at that time with the corporation, determined for the other corporation's last taxation year that ended more than 30 days before that time.

"359.2.4. For the purpose of determining the paid-up capital amount at a particular time under section 359.2.3 of any corporation and for the purposes of this section, a corporation that was created as a consequence of an amalgamation or merger of other corporations, each of which is in this section referred to as a "predecessor corporation", and that does not have a taxation year that ended more than 30 days before the particular time, is deemed to have paid-up capital for a taxation year that ended more than 30 days before the particular time equal to the aggregate of all amounts each of which is the paid-up capital of a predecessor corporation for its last taxation year that ended more than 30 days before the particular time.

"359.2.5. For the purpose of determining the paid-up capital amount at a particular time under section 359.2.3 of a corporation and for the purposes of

section 359.2.4, a particular corporation's paid-up capital for a taxation year is its paid-up capital that would be determined for the year in accordance with Title I of Book III of Part IV if no account was taken of the portion of the amount that the corporation may deduct under section 1138 that is attributable to shares of the capital stock of, or indebtedness of, another corporation that

(*a*) was not associated with the particular corporation at the particular time; and

(*b*) was associated with the particular corporation at the end of the particular corporation's last taxation year that ended more than 30 days before that time."

(2) Subsection 1 has effect from 6 March 1996. However, for the purpose of determining a corporation's paid-up capital amount under section 359.2.3 of the said Act, enacted by subsection 1, in respect of a renunciation by a corporation, the corporation is deemed not to be associated with any other corporation where the renunciation is made before 1 January 1999 in respect of consideration given before 6 December 1996 or under an agreement in writing entered into before 6 December 1996 or under the terms of a final prospectus, preliminary prospectus, offering memorandum, registration statement or notice filed before 7 December 1996 with a public authority in Canada in accordance with securities legislation of a province.

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

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

"359.4. Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, in the period that begins on the day the agreement was entered into and ends 24 months after the end of the month that includes that day, the corporation incurred Canadian development expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year that begins after the period, renounce to the person in respect of the share an amount equal to the amount by which the part of those expenses incurred by it on or before the effective date of the renunciation, which part is in this section referred to as the "specified expenses", exceeds the aggregate of

(*a*) the assistance that the corporation has received, is entitled to receive or may reasonably expect to receive at any time, and that can reasonably be related to the specified expenses or to Canadian development activities to which the specified expenses relate, other than assistance that can reasonably be related to expenses referred to in subparagraph *b* or *b*.1;

(*b*) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation;";

(2) by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

"(*b*.1) all specified expenses that are described in paragraph *c* of section 408 or that are described in paragraph *d* of that section because of the reference in the latter paragraph to paragraph *c* of section 408; and";

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

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

(2) Paragraph 1 of subsection 1 applies in respect of expenses incurred after 29 February 1996.

(3) Paragraph 2 of subsection 1 applies in respect of renunciations made after 5 March 1996, other than a renunciation made before 1 January 1999 in respect of consideration given before 6 March 1996 or under an agreement in writing entered into before 6 March 1996 or under the terms of a final prospectus, preliminary prospectus, offering memorandum, registration statement or notice filed before 6 March 1996 with a public authority in Canada in accordance with securities legislation of a province.

(4) Paragraph 3 of subsection 1 applies in respect of renunciations made after 31 December 1998.

126. (1) Sections 359.6 and 359.7 of the said Act are repealed.

(2) Subsection 1 applies in respect of renunciations made after 5 March 1996, other than a renunciation made before 1 January 1999 in respect of consideration given before 6 March 1996 or under an agreement in writing entered into before 6 March 1996 or under the terms of a final prospectus, preliminary prospectus, offering memorandum, registration statement or notice filed before 6 March 1996 with a public authority in Canada in accordance with securities legislation of a province.

127. (1) Section 359.8 of the said Act is replaced by the following:

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

(*a*) the expenses

i. are described in paragraph *a*, *b*.1 or *c* of section 395 or paragraph *a* or *a*.1 of section 408,

ii. would be described in paragraph *d* of section 395 if the reference therein to paragraphs *a* to *b*.1 and *c* to *c*.2 were read as a reference to paragraphs *a*, *b*.1 and *c* of that section, or

iii. would be described in paragraph *d* of section 408 if the reference therein to paragraphs *a* to *c* were read as a reference to paragraphs *a* and *a*.1 of that section;

(*a*.1) the agreement was entered into in the preceding calendar year;

(*b*) the person paid the consideration for the share in money before the end of the preceding calendar year;

(*c*) the corporation and the person deal with each other at arm's length throughout the particular calendar year; and

(*d*) in one of the first three months of the particular calendar year, the corporation renounces an amount in respect of the expenses to the person in respect of the share in accordance with section 359.2 or 359.2.1, as the case may be, and the effective date of the renunciation is the last day of the preceding calendar year."

(2) Subsection 1, where it replaces section 359.8 of the said Act, other than paragraph *a* thereof, applies in respect of expenses incurred after 31 December 1996, other than expenses incurred before 1 March 1997 in respect of an agreement that was entered into in the calendar year 1995.

(3) In addition, for the purpose of applying paragraph *a*.1 of section 359.8 of the said Act, enacted by subsection 1, in respect of expenses incurred in the calendar year 1998, any agreement entered into in the calendar year 1996 is deemed to have been entered into in the calendar year 1997.

(4) Subsection 1, where it replaces paragraph *a* of section 359.8 of the said Act, applies in respect of expenses incurred after 31 December 1992. However, where subparagraph ii of paragraph *a* of that section 359.8, enacted by subsection 1, applies before 6 December 1996, it shall be read with "*a* to *b*.1 and *c* to *c*.2" replaced by "*a* to *b*.1, *c* and *c*.1".

128. (1) Section 359.9 of the said Act is amended by replacing paragraph *a* by the following:

"(*a*) not to have renounced under any of sections 359.2, 359.2.1 and 359.4 any expenses that are deemed to have been incurred by it because of a renunciation under this chapter by another corporation that is not related to it;".

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

129. (1) Section 359.9.1 of the said Act is amended by replacing the portion of paragraph *c* before subparagraph i by the following:

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

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

130. (1) Section 359.11 of the said Act is replaced by the following:

"359.11. Where, in a fiscal period of a partnership, an expense is incurred by the partnership as a consequence of a renunciation of an amount under section 359.2, 359.2.1 or 359.4, the partnership shall, before the end of the third month following the end of the fiscal period, file with the Minister the prescribed form identifying the share of the expense attributable to each member of the partnership at the end of that fiscal period.

Where the form required to be filed under the first paragraph is not so filed, except for the purposes of the first paragraph the partnership is deemed not to have incurred the expense referred to in that paragraph."

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

131. (1) Section 359.11.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"359.11.1. Where a partnership receives or becomes entitled to receive assistance as a mandatary of its members or former members at a particular time in respect of any Canadian exploration expense or Canadian development expense that is or, but for paragraph *b* of sections 359.3 and 359.5, would be incurred by a corporation, the following rules apply:".

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

132. (1) Sections 359.12 and 359.12.0.1 of the said Act are replaced by the following:

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

Where the form required to be filed under the first paragraph is not so filed, sections 359.3 and 359.5 do not apply in respect of the amount referred to in the first paragraph that the corporation has renounced.

"359.12.0.1. Where a corporation receives or becomes entitled to receive assistance as a mandatary in respect of any Canadian exploration expense or Canadian development expense that is or, but for paragraph *b* of sections 359.3 and 359.5, would be incurred by the corporation, the corporation shall, before the end of the first month following the particular month in which it first becomes known to the corporation that a person who holds a flow-through share of the corporation is entitled to a share of any part of the assistance, file with the Minister the prescribed form identifying the share of that part of the assistance to which each of those persons is entitled at the end of the particular month.

Where the form required to be filed under the first paragraph is not so filed, except for the purpose of the first paragraph the corporation is deemed not to have incurred the expense referred to in the first paragraph to which the assistance relates."

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

133. (1) Section 359.12.1.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"359.12.1.1. Where a corporation purports to renounce an amount under section 359.2, 359.2.1 or 359.4 after the period in which the corporation was entitled to renounce the amount, the amount is deemed, except for the purposes of this section and sections 359.12 and 359.12.2, to have been renounced at the end of the period if".

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

134. (1) Section 359.12.2 of the said Act is amended by replacing paragraph *a* by the following:

"(*a*) where the penalty is in respect of the late filing of a document referred to in section 359.10, 359.11 or 359.12, the greater of $100 and 0.25% of the maximum amount in respect of the Canadian exploration expenses and Canadian development expenses renounced or attributed or to be renounced or attributed as set out in the document;".

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

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

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

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

136. Section 359.14 of the said Act is repealed.

137. (1) Section 359.15 of the said Act is replaced by the following:

"359.15. Where the amount that a corporation purports to renounce to a person under section 359.2, 359.2.1 or 359.4 exceeds the amount that it can renounce to the person under that section, the following rules apply:

(*a*) the corporation shall file a statement with the Minister in prescribed form where

i. the Minister sends a notice in writing to the corporation demanding the statement, or

ii. the excess arose as a consequence of a renunciation purported to be made in a calendar year under section 359.2 or 359.2.1, as the case may be, because of the application of section 359.8 and, at the end of the year, the corporation knew or ought to have known of all or part of the excess;

(*b*) where subparagraph i of subparagraph *a* applies, the statement shall be filed not later than 30 days after the Minister sends a notice referred to therein;

(*c*) where subparagraph ii of subparagraph *a* applies, the statement shall be filed before 1 March of the calendar year following the year in which the purported renunciation was made; and

(*d*) except for the purposes of Part III.14, any amount that is purported to have been so renounced to any person is deemed, after the statement is filed with the Minister, to have always been reduced by the portion of the excess identified in the statement in respect of that purported renunciation.

Where a corporation fails in the statement referred to in the first paragraph to apply the excess fully to reduce one or more purported renunciations, the Minister may at any time reduce the total amount purported to be renounced by the corporation to one or more persons by the amount of the unapplied excess.

In the case referred to in the second paragraph, except for the purposes of Part III.14, the amount purported to have been renounced by the corporation to a person is deemed, after the time referred to therein, to have always been

reduced by the portion of the unapplied excess allocated by the Minister in respect of that person."

(2) Subsection 1 applies in respect of purported renunciations made after 31 December 1996. However, where subsection 1 applies in respect of purported renunciations made before 1 January 1999, the portion of the first paragraph of section 359.15 of the said Act before subparagraph *a*, enacted thereby, shall be read as follows:

"359.15. Where an amount that a corporation purports to renounce to a person under section 359.2, 359.2.1, 359.4 or 359.6 exceeds the amount that it can renounce to the person under that section, the following rules apply:".

138. (1) Section 359.16 of the said Act is replaced by the following:

"359.16. For the purposes of paragraph *c*.0.1 of section 359, the first and second paragraphs of section 359.1 and sections 359.2 to 359.15, 359.18, 359.19 and 419.0.1, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period."

(2) Subsection 1 applies to fiscal periods that end after 31 December 1995.

139. (1) Section 359.17 of the said Act is replaced by the following:

"359.17. For the purposes of paragraph *c* of section 359.8, where an expense would, but for paragraph *b* of section 359.3, be incurred in a calendar year by a corporation and the expense is deemed by section 359.3 to be incurred by a partnership, the partnership and the corporation are deemed not to deal with each other at arm's length at any time during that period only where a share of the expense of the partnership is included because of paragraph *d* of section 395 in the Canadian exploration expense of the corporation or a member of the partnership with whom the corporation does not deal at arm's length at any time during that period."

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1996, other than expenses incurred before 1 March 1997 in respect of an agreement entered into in the calendar year 1995.

140. (1) Section 359.18 of the said Act is replaced by the following:

"359.18. For the purposes of section 181, paragraphs *c* to *e* of section 330, sections 333.1 to 333.3, 362 to 394, 600.1 and 600.2, Divisions I, I.1, III to IV.2 and V, subparagraph iv of subparagraph *a*.2 of the first paragraph of section 726.6 and subparagraph *b* of the second paragraph of section 1129.60, where a person's share of an outlay or expense made or incurred by a partnership in a fiscal period of the partnership is included in respect of the person under section 372, to the extent that it refers to paragraph *d* of section 364, under paragraph *d* of section 395 or 408, or under paragraph *b* of section 418.2, the portion of the outlay or expense so included is deemed,

except for the purpose of applying sections 372, 395 to 397, 408 to 410 and 418.2 to 418.4 in respect of the person, to have been made or incurred by the person at the end of that fiscal period."

(2) Subsection 1 applies to fiscal periods that end after 31 December 1996.

141. (1) Section 359.19 of the said Act is replaced by the following:

"359.19. A corporation is not entitled to renounce under section 359.2, 359.2.1 or 359.4 to a person a specified amount where the corporation would not be entitled to so renounce the specified amount if the words "end of that fiscal period" in section 359.18 were read as "time the outlay or expense is made or incurred by the partnership" and the words "on the effective date of the renunciation" in paragraph *a* of each of sections 359.3 and 359.5 were read as "at the earliest time that any part of such expense is incurred by the corporation".

For the purposes of the first paragraph, a specified amount in respect of a corporation is an amount that represents all or part of

(*a*) the corporation's share of the outlay or expense made or incurred by a partnership of which the corporation is a member or former member; or

(*b*) an amount renounced to the corporation under section 359.2, 359.2.1 or 359.4."

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

142. (1) Section 363 of the said Act is amended by adding, after subparagraph *g* of the first paragraph, the following subparagraphs:

"(*h*) the generation of energy using prescribed property; and

"(*i*) the development of projects for which it is reasonable to expect that at least 50% of the capital cost of the depreciable property to be used in each project would be the capital cost of prescribed property."

(2) Subsection 1 has effect from 6 December 1996.

143. (1) The said Act is amended by inserting, after section 372, the following section:

"372.1. A taxpayer's foreign exploration and development expenses do not however include

(*a*) any amount included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class;

(*b*) an expenditure incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates;

(*c*) an expenditure, other than a drilling expense, incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to assist in the recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates; or

(*d*) an expenditure incurred at any time relating to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir."

(2) Subsection 1 applies to taxation years that end after 5 December 1996.

144. (1) Sections 381 and 383 of the said Act are repealed.

(2) Subsection 1 applies in respect of renunciations made

(1) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation before 6 March 1996;

(2) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation after 5 March 1996 under an agreement in writing entered into before 6 March 1996 by the joint exploration corporation or by another corporation where the other corporation controlled the joint exploration corporation, or had undertaken to incorporate it, at the time the agreement was entered into;

(3) after 5 March 1996, in any other case.

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

(1) by inserting, after paragraph *c*.1, the following subparagraph:

"(*c*.2) any Canadian renewable and conservation expense incurred by the taxpayer;";

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

"(*d*) subject to section 418.37, the taxpayer's share of the expenses described in paragraphs *a* to *b*.1 and *c* to *c*.2 incurred by a partnership in a fiscal period thereof, if at the end of the period the taxpayer is a member thereof; or".

(2) Subsection 1 has effect from 6 December 1996.

146. (1) Section 396 of the said Act is replaced by the following:

"396. A taxpayer's Canadian exploration expenses do not however include

(*a*) any consideration given by the taxpayer for any share, or for any interest therein or right thereto, except as provided by paragraph *e* of section 395;

(*b*) any expense described in paragraph *e* of section 395 and incurred by any other taxpayer to the extent that the expense is a Canadian exploration expense of that other taxpayer by virtue of that paragraph, a Canadian development expense of that other taxpayer by virtue of paragraph *e* of section 408 or a Canadian oil and gas property expense of that other taxpayer by virtue of paragraph *c* of section 418.2;

(*c*) any amount, other than a Canadian renewable and conservation expense, included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class;

(*d*) an expenditure incurred at any time after the commencement of production from a Canadian resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of, or to assist in the recovery of, petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the Canadian resource property relates;

(*e*) an expenditure incurred at any time relating to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir; or

(*f*) the taxpayer's share of any consideration, expense, cost or expenditure referred to in any of paragraphs *a* to *e* given or incurred, as the case may be, by a partnership."

(2) Subsection 1 applies to taxation years that end after 5 December 1996.

147. (1) Section 399.2 of the said Act is repealed.

(2) Subsection 1 has effect from 7 March 1996.

148. Section 399.3 of the said Act is amended by replacing, in subparagraph *a* of the third paragraph, "section 359.5 or sections 417 and 418" by "section 359.5 or sections 417 and 418, as they read in respect of those expenses,".

149. Section 399.6 of the said Act is amended by replacing, in paragraph *c*, "359.2.1, 359.4 or 417" by "359.2.1 or 359.4 or section 417, as it read in respect of the renunciation,".

150. (1) Section 399.7 of the said Act is replaced by the following:

"399.7. In this chapter,

"Canadian renewable and conservation expense" has the meaning assigned by the regulations;

"specified purpose" means

(*a*) the operation of an oil or gas well for the sole purpose of testing the well or the well head and related equipment, in accordance with generally accepted engineering practices;

(*b*) the burning of natural gas and related hydrocarbons to protect the environment; and

(*c*) any prescribed purpose.

For the purpose of determining whether an outlay or expense meets the prescribed criteria in respect of Canadian renewable and conservation expenses, the Technical Guide to Canadian Renewable and Conservation Expenses, as amended from time to time and published by the Department of Natural Resources of Canada, shall apply conclusively with respect to engineering and scientific matters."

(2) Subsection 1 has effect from 6 December 1996.

151. (1) Section 400 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"400. A development corporation, other than a corporation that would not be a development corporation if the first paragraph of section 363 were read without reference to subparagraphs *h* and *i* thereof, may, in computing its income for a taxation year, deduct any amount not exceeding the lesser of".

(2) Subsection 1 applies to taxation years that end after 5 December 1996.

152. (1) Sections 406 and 407 of the said Act are repealed.

(2) Subsection 1 applies in respect of renunciations made

(1) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation before 6 March 1996;

(2) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation after 5 March 1996 under an agreement in writing entered into before 6 March 1996 by the joint exploration corporation or by another corporation where the other corporation controlled the joint exploration corporation, or had undertaken to incorporate it, at the time the agreement was entered into;

(3) after 5 March 1996, in any other case.

153. (1) Section 409 of the said Act is replaced by the following:

"409. A taxpayer's Canadian development expenses do not however include

(*a*) any consideration given by the taxpayer for any share, or for any interest therein or right thereto, except as provided by paragraph *e* of section 408;

(*b*) any expense described in paragraph *e* of section 408 and incurred by another taxpayer to the extent that the expense is a Canadian development expense of that other taxpayer by virtue of that paragraph, a Canadian exploration expense of that other taxpayer by virtue of paragraph *e* of section 395 or a Canadian oil and gas property expense of that other taxpayer by virtue of paragraph *c* of section 418.2;

(*c*) any amount included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class; or

(*d*) the taxpayer's share of any consideration, expense, cost or expenditure referred to in any of paragraphs *a* to *c* given or incurred, as the case may be, by a partnership."

(2) Subsection 1 applies to taxation years that end after 5 December 1996.

154. Section 414 of the said Act is amended, in subparagraph *b* of the second paragraph,

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

"(*b*) the amount by which the total of the aggregate of all amounts deducted in computing the taxpayer's income for the year under section 357 in respect of a Canadian resource property or under section 358 and the aggregate of all amounts deducted for the year under section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), sections 418.16 to 418.19 and section 418.21, that can reasonably be attributed to the amounts referred to in subparagraphs i to iii for the year, exceeds the total, before any deduction under section 88.4 of the Act respecting the application of the Taxation Act or any of sections 359 to 419.6, of";

(2) by replacing subparagraph iii by the following:

"iii. the aggregate of all amounts included in computing the taxpayer's income for the year under paragraph *e* of section 330 that can reasonably be attributed to the disposition by the corporation, in the year or in a preceding taxation year, of any interest or right in a Canadian resource property, to the

extent that the proceeds of disposition have not been included in computing an amount for a preceding taxation year under this subparagraph, subparagraph i of subparagraph *a* of the third paragraph of sections 418.16 and 418.18, subparagraph iii of subparagraph *c* of the first paragraph of section 418.20, section 418.28, or section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to clause A of subparagraph i of paragraph *d* of subsection 25 of section 29 of the Income Tax Application Rules."

155. (1) Sections 417 and 418 of the said Act are repealed.

(2) Subsection 1 applies in respect of renunciations made

(1) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation before 6 March 1996;

(2) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation after 5 March 1996 under an agreement in writing entered into before 6 March 1996 by the joint exploration corporation or by another corporation where the other corporation controlled the joint exploration corporation, or had undertaken to incorporate it, at the time the agreement was entered into;

(3) after 5 March 1996, in any other case.

156. (1) Section 418.2 of the said Act is amended by replacing, in the portion before paragraph *a*, "For the purposes of sections 362 to 418.14," by "In sections 362 to 394, Divisions III and IV and this division,".

(2) Subsection 1 has effect from 6 March 1996.

157. (1) Sections 418.13 and 418.14 of the said Act are repealed.

(2) Subsection 1 applies in respect of renunciations made

(1) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation before 6 March 1996;

(2) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation after 5 March 1996 under an agreement in writing entered into before 6 March 1996 by the joint exploration corporation or by another corporation where the other corporation controlled the joint exploration corporation, or had undertaken to incorporate it, at the time the agreement was entered into;

(3) after 5 March 1996, in any other case.

158. Section 418.15 of the said Act is amended in the first paragraph,

(1) by replacing subparagraphs i to iii of subparagraph *b* by the following:

"i. that acquired the property in circumstances in which any of sections 418.16 to 418.21 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property,

"ii. that disposed of the property to another corporation that acquired it in circumstances in which any of sections 418.16 to 418.21 or section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules, applies, or would apply if the other corporation had continued to own the property, to the other corporation in respect of the property, and

"iii. that would, but for section 418.33, 418.34 or 418.36, as the case may be, be entitled in computing its income for a taxation year ending after it disposed of the property to a deduction under any of sections 418.16 to 418.21 or section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules, in respect of expenses incurred by an original owner of the property;";

(2) by replacing subparagraphs i and ii of subparagraph *c* by the following:

"i. who owned the property and disposed of it to a corporation that acquired it in circumstances in which any of sections 418.16 to 418.21 or section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules, applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property, and

"ii. who would, but for section 418.31, 418.32 or 418.36, as the case may be, be entitled in respect of expenses described in section 88.5 of the Act respecting the application of the Taxation Act, to the extent that section 88.4 of that Act refers to expenses described in subparagraph i or ii of paragraph *c* of subsection 25 of section 29 of the Income Tax Application Rules, Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the person before the person disposed of the property to a deduction, in computing the person's income for a taxation year ending after the person disposed of the property, under that section 88.4, to the extent that it refers to section 29 of the Income Tax Application Rules, or under section 367, 368, 371, 400, 401, 413, 414 or 418.7."

159. (1) Section 418.22 of the said Act is amended

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

"418.22. Section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), and sections 418.16 to 418.19 and 418.21 do not apply";

(2) by replacing, in paragraph *b*, "86" and "sections 359 to 359.17, 362 to 418.14 or 419 to 419.4 or section 419.6 if those sections" by "88.4" and "Divisions I, I.1 or III to IV.1, sections 362 to 394, 419 to 419.4 or section 419.6 if those sections and divisions", respectively.

(2) Paragraph 2 of subsection 1, except where it replaces "86" in paragraph *b* of section 418.22 of the said Act, has effect from 6 March 1996.

160. Section 418.23 of the said Act is amended

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

"418.23. Section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), and sections 418.16, 418.18, 418.19 and 418.21 apply only to a corporation that has acquired a particular Canadian resource property, in this section referred to as "particular property",";

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

"(*d*) where it acquired the particular property after 16 November 1978 and in a taxation year ending before 18 February 1987 by any means other than by way of an amalgamation or winding-up and it and the person from whom it acquired the particular property have filed with the Minister a joint election under and in accordance with sections 376 to 379, 402 to 405, 415 to 415.3 and 418.8 to 418.11 and section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules as all those sections read in their application to that year; and".

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

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

"418.26. Where, at any time after 12 November 1981, control of a corporation has been acquired by a person or group of persons, or a corporation ceases to be exempt from tax under this Part on its taxable income, for the purposes of the provisions of the Act respecting the application of the Taxation

Act (chapter I-4) and of this Part, other than sections 359.2, 359.2.1, 359.2.2, 359.4 and 359.13, relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, in this section referred to as "resource expenses", incurred by the corporation before that time, the following rules apply:";

(2) by replacing subparagraphs i and ii of paragraph *e* by the following:

"i. the transferor may designate in favour of the transferee, in respect of a taxation year of the transferor ending after that time, if throughout that year the transferee was such a particular corporation or subsidiary wholly-owned corporation of the transferor, an amount not exceeding the amount referred to in section 418.28, for the purpose of making a deduction under section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), or this division in respect of resource expenses incurred by the transferee before that time while the transferee was such a particular corporation or subsidiary wholly-owned corporation of the transferor, to the extent that the amount so designated is not designated in favour of any other taxpayer under this paragraph and only if both corporations agree to have this paragraph apply to them in respect of that year and notify the Minister in writing of the agreement in the fiscal return under this Part of the transferor for that year; and

"ii. the amount so designated is deemed, for the purpose of computing an amount under the third paragraph of sections 418.16, 418.18 and 418.19, subparagraph *c* of the first paragraph of section 418.20, as that subparagraph would read but for the words "to the higher of either 30% of the excess amount referred to in the second paragraph of the said section, or" and if the words "or the amount by which" read "to the amount by which", the third paragraph of section 418.21 and section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to paragraph *d* of subsection 25 of section 29 of the Income Tax Application Rules, to be income from the sources described in paragraph *a* or *b*, as the case may be, of section 418.28 of the transferee for its taxation year in which that taxation year of the transferor ends, and not to be income from those sources for that year;";

(3) by replacing the portion of paragraph *h* before subparagraph i by the following:

"(*h*) where that time is after 15 January 1987 and at that time the corporation was a member of a partnership that owned a Canadian resource property or a foreign resource property at that time, for the purposes of paragraph *a*, the corporation is deemed to have owned immediately before that time that portion of the property owned by the partnership at that time that is equal to its percentage share of the aggregate of amounts that would be paid to all

members of the partnership if it were wound up at that time, and, for the purposes of subparagraph iii of subparagraph *a* of the third paragraph of section 418.16, subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.17, subparagraph iii of subparagraph *a* of the third paragraph of section 418.18, subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.19, subparagraph i of subparagraph *c* of the first paragraph of section 418.20 and subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.21 and of section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to clause B of subparagraph i of paragraph *d* of subsection 25 of section 29 of the Income Tax Application Rules, for a taxation year ending after that time, the lesser of the following amounts is deemed to be the income of the corporation for the year that can reasonably be attributed to production from the property:".

(2) Paragraph 1 of subsection 1, where it strikes out, in the portion of section 418.26 of the said Act before paragraph *a*, the reference to section 359.6 thereof, applies to taxation years that begin after 31 December 1998.

162. Section 418.30 of the said Act is replaced by the following:

"418.30. Where, at any time, control of a taxpayer that is a corporation has been acquired by a person or group of persons, or a taxpayer has disposed of all or substantially all of the taxpayer's Canadian resource properties or foreign resource properties, and, before that time, the taxpayer or a partnership of which the taxpayer was a member acquired a property that is a Canadian resource property, a foreign resource property or an interest in a partnership and it may reasonably be considered that one of the main purposes of the acquisition was to avoid any limitation provided in any of sections 418.16 to 418.21 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), on the deduction in respect of any expenses incurred by the taxpayer or a corporation referred to as a "transferee" in paragraph *e* or *f* of section 418.26, the taxpayer or the partnership, as the case may be, is, for the purpose of applying sections 418.16 to 418.21 and section 88.4 of that Act, to the extent that that section refers to subsection 25 of section 29 of those rules to or in respect of the taxpayer, deemed not to have acquired the property."

163. Section 418.31 of the said Act is amended

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

"418.31. Where in a taxation year an original owner of Canadian resource properties disposes of all or substantially all of the original owner's Canadian resource properties to a particular corporation in circumstances in which section 418.16, 418.18, 418.19 or 418.21 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that

that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), applies, the following rules apply:";

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

"(*e*) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the original owner before 1 January 1972 on or in respect of exploring or drilling for petroleum or natural gas in Canada and the prospecting, exploration and development expenses incurred by the original owner before 1 January 1972 in searching for minerals in Canada are, for the purposes of section 88.4 of the Act respecting the application of the Taxation Act, deemed after the disposition not to have been incurred by the original owner except for the purpose of making a deduction under section 88.4 of that Act for the year and of determining the amount that may be deducted under that section 88.4, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules, by the particular corporation or any other corporation that subsequently acquires any of the properties."

164. (1) Section 418.36 of the said Act is amended

(1) by replacing "section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2)" by "section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section";

(2) by replacing "sections 359 to 359.17, 362 to 418.14 or 419 to 419.4 or section 419.6" by "Divisions I, I.1 or III to IV.1 or sections 362 to 394, 419 to 419.4 or 419.6".

(2) Paragraph 2 of subsection 1 has effect from 6 March 1996.

165. Section 419.1 of the said Act is replaced by the following:

"419.1. Sections 419.2 to 419.4 apply where a taxpayer has made a payment or a loan mentioned in subsection 3 of section 383, as it read in respect of that payment or loan, after 19 April 1983, to a joint exploration corporation in respect of which the corporation has at any time renounced, in favour of the taxpayer, under section 406, 417 or 418.13, as they read in respect of that renunciation, any Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, in sections 419.2 to 419.4 referred to as "resource expenses"."

166. Section 450.10 of the said Act is amended, in the English text, by replacing subparagraph i of paragraph *d* of section 99 of the said Act, enacted by paragraph *b*, by the following:

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

167. Section 484.3 of the said Act is amended, in the English text, by replacing the portion before paragraph *a* by the following:

"484.3. An amount paid at any time by a person as, on account or in lieu of payment of, or in satisfaction of, a specified amount of a debt that can reasonably be considered to have been included in the amount determined under subparagraph *a*, *c* or *d* of the second paragraph of section 484.2 in respect of a property surrendered before that time by the person is deemed to be a repayment of assistance, at that time in respect of the property, to which".

168. (1) Section 485.8 of the said Act is amended by replacing subparagraph ii of paragraph *e* by the following:

"ii. the amount so applied does not exceed such portion of the aggregate of the debtor's foreign exploration and development expenses as were incurred by the debtor before that time and would be deductible under section 371 in computing the debtor's income for that year if the aggregate determined in respect of the debtor under paragraph *b* of section 374 were sufficient and if that year ended at that time."

(2) Subsection 1 applies to taxation years that end after 5 December 1996.

169. (1) Section 518.1 of the said Act is amended by replacing paragraph *b* by the following:

"(*b*) a capital property that is immovable property, or an interest in or an option in respect of immovable property, owned by an insurer not resident in Canada where that capital property and the property received as consideration for that property are designated insurance property for that year;".

(2) Subsection 1 applies in respect of dispositions that occur in the taxation year 1997 or in any subsequent taxation years of an insurer.

170. (1) Section 544 of the said Act is amended by replacing subsection 4 by the following:

"(4) Where there has been an amalgamation of a corporation and one or more of its subsidiary wholly-owned corporations or two or more corporations each of which is a subsidiary wholly-owned corporation of the same person, the new corporation is, for the purposes of Chapter VII.1 of the Act respecting the application of the Taxation Act (chapter I-4) and sections 332.1, 332.2, 359.1 to 359.17, 362 to 418.36, 419.1 to 419.4 and 419.6, deemed to be the

same corporation as, and a continuation of, each predecessor corporation. However, this subsection shall in no respect affect the determination of any predecessor corporation's fiscal period, taxable income or tax payable."

(2) Subsection 1 applies from 12 June 1998. However, subsection 4 of section 544 of the said Act, enacted by subsection 1, shall be read with ", sections 95 and 96 of the Act respecting the application of the Taxation Act (1972, chapter 24), as they read before being repealed," added after "(chapter I-4)", where subsection 1 applies in respect of renunciations made

(1) before 1 January 2007, in respect of an amount paid or loaned to a joint exploration corporation before 6 March 1996;

(2) before 1 January 2007, in respect of an amount paid or loaned to a joint exploration corporation after 5 March 1996 under an agreement in writing entered into before 6 March 1996 by the joint exploration corporation or by another corporation where the other corporation controlled the joint exploration corporation, or had undertaken to incorporate it, at the time the agreement was entered into.

171. (1) Section 550.7 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"550.7. Where there has been an amalgamation of two or more corporations each of which is a development corporation, within the meaning of section 363, or a corporation that at no time carried on business, and a predecessor corporation entered into an agreement with a person at a particular time under which the predecessor corporation issued or agreed to issue, for consideration given by the person, a share that was a flow-through share or that would have been a flow-through share if it had been issued, the following rules apply for the purposes of section 359.8 and Part III.14 and for the purpose of renouncing an amount under section 359.2, 359.2.1 or 359.4 in respect of Canadian exploration expenses or Canadian development expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation:".

(2) Subsection 1 applies in respect of amalgamations that occur after 31 December 1995. However, where the portion of the first paragraph of section 550.7 of the said Act before subparagraph *a*, enacted by subsection 1, applies in respect of amalgamations that occur before 1 January 1999, it shall be read as follows:

"550.7. Where there has been an amalgamation of two or more corporations each of which is a development corporation, within the meaning of section 363, or a corporation that at no time carried on business, and a predecessor corporation entered into an agreement with a person at a particular time under which the predecessor corporation issued or agreed to issue, for consideration given by the person, a share that was a flow-through share or

that would have been a flow-through share if it had been issued, the following rules apply for the purposes of section 359.8 and Part III.14 and for the purpose of renouncing an amount under section 359.2, 359.2.1, 359.4 or 359.6 in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation:".

172. (1) Section 564.0.1 of the said Act is amended, in the English text of the portion before paragraph *a*, by replacing the words "gross investment income" by the words "gross investment revenue".

(2) Subsection 1 applies from the taxation year 1997.

173. Section 565.1 of the said Act is replaced by the following:

"565.1. For the purposes of Chapter VII.1 of the Act respecting the application of the Taxation Act (chapter I-4) and sections 332.1, 332.2, 359.1 to 359.17, 362 to 418.36, 419.1 to 419.4 and 419.6, where the rules in sections 556 to 564.1 and 565 apply to the winding-up of a subsidiary, its parent is deemed to be the same corporation as, and a continuation of, the subsidiary."

174. Section 570 of the said Act is amended by replacing paragraph *n* by the following:

"(*n*) "private corporation" at any particular time means a corporation that is resident in Canada at that time, is not a public corporation and is not controlled by one or more public corporations, other than prescribed venture capital corporations, or prescribed State bodies or federal Crown bodies or by any combination thereof;".

175. (1) Section 600 of the said Act is amended by replacing paragraph *d* by the following:

"(*d*) in computing each income or loss of the partnership for a taxation year, no account shall be taken of paragraph *z*.4 of section 87, 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 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), section 217.13, the first paragraph of section 360 or sections 362 to 418.12;".

(2) Subsection 1, where it adds, in paragraph *d* of section 600 of the said Act, a reference to paragraph *z*.4 of section 87 thereof, applies to fiscal periods that begin after 31 December 1996, and, where it replaces, in that paragraph *d*, the reference to section 418.14 of the said Act by a reference to section 418.12 thereof, applies from 6 March 1996.

176. Section 646 of the said Act is amended, in the English text, by replacing the first paragraph by the following:

"646. In this Part, a trust, wherever it is created, or a succession, in this Title referred to as a "trust", also includes the trustee, liquidator, administrator, heir or other legal representative having ownership or control of the property of the trust or succession."

177. (1) Section 694.0.1 of the said Act, enacted by section 104 of chapter 85 of the statutes of 1997, is replaced by the following:

"694.0.1. An individual shall, in computing the taxable income of the individual for a taxation year, include the portion relating to one or more preceding taxation years of the aggregate of all amounts deducted by the individual in computing the individual's income for the year under section 336.0.3 or 336.0.4, where the total of that portion is at least $300."

(2) Subsection 1 applies from the taxation year 1997.

178. (1) Section 725.1.2 of the said Act, enacted by section 109 of chapter 85 of the statutes of 1997, is amended by replacing subparagraph *c* of the second paragraph by the following:

"(*c*) an amount that is a support amount as defined in the first paragraph of section 312.3 or an amount referred to in section 312.5;".

(2) Subsection 1 applies from the taxation year 1997.

179. (1) Section 726.4.10 of the said Act, amended by section 330 of chapter 85 of the statutes of 1997, is again amended by replacing, in subparagraph 1 of subparagraph i of paragraph *a*, "expenses described in paragraphs *a* to *b*.1, *c* and *c*.1" by "expenses described in paragraphs *a* to *b*.1 and *c* to *c*.2".

(2) Subsection 1 has effect from 6 December 1996.

180. (1) Section 726.4.17.2 of the said Act, amended by section 330 of chapter 85 of the statutes of 1997, is again amended by replacing, in subparagraph i of paragraph *a*, "expenses described in paragraphs *a* to *b*.1, *c* and *c*.1" by "expenses described in paragraphs *a* to *b*.1 and *c* to *c*.2".

(2) Subsection 1 has effect from 6 December 1996.

181. (1) Section 726.4.17.11 of the said Act is amended by replacing, in subparagraphs i and ii of subparagraph *b* of the second paragraph, ", 359.4 or 359.6" by "or 359.4".

(2) Subsection 1 applies in respect of renunciations made after 31 December 1998.

182. (1) Section 726.20.1 of the said Act, amended by section 110 of chapter 85 of the statutes of 1997, is again amended by replacing subparagraph ii of paragraph *b* of the definition of "resource property" by the following:

"ii. the particular partnership incurs Canadian exploration expenses or Canadian development expenses after 14 May 1992; or".

(2) Subsection 1 applies in respect of expenses incurred by a partnership after 5 March 1996, other than expenses incurred before 1 January 1999 in respect of consideration obtained by the partnership for an interest in the partnership before 6 March 1996 or under the terms of an agreement in writing entered into before 6 March 1996 or under the terms of a final prospectus or an exemption from filing a prospectus filed before 6 March 1996 with a public authority in Canada in accordance with securities legislation of a province.

183. (1) Section 737.26 of the said Act is amended by adding the following paragraph:

"For the purposes of the first paragraph and notwithstanding the definition of "basic income" in section 737.24, no amount may be included in computing an individual's basic income or regarded as an out-of-Canada living allowance for a taxation year in respect of the individual's employment by an employer where

(*a*) the employer carries on a business of providing services and does not employ in the business throughout the year more than five full-time employees;

(*b*) the individual does not deal at arm's length with the employer, or is a specified shareholder of the employer, or, where the employer is a partnership, does not deal at arm's length with a member of the partnership, or is a specified shareholder of a member of the partnership; and

(*c*) but for the existence of the employer, the individual would reasonably be regarded as an employee of a person or partnership that is not a specified employer."

(2) Subsection 1 applies from the taxation year 1997.

184. (1) Section 751 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1995.

185. (1) Section 752.0.6 of the said Act is replaced by the following:

"752.0.6. No amount may be deducted by an individual under section 752.0.1 for a taxation year in respect of a person where the individual is, for any period in the year, required to pay a support amount, as defined in the first paragraph of section 336.0.2, to a recipient referred to in that definition in respect of the person."

(2) Subsection 1 applies from the taxation year 1997.

186. Section 752.0.18.12 of the said Act, enacted by section 136 of chapter 85 of the statutes of 1997, is amended by replacing, in paragraph *b*, the words "of Her Majesty" by the words "of the State or of Her Majesty".

187. (1) Section 776.89 of the said Act, enacted by section 188 of chapter 85 of the statutes of 1997, is amended

(1) in paragraph *d*, by striking out "of subsection 1" and by replacing, in the French text, the word "sous-paragraphe" by the word "paragraphe";

(2) by inserting, after paragraph *d*, the following paragraph:

"(*d*.1) section 336.0.3, the amount is deemed, notwithstanding those provisions, to be so deductible for the purposes of subparagraph *c* of the second paragraph of that section;".

(2) Paragraph 2 of subsection 1 applies from the taxation year 1998.

188. Section 805 of the said Act is amended by replacing, in subparagraph *a* of the first paragraph, the words "an agent" and "Her Majesty in right of a province or by" by the words "a mandatary" and "the State, Her Majesty in right of a province or", respectively.

189. Section 817 of the said Act is amended by replacing, in the portion of the first paragraph before subparagraph *a*, the word "Title" by the word "Part,".

190. (1) Section 818 of the said Act is replaced by the following:

"818. In this Title, "designated insurance property" for a taxation year of an insurer, other than an insurer resident in Canada that at no time in the year carried on a life insurance business, that, at any time in the year, carried on an insurance business in Canada and elsewhere means property determined in accordance with the prescribed rules.

However, in its application to any taxation year, "designated insurance property" for the taxation year 1996 or a preceding taxation year means property that was, under this section as it read in its application to that year, used or held by an insurer in the year in the course of carrying on an insurance business in Canada."

(2) Subsection 1 applies from the taxation year 1997.

191. (1) Section 824 of the said Act is replaced by the following:

"824. Notwithstanding any other provision of this Part, where a life insurer resident in Canada carries on an insurance business in Canada and elsewhere in a taxation year, the following rules apply:

(*a*) its income or loss for the year from carrying on an insurance business is the amount of its income or loss for the year, computed in accordance with this Part, from the business in Canada;

(*b*) no amount shall be included in computing its income for the year in respect of its taxable capital gains and allowable capital losses from dispositions of property, other than property disposed of in a taxation year in which it was designated insurance property, of the insurer used or held by it in the course of carrying on an insurance business."

(2) Subsection 1 applies from the taxation year 1997.

192. (1) Section 825 of the said Act is amended

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

"(*a*) its gross investment revenue for the year from its designated insurance property for the year; and

"(*b*) the amount prescribed in respect of the insurer for the year.";

(2) by replacing, in the English text of the portion of the second paragraph before subparagraph *a* and of subparagraph *d* of that paragraph, the words "gross investment income" by the words "gross investment revenue";

(3) in subparagraph *e* of the second paragraph, by striking out "of subsection 1" and by replacing, in the French text, the word "sous-paragraphe" by the word "paragraphe".

(2) Paragraphs 1 and 2 of subsection 1 apply from the taxation year 1997.

193. (1) Section 825.0.1 of the said Act is replaced by the following:

"825.0.1. Notwithstanding sections 851.22.4 to 851.22.22, where in a taxation year an insurer carries on an insurance business in Canada and elsewhere, the following rules apply in computing its income for the year from carrying on its insurance business in Canada:

(*a*) sections 851.22.4, 851.22.5 and 851.22.14 to 851.22.22 apply only in respect of property that is designated insurance property for the year in respect of the business; and

(*b*) sections 851.22.6 to 851.22.13 apply only in respect of the disposition of property that, for the taxation year in which the insurer disposed of it, was designated insurance property in respect of the business."

(2) Subsection 1 applies from the taxation year 1997.

194. (1) Section 828 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1997.

195. (1) Sections 832.1 and 832.1.1 of the said Act are replaced by the following:

"832.1. Subject to section 832.1.1, where a property of a life insurer resident in Canada that carries on an insurance business in Canada and elsewhere or of an insurer not resident in Canada is described in the second paragraph for a taxation year, the insurer is deemed to have disposed of the property at the beginning of the year for proceeds of disposition equal to its fair market value at that time and to have immediately thereafter reacquired the property at a cost equal to that fair market value.

A property to which the first paragraph refers for a taxation year is

(*a*) designated insurance property for the year that was owned by the insurer at the end of the preceding taxation year and was not designated insurance property of the insurer for that preceding year; or

(*b*) property that is not designated insurance property for the year, was owned by the insurer at the end of the preceding taxation year and was designated insurance property of the insurer for that preceding year.

However, the first and second paragraphs shall be disregarded in applying subparagraph i of paragraph *e* of section 93, subparagraph iv of that paragraph where it refers to the capital cost of a property and sections 140, 140.1 and 818.

"832.1.1. Section 832.1 does not apply to deem a disposition in a taxation year of a property of an insurer where the insurer is deemed by section 851.22.15 to have disposed of the property in the preceding taxation year."

(2) Subsection 1 applies from the taxation year 1997.

196. (1) Section 832.3 of the said Act, amended by section 196 of chapter 85 of the statutes of 1997, is again amended, in the second paragraph,

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

"(*e*) for the purpose of determining the amount of gross investment revenue required by the first paragraph of section 825 to be included in computing the transferor's income for the taxation year referred to in subparagraph *d* and its gains and losses from its designated insurance property for its subsequent taxation years, the transferor is deemed to have transferred the business referred to in subparagraph *a* of the first paragraph, the property referred to in subparagraph *b* of that paragraph and the obligations referred to in

subparagraph *c* of that paragraph to the transferee on the last day of the taxation year referred to in subparagraph *d*;";

(2) by inserting, after subparagraph *f*, the following subparagraph:

"(*f*.1) for the purpose of determining the income of the transferor and the transferee for their taxation years following their taxation years referred to in subparagraph *d*, the amounts included under paragraph *e*.1 of section 87 and paragraph *a*.1 of section 844 in computing the transferor's income for its taxation year referred to in subparagraph *d* in respect of the insurance policies of the business referred to in subparagraph *a* of the first paragraph are deemed to have been included in computing the income of the transferee, and not of the transferor, for their taxation years referred to in subparagraph *d*;".

(2) Paragraph 1 of subsection 1 applies in respect of the transfer by an insurer of an insurance business in its taxation year 1997 or in any of its subsequent taxation years.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1996.

197. (1) Section 832.6 of the said Act is amended

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

"(*b*) for the purposes of paragraphs *d* and *e* of section 87, sections 818 and 825 and paragraph *a* of section 844, the insurer is deemed to have carried on the insurance business in Canada in the preceding taxation year referred to in paragraph *a* and to have claimed the maximum amounts to which it would have been entitled under sections 140, 140.1 and 140.2, the second paragraph of section 152 and paragraphs *a*, *a*.1 and *d* of section 840 for that year;";

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

"(*b*.1) for the purposes of section 157.6.1 and paragraph *a*.2 of section 840, the insurer is deemed to have carried on the insurance business in Canada in the preceding taxation year referred to in paragraph *a* and to have included, in computing its income for that preceding taxation year, the amounts that would have been prescribed in respect of the insurer for the purposes of paragraph *e*.1 of section 87 and paragraph *a*.1 of section 844 for that year in respect of the insurance policies of that business;".

(2) Paragraph 1 of subsection 1 applies from the taxation year 1997.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1996.

198. (1) Section 832.7 of the said Act is amended

(1) by replacing, in the French text of the portion before paragraph *a*, subparagraph ii of paragraph *a* and the portion of paragraph *b* before subparagraph i, the word "branche" by the word "secteur", wherever it appears;

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

"(*a*) for the purpose of determining the amount of the gross investment revenue required to be included in computing the income of the vendor and the purchaser under the first paragraph of section 825 and the amount of the gains and losses of the vendor and the purchaser from designated insurance property for the year,".

(2) Subsection 1 applies in respect of the disposition by an insurer of an insurance business or a line of business of an insurance business in its taxation year 1997 or in any of its subsequent taxation years.

199. (1) Section 832.9 of the said Act, amended by section 197 of chapter 85 of the statutes of 1997, is again amended by replacing paragraph *b* by the following:

"(*b*) the transferor has, at that time or within 60 days thereafter, in the year transferred all or substantially all of the property used or held by it in the year in the course of carrying on the insurance business in Canada referred to in paragraph *a* to a corporation resident in Canada, in this section referred to as the "transferee", that is a subsidiary wholly-owned corporation of the transferor which, immediately after that time, began to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee;".

(2) Subsection 1 applies from the taxation year 1997.

200. (1) Section 835 of the said Act is amended

(1) by striking out paragraph *a*;

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

"(*l*) "surplus funds derived from operations" of an insurer at the end of a particular taxation year means the amount by which

i. the aggregate of

(1) the total of the insurer's income for each taxation year in the period beginning on the first day of its taxation year 1969 and ending at the end of the particular taxation year from all insurance businesses carried on by it,

(2) the total of all amounts deemed by section 736.1 to have been deductible in computing its taxable income for a taxation year ending before 1 January 1977, and

(3) the total of all profits or gains made by the insurer in the period referred to in subparagraph 1 in respect of property not included in a segregated fund that was disposed of by the insurer and used by it in, or held by it in the course

of, carrying on an insurance business in Canada, except to the extent that those profits or gains have been or are included in computing the insurer's income or loss for any taxation year in the period from carrying on an insurance business; exceeds

ii. the aggregate of

(1) the total of all the insurer's losses for each taxation year in the period referred to in subparagraph 1 of subparagraph i from all insurance businesses carried on by it,

(2) the total of all losses sustained by the insurer in the period referred to in subparagraph 1 of subparagraph i in respect of property not included in a segregated fund that was disposed of by the insurer and used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that those losses have been or are included in computing the insurer's income or loss for any taxation year in the period from carrying on an insurance business,

(3) the total of all taxes payable under this Part by the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i, except such portion thereof as would not have been payable by it if section 846, as it read before its repeal in its application to each of those years, had not been enacted,

(4) the total of all amounts determined in respect of the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i, under paragraph *a* of the description of F in the definition of "surplus funds derived from operations" in subsection 12 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than the amount so determined under paragraph 3 or that would be so determined but for the exception thereunder,

(5) the total of all income taxes payable under Parts I.3 and VI of the Income Tax Act by the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i,

(6) the total of all taxes payable under Part VI.1 by the insurer for each taxation year in the period referred to in subparagraph 1 of subparagraph i,

(7) the total of all gifts made in the period referred to in subparagraph 1 of subparagraph i by the insurer to a person or entity described in paragraphs *a* and *c* to *l* of section 710, and

(8) the amount by which the amount determined in respect of the insurer for the particular taxation year under subparagraph i of paragraph *a* of section 841 exceeds the amount so determined under subparagraph ii of that paragraph *a*."

(2) Paragraph 1 of subsection 1 applies from the taxation year 1997.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1996.

201. (1) Section 836 of the said Act is replaced by the following:

"836. For the purposes of section 259, any property of a life insurer that would, but for this section, be identical to any other property of the insurer is deemed to be not identical to the other property unless both properties are designated insurance property of the insurer in respect of a life insurance business carried on in Canada or designated insurance property of the insurer in respect of an insurance business in Canada other than a life insurance business."

(2) Subsection 1 applies from the taxation year 1997.

202. (1) Section 840 of the said Act is amended

(1) by replacing, in the portion before paragraph *a*, the words "which a life insurer may deduct for the year include the following reserves" by the words "that a life insurer may deduct for the year include";

(2) by replacing paragraphs *a* and *a*.1 by the following:

"(*a*) any amount that the insurer claims as a policy reserve for the year in respect of its life insurance policies, not exceeding the aggregate of amounts that the insurer is allowed by regulation to deduct in respect of the policies;

"(*a*.1) any amount that the insurer claims as a reserve for the year in respect of claims that were received by the insurer before the end of the year under its life insurance policies and that are unpaid at the end of the year, not exceeding the aggregate of amounts that the insurer is allowed by regulation to deduct in respect of the policies;";

(3) by inserting, after paragraph *a*.1, the following paragraph:

"(*a*.2) the amount included under paragraph *a*.1 of section 844 in computing the insurer's income for the preceding taxation year;";

(4) by replacing the portion of paragraph *d* before subparagraph i by the following:

"(*d*) an amount as a reserve for policy dividends that will become payable by the insurer in the following taxation year equal to the least of".

(2) Subsection 1 applies from the taxation year 1996.

203. (1) Section 842.1 of the said Act is replaced by the following:

"842.1. For the purposes of paragraph *b* of section 842, an insurer may claim a deduction under section 160 or 163 in computing its income for a taxation year from carrying on its insurance business in Canada, in respect of

(*a*) interest on borrowed money used to acquire designated insurance property for the year in respect of the business;

(*b*) interest on amounts payable for designated insurance property for the year in respect of the business;

(*c*) interest on deposits received or other amounts held by the insurer that arose in connection with life insurance policies in Canada or with policies insuring Canadian risks; and

(*d*) other interest that does not exceed the amount prescribed."

(2) Subsection 1 applies from the taxation year 1997.

204. (1) Section 844 of the said Act is amended

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

"844. An insurer shall, in computing its income for a taxation year from carrying on its life insurance business in Canada, include";

(2) by inserting, after paragraph *a*, the following paragraph:

"(*a*.1) the amount prescribed in respect of the insurer for the year in respect of its life insurance policies;".

(2) Paragraph 2 of subsection 1 applies from the taxation year 1996.

205. (1) The said Act is amended by inserting, after section 844, the following section:

"844.0.1. For the purposes of sections 840, 841 and 844, a life insurance policy includes a benefit under a group life insurance policy or a group annuity contract."

(2) Subsection 1 applies from the taxation year 1996.

206. (1) Section 844.3 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"844.3. Where, for a period of time in a taxation year, a life insurer owned land described in any of subparagraphs *a*, *c* and *d* of the second paragraph or an interest therein or had an interest in a building described in subparagraph *b* of that paragraph, the life insurer shall, where the land,

building or interest was designated insurance property of the insurer for the year, or property used or held by it in the year in the course of carrying on an insurance business in Canada, include in computing its income for the year the aggregate of all amounts each of which is the amount prescribed in respect of the cost or capital cost to it, as the case may be, of the land, building or interest for the period, and the amount prescribed shall, at the end of the period, be included in computing".

(2) Subsection 1 applies from the taxation year 1997.

207. (1) Section 844.4 of the said Act is amended by replacing the portion before paragraph *b* by the following:

"844.4. Where a life insurer has transferred or lent property, directly or indirectly in any manner whatever, to a person or partnership, in this section referred to as the "transferee", that is affiliated with the insurer or a person or partnership that does not deal at arm's length with the insurer and that property, property substituted for that property or property the acquisition of which was assisted by the transfer or loan of that property was property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 of the transferee for a period of time in a taxation year of the insurer, the following rules apply:

(*a*) section 844.3 shall apply to the insurer to include an amount in computing its income for the year on the assumption that the property was owned by the insurer for the period, was property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 of the insurer and was used or held by it in the year in the course of carrying on an insurance business in Canada;".

(2) Subsection 1 applies from the taxation year 1997.

208. (1) Sections 846 to 850 of the said Act are repealed.

(2) Subsection 1 applies from the taxation year 1996.

209. (1) Section 885 of the said Act is replaced by the following:

"885. A beneficiary under a deferred profit sharing plan shall, in computing the income of the beneficiary for a taxation year, include the amount by which the aggregate of all amounts received by the beneficiary in the year from a trustee under the plan, other than as a result of acquiring an annuity described in subparagraph iv of paragraph *k* of subsection 2 of section 147 of the French text of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under which the beneficiary is the annuitant, exceeds the aggregate of all amounts each of which is an amount determined for the year under section 883, 884 or 886 in relation to the plan and in respect of the beneficiary."

(2) Subsection 1 applies from the taxation year 1992. However, where section 885 of the said Act, enacted by subsection 1, applies to a taxation year that is before the taxation year 1997, it shall be read with "subparagraph iv of paragraph *k*" replaced by "subparagraph vi of paragraph *k*".

210. (1) The said Act is amended by inserting, after section 888.2, the following section:

"888.3. Where an amount is paid before 1 January 1997 pursuant to or under a deferred profit sharing plan to acquire for a beneficiary under the plan an annuity described in subparagraph iv of paragraph *k* of subsection 2 of section 147 of the French text of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and, for the purposes of that Act, subsection 10.6 of that section 147 applies in respect of the beneficiary owing to the fact that payment of the annuity has not begun by the end of the particular year, the following rules apply:

(*a*) the beneficiary is deemed to have disposed of the annuity immediately after the particular year and to have received as proceeds of the disposition an amount equal to the fair market value of the annuity at the end of the particular year;

(*b*) the beneficiary is deemed to have acquired immediately after the particular year an interest in the annuity as a separate and newly issued annuity contract at a cost equal to the amount referred to in paragraph *a*; and

(*c*) the contract referred to in paragraph *b* is deemed not to have been issued and acquired pursuant to or under a deferred profit sharing plan."

(2) Subsection 1 applies from the taxation year 1997.

211. (1) Section 895 of the said Act is amended, in paragraph *j*, by replacing "$1,500" by "$2,000".

(2) Subsection 1 applies from the taxation year 1996. However, paragraph *j* of section 895 of the said Act, as amended by subsection 1, does not apply in respect of plans entered into before 21 February 1990.

212. (1) Section 914 of the said Act is amended

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

"914. Where a registered retirement savings plan is revised, amended or, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), deemed to have been amended under subsection 13.2 of section 146 of that Act, or where another plan is substituted therefor and the resultant plan is deemed, under subsection 12 of that section 146, not to be a registered retirement savings plan for the purposes of that Act, the following rules apply:";

(2) by replacing, in the French text of paragraph *a*, the words “aux fins” by the words “pour l’application”.

(2) Subsection 1 applies from the taxation year 1997.

213. Section 965.0.4 of the said Act is repealed.

214. (1) The said Act is amended by inserting, after section 965.0.17, the following section:

“965.0.18. For the purposes of this Part, where, under circumstances referred to in paragraph *a* of section 2.3, an individual acquired before 1 January 1997 an interest in an annuity contract in full or partial satisfaction of the individual’s entitlement to benefits under a registered pension plan, and, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), subsection 15 of section 147.3 of that Act applies in respect of the individual owing to the fact that payment of the annuity has not begun by the end of a particular year, the following rules apply:

(*a*) the interest in the annuity contract is deemed not to exist after the particular year;

(*b*) the individual is deemed to have received immediately after the particular year the payment of a single amount under the registered pension plan equal to the fair market value of the interest in the annuity contract at the end of the particular year;

(*c*) the individual is deemed to have acquired immediately after the particular year an interest in the annuity contract as a separate annuity contract issued immediately after the particular year at a cost equal to the amount referred to in paragraph *b*; and

(*d*) the separate contract is deemed not to have been issued and acquired pursuant to or under a registered pension plan.”

(2) Subsection 1 applies from the taxation year 1997.

215. Section 976 of the said Act is amended by replacing, in paragraph *d*, “paragraph *i* of subsection 1” by “paragraph *i*”.

216. Section 985.1.1 of the said Act is amended by replacing the second paragraph by the following:

“For the purposes of subparagraph *a* of the first paragraph, “person” and “members of a group” do not include the State, Her Majesty in right of Canada or a province, a municipality, a club, society or association that is exempt from tax under section 996, or another registered charity that is not a private foundation.”

217. (1) Section 998 of the said Act is amended by replacing paragraph *k* by the following:

"(*k*) an insurer that, throughout the period referred to in section 980, is not engaged in any business other than insurance if, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions for Canada or, where the insurer is incorporated under the laws of a province, of the superintendent of insurance of that province or the Inspector General of Financial Institutions, at least 20% of the total of the gross premium income earned in the period by the insurer and, where the insurer is not a prescribed insurer, by all other persons described in section 999.0.3 is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen;".

(2) Subsection 1 applies from the taxation year 1996.

218. (1) Section 999.0.1 of the said Act is replaced by the following:

"999.0.1. Subject to section 999.0.2, section 980 applies in respect of an insurer described in paragraph *k* of section 998 only to the part of its taxable income for a taxation year determined by the formula

$$(A \times B \times C) / D.$$

In the formula provided for in the first paragraph,

(*a*) A is the taxable income of the insurer for the year;

(*b*) B is

i. 1/2, where less than 25% of the total of the gross premium income earned for the year by the insurer and, where the insurer is not a prescribed insurer for the purposes of paragraph *k* of section 998, by all other persons described in section 999.0.3 is in respect of insurance referred to in that paragraph *k*, or

ii. 1 in any other case;

(*c*) C is the part of the gross premium income earned by the insurer for the year that, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions for Canada or, where the insurer is incorporated under the laws of a province, of the superintendent of insurance of that province or the Inspector General of Financial Institutions, is in respect of insurance referred to in paragraph *k* of section 998; and

(*d*) D is the gross premium income earned by the insurer for the year."

(2) Subsection 1 applies from the taxation year 1996.

219. (1) Section 999.0.3 of the said Act is replaced by the following:

"999.0.3. The persons referred to in paragraph *k* of section 998 or in section 999.0.1 or 999.0.2 are insurance corporations that are specified shareholders of the insurer described in that paragraph *k* or that section 999.0.1 or 999.0.2, as the case may be, or are related to the insurer, or, where the insurer is a mutual corporation, that are part of a group that controls, directly or indirectly in any manner whatever, or are so controlled by, the insurer."

(2) Subsection 1 applies from the taxation year 1996.

220. Section 1004 of the said Act is amended by striking out the second paragraph.

221. (1) Section 1026.0.2 of the said Act, amended by section 243 of chapter 85 of the statutes of 1997, is again amended by replacing paragraph *a* of the definition of "net tax owing" by the following:

"(*a*) the tax payable by the individual for the year under this Part, determined without reference to the specified tax consequences for the year; exceeds".

(2) Subsection 1 applies in respect of payments to be made after 31 December 1995. However, where paragraph *a* of the definition of "net tax owing" in section 1026.0.2 of the said Act, enacted by subsection 1, applies in respect of payments to be made before 1 January 1998, it shall be read as follows:

"(*a*) the total of the taxes payable by the individual for the year under this Part and Part I.1, determined without reference to the specified tax consequences for the year; exceeds".

222. (1) Section 1027 of the said Act is amended by replacing the second paragraph by the following:

"However, subparagraph *a* of the first paragraph does not apply to a corporation whose total taxes payable for the year under this Act, other than tax payable under Part IV.1, determined without reference to the specified tax consequences for the year, or whose first basic provisional accounts within the meaning of the regulations under subparagraph i of subparagraph *a* of the first paragraph, for the year, other than the first basic provisional account related to tax payable under Part IV.1, do not exceed $1,000."

(2) Subsection 1 applies in respect of payments to be made after 31 December 1995.

223. (1) Section 1028 of the said Act, amended by section 244 of chapter 85 of the statutes of 1997, is replaced by the following:

"1028. Where a corporation has held out the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as

described in sections 786 to 796 and for the year or the preceding taxation year its taxable income, determined without reference to the specified tax consequences for the year or the preceding taxation year, as the case may be, is not more than $10,000, the corporation may, at the end of the period referred to in subparagraph *b* of the first paragraph of section 1027 and instead of making the payments required by that section, pay to the Minister the total of its tax as estimated for the year under section 1004."

(2) Subsection 1 applies in respect of payments to be made after 31 December 1995. However,

(1) where section 1028 of the said Act, enacted by subsection 1, applies in respect of payments to be made in any taxation year that ends before 1 July 1997, it shall be read as follows:

"1028. Where a corporation has held out the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as described in sections 786 to 796, or is a savings and credit union, and for the year or the preceding taxation year its taxable income, determined without reference to the specified tax consequences for the year or the preceding taxation year, as the case may be, is not more than $10,000, the corporation may, at the end of the period referred to in subparagraph *b* of the first paragraph of section 1027 and instead of making the payments required by that section, pay to the Minister the total of its tax as estimated for the year under section 1004.";

(2) where section 1028 of the said Act, enacted by subsection 1, applies in respect of payments to be made in any taxation year that begins before 1 July 1997 and ends after 30 June 1997, it shall be read with the following paragraph added thereto:

"Where a corporation is, for a taxation year, a savings and credit union whose taxable income for the year or the preceding taxation year, determined without reference to the specified tax consequences for the year or the preceding taxation year, as the case may be, is not more than $10,000, the corporation is not required to make the payments required in subparagraph *a* of the first paragraph of section 1027 for the period of the year that is before 1 July 1997."

224. Section 1029.8.5.1 of the said Act is amended by replacing subparagraphs i to iii of paragraph *g* by the following:

"i. the State or Her Majesty in right of Canada or a province,

"ii. a mandatary of the State or of Her Majesty in right of Canada or a province,

"iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province or by a mandatary of the State or of Her Majesty in right of Canada or a province, or".

225. Section 1029.8.15.1 of the said Act is amended by replacing subparagraphs i to iii of paragraph *g* by the following:

"i. the State or Her Majesty in right of Canada or a province,

"ii. a mandatary of the State or of Her Majesty in right of Canada or a province,

"iii. a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or a province or by a mandatary of the State or of Her Majesty in right of Canada or a province, or".

226. Section 1029.8.22 of the said Act, amended by section 111 of chapter 63 of the statutes of 1997, is again amended, in the English text of the first paragraph, by replacing the portion of the definition of "qualified corporation" before paragraph *a* by the following:

""qualified corporation", for a taxation year, means a corporation that carries on business in Québec and has an establishment in Québec in the year and all or substantially all of whose gross revenue for the year is derived from the carrying on of a qualified business, but does not include".

227. Section 1029.8.33.2 of the said Act, amended by section 117 of chapter 63 of the statutes of 1997 and by section 251 of chapter 85 of the statutes of 1997, is again amended, in the English text of the first paragraph,

(1) by replacing the definition of "eligible taxpayer" by the following:

""eligible taxpayer", for a taxation year, means a taxpayer who carries on business in Québec and has an establishment in Québec in the year and who is an individual, other than a tax-exempt individual, or a qualified corporation;";

(2) by replacing the definition of "qualified partnership" by the following:

""qualified partnership", for a fiscal period, means a partnership that carries on business in Québec and has an establishment in Québec in the fiscal period and that, if it were a corporation, would be a qualified corporation for that fiscal period;".

228. Section 1029.8.33.15 of the said Act, enacted by section 253 of chapter 85 of the statutes of 1997, is amended, in the English text, by replacing the words "rounded off to the nearest thousandth or, if it is equidistant between two thousandths, to the higher thousandth" by "rounded to the

nearest one-thousandth or, if it is equidistant from two one-thousandths, to the higher thereof".

229. (1) Section 1029.8.36.0.10 of the said Act, enacted by section 257 of chapter 85 of the statutes of 1997, is amended by replacing paragraph *a* by the following:

"(*a*) the corporation is deemed to have paid qualified wages to an eligible employee in the taxation year equal to the lesser of

i. the aggregate of all amounts each of which is an amount paid by the corporation in the year as repayment of government assistance or non-government assistance, as the case may be, and

ii. the amount by which the amount that would be the particular qualified wages paid in the particular year if the amount of government assistance or non-government assistance, as the case may be, were reduced by any amount paid in respect thereof, as repayment, in the taxation year or in a previous taxation year by the corporation, exceeds the aggregate of

(1) the particular qualified wages for the particular taxation year, determined without reference to this section, and

(2) any amount determined under this section, in respect of the particular qualified wages, for a previous taxation year; and".

(2) Subsection 1 applies in respect of wages incurred after 25 March 1997.

230. Section 1029.8.36.4 of the said Act is amended, in the English text of the first paragraph, by replacing the portion of the definition of "qualified corporation" before paragraph *a* by the following:

"'qualified corporation", for a taxation year, means a corporation that carries on business in Québec and has an establishment in Québec in the year and all or substantially all of whose gross revenue for the year is derived from the carrying on of a qualified business, but does not include".

231. (1) Section 1029.8.36.23 of the said Act, amended by section 258 of chapter 85 of the statutes of 1997, is again amended

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

"1029.8.36.23. Where, in any taxation year, a qualified corporation repays an amount of government assistance or non-government assistance, pursuant to a legal obligation to do so, that reduced the amount of an expenditure incurred as wages for the purpose of computing particular qualified wages in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.7 for a particular taxation year, the following rules apply:

(*a*) the corporation is deemed to have incurred in the taxation year qualified wages, in respect of a particular designer, equal to the lesser of

i. the aggregate of all amounts each of which is an amount paid by the corporation in the year as repayment of the government assistance or non-government assistance, as the case may be, and

ii. the amount by which the amount that would be the particular qualified wages incurred in the particular taxation year if the amount of government assistance or non-government assistance, as the case may be, were reduced by any amount paid in respect thereof, as repayment, in the taxation year or in a previous taxation year by the corporation, exceeds the aggregate of

(1) the particular qualified wages for the particular taxation year, determined without reference to this section, and

(2) any amount determined under this section, in respect of the particular qualified wages, for a previous taxation year; and";

(2) by replacing, in subparagraph i of paragraph *b*, the words "particular year" by the words "taxation year";

(3) by adding, after subparagraph ii of paragraph *b*, the following subparagraph:

"iii. the percentage determined under section 1029.8.36.9 in respect of qualified wages that the corporation is deemed to have incurred in the taxation year in connection with that repayment is deemed to be the percentage determined in relation to the particular qualified wages in respect of which the corporation is deemed to have paid an amount to the Minister under section 1029.8.36.7 for the particular taxation year."

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

232. (1) Section 1029.8.36.69 of the said Act, enacted by section 261 of chapter 85 of the statutes of 1997, is amended by replacing subparagraphs *a* to *d* of the first paragraph by the following:

"(*a*) for the purpose of determining the amount that the person or a member of the partnership is deemed to have paid to the Minister under this division in respect of the particular calendar year, the eligible employees of the person or of the partnership that may reasonably be considered to have been assigned, immediately before that time, to that portion of such activities the pursuit of which was diminished or ceased at that time, are deemed to be eligible employees of the person or partnership, as the case may be, throughout the period commencing at that time and ending at the end of the particular calendar year;

"(*b*) for the purpose of determining the amount that the person or a member of the partnership is deemed to have paid to the Minister under this division in

respect of the calendar year following the particular calendar year, the maximum number of eligible employees of the person or of the partnership at any time in the particular calendar year, determined with reference to subparagraph *a* in respect of the particular calendar year, shall be reduced by the number of eligible employees that may reasonably be considered to have been assigned, immediately before that time, to that portion of such activities the pursuit of which was diminished or ceased at that time;

"(*c*) for the purpose of determining the amount that the eligible employer is deemed to have paid to the Minister under this division in respect of the particular calendar year, the eligible employees of the person or of the partnership that may reasonably be considered to have been assigned, immediately before that time, to that portion of such activities the pursuit of which was diminished or ceased at that time, are deemed to be eligible employees of the eligible employer throughout the calendar year preceding the particular calendar year; and

"(*d*) for the purpose of determining the amount that the eligible employer is deemed to have paid to the Minister under this division in respect of the particular calendar year and of the subsequent calendar year, the following rules apply:

i. the eligible employees of the person or of the partnership that may reasonably be considered to have been assigned, immediately before that time, to that portion of such activities the pursuit of which was diminished or ceased at that time, are deemed to be eligible employees of the eligible employer throughout the particular calendar year, and

ii. the employees of the eligible employer that may reasonably be considered to have been assigned, after that time, to the pursuit of similar activities because the eligible employer begins, after that time, to pursue similar activities, or increases, after that time, the scope of similar activities in the course of carrying on a business, provided, however, that the number of those employees does not exceed the number of eligible employees of the person or of the partnership that may reasonably be considered to have been assigned, immediately before that time, to that portion of such activities the pursuit of which was diminished or ceased at that time, are deemed not to be eligible employees of the eligible employer at any time in the particular calendar year."

(2) Subsection 1 has effect from 1 January 1997.

233. (1) Section 1029.8.67 of the said Act, amended by section 119 of chapter 31 of the statutes of 1997 and by section 265 of chapter 85 of the statutes of 1997, is again amended

(1) in the English text, by replacing paragraph *d* of the definition of "earned income" by the following:

"(*d*) all amounts received by the individual during the year as, on account or in lieu of payment of, or in satisfaction of, a disability pension under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of paragraph *u* of section 1 of that Act;";

(2) by replacing, in the definition of "eligible child", "14" by "16";

(3) by adding, after subparagraph iv of paragraph *a* of the definition of "child care expense", the following subparagraph:

"v. to attend a qualified educational institution, where the individual or supporting person is enrolled in an educational program of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program, and";

(4) by inserting the following definition in the appropriate alphabetical order:

"" "qualified educational institution" means an educational institution referred to in paragraph *a* of section 752.0.18.10 or a secondary school;".

(2) Paragraphs 2, 3 and 4 of subsection 1 apply from the taxation year 1996. However, where the definition of "qualified educational institution", enacted by subsection 1, applies to the taxation year 1996, it shall be read as follows:

"" "qualified educational institution" means an educational institution referred to in section 337 or a secondary school;".

234. (1) Section 1029.8.70 of the said Act is amended by replacing subparagraph i of subparagraph *b* of the second paragraph by the following:

"i. a student in attendance at a qualified educational institution and enrolled in a program of the institution of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program,".

(2) Subsection 1 applies from the taxation 1996.

235. (1) Section 1029.8.71 of the said Act is amended

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

"(*b*) the aggregate of the earned income of the individual for the year and, if the following conditions are met, the amount determined in respect of the individual under the second paragraph:

i. the individual is, at any time in the year, a student in attendance at a qualified educational institution and enrolled in a program of the institution of

not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program, and

ii. there is no supporting person of an eligible child of the individual for the year or, if there is such a person, the earned income of the individual for the year exceeds the earned income for the year of the supporting person of the child.";

(2) by adding the following paragraph:

"The amount to which subparagraph *b* of the first paragraph refers in respect of an individual for a taxation year is equal to the least of

(*a*) the amount by which the aggregate of all amounts each of which is an amount paid as or on account of child care expenses incurred for services rendered in the year in respect of an eligible child of the individual exceeds the amount that would, but for this section, be taken into account in computing the amount that the individual is deemed to have paid to the Minister for the year under section 1029.8.79;

(*b*) the greater of

i. the individual's income for the year computed with reference to the rules in Title II of Book V.2.1, and

ii. the income for the year, computed with reference to the rules in Title II of Book V.2.1, of the supporting person of an eligible child of the individual for the year;

(*c*) the product obtained when the total of the product obtained when $150 is multiplied by the number of eligible children of the individual for the year each of whom is under 7 years of age on 31 December of that year or would have been had the child then been living, or a person described in section 1029.8.76, and in respect of whom child care expenses referred to in the first paragraph were incurred, and the product obtained when $90 is multiplied by the number of all other eligible children of the individual for the year in respect of whom child care expenses referred to in the first paragraph were incurred, is multiplied by the number of weeks in the year during which the child care expenses were incurred and throughout which,

i. where there is a supporting person of an eligible child of the individual for the year, both the supporting person and the individual are students described in subparagraph i of subparagraph *b* of the first paragraph, and

ii. in any other case, the individual is a student described in subparagraph i of subparagraph *b* of the first paragraph;

(*d*) the amount by which the total calculated under subparagraph i of subparagraph *a* of the first paragraph in respect of eligible children of the

taxpayer for the year exceeds the amount that would, but for this section, be taken into account in computing the amount that the individual is deemed to have paid to the Minister for the year under section 1029.8.79; and

(*e*) where there is a supporting person of an eligible child of the taxpayer for the year, the amount by which the amount calculated under subparagraph *b* of the second paragraph of section 1029.8.70 for the year in respect of the individual exceeds the individual's earned income for the year."

(2) Subsection 1 applies from the taxation year 1996. However, where subparagraph *b* of the second paragraph of section 1029.8.71 of the said Act, enacted by subsection 1, applies to the taxation years 1996 and 1997, it shall be read as follows:

"(*b*) the greater of

i. the individual's income for the year computed without reference to paragraphs *d*.1 and *j* of subsection 1 of section 336, and

ii. the income for the year, computed without reference to paragraphs *d*.1 and *j* of subsection 1 of section 336, of the supporting person of an eligible child of the individual for the year;".

236. (1) Section 1029.8.76 of the said Act, replaced by section 266 of chapter 85 of the statutes of 1997, is again replaced by the following:

"1029.8.76. The person to whom section 1029.8.68, subparagraphs *a* and *b* of the second paragraph of section 1029.8.70, subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.71 and subparagraph *c* of the second paragraph of section 1029.8.71 refer for a taxation year is an eligible child in respect of whom paragraphs *a* to *d* of section 752.0.14 apply for that year."

(2) Subsection 1 applies from the taxation year 1996. However, where section 1029.8.76 of the said Act, enacted by subsection 1, applies to the taxation years 1996 and 1997, it shall be read as follows:

"1029.8.76. The person to whom section 1029.8.68, subparagraphs *a* and *b* of the second paragraph of section 1029.8.70, subparagraph i of subparagraph *a* of the first paragraph of section 1029.8.71 and subparagraph *c* of the second paragraph of section 1029.8.71 refer for a taxation year is an eligible child who is a person in respect of whom an amount is deductible because of sections 752.0.14 to 752.0.16 in computing an individual's tax payable under this Part for that year."

237. Section 1037.1 of the said Act is repealed.

238. (1) Section 1038 of the said Act is amended

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

"(*a*) the amount by which the tax payable by the individual for the year, determined without reference to the specified tax consequences for the year, exceeds the aggregate of all amounts deducted or withheld under section 1015 in respect of the individual's income for the year and all amounts the individual is deemed, under Chapter III.1 of Title III, except Divisions II to II.4.1, II.5.1, II.5.2 and II.6.6 of that chapter, to have paid to the Minister as partial payment of the individual's tax payable for the year;";

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

"(*a*) the amount by which the tax payable by the individual for the particular year, determined without reference to the specified tax consequences for the particular year, or the individual's basic provisional account, established in accordance with the regulations under section 1026, for the preceding taxation year, exceeds the aggregate of all amounts deducted or withheld under section 1015 in respect of the individual's income for the particular year and all amounts the individual is deemed, under Chapter III.1 of Title III, except Divisions II to II.4.1, II.5.1, II.5.2 and II.6.6 of that chapter, to have paid to the Minister as partial payment of the individual's tax payable for the particular year;";

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

"(*a*) the tax payable by the corporation for the year, determined without reference to the specified tax consequences for the year, or the corporation's first basic provisional account, within the meaning of the regulations under subparagraph i of the said subparagraph, for the year; or".

(2) Subsection 1 applies from the taxation year 1996. However, where subparagraph *a* of the second and third paragraphs of section 1038 of the said Act, enacted by paragraphs 1 and 2 of subsection 1, applies in respect of payments to be made before 26 March 1997, it shall be read with "Divisions II to II.4.1, II.5.1, II.5.2 and II.6.6" replaced by "Divisions II to II.4 and II.5.1".

239. (1) The said Act is amended by inserting, after section 1044.0.1, the following section:

"1044.0.2. Where the tax payable under this Part by a taxpayer for a taxation year is more than it otherwise would be because of a consequence for the year, described in paragraph *b* of the definition of "specified tax consequence" in section 1, in respect of an amount purported to be renounced in a calendar year by a corporation, for the purposes of the provisions of this Part, other than this section, relating to a determination of interest payable under this Part, an amount equal to the additional tax payable is deemed

(*a*) to have been paid on the taxpayer's balance-due day for the taxation year as partial payment of the taxpayer's tax payable under this Part for the year; and

(*b*) to be an excess amount referred to in section 32 of the Act respecting the Ministère du Revenu (chapter M-31) that has been refunded on 30 April of the following calendar year to the taxpayer as partial payment of the taxpayer's tax payable under this Part for the taxation year."

(2) Subsection 1 applies from the taxation year 1996.

240. (1) Section 1049.0.1 of the said Act is replaced by the following:

"1049.0.1. Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement or omission in any renunciation that was to have been effective at a particular time and that is purported to have been made under section 359.2, 359.2.1, 359.4, 381, 406, 417 or 418.13, otherwise than because of the application of section 359.8, is liable to a penalty of 25% of the amount by which the amount set out in the renunciation in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses exceeds the amount in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the applicable section to renounce as of that particular time.

In the first paragraph, a reference to section 381, 406, 417 or 418.13 is a reference to that section as it read in respect of the renunciation."

(2) Subsection 1, where it enacts the first paragraph of section 1049.0.1 of the said Act, applies in respect of acts or omissions that occur after 25 April 1997. However, the first paragraph of that section 1049.0.1, where it applies in respect of acts or omissions in connection with purported renunciations made before 1 January 1999, shall be read with "359.4," replaced by "359.4, 359.6,".

241. (1) The said Act is amended by inserting, after section 1049.0.1, the following section:

"1049.0.1.0.1. Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement or omission in a statement required to be filed under section 359.15 in respect of a renunciation purported to have been made because of the application of section 359.8 or who fails to file the statement on or before the day that is 24 months after the day on or before which it was required to be filed is liable, in addition to the penalty under section 59 of the Act respecting the Ministère du Revenu (chapter M-31), to a penalty equal to 25% of the amount by which the portion of the excess referred to in section 359.15 that was known or that ought to have been known by the person, exceeds

(*a*) where this section applies otherwise than because of the person's failure to file the statement on or before the day that is 24 months after the day on or before which it was required to be filed, the portion of the excess referred to in section 359.15 that is identified in the statement; and

(*b*) in any other case, zero."

(2) Subsection 1 has effect from 25 April 1997.

242. Section 1086 of the said Act is amended by replacing subparagraph *c* of the first paragraph by the following:

"(*c*) provide for the retention by way of deduction or set-off of the amount of a taxpayer's income tax or other indebtedness under a fiscal law out of any amount that may be payable by the State in respect of salary or wages;".

243. (1) Section 1094 of the said Act is amended by replacing paragraph *b*.1 by the following:

"(*b*.1) any capital property used or held in Québec by an insurer in the year that is its designated insurance property, within the meaning of section 818, for the year;".

(2) Subsection 1 applies from the taxation year 1997.

244. Section 1129.8 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"1129.8. The rate to which subparagraph *d* of the second paragraph of section 1129.7 refers in respect of a non-guaranteed convertible security issue to which a qualifying non-guaranteed convertible security relates is equal to the long-term average weighted bond yield for the provinces as indicated in the Weekly Financial Statistics of the Bank of Canada for the third week preceding that during which".

245. Section 1129.12.4 of the said Act, enacted by section 303 of chapter 85 of the statutes of 1997, is amended by replacing the first paragraph by the following:

"1129.12.4. The rate to which subparagraph *d* of the second paragraph of section 1129.12.3 refers in respect of a public share issue as part of which a preferred share meeting the requirements set forth in paragraph *b* of section 965.9.1.0.5 was issued is equal to the long-term average weighted bond yield for the provinces as indicated in the Weekly Financial Statistics of the Bank of Canada for the third week preceding that during which a favourable advance ruling was granted by the Ministère du Revenu in respect of the issue."

246. (1) The said Act is amended by inserting, after section 1129.58, the following:

"**PART III.14**

"SPECIAL TAX RELATING TO FLOW-THROUGH SHARES

"1129.59. In this Part,

"flow-through share" has the meaning assigned by section 359.1;

"Minister" means the Minister of Revenue.

"1129.60. Every corporation that purported to renounce an amount in a calendar year under section 359.2 or 359.2.1 because of the application of section 359.8 shall pay a tax in respect of each month, other than January, in the year equal to the amount determined in its respect by the formula

$$[(A - B)/2] \times (C/12 + D/5).$$

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is an amount that the corporation purported to renounce in the calendar year under section 359.2 or 359.2.1 because of the application of section 359.8 in respect of expenses incurred or to be incurred in connection with production or potential production in Québec;

(*b*) B is the aggregate of all expenses described in paragraph *a* of section 359.8 that are incurred by the end of the month by the corporation and in respect of the renunciation in respect of which an amount is included in the aggregate referred to in subparagraph *a* of this paragraph;

(*c*) C is the rate of interest prescribed for the purposes of subsection 3 of section 164 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the month; and

(*d*) D is one where the month is December, and zero in any other case.

"1129.61. Where a corporation is required to pay tax under this Part in respect of one month in a calendar year, it shall, before 1 March of the following calendar year,

(*a*) file with the Minister, without notice or demand therefor, a return for the year under this Part in prescribed form;

(*b*) estimate, in the return, the amount of tax payable under this Part by it in respect of each month in the year; and

(*c*) pay to the Minister the amount of tax payable under this Part by it in respect of each month in the year.

"1129.62. Except where inconsistent with this Part, sections 1001, 1002 and 1037 and Titles II, V and VI of Book IX of Part I apply to this Part, with the necessary modifications."

(2) Subsection 1 applies from the calendar year 1997. However, where section 1129.62 of the said Act, enacted by subsection 1, applies to the calendar year 1997, it shall be read as follows:

"1129.62. Except where inconsistent with this Part, sections 1001, 1002 and 1037 and Titles II, V, VI and VII of Book IX of Part I and Book X of Part I apply to this Part, with the necessary modifications."

247. Section 1159.1 of the said Act is amended, in paragraph *b* of the definition of "financial institution", by replacing the words "body or corporation of Her Majesty in right of Québec" by the words "State body or corporation".

248. Section 1173.2 of the said Act is amended, in the English text, by replacing paragraph *a* by the following:

"(*a*) to the portion of a taxable premium, other than a taxable premium that is a fund of an uninsured employee benefit plan, that corresponds to the payment, by an insurance corporation, of an amount, paid by reason of the loss of all or part of the income from an office or employment and that is income from an office or employment for which a contribution established under the Act respecting industrial accidents and occupational diseases (chapter A-3.001), the Act respecting the Régie de l'assurance-maladie du Québec (chapter R-5) or the Act respecting the Québec Pension Plan (chapter R-9) is paid; or".

249. (1) Section 1175.1 of the said Act is amended

(1) by inserting the following definition in the appropriate alphabetical order:

" "life insurance business" has the meaning assigned by section 1;";

(2) by inserting the following definition in the appropriate alphabetical order:

" "province" has the meaning assigned by section 1;";

(3) by replacing the definition of "Superintendent of Financial Institutions" by the following:

" "Superintendent of Financial Institutions", in respect of a life insurer, means

(*a*) the Superintendent of Financial Institutions for Canada, where the life insurer is required to report to that person; and

(*b*) where the life insurer is incorporated under the laws of a province, the superintendent of insurance or other similar agent or authority of that province, or the Inspector General of Financial Institutions, according to the person to whom the life insurer is required to report;".

(2) Paragraph 1 of subsection 1 applies in respect of taxation years of a life insurer that end after 9 May 1996.

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1997.

250. (1) Section 1175.9 of the said Act is amended by replacing paragraph *a* by the following:

"(*a*) the greater of its surplus funds derived from operations, within the meaning of paragraph *l* of section 835, computed as if no tax were payable by it under this Part nor under Part I.3 or VI of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the year, and its attributed surplus, within the meaning assigned by the regulations made under section 818, for the year;".

(2) Subsection 1 applies in respect of taxation years of a life insurer that end after 9 May 1996. However, where paragraph *a* of section 1175.9 of the said Act, enacted by subsection 1, applies to any such taxation year that ends before 1 January 1997, it shall be read with the words "its attributed surplus, within the meaning assigned by the regulations made under section 818, for the year" replaced by the words "its attributed surplus for the year, within the meaning assigned by the regulations made under section 818".

251. (1) The said Act, amended by chapters 63, 85 and 86 of the statutes of 1997, is again amended

(1) by replacing the word "estate" by the word "succession" wherever it appears in the English text of the following provisions:

— paragraph *b* of section 2.1.3;
— section 7.4.1;
— section 317.2;
— section 430;
— section 431;
— section 448;
— subparagraph iii of subparagraph *r* of the first paragraph of section 485.3;
— paragraph *b* of section 609;
— section 930;
— section 1002;
— paragraphs *a* and *b* of section 1054;
— section 1055;
— the portion of section 1055.1 before paragraph *a*;
— paragraph *b* of section 1055.1;

(2) by replacing the words “member of the Senate or of the House of Commons” by the words “member of the Senate or House of Commons” in the English text of the following provisions:

— subparagraph i of paragraph *a* of section 39;
— paragraph *a* of section 39.1;

(3) by replacing the words “Her Majesty in right of Canada or of a province” or “Her Majesty in right of Canada or a province”, as the case may be, by the words “the State or to Her Majesty in right of Canada or a province” in the following provisions:

— paragraph *b* of section 230.1;
— paragraph *a* of section 710;
— the definition of “total Crown gifts” in section 752.0.10.1;

(4) by replacing the words “Her Majesty in right of Canada or of a province” or “Her Majesty in right of Canada or a province”, as the case may be, by the words “the State or Her Majesty in right of Canada or a province” wherever they appear in the following provisions:

— paragraph *a* of section 230.3;
— paragraph *i* of section 710;
— paragraph *h* of the definition of “total charitable gifts” in section 752.0.10.1;
— the first paragraph of section 985;
— paragraph *f* of section 1104;
— the first paragraph of section 1175.18;

(5) by striking out “of subsection 1” wherever that reference appears in the following provisions:

— paragraph *h* of section 311;
— section 313.1;
— section 324;
— subparagraph *c* of the second paragraph of section 346.1;
— section 694.0.2;
— subparagraph v of subparagraph *e* of the first paragraph of section 726.6;
— subparagraph vi of paragraph *a* of section 752.0.8;
— section 776.70;
— paragraph *c* of section 976.1;
— the first paragraph of section 1007;
— section 1029.6;
— the portion of the first paragraph of section 1029.8.50 before subparagraph *a*;

(6) by replacing the word “sous-paragraphe” by the word “paragraphe” wherever it appears in the French text of the following provisions:

— paragraph *h* of section 311;
— section 313.1;
— section 324;
— subparagraph *c* of the second paragraph of section 346.1;
— subparagraph v of subparagraph *e* of the first paragraph of section 726.6;
— subparagraph vi of paragraph *a* of section 752.0.8;
— section 776.70;
— paragraph *c* of section 976.1;
— the first paragraph of section 1007;
— section 1029.6;
— the portion of the first paragraph of section 1029.8.50 before subparagraph *a*;

(7) by replacing “section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2)” or “section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (R.R.Q., 1981, chapter I-4, r.2)”, as the case may be, by “section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section” in the following provisions:

— paragraph *d* of section 332.3;
— the portion of section 418.33 before paragraph *a*;
— section 418.35;
— section 419.7;
— the portion of section 776.57 before paragraph *a*;

(8) by replacing “section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24)” by “section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4)” in the following provisions:

— subparagraph iii of paragraph *a* of section 344;
— the portion of subparagraph *a* of the third paragraph of section 418.16 before subparagraph i;
— subparagraph 1 of subparagraph ii of subparagraph *a* of the third paragraph of section 418.17;
— the portion of subparagraph *a* of the third paragraph of section 418.18 before subparagraph i;
— the portion of subparagraph i of subparagraph *a* of the third paragraph of section 418.19 before subparagraph 1;
— the portion of subparagraph *c* of the first paragraph of section 418.20 before subparagraph i;

— the portion of subparagraph i of subparagraph *a* of the third paragraph of section 418.21 before subparagraph 1;
— the portion of section 418.28 before paragraph *a*;

(9) by replacing "418.14" by "418.12" in the following provisions:

— subparagraph iii of paragraph *a* of section 344;
— the portion of section 776.57 before paragraph *a*;

(10) by replacing "section 86 of the Act respecting the application of the Taxation Act, to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2)", "section 86 of the Act respecting the application of the Taxation Act to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2)", "section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972)", "section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972)", "section 86 of the Act respecting the application of the Taxation Act, to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972)" or "section 86 of the Act respecting the application of the Taxation Act to the extent that section 86.4 of the Regulation respecting the application of the Taxation Act (1972)", as the case may be, by "section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section" in the following provisions:

— subparagraph i of subparagraph *a* of the third paragraph of section 418.16;
— subparagraph i of subparagraph *b* of the third paragraph of section 418.16;
— the fourth paragraph of section 418.17;
— subparagraph i of subparagraph *a* of the third paragraph of section 418.18;
— subparagraph i of subparagraph *b* of the third paragraph of section 418.18;
— subparagraph i of subparagraph *b* of the third paragraph of section 418.19;
— subparagraph iii of subparagraph *c* of the first paragraph of section 418.20;
— subparagraph *b* of the second paragraph of section 418.20;
— subparagraph i of subparagraph *b* of the third paragraph of section 418.21;

(11) by replacing "418.13" by "418.13, as it read in respect of the renunciation," in the following provisions:

— subparagraph 2 of subparagraph ii of paragraph *f* of the second paragraph of section 484.2;
— paragraph *e* of the definition of "forgiven amount" in section 485;

(12) by replacing the word "sous-paragraphes" by the word "paragraphes" in the French text of the following provisions:

— section 694.0.2;
— section 776.70;

(13) by replacing "118" and "(1972, chapter 24)" by "89.2" and "(chapter I-4)", respectively, in the following provisions:

— section 776.62;
— section 776.88;

(14) by replacing the words "an estate" by the words "a succession" in the English text of the following provisions:

— paragraph *d* of subsection 2 of section 1000;
— subparagraph iv of paragraph *b* of section 1122;
— subparagraph *b* of the second paragraph of section 1159.8.

(2) Paragraph 9 of subsection 1 has effect from 6 March 1996.

ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

252. The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by inserting, after section 5, the following section:

"5.0.1. Section 1011 of the Taxation Act (chapter I-3) does not apply where the taxpayer referred to therein has filed with the Minister a waiver referred to in section 1010 of that Act before 8 July 1972."

253. The said Act is amended by inserting, after section 5.2, the following:

"CHAPTER II.1

"INCOME INSURANCE BENEFITS

"5.3. Section 43 of the Taxation Act (chapter I-3) does not apply to amounts received by a taxpayer that were payable to the taxpayer in accordance with a plan referred to in that section and established before 19 June 1971, if the loss of income mentioned therein results from an event occurring before 1 January 1974.

For the purposes of the first paragraph, a plan that was established before 19 June 1971 does not cease to be a plan established before that date solely because of changes made therein on or after that date for the purpose of ensuring that the plan qualifies as one entitling the employer of persons covered under the plan to a reduction of unemployment insurance premiums, as provided for in subsection 2 of section 50 of the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), as it read before its repeal."

254. The said Act is amended by inserting, after section 14, the following section:

"14.1. For the purposes of the Taxation Act (chapter I-3) and this Act, the total depreciation, undepreciated capital cost and capital cost of property of a prescribed class, on the first day of the taxation year 1972 of a corporation that is organized, administered and operated on a cooperative basis under paragraph 3 of section 40 of the former Corporation Tax Act, are deemed to be equal to what they would have been to date in respect of the property, had the corporation always been subject to the former Corporation Tax Act."

255. (1) Section 81 of the said Act is replaced by the following:

"81. For the purpose of computing, at any particular time after 1971, the adjusted cost base to a taxpayer of an interest in a partnership of which the taxpayer was a member on 31 December 1971 and thereafter without interruption until that particular time, subparagraph i of paragraph *i* of section 255 of the Taxation Act (chapter I-3) shall be read with "mines," replaced by "mines, and the provisions of the Act respecting the application of the Taxation Act (chapter I-4) in respect of sections 105 to 110.1,".

In addition, for that purpose, subparagraph i of paragraph *l* of section 257 of the Taxation Act shall be read with the figure "741" replaced by "741, and the provisions of the Act respecting the application of the Taxation Act (chapter I-4) that regard sections 105 to 110.1,"."

(2) Subsection 1 has effect from 26 February 1986.

256. The said Act is amended by inserting, after section 88.2, the following:

"CHAPTER VII.1

"EXPLORATION AND DEVELOPMENT EXPENSES

"88.3. This chapter applies to persons who carry on one of the following activities:

(*a*) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;

(*b*) mining or exploring operations;

(*c*) processing mineral ores for the purpose of recovering metals therefrom;

(*d*) a combination of processing mineral ores for the purpose of recovering metals therefrom, and processing metals recovered from the ores so processed;

(*e*) refining metals; or

(*f*) operating a pipeline for the transmission of oil or natural gas.

"88.4. Any person who carries on or has carried on any of the activities referred to in section 88.3 may, in computing the person's income for a taxation year, deduct in respect of the exploration or development expenses referred to in section 88.5 incurred in Canada before 1 January 1972 by the person and in respect of which the person is entitled to a deduction for that taxation year under section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) and subsection 4 of section 34 of those Rules, an amount equal to the amount that is deductible, in respect of those expenses, in computing the person's income for the taxation year under that section 29 and that subsection 4.

Expenses referred to in the first paragraph that are deemed, under subsections 14 and 21 of section 29 of the Income Tax Application Rules, to be expenses incurred by a person at a particular time after 31 December 1971 for the purposes of sections 66, 66.1 and 66.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), are deemed to be such expenses incurred by that person at that time for the purposes of sections 362 to 418.1 of the Taxation Act (chapter I-3).

"88.5. Expenses referred to in section 88.4 are

(*a*) drilling and exploration expenses, including all general geological and geophysical expenses, incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada;

(*b*) prospecting, exploration and development expenses incurred in searching for minerals in Canada.

"88.6. Any amount received by a corporation whose principal business consists of any of the activities referred to in section 88.3 as consideration for the disposition, after 10 April 1962 and before 23 October 1968, of a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, shall be included in computing the income of the corporation for the fiscal period in which the amount was received, unless the corporation acquired the right, licence or privilege by legacy or inheritance, or before 11 April 1962 where, in the last case, the corporation disposed of the right, licence or privilege before 9 November 1962.

The first paragraph also applies to an amount received by a corporation other than the corporation referred to in that paragraph if, at the time of acquisition of the right, licence or privilege, the corporation was a corporation referred to in that paragraph, or by an association, partnership or syndicate formed to explore or drill for petroleum or natural gas.

"88.7. Where a right, licence or privilege referred to in the first paragraph of section 88.6 and acquired by an individual or a corporation after 10 April 1962 and before 1 January 1972 was disposed of before 23 October 1968, any amount received by the individual or the corporation as consideration for the

disposition shall be included in computing the income of the individual or corporation for the taxation year in which the amount was received, unless the individual or the corporation acquired such right, licence or privilege by legacy or inheritance.

The first paragraph does not apply to a corporation that, at the time of the acquisition referred to therein, is a corporation whose principal business consists of any of the activities referred to in section 88.3, or in computing the income for a taxation year of a taxpayer whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal.

"88.8. Sections 88.6 and 88.7 do not apply to any disposition by a corporation, partnership, association, syndicate or individual, in this section referred to as "the vendor", of any right, licence or privilege unless the right, licence or privilege was acquired by the vendor under an agreement, contract or arrangement under which there was not acquired any other right to, over or in respect of the land in respect of which such right, licence or privilege was so acquired, except the right to explore for, drill for or take materials and substances, whether liquid or solid and whether hydrocarbons or not, produced in association with the petroleum, natural gas or other related hydrocarbons, except coal, or found in any water contained in an oil or gas reservoir, or to enter on, use and occupy as much of the land as is necessary for the purpose of exploiting the right, licence or privilege.

"88.9. For the purposes of sections 88.6 and 88.7, the following rules apply

(*a*) where an association, partnership or syndicate described in the second paragraph of section 88.6, a corporation or an individual disposes of any interest in land that includes a right, licence or privilege described in the first paragraph of section 88.6 that was acquired under an agreement, contract or arrangement described in section 88.8, the proceeds of disposition of the interest are deemed to be proceeds of disposition of the right, licence or privilege; and

(*b*) where an association, partnership or syndicate described in the second paragraph of section 88.6, a corporation or an individual acquires a right, licence or privilege described in the first paragraph of section 88.6 under an agreement, contract or arrangement described in section 88.8 and subsequently disposes of any interest in the right, licence or privilege or in the production of a well situated on the land to which the right, licence or privilege relates, the proceeds of disposition of the interest are deemed to be the proceeds of disposition of the right, licence or privilege.

"88.10. For the purposes of this chapter, expenses incurred by a corporation, association, partnership or syndicate pursuant to an agreement under which those expenses are incurred in consideration for shares of the capital stock of a corporation that owned or controlled the mining rights, an

option to purchase shares of the capital stock of a corporation that owned or controlled the mining rights, or a right to purchase shares in the capital stock of a corporation that was to be formed for the purpose of acquiring or controlling the mining rights are deemed not to be and never to have been expenses incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada or in searching for minerals in Canada."

257. The said Act is amended by inserting, before section 89, the following section:

"88.11. In its application to an outlay or expenditure made or incurred before 1 January 1972, section 420 of the Taxation Act (chapter I-3) shall be read with the words "An amount the deduction of which is authorized by this Part in respect of" replaced by the words "For the purposes of this Part,"."

258. The said Act is amended by inserting, after section 89, the following:

"89.1. An individual who receives, after 31 December 1971, a refund of premiums, within the meaning of the first paragraph of section 908 of the Taxation Act (chapter I-3), under a registered retirement savings plan the annuitant of which died before 1 January 1972, shall not include the refund, under section 929 of that Act, in computing the individual's income for the taxation year in which the individual received it where the individual so elects in prescribed form and within the prescribed time and pays to the Minister to that effect tax under Part I of that Act equal to 9% of that amount.

"CHAPTER VIII.1

"ELECTION OF THE TAXPAYER

"89.2. A taxpayer who, in a taxation year ending after 31 December 1973, receives a payment described in subparagraph i or iv of paragraph *a* of section 345 of the Taxation Act (chapter I-3) in respect of which the taxpayer would be entitled to invoke section 44 of the former Tax Act respecting individuals if that Act and the provisions to which that section refers were still in force, may elect to compute the taxpayer's tax payable for the taxation year concerned by applying, with the necessary modifications, the method provided for in that section 44, but only up to the amount of the part of the payment that corresponds to the amount the taxpayer would have received under the retirement plan or deferred profit sharing plan if the taxpayer had withdrawn from the plan on 1 January 1972 and if there had been no change in the terms and conditions of the plan after 18 June 1971 and before 2 January 1972.

Where any tax is payable under the first paragraph in addition to or in lieu of any amount of tax payable under Part I of the Taxation Act for a taxation year, the tax payable under that paragraph is deemed to be payable under Part I of the Taxation Act for the taxation year."

259. The said Act is amended by inserting, after section 93, the following section:

"93.1. A specified personal corporation's capital dividend account at any time after its taxation year 1972, means an amount equal to the amount computed as such in respect of the corporation at that time under subsection 9 of section 57 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement).

For the purposes of the first paragraph, a corporation is a specified personal corporation if its taxation year 1972 was in part before and in part after 1 January 1972 and if during the whole of the period beginning on the earlier of 18 June 1971 and the beginning of its taxation year 1972 and ending at the end of its taxation year 1972, it retained the status of a personal corporation within the meaning assigned to "personal corporation" by section 97 of the former Tax Act respecting individuals."

260. Section 104 of the said Act is replaced by the following:

"104. The Government may, by regulation, generally prescribe any measure that is necessary or expedient for the purposes of this Act.

The regulations made under this section and those made under other provisions of this Act may, if they so provide, apply to a period prior to their publication, but not prior to the taxation year 1972."

LICENSES ACT

261. Section 3.1 of the Licenses Act (R.S.Q., chapter L-3) is amended by replacing the words "Government departments and agencies and mandataries of the Crown" by the words "on Government departments and bodies and on mandataries of the State."

ACT RESPECTING THE MINISTÈRE DU REVENU

262. Section 4.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following:

"4.1. If the Deputy Minister is absent or unable to act, the Minister may designate an Associate Deputy Minister of the Ministère du Revenu to act in the stead of the Deputy Minister."

263. Section 5 of the said Act is amended

(1) in the first paragraph, by inserting, after the word "Ministère" the words "du Revenu";

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

"However, notwithstanding any inconsistent provision of any Act, regulation, by-law or any collective agreement within the meaning of the Labour Code (chapter C-27) or an arbitration award in lieu thereof, the Deputy Minister may object to the filling of a position in the Ministère du Revenu by a person who, within the preceding five years, has been convicted of an offence under a fiscal law of Canada, the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), the Narcotic Control Act (Revised Statutes of Canada, 1985, chapter N-1) or the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27), to the extent that the offence is incompatible with the position to be filled, unless the person has been pardoned.";

(3) in the English text, by replacing the fourth paragraph by the following:

"Except where the position to be filled is of a casual nature, the person concerned who is dissatisfied with the decision of the Deputy Minister may appeal therefrom to the Commission de la fonction publique by an application in writing, which must be received by the Commission within 30 days of the sending of the decision. The Commission shall hear the appeal and decide it unless a collective agreement or an arbitration award in lieu thereof has given jurisdiction over such matter to another person in accordance with section 70 of the Public Service Act."

264. Section 9.0.4 of the said Act is amended, in the French text, by replacing the word "société" by the words "société de personnes".

265. Section 12 of the said Act is amended by replacing the word "Government" by the word "State".

266. Section 15.2 of the said Act is replaced by the following:

"15.2. The Minister may, by notice served or sent by registered mail, require that a person other than a banking or financial institution who, within the year following the service or sending of the notice, is to lend or advance an amount to a person owing an amount exigible under a fiscal law or is to pay an amount for or in the name of this person, pay to the Minister, on behalf of such person, all or part of this amount.

The first paragraph applies only if the person owing an amount exigible under a fiscal law is or will be, within the time limit mentioned in the first paragraph, remunerated by a person other than a banking or financial institution or, where the latter person is a corporation, only if the person is not dealing at arm's length within the meaning of the Taxation Act (chapter I-3) with that person."

267. Section 17.5 of the said Act is amended

(1) in the second paragraph, by inserting, after "subparagraphs *b*, *b*.1 and *d* to *h*", the words "of the first paragraph";

(2) in the third paragraph, by inserting, after "subparagraphs *b*, *b*.1 and *c*", the words "of the first paragraph".

268. Section 17.5.1 of the said Act is replaced by the following:

"17.5.1. The Minister may also suspend or revoke the registration certificate of or refuse to issue a registration certificate to any person who, at the time the person files an application for registration, is not dealing at arm's length, within the meaning of the Taxation Act (chapter I-3), with another person who carries on a similar commercial activity where the other person's registration certificate has been revoked or where the other person is under an injunction ordering the cessation of the activity, unless proof is given to the Minister that the person's commercial activity does not constitute a continuation of the other person's commercial activity."

269. Section 17.9 of the said Act is amended

(1) in the second paragraph, by inserting, after "subparagraphs *b* and *c*", the words "of the first paragraph";

(2) in the third paragraph, by replacing the words "registered or certified mail" by the words "registered mail".

270. Section 25.1 of the said Act is amended, in the English text,

(1) by adding, at the end of the portion before paragraph *a*, the word "if";

(2) by striking out, in the first line of paragraph *a*, the word "if".

271. Section 30.3 of the said Act is amended

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

"(*a*) any refund applied for by the person following the filing of a return or an application, for a reporting period or for a taxation year ending on or before the date of bankruptcy or the date of filing of the proposal or notice of intention to file such a proposal, as the case may be, is equal to zero; and";

(2) by replacing, in the French text, subparagraph *b* of the first paragraph by the following:

"*b*) aucun remboursement ni aucun montant auquel la personne aurait eu droit si elle l'avait demandé pour une période ou une année d'imposition se terminant au plus tard à la date de la faillite ou à la date du dépôt de la proposition concordataire ou de l'avis d'intention de déposer une telle proposition, selon le cas, ne peut être demandé dans une déclaration produite pour une période ou une année d'imposition se terminant après cette date.";

(3) by replacing, in the French text, the second paragraph by the following:

"Le premier alinéa ne s'applique pas si, le jour où le remboursement ou le montant est demandé, les déclarations et les rapports qui doivent être produits en vertu d'une loi fiscale pour les périodes ou pour les années d'imposition de la personne se terminant au plus tard à la date de la faillite ou à la date du dépôt de la proposition concordataire ou de l'avis d'intention de déposer une telle proposition, selon le cas, ou relativement à des acquisitions d'immeubles effectuées au cours de ces périodes, ont été produits et si un montant égal aux montants dus avant cette date par la personne pour ces périodes ou pour ces années d'imposition a été payé."

272. Section 31 of the said Act, amended by section 347 of chapter 85 of the statutes of 1997, is again amended by replacing, in the second paragraph, the words "to the Government" by the words "to the State".

273. Section 41 of the said Act is amended

(1) in the first paragraph, by inserting, after the word "Ministère", the words "du Revenu";

(2) in the third paragraph, by replacing the words "preceding paragraph" by the words "second paragraph".

274. Section 42 of the said Act is amended, in the French text, by inserting, before the words "photostat de ce livre", the word "tout".

275. Section 62 of the said Act is amended, in the English text of subparagraph *f* of the first paragraph, by striking out "wilfully,".

276. Section 69 of the said Act is amended by replacing the fourth paragraph by the following:

"The third paragraph does not apply to proceedings between the interested party and the Deputy Minister, to an application for an injunction under section 68.1, to an appeal to the Commission de la fonction publique under the Public Service Act (chapter F-3.1.1) or to a complaint or grievance arising out of a disciplinary or administrative measure and filed by a public servant with the labour commissioner general, the Labour Court or a grievance arbitrator, but the Minister, the Deputy Minister and the Associate Deputy Ministers of the Ministère du Revenu are not compellable; they must, however, on the written application of a party served at least 30 days before the date of hearing and specifying the facts requiring testimony, designate a public servant having knowledge of the facts to testify."

277. Section 69.0.4 of the said Act, enacted by section 4 of chapter 86 of the statutes of 1997, is amended by replacing the first paragraph by the following:

"69.0.4. Where a member of the Sûreté du Québec or, where applicable, of a municipal police force is authorized to examine any information or

document pursuant to section 69.0.2, the latter or a public servant of the Ministère du Revenu may make a copy thereof."

278. (1) Section 69.1 of the said Act, amended by section 119 of chapter 63 of the statutes of 1997 and by section 355 of chapter 85 of the statutes of 1997, is again amended by striking out subparagraph *b* of the second paragraph.

(2) Subsection 1 has effect from 8 December 1994.

279. Section 71 of the said Act is amended by replacing, in the first paragraph, the word "Government" by the word "State".

280. Section 71.0.3 of the said Act is amended, in the French text of the second paragraph,

(1) by striking out, at the end of subparagraph *d*, ", le cas échéant,";

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

"*e*) des mesures de sécurité, le cas échéant."

281. Section 71.0.11 of the said Act is replaced by the following:

"71.0.11. The overall strategy of the Ministère du Revenu concerning the obtention, under section 71, of information files for purposes of comparison, pairing or cross-matching shall be included in the Additional Information and Estimates submitted annually to the National Assembly in accordance with section 38 of the Financial Administration Act (chapter A-6)."

282. Section 71.3 of the said Act is replaced by the following:

"71.3. Any document containing information referred to in section 69 that is transferred to the Keeper of the Archives nationales du Québec pursuant to the Archives Act (chapter A-21.1) shall remain confidential for a period of 75 years from the date of the document."

283. Section 80 of the said Act is amended, in subsection 2, by striking out the words "by certified mail or".

284. Section 81 of the said Act is amended, in the English text of the portion before paragraph *a*, by inserting, after "return,", "application,".

285. Section 83 of the said Act is replaced by the following:

"83. An affidavit of a public servant of the Ministère du Revenu attesting that the public servant is entrusted with the appropriate registers, that the public servant is familiar with the operation of the Ministère du Revenu and that an examination of the registers shows that a notice of assessment for a

particular taxation year or other period or a notice of determination was mailed or otherwise communicated to a taxpayer or other person subject to a fiscal law, on a designated day, in accordance with a fiscal law, and that after making a careful examination of the registers and having made a search therein, the public servant was unable to ascertain that a notice of objection or appeal respecting the assessment or determination or a request referred to in section 1079.14 of the Taxation Act (chapter I-3), as the case may be, was received within the time allowed therefor, shall be proof, in the absence of proof to the contrary, of the statements contained therein."

286. Section 87 of the said Act, amended by section 356 of chapter 85 of the statutes of 1997, is again amended

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

"87. The date of mailing of any notice of assessment, notice attesting that no duty is payable or decision of the Minister under section 93.1.6 is presumed to be the date of that notice or decision.";

(2) by replacing, in the English text, the second paragraph by the following:

"Where a person to whom a notice of assessment was directed has not received the notice, the person may apply to a judge of the Court of Québec in order that this failure be remedied, and, if the judge is satisfied, by evidence that the judge considers to be conclusive, that the notice of assessment was not received by the person to whom it was directed and that the person has thus suffered prejudice which is otherwise irreparable, the judge shall order the Minister to serve a certified copy of the notice upon that person."

287. Section 91.1 of the said Act is amended by replacing the second paragraph by the following:

"An affidavit of a public servant of the Ministère du Revenu, attesting that the public servant is entrusted with the registers concerned and that the document is an accurate reproduction of all the data of any document or information filed with the Minister, shall be annexed to that document."

288. Section 93 of the said Act, amended by section 357 of chapter 85 of the statutes of 1997, is replaced by the following:

"93. Every person having a recourse against the Government arising out of the application of a fiscal law shall direct it against the Deputy Minister.

In addition, any proceedings to which the Deputy Minister is a party, with the exception of a motion provided for by section 93.1.10, shall be served upon the Deputy Minister at the Deputy Minister's Montréal or Québec office or upon any person in charge of that office."

289. Section 93.17 of the said Act is replaced, in the English text, by the following:

"93.17. A summary appeal may be heard *in camera* if it is established to the satisfaction of the Court that the circumstances of the case justify *in camera* proceedings."

290. Section 93.19 of the said Act is repealed.

291. Section 93.29 of the said Act is amended by replacing, in the English text, the first paragraph by the following:

"93.29. The tribunal may deny the summary appeal or quash, vary or refer to the Minister for re-examination, an assessment, decision, determination or allocation of payment."

292. Section 94 of the said Act is amended by replacing, in the first paragraph, the words "the Crown" and "the Legislature" by the words "the State" and "the Parliament", respectively.

293. Section 94.0.1 of the said Act is amended by replacing, in the French text, the second paragraph by the following:

"Cette remise peut être faite par décret général ou particulier; elle peut être entière ou partielle, conditionnelle ou sans condition; si elle est conditionnelle et que la condition n'est pas remplie, le décret qui s'applique à ce cas est sans effet et les procédures peuvent être prises ou continuées comme s'il n'avait pas été pris."

294. Section 94.5 of the said Act is amended

(1) by replacing, in the English text, the first paragraph by the following:

"94.5. Where an individual who meets the prescribed conditions considers, in the fiscal return filed in accordance with section 1000 of the Taxation Act (chapter I-3) for a taxation year, that the individual is entitled to a refund for that year, as determined under the second paragraph, not exceeding the prescribed amount for that year, the Minister may, prior to determining the tax payable by the individual for that year and the exigible interest and penalties, if any, make an advance to that individual equal to the amount of the refund so estimated, provided that the individual applies therefor at the time of the filing of the individual's fiscal return.";

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

"The refund referred to in the first paragraph is, for a year, equal to the aggregate of all amounts to which the individual considers to be so entitled for that year under section 220.3 of the Act respecting municipal taxation (chapter F-2.1), Part I of the Taxation Act, section 78 of the Act respecting the Québec

Pension Plan (chapter R-9), the Act respecting real estate tax refund (chapter R-20.1) and section 358 of the Act respecting the Québec sales tax (chapter T-0.1)."

295. Section 95.1 of the said Act is replaced by the following:

"95.1. The Minister is not bound by any fiscal return, report, application for a refund, or information furnished by or in the name of any person, and the Minister may, notwithstanding the return, report, application or information or in the absence thereof, make an assessment or determine a refund."

296. Section 97.6 of the said Act is amended, in the English text of the second paragraph, by inserting, before the word "subject", the words "on a short-term basis and".

297. Section 97.9 of the said Act is amended, in the English text, by replacing the words "adapted as required" by the words "with the necessary modifications".

298. Section 97.11 of the said Act is replaced by the following:

"97.11. Notwithstanding any provision to the contrary, the Minister of Finance shall, in the event of a deficiency in the consolidated revenue fund, pay out of the Collection Fund the sums required for the execution of a judgment against the State that has become *res judicata*."

299. The said Act, amended by chapters 63, 85 and 86 of the statutes of 1997, is again amended

(1) by inserting, after the word "ministère", the words "du Revenu" in the French text of the following provisions:

— the heading of Chapter II;
— the second paragraph of section 3;
— the first and second paragraphs of section 6;
— the first and fourth paragraphs of section 7;
— section 8;
— section 82;

(2) by inserting, after the first mention of the word "Ministère", the words "du Revenu" in the following provisions:

— section 4;
— the second paragraph of section 84;

(3) by replacing the words "the Crown" or, as the case may be, "Her Majesty in right of Québec" by the words "the State" in the following provisions:

— the fourth paragraph of section 10;
— the third paragraph of section 14;
— section 15.3.1;
— the first and second paragraphs of section 20;
— the first paragraph of section 28;
— the first and second paragraphs of section 33;

(4) by replacing the words "registered or certified mail" by the words "registered mail" in the following provisions:

— the first paragraph of section 15;
— the first paragraph of section 15.1;
— section 15.3;
— section 15.3.1;
— section 15.7;
— the first paragraph of section 17;
— section 17.7;
— the first paragraph of section 17.8;
— section 21;
— section 25.3;
— the second paragraph of section 30.4;
— section 35.5;
— the portion of section 39 before subparagraph *a* of the first paragraph;
— the first paragraph of section 78.2;
— section 79;
— the second paragraph of section 93.1.17;
— the first paragraph of section 93.1.22;
— section 93.13;

(5) by striking out the words "or certified" in the following provisions:

— the second paragraph of section 93.16.1;
— the first paragraph of section 93.31;

(6) by replacing the words "In the case of this section" by the words "In such a case" in the English text of the following provisions:

— the second paragraph of section 94.2;
— the second paragraph of section 94.3;
— the second paragraph of section 94.4.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBEC

300. (1) Section 34.1.4 of the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5), amended by section 375 of chapter 85 of the statutes of 1997, is again amended

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

"(3) section 311.1 or 312.4 of the said Act; exceeds";

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

"ii. any amount deducted in computing the individual's income for the year by reason of paragraphs *d*, *d*.1 or *f* to *i* of section 336 of the Taxation Act, except to the extent that paragraph *d* of that section refers to an overpayment of an amount described in section 311.1 of that Act or of a pension paid under the Old Age Security Act, by reason of section 336.0.3 of the Taxation Act, by reason of paragraph *b* of section 339 of that Act to the extent that that paragraph refers to an amount that is deductible under section 924, 926 or 928 of that Act, by reason of paragraph *c* of that section 339 to the extent that that paragraph refers to an amount that is deductible under section 952.1 of that Act, by reason of paragraph *d*, *d*.1, *d*.2 or *f* of that section 339, or by reason of section 961.20 or 961.21 of that Act;" .

(2) Paragraph 1 of subsection 1 applies from the year 1997. However, where subparagraph 3 of subparagraph iv of paragraph *a* of section 34.1.4 of the said Act, enacted by that paragraph 1, applies to the year 1997, it shall be read as follows:

"(3) section 312.4 of that Act; exceeds".

(3) Paragraph 2 of subsection 1, where it replaces subparagraph ii of paragraph *b* of section 34.1.4 of the said Act to strike out therein the reference to paragraphs *a* to *b* of subsection 1 of section 336 of the Taxation Act (R.S.Q., chapter I-3) and to insert therein a reference to section 336.0.3 of that Act, applies from the year 1997.

ACT RESPECTING THE QUÉBEC PENSION PLAN

301. (1) Section 59.1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), enacted by section 392 of chapter 85 of the statutes of 1997, is amended by replacing "regulated establishment" by "regulated establishment, within the meaning of section 42.6 of the Taxation Act (chapter I-3),".

(2) Subsection 1 has effect from 1 January 1998.

302. (1) Section 64 of the said Act, amended by section 15 of chapter 73 of the statutes of 1997, is again amended by replacing, in the first paragraph, "Taxation Act (chapter I-3)" by "Act respecting the Ministère du Revenu (chapter M-31)".

(2) Subsection 1 has effect from 1 January 1998.

ACT RESPECTING THE QUÉBEC SALES TAX

303. Section 224.5 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended, in the English text of paragraph 4, by replacing the word "estate" by the word "succession".

304. Section 313 of the said Act is amended, in the English text of subparagraph *a* of subparagraph 1 of the second paragraph, by replacing the word "Crown" by the word "State".

FUEL TAX ACT

305. Section 1.1 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended by replacing the words "Government departments and agencies and mandataries of the Crown" by the words "on Government departments and bodies and on mandataries of the State".

306. Section 51.3 of the said Act is amended, in the first and second paragraphs, by replacing the word "Crown" by the word "State".

ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

307. (1) Section 1*a*, enacted by section 142 of chapter 3 of the statutes of 1997, and sections 6 to 8, 11 to 13, 18, 29, 85 to 91, 95 to 99, 103*a*, 117, 118, 126 to 128, 130, 135, 140*a*, 141 and 154*a* of the Act respecting the application of the Taxation Act (1972, chapter 24) are repealed.

(2) Subsection 1, where it repeals sections 95 and 96 of the said Act, applies in respect of renunciations made

(1) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation before 6 March 1996;

(2) after 31 December 2006, in respect of an amount paid or loaned to a joint exploration corporation after 5 March 1996 under an agreement in writing entered into before 6 March 1996 by the joint exploration corporation or by another corporation where the other corporation controlled the joint exploration corporation, or had undertaken to incorporate it, at the time the agreement was entered into;

(3) after 5 March 1996, in any other case.

ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

308. (1) Section 28 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 replacing subsection 2 by the following:

"(2) Subsection 1 applies to a taxation year of a taxpayer ending after 2 December 1992, but does not apply to a taxation year of a taxpayer beginning before 6 March 1996 in respect of rental expenses incurred pursuant to a written lease agreement that was renewed, extended or entered into before 18 June 1987 by the taxpayer or a person with whom the taxpayer did not deal at arm's length at the time the lease was renewed, extended or entered into."

(2) Subsection 1 has effect from 30 January 1995.

ACT TO AGAIN AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER LEGISLATIVE PROVISIONS

309. (1) Section 418 of the Act to again amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (1997, chapter 85) is amended, in paragraph 8 of subsection 1, by replacing the portion before the portion of paragraph 3 of the definition of "public college" in section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), replaced by that paragraph 8, by the following:

"(8) in paragraph 3 of the definition of "public college", by replacing the portion before subparagraph *b* by the following:".

(2) Subsection 1 has effect from 19 December 1997.

310. (1) Section 430 of the said Act is amended, in subsection 1,

(1) by adding, after subparagraph *b* of subparagraph 2 of the first paragraph of section 22.8 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), enacted by subsection 1, the following subparagraph:

"(*c*) where the possession or use of the property is given or made available in Québec to the recipient and the property is neither property referred to in subparagraph *a* or *b* nor

i. property that is a specified motor vehicle within the meaning of subsection 1 of section 123 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) that is required, at the time the supply is made, to be registered under the laws of another province relating to the registration of motor vehicles, or

ii. property, other than a specified motor vehicle referred to in subparagraph i, the ordinary location of which, as determined at the time the supply is made, is in another province.";

(2) by replacing the portion of section 22.15 of the Act respecting the Québec sales tax before paragraph 1, enacted by subsection 1, by the following:

"22.15. A supply of a service, other than a service referred to in sections 22.13 and 22.16 to 22.27, is deemed to be made in Québec if".

(2) Subsection 1 has effect from 19 December 1997.

311. (1) Section 454 of the said Act is amended by replacing the portion before section 54.1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), enacted thereby, by the following:

"454. (1) The said Act is amended by inserting, after section 54, the following sections:".

(2) Subsection 1 has effect from 19 December 1997.

312. (1) Section 639 of the said Act is amended, in paragraph 3 of subsection 1, by replacing the portion before paragraph 7 of section 357 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), enacted by that paragraph 3, by the following:

"(3) by replacing paragraphs 6 and 7 by the following:

"(6) the total of all rebates for which the application is made that are in respect of short-term accommodation not included in a tour package and that are determined in accordance with the formula set out in section 355 does not exceed $90; and".

(2) Subsection 1 has effect from 19 December 1997.

313. (1) Section 716 of the said Act is amended, in paragraph 4 of subsection 1, by replacing, in subparagraphs 7.1 and 7.2 of the first paragraph of section 677 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), enacted by that paragraph 4, "20.30" and "20.31" by "22.30" and "22.31", respectively.

(2) Subsection 1 has effect from 19 December 1997.

314. This Act comes into force on 12 June 1998.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 433
(1998, chapter 18)

An Act to amend the Professional Code with respect to the title of psychotherapist

Introduced 12 May 1998
Passage in principle 27 May 1998
Passage 5 June 1998
Assented to 12 June 1998

Québec Official Publisher
1998

EXPLANATORY NOTES

The object of this bill is to regulate the use of the title of psychotherapist.

The bill provides that no person may use that title unless the person is a member of a professional order and the holder of a valid permit for that purpose.

The Office des professions shall determine, by regulation approved by the Government, which professional orders may issue the permit and prescribe standards in that respect.

Lastly, the bill contains provisions relating to the suspension and revocation of the permit.

Bill 433

AN ACT TO AMEND THE PROFESSIONAL CODE WITH RESPECT TO THE TITLE OF PSYCHOTHERAPIST

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 182.1 of the Professional Code (R.S.Q., chapter C-26) is amended

(1) by replacing "or" in the second line of subparagraph 1 of the first paragraph by a comma;

(2) by inserting "or the second paragraph of section 187.4" after "55.1" in the second line of subparagraph 1 of the first paragraph.

2. Section 182.2 of the said Code is amended by inserting "or the second paragraph of section 187.4 of this Code" after "Medical Act (chapter M-9)" in the second line of the sixth paragraph.

3. The said Code is amended by inserting, after section 187, the following:

"CHAPTER VI.1

"PSYCHOTHERAPIST'S PERMIT

"187.1. No person may use the title of psychotherapist or any other title or abbreviation which may lead to the belief that the person is a psychotherapist unless the person is a member of a professional order and holds a valid permit for that purpose issued in accordance with the standards prescribed under this chapter.

"187.2. The Office shall determine, by regulation, which professional orders may issue a psychotherapist's permit.

In addition, the Office shall fix, by regulation, standards for the issue of a psychotherapist's permit. For that purpose, the Office may determine standards or classes of standards which may vary according to each professional order determined under the first paragraph.

"187.3. The Bureau of a professional order referred to in the first paragraph of section 187.2 may, by by-law, fix standards of equivalence of the training prescribed by the standards fixed by the Office under that section.

"187.4. To obtain a psychotherapist's permit, a person shall apply to the Bureau of an order referred to in the first paragraph of section 187.2. The Bureau of the order shall issue a permit to that person if the person fulfils the conditions prescribed by the standards established for that purpose under this chapter.

A permit may be suspended or revoked by the Bureau that issued it. A decision made under this paragraph may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV.

"187.5. In the exercise of the regulatory power conferred by section 187.2, the Office is authorized to take transitional measures applicable in the first six years after the coming into force of this section."

4. This Act comes into force on 12 June 1998, except sections 1, 2 and 187.1 and 187.4 enacted by section 3 which come into force on the date or dates to be fixed by the Government.

Regulations and other acts

Gouvernement du Québec

O.C. 803-98, 17 June 1998

An Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10)

Application of Title IV.2 of the Act

Regulation to amend the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan

WHEREAS under sections 215.12 and 215.13 provided for in Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the Government may make regulations providing for special measures applicable to persons belonging to a category or subcategory determined by such regulation;

WHEREAS under subparagraph 1 of the first paragraph of that section 215.3, amended by section 54 of Chapter 50 of the Statutes of 1997, the Government may, by regulation, determine the manner in which a person's pensionable salary, credited service and employee and employer contributions, together with the terms and conditions governing the payment of those contributions, are calculated for the purposes of the pension plan following the application of certain provisions of a person's conditions of employment, in particular within the scope of measures concerning alternative work schedules or the granting of leave without pay to reduce certain costs arising from the conditions of employment;

WHEREAS under section 215.14 of the Act respecting the Government and Public Employees Retirement Plan, the Government may determine the date on which each of the measures enacted pursuant to that Title IV.2 begins to apply and it may determine the expiry date of each measure, except with respect to a person who has availed himself of that measure;

WHEREAS by Order in Council 690-96 dated 12 June 1996, the Government made the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan;

WHEREAS it is expedient to amend that Regulation;

WHEREAS under section 215.17 of that Act, government regulations under Title IV.2 shall be made after the Commission administrative des régimes de retraite has consulted with the pension committees referred to in sections 164 and 173.1 of the Act respecting the Government and Public Employees Retirement Plan and such regulations may have effect 12 months or less before they are adopted;

WHEREAS the pensions committees have been consulted;

WHEREAS under section 115 of Chapter 50 of the Statutes of 1997, the first regulation under section 215.12 and subsection 1 of section 215.13 of the Act made after 19 June 1997 may, where the regulation so provides, have effect from any date not prior to 1 January 1996;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor:

THAT the the Regulation to amend the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the application of Title IV.2 of 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, ss. 215.12, 215.13 and 215.17; 1997, c. 50, ss. 54 and 115)

1. Section 2 of the Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan is amended in the first paragraph by substituting the words "of the conditions of employment" for "of a collective agree-

(*) The Regulation respecting the application of Title IV.2 of the Act respecting the Government and Public Employees Retirement Plan, made by Order in Council 690-96 dated 12 June 1996 (1996, *G.O.* 2, 2759), was amended by the Regulation made by Order in Council 945-96 dated 7 August 1996 (1996, *G.O.* 2, 3853).

ment or of that which stands in lieu thereof within the meaning of the Labour Code (R.S.Q., c. C-27)".

2. Section 3 of the Regulation is amended in the first paragraph by substituting the words "under an agreement intended to reduce certain costs arising from his conditions of employment" for "under one of the agreements listed in Schedule II".

3. The following is inserted after section 4:

"**4.1** The pensionable salary used for the purposes of the Pension Plan of Certain Teachers, the Government and Public Employees Retirement Plan or the Teachers Pension Plan is the salary that the teacher would have received, had it not been for the postponement of the increase in the teachers' rates and salaries for the 1996-1997 and 1997-1998 school years under the provisions of the teacher's conditions of employment. Contributions shall be paid to the Commission in accordance with the provisions of the pension plan in question. The same applies to any contributory amounts that must be paid by employers.".

4. Chapter V, comprising sections 24 to 38, is revoked.

5. Schedule II is revoked.

6. Sections 1, 2 and 5 have effect from 1 January 1996.

7. Section 3 has effect from 1 July 1996.

8. Section 4 has effect from 1 July 1997.

9. This Regulation comes into force on the date it is made by the Government.

2331

Gouvernement du Québec

O.C. 810-98, 17 June 1998

An Act respecting farm income stabilization insurance (R.S.Q., c. A-31)

Farm Income Stabilization Insurance Scheme — Amendments

Regulation to amend the Farm Income Stabilization Insurance Scheme

WHEREAS under sections 2, 5, 6 and 6.1 of the Act respecting farm income stabilization insurance (R.S.Q., c. A-31), the Government prescribed the Farm Income Stabilization Insurance Scheme, made by Order in Council 1670-97 dated 17 December 1997;

WHEREAS under section 6 of the Act, the items to be considered in computing annual receipts shall be specified in the scheme; it shall also determine the conditions of eligibility and participation as well as the annual assessment and it may, in addition, provide for a reduced assessment for categories of producers, according to the conditions and terms determined in the scheme;

WHEREAS to determine the assessment rate, the tariffing method used shall take into account the risks inherent to each insurable production;

WHEREAS by reason of the observations made on farm markets, the compensations paid and the fluctuation of insurance funds, the assessment rates currently in force no longer reflect the correct actuarial risk related to the production of the insurable products in question;

WHEREAS it is expedient to clearly define the categories of potatoes insurable under the Scheme;

WHEREAS it is necessary to make amendments to the method for establishing the average selling price of potatoes, cereals, grain corn and soy beans for the purposes of establishing annual receipts as provided for in the Scheme;

WHEREAS it is expedient to make the Regulation to amend the Farm Income Stabilization Insurance Scheme;

WHEREAS a regulation made by the Government under the Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any other later date fixed therein;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Agriculture, Fisheries and Food:

THAT the Regulation to amend the Farm Income Stabilization Insurance Scheme, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation to amend the Farm Income Stabilization Insurance Scheme*

An Act respecting farm income stabilization insurance (R.S.Q., c. A-31, ss. 2, 6 and 6.1)

1. The Farm Income Stabilization Insurance Scheme is amended by substituting the following for section 62:

"**62.** Only potatoes whose crop is marketed for pre-peeling, seeding or fresh consumption purposes are insurable. Potatoes marketed for potato chips processing are not insurable."

2. Paragraph 1 of section 63 is amended by substituting the words "potatoes meant for potato chips processing" for "processing potatoes".

3. Section 66 is amended by substituting the following for Table 3 :

"**TABLE 3**

Insurable product	From the insurance year	Assessment
1. Lambs	1997	$34.85/ewe-milk-fed lambs
	1997	$38.40/ewe-heavy lambs
2. Feeder cattle and slaughter cattle	1997	$0.187658/kg of liveweight gain ($0.085120/lb)
3. Feeder calves	1997	$132.48/cow
4. Grain-fed calves	1997	$37.57/calf
5. Milk-fed calves	1997	$26.78/calf
6. Piglets	1997-1998	$12.26/sow
7. Hogs	1997-1998	$2.53/hog
8. Cereals, grain corn and soy beans		
Oats	1997-1998	$74.00/ha
Wheat for animal consumption	1997-1998	$70.35/ha
Wheat for human consumption	1997-1998	$18.63/ha
Grain corn	1997-1998	$48.29/ha
Barley	1997-1998	$64.68/ha
Soy beans	1997-1998	$8.35/ha
9. Apples	1997-1998	$0.003149/kg
10. Potatoes		
Potatoes sold not later than 31 October	1997-1998	$0.007574/kg
Potatoes sold from 1 November	1997-1998	$0.009611/kg

".

4. Section 67 is amended by substituting the following for Table 4 :

"**TABLE 4**

Insurable category	Insurance year	Reduction $/ha
Oats	1997-1998	3.19
Wheat for animal consumption	1997-1998	5.73
Wheat for human consumption	1997-1998	3.11
Grain corn	1997-1998	2.72
Barley	1997-1998	2.91
Soy beans	1997-1998	0.32

".

5. Section 73 is amended by substituting the following for Table 6 :

"**TABLE 6**

Product	Average selling price
Lambs	The average selling price shall represent the average of the selling prices for the categories of lambs at the sale weights listed in Table 5.
Feeder cattle	The average selling price shall represent the average of the selling prices according to the average weights of slaughter cattle listed in Table 5 for the Canada A and B categories (Livestock and Poultry Carcass Regulations (1992) 126 *Can. Gaz.* II 3821).

* The Income Stabilization Insurance Scheme was made by Order in Council 1670-97 dated 17 December 1997 (1997, *G.O.* 2, 6293) and has been amended by Order in Council 669-98 dated April 29 1998 (1998, *G.O.* 2, 2110).

Product	Average selling price
Feeder calves	The average selling price shall represent the average of the prices obtained for feeder calves at the weight listed in Table 5, sold at specialized auctions.
Grain-fed calves	The selling price shall represent the average of the prices per kilogram re-adjusted on a liveweight basis for grain-fed calves at the sale weight listed in Table 5.
Milk-fed calves	The selling price shall represent the average of the prices per kilogram re-adjusted on a liveweight basis for milk-fed calves at the sale weight listed in Table 5.
Piglets	The average selling price shall represent the average of the prices according to the average weight of piglets listed in Table 5.
Feeder hogs	The average selling price per kilogram of product shall correspond to the average of the prices having prevailed in the production of feeder hogs for slaughter hog carcasses. The compensations received must also be considered for shipping reasons and delay in slaughter.
Cereals, grain corn and soy beans	Notwithstanding the second paragraph of the first subparagraph of the present section, the Régie establishes the average selling price following a statistical survey carried out among grain buyers. The average price shall correspond to the average of the prices for the categories of grain in accordance with the Regulation respecting grain made by Order in Council 1724-92 dated 2 December 1992 (1992, *G.O.* 2, 5263): (1) for oats, classes 1 to 4; (2) for wheat for animal consumption, classes 1 to 3; (3) for wheat for human consumption, the highest of categories 1 to 3 of wheat for animal consumption and categories 1 to 3 of wheat for human consumption; (4) for grain corn, categories 1 to 5; (5) for barley, categories 1 and 2; and (6) for soy beans, categories 1 to 5.

Product	Average selling price
Apples	The average selling price shall represent the average price paid for late "fancy" apples (Regulation respecting fresh fruits and vegetables (R.R.Q., 1981, c. P-29, r. 3)) as an average selling price for each transaction made in the production of apples. This price shall correspond to the highest amount of: *(a)* the market price paid by packers or buyers authorized by the Fédération des producteurs de pommes du Québec; *(b)* the reference price determined by the Price Committee prescribed by the Regulation respecting the sale of apples; *(c)* the price corresponding to two-thirds of total subsidies and grants, depreciation and net stabilized annual income for the year preceding the insurance year.
Potatoes	The selling price is established for potatoes marketed for fresh consumption or for pre-peeling purposes. The selling price for seeding potatoes is not considered in the determination of the average selling price. Notwithstanding the second paragraph of the first subparagraph of the present section, the Régie determines the average selling price with businesses that participate to the self management quality program of the Fédération des producteurs de pommes de terre du Québec. When the number of participating businesses is unsufficient to obtain a regional representativeness of fresh consumption and pre-peeling potato production or to obtain a representative quantity of the production of potatoes marketed for pre-peeling purposes, the Régie has the right to complete its price survey with businesses that are not enrolled in the self management quality program of the Fédération. However, when the Régie fails to obtain from the Fédération the list of businesses participating to the self management quality program, the Régie establishes the selling price with specialized businesses by taking into account the regional representativeness production of fresh consumption and pre-peeling potatoes and a representative proportion of potatoes marketed for pre-peeling production.

Product	Average selling price
	The average selling price is established by considering the following elements : 1° The Régie collects from the businesses surveyed the whole of potato transactions sold during the insurance year in "bulk" or "bagged" for fresh consumption and pre-peeling purposes. Bagged potatoes must correspond to Canada No.1 potatoes according to the Fresh Fruit and Vegetables Regulation (C.R.C., c. 285) excluding Canada No. 1 "Small" potatoes and Canada No. 1 "Creamer" potatoes; 2° Sales of "bagged potatoes" are adjusted on a "bulk basis" by deducting the following bagging expenses from the sale price : amounts of $7.10, $3.70, $3.50 and $2.20/100 lbs respectively for bags of 5, 10, 20 and 50 lbs as established for the year 1997. These amounts may be indexed according to the variation in bagging expenses as established by l'Office de commercialisation des pommes de terre de l'Ontario; 3° "Delivered" sales are adjusted by the Régie by deducting an amount of $0.98/100 lbs as established for the year 1996 and representing transport costs. This amount is indexed annually according to the index for transport contract for Quebec, January to December, Statistics Canada or according to statistical survey of the Régie; 4° If the quantities of fresh consumption potatoes surveyed in each region do not represent the regional layout of areas insured for fresh consumption and pre-peeling potatoes, those quantities may be adjusted by the Régie so they may reflect the regional layout; 5° Selling prices for fresh consumption and pre-peeling potatoes are balanced according to the average proportion of production volumes respectively declared by the producers in the last three years in accordance with the Règlement sur l'enregistrement des exploitations des producteurs de pommes de terre du Québec approved by decision 5283 of the Régie des marchés agricoles et alimentaires du Québec, dated March 6 1991.

".

6. This Regulation comes into force on the day of its publication in the *Gazette officielle du Québec*.

2336

Gouvernement du Québec

O.C. 821-98, 17 June 1998

An Act respecting income security
(R.S.Q., c. S-3.1.1)

Income security
— Amendments

Regulation to amend the Regulation respecting income security

WHEREAS in accordance with section 91 of the Act respecting income security (R.S.Q., c. S-3.1.1), the Government made the Regulation respecting income security by Order in Council 922-89 dated 14 June 1989;

WHEREAS it is expedient to amend the Regulation;

WHEREAS under sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation to amend the Regulation respecting income security was published in Part 2 of the *Gazette officielle du Québec* of 13 May 1998, p. 1819, with a notice that it could be made by the Government upon the expiry of the 20-day period from that publication;

WHEREAS the 20-day period has expired;

WHEREAS under section 18 of that Act, a Regulation may come into force between the date of its publication in the *Gazette officielle du Québec* and that applicable under section 17 of that Act;

WHEREAS under section 18 of that Act, the reason justifying such 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:

— the amendments to the Regulation respecting income security attached to this Order in Council must come into force at the same time as the supplement of national benefits for children granted by the federal government and the amendments made to family allowances granted under the Act respecting family benefits (1997, c. 57), that is on 1 July 1998;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Employment and Solidarity and Minister of Employment and Solidarity:

THAT the Regulation to amend the Regulation respecting income security, attached hereto, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting income security(*)

An Act respecting income security
(R.S.Q., c. S-3.1.1, s. 91, 1st par., subpars. 4, 6.1, 8, 13 and 2nd par.; 1997, c. 57, s. 58)

1. Section 6.1 of the Regulation respecting income security is amended

(1) by substituting the following for the amounts of liquid assets listed in the table in the first paragraph: "$712", "$1 037", "$1 237", "$1 061", "$1 278" and "$1 478";

(2) by substituting the following for the second and third paragraphs:

"Those amounts shall be increased by an amount of $200 for the third dependent child and for each subsequent child.

Notwithstanding the foregoing, the liquid assets of a family one of the adults of which is referred to in subparagraphs 6.1 and 6.2 of section 2 may not exceed $323, which shall be increased by an amount of $217 for the first dependent child and by $200 for each subsequent child.

Those amounts shall also be increased by an amount of $119 for any dependent minor child receiving an allowance for a handicapped child under the Act respecting family benefits (1997, c. 57).

In the case of an adult referred to in subparagraph 4 of section 2 or in section 4, the liquid assets he may have on the date of his application may not exceed the amount of $148.";

(3) by adding the following at the end: "Are also excluded, the amounts of cheques intended to pay the rent, electricity and heating, outstanding on the date of the application, provided they are cashable during the month the application was made.".

2. The following is substituted for section 10.5:

"**10.5.** The scale of needs provided for in section 7 shall be increased by $81.25 for each of the dependent minor children of the family.".

3. The following is inserted after section 20:

"**20.1.** For the purposes of section 20, an amount established as follows shall be subtracted from the liquid assets owned on the date of the application by a family with a dependent minor child:

Adults	Dependent children	Amount
1	1	$325
1	2	$525
2	1	$217
2	2	$417

The amount shall be increased by an amount of $200 for the third dependent minor child and for each subsequent child.

Notwithstanding the foregoing, an amount of $217 for the first dependent child and of $200 for each subsequent child shall be subtracted from the liquid assets of a family where one of the adults is referred to in subparagraphs 6.1 and 6.2 of section 2.

An amount of $119 shall also be subtracted from the liquid assets for any dependent minor child receiving an allowance for a handicapped child under the Act respecting family benefits.".

4. This Regulation comes into force on 1 July 1998.

2332

(*) The Regulation respecting income security, made by Order in Council 922-89 dated 14 June 1989 (1989, *G.O.* 2, 2443), was last amended by the Regulation made by Order in Council 619-98 dated 6 May 1998 (1998, *G.O.* 2, 1819). For previous amendments, refer to the Tableau des modifications et Index sommaire, Éditeur officiel du Québec, 1998, updated to 1 March 1998.

Gouvernement du Québec

O.C. 823-98, 17 June 1998

An Act respecting the Société de développement industriel du Québec
(R.S.Q., c. S-11.01)

Business Financing Assistance Program — Amendments

Regulation to amend the Regulation respecting the Business Financing Assistance Program

WHEREAS under section 5 of the Act respecting the Société de développement industriel du Québec (R.S.Q., c. S-11.01), the Government may establish, by regulation, financial assistance programs designed to promote economic development in Québec;

WHEREAS under subparagraphs *b*, *c* and *n* of the first paragraph of section 47 of the Act, the Government may make regulations, in particular to establish criteria to determine which businesses may receive financial assistance, to determine the form of such financial assistance and the conditions a business must fulfil to obtain it;

WHEREAS by Order in Council 709-96 dated 12 June 1996, the Government made the Regulation respecting the Business Financing Assistance Program;

WHEREAS the Regulation was amended by the Regulations made by Orders in Council 645-97 dated 13 May 1997, 1690-97 dated 17 December 1997 and 370-98 dated 25 March 1998;

WHEREAS in order to support the development of the hotel industry in certain historic or heritage immovables, it is expedient to again amend the Regulation;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published as provided for in section 8 of that Act if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS the Government is of the opinion that the urgency owing to the following circumstances justifies the absence of prior publication of the Regulation and its coming into force on the date of its publication in the *Gazette officielle du Québec*:

— it is important to have the proposed measures come into force without delay so that the development of the hotel industry in certain historic or heritage immovables may be carried out as soon as possible;

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of State for the Economy and Finance and Minister of Industry, Trade, Science and Technology:

THAT the Regulation respecting the Business Financing Assistance Program, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the Business Financing Assistance Program(*)

An Act respecting the Société de développement industriel du Québec
(R.S.Q., c. S-11.01, ss. 5 and 47, 1st par., subpars. *b*, *c* and *n*)

1. The Regulation respecting the Business Financing Assistance Program is amended in section 3 by adding the following paragraph at the end:

"(17) "historic or heritage immovable" means:

(a) any immovable recognized or classified by the Minister of Culture and Communications under the Cultural Property Act (R.S.Q., c. B-4);

(b) any immovable located in a historic district designated by the Government under that Act or in a historic site classified by the Minister under that Act; or

(c) any historic monument designated by a municipality or any immovable located in a heritage site established by a municipality under that Act.".

(*) The Regulation respecting the Business Financing Assistance Program, made by Order in Council 709-96 dated 12 June 1996 (1996, *G.O.* 2, 2770), was amended by the Regulation made by Order in Council 370-98 dated 25 March 1998 (1998, *G.O.* 2, 1477). For previous amendments, refer to the Tableau des modifications et Index sommaire, Éditeur officiel du Québec, 1998, updated to 1 March 1998.

2. The following is inserted after section 6.1:

"**6.2** Notwithstanding section 6, financial assistance granted under this Program for the establishment of a hotel that offers to the public from six to one hundred sleeping-accommodation units in a historic or heritage immovable may be combined with any other financial assistance from the Government for that kind of immovable.".

3. The following clause is added to subparagraph *a* of paragraph 9 of Schedule II:

"iii. the establishment and expansion of hotels that offer to the public from six to one hundred sleeping-accommodation units in historic or heritage immovables;".

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

2330

Gouvernement du Québec

O.C. 824-98, 17 June 1998

An Act respecting the Ministère du Conseil exécutif (R.S.Q., c. M-30)

Ethics and professional conduct of public office holders

Regulation respecting the ethics and professional conduct of public office holders

WHEREAS under section 3.0.1 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., c. M-30), inserted by section 1 of Chapter 6 of the Statutes of 1997, public office holders shall be subject to the standards of ethics and professional conduct enacted by government regulation, including those relating to remuneration;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the ethics and professional conduct of public office holders was published in Part 2 of the *Gazette officielle du Québec* of 22 October 1997 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments that take into account the comments received;

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

THAT the Regulation respecting the ethics and professional conduct of public office holders, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation respecting the ethics and professional conduct of public office holders

An Act respecting the Ministère du Conseil exécutif (R.S.Q., c. M-30, ss. 3.0.1 and 3.0.2; 1997, c. 6, s. 1)

CHAPTER I
PURPOSE AND SCOPE

1. The purpose of this Regulation is to preserve and enhance the confidence of the public in the integrity and impartiality of the public administration, to promote openness within government agencies and corporations, and to render accountable the public administration and public office holders.

2. This Regulation applies to public office holders.

Public office holders are

(1) the members of the board of directors of, and members of, a government agency or corporation within the meaning of the Auditor General Act (R.S.Q., c. V-5.01) other than a legal person less than 100 % of the voting shares of which are held by a government agency or corporation to which this subparagraph applies, and the persons holding administrative offices provided for by law within such an agency or corporation; and

(2) the persons appointed or designated by the Government or by a minister to an office within any agency or corporation that is not a public body within the meaning of the Auditor General Act, and to whom subparagraph 1 does not apply.

Persons already governed by standards of ethics or professional conduct under the Public Service Act (R.S.Q., c. F-3.1.1) shall also be subject to this Regulation where they hold public office.

This Regulation does not apply to judges of a court within the meaning of the Courts of Justice Act (R.S.Q., c. T-16), to bodies every member of which is a judge of

the Court of Québec, to the Conseil de la magistrature nor to the committee on the remuneration of judges of the Court of Québec and the municipal courts.

It does not apply to the Conseil de la justice administrative, to the Administrative Tribunal of Québec and its members, to jurisdictional bodies in respect of whose members the Conseil is empowered by law to hear complaints concerning a violation of professional conduct or to members of such bodies.

3. For the purposes of this Regulation, councils and other collegial bodies are deemed to be boards of directors.

Likewise, any person who performs duties equivalent to those of a chairman of a board of directors is deemed to be such a chairman.

CHAPTER II
ETHICAL PRINCIPLES AND
GENERAL RULES OF PROFESSIONAL CONDUCT

4. Public office holders are appointed or designated to contribute, within the framework of their mandate, to the accomplishment of the State's mission and, where applicable, to the proper administration of its property.

They shall make their contribution in accordance with law, with honesty, loyalty, prudence, diligence, efficiency, application and fairness.

5. In the performance of his duties, a public office holder is bound to comply with the ethical principles and the rules of professional conduct prescribed by law and by this Regulation, as well as the principles and rules set forth in the code of ethics and professional conduct applicable to him. In case of discrepancy, the more stringent principles and rules shall apply.

In case of doubt, he shall act in accordance with the spirit of those principles and rules. He shall, in addition, arrange his personal affairs in such a manner that they cannot interfere with the performance of his duties.

A public office holder is bound by the same obligations where, at the request of a government agency or corporation, he performs his duties within another government agency or corporation, or is a member thereof.

6. A public office holder is bound to discretion in regard to anything that comes to his knowledge in the performance or during the performance of his duties and is at all times bound to maintain the confidentiality of information thus received.

That obligation does not have the effect of preventing a public office holder from reporting to a specific interest group that he represents or to which he is linked, except where the information is confidential by law or where the board of directors requires that confidentiality be maintained.

7. In the performance of his duties, a public office holder shall make decisions regardless of any partisan political considerations.

8. A chairman of the board of directors, a chief executive officer of an agency or corporation and a full-time public office holder shall demonstrate reserve in the public expression of their political opinions.

9. A public office holder shall avoid placing himself in a situation of conflict between his personal interest and the duties of his office.

He shall reveal to the agency or corporation within which he is appointed or designated to an office any direct or indirect interest that he has in an agency, corporation or association likely to place him in a situation of conflict of interest, as well as any rights that he may assert against the agency or corporation, and shall indicate, where applicable, their nature and value.

A public office holder appointed or designated to an office within another agency or corporation shall, subject to section 6, also reveal any such situation to the authority that appointed or designated him.

10. A full-time public office holder may not, on penalty of dismissal, have a direct or indirect interest in an agency, corporation or association entailing a conflict between his personal interest and that of the agency or corporation within which he is appointed or designated to an office. Notwithstanding the foregoing, such dismissal shall not occur if such interest devolves on him by succession or gift, provided that he renounces it or disposes of it promptly.

Any other public office holder who has a direct or indirect interest in an agency, corporation or association entailing a conflict between his personal interest and that of the agency or corporation within which he is appointed or designated to an office shall, on penalty of dismissal, reveal the interest in writing to the chairman of the board of directors and, where applicable, shall abstain from participating in any deliberation or any decision pertaining to the agency, corporation or association in which he has that interest. In addition, he shall withdraw from the sitting for the duration of the deliberations and the vote concerning that matter.

This section does not prevent a public office holder from expressing opinions about conditions of employment applied at large within the agency or corporation and that could affect him.

11. A public office holder shall not treat the property of the agency or corporation as if it were his own property and may not use it for his own benefit or for the benefit of a third party.

12. A public office holder may not use for his own benefit or for the benefit of a third party information obtained in the performance or during the performance of his duties.

That obligation does not have the effect of preventing a public office holder from consulting or reporting to a specific interest group that he represents or to which he is linked, except where the information is confidential by law or where the board of directors requires that confidentiality be maintained.

13. A full-time public office holder shall perform exclusively the duties of his office, except where the authority having appointed or designated him also appoints or designates him to other duties. Notwithstanding the foregoing, he may, with the written consent of the chairman of the board of directors, engage in teaching activities for which he may be remunerated or in non-remunerated activities within a non-profit organization.

The chairman of the board of directors may likewise be so authorized by the Secretary General of the Conseil exécutif. However, the chairman of the board of directors of a government agency or corporation that holds 100 % of the shares of a second government agency or corporation is the authority who may give such an authorization to the chairman of the board of directors of that second agency or corporation.

14. A public office holder may not accept any gift, hospitality or other advantage, except what is customary and is of modest value.

Any other gift, hospitality or advantage received shall be returned to the giver or shall be remitted to the State.

15. A public office holder may not, directly or indirectly, grant, solicit or accept a favour or an undue advantage for himself or for a third party.

16. In the decision-making process, a public office holder shall avoid allowing himself to be influenced by offers of employment.

17. A public office holder who has left public office shall conduct himself in such a manner as not to derive undue advantages from his previous service with the agency or corporation.

18. It is prohibited for a public office holder who has left public office to disclose confidential information or to give anyone advice based on information not available to the public concerning the agency or corporation for which he worked, or concerning another agency or corporation with which he had a direct and substantial relationship during the year preceding the end of his term of public service.

Within one year after leaving office, a public office holder shall not act for or on behalf of anyone else in connection with a proceeding, negotiation or other transaction to which the agency or corporation that he served is a party and about which he has information not available to the public.

A public office holder of an agency or corporation referred to in the second paragraph may not, in the circumstances referred to in that paragraph, deal with a public office holder referred to therein for one year following the end of his term of public service.

19. The chairman of the board of directors shall ensure that the public office holders of the agency or corporation comply with the ethical principles and rules of professional conduct.

CHAPTER III
POLITICAL ACTIVITIES

20. A full-time public office holder, the chairman of a board of directors and the chief executive officer of an agency or corporation who intends to run for election to an elective public office shall so inform the Secretary General of the Conseil exécutif.

21. The chairman of a board of directors or a chief executive officer of an agency or corporation wishing to run for election to an elective public office shall resign from his position.

22. A full-time public office holder wishing to run for election to the National Assembly, the House of Commons of Canada or another elective public office whose functions will probably be performed on a full-time basis shall request, and is entitled to, leave without remuneration, from the day on which he announces that he is a candidate.

23. A full-time public office holder wishing to run for election to an elective office whose functions will probably be performed on a part-time basis, but whose

candidacy may make it impossible for him to demonstrate reserve as required, shall apply for, and is entitled to, leave without remuneration from the day on which he announces that he is a candidate.

24. A full-time public office holder who is granted leave without remuneration in accordance with section 22 or 23 is entitled to return to his duties no later than on the thirtieth day following the final date for nominations, if he is not a candidate, or, where he is a candidate, no later than on the thirtieth day following the date on which a person other than he is declared elected.

25. A full-time public office holder whose term of office is of fixed duration, who is elected to a full-time public office and who agrees to his election shall immediately resign from his position as a public office holder.

A full-time public office holder who is elected to a part-time public office shall, where that office may make it impossible for him to demonstrate reserve as required, resign from his position as a public office holder.

26. A full-time public office holder whose term of office is not of fixed duration and who is elected to a public office is entitled to leave without remuneration for the duration of his first elective term of office.

CHAPTER IV
REMUNERATION

27. A public office holder shall be entitled, for the performance of his duties, solely to the remuneration related to those duties. Such remuneration may not include, even partially, monetary advantages such as those established, in particular, by a profit-sharing plan based on the variation in the value of shares or on a participation in the capital stock of the corporation.

28. A public office holder dismissed for just and sufficient cause may not receive a severance allowance or payment.

29. A public office holder who has left public office, who has received or is receiving a severance allowance or payment and who holds an office, employment or any other remunerated position in the public sector during the period corresponding to that allowance or payment shall refund the part of the allowance or payment covering the period for which he receives a salary, or shall cease to receive it during that period.

Notwithstanding the foregoing, where the salary he receives is lower than the salary he received previously, he shall be required to refund the allowance or payment only up to the amount of his new salary, or he may continue to receive the part of the allowance or payment that exceeds his new salary.

30. Any person who has received or is receiving a severance allowance or payment from the public sector and who receives a salary as a public office holder during the period corresponding to that allowance or payment shall refund the part of the allowance or payment covering the period for which he receives a salary, or shall cease to receive it during that period.

Notwithstanding the foregoing, where the salary that he receives as a public office holder is lower than the salary he received previously, he shall be required to refund the allowance or payment only up to the amount of his new salary, or he may continue to receive the part of the allowance or payment that exceeds his new salary.

31. A full-time public office holder who has left public office, who has received so-called assisted departure measures and who, within two years after his departure, accepts an office, employment or any other remunerated position in the public sector shall refund the sum corresponding to the value of the measures received by him, up to the amount of the remuneration received, by the fact of his return to the public sector, during that two-year period.

32. Sections 29 to 31 do not apply to part-time teaching activities by a public office holder.

33. For the purposes of sections 29 to 31, “public sector” means the bodies, institutions and corporations referred to in the Schedule.

The period covered by the severance allowance or payment referred to in sections 29 and 30 shall correspond to the period that would have been covered by the same amount if the person had received it as a salary in his former office, employment or position.

CHAPTER V
CODE OF ETHICS AND PROFESSIONAL CONDUCT

34. The members of the board of directors of each government agency or corporation shall adopt a code of ethics and professional conduct in conformity with the principles and rules established by this Regulation.

35. The code shall establish the ethical principles and the rules of professional conduct of the agency or corporation.

The ethical principles shall reflect the agency’s or corporation’s mission, the values underlying its operations and its general principles of management.

The rules of professional conduct shall pertain to the duties and obligations of public office holders. The rules shall explain and illustrate those duties and obligations in a concrete manner. They shall in particular cover

(1) preventive measures, specifically, rules concerning the declaration of interests held by a public office holder;

(2) identification of situations of conflict of interest; and

(3) the duties and obligations of public office holders even after they have left public office.

36. Each agency or corporation shall take the necessary measures to ensure the confidentiality of the information provided by public office holders under this Regulation.

CHAPTER VI
DISCIPLINARY PROCESS

37. For the purposes of this Chapter, the authority competent to act is the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif where the person concerned is the chairman of the board of directors, a public office holder appointed or designated by the Government or a Minister.

The chairman of the board of directors is the authority competent to act in respect of any other public office holder.

Notwithstanding the foregoing, the chairman of the board of directors of a government agency or corporation that holds 100 % of the shares of a second government agency or corporation is the authority competent to act in respect of the chairman of the board of directors of that second agency or corporation, except where he himself is its chairman.

38. A public office holder accused of a violation of ethics or professional conduct may be temporarily relieved of his duties, with remuneration, by the competent authority, in order to allow an appropriate decision to be made in an urgent situation requiring rapid action or in a presumed case of serious misconduct.

39. The competent authority shall inform the public office holder of the violations of which he is accused, of the possible penalty and that he may, within 7 days, provide it with his observations and, if he so requests, be heard regarding the alleged violations.

40. Where it is concluded that a public office holder has violated the law, this Regulation or the code of ethics and professional conduct, the competent authority shall impose a penalty.

However, where the competent authority is the Associate Secretary General referred to in section 37, the penalty shall be imposed by the Secretary General of the Conseil exécutif. Furthermore, if the penalty proposed is the dismissal of public office holder appointed or designated by the Government, the penalty may be imposed by the Government only; in that case, the Secretary General of the Conseil exécutif may suspend the public office holder immediately, without remuneration, for a period not exceeding 30 days.

41. The penalties that may be imposed on the public office holder is a reprimand, a suspension without remuneration for a maximum of three months or the dismissal.

42. Any penalty imposed on a public office holder, as well as the decision to temporarily relieve him of his duties, shall be in writing and give the reasons therefor.

CHAPTER VII
MISCELLANEOUS

43. The obligation under section 34 for government agencies and corporations to adopt a code of ethics and professional conduct shall be fulfilled at the latest on 1 September 1999 and for agencies and corporations established after 31 August 1998, within one year of their establishment.

44. Sections 29, 30 and 31 apply to returns to the public sector taking place after 31 August 1998.

45. Notwithstanding the fifth paragraph of section 2, the provisions of this Regulation, except for Chapter III, sections 34 and 35 and Chapter VI, shall apply to the following persons and bodies:

(1) the Administrative Tribunal of Québec and its members, until the date of coming into force of the code of ethics made under section 180 of the Act respecting administrative justice (1996, c. 54);

(2) the Régie du logement and its commissioners, until the date of coming into force of the code of ethics adopted under section 8 of the Act respecting the Régie du logement (R.S.Q., c. R-8.1), and the content of which is specified in section 8.1 of the Act, enacted by section 605 of the Act respecting the implementation of the Act respecting administrative justice (1997, c. 43); and

(3) the Commission des lésions professionnelles and its members, until the date of coming into force of the code of ethics adopted under section 413 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), enacted by section 24 of the Act to establish the Commission des lésions professionnelles and amending various legislative provisions (1997, c. 27).

The provisions that apply with respect to the processing of complaints pertaining to a violation of this Regulation by the persons referred to in the first paragraph, the penalties to be imposed where a violation is proved and the authorities responsible for the application of those provisions are as follows:

(1) for the members of the Administrative Tribunal of Québec, those provided for in the Act respecting administrative justice;

(2) for the commissioners of the Régie du logement, those enacted by the Act respecting the Régie du logement and references to the "Minister" in sections 186, 190, 191 and 192 of the Act respecting administrative justice mean the minister responsible for the administration of Title I of the Act respecting the Régie du logement; and

(3) for the members of the Commission des lésions professionnelles, those enacted by the Act respecting industrial accidents and occupational diseases and references to the "Minister" in sections 186, 190, 191 and 192 of the Act respecting administrative justice mean the minister responsible for the administration of the Act respecting industrial accidents and occupational diseases.

46. This Regulation comes into force on 1 September 1998.

SCHEDULE
(s. 33)

PUBLIC SECTOR

1. The Government and its departments, the Conseil exécutif and the Conseil du trésor.

2. The staff of the Lieutenant-Governor, the National Assembly, the Public Protector, any person designated by the National Assembly to perform duties that come under the National Assembly where its personnel is, by law, appointed and remunerated in accordance with the Public Service Act, and any body to which the National Assembly or a committee thereof appoints the majority of the members.

3. Any body which is established by or under an act or by a decision of the Government, the Conseil du trésor or a minister and which meets one of the following conditions:

(1) all or part of its appropriations for operating purposes appear under that heading in the budgetary estimates tabled in the National Assembly;

(2) its employees are required by law to be appointed or remunerated in accordance with the Public Service Act; or

(3) the Government or a minister appoints at least half of its members or directors, and at least half of its operating expenses are borne directly or indirectly by the consolidated revenue fund or by other funds administered by a body referred to in section 1 or 2 of this Schedule, or both situations hold true at the same time.

4. The Public Curator.

5. Any body, other than those mentioned in sections 1, 2 and 3 of this Schedule, which is established by or under an act or by a decision of the Government, the Conseil du trésor or a minister and at least half of whose members or directors are appointed by the Government or a minister.

6. Any joint-stock company, other than a body mentioned in section 3 of this Schedule, more than 50 % of whose voting shares are part of the public domain or are owned by a body referred to in sections 1 to 3 and 5 of this Schedule or by a corporation referred to in this section.

7. Any educational institution at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., c. E-14.1).

8. Any general and vocational college established under the General and Vocational Colleges Act (R.S.Q., c. C-29).

9. Any school board subject to the Education Act (R.S.Q., c. I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., c. I-14) and the Conseil scolaire de l'île de Montréal.

10. Any private institution accredited for the purposes of subsidies under the Act respecting private education (R.S.Q., c. E-9.1).

11. Any other educational institution more than half of whose operating expenses are paid out of appropria-

tions appearing in the budgetary estimates tabled in the National Assembly.

12. Any public or private institution under agreement and any regional board referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2).

13. The regional council established by the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5).

14. Any municipality, any body declared by law to be the mandatary or agent of a municipality, any body more than half of whose board of directors are members of a municipal council and any body otherwise under a municipal authority.

15. Any urban community, intermunicipal board, intermunicipal transit corporation, any intermunicipal board of transport, the Kativik Regional Government and any other body, except a private body, more than half of whose board of directors are elected municipal officers.

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Gouvernement du Québec

O.C. 827-98, 17 June 1998

An Act respecting the Ministère des Régions (1997, c. 91)

Signing of certain deeds, documents and writings

Signing of certain deeds, documents and writings of the Ministère des Régions

WHEREAS by Order in Council 409-98 dated 1 April 1998, sections 1 to 7, 16 to 66 and 68 of the Act respecting the Ministère des Régions (1997, c. 91) related to the creation of the Ministère des Régions came into force on 1 April 1998;

WHEREAS under the second paragraph of section 44 of the Act, the Government may determine the deeds, documents or writings that, when they are signed by members of the personnel of the department or the holder of a position, bind the Minister and may be attributed to him;

WHEREAS under section 46 of the Act, any document or copy of a document emanating from the department or forming part of its records and signed or certified by a person referred to in the second paragraph of section 44 of the Act is authentic;

WHEREAS it is expedient that the Government determine the deeds, documents or writings that, when they are signed by members of the personnel of the department or the holder of a position, bind the Minister and may be attributed to him and it is expedient to authorize persons referred to in the second paragraph of section 44 of the Act to certify as true any document or copy of a document emanating from the department or forming part of its records;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Regions:

THAT the terms and conditions for the signing of certain deeds, documents and writings of the Ministère des Régions, attached to this Order in Council, be made;

THAT the terms and conditions come into force on the date of their publication in the *Gazette officielle du Québec*.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

SCHEDULE

TERMS AND CONDITIONS FOR THE SIGNING OF CERTAIN DEEDS, DOCUMENTS AND WRITINGS OF THE MINISTÈRE DES RÉGIONS

1. Public servants of the Ministère des Régions who hold the positions referred to below are authorized to sign alone, within the limits of their respective duties, the deeds, documents or writings listed under their positions, with the same authority as the Minister of Regions.

2. An assistant deputy minister is authorized to sign, in respect of the region for which he is responsible, an agreement referred to in paragraph 1 of section 6, in section 12 or in section 19 of the Act respecting the Ministère des Régions (1997, c. 91).

3. An assistant deputy minister or a director general is authorized to sign, in respect of the region or directorate for which he is responsible, the following documents:

(1) service contracts and public calls for tenders;

(2) purchase contracts including local orders and requests for goods and delivery;

(3) promises and grants of subsidies;

(4) promises and grants of any other form of financial assistance whose standards were approved by the Government or the Conseil du Trésor;

(5) any deed, document or writing related to the contracts, public calls for tenders, promises and grants of subsidies and any other form of financial assistance referred to in paragraphs 1 to 4;

(6) any deed, document or writing pertaining to copyright.

4. A branch director is authorized to sign, in respect of the branch for which he is responsible, the deeds, documents and writings referred to in section 3, except those referred to in paragraphs 3 and 4, up to a maximum of $100 000.

5. A person in charge of administrative management is authorized to sign, in respect of his area of responsibility, the deeds, documents and writings referred to in section 3, except those referred to in paragraphs 3 and 4, up to a maximum of $10 000.

6. The director general for administration is authorized to sign agreements for the use of and installations in immovables with the Société immobilière du Québec, as well as any deed, document or writing pertaining to such agreements.

7. The director general for administration is authorized to sign acquittances from any personal right, as well as any deed, document or writing pertaining to such acquittances.

8. An assistant deputy minister, the secretary of the department or a director general is authorized, in respect of the department, the region or the directorate for which he is responsible, to certify as true any document or copy of a document emanating from the department or forming part of its records.

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Gouvernement du Québec

O.C. 833-98, 17 June 1998

Health Insurance Act
(R.S.Q., c. A-29)

Eligibility and registration of persons — Amendments

Regulation to amend the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec

WHEREAS under subparagraph *a* of the first paragraph of section 69 of the Health Insurance Act (R.S.Q., c. A-29), the Government may, after consultation with the Régie de l'assurance-maladie du Québec or upon its recommendation, prescribe anything that may be prescribed under that Act;

WHEREAS under subparagraph *l* of the first paragraph of section 69 of that Act, the Government may likewise determine the conditions to be met by a person who registers with the Board, the information and documents he must provide, the time of year of registration, and in what cases, conditions and circumstances and by what methods a person must register with the Board and the case in which an application for registration may be made by one person on behalf of another;

WHEREAS by Order in Council 1470-92 dated 30 September 1992, the Government made the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec;

WHEREAS it is expedient to amend 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 to amend the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec was published in Part 2 of the *Gazette officielle du Québec* of 25 February 1998 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS the Régie de l'assurance-maladie du Québec has been consulted;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation attached to this Order in Council with amendments;

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

THAT the Regulation to amend the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec*

Health Insurance Act
(R.S.Q., c. A-29, s. 9, and s. 69, 1st par., subpars. *a* and *l*)

1. The Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec is amended, in section 1, by striking out ""dependent person" means any single person under 18 years of age who lives permanently with a person referred to in sections 5 to 8 of the Act and in Division II of this Regulation; (*personne à charge*)".

2. The Regulation is amended by inserting the following after section 1:

"**1.1** For the purposes of this Regulation, "dependent person" means any person under 18 years of age who is domiciled with a person residing or deemed to reside in Québec within the meaning of sections 5 to 8 of the Act or Division II of this Regulation who exercises parental authority over him;

For the purposes of sections 3 and 7 of this Regulation, the term "dependent person" also means

(1) any spouseless person 25 years of age or under who attends an educational institution on a full-time basis as a duly registered student and is domiciled with a person residing or deemed to reside in Québec within the meaning of sections 5 to 8 of the Act or of Division II of this Regulation who would exercise parental authority over him if he were a minor;

(2) any spouseless person of full age who has a functional impairment listed in a government regulation made under subparagraph 6 of the first paragraph of section 78 of the Act respecting prescription drug insurance and amending various legislative provisions (R.S.Q., c. A-29.01) and having occurred before he reached age 18, who receives no benefits under a last resort assistance program provided for in the Act respecting income security (R.S.Q., c. S-3.1.1), and who is domiciled with a person residing or deemed to reside in Québec within the meaning of sections 5 to 8 of the Act or of Division II of this Regulation who would exercise parental authority over him if he were a minor.

Any spouseless person 25 years of age or under who is domiciled with a person residing or deemed to reside in Québec within the meaning of sections 5 to 8 of the Act or of Division II of this Regulation who would exercise parental authority over him if he were a minor is deemed to attend an educational institution on a full-time basis if he has any of the functional impairments referred to in paragraphs 1 to 4 of section 11.1 of the Regulation respecting the basic prescription drug insurance plan, made by Order in Council 1519-96 dated 4 December 1996 and if, for that reason, he attends such an institution on a part-time basis as a duly registered student.".

3. The Regulation is amended in section 8 by adding the following sentence at the end of the first paragraph: "Notwithstanding the foregoing, a dependent person 18 years of age or over may register with the Board on his own.".

4. The Regulation is amended in section 15 by inserting the following subparagraph after subparagraph 4 of the first paragraph:

"(4.1) in the case of a dependent of a foreign national referred to in section 3, a written statement having the same effect as the statement provided for in subparagraph 9, 10 or 11, as the case may be, of the first paragraph of section 8 of the Regulation respecting the basis prescription drug insurance plan accompanied, where applicable, by the document referred to in subparagraph 1 or 2 of the second paragraph of that section;".

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

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* The Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance-maladie du Québec, made by Order in Council 1470-92 dated 30 September 1992 (1992, *G.O.* 2, 4621), was last amended by the Regulation made by Order in Council 1520-96 dated 4 December 1996 (1996, *G.O.* 2, 4945). For previous amendments, refer to the Tableau des modifications et Index sommaire, Éditeur officiel du Québec, 1998, updated to 1 March 1998.

Gouvernement du Québec

O.C. 834-98, 17 June 1998

An Act respecting prescription drug insurance
(R.S.Q., c. A-29.01)

Basic prescription drug insurance plan — Amendments

Regulation to amend the Regulation respecting the basic prescription drug insurance plan

WHEREAS under subparagraph 3 of the first paragraph of section 78 of the Act respecting prescription drug insurance (R.S.Q., c. A-29.01), the Government may, after consulting the Régie de l'assurance-maladie du Québec, make regulations to determine the cases, conditions and therapeutic indications in and for which the cost of certain medications included in the list drawn up by the Minister under section 60 is covered by the basic plan; the conditions may vary according to whether the coverage is provided by the Board or under a group insurance contract or an employee benefit plan;

WHEREAS under section 79 of the Act, such a regulation is not subject to the requirements concerning publication and date of coming into force contained in sections 8 and 17 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS by Order in Council 1519-96 dated 4 December 1996, the Government made the Regulation respecting the basic prescription drug insurance plan;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, in accordance with section 78 of the Act respecting prescription drug insurance, the Régie de l'assurance-maladie du Québec has been consulted on the amendments;

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

THAT the Regulation to amend the Regulation respecting the basic prescription drug insurance plan, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the basic prescription drug insurance plan

An Act respecting prescription drug insurance
(R.S.Q., c. A-29.01, s. 78, 1st par., subpar. 3)

1. The Regulation respecting the basic prescription drug insurance plan is amended in the second paragraph of section 2.1:

(1) by striking out subparagraph 1;

(2) by striking out the words "stable symptomatic" and everything following the word "failure" in subparagraph 14;

(3) by inserting the following subparagraph after subparagraph 18.1:

"(18.2) SODIUM DANAPAROID: as an alternative to regular heparin or to low molecular weight heparins in patients who have or who have had thrombocytopenia induced by such heparins;";

(4) by inserting the following subparagraph after subparagraph 21:

"(21.1) DIPIVEFRIN HYDROCHLORIDE/LEVOBUNOLOL HYDROCHLORIDE: for treatment of glaucoma where treatment with a topical beta-blocker produces insufficient control of ocular tension;";

(5) by inserting the following subparagraph after subparagraph 29:

"(29.1) DISODIUM ETIDRONATE:

(a) for treatment of Paget's disease;

(b) for maintenance treatment of hypercalcemia of malignant origin;";

(6) by striking out subparagraphs 30 and 31;

(7) by inserting the words "or kidney" after the word "liver" in paragraph *b* of subparagraph 42;

* The Regulation respecting the basis prescription drug insurance plan, made by Order in Council 1519-96 dated 4 December 1996 (1996, *G.O.* 2, 4941), was last amended by the Regulation made by Order in Council 391-98 dated 25 March 1998 (1998, *G.O.* 2, 1454). For previous amendments, refer to the Tableau des modifications et Index sommaire, Éditeur officiel du Québec, 1998, updated to 1 March 1998.

(8) by striking out subparagraph 48;

(9) by substituting the words "and undergoing intensive insulin therapy" for everything the word "diabetes" in subparagraph 49;

(10) by inserting the following subparagraph after subparagraph 49:

"(49.1) INTERFERON BETA 1-A: for treatment of persons suffering from cyclic remitting multiple sclerosis who are capable of walking, even if they require assistance, and who have had 2 or more episodes of the disease within the last 2 years; the physician must provide, at the beginning of treatment and with each subsequent request, the following information: number of episodes per year, result on EDSS scale, and adjuvant treatment; the maximum initial duration of authorization is 6 months and, when submitting subsequent requests, the physician must provide evidence of a beneficial effect (absence of deterioration);";

(11) by substituting the words "is ineffective, contraindicated or poorly tolerated" for everything following the word "tetracycline" in subparagraph 61;

(12) by striking out the words "carrying a Turner's syndrome or" in paragraph *a* of subparagraph 82;

(13) by inserting the following paragraph after paragraph *b* of subparagraph 82:

"*(c)* for treatment of adults suffering from growth hormone deficiency where they meet the following criteria:

— the biochemical diagnosis of growth hormone deficiency must be confirmed by a negative response to growth hormone stimulation tests (peak < 5 ng/mL by radio-immunological measurement, or peak < 2.5 ng mL by immunometric measurement);

— in the case of adult onset, the deficiency must be secondary to hypophyseal or hypothalamic disease, surgery, radiation therapy or trauma;";

(14) by striking out the words "carrying a Turner's syndrome or" in paragraph *a* of subparagraph 83;

(15) by inserting the following paragraph after paragraph *b* of subparagraph 83;

"*(c)* for treatment of adults suffering from growth hormone deficiency where they meet the following criteria:

— the biochemical diagnosis of growth hormone deficiency must be confirmed by a negative response to growth hormone stimulation tests (peak < 5 ng/mL by radio-immunological measurement, or peak < 2.5 ng/mL by immunometric measurement);

— in the case of adult onset, the deficiency must be secondary to hypophyseal or hypothalamic disease, surgery, radiation therapy or trauma;";

(16) by striking out subparagraph 88.

2. This Regulation comes into force on 1 July 1998.

2334

Gouvernement du Québec

O.C. 841-98, 17 June 1998

Building Act
(R.S.Q., c. B-1.1)

Guarantee plan for new residential buildings

Regulation respecting the guarantee plan for new residential buildings

WHEREAS under paragraphs 19.3 to 19.6 and 38 of section 185 and section 192 of the Building Act (R.S.Q., c. B-1.1), the Régie du bâtiment du Québec may make regulations pertaining to financial guarantees applicable to the new residential building sector;

WHEREAS at its assembly held on 12 December 1995, the Board made the Regulation respecting the guarantee plan for new residential buildings;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft regulation entitled "Regulation respecting the guarantee plan for new residential buildings" was published in Part 2 of the *Gazette officielle du Québec* of 17 January 1996 with a notice that it could approved by the Government at the expiry of 45 days from that publication;

WHEREAS the comments received have been examined;

WHEREAS at its assembly held on 19 June 1997, the Board made the Regulation respecting the guarantee plan for new residential buildings, with amendments;

WHEREAS under section 189 of the Building Act, every regulation of the Board is subject to approval by the Government, which may approve it with or without amendment;

WHEREAS it is expedient to approve the Regulation with amendments;

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

THAT the Regulation respecting the guarantee plan for new residential buildings, attached hereto, be approved.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

Regulation respecting the guarantee plan for new residential buildings

Building Act
(R.S.Q., c. B-1.1, s. 185, pars. 19.3 to 19.6 and 38, and s. 192)

CHAPTER I
INTERPRETATION AND APPLICATION

DIVISION I
INTERPRETATION

1. In this Regulation, unless the context indicates otherwise,

"accountant" means a member of a professional order of accountants specified in Schedule I to the Professional Code (R.S.Q., c. C-26) who is authorized, under the Act constituting that order, to practise the professional accounting activity required by the application of a provision of this Regulation; (*comptable*)

"actuary" means a Fellow of the Canadian Institute of Actuaries; (*actuaire*)

"approved plan" means a guarantee plan meeting the standards and criteria established by this Regulation and approved by the Régie du bâtiment du Québec; (*plan approuvé*)

"beneficiary" means a natural or legal person, a partnership, an association, a non-profit organization or a cooperative that enters into a contract with a contractor for the sale or construction of a new residential building and, in the case of the common portions of a building held in divided co-ownership, the syndicate of co-owners; (*bénéficiaire*)

"building" means the building itself, including the installations and equipment necessary for its use, specifically, the artesian well, connections with municipal or government services, the septic tank and its absorption field and the subsoil drain; (*bâtiment*)

"building professional" means an architect, an engineer or a technologist who is a member of a professional order and is trained in the field of engineering or construction; (*professionnel du bâtiment*)

"contractor" means a person holding a general contractor's licence authorizing him to carry out or have carried out, in whole or in part, for a beneficiary, construction work on a new residential building governed by this Regulation; (*entrepreneur*)

"manager" means a legal person authorized by the Board to manage a guarantee plan, or a provisional manager designated by the Board under section 83 of the Building Act (R.S.Q., c. B-1.1). (*administrateur*)

DIVISION II
APPLICATION

2. This Regulation applies to guarantee plans guaranteeing the performance of the contractor's legal and contractual obligations provided for in Chapter II and resulting from a contract entered into with a beneficiary for the sale or construction of

(1) the following new buildings intended mainly for residential purposes and not held in divided co-ownership by the beneficiary of the guarantee:

(a) a detached, semi-detached or row-type single-family dwelling;

(b) a multifamily building, from a duplex to a quintuplex;

(c) a multifamily building comprising more than 5 dwelling units and held by a non-profit organization or a cooperative;

(2) the following new buildings intended mainly for residential purposes and held in divided co-ownership by the beneficiary of the guarantee:

(a) a detached, semi-detached or row-type single-family dwelling;

(b) a multifamily building, from a duplex up, of a building height of less than 4 stories; and

(3) the buildings specified in subparagraphs 1 or 2 and acquired by the contractor from a syndic, municipality or mortgage lender.

For the purposes of this Regulation, the terms "storey", "building height" and "first storey" have the meaning given to them in the Regulation respecting the professional qualification of building contractors and owner-builders, made by Order in Council 876-92 dated 10 June 1992.

The intended use of a building is established on the date of conclusion of the contract and is presumed valid for the term of the guarantee. The guarantee applies to the entire building.

3. Any guarantee plan to which this Regulation applies shall meet the standards and criteria established herein and shall be approved by the Board.

4. No change may be made to an approved plan unless the change meets the standards and criteria established by this Regulation.

5. Any provision of a guarantee plan which is irreconcilable with this Regulation is invalid.

CHAPTER II
MINIMUM GUARANTEE

DIVISION I
GUARANTEE AND REQUIRED MEMBERSHIP

6. Any person wishing to become a contractor for the new residential buildings referred to in section 2 shall, in accordance with Division I of Chapter IV, join a plan guaranteeing the performance of the legal and contractual obligations provided for in section 7 and resulting from a contract entered into with a beneficiary.

DIVISION II
CONTENT OF THE GUARANTEE

7. The guarantee plan shall guarantee the performance of the contractor's legal and contractual obligations to the extent and in the manner prescribed by this Division.

§1. *Guarantee for Buildings Not Held in Divided Co-ownership*

I. **Coverage of the Guarantee**

8. For the purposes of this Subdivision, unless the context indicates otherwise,

"acceptance of the building" means the act whereby the beneficiary declares that he accepts the building which is ready to be used for its intended purpose and which indicates any work to be completed or corrected; (*réception du bâtiment*)

"completion of the work" means completion of the work related to the building and provided for in the original contract entered into between the beneficiary and the contractor, and completion of the additional work agreed to in writing between the parties; (*parachèvement des travaux*)

"end of the work" means the date on which all the contractor's work agreed upon in writing with the beneficiary and related to the building is completed and the building is ready to be used for its intended purpose. (*fin des travaux*)

9. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations before the acceptance of the building, shall cover,

(1) in the case of a contract of sale,

(a) either the partial payments by the beneficiary; or

(b) completion of the work, where the beneficiary holds the ownership titles and where an agreement to that effect is entered into with the manager;

(2) in the case of a contract of enterprise,

(a) either the partial payments by the beneficiary, provided that no unjustified profit for the latter results therefrom; or

(b) completion of the work, where an agreement to that effect is reached with the manager; and

(3) the relocation, moving and storage of the beneficiary's property where,

(a) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor, unless the partial payments are reimbursed; or

(b) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor so that the manager may complete the building.

10. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations after acceptance of the building, shall cover

(1) completion of the work related to the building, notice of which is given in writing at the time of acceptance or, so long as the beneficiary has not moved in, within 3 days following acceptance;

(2) repairs to apparent defects or poor workmanship as described in article 2111 of the Civil Code of Québec, notice of which is given in writing at the time of acceptance or, so long as the beneficiary has not moved in, within 3 days following acceptance;

(3) repairs to non-apparent poor workmanship existing at the time of acceptance or discovered within 1 year after acceptance as provided for in articles 2113 and 2120 of the Civil Code of Québec, and notice of which is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the poor workmanship;

(4) repairs to latent defects within the meaning of article 1726 or 2103 of the Civil Code of Québec which are discovered within 3 years following acceptance of the building, and notice of which is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the latent defects within the meaning of article 1739 of the Civil Code of Québec; and

(5) repairs to faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec, which appears within 5 years following the end of the work, and notice of which is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months after the discovery or occurrence of the defect or, in the case of gradual defects or vices, after their first manifestation.

Failure to comply with accepted practice or with a standard in force applicable to the building, in particular the standards contained in the National Building Code of Canada, the Canadian Electrical Code and the Plumbing Code, constitutes poor workmanship, unless such failure does not affect, or is not of such a nature as to affect, the quality, safety or use of the building.

11. Where the manager intervenes to complete or correct work related to a building, the beneficiary shall have any sum still owing kept by his financial institution or pay such sum into a trust account with an advocate, a notary or the manager of the plan for the final payment of the work that will be carried out by the manager to complete or correct the work provided for in the original contract or the additional work provided for in any written agreement entered into with the contractor.

II. **Exclusions from the Guarantee**

12. The guarantee excludes

(1) repairs to defects in the materials and equipment supplied and installed by the beneficiary;

(2) repairs made necessary by normal behaviour of materials, such as cracks or shrinkage;

(3) repairs made necessary by a fault of the beneficiary, such as inadequate maintenance or misuse of the building, as well as by alterations, deletions or additions made by the beneficiary;

(4) deterioration brought about by normal wear and tear;

(5) the obligation to relocate, move or store the beneficiary's property and repairs made necessary following an event of force majeure, such as an earthquake, a flood, exceptional climatic conditions, a strike or a lock-out;

(6) repairs to damage resulting from the contractor's extra-contractual civil liability;

(7) repairs to damage resulting from contaminated soil, and replacement of the soil itself;

(8) the obligation of a public utility to supply the building with natural gas or electricity;

(9) parking areas or storage rooms located outside the building containing the dwelling units, and any works located outside the building such as swimming pools, earthwork, sidewalks, driveways or surface water drainage systems;

(10) promises of a vendor concerning costs for use or energy consumption of appliances, systems or equipment included in the construction of a building, and

(11) claims from the persons who contributed to the construction of the building.

However, the exclusions as provided for in subparagraphs 2 and 5 of the first paragraph do not apply if the contractor failed to comply with accepted practice or with a standard in force applicable to the building within the meaning of section 10.

III. **Limits of the Guarantee**

13. The guarantee of a plan for a detached, semi-detached or row-type single-family dwelling is limited per address to,

(1) for partial payments, $30 000;

(2) for coverage for relocation, moving and storage of the beneficiary's property, upon the presentation of vouchers and provided that no unjustified profit for the beneficiary results therefrom, $5 000 as follows:

(a) reimbursement of reasonable actual costs incurred for moving and storage;

(b) reimbursement of reasonable actual costs incurred for relocation, including meals and accommodation, without exceeding, on a daily basis:

— for 1 person: $75;

— for 2 persons: $100;

— for 3 persons: $125;

— for 4 persons or more: $150;

(3) for completion and repair of defects and poor workmanship, the amount entered in the contract of enterprise or contract of sale, without ever exceeding $200 000; and

(4) for coverage for the obligation to supply water, both in quantity and quality, in the event that repairs are impossible, the amount of the damages suffered by the beneficiary, without ever exceeding the lesser of the two amounts mentioned in paragraph 3; coverage applies in the case of a contract of enterprise, provided that the obligation is included in the contract entered into between the beneficiary and the contractor.

14. The guarantee of a plan for a multifamily building is limited to,

(1) for partial payments, $30 000 per building;

(2) for coverage for relocation, moving and storage of the beneficiary's property, upon the presentation of vouchers and provided that no unjustified profit for the beneficiary results therefrom, $5 000 per building, as follows:

(a) reimbursement of reasonable actual costs incurred for moving and storage;

(b) reimbursement of reasonable actual costs incurred for relocation, including meals and accommodation, without exceeding, on a daily basis:

— for 1 person: $75;

— for 2 persons: $100;

— for 3 persons: $125;

— for 4 persons or more: $150;

(3) for completion and repair of defects and poor workmanship, the lesser of

(a) the amount entered in the contract of enterprise or contract of sale; or

(b) an amount equal to $100 000 multiplied by the number of dwelling units contained in the building, without ever exceeding $1 500 000; and

(4) for coverage for the obligation to supply water, both in quantity and quality, in the event that repairs are impossible, the amount of the damages suffered by the beneficiary, without ever exceeding the lesser of the two amounts mentioned in paragraph 3; coverage applies in the case of a contract of enterprise, provided that the obligation is included in the contract entered into between the beneficiary and the contractor.

15. The guarantee of a plan applies to a building that has no beneficiary at the end of the work, provided that acceptance of the building occurs within 24 months after the end of the work.

The guarantee pertaining to faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec is nevertheless limited to the remaining term of the guarantee.

The guarantee of completion after acceptance of the building does not apply, however, if the beneficiary and the contractor agree that the building is sold in the state of completion it has attained at the date of the contract.

16. The guarantee of a plan benefits any subsequent purchaser for the remaining term of the guarantee.

IV. **Implementation of the Guarantee**

17. Each building covered by a guarantee shall be inspected before it is accepted. The contractor and the beneficiary shall carry out the inspection together, using a pre-established list of items to be checked. Such list shall be supplied by the manager and shall be adapted to the class of building concerned. The beneficiary may be assisted by a person of his choice.

The inspection shall be deferred where acceptance of the building takes place after the end of the work.

18. Any claim made under the guarantee plan is subject to the following procedure:

(1) within the guarantee period of 1, 3 or 5 years, as the case may be, the beneficiary shall give notice to the contractor in writing of the construction defect found and send a copy of that notice to the manager in order to suspend the prescription;

(2) at least 15 days after notice by the beneficiary has been sent, the beneficiary shall notify the manager in writing if he is dissatisfied with the contractor's intervention or if the contractor has failed to intervene; he shall pay to the manager fees in the amount of $100 for opening the file. Those fees are reimbursed to him if the decision rendered is in his favour, in whole or in part, or if an agreement is entered into between the parties concerned;

(3) within 15 days after receipt of the notice prescribed in paragraph 2, the manager shall ask the contractor to intervene and to inform him, within 15 days, of the measures he intends to take to remedy the situation concerning which the beneficiary has given notice;

(4) within 15 days after the expiry of the period granted to the contractor under paragraph 3, the manager shall carry out an inspection on the premises;

(5) within 20 days following the inspection, the manager shall produce a detailed written report stating whether or not the matter has been settled and shall send a copy thereof by registered mail to the parties concerned;

(6) where the claim has not been settled, the manager shall decide on the claim and, where applicable, shall order the contractor to reimburse the beneficiary for necessary and urgent conservatory repairs or to complete or correct the work within the period he indicates which has been agreed upon with the beneficiary;

(7) where the contractor fails to reimburse the beneficiary or to complete or correct the work and no recourse to mediation is made or the manager's decision is not contested in arbitration by one of the parties, the manager shall make the reimbursement or take charge of completing or correcting the work within the period agreed upon with the beneficiary, in particular, where applicable, by preparing corrective specification, by calling for tenders, by choosing contractors and by supervising the work.

V. **Remedy**

19. A beneficiary or contractor who is dissatisfied with a decision of the manager shall, in order for the guarantee to apply, submit the dispute to arbitration within 15 days following receipt by registered mail of the manager's decision, unless the beneficiary and contractor agree to submit the dispute, within the same period, to a mediator chosen from a list established by the Minister of Labour in order to try and reach an agreement. In that case, the deadline to submit the dispute to arbitration is 15 days following receipt by registered mail of the mediator's advice concluding to the partial or total failure of the mediation.

20. The beneficiary, the contractor and the manager are bound by the arbitration decision as soon as it is rendered by the arbitrator.

The arbitrator's decision is final and not subject to appeal.

21. Arbitration fees are shared equally between the manager and the contractor where the latter is the plaintiff.

Where the plaintiff is the beneficiary, those fees are charged to the manager, unless the beneficiary fails to obtain a favourable decision on any of the elements of his claim, in which case the arbitrator shall split the costs.

22. Where applicable, the arbitrator shall decide on the amount of reasonable fees for a relevant expert's report to be reimbursed to the plaintiff by the manager, where the plaintiff wins the case in whole or in part.

23. The expenses incurred by the beneficiary, contractor and manager for the arbitration are borne by each one of them.

24. A manager who compensates a beneficiary under this Subdivision is subrogated in his rights up to and including the sums he has paid.

§2. *Guarantee for Buildings Held in Divided Co-ownership*

I. **Coverage of the Guarantee**

25. For the purposes of this Subdivision, unless the context indicates otherwise,

"acceptance of the common portions" means the act whereby a building professional chosen by the syndicate of co-owners declares the date of the end of the work on those portions. That acceptance takes place following receipt of a notice of the end of work sent by the contractor to each known beneficiary and to the syndicate of co-owners; (*réception des parties communes*)

"acceptance of the private portion" means the act whereby the beneficiary declares that he accepts the private portion which is ready to be used for its intended purpose and on which some work is to be completed or corrected, where applicable; (*réception de la partie privative*)

"common portions" means those that are part of the building and that are listed in the constituting act of co-ownership or, in the absence of specific provisions in that act, those listed in article 1044 of the Civil Code of Québec; (*parties communes*)

"completion of the work" means completion of the work related to the building and provided for in the original contract entered into between the beneficiary and the contractor, and completion of the additional work agreed to in writing between the parties; (*parachèvement des travaux*)

"end of the work on the common portions" means the date on which all the contractor's work agreed upon in writing with the beneficiary and pertaining to the common portions is completed and the building is ready to be used for its intended purpose; (*fin des travaux des parties communes*)

"end of the work on the private portions" means the date on which all the contractor's work agreed upon in writing with the beneficiary and pertaining to his private portion is completed or, at the latest, the date of the end of the work on the common portions. (*fin des travaux des parties privatives*)

26. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations before acceptance of the private portion or the common portions, shall cover,

(1) in the case of a contract of sale,

(a) either the partial payments by the beneficiary; or

(b) completion of the work, where the beneficiary holds the ownership titles and where an agreement to that effect is entered into with the manager;

(2) in the case of a contract of enterprise,

(a) either the partial payments by the beneficiary, provided that no unjustified profit for the latter results therefrom; or

(b) completion of the work, where an agreement to that effect is reached with the manager; and

(3) the relocation, moving and storage of the beneficiary's property where

(a) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor, unless the partial payments are reimbursed; or

(b) the beneficiary is unable to declare acceptance of the building on the date agreed upon with the contractor so that the manager may complete the building.

27. The guarantee of a plan, where the contractor fails to perform his legal or contractual obligations after acceptance of the private portion or the common portions, shall cover

(1) completion of the work, notice of which is given in writing at the time of acceptance of the private portion or, so long as the beneficiary has not moved in, within 3 days following acceptance;

(2) repairs to apparent defects or poor workmanship as described in article 2111 of the Civil Code of Québec, notice of which is given in writing at the time of acceptance or, so long as the beneficiary has not moved in, within 3 days following acceptance;

(3) repairs to non-apparent poor workmanship existing at the time of acceptance and discovered within 1 year after acceptance as provided for in articles 2113 and 2120 of the Civil Code of Québec, and notice of which is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the poor workmanship;

(4) repairs to latent defects within the meaning of article 1726 or 2103 of the Civil Code of Québec which are discovered within 3 years following acceptance, and notice of which is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months following the discovery of the latent defects within the meaning of article 1739 of the Civil Code of Québec; and

(5) repairs to faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec, which appear within 5 years following the end of the work on the common portions or, where there are no common portions forming part of the building, the private portion, and notice of which is given to the contractor and to the manager in writing within a reasonable time not to exceed 6 months after the discovery or occurrence of the defect or, in the case of gradual defects or vices, after their first manifestation.

Failure to comply with accepted practice or with a standard in force applicable to the building, in particular the standards contained in the National Building Code of Canada, the Canadian Electrical Code and the Plumbing Code, constitutes poor workmanship, unless such failure does not affect, or is not of such a nature as to affect, the quality, safety or use of the building.

28. Where the manager intervenes to complete or correct work related to a building, the beneficiary shall have any sum still owing kept by his financial institution or pay such sum into a trust account with an advocate, a notary or the manager of the plan for the final payment of the work that will be carried out by the manager to complete or correct the work provided for in the original contract or the additional work provided for in any written agreement entered into with the contractor.

II. **Exclusions from the Guarantee**

29. The guarantee excludes

(1) repairs to defects in the materials and equipment supplied and installed by the beneficiary of a private portion;

(2) repairs made necessary by normal behaviour of materials, such as cracks or shrinkage;

(3) repairs made necessary by a fault of the beneficiary such as inadequate maintenance or misuse of the building, as well as alterations, deletions or additions made by the beneficiary;

(4) deterioration brought about by normal wear and tear;

(5) the obligation to relocate, move or store the beneficiary's property and repairs made necessary following an event of force majeure, such as an earthquake, a flood, exceptional climatic conditions, a strike or a lock-out;

(6) repairs to damage resulting from the contractor's extra-contractual civil liability;

(7) repairs to damage resulting from contaminated soil, including replacement of the soil itself;

(8) the obligation of a public utility to supply the building with natural gas or electricity;

(9) parking areas or storage rooms located outside the building containing the dwelling units, and any works outside the building such as swimming pools, earthwork, sidewalks, driveways or surface water drainage systems;

(10) promises of a vendor concerning costs for use or energy consumption of appliances, systems or equipment included in the construction of a building; and

(11) claims from the persons who contributed to the construction of the building.

However, the exclusions as provided for in subparagraphs 2 and 5 of the first paragraph do not apply if the contractor failed to comply with accepted practice or with a standard in force applicable to the building within the meaning of section 27.

III. **Limits of the Guarantee**

30. The guarantee of a plan for a building held in divided co-ownership is limited to,

(1) for partial payments, $30 000 per fraction provided for in the declaration of co-ownership;

(2) for coverage for relocation, moving and storage of the beneficiary's property, on presentation of vouchers and provided that no unjustified profit for the beneficiary results therefrom, $5 000 per fraction provided for in the declaration of co-ownership, as follows:

(a) reimbursement of reasonable actual costs incurred for moving and storage;

(b) reimbursement of reasonable actual costs incurred for relocation, including meals and accommodation, without exceeding, on a daily basis:

— for 1 person:	$75;
— for 2 persons:	$100;
— for 3 persons:	$125;
— for 4 persons or more:	$150;

(3) for completion and repair of defects and poor workmanship to a detached, semi-detached or row-type single-family dwelling, the amount entered in the contract of enterprise or in the contract of sale, without ever exceeding $200 000 per housing unit and $2 000 000 for all the housing units provided for in the declaration of co-ownership, provided that the units comprise common portions forming part of the building;

(4) for completion and repair of defects and poor workmanship to a multifamily building, the lesser of

(a) the total amount of the purchase price of the fractions contained in the building or the total amount entered in the contract of enterprise;

(b) an amount equal to $100 000 multiplied by the number of private portions contained in the building, without exceeding $2 000 000 per building; or

(5) for coverage for the obligation to supply water, both in quantity and quality, in the event that repairs are

impossible, the amount of the damages suffered by the beneficiary, without ever exceeding the lesser of the two amounts mentioned in paragraph 3; coverage applies in the case of a contract of enterprise, provided that the obligation is included in the contract entered into between the beneficiary and the contractor.

31. The guarantee of a plan applies to a private portion that has no beneficiary at the end of the work on the common portions, provided that acceptance of the private portion occurs within 24 months after the end of the work.

The guarantee pertaining to faulty design, construction or production of the work, or the unfavourable nature of the ground within the meaning of article 2118 of the Civil Code of Québec is nevertheless limited to the remaining term of the guarantee.

The guarantee of completion after acceptance of the private portion does not apply, however, if the beneficiary and the contractor agree that the private portion is sold in the state of completion it has attained at the date of the contract.

32. The guarantee of a plan benefits any subsequent purchaser for the remaining term of the guarantee.

IV. **Implementation of the Guarantee**

33. Each private portion covered by the guarantee shall be inspected before it is accepted. The contractor and the beneficiary shall carry out the inspection together, using a pre-established list of items to be checked. Such list shall be supplied by the manager. The beneficiary may be assisted by a person of his choice.

The inspection shall be deferred where acceptance of the private portion takes place after the end of the work on the common portions.

The common portions covered by the guarantee shall be inspected before they are accepted. The contractor, the building professional chosen by the syndicate of co-owners and the latter shall carry out the inspection using a pre-established list of items to be checked. Such list shall be supplied by the manager.

34. Any claim made under the guarantee plan is subject to the following procedure:

(1) within the guarantee period of 1, 3 or 5 years, as the case may be, the beneficiary shall give notice to the contractor in writing of the construction defect found and send a copy of that notice to the manager in order to suspend the prescription;

(2) at least 15 days after notice by the beneficiary has been sent, the beneficiary shall notify the manager in writing if he is unsatisfied with the contractor's intervention or if the contractor has failed to intervene; he shall pay to the manager fees in the amount of $100 for opening the file. Those fees shall be reimbursed to him if the decision to be rendered is in his favour, in whole or in part, or if an agreement is entered into between the parties concerned;

(3) within 15 days after receipt of the notice prescribed in paragraph 2, the manager shall ask the contractor to intervene and to inform him, within 15 days, of the measures he intends to take to remedy the situation concerning which the beneficiary has given notice;

(4) within 15 days after the expiry of the period granted to the contractor in paragraph 3, the manager shall carry out an inspection on the premises;

(5) within 20 days following the inspection, the manager shall produce a detailed written report stating whether or not the matter has been settled and shall send a copy thereof by registered mail to the parties concerned;

(6) where the claim has not been settled, the manager shall decide on the claim and, where applicable, shall order the contractor to reimburse the beneficiary for necessary and urgent conservatory repairs or to complete or correct the work within the period he indicates which has been agreed upon with the beneficiary;

(7) where the contractor fails to reimburse the beneficiary or to complete or correct the work and there is no recourse to mediation or the manager's decision is not contested in arbitration by one of the parties, the manager shall make the reimbursement or take charge of completing or correcting the work within the period agreed upon with the beneficiary, in particular, where applicable, by preparing corrective specifications, by calling for tenders, by choosing contractors and by supervising the work.

V. **Remedy**

35. A beneficiary or contractor who is dissatisfied with a decision of the manager shall, in order for the guarantee to apply, submit the dispute to arbitration within 15 days following receipt by registered mail of the manager's decision, unless the beneficiary and contractor agree to submit the dispute, within the same period, to a mediator chosen from a list established by the Minister of Labour in order to try and reach an agreement. In that case, the deadline to submit the dispute to arbitration is 15 days following receipt by regis-

tered mail of the mediator's advice concluding to the partial or total failure of the mediation.

36. The beneficiary, contractor and manager are bound by the decision as soon as it is rendered by the arbitrator.

The arbitrator's decision is final and not subject to appeal.

37. Arbitration fees are shared equally between the manager and the contractor where the latter is the plaintiff.

Where the plaintiff is the beneficiary, those fees are charged to the manager, unless the beneficiary fails to obtain a favourable decision on any of the elements of his claim, in which case the arbitrator shall split the costs.

38. Where applicable, the arbitrator shall decide on the amount of reasonable fees for a relevant expert's report to be reimbursed to the plaintiff by the manager, where the plaintiff wins the case in whole or in part.

39. The expenses incurred by the beneficiary, contractor and manager are borne by each one of them.

40. A manager who compensates a beneficiary under this Subdivision is subrogated in his rights up to and including the sums he has paid.

CHAPTER III
MANAGER OF THE GUARANTEE PLAN

DIVISION I
QUALIFICATIONS REQUIRED OF THE MANAGER

41. Only a person having the status of legal person whose sole purpose is to manage financial guarantees within the meaning of Chapter V of the Building Act may obtain authorization from the Board to manage an approved plan.

42. Authorization from the Board is granted to a legal person meeting the following conditions:

(1) none of its officers lends his name to another person;

(2) where applicable, it has been discharged if it was declared bankrupt less than 3 years ago;

(3) it has not been issued a winding-up order;

(4) neither it nor any of its officers has, in the 5 years preceding the application, been convicted of an indictable offence triable only on indictment and connected with the business of manager, unless it or he has obtained a pardon;

(5) none of its officers has been an officer of a partnership or legal person which has, in the 5 years preceding the application, been convicted of an indictable offence triable only on indictment and connected with the business of manager, unless it or he has obtained a pardon;

(6) none of its officers was an officer of a partnership or legal person in the 12 months preceding the latter's bankruptcy occurring less than 3 years ago;

(7) none of its officers has been an officer of a manager whose authorization by the Board was withdrawn less than 3 years ago under section 83 of the Building Act;

(8) its organization structure provides that its officers and key staff called on to participate in decision-making are recruited from among persons who, because of their activities, are able to make a special contribution to the management of the guarantee plan, and that at least 3 of those persons have a background in financial institutions, in government and in consumer affairs and are recruited from among persons presented by the associations most representative of consumers;

(9) its internal by-laws concerning conflict of interest in particular and applying to persons acting within its organization structure are equivalent to the rules set out in articles 1310 and following of the Civil Code of Québec. Those rules stipulate, among other things, that no contractor may have access, at any time, to nominative information of a fiscal nature or to other information contained in the file of a peer; and

(10) its fiscal year is the calendar year.

DIVISION II
CONDITIONS TO BE FULFILLED BY THE MANAGER

§1. *Documents and Information*

43. A legal person applying for authorization to manage an approved plan shall supply the Board with

(1) its name, the address of its principal establishment and, where applicable, the number of the declaration of registration deposited in the register of sole proprietorships, partnerships and legal persons, as well as the name, address of domicile, date of birth, social insurance number and telephone number of all its offic-

ers and of the person responsible for its operations in Québec, where applicable;

(2) information concerning its legal structure, a certified true copy of its deed of incorporation and any amendments thereto;

(3) any judgment delivered against it or any of its officers, in the 5 years preceding the application, for an indictable offence triable only on indictment and connected with the business of manager, unless it or he has obtained a pardon;

(4) 2 copies of its guarantee plan and of its guarantee contract;

(5) the security prescribed in section 58, a certificate of insurance coverage required under section 62 or any other equivalent guarantee, and a certified true copy of the text of any insurance or equivalent guarantee prescribed in section 47, in the second paragraph of section 48 and in section 63;

(6) the inspection program and the pre-established list of items to be checked, provided for in sections 68 and 69;

(7) for the first 3 years of operation, a business plan as defined in the "Dictionnaire de la comptabilité et de la gestion financière", by L. Ménard *et al.*, Canadian Institute of Chartered Accountants, Ordre des experts comptables-France, Institut des Réviseurs d'Entreprises-Belgique, 1994;

(8) a copy of its internal by-laws; and

(9) financial forecasts prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, including an actuary's opinion on the assumptions used in their preparation.

It shall also supply the Board with a statement signed by an officer generally or specifically authorized for that purpose certifying

(1) that the officer is filing the application for authorization on behalf of the legal person;

(2) that neither the legal person nor any of its officers is in any of the situations specified in paragraph 2, 3, 4, 5, 6 or 7 of section 42, where applicable; and

(3) that the legal person undertakes to pay, before the beginning of its operations, the contribution indicated in section 47.

§2. *Management*

44. Except in the case of a legal person constituted for the sole purpose of managing an approved plan, the manager shall manage the approved plan separately from his other business and, in particular, keep separate accounts and bank transactions.

45. For that purpose, the manager shall post separately and identifiably, in the financial statements of the approved plan, the portion of his general or other expenses allotted to the approved plan.

46. Subject to section 49, any sum received by the manager in consideration of a guarantee contract and the income generated by those sums shall be deposited in separate bank accounts or be invested in bonds or other debt securities issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, the International Bank for Reconstruction and Development, a municipality or a school board in Canada or a fabrique in Québec, or in deposit accounts or deposit certificates of a financial institution for a term not to exceed 5 years.

§3. *Solvency*

47. The manager shall, before the beginning of his operations, pay a contribution of $1 500 000. If he undertakes to obtain and to keep in force additional insurance or any other equivalent guarantee of at least $1 000 000 over and above the reserve account, the contribution that he shall pay is $500 000.

A contribution paid in cash shall be deposited in a separate bank account or be invested in one of the forms provided for in section 46.

48. The manager shall maintain an excess amount of assets over liabilities at least equal to the higher of the following amounts:

(1) the contribution provided for in section 47; or

(2) the aggregate of

(a) the amount obtained by multiplying the provision for outstanding claims provided for in section 56 by 15 %; and

(b) the amount obtained by multiplying the reserve provided for in section 54 and the additional reserve provided for in section 56 by 15 %.

The percentage of 15 % referred to in clauses *a* and *b* of subparagraph 2 of the first paragraph shall be reduced to 5 % if the manager holds additional insurance or any

other equivalent guarantee of at least $1 000 000 over and above the reserve account or of 10 % of that account, covering the obligations that he assumes for the duration of the coverage provided by the guarantee certificate already obtained.

The minimum excess amount required under this section may be used only for the purposes of the approved plan.

49. The manager shall keep, at all times, in a separate trust account called "reserve account", sums or investments sufficient to guarantee the obligations resulting from the approved plan.

50. For that purpose, the manager shall immediately deposit in the reserve account, according to the classes of buildings concerned, the amounts indicated in the table appearing in Schedule I. Those amounts shall in no case be less than 60 % of any sum received in consideration of a guarantee certificate issued under the approved plan.

51. The reserve account may be used by the manager only for one of the following purposes:

(1) to pay a claim originating from a guarantee certificate issued under the approved plan for which a sum was deposited in that account under section 50;

(2) to reimburse the sums due to the contractor following the cancellation of a guarantee certificate for which a sum was deposited in that account under section 50;

(3) to pay the external claims settlement costs related to a claim originating from a guarantee certificate for which a sum was deposited in that account under section 50; or

(4) to pay the internal claims settlement costs directly related to a claim originating from a guarantee certificate for which a sum was deposited in that account under section 50.

However, where, at the end of each fiscal year, the reserve account exceeds the actuarial reserve referred to in section 56, the excess amount may be used by the manager for other purposes than those specified in the first paragraph.

52. Where the reserve account is entrusted to a depositary in the form of a deposit, the term and other conditions are determined in accordance with the agreement between the manager and the depositary. The term agreed upon may not, however, exceed 5 years.

53. Where the depositary of the reserve account is a trust company, the manager may also choose the investments to be made with those funds. In that case, the funds may be invested only by the trust company and only in bonds or other debt securities issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, the International Bank for Reconstruction and Development, a municipality or a school board in Canada or a fabrique in Québec, or in deposit accounts or deposit certificates of a financial institution for a term not to exceed 5 years.

All income from the reserve account shall be paid at least annually.

54. The minimum reserve to be kept at the end of each of the manager's fiscal years in the reserve account shall never be less than the following percentages of the reserve provided for in section 50, based on the time elapsed since the issue of the guarantee certificate:

Time elapsed since the issue of guarantee certificate	**Percentage**
(1) less than 1 year	95 %
(2) 1 year or more but less than 2 years	85 %
(3) 2 years or more but less than 3 years	75 %
(4) 3 years or more but less than 4 years	65 %
(5) 4 years or more but less than 5 years	50 %
(6) 5 years or more but less than 6 years	25 %
(7) 6 years or more	0 %.

55. The reserve account, including the assets held in respect of the provisions referred to in section 56, are non-transferable and non-seizable.

56. The manager and his actuary shall ensure that they establish an actuarial reserve consisting of the minimum reserve referred to in section 54, of an additional reserve over and above that minimum reserve where the actuary is of the opinion that the minimum reserve does not constitute a good and sufficient provision to guarantee the obligations resulting from the guarantee certificate issued by the manager, and of a good and sufficient

provision for outstanding claims, which are claims submitted and not settled and claims incurred but not reported.

57. The manager shall, where applicable, deposit in the reserve account an additional sum equal to the difference between the actuarial reserve and the amount of the reserve account.

§4. *Security*

58. The manager shall furnish security in the amount of $ 50 000.

59. The security may, among other things, be in cash or in bonds or other debt securities issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, a municipality or a school board in Québec.

60. The security shall be kept by the Board, either to compensate the beneficiaries of the approved plan where the manager or his insurer fails to perform the obligations resulting from the plan, or to reinsure the obligations of the plan where the interest of the beneficiaries so requires.

However, interest on the security shall remain payable to the manager or shall be credited to the manager.

61. The manager may withdraw or replace the bonds and other debt securities making up his security, provided that the security remains in compliance with this Regulation.

§5. *Insurance*

62. The manager shall obtain and keep in force insurance or any other equivalent guarantee to cover the obligations he assumes during the entire duration of coverage of the guarantee certificates, and shall send confirmation thereof to the Board.

63. The manager shall file with the Board a true copy of the text of any insurance or equivalent guarantee invoked to reduce in any way the amount of the contribution established in accordance with this Regulation. The insurance or the equivalent guarantee shall be acceptable to the Board.

§6. *Annual Report*

64. The manager shall, no later than 4 months after the end of each fiscal year, supply the Board with an annual report of the approved plan stating its situation.

The annual report shall include financial statements for the plan's latest fiscal year, financial statements that shall be prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards.

The annual report shall also be accompanied by experience data sent on a form supplied by the Board.

The annual report shall also include the actuary's report and the changes made during the fiscal year to the guarantee plan and to the guarantee contract.

The actuarial reserve appearing in the financial statements shall be certified by an actuary to the effect that it constitutes a provision which is good and sufficient to guarantee the obligations resulting from the guarantee certificates issued by the manager. Otherwise, the financial statements shall indicate which amount should be deposited in the reserve account in order to constitute a provision which is good and sufficient, in accordance with the actuary's report certifying that it was calculated on the basis of adequate assumptions with regard to the manager's financial situation and the contracts he concludes.

Every 3 years, the annual report shall also include, for the following 3 years of operation, a business plan as defined in the Dictionnaire de la comptabilité et de la gestion financière by L. Ménard *et al.*, Canadian Institute of Chartered Accountants, Ordre des experts comptables-France, Institut des Réviseurs d'Entreprises-Belgique, 1994.

65. Where the funds accumulated in the reserve account represent an amount less than that which is declared to constitute a good and sufficient provision by the actuary's certificate, the manager shall, before filing the financial statements of the approved plan, deposit in the reserve account a sum equal to the difference.

§7. *Other conditions*

66. Any decision by the manager to refuse or cancel the contractor's membership in the approved plan shall be in writing and give reasons therefor.

67. The manager is subject to the arbitration procedure determined by this Regulation where the contractor contests a decision by the manager to refuse or cancel his membership in the approved plan, or where a person contests a decision of the manager concerning a claim.

He shall also, without delay, send to the arbitration body the file on the decision that is subject to arbitration.

68. The manager shall, to ensure implementation of the approved plan, establish and obtain approval for an inspection program including the various steps in construction of a building and taking into account, in particular, the experience of the contractors, the nature of the construction projects and the categories of the buildings concerned.

69. The manager shall supply each contractor with a pre-established list of items to be checked, adapted to the class of building concerned, for the purposes of inspection prior to acceptance.

70. The manager shall immediately send to the Board any information which could call into question the issue, validity or renewal of a contractor's licence.

71. The manager shall ensure that the contractors receive training with regard to the content of the approved plan and the contract resulting therefrom.

72. The manager shall draw up and keep updated a register indicating, for each contractor, the class of building covered by the guarantee, the address of the construction site and the arbitration awards concerning the contractor.

The register is public and may be consulted free of charge during the manager's business hours.

The manager shall issue to any person who so requests a copy or an excerpt of the register, in consideration of expenses not exceeding the cost of its reproduction and transmission.

73. The manager shall, with regard to the confidentiality of information communicated to him by such persons as contractors, bankers or consumers, comply with the Act respecting the protection of personal information in the private sector (R.S.Q., c. P-39.1).

On the beneficiary's request, the manager shall provide access to the file concerning the beneficiary's building which may include, among other things, reports concerning inspection, intervention, observed defects and remedies thereto, plans and specifications, experts' opinions used for the manager's report and other similar documents.

74. For the purposes of this Regulation, the manager shall, where the contractor is absent or fails to intervene, assume each and every obligation of the contractor within the scope of the approved plan.

CHAPTER IV
STANDARDS AND CRITERIA OF GUARANTEE PLANS AND OF GUARANTEE CONTRACTS

75. In addition to the guarantee requirements set out in Chapter II, the guarantee plan shall include the standards and criteria prescribed in Divisions I, II and III of this Chapter.

76. No guarantee contract may be offered unless it complies with the rules established in Division IV of this Chapter and is approved by the Board.

77. No change may be made to a guarantee contract unless the change complies with the rules established in Division IV of this Chapter.

DIVISION I
MEMBERSHIP OF THE CONTRACTOR

78. To join a guarantee plan and obtain a certificate of accreditation, a person shall

(1) complete an application for membership on the form supplied by the manager and return the form to the manager;

(2) satisfy the conditions and financial criteria prescribed in this Division;

(3) sign the membership agreement supplied by the manager and setting forth the obligations listed in Schedule II;

(4) hold security in the amount of $20 000 against fraud, embezzlement or misappropriation of funds;

(5) submit complete financial statements audited or accompanied by a review engagement report and drawn up by an accountant. Those statements shall be dated and signed by a person in authority. In addition, financial statements shall be dated no later than 4 months after the end of the undertaking's fiscal year;

(6) produce a document certifying that the shareholders, officers and guarantors have been discharged from any personal bankruptcy and have not been involved in the bankruptcy of a construction firm for at least 3 years;

(7) produce the personal balance sheet of each officer, shareholder, guarantor and partner, duly completed, dated and signed;

(8) declare all his obligations towards third parties and towards affiliates or other companies, such as a legal hypothec or security towards third parties;

(9) produce a certified true copy of the deed of incorporation of his undertaking;

(10) pay the membership fees required by the manager; and

(11) produce a document certifying that he has applied to the Board for a contractor's licence.

79. The manager shall be notified of the amalgamation, sale or assignment of a partnership or legal person, or of a change to its name, board of directors or officers within 30 days of the event.

80. The manager shall issue a certificate of accreditation if the conditions prescribed in this Chapter are met.

81. The manager shall remain the owner of the certificate of accreditation.

The holder of a certificate shall not transfer it.

82. The holder of a valid certificate of accreditation shall display that certificate in a conspicuous place at his principal establishment in Québec.

83. The holder of a certificate of accreditation who ceases to be entitled thereto shall notify the manager thereof in writing within 30 days following the date on which his entitlement ends.

§1. *General Membership Conditions for All Buildings*

I. **Type A Undertaking** (An undertaking working, in whole or in part, in the construction of residential buildings for less than 4 years)

84. Such an undertaking shall

(1) hold security of a minimum value of $35 000 in the form of

(a) personal security;

(b) a letter of guarantee from a bank;

(c) a hypothecary guarantee; or

(d) security of a third person; and

(2) meet the following financial criteria, where it is possible to calculate them:

(a) working capital ratio	1.15;
(b) debt/equity ratio	80 %;
(c) net worth (10 % of sales)	10 %;
(d) gross earnings	18 %;
(e) net earnings	5 %.

All the above financial criteria shall be calculated using the average obtained over the last 3 years.

The manager may require interim financial statements where he has reason to believe that the solvency of the undertaking is jeopardized.

Where an undertaking possesses affiliates or related companies, the manager may also require a consolidated balance sheet or financial statements from each of those companies.

In this Subdivision, the financial criteria shall have the meaning given to them in the Dictionnaire de la comptabilité et de la gestion financière by L. Ménard *et al.*, Canadian Institute of Chartered Accountants, Ordre des experts comptables-France, Institut des Réviseurs d'Entreprises-Belgique, 1994.

II. **Type B Undertaking** (An undertaking working, in whole or in part, in the construction of residential buildings for not less than 4 years)

85. Such an undertaking shall

(1) hold security of a minimum value of $40 000 in the form of

(a) personal security;

(b) a letter of guarantee;

(c) a hypothecary guarantee; or

(d) security of a third person; and

(2) meet the following financial criteria:

(a) working capital ratio	1.15;
(b) debt/equity ratio	80 %;
(c) net worth (10 % of sales)	10 %;
(d) gross earnings	18 %;
(e) net earnings	5 %.

All the above financial criteria shall be calculated using the average obtained over the last 3 years.

Where an undertaking possesses affiliates or related companies, the manager may require a consolidated balance sheet or financial statements from each of those companies.

§2. *Additional Membership Conditions for Multifamily Buildings Not Held in Divided Co-ownership and Comprising More than 5 Dwelling Units*

86. An undertaking planning to work on multifamily buildings not held in divided co-ownership and comprising more than 5 dwelling units shall also supply the manager with

(1) a certificate of financing;

(2) plans of architecture, structure, mechanics and electricity with a seal and approved by the municipality;

(3) a complete ground analysis;

(4) a follow-up and a certificate of conformity by recognized professionals;

(5) a copy of the building permit issued by the municipality; and

(6) a copy of the preliminary contracts.

§3. *Additional Membership Conditions for Multifamily Buildings Held in Divided Co-ownership of a Building Height of Less than 4 Stories and Comprising More than 5 Private Units*

87. An undertaking planning to work on multifamily buildings held in divided co-ownership of a building height of less than 4 stories and comprising more than 5 private units shall also supply the manager with

(1) a certificate of financing;

(2) plans of architecture, structure, mechanics and electricity with a seal and approved by the municipality;

(3) a complete ground analysis;

(4) a copy of the memorandum provided for in article 1787 and following of the Civil Code of Québec;

(5) a copy of the building permit issued by the municipality; and

(6) a copy of the preliminary contracts.

§4. *Other conditions*

88. Where an undertaking fails to meet the requirements set forth in sections 84 to 87 or when it is impossible to calculate the financial criteria set forth in subparagraph 2 of the first paragraph of section 84, the manager may require any other condition for the same purposes, taking into account the technical competence of the undertaking.

The manager may require security of a value greater than that mentioned in subparagraph 1 of the first paragraph of section 84 and in subparagraph 1 of the first paragraph of section 85 where he has reason to believe that the solvency of the undertaking so requires.

§5. *Term of Membership*

89. Membership is valid for 1 year.

Notwithstanding the first paragraph, the term of membership of a person who already holds a licence issued under the Building Act corresponds to the remaining duration of the licence thus amended.

90. Membership takes effect only from the date on which the Board issues the appropriate licence to the contractor.

§6. *Renewal of Membership*

91. The contractor's membership is renewed if he sends to the manager, at least 30 days before the expiry date of his membership, an application for renewal demonstrating that he meets the conditions prescribed in this Regulation to obtain a certificate of accreditation and if he pays the fees required by the manager.

92. An application for renewal may be received after the period prescribed in section 91 but before the expiry date of the membership if the contractor demonstrates that he had a valid reason not to comply with that section.

§7. *Cancellation of Membership*

93. The manager may cancel a membership where the contractor is in any of the following situations:

(1) he no longer meets one of the conditions prescribed in this Regulation to obtain a certificate of accreditation;

(2) he is reticent or makes a false declaration;

(3) he fails to pay fees for membership, membership renewal or registration;

(4) his constructions fail to meet the quality criteria required by the manager;

(5) he fails to carry out the repairs required in accordance with the manager's requirements;

(6) the manager was required to make a payment following the contractor's failure to perform his obligations pertaining to reimbursement of partial payments, to relocation, moving and storage of the beneficiary's property, to completion of the work and to the guarantee against defects and poor workmanship, faulty design, construction or production of the work, or the unfavourable nature of the ground;

(7) for the execution of construction work, he uses the services of another contractor not licensed by the Board for that purpose;

(8) where the contractor is a legal person, one or more of its shareholders or officers has or have been, at any time whatsoever, shareholders or officers of another accredited or formerly accredited legal person having failed to perform the obligations required of it under a membership agreement; or

(9) he fails to send the documents required by the manager or to furnish the guarantees or security required by the manager under this Regulation.

94. The contractor's membership ceases to have effect once the contractor no longer holds the appropriate contractor's licence issued by the Board.

95. On the death of a holder of a certificate of accreditation, the liquidator of the succession, the heir, the legatee by particular title or the deceased's legal representative may continue his activities for up to 90 days from the date of the death.

§8. *Special Provisions*

96. The rights of the beneficiary are not affected by the cessation of effect of the contractor's membership.

97. A beneficiary who has entered into a contract for the sale or construction of a building provided for in section 2 with a contractor who is a member of an approved plan but who does not hold the appropriate certificate of accreditation does not lose the benefit of the guarantee applicable to that building.

DIVISION II
MEDIATION

98. Notwithstanding section 106, a beneficiary and a contractor may, within 15 days following receipt by registered mail of the decision of the manager concerning a claim, agree to apply for mediation to try and reach an agreement about the dispute between them.

99. Upon receipt of an application for mediation, the Minister of Labour shall appoint the mediator chosen by the beneficiary and the contractor from a list of persons already established by him. The Minister shall forward a copy of that appointment to the manager.

100. Any agreement that settles the dispute in part or in all shall be put in writing, signed by the mediator, the beneficiary and the contractor and binds both parties and the manager. The mediator shall forward a copy of the agreement to the manager and to the Minister, as soon as it is signed, by registered mail.

101. The manager may take part in the mediation. In such a case, the agreement shall also be signed by the manager to bind him and the mediator shall forward a copy of the agreement to the Minister, as soon as it is signed, by registered mail.

102. The costs of mediation shall be shared equally by the beneficiary and the contractor, except if they both agree otherwise. Notwithstanding the preceding, the manager shall pay for a third of the costs when he takes part in the mediation.

103. Unless the beneficiary, the contractor and, where applicable, the manager agree to it, nothing that was said or written during a mediation session is admissible in evidence.

A mediator may not divulge what was disclosed to him or what he became aware of while carrying out his duty or present personal notes or a document made or obtained during mediation before a court, a body or a person carrying out judicial or quasi-judicial duties.

104. If the mediator becomes unable to act, he shall be replaced according to the procedure followed for his appointment.

105. An agreement may not depart from the provisions of this Regulation.

DIVISION III
ARBITRATION

§1. *Application for Arbitration*

106. Any dispute pertaining to the manager's decision concerning a claim or the refusal or cancellation of the contractor's membership shall be dealt with exclusively by the arbitrator appointed under this Division.

The interested parties who apply for arbitration are,

(1) for a claim, the beneficiary or the contractor; and

(2) for membership, the contractor.

An application for arbitration concerning the cancellation of a contractor's membership shall not suspend the enforcement of the manager's decision, unless the arbitrator decides otherwise.

107. An application for arbitration shall be sent to an arbitration body authorized by the Board within 15 days following receipt by registered mail of the manager's decision or, where applicable, the advice of the mediator concluding to partial or total failure of the mediation. The body shall appoint an arbitrator from a list of persons drawn up by it beforehand and sent to the Board.

108. As soon as the arbitration body receives an application for arbitration, it shall notify the other interested parties and the manager.

109. As soon as that notice is received, the manager shall send to the arbitration body the file on the decision that is subject to arbitration.

110. As soon as the arbitrator is appointed, the arbitration body shall give the interested parties the explanatory document prescribed in paragraph 6 of section 128.

111. Before or during the arbitration proceedings, an interested party or the manager may request necessary measures to ensure the preservation of the building.

§2. *Arbitrators*

112. Only natural persons with experience in guarantee plans or having professional training in matters related to the questions raised by the arbitration, such as in finance, accounting, construction techniques or law, may be accredited as arbitrators with the arbitration body.

113. If the arbitrator is unable to fulfil his mission or fails to perform his duties within the periods prescribed, an interested party or the manager may address the arbitration body for revocation of the arbitrator's mandate.

114. A decision on the recusation or revocation of an arbitrator is final and is not subject to appeal.

115. In the case of an arbitrator's recusation, revocation, death or incapacity to act, the arbitration body shall replace him by a new arbitrator who shall decide on the resumption or continuation of the hearing. The new arbitrator shall act within the periods prescribed in sections 117 and 122.

116. An arbitrator shall decide in accordance with the rules of law; he shall also appeal to fairness where circumstances warrant.

§3. *Hearing*

117. The hearing of an application for arbitration shall begin within 30 or 15 days of its receipt, depending on whether the application concerns a claim or membership.

118. The arbitrator shall give to the interested parties and to the manager or to their representatives at least 5 days' notice in writing of the date, time and place of the hearing and, where applicable, notice of the date on which he will inspect the property or visit the premises.

119. The following questions shall be referred to the ordinary courts:

(1) the imposition of a conservatory measure with regard to a third party;

(2) the issue of a mandate against a witness compelled to give evidence but refusing to appear;

(3) the case of an unwilling witness;

(4) the homologation of an arbitration award.

§4. *Arbitration Award*

120. An arbitration award, once it is made, is binding on the interested parties and on the manager.

An arbitration award is final and not subject to appeal.

121. An arbitration award shall not be put into compulsory execution unless it has been homologated in accordance with the procedure prescribed in articles 946 to 946.6 of the Code of Civil Procedure (R.S.Q., c. C-25).

122. An arbitration award in writing and giving reasons therefor shall be sent to the interested parties and to the manager within 30 or 15 days following the date of the end of the hearing, depending on whether the decision concerns a claim or membership.

The interested parties may agree to an additional period.

123. Arbitration fees are shared equally between the manager and the contractor where the latter is the plaintiff.

Where the plaintiff is the beneficiary, those fees are charged to the manager, unless the beneficiary fails to obtain a favourable decision on any of the elements of his claim, in which case the arbitrator shall split the costs.

Only the arbitration body is empowered to draw up an account of arbitration fees for payment thereof.

124. The arbitrator shall, where applicable, decide on the amount of reasonable fees for a relevant expert's opinion to be reimbursed by the manager to the plaintiff where the latter wins the case in whole or in part.

This section does not apply to a dispute concerning the contractor's membership.

125. Expenses incurred by the interested parties and by the manager for the arbitration shall be borne by each one of them.

126. The arbitration body shall keep the arbitration files for 2 years from the filing of the arbitration award or, in case of a legal challenge of that decision, until the final decision of a court of justice disposing thereof.

§5. *Arbitration Body*

127. Only a body devoted entirely to the arbitration of disputes may be authorized by the Board to organize the arbitration provided for in this Regulation.

128. Authorization of the Board is granted to a body meeting the following conditions, in addition to the conditions provided for by the Building Act:

(1) it has a mechanism for updating the list indicating each arbitrator's area of expertise and available to any interested person on request;

(2) it has a permanent program for training arbitrators on the content of the guarantee plan such as the guarantees themselves and related notions of civil law, the terms and conditions of contractors' membership in the plan and the arbitration procedure;

(3) it has a code of ethics applicable to arbitrators and a procedure to be applied in cases of disputed accounts;

(4) it has an arbitration service accessible in each administrative region of Québec, with arbitrators living in each region;

(5) it has an accelerated arbitration procedure consisting of, in addition to the rules prescribed in this Division, provisions concerning

(a) the application for arbitration;

(b) the preparation of the file;

(c) the appointment, competence and powers of the arbitrator;

(d) the obligation of the arbitrator to inform the parties; and

(e) the order of the arbitration procedures, in particular the periods, the recusation and revocation of the arbitrator, the summoning of witnesses and the arbitration award; and

(6) it has an explanatory document concerning the arbitration procedure, in particular with regard to

(a) the right of the interested parties to be represented by a person of their choice;

(b) the rules of procedure and of evidence to be followed;

(c) the procedure for summoning witnesses and experts;

(d) the possibility of inspecting the property or visiting the premises;

(e) the recording of an agreement between the beneficiary, the contractor and the manager or of discontinuance in an arbitration award; and

(f) the procedure for homologating an arbitration award.

129. The arbitration body shall transmit to the arbitrator the file of the manager concerning the decision to which the arbitration pertains and the documents produced by the interested parties in support of their application or defense, so that the arbitrator will have as complete a file as possible.

130. The arbitration body shall provide administrative support for the arbitrators' activities, with due respect for the autonomy and independence of each of its arbitrators.

131. The arbitration body shall publish annually a compilation of arbitration awards made under this Division.

DIVISION IV
RULES PERTAINING TO GUARANTEE CONTRACTS

132. In addition to the text of the guarantee prescribed in Subdivision 1 or 2 of Division II of Chapter II, where applicable, the guarantee contract shall include

(1) the names and addresses of the beneficiary and the contractor;

(2) the number of the contract, its date, and the address of the place where it is signed by the contractor;

(3) a description of the building covered by the guarantee;

(4) the manager's name, address, and telephone and fax numbers;

(5) the contractor's accreditation number and licence number and the words "licensed by the Régie du bâtiment du Québec"; and

(6) the compulsory nature of the guarantee.

133. The guarantee contract shall indicate that its content has been approved by the Régie du bâtiment du Québec and specify the number and date of the Board's decision.

134. The guarantee contract shall be drawn up clearly and legibly, at least in duplicate. It shall be typed or printed.

135. The contractor's signature shall be affixed on the last page of the copies of the guarantee contract following all the stipulations.

136. The signature affixed by the contractor is binding on the manager.

137. The contractor shall give a copy of the duly signed guarantee contract to the beneficiary and send a copy thereof to the manager.

138. The beneficiary is required to perform his obligations set forth in the contract entered into with the contractor only from the time he is in possession of a copy of the duly signed guarantee contract.

139. Any clause of a guarantee contract that is irreconcilable with this Regulation is void.

140. The beneficiary may not, by special agreement, waive the rights granted to him by this Regulation.

CHAPTER V
TRANSITIONAL AND FINAL PROVISIONS

141. Notwithstanding clause *e* of subparagraph 2 of the first paragraph of section 84 and clause *e* of subparagraph 2 of the first paragraph of section 85, the net earnings required shall be 2.5 % for the first year following the coming into force of those provisions, 3.0 % for the second year, 3.5 % for the third year, 4.0 % for the fourth year and 4.5 % for the fifth year.

142. In order to be the holder of a certificate of accreditation on 1 January 1999, a contractor shall send his application for membership to the manager at least 30 days before that date. Notwithstanding section 90, his membership shall take effect only from 1 January 1999.

143. Only those buildings for which the preliminary contract or the contract of enterprise is signed between a beneficiary and an accredited contractor whose construction work begins from the date of coming into force of this section are covered by the guarantee.

144. The provisions of this Regulation will come into force on the date or dates determined by the Government.

However, for the purposes of section 85 of the Building Act, this Regulation is deemed to come into force on 30 June 1998.

SCHEDULE I
(s. 50)

INITIAL RESERVE

Buildings covered	**Initial reserve, in dollars per guarantee certificate**
Detached, semi-detached or row-type single-family dwelling, held or not held in divided co-ownership;	
Multifamily building from a duplex to a quintuplex, not held in divided co-ownership;	510
Multifamily building comprising more than 5 dwelling units and held by a non-profit organization or a cooperative, not held in divided co-ownership.	
Multifamily building of a building height of less than 4 stories, held in divided co-ownership.	760

SCHEDULE II
(s. 78)

OBLIGATIONS OF THE CONTRACTOR

The contractor shall undertake

(1) to meet the membership criteria required by the manager under a regulation of the Régie du bâtiment du Québec respecting the guarantee plan for new residential buildings;

(2) to notify the manager that notice of intention or of a proposition has been filed in respect of an insolvent person under section 65.1 of the Bankruptcy and Insolvency Act (R.S.C. (1985) c. B-3);

(3) to comply with accepted practice and the standards in force applicable to the building, in particular the standards contained in the National Building Code of Canada, the Canadian Electrical Code and the Plumbing Code;

(4) without restricting his liability under the laws in force in Québec, to honour the guarantee required of him under the guarantee plan approved by the Board and, where applicable, to complete the work or to repair the defects and poor workmanship covered by the guarantee, once the manager is of the opinion that a claim is founded, except in the case of a dispute;

(5) to compensate the manager for any loss incurred or to reimburse any payment he has made following his failure to honour the guarantee required of him under the guarantee plan;

(6) to register with and pay immediately to the manager the premium specified for each class of building upon the occurrence of the first of the following events:

(a) the signing of the preliminary contract or the contract of enterprise;

(b) the issue of the building permit; or

(c) the beginning of construction work on the building covered;

(7) to perform each and every obligation required of him by the manager as part of the guarantee plan for any building covered, whether or not the building is registered with the manager;

(8) to give notice to the manager, on the form supplied by him, of each and every partial payment made to him for the purchase of any building covered, as soon as each payment is made;

(9) to submit to the manager, on the form supplied by him, a list of work on the building, notice of which was given in writing at the time of acceptance of the building or of the private portion, as the case may be, and which must be completed;

(10) to supply, on the manager's request, plans for the design or completion of the architecture, structure, mechanics, plumbing and electricity, as well as the specifications for a building covered;

(11) to send, on the manager's request, continuous supervision reports and the certificate of conformity prepared by a building professional independent of the contractor, where applicable;

(12) to give notice of the end of the work on the common portions to each known beneficiary and to the syndicate of co-owners and to notify thereof the manager and any future purchaser of a private portion at the time of conclusion of the contract;

(13) to carry out an inspection prior to acceptance, with the beneficiary or with the building professional designated by the syndicate of co-owners and the latter, where applicable, using a pre-established list of items to be checked supplied by the manager, to give a duly completed copy thereof to the beneficiary and to the building professional and to send the findings thereof to the manager on request;

(14) to give notice to the manager of the end of the work where the beneficiary is unknown and to notify thereof the future purchaser at the time of conclusion of the contract;

(15) to produce, on the manager's request, the periodic reports and the certificates of conformity drawn up by an architect or engineer at the time of construction of any building for which supervision of construction work is required in accordance with the codes and standards in force;

(16) to comply with the inspection program set up by the manager, to provide access to the construction work site of each building covered to any duly appointed representative of the manager and to file the reports ensuing therefrom where applicable;

(17) to collaborate with any duly appointed representative of the manager;

(18) where applicable, to take all necessary measures to ensure the preservation of the building or to reimburse the beneficiary where the latter was forced to take such measures urgently; and

(19) to pay the required fees for membership in the plan or for membership renewal, for each inspection required by the manager and for arbitration, where applicable.

2328

Gouvernement du Québec

O.C. 842-98, 17 June 1998

Building Act
(R.S.Q., c. B-1.1)

Garantee plan for new residential building — Coming into force

COMING INTO FORCE of the provisions of the Regulation respecting the guarantee plan for new residential buildings

WHEREAS under paragraphs 19.3 to 19.6 and 38 of section 185 and section 192 of the Building Act (R.S.Q., c. B-1.1), the Régie du bâtiment du Québec may make regulations pertaining to financial guarantees applicable to the new residential building sector;

WHEREAS under section 9 of the Act to amend the Building Act (1995, c. 58), the first regulation made by the Board pertaining to financial guarantees applicable to the new residential building sector is not subject to the coming into force requirement set out in section 17 of the Regulations Act (R.S.Q., c. R-18.1) and comes into force on the date or dates determined by the Government;

WHEREAS the Regulation respecting the guarantee plan for new residential buildings was approved by the Government by Order in Council 841-98 dated 17 June 1998;

WHEREAS it is expedient to fix the coming into force of the provisions of the Regulation allowing the accreditation of a manager of a guarantee plan and arbitration body to the date of the publication of this Order in Council in the *Gazette officielle du Québec*;

WHEREAS it is expedient to fix the coming into force of the provisions of the Regulation allowing the accreditation of contractors to 1 October 1998;

WHEREAS it is expedient to fix the coming into force of the provisions of the Regulation concerning the effective date of an approved guarantee plan, an approved guarantee contract and an accreditation of a contractor to 1 January 1999;

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

THAT sections 1, 2, 7 to 65, 68 and 69, 73, 75, 76 as regards compliance with the rules of Division IV and approval by the Board, 112, 127 and 128 and 132 to 134 of the Regulation respecting the guarantee plan for new residential buildings come into force on the date of the publication of this Order in Council in the *Gazette officielle du Québec*;

THAT sections 66 and 67, 70 and 71, 78 to 81, 83 to 89, 91 to 96, 106 to 111, 113 to 126, 129 to 131, 141 and 142 of the Regulation and Schedule II to the Regulation come into force on 1 October 1998; and

THAT sections 3 to 6, 72, 74, 76 in every respect other than compliance with the rules of Division IV and approval by the Board, 77, 82, 90, 97 to 104, 135 to 140 and 143 of the Regulation and Schedule I to the Regulation come into force on 1 January 1999.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

2329

M.O., 1998

Order of the Minister of Health and Social Services dated of 11 June 1998 to designate breast cancer detection centres

THE MINISTER OF HELTH AND SOCIAL SERVICES,

CONSIDERING that it is expedient to designate breast cancer detection centres under subparagraph *b*.3 of the first paragraph of section 69 of Health Insurance Act (R.S.Q., c. A-29);

ORDERS:

THAT the following breast cancer detection centres be designated for the Montréal-Centre region:

Radiologie Ellendale
5845, chemin Côte-des-Neiges, bureau 190
Montréal (Québec)
H3S 1Z4

Services radiologiques de Montréal
3875, rue Saint-Urbain, bureau 205
Montréal (Québec)
H2W 1V1

Radiologie Médiclub
6100, avenue Du Boisé
Montréal (Québec)
H3S 2W1

Léger & Associés, radiologistes
1851, Sherbrooke Est, bureau 201
Montréal (Québec)
H2K 4L5

Radiologie Médicentre Lasalle Inc.
1500, rue Dollard, bureau 101
Lasalle (Québec)
H8N 1T5

Services de radiologie Grenet Inc.
Succursale Bois-de-Boulogne
1575, Henri-Bourassa Ouest, bureau 150
Montréal (Québec)
H3M 3A9

Services radiologiques Maisonneuve
5345, L'Assomption, local 130
Montréal (Québec)
H1T 4B3

Centre de radiologie Fleury Inc.
2320, rue Fleury Est
Montréal (Québec)
H2B 1K9

Centre de Radiologie Ville Marie
1538, Sherbrooke Ouest, bureau 1010
Montréal (Québec)
H3G 1L5

Radiologie Varad
235, boulevard René-Lévesque Est, bureau 700
Montréal (Québec)
H2W 1N8

Radiologie Westplace La Cité inc.
300, rue Léo-Pariseau, bureau 201
C.P. 965, St. Place Du Parc
Montréal (Québec)
H2W 2N1

Québec City, on 11 June 1998

JEAN ROCHON

2327

Draft Regulations

Draft Regulation

Building Act
(R.S.Q., c. B-1.1)

Building contractors and owner-builders
— Professional qualification
— 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 the professional qualification of building contractors and owner-builders, the text of which appears below, may be approved by the Government upon the expiry of 45 days following this publication.

The purpose of the Regulation is to ensure consistency with the Regulation respecting the guaranty plan for new residential buildings.

The new provisions create subcategories of the category "general contractor" for contractors erecting new residential buildings covered by a guaranty plan.

Furthermore, the new provisions enable the contractor to establish his solvency by requiring him to join a guaranty plan so as to avoid duplication in the financial analysis of undertakings required to join a guaranty plan in order to obtain or keep their building contractor's licence.

Finally, transitional provisions are included to ensure the carrying out of construction work already begun or for which contracts were signed before the coming into force of the Regulation respecting guaranty plans for new residential buildings by contractors holding a subcategory 4041 or 4042 licence. They exempt from certain charges otherwise exigible a contractor who requests an amendment to his licence or its renewal in order to add thereto new subcategories of contractors erecting new residential buildings covered by a guaranty plan.

The draft Regulation does not have much impact on contractors covered by that guarantee plan. These contractors will only have to ask the Régie du bâtiment du Québec to have the new subcategories added to their licence without charge.

Further information may be obtained by contacting Mr. Pierre D. Tarte, Guaranty Plans Coordinator, Régie du bâtiment du Québec, 545, boulevard Crémazie Est, 6e étage, Montréal (Québec) H2M 2V2, tel.: (514) 864-2500; fax: (514) 873-3418.

Any interested person having comments to make on this matter is asked to send them in writing, before the expiry of the 45-day period, to Mr. Jean-Claude Riendeau, Chairman, Régie du bâtiment du Québec, 545, boulevard Crémazie Est, 6e étage, Montréal (Québec) H2M 2V2.

MATHIAS RIOUX,
Minister of Labour

Regulation to amend the Regulation respecting the professional qualification of building contractors and owner-builders*

Building Act
(R.S.Q., c. B-1.1, s. 185, pars. 11, 16 and 17, and s. 192)

1. The following sections 28.1 and 28.2 are added after section 28 of the Regulation respecting the professional qualification of building contractors and owner-builders:

"**28.1** A natural person, partnership or legal person that has joined a guaranty plan required under section 77 of the Act is deemed to meet the conditions respecting solvency prescribed by the Board in this Subdivision.

28.2 A contractor whose membership in the guaranty plan referred to in section 28.1 is ending must, within 30 days following the end of his membership, comply with the conditions respecting solvency prescribed in this Subdivision with regard to his licence for the subcategories of work not covered by the guaranty plan.".

2. The Regulation is amended by adding the following after section 51:

* The Regulation respecting the professional qualification of building contractors and owner-builders approved by Order in Council 876-92 dated 10 June 1992 (1992, *G.O.* 2, 2926) was last amended by the Regulation approved by Order in Council 7-97 dated 7 January 1997 (1997, *G.O.* 2, 189). For previous amendments, refer to the Tableau des modifications et Index sommaire, Éditeur officiel du Québec, 1998, updated to 1 March 1998.

"**51.1** Any general contractor who, on 1 January 1999, holds a licence on which is indicated subcategory 4041 or 4042 is authorized to carry out or cause to be carried out construction work in respect of new residential buildings for which the preliminary contract or the contract of enterprise was signed before 1 January 1999 or which began before that date.

51.2 The Board shall not collect the exigible charges provided for in section 41 where a request for amendment is filed by a general contractor whose licence is still valid and who, on 31 December 1998, holds a licence on which is indicated subcategory 4041 or 4042, as long as his request is filed before the expiry of that licence and involves only the addition of subcategory 3031 or 3032.

Notwithstanding the foregoing, if that request for amendment is filed at the time of the first renewal of the licence after 1 January 1999, the fees and charges that the holder must pay to the Board are those indicated for renewal in section 41.".

3. Schedule A to the Regulation is amended

(1) by inserting the following subcategories before subcategory "4041 Residential buildings contractor, Class I":

"**3031 Contractor — new residential buildings covered by a guaranty plan, Class I**:

This subcategory includes construction work in respect of:

— a detached, semi-detached or row-type single-family dwelling, whether or not it is held in divided co-ownership;

— a multifamily building, from a duplex to a quintuplex, that is not held in divided co-ownership;

— a multifamily building of more than 5 units, held by a non-profit organization or a cooperative and not held in divided co-ownership.

3032 Contractor — new residential buildings covered by a guaranty plan, Class II:

This subcategory includes construction work in respect of a multifamily building of a building height of less than 4 stories, held in divided co-ownership.

(2) by substituting the following for subcategories "4041 Residential buildings contractor, Class I" and "4042 Residential buildings contractor, Class II":

"**4041 Residential building contractor, Class I**:

This subcategory includes construction work in respect of buildings of a building height of 4 stories or less, not covered by the Regulation respecting the guaranty plan for new residential buildings, approved by Order in Council 841-98 dated 17 June 1998, and intended to be used mainly for residential purposes and similar or related construction work.

4042 Residential building contractor, Class II:

This subcategory includes construction work in respect of all types of buildings not covered by the Regulation respecting the guaranty plan for new residential buildings, and used mainly for residential purposes and similar or related construction work.".

4. Once approved by the Government, this Regulation comes into force on 1 January 1999.

2338

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Optometrists
— Equivalence standards for the issue of a permit

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 equivalence standards for the issue of a permit by the Ordre des optométristes du Québec, adopted by the Bureau of the Ordre professionnel des optométristes du Québec and whose text appears below, may be submitted to the Government for approval with or without amendment upon the expiry of 45 days following this publication.

According to the Ordre des optométristes du Québec, the main purpose of the Regulation is to establish, in accordance with the requirements of the Professional Code, equivalence standards to be used by the Bureau of the Order to recognize, for the purposes of issuing the permits of the Order, the equivalence of diplomas issued by educational institutions outside Québec and the equivalence of training received in or outside Québec, in favour of persons who do not hold a diploma recognized by government regulation as giving access to one or more permits of the Order.

In addition, the Regulation prescribes the procedures for applying for the recognition of an equivalence and for making a decision on such application.

To date, no impact on the public and businesses resulting from the application of the Regulation has been foreseen.

Further information may be obtained by contacting Mr. François Charbonneau, directeur général, Ordre des optométristes du Québec, 1265, rue Berri, bureau 700, Montréal (Québec) H2L 4X7; tel.: (514) 499-0524, fax: (514) 499-1051.

Any interested person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place d'Youville, 10e étage, Québec (Québec) G1R 5Z3. Those comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that adopted the Regulation and to the persons, departments and organizations concerned.

ROBERT DIAMANT,
Chairman of the Office
des professions du Québec

Regulation respecting equivalence standards for the issue of a permit by the Ordre des optométristes du Québec

Professional Code
(R.S.Q., c. C-26, s. 93, par. *c*)

DIVISION I
PROCEDURE FOR RECOGNITION OF EQUIVALENCE

1. The secretary of the Ordre des optométristes du Québec shall forward a copy of this Regulation to those who signify their wish to have a diploma issued by an educational institution outside Québec or training recognized as equivalent.

In this Regulation,

"diploma equivalence" means the recognition by the Bureau of the Order that a person's diploma issued by an educational institution outside Québec demonstrates that the person has attained a level of knowledge that is equivalent, according to the standards provided for in section 6, to the level attained by the holder of a diploma recognized as meeting the requirements for the permit;

"training equivalence" means the recognition by the Bureau of the Order that a person's training demonstrates that he has attained a level of knowledge that is equivalent, according to the standards provided for in section 8, to the level attained by the holder of a diploma recognized as meeting the requirements for the permit.

2. A person who wishes to be granted a diploma or training equivalence shall provide the secretary of the Order with the following documents that are necessary to support his application, together with the file processing fees prescribed by a resolution adopted under paragraph 8 of section 86.0.1 of the Professional Code (R.S.Q., c. C-26):

(1) his academic record, including a description of the courses taken with the number of related credits and the marks obtained;

(2) proof that the diploma was obtained;

(3) an attestation that he has participated in a professional training period or any other continuous training or upgrading activity; and

(4) an attestation and a description of his relevant work experience.

The person may provide any other document he deems useful.

3. The secretary shall forward the documents mentioned in section 2 to the committee formed by the Bureau of the Order to examine applications for diploma or training equivalence and to make recommendations to the Bureau. The committee shall be composed of at least 3 optometrists who have been entered on the roll of the Order for more than 5 years. The committee may interview any person applying for a diploma or training equivalence.

At the first meeting following the receipt of the recommendation, the Bureau shall decide whether it will grant a diploma or training equivalence, in accordance with this Regulation.

4. Within 30 days of its decision, the Bureau shall inform the person of its decision in writing and, if the equivalence is denied, the Bureau shall inform the person of the programs of study, training sessions or examinations which, taking into consideration his current level of knowledge, must be passed or completed within the time prescribed by the Bureau for the equivalence to be granted.

5. A person whose application for diploma or training equivalence is not granted may apply to the Bureau for a hearing, provided that the person applies therefor in writing to the secretary of the Order within 30 days

following the mailing of the Bureau's decision not to grant the equivalence.

Within 90 days following the date of receipt of the application for a hearing, the Bureau shall hear that person and, where expedient, shall review its decision. Not less than 10 days before the date of the hearing, the secretary shall convene the person by means of a written notice sent by registered mail.

The decision of the Bureau is final and shall be sent to the person in writing within 30 days of the date of the hearing.

DIVISION II
DIPLOMA EQUIVALENCE STANDARDS

6. A person holding a diploma in optometry issued by an educational institution outside Québec shall be granted a diploma equivalence if the diploma was obtained upon completion of university studies comprising 141 credits or the equivalent, 123 of which shall be apportioned as follows:

(1) 26 credits in biological and biomedical sciences, pertaining in particular to human and ocular anatomy, general and ocular histology, general and ocular physiology, general and ocular pharmacology, general and ocular pathology and microbiology;

(2) 34 credits in optics, pertaining in particular to geometric, physical, ophthalmic and physiological optics;

(3) 41 credits in optometrical sciences, pertaining in particular to general optometry, orthoptics, contact lenses and low vision;

(4) 22 credits obtained following a clinical training period, particularly in general optometry, in orthoptics, contact lenses and low vision.

Each credit shall represent 15 hours of attendance in class or 45 hours worked in the course of a training period.

7. Notwithstanding section 6, where the diploma in respect of which an application for equivalence has been filed was acquired 3 years or more prior to the application, the diploma equivalence shall be denied if the knowledge gained by the person no longer corresponds, considering the developments in the profession, to the knowledge being taught at the time of the application in a program of study leading to a diploma recognized by regulation of the Government as meeting the requirements for the permit.

In such a case, a training equivalence may be granted under section 8 if the training received since then has enabled the person to attain the required level of knowledge.

DIVISION III
TRAINING EQUIVALENCE STANDARDS

8. A person shall be granted a training equivalence if he demonstrates that his knowledge is equivalent to the knowledge acquired by the holder of a diploma recognized by the Government under the first paragraph of section 184 of the Code.

9. Notwithstanding section 8, where the training in respect of which an application for equivalence has been filed was acquired 3 years or more prior to the application, equivalence shall be denied if the knowledge gained by the person no longer corresponds, considering the developments in the profession, to the knowledge being taught at the time of the application in a program of study leading to a diploma recognized as meeting the requirements for the permit.

10. To determine whether a person has the training required under section 8, the Bureau shall consider the following factors:

(1) the diplomas awarded to the person in Québec or elsewhere;

(2) the courses taken, the number of related credits and the marks obtained;

(3) the training periods completed and other continuous training or upgrading activities;

(4) the total number of years of schooling; and

(5) the relevant work experience.

11. Where assessing a person's training presents difficulties such that a judgment cannot be made on his level of knowledge, the person may be called for an interview or required to pass an examination or to complete a training period, or all three.

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

2341

Draft Regulation

Highway Safety Code
(R.S.Q., c. C-24.2)

Vehicle load and size limits — 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 Vehicle Load and Size Limits Regulation, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the draft Regulation is to amend certain vehicle load and size limits in order to better protect road installations and to improve the safety of the persons who use the roads. It provides for a reduction of the administrative rules by eliminating certain special travel permits and a greater compatibility of Québec standards with those of the other North American jurisdictions. It takes into account the recent amendments to a federal-provincial-territorial agreement on the regulation of vehicle load and size limits and proposes an equal treatment for all industrial sectors. The proposed changes favour the use of more efficient vehicles concerning road protection and road safety, thus allowing for the competitiveness of Québec carriers and shippers.

Further information may be obtained by contacting M. Gervais Corbin, professional engineer, Ministère des Transports du Québec, Service des normes en transport routier des marchandises, 700, boulevard René-Lévesque Est, 22e étage, Québec (Québec) G1R 5H1, tel. (418) 644-5593, fax: (418) 644-9072.

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 Transport, 700 boulevard René-Lévesque Est, 29e étage, Québec (Québec) G1R 5H1.

JACQUES BRASSARD,
Minister of Transport

Regulation to amend the Vehicle Load and Size Limits Regulation

Highway Safety Code
(R.S.Q., c. C-42.2, s. 621, pars. 15, 16, 17 and 18)

1. The Vehicle Load and Size Limits Regulation* is amended by striking out the words "and used" in the second paragraph of section 1.

2. The following is substituted for section 2:

"**2.** For the purposes of this Regulation, the public highways of Québec are classified as follows:

(1) ordinary class: any public highway or part thereof not covered by subparagraphs 2 and 3;

(2) special class: public highways described and delimited in Schedule C;

(3) exempted class: parts of public highways at the intersections of a private road described in Schedule D.

Unless the context indicates otherwise in this Regulation, the standards herein apply to all public highways of the ordinary class and of the special class and do not apply to the parts of public highways of the exempted class.

3. Section 3 is amended by adding the following paragraph at the end:

"For the purposes of this Regulation, the distance between the axes or the centres of 2 axles is the distance between the rotation centre of the axis of one axle in relation to the rotation centre of the axis of the other axle.".

4. The following is substituted for section 4:

"**4.** The maximum length of any road vehicle or combination of road vehicles, load included, shall be:

(1) 12.5 metres for any motor vehicle where the rear overhang is 4 metres or less;

(2) 14 metres for any bus where the rear overhang is 4 metres or less;

(3) 18.5 metres for an articulated bus;

* The Vehicle Load and Size Limits Regulation was made by Order in Council 1299-91 dated 18 September 1991 (1991, *G.O.* 2, 3630).

(4) 23 metres for any combination of road vehicles consisting of a farm tractor and of 2 trailers;

(5) 23 metres for any combination of road vehicles consisting of a tractor and of no more than 3 motorized road vehicles or chassis of motor vehicles coupled to the tractor according to the saddle-back method;

(6) 23 metres for any combination of road vehicles consisting of a towing vehicle and a single trailer equipped with a dolly or consisting of a towing vehicle and a single trailer where the rear overhang of the trailer is 4 metres or less;

(7) 23 metres for any combination of road vehicles consisting of a tractor and a single semi-trailer that meet the following specifications:

(a) the tractor has a wheelbase of 6.2 metres or less;

(b) the tractor has an interaxle spacing of 3 metres or more;

(c) the distance between the rear end of the semi-trailer, load included, and the centre of its single, tandem or triple axle is at the most 35 % of the distance between the centre of that axle and the centre of the king pin;

(8) 25 metres for any Type B or C double train that meets the following specifications:

(a) in the case of Type B, it is composed of a tractor and a semi-trailer equipped at the rear with a fifth wheel on which the front of the second semi-trailer rests;

(b) in the case of Type C, it is composed of a tractor, a semi-trailer and a double drawbar dolly, which converts the second semi-trailer into a trailer;

(c) the tractor is not provided with load space and has a wheelbase of 6.2 metres or less;

(d) the tractor has an interaxle spacing of 3 metres or less;

(e) the distance between the front of the first semi-trailer and the rear end of the second semi-trailer is 20 metres or less;

(9) 25 metres for any Type A double train that meets the following specifications:

(a) it is composed of a tractor, a semi-trailer and a single drawbar dolly, which converts the second semi-trailer into a trailer;

(b) the tractor is not provided with load space and has a wheelbase of 6.2 metres or less;

(c) the tractor has an interaxle spacing of 3 metres or more;

(d) the distance between the front of the first semi-trailer and the rear end of the second semi-trailer is 18.5 metres or less;

(10) 11 metres for any motor vehicle not covered by subparagraphs 1 and 2;

(11) 19 metres for any combination of road vehicles not covered by subparagraphs 4, 5, 6, 7, 8 and 9;

(12) 36.5 metres for any combination of road vehicles on a public highway belonging to the special class described in Schedule C.

For the purposes of subparagraphs 7, 8 and 9, the interaxle spacing of the tractor shall be measured from the axis of rotation of the front axle to the axis of rotation of the first axle of the group of rear axles and the wheelbase of the tractor shall be measured from the axis of rotation of the front axle to the centre of the group of rear axles, or as the case may be, to the axis of rotation of the single rear axle.

For the purposes of subparagraphs 1, 2 and 6, the rear overhang shall be measured from the axis of rotation of the single rear axle or from the centre of the group of rear axles forming a class of axles, to the rear end of the vehicle including loading.

For the purposes of subparagraphs 8 and 9, the distance between the front of the first semi-trailer and the rear end of the second semi-trailer does not include auxiliary equipment located in front of the first semi-trailer, provided they do not increase the load volume of the road vehicle.".

5. The following is substituted for section 5:

"**5.** The maximum length for any trailer shall be 12.5 metres.

The maximum length for any semi-trailer converted into a trailer by a dolly shall be 14.65 metres.

The dimension prescribed by the second paragraph does not include the coupling device of the dolly.".

6. Section 6 is amended

(1) by substituting the number "16.2" for the number "15.5" in the first line of paragraph 1;

(2) by striking out ", or with a combination of axles of class B.44 or B.45" at the end of subparagraph *a* of paragraph 1;

(3) by deleting subparagraph *b* of paragraph 1;

(4) by inserting the following paragraph after paragraph 1:

"(1.1) 15.5 metres for those equipped with a combination of axles of class B.44 or B.45 that meet the specifications covered by subparagraphs *c* and *d* of paragraph 1;";

(5) by deleting "*b*" in paragraph 2.

7. The following is substituted for section 7:

"**7.** The dimensions prescribed by sections 5 and 6 do not include auxiliary equipment located in front of the semi-trailer or trailer, provided they do not increase the load volume of the road vehicle.".

8. The following paragraph is substituted for paragraph 5 of section 8:

"(5) one tractor hauling 1, 2 or 3 motorized road vehicles or chassis of motor vehicles coupled according to the saddle-back method.".

9. The following paragraphs are substituted for the first paragraph of section 10:

"**10.** The maximum width of any single unit road vehicle, any towing vehicle and any tractor, load included, shall be 2.6 metres. That of any trailer and semi-trailer, load included, shall be 2.5 metres.

The dimension of 2.5 metres covered by the first paragraph shall be increased to 2.6 metres where the length of each axle, including tires, under a semi-trailer or trailer is 2.5 metres or more. That dimension shall be increased to 3.75 metres in the case of a trailer carrying grains and travelling unloaded.".

10. Section 11 is amended

(1) by inserting the following after paragraph 2:

"(2.1) the securing system and tarpaulin covering prescribed by section 11 of the Regulation respecting standards for the securing of loads[**], provided they do not extend more than 100 millimetres beyond either side of a road vehicle;";

(2) by substituting the following paragraphs for paragraph 3:

"(3) equipment for grading, clearing or marking lanes of public highways;

(3.1) a device used for the automatic loading of bales of hay;";

(3) by substituting the dimension of "3.75 metres" for "3 metres" in paragraph 4.

11. Section 13 is amended

(1) by substituting "10 kilograms" for "11 kilograms" in paragraph 1;

(2) by substituting "B.57" for "B.55" in paragraphs 1 and 3;

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

"moreover, the maximum load shall be decreased, as the case may be, for classes B.31, B.32 and B.33 by 1 000 kilograms where the class of axles is made up of a group of axles equivalent to a triple axle;".

12. The following is substituted for section 14:

"**14.** The maximum load of an axle or combination of axles belonging to a class in Schedule B shall be as follows:

Class	Axle load
B.1	9 000 kilograms
B.2	16 000 kilograms
B.3	15 000 kilograms
B.10	10 000 kilograms
B.20	10 000 kilograms
B.21	18 000 kilograms
B.25	13 500 kilograms
B.26	10 000 kilograms
B.30	18 000 kilograms
B.31	21 000 kilograms

[**] The Regulation respecting standards for the securing of loads was made by Order in Council 284-86 dated 12 March 1986 (1986, *G.O.* 2, 333).

Class	Axle load
B.32	24 000 kilograms
B.33	26 000 kilograms
B.33.1	18 000 kilograms
B.34	18 000 kilograms
B.35	18 000 kilograms
B.36	18 000 kilograms
B.37	18 000 kilograms
B.38	18 000 kilograms
B.39	18 000 kilograms
B.40	23 000 kilograms
B.41	26 000 kilograms
B.42	26 000 kilograms
B.43	28 000 kilograms
B.44	32 000 kilograms
B.45	32 000 kilograms
B.50	18 000 kilograms
B.51	18 000 kilograms
B.52	18 000 kilograms
B.53	18 000 kilograms
B.54	18 000 kilograms
B.55	18 000 kilograms
B.56	17 000 kilograms
B.57	23 000 kilograms

".

13. The following is substituted for section 17:

"**17.** Where the load of a road vehicle or combination of road vehicles is raw timber carried from the felling site to a primary processing plant, the maximum loads prescribed for classes B.21, B.31 to B.39., B.41 and B.42 of section 14 shall be increased until 31 December 1999 as follows:

Class	Axle load
B.21	20 000 kilograms
B.31	23 000 kilograms
B.32	25 000 kilograms
B.33	27 000 kilograms
B.33.1	27 000 kilograms
B.34	29 000 kilograms
B.35	30 000 kilograms
B.36	22 000 kilograms
B.37	24 000 kilograms
B.38	26 000 kilograms
B.39	29 000 kilograms
B.41	28 000 kilograms
B.42	30 000 kilograms
B.43	30 000 kilograms

".

14. Section 18 is amended

(1) by substituting the words "the maximum load prescribed for class B.21 of section 14 shall be increased until 31 December 1999," for the words "the maximum loads prescribed for classes B.22 and B.23 of section 14 shall be increased" in the first paragraph;

(2) by substituting "That maximum load shall also be increased, until 31 December 1999," for the words "Those maximum loads shall also be increased" in the second paragraph.

15. The following is substituted for section 20:

"**20.** The total loaded mass of a road vehicle or combination of road vehicles belonging to a class in Schedule A shall be as follows:

Class	Total loaded mass
A.1	17 250 kilograms
A.2	25 250 kilograms
A.3	32 000 kilograms

Class	Total loaded mass
A.4	31 000 kilograms minus 1 000 kilograms per 500 millimetres under the 3.0 metre length prescribed for this class
A.9	23 500 kilograms
A.10	25 500 kilograms
A.11	35 500 kilograms
A.12	41 500 kilograms
A.13	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 4.0 metre length prescribed for this class
A.19	41 500 kilograms
A.20	43 500 kilograms
A.21	42 500 kilograms minus 1 000 kilograms per 500 millimetres under the 8.0 metre length prescribed for this class
A.22	51 500 kilograms
A.23	50 500 kilograms minus 1 000 kilograms per 500 millimetres under the 12.0 metre length prescribed for this class
A.24	49 500 kilograms
A.25	48 500 kilograms minus 1 000 kilograms per 500 millimetres under the 9.5 metre length prescribed for this class
A.26	55 500 kilograms
A.27	54 500 kilograms minus 1 000 kilograms per 500 millimetres under the 14.0 metre length prescribed for this class
A.30	50 000 kilograms
A.31	49 000 kilograms minus 1 000 kilograms per 500 millimetres under the 15.0 metre length prescribed for this class
A.32	53 500 kilograms
A.33	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 16.5 metre length prescribed for this class
A.34	53 500 kilograms
A.35	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 16.5 metre length prescribed for this class
A.40	44 500 kilograms
A.41	43 500 kilograms minus 1 000 kilograms per 500 millimetres under the 4.0 metre length prescribed for this class
A.42	47 500 kilograms
A.43	46 500 kilograms minus 1 000 kilograms per 500 millimetres under the 4.5 metre length prescribed for this class
A.44	49 500 kilograms
A.45	48 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.5 metre length prescribed for this class
A.46	41 500 kilograms
A.47	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.0 metre length prescribed for this class
A.48	41 500 kilograms
A.49	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.0 metre length prescribed for this class
A.50	41 500 kilograms
A.51	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 4.0 metre length prescribed for this class
A.52	41 500 kilograms

Class	Total loaded mass
A.53	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 4.0 metre length prescribed for this class
A.54	41 500 kilograms
A.55	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.0 metre length prescribed for this class
A.56	41 500 kilograms
A.57	40 500 kilograms minus 1 000 kilograms per 500 millimetres under the 4.0 metre length prescribed for this class
A.60	49 500 kilograms
A.61	48 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.5 metre length prescribed for this class
A.62	49 500 kilograms
A.63	48 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.0 metre length prescribed for this class
A.64	51 500 kilograms
A.65	50 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.0 metre length prescribed for this class
A.66	55 500 kilograms
A.67	54 500 kilograms minus 1 000 kilograms per 500 millimetres under the 6.0 metre length prescribed for this class
A.68	55 500 kilograms
A.69	54 500 kilograms minus 1 000 kilograms per 500 millimetres under the 5.5 metre length prescribed for this class
A.70	45 500 kilograms
A.71	44 500 kilograms minus 1 000 kilograms per 500 millimetres under the 10.0 metre length prescribed for this class
A.72	53 500 kilograms
A.73	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 13.5 metre length prescribed for this class
A.74	53 500 kilograms
A.75	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 14.0 metre length prescribed for this class
A.76	53 500 kilograms
A.77	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 15.5 metre length prescribed for this class
A.78	53 500 kilograms
A.79	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 15.5 metre length prescribed for this class
A.80	53 500 kilograms
A.81	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 15.5 metre length prescribed for this class
A.82	53 500 kilograms
A.83	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 15.5 metre length prescribed for this class
A.84	53 500 kilograms
A.85	52 500 kilograms minus 1 000 kilograms per 500 millimetres under the 15.5 metre length prescribed for this class
A.86	55 500 kilograms

Class	Total loaded mass
A.87	58 500 kilograms
A.90	59 000 kilograms
A.91	58 000 kilograms minus 1 000 kilograms per 500 millimetres under the 16.5 metre length prescribed for this class
A.92	59 000 kilograms
A.93	58 000 kilograms minus 1 000 kilograms per 500 millimetres under the 16.5 metre length prescribed for this class
A.94	58 000 kilograms
A.95	57 000 kilograms minus 1 000 kilograms per 500 millimetres under the 16.5 metre length prescribed for this class
A.96	53 000 kilograms
A.97	52 000 kilograms minus 1 000 kilograms per 500 millimetres under the 16.0 metre length prescribed for this class

The maximum load prescribed for the combination of road vehicles belonging to class A.90 or A.91 shall be increased by 3 500 kilograms on autoroutes numbers 5, 10, 13, 15, 19, 20, 25, 30, 31, 35, 40, 50, 55, 73, 410, 440, 520, 540, 573, 640, 720, 740 and 955 on a divided public highway consisting of two lanes, each constituting the extension of one of those autoroutes and on the access roads of those autoroutes over a distance of not more than 2 kilometres, measured from the exit from or entry to the autoroute as well as route 185.".

16. The following is substituted for section 24:

"**24.** During a period of thaw or rain, the maximum axle load prescribed by sections 14, 17 and 18 shall be replaced by the following:

Class	Axle load
B.1	9 000 kilograms
B.2	16 000 kilograms
B.3	15 000 kilograms
B.10	8 000 kilograms
B.20	8 000 kilograms
B.21	15 500 kilograms
B.25	11 000 kilograms
B.26	8 000 kilograms
B.30	15 500 kilograms
B.31	18 000 kilograms
B.32	21 000 kilograms
B.33	22 000 kilograms
B.33.1	15 500 kilograms
B.34	15 500 kilograms
B.35	15 500 kilograms
B.36	15 500 kilograms
B.37	15 500 kilograms
B.38	15 500 kilograms
B.39	15 500 kilograms
B.40	20 000 kilograms
B.41	22 000 kilograms
B.42	22 000 kilograms
B.43	24 000 kilograms
B.44	27 500 kilograms
B.45	27 500 kilograms
B.50	15 500 kilograms
B.51	15 500 kilograms
B.52	15 500 kilograms
B.53	15 500 kilograms
B.54	15 500 kilograms
B.55	15 500 kilograms
B.56	16 000 kilograms
B.57	23 000 kilograms

The maximum load for axles of classes B.10 to B.57 shall be decreased by 1 000 kilograms per axle equipped with only two tires. Moreover, that maximum load shall be decreased, as the case may be, for classes B.31, B.32 and B.33, by 1 000 kilograms where the class of axles is made up of a group of axles equivalent to a triple axle;".

17. Section 25 is amended by substituting the following for the last sentence: "It shall in no case exceed that prescribed by section 19 nor exceed 59 000 kilograms and 58 000 kilograms for the combinations of road vehicles belonging respectively to classes A.90 and A.91.".

18. Section 26 is amended by inserting the following paragraph at the end:

"Sections 24 and 25 do not apply to tow trucks hauling another vehicle that has been in an accident or has broken down, been seized or abandoned and, in any case, without a load.".

19. The following is substituted for section 33:

"**33.** Up to 31 December 1999, sections 13 to 25 shall not apply to the axles of a single unit road vehicle of a model year prior to 1992 that has not undergone, after 1 October 1991, any alteration covered by section 214 of the Highway Safety Code and that meets one of the following conditions:

(1) it is equipped with a non-detachable dumping mechanism and carries sand, earth, gravel, stone, sodium chloride, snow, ice or hot mix asphalt;

(2) it is assigned to the maintenance of a public highway;

(3) it is a back loading refuse-compacting truck.

The maximum total loaded mass of that road vehicle shall be the least of:

(1) the total loaded mass computed by adding the load maximums indicated by the manufacturer of tires for each class of axle up to 7 250 kilograms in the case of axles of class B.1, 14 000 kilograms in the case of axles of class B.2, 13 000 kilograms in the case of axles of class B.3, 10 000 kilograms in the case of axles of class B.10 or B.26, 20 000 kilograms in the case of axles of class B.21, 13 500 kilograms in the case of axles of class B.25, 18 000 kilograms in the case of axles of class B.50 without exceeding, for classes B.1, B.2 and B.3, the load maximum indicated by the road vehicle manufacturer;

(2) the load indicated by the person that made the alterations to the vehicle, before 1 October 1991, with the approval of the Société de l'assurance automobile du Québec in accordance with paragraph 1 of section 214 of the Highway Safety Code;

(3) 17 250 kilograms where the road vehicle belongs to class A.1, 27 250 kilograms where it belongs to class A.2 or A.9, 34 000 kilograms where it belongs to class A.3 and 33 000 kilograms where it belongs to class A.4;

(4) during a period of thaw or rain, 15 250 kilograms where the road vehicle belongs to class A.1, 22 750 kilograms where it belongs to class A.2 or A.9, 29 500 kilograms where it belongs to class A.3 and 28 500 kilograms where it belongs to class A.4. Those maximums shall be decreased by 1 000 kilograms where the vehicle is equipped with an axle of class B.3.

Where the load maximums indicated by the manufacturer or the load capacities indicated by the person that made alterations to vehicles may not be established for the purposes of applying subparagraphs 1 and 2 of the second paragraph, the maximums prescribed by subparagraph 3 shall be reduced to 15 500 kilograms where the road vehicle belongs to class A.1, to 23 500 kilograms where it belongs to class A.2 or A.9, to 29 000 kilograms where it belongs to class A.3 and to 28 000 kilograms where it belongs to class A.4.

For the purposes of this section, any maximum expressed in pounds shall be divided by 2.2046.".

20. Section 34 is amended by adding the following paragraph at the end:

"The dimensions prescribed by the first paragraph do not include auxiliary equipment located in front of the semi-trailer, provided they do not increase the load volume of the road vehicle.".

21. Section 37 is deleted.

22. The Regulation is amended by inserting the following sections after section 37:

"**37.1** Up to 31 December 1999, where the load of road vehicles of classes A.2, A.3 and A.4 is covered by section 18, the maximum loads prescribed in the first paragraph of section 20 shall be increased by 2 000 kilograms.

37.2 Up to 31 December 1999, where the load of a road vehicle or a combination of road vehicles is raw timber, within the meaning of section 16, carried from the felling site to a primary processing plant, the maxi-

mums covered by the first paragraph of section 20 shall be increased by 2 000 kilograms for class A.2, 4 000 kilograms for classes A.12, A.13, A.60, A.61, A.64 and A.65, 3 750 kilograms for classes A.24 and A.25, 3 000 kilograms for classes A.42 to A.45, 13 000 kilograms for classes A.46, A.47, A.56 and A.57, 14 000 kilograms for classes A.48 and A.49, 6 000 kilograms for classes A.50, A.51, A.62 and A.63, 8 000 kilograms for classes A.52 and A.53 and 10 000 kilograms for classes A.54 and A.55.

37.3 Up to 31 December 1999, the maximum load prescribed by section 20 for classes A.24 and A.25 shall be increased by 1 750 kilograms in respect of the combinations of road vehicles not covered by section 37.2, where the trailer was assembled prior to July 1998.

37.4 Up to 31 December 2000, the maximum load prescribed by section 24 of axles of classes B.44 and B.45 shall be increased by 2 500 kilograms.

37.5 Up to 31 December 2009, the maximum length dimension of any trailer assembled before July 1998 shall be 14.65 metres.

37.6 Up to 31 December 2009, the width dimension provided for in the first paragraph of section 10 shall be increased to 2.6 metres for trailers and semi-trailers assembled prior to July 1998.

37.7 Up to 31 December 2009, the following provisions of this Regulation do not apply to a vehicle assembled before July 1998:

(1) subparagraph *a* of paragraph 7 of section 4;

(2) subparagraph *c* of paragraph 8 of section 4;

(3) subparagraph *b* of paragraph 9 of section 4.

37.8 Up to 31 December 2009, the maximums provided for in paragraphs 1 and 2 of section 4 shall apply to motor vehicles and buses assembled before July 1998 where the distance measured between the centre of rotation of the axis of the last axle and the rear end of the vehicle, load included, is 5 metres or less.

37.9 Up to 31 December 2009, the maximum provided for in paragraph 6 of section 4 shall apply to any combination of road vehicles consisting of a towing vehicle and a single trailer assembled before July 1998.

37.10 Up to 31 December 2009, the load maximum prescribed by sections 14 and 24 for the axles of classes B.34, B.35, B.38 and B.39 of a road vehicle assembled before July 1998 shall be increased by 8 000 kilograms in a normal period and by 6 500 kilograms in a period of thaw.

Up to 31 December 2004, the load maximum provided for in the first paragraph for axles of class B.35 shall be increased by 12 000 kilograms in a normal period and by 9 000 kilograms in a period of thaw in the case of tank semi-trailers and semi-trailers equipped with a non-detachable dumping mechanism.

The period of increase referred to in the second paragraph shall be extended to 31 December 2009 in the case of tank semi-trailers carrying liquids.

37.11 Up to 31 December 2009, the load maximum prescribed by section 20 for classes A.46 to A.49 and A.54 to A.57 shall be increased by 8 000 kilograms in respect of the combinations of road vehicles where the semi-trailer was assembled prior to July 1998.

Up to 31 December 2004, the load maximum prescribed by the first paragraph shall be increased by 12 000 kilograms for classes A.48 and A.49 in the case of tank semi-trailers and semi-trailers equipped with a non-detachable dumping mechanism.

The increasing period referred to in the second paragraph shall be extended to 31 December 2009 in the case of tank semi-trailers carrying liquids.

37.12 Up to 31 December 2009, the load maximum prescribed by sections 14 and 24 for class B.37 of a road vehicle assembled before July 1998 shall be increased by 4 000 kilograms in a normal period and by 3 500 kilograms in a period of thaw.

37.13 Up to 31 December 2009, the load maximum prescribed by section 20 for classes A.52 and A.53 shall be increased by 4 000 kilograms for a road vehicle assembled before July 1998.

37.14 Up to 31 December 2009, the 4.0 metre length provided for in section 20 and in Schedule A for classes A.12 and A.13 shall be reduced to 3.0 metres for a trailer or semi-trailer assembled before July 1998.

37.15 Up to 31 December 2009, the 5.5 metre length provided for in section 20 and in Schedule A for classes A.44 and A.45 shall be reduced to 4.0 metres for a semi-trailer assembled before July 1998.".

23. Schedule A is amended

(1) by substituting the distance of "4 metres" for "4.5 metres" in classes A.12 and A.13;

(2) by substituting the distance of "8 metres" for "9 metres" in classes A.20 and A.21;

(3) by substituting the distance of "12 metres" for "13 metres" in classes A.22 and A.23;

(4) by substituting the distance of "9.5 metres" for "11 metres" in classes A.24 and A.25;

(5) by substituting the distance of "14 metres" for "13.6 metres" in classes A.26 and A.27;

(6) by substituting the distance of "4 metres" for "5 metres" in classes A.40 and A.41;

(7) by substituting the distance of "4.5 metres" for "5.3 metres" in classes A.42 and A.43;

(8) by substituting the distance of "5.5 metres" for "5.7 metres" in classes A.44 and A.45;

(9) by inserting "or B.33.1" after "B.33" in classes A.44 and A.45;

(10) by substituting the distance of "5 metres" for "6.2 metres" in classes A.46 and A.47;

(11) by substituting the distance of "5 metres" for "6.3 metres" in classes A.48 and A.49;

(12) by substituting the distance of "4 metres" for "5.1 metres" in classes A.50 and A.51;

(13) by substituting the distance of "4 metres" for "5.4 metres" in classes A.52 and A.53;

(14) by substituting the distance of "5 metres" for "5.8 metres" in classes A.54 and A.55;

(15) by substituting the distance of "4 metres" for "6.3 metres" in classes A.56 and A.57;

(16) by substituting the distance of "5.5 metres" for "6.2 metres" in classes A.60 and A.61;

(17) by substituting the distance of "5 metres" for "6.5 metres" in classes A.62 and A.63;

(18) by substituting the distance of "5 metres" for "6.3 metres" in classes A.64 and A.65;

(19) by substituting the distance of "6 metres" for "6.3 metres" in classes A.66 and A.67;

(20) by substituting the distance of "5.5 metres" for "5.8 metres" in classes A.68 and A.69;

(21) by substituting the distance of "10 metres" for "10.5 metres" in classes A.70 and A.71;

(22) by substituting the distance of "16.5 metres" for "16.9 metres" in classes A.90, A.91, A.92, A.93, A.94 and A.95;

(23) by substituting the distance of "16 metres" for "16.3 metres" in classes A.96 and A.97;

(24) by inserting the following after class A.85:

"A.86 Any combination of road vehicles forming a Type C double train with 7 axles, 4 of which form 2 tandem axles, composed of a tractor, a semi-trailer and a trailer with a double drawbar dolly and meeting the following specifications, belongs to this class:

(1) the tractor has 2 axles or, as the case may be, 3 axles, 2 of which form a tandem axle;

(2) the distance between the axes of the axles of the tandems, including that included in class B.57, is not more than 1.85 metres;

(3) the distances between the centre of interaxle spacings belonging to various groups of axles on the combination of road vehicles shall be at least:

(a) 5 metres between the tandem of the tractor and that under the first semi-trailer;

(b) 3 metres in other cases;

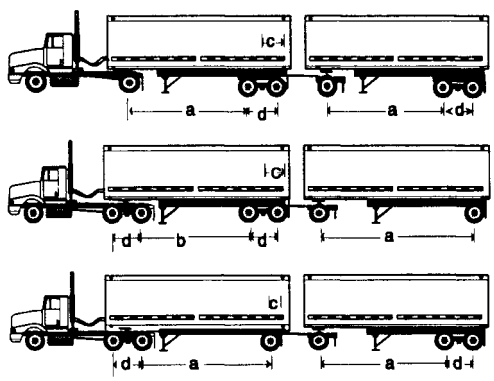
(4) the distance between the centre of the single axle or the tandem axle of the semi-trailer and the centre of the pintle hooks is not more than 1.8 metres;

(5) the distance between the centre of the king pin and the centre of their single axle or the centre of their tandem axle is not less than 6.25 metres;

(6) the dolly is equipped with a single axle and meets the requirements of section 903 of the Motor Vehicle Safety Regulations[***];

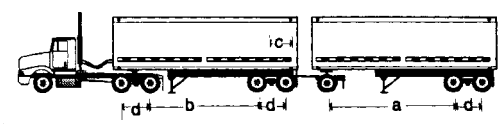
[***] The Motor Vehicle Safety Regulations was made by Order in Council SOR/91-258 and amended by Order in Council SOR/93-146.

(7) attachment to the semi-trailer with the lowest loaded mass, determined by the sum of axle loads measured under the wheels of the combination of vehicles which distribute their respective mass of semi-trailers, form a trailer with the dolly, as shown below:



$a \geq 3.0$ m
$b \geq 5.0$ m
$c \leq 1.8$ m
$d \leq 1.85$ m

A.87Any combination of road vehicles forming a Type C double train with 8 axles, 6 of which form 3 tandem axles, composed of a tractor, a semi-trailer and a trailer with a double drawbar dolly and meeting the specifications of class A.86, as shown below, belongs to this class:



$a \geq 3.0$ m
$b \geq 5.0$ m
$c \leq 1.8$ m
$d \leq 1.85$ m.".

(25) by striking out the words "identical pneumatic and" in the second paragraph;

(26) by substituting "A.87" for "A.85" in the third paragraph.

24. Schedule B is amended

(1) by substituting "1.2 metres" for "1 metre" in classes B.20, B.25 and B.30;

(2) by substituting the following for class B.21:

"B.21 Any tandem axle not belonging to another class where the distance between the axes of the axles is 1.2 metres or more belongs to this class.";

(3) by deleting classes B.22, B.23 and B.24;

(4) by substituting the number "3.7" for "4.2" in class B.33;

(5) by inserting the following after class B.33:

"B.33.1 Any triple axle or group of equivalent axles where the distance between the axes of the rear axles of the combination is 3.7 metres or more but less than 4.2 metres belongs to this class.";

(6) by inserting the words "under a single unit vehicle, under a towing vehicle or" after the word "located" in classes B.36 to B.39, B.41 to B.45 and B.51 to B.54;

(7) by substituting the words "of a self-steering axle which, until the year 2015, can be replaced by a single axle on vehicles assembled before January 2003" for the words "of a single axle" in paragraph 1 of classes B.44 and B.45;

(8) by substituting the following for class B.55:

"B.55 Any combination of 2 or more single axles under a single unit road vehicle, under a towing vehicle, under a semi-trailer or under a trailer not equipped with a dolly where the distance between the axes of the rear axles is 2.4 metres or more belongs to this class.

B.56 Any combination of 2 single axles where one is located at the rear of the first semi-trailer of a Type C double train referred to in class A.86 and the other one under the dolly of the trailer, and where the distance between the axes is less than 3 metres belongs to this class.

B.57 Any combination of 3 axles, 2 of which form a tandem axle located at the rear of the first semi-trailer of a Type C double train referred to in class A.86 or A.87 and the other one under the dolly of the trailer, and where the distance between the axes of the last axle of the tandem axle and the axle of the dolly is less than 3 metres belongs to this class.";

(9) by adding the following paragraphs at the end:

"For the purposes of this Schedule, the wheels that are not attached to an axle but that are attached under the vehicle in a common axis of rotation shall be included in the classes of axles.

On the vehicles assembled after June 1998, the axle referred to in paragraph 1 of B.44 or B.45 shall, in addition, be attached by a suspension designed to distribute evenly within 1 000 kilograms when the lift axle is lowered, without any possible adjustment, the mass that can be measured under the wheels of each axle. On the vehicles assembled after December 2002, that axle shall, in addition, be a self-steering axle.

From 1 January 2015, only the self-steering axle will remain prescribed by paragraph 1 of classes B.44 and B.45.";

(10) by striking out the words "identical pneumatic and" in the second paragraph.

25. The Regulation is amended by adding the following at the end:

"**SCHEDULE D**

The following belongs to this class:

(1) the intersection of Chemin Manouane and Chemin DesAulnaies in the municipality of Saint-Michel-des-Saints.".

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

2337

Transport

Gouvernement du Québec

O.C. 839-98, 17 June 1998

Lookouts, rest areas, service areas and control stations situated upon the right of way of a road under the management of the Minister of Transport

WHEREAS under section 2 of the Act respecting roads (R.S.Q., c. V-9), the Government shall determine, by an order published in the *Gazette officielle du Québec*, the roads which shall be under the management of the Minister of Transport;

WHEREAS under the second paragraph of section 2 of the Act, any other road which is not under the responsibility of the Government or a government department or agency shall be managed in accordance with subdivision 22.2 of Division XI of the Cities and Towns Act (R.S.Q., c. C-19), or, as the case may be, Chapter 0.1 of Title XIX of the Municipal Code of Québec (R.S.Q., c. C-27.1);

WHEREAS under section 5 of the Act respecting roads, the provisions of that Act which apply to roads shall also apply to lookouts, rest areas, service areas, control stations and parking zones situated upon the right of way of a road;

WHEREAS Orders in Council 483-95 dated 5 April 1995, 327-96 dated 13 March 1996, 1411-96 dated 13 November 1996, 722-97 dated 28 May 1997 and 1539-97 dated 26 November 1997 determined the lookouts, rest areas, service areas and control stations under the management of the Minister of Transport;

WHEREAS it is expedient to add 3 control stations to the list of lookouts, rest areas, service areas and control stations that are already under the management of the Minister of Transport;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Transport:

THAT the Schedules to Orders in Council 483-95 dated 5 April 1995, 327-96 dated 13 March 1996, 1411-96 dated 13 November 1996, 722-97 dated 28 May 1997 and 1539-97 dated 26 November 1997 be amended so as to add the 3 control stations, as described in the Schedule to this Order in Council, in the alphabetical order of municipalities where they are located;

THAT this Order in Council take effect on 17 June 1998.

MICHEL NOËL DE TILLY,
Acting Clerk of the Conseil exécutif

SCHEDULE

LOOKOUTS, REST AREAS, SERVICE AREAS AND CONTROL STATIONS UNDER THE MANAGEMENT OF THE MINISTER OF TRANSPORT

EXPLANATORY NOTE

The lookouts, rest areas, service areas and control stations identified in the "Correction to description", "Additions" or "Deletion" divisions are described for each municipality in which they are located under the following 3 headings:

(1) Name

Name of the road where the equipment is located.

(2) Type of infrastructure

Identification of the type of infrastructure: lookout, rest area, service area, control area or station.

If available, the official name recognized by the Commission de la toponymie is used.

(3) Location, road, segment, section

Identification of the location of the equipment.

Roads are identified by a sequence of figures composed of 4 different groups:

Group 1: road number (5 figures);
Group 2: road segment number (2 figures);
Group 3: road section number (3 figures);
Group 4: side of autoroute (left, right).

ADDITIONS

LITCHFIELD, CT (8404000)

Road name	Type of infrastructure	Section
Route 148	Station	00148-01-180

LOCHABER-PARTIE-OUEST, CT (8006000)

Road name	Type of infrastructure	Section
Route 148	Station	00148-04-110

LOUVICOURT, PART, NO (8990219)

Road name	Type of infrastructure	Section
Route 117	Station	00117-08-031

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M.O., 1998

Order of the Minister of Public Security dated of 18 June 1998 concerning the assignment of jurisdiction over a segment of Autoroute 20 pursuant to section 634.1 of the Highway Safety Code

Highway Safety Code
(R.S.Q., c. C-24.2)

THE MINISTER OF PUBLIC SECURITY,

CONSIDERING section 634.1 of the Highway Safety Code (R.S.Q., c. C-24.2) which provides that the Sûreté du Québec has exclusive jurisdiction to enforce the rules of the Code on an autoroute, subject to the jurisdiction assigned to the highway controllers pursuant to section 519.67 and subject to the jurisdiction that the Minister of Public Security may assign to a police force serving a municipality traversed by an autoroute;

ORDERS THE FOLLOWING:

1. The jurisdiction over the segment of Autoroute 20 located between the municipalities of Sainte-Anne-de-Bellevue and Pincourt is assigned to the Île-Perrot police force;

2. This Ministerial Order comes into force on the date of its publication in the *Gazette officielle du Québec.*

Sainte-Foy, 18 June 1998

PIERRE BÉLANGER

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M.O., 1998

Order of the Minister of Public Security dated of 18 June 1998 concerning the assignment of jurisdiction over a segment of Autoroute 20 pursuant to section 634.1 of the Highway Safety Code

Highway Safety Code
(R.S.Q., c. C-24.2)

THE MINISTER OF PUBLIC SECURITY,

CONSIDERING section 634.1 of the Highway Safety Code (R.S.Q., c. C-24.2) which provides that the Sûreté du Québec has exclusive jurisdiction to enforce the rules of the Code on an autoroute, subject to the jurisdiction assigned to the highway controllers pursuant to section 519.67 and subject to the jurisdiction that the Minister of Public Security may assign to a police force serving a municipality traversed by an autoroute;

ORDERS THE FOLLOWING:

1. The jurisdiction over the segment of Autoroute 20 located between the municipality of Pincourt and intersection of Autoroute 540 is assigned to the Municipality of Vaudreuil-Dorion police force;

2. This Ministerial Order comes into force on the date of its publication in the *Gazette officielle du Québec*.

Sainte-Foy, 18 June 1998

PIERRE BÉLANGER

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Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified

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