



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 21

(2009, chapter 28)

An Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations

**Introduced 24 March 2009
Passed in principle 12 June 2009
Passed 18 June 2009
Assented to 19 June 2009**

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EXPLANATORY NOTES

This Act amends the Professional Code to provide a new definition of professional activities in the field of mental health and human relations for psychologists, social workers, marriage and family therapists, vocational guidance counsellors and psychoeducators.

Under this Act, members of these professions will also engage in the educational, promotional and prevention activities common in certain health professions. This Act specifies suicide prevention as a prevention activity.

This Act reserves activities where there is a risk of prejudice in the field of mental health and human relations to the members of certain professional orders.

Finally, this Act provides a framework for the practice of psychotherapy. It gives a definition of psychotherapy, restricts the right to practise psychotherapy and use the title of psychotherapist to physicians, psychologists and members of professional orders whose members may hold a psychotherapist's permit and provides for the administration of such permits by the Ordre professionnel des psychologues du Québec and the creation of an interdisciplinary advisory council on the practice of psychotherapy.

LEGISLATION AMENDED BY THIS ACT:

- Professional Code (R.S.Q., chapter C-26);
- Nurses Act (R.S.Q., chapter I-8);
- Medical Act (R.S.Q., chapter M-9).

Bill 21

AN ACT TO AMEND THE PROFESSIONAL CODE AND OTHER LEGISLATIVE PROVISIONS IN THE FIELD OF MENTAL HEALTH AND HUMAN RELATIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PROFESSIONAL CODE

1. Section 27 of the Professional Code (R.S.Q., chapter C-26), amended by section 1 of chapter 11 of the statutes of 2008, is again amended by inserting “and a description of any reserved activities they may engage in” after “law” in the third line of the third paragraph.

2. Section 27.2 of the Code, amended by section 1 of chapter 11 of the statutes of 2008, is again amended by inserting “and a description of any reserved activities they may engage in” after “law” in the fourth line of the fourth paragraph.

3. Section 36 of the Code is amended

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

“(d) use the title “Social Worker” or any other title or abbreviation which may lead to the belief that he is a social worker, or use initials which may lead to the belief that he is a social worker or the initials “P.S.W.”, “T.S.P.”, “S.W.” or “T.S.”, or use the title “Marriage and Family Therapist”, “Marriage Therapist”, “Family Therapist”, or a title or abbreviation which may lead to the belief that he is such a therapist, or use the initials “M.F.T.”, “T.C.F.”, “M.T.”, “T.C.”, “F.T.” or “T.F.”, unless he holds a valid permit for that purpose and is entered on the roll of the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec;”;

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

“(g) use the title “Vocational Guidance Counsellor”, “Guidance Counsellor”, “Vocational Counsellor” or any other title or abbreviation which may lead to the belief that he is such a counsellor, or use initials which may lead to the belief that he is such a counsellor, or use the initials “V.G.C.”, “G.C.”, “V.C.”, “C.O.P.”, “C.O.” or “O.P.”, or use the title “Psychoeducator” or any other title or abbreviation which may lead to the belief that he is a psychoeducator, or

use initials which may lead to the belief that he is a psychoeducator, or use the abbreviations “Ps. Ed.” or “ps. éd.”, unless he holds a valid permit for that purpose and is entered on the roll of the Ordre professionnel des conseillers et conseillères d’orientation et des psychoéducateurs et psychoéducatrices du Québec;”.

4. Section 37 of the Code is amended

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

“(d) the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec:

“i. if practising the profession of social worker: assess social functioning, determine an intervention plan and see to its implementation, and support and restore social functioning in relation to a person’s milieu with a view to fostering the optimal development of the person in interaction with his environment;

“ii. if practising the profession of marriage and family therapist: assess the relationship dynamics of couples and families, determine a treatment and intervention plan, and restore and improve a couple’s or a family’s lines of communication with a view to fostering better relations between spouses or family members in interaction with their environment;”;

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

“(e) the Ordre professionnel des psychologues du Québec: assess psychological and mental functioning, and determine, recommend and carry out interventions or treatments with a view to fostering the psychological health and restoring the mental health of a person in interaction with his environment;”;

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

“(g) the Ordre professionnel des conseillers et conseillères d’orientation et des psychoéducateurs et psychoéducatrices du Québec:

“i. if practising the profession of vocational guidance counsellor: assess psychological functioning, personal resources and the conditions of the milieu, respond to needs with regard to identity, and develop and maintain proactive adjustment strategies with a view to helping a person make personal and vocational choices throughout life, regain socio-vocational autonomy and carry out career projects in interaction with his environment;

“ii. if practising the profession of psychoeducator: assess adjustment problems and the capacity to adjust, determine an intervention plan and see to its implementation, restore and develop a person’s capacity to adjust, and

contribute to the development of the conditions in the milieu with a view to fostering the optimal adjustment of the person in interaction with his environment;”;

(4) by adding “for a person in interaction with his environment” at the end of paragraph *m*;

(5) by replacing “the functional abilities of a person” in the first and second lines of paragraph *o* by “functional abilities”;

(6) by replacing “skills” in the third line of paragraph *o* by “a person’s skills”, and by replacing “in order to foster optimal autonomy” at the end of that paragraph by “with a view to fostering the optimal autonomy of the person in interaction with his environment”.

5. Section 37.1 of the Code is amended

(1) by inserting the following paragraphs after paragraph 1:

“(1.1) the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec:

“ (1.1.1) if practising the profession of social worker:

“(a) assess a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional;

“(b) assess a person further to a decision of the director of youth protection or of a tribunal made under the Youth Protection Act (chapter P-34.1);

“(c) assess an adolescent further to a decision of a tribunal made under the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1);

“(d) assess a person with regard to child custody and access rights;

“(e) assess a person who wishes to adopt a child;

“(f) undertake the psychosocial assessment of a person with regard to the protective supervision of a person of full age or with regard to a mandate given in anticipation of the mandator’s incapacity;

“(g) determine the intervention plan for a person who suffers from a mental disorder or exhibits suicidal tendencies and who resides in a facility run by an institution operating a rehabilitation centre for young persons with adjustment problems;

“(h) assess a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required;

“(i) make decisions as to the use of restraint measures in accordance with the Act respecting health services and social services (chapter S-4.2) and the Act respecting health services and social services for Cree Native persons (chapter S-5); and

“(j) make decisions as to the use of isolation measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons;

“(1.1.2) if practising the profession of marriage and family therapist:

“(a) assess a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional;

“(b) assess a person with regard to child custody and access rights; and

“(c) assess a person who wishes to adopt a child;

“(1.2) the Ordre professionnel des psychologues du Québec:

“(a) assess a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional;

“(b) assess mental disorders;

“(c) assess neuropsychological disorders, provided a training certificate has been issued to the member by the Order pursuant to a regulation under paragraph *o* of section 94;

“(d) assess an adolescent further to a decision of a tribunal made under the Youth Criminal Justice Act;

“(e) assess a person with regard to child custody and access rights;

“(f) assess a person who wishes to adopt a child;

“(g) assess a handicapped student or a student with a social maladjustment with a view to formulating an individualized education plan in accordance with the Education Act (chapter I-13.3);

“(h) assess a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required;

“(i) make decisions as to the use of restraint measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons; and

“(j) make decisions as to the use of isolation measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons;

“(1.3) the Ordre professionnel des conseillers et conseillères d’orientation et des psychoéducateurs et psychoéducatrices du Québec:

“(1.3.1) if practising the profession of vocational guidance counsellor:

“(a) assess a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional;

“(b) assess mental disorders, provided a training certificate has been issued to the member by the Order pursuant to a regulation under paragraph *o* of section 94;

“(c) assess mental retardation;

“(d) assess a handicapped student or a student with a social maladjustment with a view to formulating an individualized education plan in accordance with the Education Act; and

“(1.3.2) if practising the profession of psychoeducator:

“(a) assess a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional;

“(b) assess a person further to a decision of the director of youth protection or of a tribunal made under the Youth Protection Act;

“(c) assess an adolescent further to a decision of a tribunal made under the Youth Criminal Justice Act;

“(d) determine the intervention plan for a person who suffers from a mental disorder or exhibits suicidal tendencies and who resides in a facility run by an institution operating a rehabilitation centre for young persons with adjustment problems;

“(e) assess a handicapped student or a student with a social maladjustment with a view to formulating an individualized education plan in accordance with the Education Act;

“(f) assess a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required;

“(g) make decisions as to the use of restraint measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons; and

“(h) make decisions as to the use of isolation measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons;”;

(2) by adding the following subparagraphs after subparagraph *d* of paragraph 2:

“(e) assess a handicapped student or a student with a social maladjustment with a view to formulating an individualized education plan in accordance with the Education Act; and

“(f) assess a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required;”;

(3) by adding the following subparagraphs after subparagraph *d* of paragraph 4:

“(e) make decisions as to the use of isolation measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons;

“(f) assess a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional;

“(g) assess a handicapped student or a student with a social maladjustment with a view to formulating an individualized education plan in accordance with the Education Act; and

“(h) assess a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required;”.

6. Section 38 of the Code is amended by adding the following paragraph:

“The right to exercise a professional activity reserved under section 37.1 for members of a professional order must not be interpreted as prohibiting members of an order to which this division applies from exercising the activities described in section 37, in the letters patent constituting an order or in an amalgamation or integration order.”

7. Section 39.2 of the Code is amended by inserting “to 26, 28” after “24”.

8. Section 39.4 of the Code is amended

(1) by inserting “suicide,” after “preventing”;

(2) by replacing “The field of practice of the members of an order” by “The practice of the profession of the members of an order also”.

9. Section 182.1 of the Code, amended by section 1 of chapter 42 of the statutes of 2007 and by sections 1 and 129 of chapter 11 of the statutes of 2008, is again amended by replacing “the second paragraph of section 187.4” in subparagraph 1 of the first paragraph by “the first paragraph of section 187.4.1”.

10. Section 182.2 of the Code, amended by section 2 of chapter 42 of the statutes of 2007 and by sections 1 and 130 of chapter 11 of the statutes of 2008, is again amended by replacing “the second paragraph of section 187.4” in the sixth paragraph by “the first paragraph of section 187.4.1”.

11. Chapter VI.1 of the Code, comprising sections 187.1 to 187.5, is replaced by the following chapter:

“CHAPTER VI.1

“PSYCHOTHERAPIST’S PERMIT

“187.1. With the exception of physicians and psychologists, no person shall practise psychotherapy or use the title of “Psychotherapist” or any other title or abbreviation which may lead to the belief that he is a psychotherapist, unless he holds a psychotherapist’s permit and is a member of the Ordre professionnel des conseillers et conseillères d’orientation et des psychoéducateurs et psychoéducatrices du Québec, the Ordre professionnel des ergothérapeutes du Québec, the Ordre professionnel des infirmières et infirmiers du Québec or the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec.

Psychotherapy is psychological treatment for a mental disorder, behavioural disturbance or other problem resulting in psychological suffering or distress, and has as its purpose to foster significant changes in the client’s cognitive, emotional or behavioural functioning, his interpersonal relations, his personality or his health. Such treatment goes beyond help aimed at dealing with everyday difficulties and beyond a support or counselling role.

The Office shall establish by regulation a list of actions which relate to psychotherapy but do not constitute psychotherapy within the meaning of the second paragraph, and shall define those actions.

“187.2. Every physician, psychologist or holder of a psychotherapist’s permit shall practise psychotherapy in accordance with the laws and regulations governing the physician, psychologist or permit holder, and with the following rules:

- (1) establish a structured process of interaction with the client;
- (2) do a thorough initial evaluation;
- (3) apply therapeutic procedures based on communication; and

(4) use scientifically recognized theoretical models and proven intervention methods that respect human dignity.

“187.3. To obtain a psychotherapist’s permit, a person shall apply to the board of directors of the Ordre professionnel des psychologues du Québec and pay the annual fees set by the board.

“187.3.1. The Office shall determine, by regulation,

(1) the conditions to be met for a physician, psychologist or holder of a psychotherapist’s permit to use the title of “Psychotherapist”;

(2) the standards for the issue of a psychotherapist’s permit; and

(3) the framework for the continuing education requirements with which a physician or psychologist practicing psychotherapy, or a holder of a psychotherapist’s permit must comply, in accordance with the conditions set by resolution of the board of directors of the Collège des médecins du Québec and the Ordre professionnel des psychologues du Québec, the penalties for failing to comply and, where applicable, the cases in which a member may be exempted from complying.

“187.3.2. In exercising the regulatory power conferred by section 187.3.1, the Office is authorized to take transitional measures during the first six years following (*insert the date of coming into force of section 187.1 enacted by section 11 of this Act*). These measures may have effect, in whole or in part, from any date not prior to that date.

The Office is also authorized, for the period specified in the first paragraph and under the conditions it determines, to allow a psychotherapist’s permit to be issued by the board of directors of the Ordre professionnel des psychologues du Québec to persons who do not satisfy the conditions of issue respecting a permit of one of the professional orders whose members may practise psychotherapy, and to determine the provisions of the Professional Code and the regulations made under it by the board of directors of the Ordre professionnel des psychologues du Québec that will apply to such a holder of a psychotherapist’s permit.

“187.4. When carrying out a specific inspection or an inquiry, the professional inspection committee or the syndic of the professional order to which the holder of a psychotherapist’s permit belongs must retain the services of an expert who is a member of the Ordre professionnel des psychologues du Québec.

The board of directors of the professional order to which the holder of a psychotherapist’s permit belongs must inform the board of directors of the Ordre professionnel des psychologues du Québec of any recommendation or decision made by the professional inspection committee or the disciplinary

council and of any decision of the board of directors further to that recommendation concerning a member of the same order who holds a psychotherapist's permit.

“187.4.1. The board of directors of the Ordre professionnel des psychologues du Québec may suspend or revoke the psychotherapist's permit of any person who fails to maintain his membership in a professional order, pay the annual fees, meet the conditions relating to the use of the title of “Psychotherapist”, or satisfy the standards for the issue of a psychotherapist's permit.

A decision made under the first paragraph may be appealed from to the Professions Tribunal in accordance with the provisions of Division VIII of Chapter IV.

“187.4.2. The board of directors of the Ordre professionnel des psychologues du Québec shall suspend or revoke a psychotherapist's permit if the holder has been the subject of a decision by the board of directors of the professional order of which he is a member or of a final decision by the disciplinary council of that order or by the Professions Tribunal, imposing a suspension or a full restriction on the right to practise psychotherapy. The permit is suspended for the duration specified in the decision of the board of directors, the disciplinary council or the Professions Tribunal.

If the holder of a psychotherapist's permit has been the subject of a decision by the board of directors of the professional order of which he is a member or of a final decision by the disciplinary council of that order or by the Professions Tribunal, imposing a partial restriction on the right to practise psychotherapy, the board of directors of the Ordre professionnel des psychologues du Québec shall restrict, under the same conditions, the right to practise psychotherapy.

The board of directors of the Ordre professionnel des psychologues du Québec shall inform the board of directors of the professional order of which the holder of the psychotherapist's permit is a member of any suspension or revocation of the permit.

“187.4.3. Any penal proceedings for the unlawful practice of psychotherapy or the unauthorized use of the title of “Psychotherapist” are instituted by the Ordre professionnel des psychologues du Québec on a resolution of the board of directors or the executive committee.

“187.5. An interdisciplinary advisory council on the practice of psychotherapy is hereby established within the Ordre professionnel des psychologues du Québec for a ten-year term renewable by the Government.

“187.5.1. The mandate of the interdisciplinary advisory council is to give advisory opinions and make recommendations to the Office des professions du Québec on the draft regulations made by the Office under this chapter, before their adoption by the Office, and on any other matter concerning the practice of psychotherapy that the Office considers expedient to submit to it.

It is also the mandate of the interdisciplinary advisory council to give advisory opinions and make recommendations to the board of directors of the professional orders whose members may practise psychotherapy on the draft regulations on the practice of psychotherapy made by those orders, before their adoption by the order in question, and on any other matter concerning the practice of psychotherapy that the board of directors considers expedient to submit to it.

The interdisciplinary advisory council must also, through the agency of the Office, give advisory opinions and make recommendations to the Minister responsible for the administration of legislation respecting the professions, on any matter concerning the practice of psychotherapy that the Minister considers expedient to submit to it.

“187.5.2. The interdisciplinary advisory council consists of the following members appointed by the Government for their knowledge, experience or professional expertise in the field of psychotherapy:

(1) two psychologists, one of whom is the chair of the council, after consultation with the Ordre professionnel des psychologues du Québec;

(2) two physicians, one of whom is the vice-chair of the council, after consultation with the Collège des médecins du Québec;

(3) a member from each professional order whose members may hold a psychotherapist’s permit and, if applicable, a holder of each class of permit issued by that professional order, after consultation with the order concerned.

The interdisciplinary advisory council may consult any person whose expertise is required or who represents a body concerned in a matter under consideration, and authorize him to participate in its meetings.

“187.5.3. The interdisciplinary advisory council may adopt rules for the conduct of its affairs.

“187.5.4. The advisory opinions and recommendations submitted by the interdisciplinary advisory council must, if applicable, include the position of each member.

The advisory opinions and recommendations must be filed with the Office des professions du Québec or with the Minister responsible for the administration of legislation respecting the professions.

“187.5.5. The Ordre professionnel des psychologues du Québec shall provide the necessary administrative support to the interdisciplinary advisory council, see to the preparation and conservation of its minutes, advisory opinions and recommendations, and convene its meetings when requested.

The operating costs of the interdisciplinary advisory council shall be assumed jointly by the Ordre professionnel des psychologues du Québec and the professional orders whose members may practise psychotherapy.

“187.5.6. At the expiry of a period of five years after (*insert the date of coming into force of section 187.5 enacted by section 11 of this Act*) and every five years thereafter, the interdisciplinary advisory council shall report to the Office des professions du Québec on the implementation of the provisions of Chapter VI.1 and in particular of the transitional measures set out in section 187.3.2.

The Minister responsible for the administration of legislation respecting the professions shall, not later than six months after the expiry of any period set out in the first paragraph, present a report to the Government on the implementation of the provisions of Chapter VI.1.

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

12. Schedule I to the Code is amended by replacing paragraph 28 by the following paragraph:

“28. The Ordre professionnel des conseillers et conseillères d’orientation et des psychoéducateurs et psychoéducatrices du Québec;”.

NURSES ACT

13. Section 14 of the Nurses Act (R.S.Q., chapter I-8), amended by section 212 of chapter 11 of the statutes of 2008, is again amended by adding the following paragraph at the end:

“(g) determine the training and clinical experience in psychiatric nursing care required to exercise the activity referred to in subparagraph 16 of the second paragraph of section 36.”

14. Section 36 of the Act is amended

(1) by replacing “a person’s state of health, determining and carrying out of the” in the first paragraph by “health, determining and carrying out the”;

(2) by replacing “or restore health and” in the first paragraph by “and restore the health of a person in interaction with his environment and”;

(3) by adding the following subparagraphs at the end of the second paragraph:

“(15) deciding to use isolation measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons;

“(16) assessing mental disorders, except mental retardation, if the nurse has the university degree and clinical experience in psychiatric nursing care required under a regulation made in accordance with paragraph *g* of section 14;

“(17) assessing a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required.”

MEDICAL ACT

15. Section 31 of the Medical Act (R.S.Q., chapter M-9) is amended

(1) by replacing “in the health of human beings” in the first paragraph by “in health”;

(2) by replacing “restore health” at the end of the first paragraph by “restore the health of a person in interaction with his environment”;

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

“(11) deciding to use isolation measures in accordance with the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons.”

TRANSITIONAL AND FINAL PROVISIONS

16. Holders of a social worker’s permit or a marriage and family therapist’s permit issued by the board of directors of the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec may practise the activities reserved for their respective professions under paragraph 1.1 of section 37.1, enacted by paragraph 1 of section 5, within the framework of the activities that paragraph *d* of section 37, enacted by paragraph 1 of section 4, allows them to practise, until the date of coming into force of a regulation made by the board of directors of the Ordre professionnel des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec under paragraph *m* of section 94 of the Professional Code.

17. Holders of a vocational guidance counsellor’s permit or a psychoeducator’s permit issued by the board of directors of the Ordre professionnel des conseillers et conseillères d’orientation et des psychoéducateurs et psychoéducatrices du Québec may practise the activities reserved for their respective professions under paragraph 1.3 of section 37.1, enacted by paragraph 1 of section 5, within the framework of the activities

that paragraph *g* of section 37, enacted by paragraph 3 of section 4, allows them to practise, until the date of coming into force of a regulation made by the board of directors of the Ordre professionnel des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec under paragraph *m* of section 94 of the Professional Code.

18. Anyone who, at the date of coming into force of a provision of section 5 of this Act, fails to fulfil the conditions for obtaining the permit of an order referred to in the provision for the activities reserved for its members and who was exercising the professional activity referred to in the provision at the date of its coming into force or at the date that is one year after 19 June 2009, whichever is earlier, may continue to exercise the activity as long as the order concerned is informed in the manner determined by its board of directors.

The board of directors of an order referred to in the first paragraph may determine by regulation the terms and conditions on which such a person may exercise the activity; the regulation may also determine which of the regulatory standards applicable to the members of the order apply to that person. Before adopting such a regulation, the board of directors must consult any order whose members exercise the activity.

Section 95 of the Professional Code applies to a regulation referred to in the second paragraph.

The first paragraph does not apply to the activities referred to in subparagraphs *b* and *c* of paragraph 1.2 or in subparagraphs *b* and *c* of subparagraph 1.3.1 of paragraph 1.3 of section 37.1 amended by paragraph 1 of section 5 of this Act.

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