

**6.** The money orders, bank drafts, cheques or securities provided as a guarantee must be deposited with the Minister of Finance pursuant to the Deposit Act (R.S.Q., c. D-5) for the operational period of the facility and for a period of 12 months following the cessation of operations for any reason whatsoever or the transfer of the certificate of authorization, whichever occurs first.

**7.** A guarantee provided in the form of security or an irrevocable letter of credit must have a term of not less than 12 months. Not less than 60 days before the expiry of the guarantee, its holder must send a renewed guarantee to the Minister of Sustainable Development, Environment and Parks, or any other guarantee meeting the requirements prescribed by sections 4 and 5.

The guarantee must also contain a clause setting at not less than 12 months after its expiry or, as the case may be, after its revocation, rescission or cancellation, the time period for filing a claim based on failure on the part of the operator to perform the operator's obligations.

A clause of revocation, rescission or cancellation of a guarantee may take effect only if prior notice of at least 60 days is sent by registered or certified mail to the Minister.

**8.** If the operator fails to perform an obligation and the default persists after a notice from the Minister to remedy the failure, the Minister uses the guarantee required under section 2 to pay expenses necessary for performance of the obligation. The sums required to fulfil a financial guarantee provided under this Division become payable.

**9.** Any person that operates a reclamation facility without providing the guarantee required under section 2 of this Regulation is liable to a fine,

(1) in the case of a natural person, of \$2,000 to \$15,000;

(2) in the case of a legal person, of \$5,000 to \$100,000.

In the case of a second or subsequent offence, the fine is doubled.

**10.** An operator of a reclamation facility existing on (*insert the date of coming into force of this Regulation*) has 6 months from that date to provide the Minister with a guarantee complying with the requirements of this Regulation.

**11.** This Regulation applies to the immovables in a reserved area or an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., c. P-41.1).

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

9531

### Draft Regulation

Professional Code  
(R.S.Q., c. C-26)

#### Administrateurs agréés — Indemnity fund

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the indemnity fund of the Ordre des administrateurs agréés du Québec adopted by the Board of directors of the Ordre des administrateurs agréés du Québec, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The purpose of this draft Regulation is to determine the indemnity procedures and to provide for the establishment of the terms and conditions of the indemnity fund. It also provides for funds management and investment rules.

The draft regulation will have no impact on the enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Denise Brosseau, Director and secretary of the Ordre des administrateurs agréés du Québec, 910, Sherbrooke West, bureau 100, Montreal (Québec) H3A 1G3; telephone: 514 499-0880 or 1 800 465-0880; fax: 514 499-0892.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-days period to the Chair of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister of Justice and may also be sent to the professional order concerned and to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,  
*Chair of the Office des  
professions du Québec*

## Regulation respecting the indemnity fund of the Ordre des administrateurs agréés du Québec

Professional Code  
(R.S.Q., c. C-26, s. 89.1; 2008, c. 11, s. 58)

### SECTION I CONSTITUTION OF AN INDEMNITY FUND

**1.** The board of directors of the Ordre des administrateurs agréés du Québec establishes an indemnity fund that must be used to indemnify a claimant following the use of sums or goods for purposes other than those for which he had entrusted them to a chartered administrator in the exercise of his profession.

**2.** The fund shall be maintained at a minimum amount of \$100,000. Less any administrative expenses related to this fund, it consists of:

1° the sums already allocated for this purpose at the date on which this regulation comes into force;

2° the sums allocated therefore by the board of directors;

3° the assessments fixed for that purpose;

4° the sums recovered from the offending chartered administrator under a subrogation or pursuant to section 159 of the Professional Code (R.S.Q. c. C-26);

5° interests and other income generated by the sums constituting the fund;

6° the sums of money which may be paid by an insurance or reinsurance company under an insurance policy subscribed by the Ordre for all its members;

7° sums received by the Ordre for this fund;

8° interest and other income generated by the chartered administrator general trust accounts.

### SECTION II ADMINISTRATION AND INVESTMENT RULES OF THE INDEMNITY FUND

**3.** The executive committee administers the indemnity fund. It is authorized to enter into a group insurance or reinsurance contract for the purposes of the fund and to pay the premiums thereof out of the fund.

**4.** The accounting of the fund shall be separate from the general accounting of the Ordre.

**5.** The sums constituting the fund are invested by the executive committee as follows:

1° the portion of those sums which the executive committee intends to use on a short-term basis is deposited in a financial institution regulated by An Act respecting Trust companies and savings companies (R.S.Q., c. S-29.01), the Bank Act (S.C. 1991, c. 46), An Act respecting financial services cooperatives (R.S.Q. c. C-67.3) or by the Trust and Loan Companies Act (S.C. 1991, c. 45);

2° the balance is invested in accordance with section 1339 of the Quebec Civil Code.

### SECTION III CLAIMS

**6.** A claim must be forwarded to the secretary of the Ordre at its head office.

**7.** The secretary of the Ordre enters the claim on the agenda for the first meeting of the executive committee following its receipt.

**8.** A claim must:

1° be submitted in writing and under oath;

2° state all facts in support of the claim and be accompanied by all relevant documents;

3° indicate the amount claimed.

**9.** A claim in respect of a chartered administrator may be filed whether or not a decision of the Disciplinary Council, the Professions Tribunal or any other competent tribunal has been rendered.

**10.** In order for a claim to be receivable, it must be filed within 12 months from the time the claimant becomes aware that sums and goods have been used for purposes other than those for which they were entrusted to a chartered administrator in the practice of his profession.

**11.** The executive committee may extend the delay provided for in section 10 if the claimant demonstrates that, for a reason beyond his control, he was unable to file his claim within the required delay.

**12.** A request made to the Ordre by a person for an inquiry with regard to facts likely to give rise to a claim against the fund is deemed to be a claim within the meaning of section 8 if the request for an inquiry is filed within the time period contemplated in section 10.

**13.** Upon the request of the executive committee, of the person designated or committee designated to hold an inquiry, the claimant or the chartered administrator concerned shall provide all the details and documents relating to the claim and produce any relevant proof.

**14.** The executive committee decides on a timely basis whether it is expedient to accept a claim in whole or in part and, where applicable, fixes the indemnity. Its decision is final.

**15.** The maximum indemnity payable from the indemnity fund for the period covering the fiscal year of the Ordre is limited to \$100,000 for all claims concerning a chartered administrator.

When the executive committee believes that claims in excess of this amount may be presented with regards to the same chartered administrator, it shall suspend the payment of indemnities until it has reviewed all claims concerning this chartered administrator. It shall prepare an inventory of the funds, securities and other property entrusted to this chartered administrator and advise in writing the persons likely to file a claim.

The maximum indemnity is reconsidered every five years, starting the day the present Regulation comes in force.

**16.** The balance of a chartered administrator's trust account the sums of which have been blocked or otherwise disposed of in accordance with section 30, is distributed by the secretary of the Ordre at the expiry of a 60 day delay starting on the date of publication of a notice to that effect in a newspaper having general circulation in the location where the chartered administrator has or had his professional domicile, among the claimants on a prorata basis according to the amounts of their claims allowed, up to the amount of the claim, less the indemnity fixed under section 14.

**17.** Before receiving the indemnity set by the executive committee, the claimant must sign a discharge in favor of the Ordre of his claim up to the amount of the indemnity, against the offending chartered administrator, his successors and any person, partnership or legal person that is or might be held liable for such payment.

#### SECTION IV FINAL AND TRANSITORY PROVISIONS

**18.** This regulation replaces the Regulation respecting the indemnity fund of the Corporation professionnelle des administrateurs agréés du Québec (R.Q., 1981, c. C-26, r.12).

However, the Regulation respecting the indemnity fund of the Corporation professionnelle des administrateurs agréés du Québec continues to apply to the claims filed to the fund before the date on which the present regulation came into force as well as to the claims filed against the fund after that date but which relate to events that took place prior to that date.

**19.** This regulation comes into force on the fifteenth day which follows the date of its publication in the *Gazette Officielle du Québec*.

9528

### Draft Regulation

Professional Code  
(R.S.Q., c. C-26)

#### Midwives — Code of ethics

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Code of ethics of midwives, adopted by the board of directors of the Ordre des sages-femmes du Québec, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation replaces the Code of ethics of midwives to increase the duties and obligations of midwives towards the woman, the public and the profession, to ensure better protection of the public.

The draft Regulation is not likely to have an impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Dominique Porret, President, Ordre des sages-femmes du Québec, 204, rue Notre-Dame Ouest, bureau 400, Montréal (Québec) H2Y 1T3; telephone: 514 286-1313 or 1 877 711-1313; fax: 514 286-0008.

Any person wishing to comment on the draft Regulation is requested to submit comments within the 45-day period to the Chair of the Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister of Justice and may also be sent to the Order and to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,  
*Chair of the Office des  
professions du Québec*