

7. Agent licence holders must exercise their functions with dignity and loyalty and avoid any situation of conflict of interest.

To that end, they must not

(1) resort to or take part in fraudulent or illegal practises;

(2) accept money or another consideration in the exercise of their functions, other than what is allocated to them for that purpose; or

(3) grant, solicit or accept an undue favour or advantage for themselves or another person.

8. Agent licence holders are bound by discretion regarding matters of which they have knowledge in the exercise of their functions and must, at all times, respect the confidential nature of the information thus received. They may not use that information for their own benefit or the benefit of a third party.

9. Agent licence holders authorized to carry a firearm in the exercise of their functions under the Firearms Act (S.C. 1995, c. 39) must use it with caution and judgment.

To that end, they must not

(1) show, manipulate or point his or her firearm without justification; or

(2) neglect to take the measures necessary to prevent that his or her firearm be used by any other person.

10. 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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Draft Regulation

Travel Agents Act
(R.S.Q., c. A-10)

Travel agents — 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 travel agents, appearing below, may be made by the Government on the expiry of 25 days following this publication.

The urgency of the situation requires a shorter period than the period provided for in section 11 of the Regulations Act, as permitted under section 12 of that Act, because the draft Regulation, which contains a number of measures necessary for the application of the new legislative provisions provided for in the Act to amend the Act respecting the Consumer Protection Act and other legislative provisions (S.Q., 2009, c. 51), must come into force on the same date as that Act, that is not later than 30 June 2010.

The draft Regulation completes the legislative provisions recently passed with respect to the elimination of the distinction between retail travel agents and wholesale travel agents, the possibility for travel counsellors to perform travel agent operations without holding licences and the use of part of the income from the Fonds d'indemnisation des clients des agents de voyages for information and education of travel agents' customers. It also updates the regulation with respect to new developments in the travel industry.

The draft Regulation provides for the creation of two new classes of licences, namely the general licence for travel agents and the restricted licence for adventure travel organizers, outfitters and regional tourist associations. It prescribes terms and conditions for issuing and renewing the general licence and the restricted licence, and revises the rules relating to security to be provided. The draft Regulation also sets out the conditions for issuing and renewing the travel counsellor certificate. It provides certain exceptions to the application of the Act.

The draft Regulation proposes to allow the operation of an establishment from home under certain conditions. It provides rules relating to advertisement on travel agents' websites. It also proposes a framework for unilaterally changing the price of tourist services in contracts already signed.

The rules relating to the contribution to the Fonds d'indemnisation des clients des agents de voyages and to the compensation of customers are amended.

Technical adjustments for concordance with the recent amendments to the Act and transitional measures are also proposed.

Certain measures relating in particular to the issue of travel counsellor certificates and restricted licences add to the burden of travel agents and travel counsellors as well as outfitters and adventure travel organizers. On the other hand, measures relating to the indemnity fund have a positive impact on customers of travel agents.

Further information may be obtained by contacting Jean-Louis Renaud, Office de la protection du consommateur, 400, boulevard Jean-Lesage, bureau 450, Québec (Québec) G1K 8W4; telephone: 418 643-1484 or 514 253-6556, extension 2423; fax: 418 644-5721; e-mail: jean-louis.renaud@opc.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 25-day period to the Minister of Justice, 1200, route de l'Église, Québec (Québec) G1V 4M1.

KATHLEEN WEIL,
Minister of Justice

Regulation to amend the Regulation respecting travel agents*

Travel Agents Act

(R.S.Q., c. A-10, s. 3, 1st par., subpars. *a* and *b* and 2nd par., subpar. *c*, s. 4, 2nd par., s. 36, pars. *a*, *b*, *b.1*, *c*, *c.1*, *c.2*, *e*, *g*, *j*, *k*, *l*, *n*, *o* and *p*)

1. The Regulation respecting travel agents is amended by inserting the following after section 1:

“DIVISION I.1 EXCEPTIONS

1.1. The Act does not apply to

(*a*) a person who operates a tourist accommodation establishment and who offers tourist services nearby in addition to accommodation services in the person's establishment;

(*b*) a person organizing adventure travel and offering packages including, in addition to the person's own services, accommodation in a natural setting;

(*c*) an outfitter offering tourist services nearby in addition to accommodation services in the person's establishment;

(*d*) a bus operator performing operations of a travel agent for trips lasting no longer than 72 hours exclusively in Québec;

(*e*) the mandatary of a bus operator selling, in a bus terminal, intercity bus transportation vouchers;

(*f*) a hotel chain and a group of hotel establishments organizing packages including accommodation in more than one establishment of the chain or group, but not including any transportation service.”.

2. The heading of Division II is amended by replacing “CATEGORIES OF TRAVEL AGENTS” by “CLASSES OF TRAVEL AGENT LICENCES”.

3. Section 2 is replaced by the following:

“**2.** The classes of travel agent licences are the following:

(*a*) “general licence” means a licence that authorizes a person dealing with the public in general or members of a particular group, directly or through another travel agent, to perform the operations referred to in section 2 of the Act;

(*b*) “restricted licence” means a licence that authorizes a person dealing with the public in general or members of a particular group, directly or through another travel agent holding a general licence, to perform the operations covered by the class of restricted licence issued on the person's account or behalf.”.

4. The heading of Division III is amended by replacing “CATEGORIES OF CARRIERS” by “CLASSES OF RESTRICTED LICENCES”.

5. Section 3 is replaced by the following:

“**3.** The classes of restricted licences are the following:

(*a*) “restricted adventure travel organizer licence” means a licence that authorizes the person referred to in subparagraph *b* of the first paragraph of section 3 of the Act to organize and sell packages including, accessorially, accommodation services in accommodation establishments governed by the Act respecting tourist accommodation establishments (R.S.Q., c. E-14.2) other than establishments of the rugged furnished lodgings, hospitality villages and camping establishment classes;

(*b*) “restricted outfitter licence” means a licence that authorizes the outfitter referred to in subparagraph *d* of the first paragraph of section 3 of the Act to organize packages including, in addition to outfitting services, transportation services from an arrival airport to the outfitting operation and accommodation services near the arrival airport on arrival and departure;

* The Regulation respecting travel agents (R.R.Q., 1981, c. A-10, r.1) was last amended by the regulation made by Order in Council 1153-2004 dated 8 December 2004 (2004, *G.O.* 2, 3592). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 November 2009.

(c) “restricted regional tourist association licence” means a licence that authorizes a regional tourist association recognized under the Act respecting the Ministère du Tourisme (R.S.Q., c. M-31.2) to market tourist accommodation establishments and tourist attractions of the region, and packages without transportation within the region.

For the purposes of subparagraph *c*, Place d’affaires électronique de l’industrie touristique du Québec is considered a regional tourist association.”.

6. Section 4 is amended

(1) by replacing “The fees for the licence referred to in section 4 of the Act” in the first paragraph by “The duties related to the licence referred to in section 4 of the Act”;

(2) by replacing subparagraphs *a* and *b* in the first paragraph by the following:

“(a) for an application for the issue of a general licence: \$800;

(b) for the renewal of a general licence, the duties are based on the turnover appearing in the financial statements required under paragraph *d* of section 7; the duties are as follows:

General licence renewal	
Turnover	Duties
Up to \$0.5M	\$300
Up to \$2M	\$400
Up to \$5M	\$550
Up to \$10M	\$750
Up to \$20M	\$1,000
Over \$20M	\$1,300

”;

(3) by striking out subparagraph *c* of the first paragraph;

(4) by replacing “the fee” in subparagraph *d* of the first paragraph by “the duties” and “270” by “500”;

(5) by replacing “under section 10, the fee for examining the file is 50% of the amount indicated in paragraph *a*, *b*, *c* or *d*” in subparagraph *e* of the first paragraph by “, the duties are 50% of the duties indicated in subparagraph *a*, *b* or *d*”;

(6) by inserting “or, where the application is filed after the period provided for in section 11.1 of the Act, 75% of the duties indicated in subparagraph *a*, *b* or *d*” at the end of subparagraph *e*;

(7) by replacing subparagraph *f* by the following:

“(f) where the president refuses or where the applicant withdraws the application, the president reimburses 50% of the duties indicated in subparagraph *a*, *b* or *d*”;

(8) by inserting the following after the second paragraph:

“In the case of a restricted licence, the duties provided for in the first paragraph are reduced by 50%.”.

7. The following is inserted after section 4:

“**4.01.** The duties payable under subparagraphs *a*, *b*, *d*, *e* and *f* of the first paragraph of section 4 are increased by 50% where priority processing is requested.”.

8. Section 4.1 is amended

(1) by replacing the word “fees” wherever it appears by the word “duties”;

(2) by replacing “in paragraphs *a*, *b*, *c* and *d* of section 4 shall be indexed” in the first paragraph by “section 3.5, subparagraph *a*, *b* or *d* of the first paragraph of section 4 and section 31.9 are indexed”.

9. Section 5 is replaced by the following:

“**5.** Licences and duplicate licences are issued without any term.

The duties provided for in section 4 for the renewal of a licence are payable once a year on the anniversary date of the licence.

The anniversary date of the licence is the first day of the eighth month following the end of the travel agent’s fiscal year.

If the period between the date of issue and the first anniversary date is shorter or longer than 1 year, the duties payable are set in proportion to that period of time in relation to 1 year.”.

10. The following is inserted after section 5:

“**5.1.** The president may issue a licence for a determined term if the president deems that the public interest is at stake or for administrative reasons.”.

11. Sections 6 to 8 are replaced by the following:

“6. Every person applying for a travel agent licence must send the president, on a form provided by the president, the following information and documents:

- (a) the class of the licence concerned;
- (b) the person’s name, date of birth, domicile address, telephone number and, where applicable, electronic address and fax number;
- (c) a declaration stating that the person is a Canadian citizen or landed immigrant within the meaning of the Immigration and Refugee Protection Act (S.C. 2001, c. 27);
- (d) the names under which the travel agent will carry on business;
- (e) the address of all the establishments where the travel agent will carry on business;
- (f) a declaration certifying compliance of each of the establishments with municipal by-laws relating to uses;
- (g) up to 30 June 2012, a declaration stating that the person has, in the 8 preceding years and for a minimum period of 2 years, permanently performed operations of a travel agent full time on the account of travel agent holding a licence; as of 1 July 2012, a declaration stating that the person has held for less than 5 years a travel agency manager certificate issued by the president after having passed an examination on knowledge of the laws and regulations applying to the travel sector and the management of a travel agency;
- (h) a declaration stating that the person has not been found guilty of fraud, forgery or fraudulent operations in contractual or commercial matters;
- (i) a declaration stating that the person has not been found guilty of an offence against the Act;
- (j) a declaration stating that the person has never held a licence nor held the position of officer or investor for a travel agent who was the cause of a claim paid by any of the collective security funds or the Fonds d’indemnisation des clients des agents de voyages and who did not reimburse the fund;
- (k) a declaration stating that the person has neither gone bankrupt in the 5 years preceding the application nor held the position of officer or investor for a travel agent who has gone bankrupt in the 5 preceding years;

(l) a declaration stating that the person’s principal activity is to carry out management duties at the principal establishment of the person, association or partnership for which the person is applying for a licence;

(m) in the case of a natural person applying for a licence on the person’s account, a declaration stating that the person’s principal activity is to perform operations of a travel agent at the principal establishment corresponding to the licence;

(n) in the case of a person acting on the account of a person, association or partnership,

i. the names, addresses and dates of birth of the officers and investors and their status and interest in the travel agency;

ii. a declaration stating that the officers and investors have not been found guilty of an offence against the Act;

iii. a declaration stating that no officer or investor has gone bankrupt as travel agent, or as officer or investor of a travel agency that has gone bankrupt, in the 5 years preceding the application;

iv. a declaration stating that no officer or investor has been found guilty of fraud, forgery or fraudulent operations in contractual or commercial matters or has been an officer or investor of a travel agent found guilty of such offences;

v. a declaration stating that no officer has ever held a licence or a position as officer or investor for a travel agent who was the cause of a claim paid by any of the collective security funds or the Fonds d’indemnisation des clients des agents de voyages, and who did not reimburse the fund;

vi. a declaration stating that, at the time of the application, the person, association or partnership complied with the provisions relating to legal publicity, if the person, association or partnership is constituted under the statutes of Québec;

(o) where the travel agent is required to register, the Québec business number (NEQ) assigned by the enterprise registrar;

(p) the name and address of the financial institution where is located the trust account and the account number and the name, address and date of birth of the persons authorized to perform banking transactions affecting the trust account.

An application for the issue of a licence must be accompanied by the following:

(a) in the case of a person acting on the account of a person, association or partnership, a copy of the resolution authorizing the applicant to hold a licence on the account of that person, association or partnership;

(b) an opening balance sheet showing that the working capital is at least \$5,000;

(c) a declaration of the date of the end of the travel agent's fiscal year;

(d) if the application is made to continue to operate under a new legal entity, financial statements of the former travel agent as of the date of the application, including the financial statements of the trust account;

(e) documents related to the opening and the signature log of the trust account;

(f) a copy of the articles of constitution, letters patent or any similar document and, where applicable, articles of amendment, articles of amalgamation, supplementary letters patent or any similar document, except where the documents have been filed with the enterprise registrar;

(g) a person, association or partnership constituted under the statutes of a jurisdiction other than Québec must provide any document similar to an attestation issued by the enterprise registrar according to which, at the time of the application, it complied with the requirements relating to legal publicity, if the person, association or partnership was constituted under the statutes of Québec. The document must be issued by the competent authority of that jurisdiction and certify compliance of the person, association or partnership with the statutes of that jurisdiction.

Every licence application must be accompanied by the payable duties referred to in section 4, the security provided for in Division XI and an attestation of the accuracy of the information provided under the first paragraph. The application must be signed by the natural person who files the application.

For the purposes of this section, in the case of a travel agent whose shares are listed on a stock exchange, "investor" refers only to a shareholder holding 10% or more of the voting shares.

7. A licence renewal application must be accompanied by

(a) an attestation that the information required in the first paragraph of section 6 are up-to-date;

(b) the duties payable under section 4;

(c) where applicable, a new security in accordance with Division XI;

(d) the financial statements of the last fiscal year, including those of the trust account and containing a balance sheet showing a minimum working capital, determined on the basis of the turnover mentioned in the financial statements of the last fiscal year; the minimum working capital is set as follows:

Turnover	Minimum working capital
Up to \$1M	\$5,000
Up to \$3M	\$10,000
Up to \$5M	\$15,000
Up to \$10M	\$25,000
Up to \$20M	\$50,000
Over \$20M	\$100,000

8. For the purposes of subparagraphs *b* and *d* of the second paragraph of section 6 and paragraph *d* of section 7,

(a) accounts receivable or payable between a travel agent and a person, association or partnership to which the agent is related or over which the agent exercises control are excluded from the calculation of the working capital;

(b) financial statements prepared by a travel agent providing services to persons domiciled outside Québec through a travel enterprise situated outside Québec must indicate the amount of the sums collected from those persons;

(c) financial statements must indicate separately the amount of the sales of tourist services subject to the contribution to the Fonds d'indemnisation des clients des agents de voyages and the amount of the sales of tourist services performed through another travel agent;

(d) financial statements must contain an auditor's certificate or a mission examination report;

(e) financial statements and what must accompany them must have been prepared by an accountant who is a member of a professional order of accountants recognized in Canada.

8.1. Subparagraph *g* of the first paragraph and subparagraphs *b* and *d* of the second paragraph of section 6 do not apply to an application for a restricted licence. Paragraph *d* of section 7 does not apply to an application for the renewal of a restricted licence.

For an initial application for a restricted licence, if the person on the account of whom the licence is applied for did business in the previous fiscal year, and for an application for the renewal of a restricted licence, the applicant must file a certificate signed by an outside accountant and countersigned by an officer of the travel agent indicating the turnover for the preceding fiscal year and the amount of sales subject to the contribution to the fund and the fact that the working capital has a surplus.

8.2. An application for the issue or renewal of a licence is deemed to be received only if it contains all the required information and is accompanied by the duties payable and the documents required under this Regulation.

8.3. Where the financial statements referred to in paragraph *d* of section 7 or where the certificate required under the second paragraph of section 8.1 indicate that the minimum working capital is not reached, the president may renew the licence provided that the licence holder invests long-term a sum equivalent to the deficit or submits interim financial statements prepared by the outside accountant of the licence holder indicating a working capital greater than the minimum working capital and accompanied by a balance sheet of the trust account.

8.4. A person applying for a change of licence holder must send the president, on the form provided by the president, the information required under subparagraphs *b*, *c*, *g*, *h*, *i*, *j*, *k* and *l* of the first paragraph of section 6 and the document required under subparagraph *a* of the second paragraph of section 6.

Every application for a change of licence holder must be accompanied by the duties payable under section 4 and an attestation of the accuracy of the information sent under the first paragraph. The application must be signed by the natural person who files the application.”.

12. Section 9 is amended

(1) by replacing “renouvellement” in the first paragraph of the French text by “reconduction” and “expiry” in the first paragraph of the English text by “anniversary”;

(2) by replacing “is not accompanied by all the documents required under sections 6 and 8” in the second paragraph by “is deemed incomplete”.

13. Section 9.1 is revoked.

14. Section 10 is amended by replacing “in the form in the Schedule to this Regulation” by “using the form provided by the president”.

15. The following is inserted after section 11:

**“DIVISION IV.1
TRAVEL COUNSELLORS**

11.1. A travel counsellor is exempt from the obligation to hold a licence to perform the operations referred to in section 2 of the Act if the travel counsellor

(a) performs the acts referred to in section 2 of the Act exclusively on the account of a travel agent holding a licence;

(b) is not bound by an employment or service contract with more than 1 travel agent;

(c) performs the operations or is attached to an establishment of the travel agent to whom the counsellor is bound by an exclusive employment or service contract and the establishment is situated less than 200 km from the counsellor’s domicile;

(d) collects funds from a customer on the account of the travel agent to whom the counsellor is bound by an exclusive employment or service contract and deposits the funds in trust;

(e) gives to a customer from whom the counsellor collects funds a receipt compliant with section 18 and made in the name of the travel agent to whom the counsellor is bound by an exclusive employment or service contract;

(f) advertises only under the name of the travel agent to whom the counsellor is bound by an exclusive employment or service contract and does not provide personal contact information, except a mobile telephone number.

11.2. The president issues a travel counsellor certificate where the applicant

(a) has passed an examination on the knowledge of the laws and regulations applying to the travel sector;

(b) has not committed, in the 5 preceding years, an offence against the Act or this Regulation;

(c) has not been found guilty, in the 5 preceding years, of fraud, forgery or fraudulent operations in contractual or commercial matters;

(d) has not made a false declaration or untrue statement of a material fact to obtain a certificate;

(e) has paid the duties provided for in this Regulation.

The certificate is issued without any term and is renewed annually by paying the duties on the anniversary date of its issue.

11.3. The travel counsellor must send a certificate application within 2 years of the date the examination was passed.

11.4. The travel counsellor must, when applying for the issue or renewal of the certificate, send the president

(a) the counselor's name, address, date of birth, telephone number and, where applicable, electronic address and fax number;

(b) the name, address and licence number of the travel agent to whom the counsellor is bound par an exclusive employment or service contract.

11.5. The duties for the issue and the annual renewal of the certificate are set at \$50 and \$25 respectively.

11.6. Within 15 days of the event, the travel counsellor must inform the president of any change to any information referred to in section 11.4.

11.7. The president may suspend or cancel a travel counsellor certificate where the holder

(a) has committed, in the 5 preceding years, an offence against the Act or this Regulation;

(b) has been found guilty, in the 5 preceding years, of fraud, forgery or fraudulent operations in contractual or commercial matters;

(c) has made a false declaration or untrue statement of a material fact to obtain or renew a certificate;

(d) has failed to comply with any condition or obligation prescribed in the Act or in this Regulation.

11.8. The president must, before refusing to issue or renew, suspending or cancelling a certificate, notify in writing the applicant or the certificate holder as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) and allow them at least 10 days to present observations. The president must also notify the applicant or certificate holder of his or her decision in writing and give reasons.

11.9. The certificate ceases to have effect as soon as the employment relationship with the travel agent for whom the counsellor works is broken or the exclusive service contract by which the counsellor is bound to the travel agent is terminated or expires.

Despite section 11.2, a person may obtain a new certificate without having passed the examination required under that section provided the application is made within 5 years of the date on which the certificate ceased to have effect.

DIVISION IV.2 **OPERATION OF AN ESTABLISHMENT AT HOME**

11.10. A travel agent may operate an establishment at his or her domicile or the domicile of a travel counsellor on the following conditions:

(a) the municipality authorizes the travel agent to practise at that address;

(b) a room of the domicile is reserved for that activity;

(c) the telephone and fax numbers and the electronic address used for the travel agent activity are in the name of the travel agent and are different from the numbers and electronic address of the owner of the domicile;

(d) a licence or a duplicate of the licence is issued for that address.”.

16. Section 12 is replaced by the following:

“**12.** A travel agent must, within 15 days of the event, notify the president in writing of any change in the information sent under the first paragraph of section 6 and in the documents sent under subparagraphs *a, c, e, f* and *g* of the second paragraph of section 6.”.

17. The following is inserted after section 13:

“**13.1.** A travel agent must keep up to date a list of travel counsellors working for the agent or with whom the agent has signed an exclusive service contract. On request, a travel agent must send a copy of that list to the president or an inspector or investigator appointed by the president.

13.2. A travel agent who, in accordance with section 16.1 of the Regulation the application of the Consumer Protection Act (R.S.Q., c. P40.1, r.1), wishes to change unilaterally the price of the tourist services provided for in a contract with a customer must

(a) insert in the contract a clause providing for the following:

i. the price for the tourist services sold may only be increased following the imposition of a surcharge on fuel by the carrier or an increase in the exchange rate;

ii. if the increase, without taking into account any increase in the Québec sales tax or Canada's goods and services tax, is equal to or greater than 7% of the price of services, the customer may choose between full and immediate reimbursement of the services or the provision of similar services;

iii. no price increase may occur within 15 days preceding the date on which the services must be provided;

(b) inform the customer verbally and in writing, before entering into the contract, of the content of the clause.”.

18. Section 15 is amended

(1) by striking out the second paragraph;

(2) by inserting the following at the end:

“Subparagraph *b* of the first paragraph does not apply to advertisement on a transactional website provided that the following compulsory mention appears prominently and legibly in a box on the home page:

“Prices on our website are valid if you purchase services in a same session. If you log off our website, prices may be different the next time you log on.”.

19. Section 18 is amended

(1) by striking out “retail” in paragraph 1;

(2) by replacing “.” at the end of subparagraph *g* of paragraph 2 by “;”;

(3) by inserting the following after subparagraph *g* of paragraph 2:

“(h) the name of the travel counsellor having made the sale to the customer.”;

(4) by inserting the following at the end of the section:

“(4) The travel agent is exempt from including on the receipt the information provided for in subparagraph *f* of the first paragraph provided that the agent gives the customer, with the receipt, a writing to the same effect or a copy of the brochure describing the services purchased and including that information.”.

20. Section 22 is amended by striking out “retail” in the second paragraph and by replacing “the wholesale travel agent” by “another travel agent for whom the travel agent acts as intermediary”.

21. The following is inserted after section 23:

“**23.1.** An outfitter holding a restricted licence may withdraw from the trust account funds for any of the purposes provided for in the second paragraph of section 23. The outfitter may also withdraw a sum not exceeding 30% of the funds in the trust account for the purposes of marketing and supplying the outfitting operation at the beginning of the season.”.

22. Section 27.1 is replaced by the following:

“**27.1.** A travel agent whose turnover is between \$10M and \$20M must submit interim financial statements within 45 days of the end of each quarter of the agent's fiscal year.

A travel agent whose turnover is greater than \$20M must submit interim financial statements within 45 days of the end of each half of the agent's fiscal year.

The financial statements must contain a trust account statement.”.

23. Section 28 is amended by inserting the following at the end of the second paragraph:

“It is also required for the recovery, following the closure of a travel agent, of the contributions to the Fonds d'indemnisation des clients des agents de voyages collected by the travel agent but not sent to the president. The recovery of fines and contributions to the Fonds d'indemnisation des clients des agents de voyages not sent is paid only after the payment of customers' claims.”.

24. Section 29 is amended

(1) by replacing paragraph 1 by the following:

“(1) **General licence:**

(a) upon an application for a general licence, the amount of the security to be paid is, subject to paragraph 4, \$25,000;

(b) the amount of the security to be paid upon an application for the renewal of a general licence is based on the turnover appearing in the financial statements required under section 7; that amount is set as follows:

General licence				
Amount of individual security				
Turnover	First anniversary	Second anniversary	Third anniversary	Fourth anniversary and following
Up to \$1M	\$25,000	\$25,000	\$25,000	\$25,000
Up to \$2M	\$40,000	\$35,000	\$30,000	\$25,000
Up to \$3M	\$55,000	\$45,000	\$40,000	\$30,000
Up to \$4M	\$70,000	\$60,000	\$50,000	\$40,000
Up to \$5M	\$90,000	\$80,000	\$65,000	\$50,000
Up to \$6M	\$105,000	\$100,000	\$75,000	\$60,000
Up to \$7M	\$125,000	\$115,000	\$90,000	\$75,000
Up to \$8M	\$150,000	\$125,000	\$100,000	\$90,000
Up to \$9M	\$175,000	\$150,000	\$125,000	\$100,000
Up to \$10M	\$200,000	\$175,000	\$150,000	\$120,000
Up to \$11M	\$225,000	\$200,000	\$175,000	\$140,000
Up to \$12M	\$225,000	\$215,000	\$200,000	\$160,000
Up to \$13M	\$225,000	\$225,000	\$215,000	\$180,000
Up to \$14M	\$225,000	\$225,000	\$225,000	\$200,000
Up to \$15M	\$225,000	\$225,000	\$225,000	\$215,000
Over \$15M	\$225,000	\$225,000	\$225,000	\$225,000

(1.01) **Restricted licence:**

(a) upon an application for the issue of a restricted licence, the amount of the security to be paid is, subject to paragraph 4, \$15,000 if the person for whom the licence is applied for is not yet in business;

(b) the amount of the security to be paid upon an application for the issue of a restricted licence where the person for whom the licence is applied for is already in business or upon an application for the renewal of a general licence is based on the turnover appearing in the certificate required in section 6.1; the amount is set as follows:

Restricted licence	
Turnover	Amount of individual security
Up to \$1M	\$15,000
Up to \$2M	\$20,000
Up to \$5M	\$25,000
Up to \$10M	\$35,000
Up to \$15M	\$40,000
Over \$15M	\$50,000

(2) by striking out “; those sums must be shown in the financial statements required under section 6” in paragraph 1.1;

(3) by striking out paragraphs 2 and 3.

25. Section 30 is amended

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

“(a) by an individual security policy or, in the case of security provided for in paragraph 1.01 of section 29, by a group security policy;”;

(2) by striking out “certified” in paragraph *b*.

26. The following is inserted after section 31:

31.1. The security must be drawn up on the form provided by the president and must include the undertakings and obligations provided for in sections 31.2 to 31.7. The form must indicate the date on which the security is provided, be signed by the surety or the travel agent where it is provided by the travel agent and, at the request of the surety, by the principal debtor.

31.2. The surety is required to fulfill the obligation up to the amount required by section 29.

However, in the case of security provided by means of a group security policy, the total amount of the policy is established at \$300,000.

31.3. The surety must undertake to be solidarily liable with the travel agent towards the president, in the case of individual security, or with every member of the group, in the case of group security, for the amount of the required security, to pay any sum payable under section 28. That undertaking must bind the administrators of the surety.

31.4. Where security is provided by a travel agent for himself or herself, the travel agent undertakes, for the amount of the required security, to pay any sum payable under section 28. That undertaking must bind the administrators of the travel agent.

31.5. The surety must waive the benefits of discussion and division and is subrogated to the rights of the customer compensated up to the amount paid by the surety.

31.6. The security must be valid for the entire term of the licence; it must be given without any term.

The surety or travel agent may end the security only on written notice of at least 90 days to the president, to which is attached proof that a copy of the notice was sent to the travel agent.

Where the licence ceases to have effect for non-payment of the duties payable for its renewal, the security remains valid, if applicable, where the licence is renewed within 60 days of its anniversary date.

31.7. Despite the expiry of the security, the obligations of the surety continue to apply and the liability of the travel agent is incurred towards customers where

(1) it pertains to a contract entered into while the security was in force or was executed while the security was in force; and

(2) no more than 3 years have elapsed since cause of action arose and before a civil lawsuit is filed or an agreement or transaction is made.

31.8. Each licence holder covered under a group security policy must be identified by a member certificate stating

(1) the name of the surety;

(2) the name of the group for which the surety stands;

(3) the number of the group’s member certificate;

(4) the amount of security required under section 29;

(5) the number of the group surety policy and its date of issue;

(6) an attestation that the licence holder is a member of the group and is covered by the group security policy; and

(7) the signature of a duly authorized representative of the surety or the association authorized by the security and the date of issue.

31.9. A travel agent who gives security provided for in paragraph *c* of section 30 must pay duties of \$250 to cover the costs for opening a file.”.

27. Section 32 is amended

(1) by striking out “certified” in the first paragraph;

(2) by inserting the following at the end:

“The sums provided as security are deposited with a financial institution chosen by the president and may be invested in accordance with the rules respecting investments presumed sound provided for in the Civil Code.

Those sums may also be entrusted to the Caisse de dépôt et placement du Québec according to the conditions determined between the president and the Caisse.

Income from the investment of those sums goes into the trust and may be used to reimburse the president the costs of managing the trust.”

28. Section 33 is amended

- (1) by striking out paragraph 1;
- (2) by replacing “2 years” in paragraphs 2 and 4 by “3 years”.

29. Section 38 is amended

- (1) by striking out “retail” in paragraph *a*;
- (2) by striking out paragraph *b*.

30. Section 39 is amended

- (1) by replacing the first and second paragraphs by the following:

“Subject to section 39.1, customers of travel agents in Québec are required to contribute to the fund.

The amount of the contribution is calculated by multiplying the total cost of the purchased tourist services by a percentage varying according to the amount in capital of the fund as of 31 March of the preceding year; the percentage is set as follows:

Contribution to the fund	
Capital of the fund	Percentage of tourist services
Up to \$75M	0.35%
Up to \$100M	0.20%
Over \$100M	0.10%

- (2) by striking out “retail” in the third paragraph.

31. The following is inserted after section 39:

“**39.1.** A customer that is any of the following is entitled to the reimbursement of the contribution referred to in section 39:

(*a*) a diplomatic mission or consular corps established in Canada;

(*b*) an international government body that has entered into an agreement with the Government with respect to its establishment in Québec;

(*c*) a permanent mission of a foreign State accredited with an international body referred to in subparagraph *b*;

(*d*) an international non-government body with a tax exemption under an agreement entered into with the Government with respect to its establishment in Québec;

(*e*) an office of a province, State or similar division of a foreign State, recognized by the Minister of Finance;

(*f*) a person employed by one of those international representations or bodies, if the person

i. is registered with the Ministère des Relations internationales;

ii. is not a Canadian citizen or permanent resident of Canada;

iii. must reside in Canada by reason of the person’s duties; and

iv. does not operate a business in Canada and holds no office or employment in Canada other than the person’s duties with the representation or international body.

The president makes the reimbursement out of the fund on request made through the Minister of International Relations who certifies its compliance.”

32. Section 40 is amended

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

“**40.** A travel agent must, within 30 days of the end of each half of the agent’s fiscal year or, if the amount of the sales of tourist services subject to the contribution to the fund, as indicated in the financial statements required under section 7 or the certificate required under section 8.1, exceeds \$5M, within 30 days of the end of each quarter of the agent’s fiscal year, remit the contributions to the president, less management expenses of 5% of the contributions collected.”;

- (2) by striking out the second paragraph;

- (3) by inserting the following at the end:

“The travel agent who does not remit the contributions collected within the period provided for in the first paragraph must add to those contributions, as penalty, the highest of the following sums: \$50 or a sum representing 10% of the contributions to be remitted.”.

33. Sections 41 and 42 are revoked.

34. Section 43.2 is amended

(1) by adding the following after subparagraph *f* of the first paragraph:

“(g) the sums required for the reimbursement of contributions in accordance with section 39.1.”.

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

“The indemnities or reimbursements provided for in subparagraphs *a* to *d* of the first paragraph do not apply in the cases referred to in section 39.1.”.

35. Section 43.3 is replaced by the following:

“**43.3.** The total amount of the indemnities per event may not exceed 20% of the capital of the fund as of the preceding 31 March or be less than \$5M. An additional amount per event not exceeding 5% of the capital of the fund as of the preceding 31 March may be used for the purposes of subparagraph *c* of the first paragraph of section 43.2.”.

36. The following is inserted after section 43.5:

“**43.6.** The president may use, annually, the lesser of the following sums: \$250,000 or a sum representing 5% of the income from the investment of the sums accumulated in the fund, to finance information and education campaigns for customers of travel agents with regard to their rights and obligations under the Act.”.

37. Division XIV is revoked.

38. Section 46 is amended by inserting “, 23.1” after “23”.

39. Section 47 is amended

(1) by inserting “11.6,” before “12”;

(2) by inserting “13.1, 13.2,” after “13,”;

(3) by replacing “, 40 or 42” by “or 40”.

40. The Schedule is revoked.

41. Holders of a travel agent licence of the retail or wholesale class on the coming into force of this Regulation are considered to hold a general licence and that licence is considered not to have a term.

42. The obligation for a travel counsellor to pass the examination required under section 11.2 for the issue of a certificate is postponed to 1 July 2012.

43. Every person currently acting as travel counsellor must obtain a certificate in accordance with section 11.4 not later than 1 January 2011.

44. Adventure travel organizers, outfitters and regional tourist associations that are required to hold a restricted licence must obtain that licence not later than 1 January 2011.

45. The new amount of individual security for travel agents applies to holders of an existing licence upon the renewal of the licence on its anniversary date.

46. The application of the provision relating to the renewal of a general licence is postponed to 1 October 2010.

47. This Regulation comes into force on (*insert the date of coming into force of the Act to amend the Consumer Protection Act and other legislative provisions, 2009, c. 51*).

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