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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-NINTH LEGISLATURE

## Bill 15

(2011, chapter 17)

### Anti-Corruption Act

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**Introduced 11 May 2011**  
**Passed in principle 19 May 2011**  
**Passed 8 June 2011**  
**Assented to 13 June 2011**

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## EXPLANATORY NOTES

*The purpose of this Act is to strengthen actions to prevent and to fight corruption in contractual matters within the public sector.*

*This Act establishes the office of Anti-Corruption Commissioner. The Commissioner's mission will be to ensure, on behalf of the State, the coordination of actions to prevent and to fight corruption in contractual matters within the public sector. The Commissioner's functions will include receiving, recording and examining disclosures of wrongdoings in order to provide appropriate follow-up action, in addition to directing or coordinating investigation teams made up of members of the Commissioner's personnel or designated by the Government. The Act also provides for the appointment of an Associate Commissioner for Audits, who will be responsible for coordinating audit teams designated by the Government, but specifies that the audit teams and investigation units designated by the Government are to continue to carry out their mandates in their field of competence within their respective department or body.*

*A procedure for the disclosure of wrongdoings to the Commissioner is established. The procedure makes it possible for any person to disclose information to the Commissioner the person believes could show that a wrongdoing has been committed or is about to be committed, or that the person has been asked to commit a wrongdoing.*

*The Act makes it unlawful to take a reprisal against a person who has disclosed a wrongdoing or is cooperating in an audit or an investigation regarding a wrongdoing, or to threaten to take a reprisal so that a person will abstain from making a disclosure or cooperating in an audit or an investigation. The Act respecting labour standards is amended to protect all persons against reprisal measures.*

*This Act also provides for setting up, within the Commission de la construction du Québec, an independent audit team in charge of conducting audits in the construction industry, under the coordination of the Associate Commissioner for Audits. It specifies that members of the Commission's personnel assigned to the independent team must exercise their functions as such on an exclusive basis. The independent team will report to the chairman of the Commission in*

*that person's capacity as chief executive officer of the Commission, rather than to the members of the Commission.*

*The Act respecting contracting by public bodies and certain municipal Acts are amended to make contractors convicted of certain offences ineligible for public contracts. The creation of a register to that effect is provided for and provisions are introduced to allow the Chair of the Conseil du trésor to conduct audits to determine whether the manner in which contracts are awarded by public bodies and contract management measures are applied by them is consistent with prescribed rules.*

*Finally, the Tax Administration Act is amended to make increases in the amount of certain fines.*

**LEGISLATION AMENDED BY THIS ACT:**

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Tax Administration Act (R.S.Q., chapter A-6.002);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Labour Code (R.S.Q., chapter C-27);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02);
- Act respecting contracting by public bodies (R.S.Q., chapter C-65.1);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Police Act (R.S.Q., chapter P-13.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20);
- Act respecting public transit authorities (R.S.Q., chapter S-30.01).

**REGULATION AMENDED BY THIS ACT:**

- Code of ethics of Québec police officers (R.R.Q., chapter P-13.1, r. 1).

## **Bill 15**

### **ANTI-CORRUPTION ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **CHAPTER I**

##### **PURPOSE AND SCOPE**

**1.** The purpose of this Act is to strengthen actions to prevent and to fight corruption in contractual matters within the public sector. It establishes the office of Anti-Corruption Commissioner as well as the mission and powers of the Commissioner. It also establishes a procedure to facilitate the disclosure of wrongdoings to the Commissioner.

**2.** For the purposes of this Act, a wrongdoing means

(1) a contravention of a federal or a Québec law or of a regulation made under such a law, if the contravention pertains to corruption, malfeasance, collusion, fraud or influence peddling in, for example, awarding, obtaining or performing contracts granted, in the exercise of their functions, by a body or a person belonging to the public sector;

(2) a misuse of public funds or public property or a gross mismanagement of contracts within the public sector; or

(3) directing or counselling a person to commit a wrongdoing described in paragraph 1 or 2.

**3.** For the purposes of this Act, the following are bodies and persons belonging to the public sector:

(1) any public body, government agency or government enterprise within the meaning of the Auditor General Act (R.S.Q., chapter V-5.01);

(2) the Université du Québec and its constituent universities, research institutes and superior schools, within the meaning of the Act respecting the Université du Québec (R.S.Q., chapter U-1);

(3) any university-level institution referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1), other than those mentioned in paragraph 2;

(4) any general and vocational college established under the General and Vocational Colleges Act (R.S.Q., chapter C-29);

(5) any school board governed by the Education Act (R.S.Q., chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14), and the Comité de gestion de la taxe scolaire de l'île de Montréal;

(6) any private institution accredited for purposes of subsidies under the Act respecting private education (R.S.Q., chapter E-9.1);

(7) any other educational institution more than half of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;

(8) any childcare centre, any day care centre benefiting from subsidized childcare spaces and any home childcare coordinating office referred to in the Educational Childcare Act (R.S.Q., chapter S-4.1.1);

(9) any public institution or private institution that is a party to an agreement referred to in the Act respecting health services and social services (R.S.Q., chapter S-4.2);

(10) the regional council established under the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

(11) any municipality or any body referred to in section 18 or 19 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);

(12) any regional conference of elected officers established under the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (R.S.Q., chapter M-22.1) or any local development centre established under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., chapter M-30.01); and

(13) any agency described in paragraph 4 of section 4 of the Lobbying Transparency and Ethics Act (R.S.Q., chapter T-11.011).

## **CHAPTER II**

### **ANTI-CORRUPTION COMMISSIONER**

#### **DIVISION I**

##### **ESTABLISHMENT AND MISSION**

**4.** The office of Anti-Corruption Commissioner is established.

The mission of the Commissioner is to ensure, on behalf of the State, the coordination of actions to prevent and to fight corruption in contractual matters within the public sector. The Commissioner exercises the functions conferred on the Commissioner by this Act, with the independence provided for in this Act.

**5.** The Government appoints a Commissioner, chosen from a list of at least three persons declared qualified to hold the office by a selection committee formed for that purpose. The Commissioner must, in particular, meet the conditions set out in subparagraphs 1 and 2 of the second paragraph of section 12.

The Government determines the remuneration, employee benefits and other conditions of employment of the Commissioner.

The Commissioner is appointed for a fixed term that cannot exceed five years. On expiry of the term, the Commissioner remains in office until reappointed or replaced.

**6.** If the Commissioner is absent or unable to act, the Minister may appoint a person to replace the Commissioner for the period the Commissioner is absent or unable to act.

If the office of Commissioner is vacant following a resignation or otherwise, the Minister may appoint an interim Commissioner for a period which cannot exceed 18 months.

**7.** The Commissioner is a peace officer for the whole territory of Québec.

The Commissioner must take the oath set out in Schedule I before a judge of the Court of Québec.

**8.** The Government also appoints an Associate Commissioner for Audits. The Associate Commissioner is responsible for coordinating, with the independence provided for in this Act, the audit teams designated by the Government.

Sections 5 and 6 apply, with the necessary modifications, to the Associate Commissioner.

The Associate Commissioner, who may not be a peace officer, must take the oath set out in Schedule II before a judge of the Court of Québec.

## **DIVISION II**

### **FUNCTIONS AND POWERS**

**9.** The Commissioner has the following functions:

(1) to receive, record and examine disclosures of wrongdoings for the purpose of providing appropriate follow-up action;

(2) to direct or coordinate the activities of any investigation unit made up of members of the Commissioner's personnel or designated by the Government, as the case may be;

(3) to order investigations, on the Commissioner's own initiative, in order to detect the commission of wrongdoings;

(4) to make recommendations to the Chair of the Conseil du trésor and to the Minister of Municipal Affairs, Regions and Land Occupancy concerning any measure with respect to the awarding of contracts whose conditions are determined by an Act under their administration;

(5) to make recommendations to the Minister and to any body or person belonging to the public sector on any measure to prevent and to fight corruption; and

(6) to assume an educative and preventive role in the fight against corruption.

The Commissioner may also conduct or assign any investigation or any further investigation requested by the Director of Criminal and Penal Prosecutions.

In addition, the Commissioner exercises all other functions assigned by the Government or the Minister.

**10.** The Associate Commissioner has the following functions:

(1) to coordinate the activities of any audit team designated by the Government;

(2) to ensure that the audit teams carry out their mandates in their respective fields of competence; and

(3) to inform the Commissioner of any matter under audit that the Associate Commissioner believes could more appropriately be dealt with by an investigation or a proceeding relating to a penal or criminal offence under a federal or a Québec law.

**11.** An act, document or writing is binding on or may be attributed to the Commissioner or the Associate Commissioner only if it is signed by them or, to the extent provided in the delegation of signature instrument, by a member of the Commissioner's personnel. The delegation instrument must be published in the *Gazette officielle du Québec* but takes effect upon its signing by the Commissioner.



In any civil or penal proceeding, any document purporting to be signed by the Commissioner or the Associate Commissioner is evidence of its contents and of the capacity of the signatory, in the absence of proof to the contrary.

**12.** Members of the Commissioner's personnel are appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

A person must meet the following minimum requirements to be hired as a member of the personnel of the Commissioner and remain as such:

(1) be of good moral character; and

(2) not have been convicted anywhere of an offence for an act or omission that is either an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence, referred to in section 183 of that Code, under any of the Acts listed in that section and that is related to the employment.

The requirements set out in subparagraphs 1 and 2 of the second paragraph apply to the members of both the audit teams and the investigation units designated by the Government.

**13.** Subject to the Associate Commissioner's duties and responsibilities under this Act, the Commissioner defines the duties and responsibilities of the personnel of the Commissioner and directs their work.

**14.** The Commissioner may designate persons as investigators from among the personnel of the Commissioner.

Those investigators act within a specialized investigation unit under the authority of the Commissioner. They are peace officers for the whole territory of Québec and must take the oaths set out in Schedules A and B to the Police Act (R.S.Q., chapter P-13.1) before the Commissioner.

The Commissioner, in exercising the functions of office, is authorized to administer, throughout Québec, the same oaths as a commissioner for oaths appointed under the Courts of Justice Act (R.S.Q., chapter T-16).

**15.** The audit teams designated by the Government continue to carry out their mandates in their field of competence within their respective department or body, in accordance with their responsibilities and powers under the law. In addition, they must

(1) inform the Associate Commissioner of any matter under audit that they believe could more appropriately be dealt with by an investigation or a proceeding relating to a penal or criminal offence under a federal or a Québec law; and

(2) report to the Associate Commissioner on any action taken in the case files sent to them by the Associate Commissioner.

**16.** The investigation units designated by the Government continue to carry out their mandates in their field of competence, within their respective department or body, in accordance with their responsibilities and powers under the law. In addition, they must

(1) carry out any investigation requested by the Commissioner and inform the Commissioner of the start of any penal or criminal investigation;

(2) provide the Commissioner with any information useful to the Commissioner's functions; and

(3) report to the Commissioner on the progress made in investigations.

**17.** The Commissioner, the Commissioner's personnel, the Associate Commissioner and the audit teams or investigation units designated by the Government may, in the exercise of their functions and in keeping with the constitutional requirements regarding privacy, exchange information, despite the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) and any other communication restrictions under other laws of Québec.

**18.** The Commissioner must inform the Director of Criminal and Penal Prosecutions at the very start of any penal or criminal investigation and request advice from the latter.

**19.** A request by the Commissioner or the Associate Commissioner not to undertake or to suspend an investigation or an audit suspends any prescription provided for under Québec law for a period of two years or until that request is withdrawn, whichever comes first.

### **DIVISION III**

#### **IMMUNITY**

**20.** No judicial proceedings may be brought against the Commissioner, the Commissioner's personnel, the Associate Commissioner or members of the audit teams or investigation units designated by the Government for an act or omission in good faith in the exercise of their functions under this Act.

**21.** Except on a question of jurisdiction, no recourse under article 33 of the Code of Civil Procedure (R.S.Q. chapter C-25) or extraordinary recourse within the meaning of that Code may be exercised, nor any injunction granted, against the Commissioner, the Commissioner's personnel, the Associate Commissioner or members of the audit teams or investigation units designated by the Government in the exercise of their functions under this Act.

Any judge of the Court of Appeal may, on a motion, summarily annul any decision rendered, order issued or injunction granted contrary to the first paragraph.

#### **DIVISION IV**

##### REPORT TO THE PUBLIC

**22.** The Commissioner reports to the public on the status of the Commissioner's activities at least twice yearly and within an interval of not more than eight months. The Commissioner may, in particular, report on recommendations made under subparagraphs 4 and 5 of the first paragraph of section 9.

The Commissioner may also publish a report on any matter within the Commissioner's authority, if the Commissioner considers the matter important enough to warrant it.

#### **DIVISION V**

##### FINANCIAL PROVISIONS AND ANNUAL REPORT

**23.** The fiscal year of the Commissioner ends on 31 March.

**24.** Each year, the Commissioner submits to the Minister the budgetary estimates for the following fiscal year in accordance with the form, content and schedule determined by the Minister.

**25.** Not later than 31 July each year, the Commissioner submits an annual management report to the Minister, who lays it before the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 30 days of resumption.

The report must include the following information:

(1) the number of disclosures of wrongdoings received and the number looked into;

(2) the number of case files referred for audit;

(3) the number of investigations requested by the Commissioner;

(4) the number of arrests made;

(5) the number of convictions obtained; and

(6) any other information the Minister requires.

## CHAPTER III

### DISCLOSURE OF WRONGDOINGS

#### DIVISION I

##### PROCEDURE FOR DISCLOSURE

**26.** Any person who wishes to disclose a wrongdoing may do so by disclosing information to the Commissioner that the person believes could show that a wrongdoing has been committed or is about to be committed, or that could show that the person has been asked to commit a wrongdoing.

**27.** Any person making a disclosure of wrongdoing may do so despite the Act respecting Access to documents held by public bodies and the Protection of personal information, the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1), any other communication restrictions under other laws of Québec and any duty of loyalty or confidentiality that may be binding on the person, in particular, with respect to an employer or a client.

This Act does not however authorize a person making a disclosure to communicate information to the Commissioner that is protected by professional secrecy between an advocate or a notary and a client.

**28.** Upon receipt of a disclosure of wrongdoing, the Commissioner must designate a member of the Commissioner's personnel to examine it and determine what action should be taken.

**29.** After the disclosure of wrongdoing has been examined, the Commissioner may decide no further action is required if the matter is frivolous or does not fall within the Commissioner's mission. In that case, the Commissioner so informs the person who made the disclosure.

If the Commissioner decides to take further action regarding the disclosure, the Commissioner sends the case file to the Associate Commissioner or to the investigation units concerned, as the case may be.

**30.** The Commissioner and the Associate Commissioner ensure that the rights of all persons involved as a result of disclosures of wrongdoings are respected, including persons making disclosures, witnesses and persons alleged to be responsible for wrongdoings.

#### DIVISION II

##### PROTECTION AGAINST REPRISALS

**31.** The Commissioner and the Associate Commissioner must take all necessary measures to protect, to the extent possible, the identity of persons making a disclosure.

**32.** It is forbidden to take a reprisal against a person who has disclosed a wrongdoing or has cooperated in an audit or an investigation regarding a wrongdoing, or again to threaten to take a reprisal against a person so that he or she will abstain from making such a disclosure or cooperating in such an audit or investigation.

**33.** The demotion, suspension, termination of employment or transfer of a person referred to in section 32 or any disciplinary or other measure that adversely affects the employment or working conditions of such a person is presumed to be a reprisal.

**34.** Any person who contravenes section 32 is guilty of an offence and is liable to a fine of

(1) \$2,000 to \$20,000, in the case of a natural person; and

(2) \$10,000 to \$250,000, in the case of a legal person.

For any subsequent offence, the amounts are doubled.

**35.** Any person, such as a director or an officer of a legal person or of an employer, who, by an act or omission, helps a person to commit an offence under section 34 or who, by encouragement, advice or consent or by an authorization or order, induces another person to commit such an offence is guilty of the same offence.

## CHAPTER IV

### AMENDING PROVISIONS

#### FINANCIAL ADMINISTRATION ACT

**36.** Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting the following in alphabetical order:

“Anti-Corruption Commissioner”.

#### TAX ADMINISTRATION ACT

**37.** Section 62 of the Tax Administration Act (R.S.Q., chapter A-6.002) is amended by replacing “not less than \$1,000 and not more than \$25,000” in the first paragraph by “not less than \$2,000 and not more than \$1,000,000”.

**38.** Section 62.0.1 of the Act is amended by replacing “not less than \$1,000 and not more than \$25,000” in the first paragraph by “not less than \$2,000 and not more than \$1,000,000”.

**39.** Section 69.1 of the Act is amended by adding the following subparagraph after subparagraph *x* of the second paragraph:

“(y) the Anti-Corruption Commissioner or the Associate Commissioner for Audits, in respect of information necessary for the enforcement of the Anti-Corruption Act (2011, chapter 17).”

**40.** Section 69.8 of the Act is amended by replacing “and *x*” in the first paragraph by “, *x* and *y*”.

#### CITIES AND TOWNS ACT

**41.** The Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting the following section after section 573.3.3.1:

“**573.3.3.2.** Division I of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) applies with the necessary modifications to any municipal contract for the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts, and every municipality is deemed to be a public body and the Minister of Municipal Affairs, Regions and Land Occupancy is, in respect of those contracts, the minister responsible referred to in either of sections 21.3 and 21.5 of that Act.”

#### LABOUR CODE

**42.** Schedule I to the Labour Code (R.S.Q., chapter C-27), amended by section 150 of chapter 16 of the statutes of 2011, is again amended by adding the following paragraph at the end:

“(30) section 59 of the Anti-Corruption Act (2011, chapter 17).”

#### MUNICIPAL CODE OF QUÉBEC

**43.** The Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by inserting the following article after article 938.3.1:

“**938.3.2.** Division I of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) applies with the necessary modifications to any municipal contract for the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts, and every municipality is deemed to be a public body and the Minister of Municipal Affairs, Regions and Land Occupancy is, in respect of those

contracts, the minister responsible referred to in either of sections 21.3 and 21.5 of that Act.”

#### ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

**44.** The Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01) is amended by inserting the following section after section 118.1:

**“118.1.1.** Division I of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) applies with the necessary modifications to any contract awarded by the Community for the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts, and the Community is deemed to be a public body and the Minister of Municipal Affairs, Regions and Land Occupancy is, in respect of those contracts, the minister responsible referred to in either of sections 21.3 and 21.5 of that Act.”

**45.** Section 118.2 of the Act is amended by replacing “118.1” in the first paragraph by “118.1.1”.

#### ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

**46.** The Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02) is amended by inserting the following section after section 111.1:

**“111.1.1.** Division I of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) applies with the necessary modifications to any contract awarded by the Community for the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts, and the Community is deemed to be a public body and the Minister of Municipal Affairs, Regions and Land Occupancy is, in respect of those contracts, the minister responsible referred to in either of sections 21.3 and 21.5 of that Act.”

**47.** Section 111.2 of the Act is amended by replacing “111.1” in the first paragraph by “111.1.1”.

## ACT RESPECTING CONTRACTING BY PUBLIC BODIES

**48.** Section 1 of the Act respecting contracting by public bodies (R.S.Q., chapter C-65.1) is replaced by the following section:

**1.** The purpose of this Act is to determine the conditions that are to govern the contracts that a public body may enter into with a contractor who is a for-profit legal person established for a private interest, a general, limited or undeclared partnership, a natural person who operates a sole proprietorship or an enterprise most of whose employees are handicapped persons.

The purpose of this Act is also to determine certain conditions that are to govern the contracts that a body described in section 7 may enter into with such a contractor.

Moreover, this Act determines certain conditions that are to govern subcontracts related to a contract described in the first or second paragraph.”

**49.** The Act is amended by inserting the following chapter after section 21:

### “CHAPTER V.1

#### “INELIGIBILITY FOR PUBLIC CONTRACTS

##### “DIVISION I

#### “CRITERIA FOR INELIGIBILITY AND OVERSIGHT MEASURES

**21.1.** A contractor described in section 1 who is convicted, by a final judgment, of any offence determined by regulation is ineligible for public contracts, as of the recording of the conviction in the register provided for in section 21.6, for the period specified by regulation for that offence, which cannot exceed five years. The conviction must be recorded in the register within 30 days after the final judgment.

A contractor who is ineligible for public contracts may not submit a bid to obtain a contract described in section 3 with a public body or a body described in section 7, enter into such a contract by mutual agreement or enter into a subcontract that is directly related to such a contract.

**21.2.** If an associate of a contractor described in section 1 is convicted, by a final judgment, of any offence referred to in the first paragraph of section 21.1, the contractor is ineligible for public contracts, as of the recording of the conviction in the register provided for in section 21.6, for the period specified by regulation for that offence, which cannot exceed five years. The conviction must be recorded in the register within 30 days after the final judgment.



For the purposes of this Act, “associate” means, in the case of a legal person, a director or any other officer of the legal person or a person holding shares carrying more than 50% of the voting rights attached to the shares of the capital stock of the legal person that may be exercised under any circumstances and, in the case of a general, limited or undeclared partnership, a partner or any other officer of the partnership.

For the purposes of this section, an offence committed by an associate other than a shareholder described in the second paragraph must have been committed in exercising functions for the contractor.

**“21.3.** If a contractor who has entered into a contract described in section 3 with a public body or a body described in section 7 becomes ineligible for public contracts while the contract is in process, the public body or body must obtain the authorization of the minister responsible so that the contractor may continue to perform the contract.

The minister responsible may make this authorization subject to certain conditions, including the condition that the contractor agree to the implementation, at the contractor’s own expense, of oversight and monitoring measures determined by regulation.

**“21.4.** A contractor who is convicted, by a final judgment, of an offence under section 21.14 after having been convicted, by a final judgment, of the same offence in the preceding two years is ineligible for public contracts for a period of two years after the recording of that fact in the register provided for in section 21.6.

**“21.5.** Despite sections 21.1, 21.2 and 21.4, a public body or a body described in section 7 may, with the authorization of the minister responsible, enter into a contract with a contractor who is ineligible for public contracts under either of those sections if the public body or body finds itself in one of the situations described in subparagraphs 2 to 4 of the first paragraph of section 13, provided the contractor agrees to the implementation, at the contractor’s expense, of oversight and monitoring measures determined by regulation.

As well, if a public body or a body described in section 7 finds itself in a situation described in subparagraph 1 of the first paragraph of section 13, it may enter into a contract with a contractor who is ineligible for public contracts under section 21.1, 21.2 or 21.4, provided it obtains the authorization of the chief executive officer of the public body or body, who must inform the minister responsible within 30 days after granting the authorization.

**“DIVISION II****“ESTABLISHMENT, PURPOSE AND EFFECTS OF REGISTER**

**“21.6.** The Chair of the Conseil du trésor keeps a register of enterprises ineligible for public contracts.

**“21.7.** The register must contain the following information concerning each contractor referred to in section 21.1, 21.2 or 21.4:

(1) in the case of a natural person who operates a sole proprietorship, his or her name, the name of the proprietorship, the address of its principal establishment in Québec and, if it is registered, its Québec business number;

(2) in the case of a legal person or a general, limited or undeclared partnership, its name, the address of its principal establishment in Québec and, if it is registered, its Québec business number;

(3) the offence of which the contractor was convicted or the offence of which an associate of the contractor was convicted, resulting in the application of section 21.2 and, in the latter case, the name of the associate and the municipality in whose territory the associate is domiciled;

(4) the date of the end of the period of ineligibility for public contracts; and

(5) any other information determined by regulation.

**“21.8.** Every public body and every body described in section 7 that is designated in a regulation must provide the information referred to in section 21.7 to the Chair of the Conseil du trésor, in the cases, on the conditions and in the manner determined by regulation.

**“21.9.** The Chair of the Conseil du trésor may, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec or a department or body of such a government to provide for the recording of information referred to in section 21.7 in the register.

**“21.10.** The information contained in the register is public information and must be made available by the Chair of the Conseil du trésor, including by posting it on the Conseil du trésor website.

**“21.11.** Before entering into a contract described in section 3, public bodies and bodies described in section 7 must make sure the bidders, or the successful bidder, are not named in the register or, if they are named in the register, that their period of ineligibility for public contracts has ended.

Similarly, a contractor who has entered into a contract described in section 3 with a public body or a body described in section 7 must, before entering into any subcontract required for the performance of the contract, make sure the subcontractors are not named in the register or, if they are named in the register, that their period of ineligibility for public contracts has ended.

### “DIVISION III

#### “INFORMATION AND RECTIFICATION

“**21.12.** When a contractor is named in the register, the Chair of the Conseil du trésor informs the contractor in writing without delay, specifying the grounds for the registration and the contractor’s period of ineligibility for public contracts.

The contractor must provide in writing to the Chair of the Conseil du trésor, within the time determined by the Chair, the name of every public body and of every body described in section 7 with which a contract described in section 3 is in process.

A contractor who fails to provide the information required under the second paragraph commits an offence and is liable, for each day the offence continues, to a fine of \$100 to \$200 in the case of an individual and \$200 to \$400 in the case of a legal person for each of the first five days of delay, and to a fine of \$200 to \$400 in the case of an individual and \$400 to \$800 in the case of a legal person for each additional day of delay.

“**21.13.** A contractor who has entered into a contract described in section 3 with a public body or a body described in section 7 must provide a list to the body, before performance of the contract begins, indicating the following information for each subcontract, if any, that the contractor has entered into:

(1) the name and address of the principal establishment of the subcontractor;

(2) the amount and date of the subcontract.

A contractor who, while a contract entered into with a public body or a body described in section 7 is in process, enters into a subcontract must notify the public body of such fact by providing it with a modified list before performance of the subcontract begins.

A contractor who fails to provide the information required under this section commits an offence and is liable, for each day the offence continues, to a fine of \$100 to \$200 in the case of an individual and \$200 to \$400 in the case of a legal person for each of the first five days of delay, and to a fine of \$200 to \$400 in the case of an individual and \$400 to \$800 in the case of a legal person for each additional day of delay.

**“21.14.** A contractor who, in the context of performing a contract with a public body or a body described in section 7, enters into a subcontract with an ineligible contractor commits an offence and is liable to a fine of \$1,000 to \$10,000 in the case of an individual and \$2,000 to \$20,000 in the case of a legal person.

**“21.15.** A contractor who may have been mistakenly named in the register or in respect of whom inaccurate information is recorded in the register may ask the Chair of the Conseil du trésor to make the necessary rectifications in the register.

The Chair verifies the accuracy of the entry in the register by contacting the body that provided the information, and takes any appropriate action.

**“21.16.** The Chair of the Conseil du trésor may, on the Chair’s own initiative or following a request, remove any unlawful entry from the register.”

**50.** The heading of Chapter VI of the Act is replaced by the following:

“ACCOUNTABILITY REPORTING

“DIVISION I

“INFORMATION TO BE PUBLISHED”.

**51.** The Act is amended by inserting the following after section 22:

“DIVISION II

“REPORT BY THE CHAIR OF THE CONSEIL DU TRÉSOR

**“22.1.** The Chair of the Conseil du trésor must submit a report to the Government on the carrying out of this Act, at the latest on 13 June 2014 and every five years thereafter.

The Minister of Health and Social Services and the Minister of Education, Recreation and Sports provide to the Chair of the Conseil du trésor, at the time determined by the Conseil du trésor, the accountability reporting information considered necessary for the production of that report.

The report is tabled in the National Assembly within 30 days after it is submitted to the Government or, if the Assembly is not sitting, within 30 days of resumption.”

**52.** Section 23 of the Act is amended

(1) by adding the following subparagraphs after subparagraph 7 of the first paragraph:

“(8) determine the offences under a federal or a Québec law or under a regulation under such a law in respect of which a conviction entails ineligibility for public contracts;

“(9) establish, for each of the offences determined pursuant to subparagraph 8, the period of ineligibility for public contracts;

“(10) designate the public bodies and the bodies described in section 7 that must provide the information referred to in section 21.7 to the Chair of the Conseil du trésor and determine the cases, conditions and manner in which the information must be communicated;

“(11) determine the other information that must be recorded in the register of enterprises ineligible for public contracts;

“(12) establish oversight and monitoring measures for contractors to be applied by the persons accredited by the Chair of the Conseil du trésor and determine the cases, other than those specified in this Act, conditions, period and manner – including the sanctions for non-compliance – in which these measures apply to a contractor, who must in all cases assume the expenses;

“(13) establish the procedure and conditions for the issue of accreditation to persons responsible for the application of the oversight and monitoring measures under subparagraph 12, and fix the conditions for the renewal, suspension or cancellation of accreditation and the related fees.”;

(2) by inserting “or by bodies described in section 7” after “section 4” in subparagraph 1 of the second paragraph.

**53.** Section 25 of the Act is amended

(1) by inserting “or a body described in section 7” after “public body” in the first paragraph;

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

“The minister responsible for a public body or a body described in section 7 may authorize the body to enter into a contract on conditions different from those applicable to it under a regulation under this Act, and determine the conditions for such a contract.”

**54.** The Act is amended by inserting the following after section 27:

**“CHAPTER VIII.1**

**“AUDITS**

**“27.1.** The Chair of the Conseil du trésor is competent to conduct an audit to determine if the awarding of contracts by a body within the meaning

of this Act and its enforcement of the management policies relating to those contracts are consistent with the rules prescribed under this Act.

The Chair of the Conseil du trésor may designate a person in writing to conduct the audit.

**“27.2.** The audit referred to in section 27.1 consists, to the extent considered appropriate by the Chair of the Conseil du trésor, in assessing compliance of the body’s contractual activities with applicable laws, regulations, policies and directives.

**“27.3.** At the request of the Chair of the Conseil du trésor, a body being audited under this chapter must send or otherwise make available to the Chair all documents and information the Chair considers necessary to conduct the audit.

**“27.4.** The Chair of the Conseil du trésor provides an opinion on the audit and makes any appropriate recommendations to the Conseil du trésor.”

#### ACT RESPECTING LABOUR STANDARDS

**55.** Section 3.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by adding the following paragraph at the end:

“Subparagraph 7 of the first paragraph of section 122 and, where they relate to a recourse under that subparagraph, the other sections of Division II of Chapter V also apply to all employees and to all employers.”

**56.** Section 122 of the Act is amended by adding the following subparagraph after subparagraph 6 of the first paragraph:

“(7) on the ground of a disclosure by an employee of a wrongdoing within the meaning of the Anti-Corruption Act (2011, chapter 17) or on the ground of an employee’s cooperation in an audit or an investigation regarding such a wrongdoing.”

**57.** Section 140 of the Act is amended by adding “except subparagraph 7 of the first paragraph of section 122” at the end of paragraph 6.

#### POLICE ACT

**58.** Section 126 of the Police Act (R.S.Q., chapter P-13.1) is amended

(1) by inserting “of section 14 of the Anti-Corruption Act (2011, chapter 17) and” after “peace officers within the meaning” in the first paragraph;

(2) by replacing “highway controllers” in the first paragraph by “them”;

(3) by inserting “to the Anti-Corruption Commissioner,” after “in the same manner” in the third paragraph.

ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING  
AND WORKFORCE MANAGEMENT IN THE CONSTRUCTION  
INDUSTRY

**59.** Section 4 of the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20) is amended by inserting “, cooperate in efforts to prevent and to fight corruption to the extent required by law” after “of this Act” in the last paragraph.

**60.** The Act is amended by inserting the following after section 15:

“§3.—*Independent audit team*

“**15.1.** An independent audit team is set up within the Commission.

“**15.2.** The independent team is in charge of conducting audits in the construction industry under the coordination of the Associate Commissioner for Audits appointed under section 8 of the Anti-Corruption Act (2011, chapter 17).

“**15.3.** The members of the Commission’s personnel assigned to the independent team exercise their functions as such on an exclusive basis. They may exercise the powers conferred by sections 7, 7.1 and 7.3, subparagraphs *e* and *f* of the first paragraph of section 81 and section 81.0.1.

“**15.4.** The independent team is under the administration of the chairman of the Commission, in the chairman’s capacity as chief executive officer of the Commission. The chairman of the Commission may however delegate all or part of that function to a member of the Commission’s personnel.

The chairman of the Commission shall report on the administration of the independent team to the Anti-Corruption Commissioner only.

“**15.5.** The Minister of Public Security, the Minister of Labour, the Anti-Corruption Commissioner and the Commission shall enter into an operating agreement with respect to the independent team. This agreement must include measures to ensure that the independent team’s activities are kept confidential from the Commission including its board of directors, and measures defining how members of the Commission’s personnel who are not assigned to the independent team are to cooperate with it.

“**15.6.** The expenses related to the activities of the independent team, including the salaries, allowances, indemnities and employee benefits of the personnel assigned to it, are charged against the appropriations granted to the Anti-Corruption Commissioner, in the manner determined in the agreement referred to in section 15.5.

**“15.7.** For the purposes of a prescriptive period which, pursuant to this Act, starts to run on the day the Commission becomes aware of a fact, the Commission is presumed not to be aware of a fact that is known to a member of the independent team, unless the Commission has been informed of the fact by the Associate Commissioner for Audits appointed under section 8 of the Anti-Corruption Act (2011, chapter 17).”

**61.** Section 85 of the Act is replaced by the following section:

**“85.** The employees of the Commission authorized to exercise powers under sections 7, 7.1 and 7.3, subparagraphs *e* and *f* of the first paragraph of section 81 and section 81.0.1 shall constitute a bargaining unit for the purposes of certification granted under the Labour Code (chapter C-27).

The association certified to represent the employees referred to in the first paragraph may not be affiliated with a representative association or an organization to which such an association is affiliated, nor enter into a service agreement with such an association or organization.”

**62.** The Act is amended by inserting the following section after section 85:

**“85.0.1.** To be authorized to exercise a power referred to in section 85, an employee of the Commission must

(1) be of good moral character; and

(2) not have been convicted anywhere of an offence for an act or omission that is either an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence, referred to in section 183 of that Code, under one of the Acts listed in that section and that is related to the employment.”

#### ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

**63.** The Act respecting public transit authorities (R.S.Q., chapter S-30.01) is amended by inserting the following section after section 108.1:

**“108.1.1.** Division I of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) applies with the necessary modifications to any contract awarded by a transit authority for the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts, and every transit authority is deemed to be a public body and the Minister of Municipal Affairs, Regions and Land Occupancy is, in respect of those contracts, the minister responsible referred to in either of sections 21.3 and 21.5 of that Act.”



**64.** Section 108.2 of the Act is amended by replacing “108.1” in the first paragraph by “108.1.1”.

#### CODE OF ETHICS OF QUÉBEC POLICE OFFICERS

**65.** Section 1 of the Code of ethics of Québec police officers (R.R.Q., chapter P-13.1, r. 1) is amended

(1) by inserting “the Anti-Corruption Commissioner,” after “applies to” in the second paragraph;

(2) by inserting “of section 14 of the Anti-Corruption Act (2011, chapter 17) and” after “every peace officer within the meaning” in the second paragraph.

#### CHAPTER V

#### TRANSITIONAL AND FINAL PROVISIONS

**66.** Despite section 5, the Anti-Corruption Commissioner who is in office on 12 June 2011 becomes, on the same conditions and for the remainder of the term of office, the Commissioner appointed under this Act.

**67.** An audit team or an investigation unit designated by Order in Council 114-2011 (2011, G.O. 2, 956, in French only) constitutes a team or unit designated by the Government within the meaning of this Act.

**68.** Subject to the rights provided for under the Labour Code (R.S.Q., chapter C-27), the certified association representing all employees of the Commission de la construction du Québec on (*insert the date preceding the date of coming into force of section 61*) continues to represent all employees of the Commission who are not referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20) as it reads on (*insert the date of coming into force of section 61*).

The collective agreement applicable on (*insert the date preceding the date of coming into force of section 61*) continues to apply to those employees until it is replaced.

**69.** Despite the coming into force of section 61, the certified association representing all employees of the Commission de la construction du Québec on (*insert the date preceding the date of coming into force of section 61*) also represents all employees of the Commission who are referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry as it reads on (*insert the date of coming into force of section 61*), except for the purpose of entering into a collective agreement.

The association ceases to represent employees who are not referred to in that section 85 as soon as another association is certified under the Labour Code to represent the employees or, failing that, on (*insert the date that is six months after the date of coming into force of section 61*).

**70.** The collective agreement applicable to all employees of the Commission de la construction du Québec on (*insert the date preceding the date of coming into force of section 61*) continues to apply to the employees who are referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry as it reads on (*insert the date of coming into force of section 61*), until it is replaced by a collective agreement between the employer and the association newly certified to represent those employees.

If no association has been certified to represent those employees on (*insert the date that is six months after the date of coming into force of section 61*), the collective agreement ceases to apply to those employees even if it has not been replaced.

**71.** The association certified to represent the employees referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry as it reads on (*insert the date of coming into force of section 61*) succeeds, where applicable, to the rights and obligations of the certified association representing those employees on (*insert the date preceding the date of coming into force of section 61*).

The first paragraph does not apply to rights and obligations toward an organization with which the association whose rights and obligations are succeeded to is affiliated.

The assets of the association whose rights and obligations are succeeded to are transferred, in proportion to the number of employees it no longer represents, to the successor association.

**72.** The Commission des relations du travail may, on a motion, resolve any difficulty arising from the application of any of sections 68 to 71, including one that may arise from the rule set out in the third paragraph of section 71.

The provisions of the Labour Code that pertain to the Commission des relations du travail and its commissioners and to their decisions and the exercise of their powers apply, with the necessary modifications.

**73.** The Minister of Public Security is responsible for the administration of this Act.

**74.** This Act comes into force on 13 June 2011, except

(1) sections 25 to 35, 37, 38, 42, 54 to 57, 59 to 62 and 68 to 72, which come into force on 1 September 2011, unless the Government sets an earlier date or earlier dates for the coming into force of these provisions; and

(2) sections 41, 43 to 47, 49, 63 and 64, which come into force on the date or dates to be set by the Government, which may not be later than 1 June 2012.

## SCHEDULE I

*(Section 7)*

## OATH OF OFFICE

I, *(name)*, declare under oath that I will fulfill my duties as Anti-Corruption Commissioner with honesty and justice and in conformity with the Code of ethics of Québec police officers and that I will not accept any sum of money or benefit of any kind for what I do or may do in the discharge of the duties of my office, other than what is allowed me by law.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in or in connection with the discharge of my duties.

## SCHEDULE II

*(Section 8)*

## OATH OF OFFICE

I, *(name)*, declare under oath that I will fulfill my duties as Associate Commissioner for Audits with honesty and justice and that I will not accept any sum of money or benefit of any kind for what I do or may do in the discharge of the duties of my office, other than what is allowed me by law.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in or in connection with the discharge of my duties.