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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTIETH LEGISLATURE

## **Bill 1**

(2012, chapter 25)

## **Integrity in Public Contracts Act**

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**Introduced 1 November 2012**  
**Passed in principle 20 November 2012**  
**Passed 7 December 2012**  
**Assented to 7 December 2012**

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## EXPLANATORY NOTES

*This Act amends the Act respecting contracting by public bodies to enhance integrity in public contracts.*

*To that end, it proposes a system under which audits will be conducted to ascertain that enterprises wishing to enter into contracts with public bodies or municipalities meet the required conditions as regards integrity.*

*To enter into such a contract, an enterprise must first obtain an authorization from the Autorité des marchés financiers (the Authority). The Authority will examine the integrity of the enterprise and of its shareholders, partners, directors or officers and of any person or entity that has direct or indirect legal or de facto control over the enterprise.*

*To ensure that the Authority has all the relevant information it needs to make decisions as regards authorizations, it is empowered to mandate the Associate Commissioner for Audits appointed under the Anti-Corruption Act to conduct the audits the Associate Commissioner considers necessary. The factors to be considered by the Authority in making such decisions are specified in this Act.*

*An authorization will be valid for a period of three years and is renewable.*

*The scope of the Act respecting contracting by public bodies is broadened in order to extend the concept of “public body” to include other State entities and thus bring them under that Act.*

*Other amendments are made for more effective enforcement of the Act respecting contracting by public bodies.*

## LEGISLATION AMENDED BY THIS ACT:

- Tax Administration Act (chapter A-6.002);
- Act respecting the Autorité des marchés financiers (chapter A-33.2);
- Building Act (chapter B-1.1);

- Cities and Towns Act (chapter C-19);
- Code of Penal Procedure (chapter C-25.1);
- Labour Code (chapter C-27);
- Municipal Code of Québec (chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);
- Act respecting contracting by public bodies (chapter C-65.1);
- Anti-Corruption Act (chapter L-6.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);
- Act respecting occupational health and safety (chapter S-2.1);
- Act respecting the Société de l'assurance automobile du Québec (chapter S-11.011);
- Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);
- Act respecting public transit authorities (chapter S-30.01).



## Bill 1

### INTEGRITY IN PUBLIC CONTRACTS ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING CONTRACTING BY PUBLIC BODIES

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

“**1.** The purpose of this Act is to determine the conditions applicable with regard to public contracts between a public body and a contractor who is a legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship.

The purpose of this Act is also to determine certain conditions applicable to subcontracts directly or indirectly related to a contract described in the first paragraph.

In addition, the purpose of this Act is to determine certain conditions applicable to any other contract related to a contract or a subcontract described in the first or second paragraph.”

**2.** Section 2 of the Act is amended by inserting the following subparagraph before subparagraph 1 of the first paragraph:

“(0.1) public confidence in the public procurement process by attesting to the integrity of tenderers;”.

**3.** Section 4 of the Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) bodies at least half of whose members or directors are appointed or elected by the Government or a minister;”.

**4.** Sections 7 and 7.1 of the Act are repealed.

**5.** Section 10 of the Act is amended by inserting the following paragraph after the second paragraph:

“For the purposes of this section, if no threshold is applicable under an intergovernmental agreement, the threshold to be applied by a public body is the threshold set by the Government.”

**6.** Section 13 of the Act is amended

(1) by inserting “equal to or” after “expenditure” in the first paragraph;

(2) by replacing “minister responsible” in the last paragraph by “Conseil du trésor”.

**7.** Section 17 of the Act is amended by inserting “equal to or” after “involves an expenditure” in the first sentence of the second paragraph.

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

**“CHAPTER V.0.1**

**“CONTRACT RULES COMPLIANCE MONITOR**

**“21.0.1.** The chief executive officer of a public body must designate a contract rules compliance monitor.

However, two public bodies under the responsibility of the same minister may agree to have the contract rules compliance monitor of one public body act in the same capacity for the other.

**“21.0.2.** The functions of the contract rules compliance monitor include

(1) seeing that the contract rules prescribed by this Act and the regulations, policies and directives under this Act are complied with;

(2) advising, and making recommendations or providing advisory opinions to, the chief executive officer on compliance with contract rules;

(3) seeing that measures are put in place within the public body to ensure the integrity of internal processes;

(4) seeing to the professional fitness of the personnel involved in contractual activities; and

(5) exercising any other function the chief executive officer may require to ensure that contract rules are complied with.”

**9.** Chapter V.1 of the Act, comprising sections 21.1 to 21.16, is repealed.

**10.** The Act is amended by inserting the following chapter after section 21.16:

**“CHAPTER V.2****“PRIOR AUTHORIZATION FOR PUBLIC CONTRACT OR PUBLIC SUBCONTRACT****“DIVISION I****“CONDITIONS AND OBLIGATIONS**

**“21.17.** An enterprise that wishes to enter into a contract with a public body involving an expenditure equal to or greater than the amount determined by the Government must obtain an authorization for that purpose from the Autorité des marchés financiers (the Authority). The amount may vary according to the category of contract.

An enterprise that wishes to enter into a subcontract that involves an expenditure equal to or greater than that amount and that is directly or indirectly related to a contract described in the first paragraph must also obtain such an authorization. Such subcontracts are public subcontracts.

For the purposes of this chapter, “enterprise” means a legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship.

**“21.18.** An enterprise that enters into a contract with a public body or that enters into a public subcontract must hold an authorization on the date the contract or subcontract is entered into. In the case of a consortium, every enterprise in the consortium must hold an authorization on that date.

Moreover, an enterprise that responds to a call for tenders for a public contract or subcontract must hold an authorization on the date it submits its bid, unless the call for tenders specifies a different date which precedes the date the contract is entered into.

An authorization must be maintained throughout the contract or subcontract.

**“21.19.** A contractor or subcontractor who is in the process of performing a public contract or subcontract but no longer holds an authorization because it expired or the Authority revoked it or refused to renew it is deemed to have defaulted on the contract or subcontract on the expiry of a period of 60 days after the date the authorization expired or the Authority notified its decision. However, the contractor or subcontractor is not deemed to have defaulted in the case described in the fourth paragraph of section 21.41 or as regards honouring the contract or subcontract guarantees.

Despite the first paragraph and for a reason in the public interest, a public body may apply to the Conseil du trésor for permission for continued performance of a public contract or subcontract within 30 days after receiving notification from the Authority that the contractor or subcontractor no longer holds an authorization. The Conseil du trésor may subject the permission to

certain conditions, including that the contractor or subcontractor agree to the implementation, at the contractor's or subcontractor's expense, of oversight and monitoring measures.

**“21.20.** The Conseil du trésor may, in exceptional circumstances, give a public body permission to enter into a contract with an enterprise that does not hold an authorization, or give a contractor of a public body permission to enter into a public subcontract directly related to a public contract with such an enterprise, if it is in the public interest that the contract or subcontract be performed by that enterprise. The Conseil du trésor may subject the permission to certain conditions, including that the contractor or subcontractor agree to the implementation, at the contractor's or subcontractor's expense, of oversight and monitoring measures.

If a public body considers that urgent action is required and there is a threat to human safety or property, its chief executive officer may allow a contract to be entered into with an enterprise that does not hold an authorization or give a contractor of the public body permission to enter into a public subcontract directly related to a public contract with such an enterprise. The chief executive officer must however give the Chair of the Conseil du trésor notice in writing within 15 days.

The Chair of the Conseil du trésor publishes the name of the enterprise having entered into a contract or subcontract under the first or second paragraph by posting it on a website within 15 days after the decision of the Conseil or after receiving notice from the chief executive officer of the public body. The Chair also publishes the name of the enterprise in the *Gazette officielle du Québec*.

**“21.21.** Despite section 21.17, the chief executive officer of a public body may enter into a contract with an enterprise that does not hold an authorization if the enterprise does not have an establishment in Québec and the contract is to be performed outside Québec. The chief executive officer of the public body must give the Chair of the Conseil du trésor notice in writing within 30 days.

**“21.22.** To obtain the authorization required under section 21.17, an enterprise must submit an application to the Authority.

**“21.23.** The application for authorization must be filed with the Authority by the natural person who is the operator if it is for a sole proprietorship, by a director or an officer if it is for a legal person and by a partner if it is for a partnership. The person filing the application acts as respondent for the purposes of this chapter.

The application must be in the form prescribed by the Authority and be filed together with the information and documents prescribed by regulation of the Authority and the fee determined by a decision of the Conseil du trésor. The information, documents and fee required may vary according to the type of enterprise or the place where the enterprise mainly carries on its activities.



**“21.24.** In order for an application for authorization to be considered by the Authority, the enterprise must

(1) if it has an establishment in Québec, provide an attestation from Revenu Québec, issued not more than 30 days before the date on which the application is filed, stating that the enterprise has filed the returns and the reports that it was required to file under fiscal laws and that it has no overdue account payable to the Minister of Revenue, including when recovery of an account has been legally suspended or arrangements have been made with the enterprise to ensure payment and the enterprise has not defaulted on the payment arrangements; and

(2) not have been refused an authorization or have had its authorization revoked under any of sections 21.26 to 21.28 in the preceding 12 months; the Authority may consider a shorter period if it is satisfied that the enterprise has taken the necessary corrective measures.

Subparagraph 1 also applies to applications for renewal.

**“21.25.** The Authority suspends an authorization if the enterprise no longer complies with the requirements for obtaining the attestation from Revenu Québec referred to in subparagraph 1 of the first paragraph of section 21.24. The suspension becomes effective on the 30th day after the date written notice of the suspension is sent to the enterprise. An enterprise may, however, bring itself back into compliance with those requirements before that time.

An enterprise whose authorization is suspended may, nevertheless, perform a public contract or subcontract if it held an authorization on the date the contract or subcontract was entered into or, when the enterprise submitted a bid in response to a call for tenders, on the bid submission deadline.

**“21.26.** The Authority refuses to grant or to renew an authorization, or revokes an authorization, if

(1) the enterprise has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(2) any of the enterprise’s shareholders holding 50% or more of the voting rights attached to the shares that may be exercised under any circumstances has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(3) any of the enterprise’s directors or officers has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(4) the enterprise has, in the preceding five years, been found guilty by a foreign court of an offence which, if committed in Canada, could have resulted in criminal or penal proceedings for an offence listed in Schedule I;

(5) the enterprise has been found guilty of an offence under section 641.2 of the Act respecting elections and referendums in municipalities (chapter E-2.2), section 221.1.2 of the Act respecting school elections (chapter E-2.3) or section 564.3 of the Election Act (chapter E-3.3), and the prohibition prescribed by that section in connection with the offence has not expired, unless a judge has suspended the prohibition;

(6) the enterprise has, in the preceding two years, been ordered to suspend work by a decision enforceable under section 7.8 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20); or

(7) the enterprise has, in the preceding two years, been ordered by a final judgment to pay an amount claimed under subparagraph *c.2* of the first paragraph of section 81 of that Act.

A finding of guilty must be disregarded if a pardon has been obtained.

**“21.27.** The Authority may refuse to grant or to renew an authorization or may revoke an authorization if the enterprise concerned fails to meet the high standards of integrity that the public is entitled to expect from a party to a public contract or subcontract.

**“21.28.** For the purposes of section 21.27, the integrity of an enterprise and that of its directors, partners, officers and shareholders as well as that of other persons or entities that have direct or indirect legal or de facto control over the enterprise may be examined.

To that end, the Authority may consider such factors as

(1) whether the enterprise or a person or entity referred to in the first paragraph maintains connections with a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or with any other person or entity that engages in laundering of proceeds of crime or in trafficking in a substance included in any of Schedules I to IV to the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19);

(2) whether the enterprise or a person or entity referred to in the first paragraph has been prosecuted, in the preceding five years, for any of the offences listed in Schedule I;

(3) whether an enterprise, any of its directors, partners, officers or shareholders or a person or entity that has direct or indirect legal or de facto control over the enterprise has direct or indirect legal or de facto control over the enterprise seeking or holding an authorization and was, at the time an offence listed in Schedule I was committed by another enterprise, a director, partner, officer or shareholder of that other enterprise or a person or entity that had direct or indirect legal or de facto control over that other enterprise, provided the other enterprise was found guilty of the offence in the preceding five years;

(4) whether the enterprise is under the direct or indirect legal or de facto control of another enterprise that has, in the preceding five years, been found guilty of an offence listed in Schedule I or whether any of the directors, partners or officers of that other enterprise or a person or entity that had direct or indirect legal or de facto control over that other enterprise was under such control at the time the offence was committed;

(5) whether the enterprise or a person or entity referred to in the first paragraph has, in the preceding five years, been found guilty of or prosecuted for any other criminal or penal offence committed in the course of the enterprise's business;

(6) whether the enterprise or a person or entity referred to in the first paragraph has repeatedly evaded or attempted to evade compliance with the law in the course of the enterprise's business;

(7) whether a reasonable person would conclude that the enterprise is the extension of another enterprise that would be unable to obtain an authorization;

(8) whether a reasonable person would conclude that the enterprise is lending its name to another enterprise that would be unable to obtain an authorization;

(9) whether the enterprise's activities are incommensurate with its legal sources of financing; and

(10) whether the enterprise's structure enables it to evade the application of this Act.

For the purposes of section 21.27, the Authority may also consider whether a person in authority acting on behalf of the enterprise has, in the preceding five years, been found guilty of or prosecuted for an offence listed in Schedule I.

A finding of guilty must be disregarded if a pardon has been obtained. The facts and circumstances surrounding an offence for which a pardon has been obtained may nevertheless be taken into consideration.

For an enterprise that is a public corporation, a person holding 10% or more of the voting rights attached to the shares of the enterprise is a shareholder.

**“21.29.** For the purposes of sections 21.26 to 21.28, the Authority does not take into consideration any pending recourse against a finding of guilty.

**“21.30.** When an enterprise submits an application for authorization or for renewal, the Authority sends the Associate Commissioner for Audits appointed under section 8 of the Anti-Corruption Act (chapter L-6.1) the information obtained so that the audit the Associate Commissioner considers necessary may be conducted.

**“21.31.** As soon as possible after receiving the information, the Associate Commissioner for Audits provides an advisory opinion to the Authority on the enterprise concerned.

The advisory opinion must state the grounds for any recommendation that an authorization be refused or not be renewed under sections 21.26 to 21.28.

**“21.32.** At any time during the validity period of an authorization, the Associate Commissioner may audit the enterprise concerned. If the Associate Commissioner, in the course of such an audit, finds that the validity of an authorization may be undermined, the Associate Commissioner provides an advisory opinion to that effect to the Authority. The advisory opinion must state the grounds on which it is recommended that the authorization be revoked under any of sections 21.26 to 21.28.

**“21.33.** The audits provided for in sections 21.30 and 21.32 may be conducted, in accordance with the Anti-Corruption Act, by the audit teams referred to in paragraph 1 of section 10 of that Act and by any person authorized for that purpose by the Associate Commissioner.

**“21.34.** The Authority sends the Associate Commissioner any new information regarding the enterprise that it obtains from the enterprise or a public body or otherwise.

**“21.35.** The Authority may require that an enterprise communicate any information needed for the purposes of this chapter. The enterprise must communicate the information to the Authority within the time limit specified by the Authority. If the enterprise fails to do so, the Authority may revoke its authorization.

**“21.36.** Before refusing to grant or renew or before revoking an authorization, the Authority may order the enterprise concerned to take the necessary corrective measures within the time it specifies.

**“21.37.** Before refusing to grant or renew or before revoking an authorization, the Authority must notify the enterprise concerned in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the enterprise at least 10 days to submit written observations and provide additional documents to complete the file.

The Authority may make a decision without complying with those prior obligations if urgent action is required or to prevent irreparable harm. In such a case, the enterprise concerned may, within the time limit specified in the decision, submit written observations and provide additional documents to complete the file for the purposes of a review of the decision by the Authority.

**“21.38.** On the expiry of the time limit specified in the first paragraph of section 21.37 and after examining any observations submitted by the enterprise, the Authority informs the enterprise of its decision.

An enterprise to which the Authority has refused to grant an authorization, whose authorization the Authority has refused to renew or has revoked, or whose authorization has expired (unless, in the latter case, the fourth paragraph of section 21.41 applies) must, within 10 days after receiving the decision or after the authorization expires, provide in writing to the Authority the name of every public body with which it has a contract in process and the name of every enterprise with which it has a subcontract in process, stating the name of the public body that entered into the public contract to which the subcontract is related.

**“21.39.** The Authority informs the Associate Commissioner, Revenu Québec, the Commission de la construction du Québec and the Régie du bâtiment du Québec of its decision to grant, to revoke or to refuse to grant or renew an authorization. It also informs them of any application for removal from the register.

The Authority must further inform each public body concerned, as soon as possible, of the information it obtains from an enterprise under the second paragraph of section 21.38.

**“21.40.** An enterprise holding an authorization must notify the Authority, within the time specified by regulation of the Authority, of any change to any information previously provided.

**“21.41.** An authorization is valid for a period of three years.

To maintain its authorization, an enterprise must submit an application for renewal. The application for renewal must be submitted to the Authority at least 90 days before the authorization is to expire.

An authorization for which an application for renewal is submitted in time remains valid until the Authority rules on the application, unless the authorization is revoked in the meantime. The procedure for filing an application for renewal is the same as for an application for authorization, and the same conditions apply.

Despite section 21.18, an enterprise that no longer holds an authorization for the sole reason that it did not submit an application for renewal in time as required under the second paragraph may, despite the expiry of the authorization, continue public contracts or subcontracts already in process until the Authority's decision on the renewal of the authorization.

**“21.42.** The Government may amend Schedule I.

**“21.43.** A regulation of the Authority under this Act must be submitted for approval to the Conseil du trésor, which may approve it with or without amendment.

The Conseil du trésor may make such a regulation if the Authority fails to make it within the time determined by the Conseil du trésor.

**“21.44.** A decision of the Government under the first paragraph of section 21.17 or under section 21.42 and the decision of the Conseil du trésor under the second paragraph of section 21.23 come into force on the 30th day after their publication in the *Gazette officielle du Québec* or on any later date specified in the decision or regulation. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to those decisions.

## “DIVISION II

### “REGISTER OF AUTHORIZATIONS

**“21.45.** The Authority keeps a register of enterprises holding an authorization to enter into a contract or a subcontract under this chapter.

The content of the register is determined by regulation of the Authority.

**“21.46.** The register is public and the Authority must make it accessible to the public.

**“21.47.** The Authority may require that an enterprise holding an authorization communicate any information needed to maintain the register.

**“21.48.** An enterprise that has no public contracts or subcontracts in process may ask the Authority to withdraw its authorization. In such a case, the Authority removes the enterprise’s name from the register.”

## **11.** Section 22 of the Act is amended

(1) by replacing “over” by “equal to or greater than”;

(2) by adding the following sentence at the end: “Such a regulation may prescribe how that information may be made available electronically in an open document format on a storage medium so that it can be reused.”;

(3) by adding the following paragraph:

“In addition to the initial amount of each contract, the information that must be published includes every additional expenditure exceeding that amount by more than 10% and the total amount paid by the public body for each contract.”

**12.** Section 22.1 of the Act is amended by replacing “The Minister of Health and Social Services and the Minister of Education, Recreation and Sports” in the second paragraph by “The chief executive officers of public bodies referred to in section 4”.

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

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

“**23.** The Government may, by regulation and on the recommendation of the Conseil du trésor;”

(2) by replacing “, and that are awarded to public bodies, including contract management rules or procedures” in subparagraph 1 of the first paragraph by “entered into by public bodies, for subcontracts related to such contracts or for any other contracts related to such contracts or subcontracts, including contract or subcontract management rules or procedures”;

(3) by inserting “equal to or” after “expenditure” in subparagraph 5 of the first paragraph;

(4) by replacing “over” in subparagraph 6 of the first paragraph by “equal to or greater than”;

(5) by replacing “the minister responsible, the chief executive officer of a public body, a health and social services agency” in subparagraph 7 of the first paragraph by “the chief executive officer of a public body”;

(6) by striking out subparagraphs 8 to 13 of the first paragraph;

(7) by striking out the last paragraph.

**14.** Section 23.1 of the Act is repealed.

**15.** Section 24.1 of the Act is repealed.

**16.** Section 24.2 of the Act is repealed.

**17.** The heading of Chapter VIII of the Act is amended by replacing “THE MINISTERS RESPONSIBLE” by “THE CONSEIL DU TRÉSOR”.

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

(1) by striking out “or a body described in section 7” in the first paragraph;

(2) by replacing “minister responsible for a public body or a body described in section 7 may authorize the body” in the second paragraph by “Conseil du trésor may authorize a public body”.

**19.** The Act is amended by inserting the following section after section 25:

**“25.1.** The Conseil du trésor may establish policies and determine directions, conditions or measures to support contract rules compliance monitors and ensure that their functions are exercised coherently.”

**20.** Section 26 of the Act is replaced by the following section:

**“26.** The Conseil du trésor may issue directives on the management of the supply, service and construction contracts of public bodies. Such directives may apply to all public bodies or a particular group of public bodies. They are binding on the public bodies concerned.

Directives issued under the first paragraph may also pertain to contracts entered into with a natural person who does not operate a sole proprietorship or with any other entity not mentioned in section 1.”

**21.** Section 27 of the Act is replaced by the following section:

**“27.** The Conseil du trésor may prescribe model contract forms or other standard documents to be used by public bodies or by a particular group of public bodies.”

**22.** The Act is amended by inserting the following chapter after section 27.4:

## **“CHAPTER VIII.2**

### **“PENAL PROVISIONS**

**“27.5.** Every person who makes a false or misleading statement to the Authority to obtain, renew or keep an authorization required under section 21.17 or to have the person’s name removed from the register of authorizations is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in any other case.

**“27.6.** Every person who makes a false or misleading statement when submitting a bid under this Act is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in any other case.

**“27.7.** A contractor who does not hold an authorization under the first paragraph of section 21.17 although required to hold one and submits a bid for a public contract in response to a call for tenders or enters into a public contract is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case, unless the contractor was given permission to continue a contract under section 21.19 or to enter into a contract under section 21.20.



**“27.8.** A contractor who, in the course of a contract described in section 21.17 entered into with a public body, enters into a subcontract with an enterprise that does not hold an authorization although it is required to hold one, is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case. The subcontractor is also guilty of an offence and liable to the same fine.

**“27.9.** An enterprise that fails to provide, in accordance with the second paragraph of section 21.38, the name of every public body referred to in that paragraph is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in any other case.

**“27.10.** An enterprise that fails to notify the Authority, as required under section 21.40, of any change to any information previously provided for the purpose of obtaining an authorization is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case.

**“27.11.** A contractor who makes a false or misleading request for payment to a public body for an amount that includes an amount to which the contractor is not entitled is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in any other case.

**“27.12.** Every person who contravenes a provision of a regulation whose contravention constitutes an offence under paragraph 15 of section 23 is guilty of an offence and liable to a fine of \$500 to \$5,000.

**“27.13.** Every person who helps or, by encouragement, advice, consent, authorization or command, induces another person to commit an offence under any of sections 27.5 to 27.12 is guilty of the same offence.

**“27.14.** For a subsequent offence, the minimum and maximum fines prescribed in this chapter are doubled.

**“27.15.** Penal proceedings for an offence under any of sections 27.5, 27.9 and 27.10 may be instituted by the Authority.

When the Authority takes charge of the prosecution, the fine imposed by the court belongs to the Authority.”

**23.** The Act is amended by inserting the following section after section 58:

**“58.1.** Despite section 57 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), any information allowing a person to be identified as a member of a selection committee set up under this Act or the regulations is not personal information that is public information.”

**24.** Section 59 of the Act is amended by striking out “, except the second and third paragraphs of section 21.2.1, the administration of which falls under the responsibility of the Minister of Revenue”.

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

## “SCHEDULE I

“(Sections 21.26, 21.28 and 21.42)

## “OFFENCES

<b>Act or Regulation</b>	<b>Section</b>	<b>Summary Description of Offence</b>
Criminal Code (R.S.C. 1985, c. C-46)	119	Bribery of judicial officers
	120	Bribery of officers
	121	Frauds on the government – contractor subscribing to an election fund to obtain a contract with the government
	122	Breach of trust by public officer
	123	Municipal corruption
	124	Selling or purchasing office
	125	Influencing or negotiating appointments or dealing in offices
	132	Perjury relating to commercial, professional, industrial or financial business
	136	Witness giving contradictory evidence relating to commercial, professional, industrial or financial business
	220	Causing death by criminal negligence in the course of commercial, professional, industrial or financial business
	221	Causing bodily harm by criminal negligence in the course of commercial, professional, industrial or financial business
	236	Manslaughter committed in the course of commercial, professional, industrial or financial business
	334	Theft committed in the course of commercial, professional, industrial or financial business
	336	Criminal breach of trust
	337	Public servant refusing to deliver property
	346	Extortion
	347	Receiving interest at a criminal rate
362	False pretence or false statement	
366	False document	
368	Use of forged document	
375	Obtaining something by instrument based on forged document	
380	Fraud – property, money or valuable security or service	

	382	Fraudulent manipulation of stock exchange transactions
	382.1	Prohibited insider trading
	388	Misleading receipt or acknowledgment
	397	Falsification of books and documents
	398	Falsifying employment record
	422	Criminal breach of contract
	426	Secret commissions
	462.31	Laundering proceeds of crime
	463	Attempting to commit, and accessory to the commission of, an offence listed in this schedule
	464	Counselling another person to commit an offence listed in this schedule, if the offence is not committed
	465	Conspiring with another person to commit an offence listed in this schedule
	467.11	Participation in activities of criminal organization
	467.12	Commission of offence for criminal organization
	467.13	Instructing commission of offence for criminal organization
Competition Act (R.S.C. 1985, c. C-34)	45	Conspiracies, agreements or arrangements between competitors
	46	Implementation of foreign directives
	47	Bid-rigging
Corruption of Foreign Public Officials Act (S.C. 1998, c. 34)	3	Bribing a foreign public official
Controlled Drugs and Substances Act (S.C. 1996, c. 19)	5	Trafficking in substances and possession for purpose of trafficking
	6	Importing or exporting substances and possession for the purpose of exporting
	7	Production of substance
Income Tax Act (R.S.C. 1985, c. 1, 5th Supplement)	239(1)(a)	Making, or participating in, assenting to or acquiescing in the making of, false or deceptive statements in a return, certificate, statement, document or answer
	239(1)(b)	Having destroyed, altered, mutilated, secreted or otherwise disposed of records or books of account to evade payment of a tax

- 239(1)(c) Making, or assenting to or acquiescing in the making of, false or deceptive entries, or having omitted to enter a material particular, in records or books of account of a taxpayer
- 239(1)(d) Having wilfully evaded or attempted to evade compliance with the Act or payment of taxes
- 239(1)(e) Having conspired with any person to commit an offence described in paragraphs *a* to *d* of subsection 239(1)
- 239(1.1) Obtaining or claiming a refund or credit to which the person or another person is not entitled or a refund or credit in an amount greater than the amount to which the person or another person is entitled
- 239(2.1) Wilfully providing another person with an incorrect identification number for a tax shelter
- 239(2.2)(a) Knowingly providing, or knowingly allowing to be provided, to any person any taxpayer information – knowingly allowing any person to have access to any taxpayer information – knowingly using any taxpayer information otherwise than in the course of the administration or enforcement of this Act, the Canada Pension Plan, the Unemployment Insurance Act or the Employment Insurance Act or than for the purpose for which it was provided under this section
- 239(2.2)(b) Knowingly contravening an order made to implement such measures as are necessary to ensure that taxpayer information is not used or provided to any person for any purpose not relating to a legal proceeding relating to the supervision, evaluation or disciplining of an authorized person
- 239(2.21) Knowingly using, providing to any person, allowing the provision to any person, or allowing any person access to, taxpayer information provided for a particular purpose for any other purpose

	239(2.3)	Unlawfully using, communicating, or allowing the communication of, the social insurance number of an individual or the business number of a taxpayer or partnership
Excise Tax Act (R.S.C. 1985, c. E-15)	327(1)(a)	Making, or participating in, assenting to or acquiescing in the making of, false or deceptive statements in a return, application, certificate, statement, document or answer
	327(1)(b)	Destroying, altering or otherwise disposing of documents or making, or assenting to or acquiescing in the making of, false entries, or omitting to enter, or assenting to or acquiescing in the omission of, a material particular in the documents of a person for the purpose of evading payment or remittance of any tax or obtaining a refund or rebate to which the person is not entitled
	327(1)(c)	Having wilfully evaded or attempted to evade compliance with the Act or payment or remittance of tax or net tax imposed under the Act
	327(1)(d)	Having wilfully, in any manner, obtained or attempted to obtain a rebate or refund to which a person is not entitled
	327(1)(e)	Having conspired with any person to commit an offence described in paragraphs <i>a</i> to <i>c</i> of subsection 327(1)
Tax Administration Act (c. A-6.002)	60.1	Contravening section 34.1 – keeping a register in electronic form with a “zapper”
	60.2	Contravening section 34.2 – manufacturing or making a “zapper” available
	62	Making false or deceptive statements – evading payment or remittance of a duty – obtaining a refund without being entitled to it – conspiring to commit such an offence
	62.0.1	Failing to pay, deduct, withhold, collect or remit a duty and failing to file a return – conspiring to commit such an offence

	62.1	Evading remittance or payment of a duty – destroying, altering or secreting registers and supporting documents – false entries – omitting to enter a material particular in records or supporting documents – conspiring to commit such an offence
	68	Having directed, authorized or participated in the commission by a corporation of an offence listed in this schedule
	68.0.1	Aiding another person to commit a fiscal offence listed in this schedule
	71.3.2	Communicating or using information contained in a tax record or originating from such a record for a purpose not provided for in the Act
Deposit Insurance Act (c. A-26)	46(b)	Furnishing the Autorité des marchés financiers with false information
Act respecting insurance (c. A-32)	406(c)	Knowingly giving the Autorité des marchés financiers incorrect information
Act respecting contracting by public bodies (c. C-65.1)	27.5	Making a false or misleading statement to the Autorité des marchés financiers to obtain an authorization to enter into contracts or to have one's name removed from the register
	27.6	Making a false or misleading statement in connection with a bid
	27.11	Making a false or misleading request for payment
	27.13	Helping to commit an offence under section 27.5, 27.6 or 27.11
Act respecting financial services cooperatives (c. C-67.3)	605	Knowingly furnishing information, reports or other documents that are false or misleading
Act respecting the distribution of financial products and services (c. D-9.2)	16 with 485 469.1	Not acting with honesty and loyalty Making a misrepresentation when pursuing activities governed by the Act
Money-Services Businesses Act (c. E-12.000001)	66(1)	Making a misrepresentation when pursuing activities governed by the Act

Derivatives Act (c. I-14.01)	65 with	Not acting with honesty and loyalty
	160	
	144	Using information relating to an investment program for one's own benefit in trading in derivatives included in the program
	145.1	Trading in a standardized derivative that is the subject of material order information or recommending that another party do so, or disclosing the information to anyone
	148(6)	Providing false documents or information, or access to false documents or information, to the Autorité des marchés financiers
150	Influencing or attempting to influence the market price or the value of a derivative or of the underlying interest of a derivative by means of unfair, improper or fraudulent practices	
151	Perpetrating fraud or engaging or participating in market manipulation, dishonest transactions or fraudulent tactics	
Act respecting labour relations, vocational training and workforce management in the construction industry (c. R-20)	84	Molesting, hindering or insulting any member or employee of the Commission de la construction du Québec in the performance of duties, or otherwise obstructing such performance
	111.1	Carrying out construction work or causing such work to be carried out in contravention of a decision ordering the suspension of the work rendered under section 7.4.1
	122(4)	Knowingly destroying, altering or falsifying any register, pay-list, registration system or document relating to the application of the Act, a regulation or a collective agreement
Act respecting trust companies and savings companies (c. S-29.01)	356	Giving false or misleading information
Fuel Tax Act (c. T-1)	44	Obtaining or attempting to obtain a refund by means of false or misleading statements



Securities Act (c. V-1.1)	160 with 202 187	Not dealing fairly, honestly, loyally and in good faith
	187	Insider trading involving securities of a reporting issuer or changing an interest in a financial instrument related to such securities
	188	Disclosing privileged information to another party or recommending that another party trade in the securities of the issuer with respect to which the offender is an insider
	189.1	Unlawfully using privileged information
	190	Unlawfully using information relating to an investment program established by an investment fund or by a portfolio management adviser
	195(6)	Providing the Autorité des marchés financiers with false documents or information, or access to false documents or information
	195.2	Influencing or attempting to influence the market price or the value of securities by means of unfair, improper or fraudulent practices
	196	Making a misrepresentation
	197	Making a misrepresentation
	199.1	Engaging or participating in any transaction in securities or any trading method relating to a transaction in securities, or in any act, practice or course of conduct knowing that it constitutes fraud or is of a misleading nature
Regulation respecting construction contracts of municipal bodies (c. C-19, r. 3)	7 with 10	Producing an attestation from Revenu Québec that contains false or inaccurate information, using the attestation of a third party or making a false declaration on one's holding an attestation
	8 with 10	Assisting another person to contravene section 7

Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (c. C-65.1, r. 1.1)	7 with 10	Submitting an attestation from Revenu Québec that contains false or inaccurate information, submitting the attestation of a third person, or making a false declaration regarding the holding of an attestation
	8 with 10	Helping another person to contravene section 7
Regulation respecting supply contracts of public bodies (c. C-65.1, r. 2)	37.4 with 45.1	Submitting an attestation from Revenu Québec that contains false or inaccurate information, producing the attestation of a third person, or making a false declaration regarding the holding of an attestation
	37.5 with 45.1	Helping another person to contravene section 37.4
Regulation respecting service contracts of public bodies (c. C-65.1, r. 4)	50.4 with 58.1	Submitting an attestation from Revenu Québec that contains false or inaccurate information, producing the attestation of a third person, or making a false declaration regarding the holding of an attestation
	50.5 with 58.1	Helping another person to contravene section 50.4
Regulation respecting construction contracts of public bodies (c. C-65.1, r. 5)	40.6 with 58.1	Submitting an attestation from Revenu Québec that contains false or inaccurate information, producing the attestation of a third person, or making a false declaration regarding the holding of an attestation
	40.7 with 58.1	Helping another person to contravene section 40.6

”.

#### AMENDING PROVISIONS

#### TAX ADMINISTRATION ACT

**26.** The Tax Administration Act (chapter A-6.002) is amended by inserting the following section after section 69.4:

“**69.4.1.** The Associate Commissioner for Audits appointed under section 8 of the Anti-Corruption Act (chapter L-6.1) may communicate, without the consent of the person concerned, information obtained under subparagraph y of the second paragraph of section 69.1 to the Autorité des

marchés financiers for the purposes of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).”

#### ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

**27.** Section 9 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) is amended by inserting “except the Act respecting contracting by public bodies (chapter C-65.1)” after “referred to in section 7” in the first paragraph.

**28.** The Act is amended by inserting the following section after section 43.1:

“**43.2.** No later than 31 July each year, the Authority must file with the Chair of the Conseil du trésor, for the previous fiscal year, a financial report and a report on its activities relating to the administration of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).

The reports must contain all the information required by the Chair.”

**29.** Section 44 of the Act is amended by replacing “and the financial statements” in the second paragraph by “, the financial statements and the financial report”.

**30.** Section 749 of the Act is amended by adding “, except for the provisions relating to the functions and powers exercised by the Authority for the purposes of the Act respecting contracting by public bodies (chapter C-65.1), which are under the responsibility of the Minister who is the Chair of the Conseil du trésor” at the end.

#### BUILDING ACT

**31.** Section 56 of the Building Act (chapter B-1.1) is amended by striking out “or restriction” in the third paragraph.

**32.** Subdivision 3.1 of Division II of Chapter IV of the Act, including its heading and sections 65.1 to 65.4, is repealed.

**33.** Section 66 of the Act is amended by replacing “and the classes or subclasses of such licences and any restriction under section 65.1” by “and the classes and subclasses of such licences”.

**34.** Section 71 of the Act is amended by striking out paragraph 7.

**35.** Section 109.6 of the Act is amended by striking out paragraphs 2 and 3.

**36.** Section 185 of the Act is amended by striking out paragraph 16.1.

**37.** Section 197 of the Act is amended by replacing “, the first paragraph of section 37.1, the first paragraph of section 65.2 or section 65.3” by “or the first paragraph of section 37.1”.

#### CITIES AND TOWNS ACT

**38.** Section 573.3.1.1 of the Cities and Towns Act (chapter C-19) is amended by striking out the fourth and fifth paragraphs.

**39.** Section 573.3.3.2 of the Act is repealed.

**40.** The Act is amended by inserting the following section after section 573.3.3.2:

**“573.3.3.3.** Sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any municipal contract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract, every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.”

#### CODE OF PENAL PROCEDURE

**41.** The Code of Penal Procedure (chapter C-25.1) is amended by inserting the following article after article 2:

**“2.1.** The provisions of this Code that apply to legal persons also apply to partnerships, with the necessary modifications.”

**42.** The Code is amended by inserting the following article after article 232:

**“232.1.** Unless otherwise provided by law, a sentence applicable to a legal person is also applicable to a partnership.”

#### LABOUR CODE

**43.** Schedule I to the Labour Code (chapter C-27) is amended by striking out “the first paragraph of section 80.2,” in paragraph 18.

## MUNICIPAL CODE OF QUÉBEC

**44.** Article 938.1.1 of the Municipal Code of Québec (chapter C-27.1) is amended by striking out the fourth and fifth paragraphs.

**45.** Article 938.3.2 of the Code is repealed.

**46.** The Code is amended by inserting the following article after article 938.3.2:

**“938.3.3.** Sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any municipal contract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract, every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.”

## ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

**47.** Section 113.1 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01) is amended by striking out the fourth and fifth paragraphs.

**48.** Section 118.1.1 of the Act is repealed.

**49.** The Act is amended by inserting the following section after section 118.1.1:

**“118.1.2.** Sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any contract awarded by the Community that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government

under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract, the Community is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.”

**50.** Section 118.2 of the Act is amended by replacing “118.1.1” in the first paragraph by “118.1.2”.

#### ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

**51.** Section 106.1 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) is amended by striking out the fourth and fifth paragraphs.

**52.** Section 111.1.1 of the Act is repealed.

**53.** The Act is amended by inserting the following section after section 111.1.1:

**“111.1.2.** Sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any contract awarded by the Community that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract, the Community is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.”

**54.** Section 111.2 of the Act is amended by replacing “111.1.1” in the first paragraph by “111.1.2”.

#### ANTI-CORRUPTION ACT

**55.** Section 1 of the Anti-Corruption Act (chapter L-6.1) is amended by inserting “and to enhance public confidence in the public procurement process” at the end of the first sentence.

**56.** Section 2 of the Act is amended by adding “or a contravention of any of sections 27.5 to 27.11 of the Act respecting contracting by public bodies (chapter C-65.1)” at the end of paragraph 1.

**57.** Section 7 of the Act is amended by adding the following sentence at the end of the first paragraph: “The Commissioner has the authority to prevent, detect or repress crime or statutory offences and to apprehend offenders.”

**58.** Section 8 of the Act is amended by replacing the second sentence of the first paragraph by the following sentence: “The Associate Commissioner exercises the functions conferred on the Associate Commissioner by this Act, with the independence provided for in this Act.”

**59.** Section 10 of the Act is amended by replacing paragraph 1 by the following paragraphs:

“(1) to direct and coordinate the activities of audit teams either made up of members of the Commissioner’s personnel placed under the Associate Commissioner’s authority, or designated by the Government, as the case may be;

“(1.1) to order audit teams, or a person authorized by the Associate Commissioner, to conduct the necessary audits so that the Associate Commissioner may provide to the Autorité des marchés financiers the advisory opinions required under sections 21.31 and 21.32 of the Act respecting contracting by public bodies (chapter C-65.1);”.

**60.** The Act is amended by inserting the following section after section 11:

“**11.1.** The Commissioner or the Associate Commissioner may, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec, a department of such a government, an international organization, or a body of such a government or organization.”

**61.** The Act is amended by inserting the following sections after section 13:

“**13.1.** For the purposes of an audit under sections 21.30 and 21.32 of the Act respecting contracting by public bodies (chapter C-65.1), the Associate Commissioner or a person authorized by the Associate Commissioner may

(1) enter, at any reasonable hour, the establishment of an enterprise that is applying for an authorization to enter into a public contract or subcontract or that holds an authorization to enter into such a contract or subcontract under that Act or any other premises where documents or information relevant for the purposes of sections 21.26 to 21.28 of that Act may be found, and carry out inspections and examinations;

(2) use any computer, equipment or other thing that is on the premises to access data contained in an electronic device, computer system or other medium or to inspect, examine, process, copy or print out such data;

(3) require from the persons present any information relevant for the purposes of sections 21.26 to 21.28 of that Act as well as the production of any book, register, account, contract, record or other related document; and

(4) examine and make copies of documents containing information relevant for the purposes of those sections.

Any person who has the custody, possession or control of documents referred to in this section must communicate them to the person conducting the audit and facilitate their examination by that person.

An authorized person who has conducted an audit submits a report to the Associate Commissioner.

**“13.2.** The person conducting the audit must, on request, produce identification and show the document attesting his or her authorization.”

**62.** Section 14 of the Act is amended by replacing the second paragraph by the following paragraphs:

“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 have the authority to prevent, detect or repress crime or statutory offences and to apprehend offenders.

They must take the oaths set out in Schedules A and B to the Police Act (chapter P-13.1) before the Commissioner.”

**63.** The Act is amended by inserting the following sections after section 14:

**“14.1.** Any person who hinders or attempts to hinder a person conducting an audit or an investigator in the exercise of auditing or investigating functions, refuses to provide any information or document that person or the investigator is entitled to require or examine, or conceals or destroys any document relevant to an audit or investigation is guilty of an offence and is liable to a fine of \$4,000 to \$20,000.

For any subsequent offence, the amounts are doubled.

**“14.2.** Any person who helps a person to commit an offence under section 14.1 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.”

**64.** Section 15 of the Act is amended by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) conduct, on the Associate Commissioner’s request, the audits provided for in sections 21.30 and 21.32 of the Act respecting contracting by public



bodies (chapter C-65.1) and communicate the audit findings to the Associate Commissioner;

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

“(3) inform the Associate Commissioner of any matter under audit that they believe could more appropriately be dealt with by an investigation or a proceeding in connection with a penal or criminal offence under a federal or a Québec law.”

**65.** The Act is amended by inserting the following section after section 16:

“**16.1.** Despite the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and any other communication restrictions under other laws of Québec, a body or person referred to in section 3 must provide any information or document in their possession required, in keeping with the constitutional requirements regarding privacy, by the Commissioner or Associate Commissioner in the exercise of their functions.”

**66.** Sections 20 and 21 of the Act are amended by replacing “or members” by “, members” and by inserting “or a person authorized to conduct audits” after “Government”.

**67.** Section 26 of the Act is amended by adding the following paragraph:

“An employee of a body or person described in section 3 may make a disclosure to the Commissioner in accordance with the first paragraph.”

**68.** Section 31 of the Act is amended

(1) by striking out “, to the extent possible,”;

(2) by adding the following sentence at the end: “The Commissioner may however communicate the identity of such persons to the Director of Criminal and Penal Prosecutions.”

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

**69.** Section 7.3 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is amended by replacing the second paragraph by the following paragraph:

“The Commission may also, in the same manner, request any person who carries out construction work or causes construction work to be carried out under a contract described in section 3 of the Act respecting contracting by

public bodies (chapter C-65.1) to prove to the Commission that they hold an authorization under Chapter V.2 of that Act to the extent that they are required to hold one.”

**70.** Section 7.5 of the Act is replaced by the following section:

**“7.5.** The Commission may authorize the resumption of the suspended construction work upon proof by the person who intends to carry out the work or cause the work to be carried out that

(1) they are the holder of the appropriate licence issued under the Building Act (chapter B-1.1) and, where applicable, of the appropriate competency certificate or proof of exemption issued under this Act;

(2) that every person whose services they intend to hire to carry out the work or whom they intend to assign to the work is the holder of such a competency certificate or proof of exemption or, where applicable, of a licence referred to in paragraph 1; and

(3) that they hold an authorization under Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1) if required to hold one or that they have been permitted to continue a public contract under section 21.19 of that Act.”

**71.** Section 80.2 of the Act is repealed.

**72.** Section 123 of the Act is amended

(1) by striking out subparagraphs 8.2 and 8.3 of the first paragraph;

(2) by striking out the last paragraph.

**73.** Section 123.4.2 of the Act is amended by replacing “a regulation under subparagraphs 8.2 and 8.3 of the first paragraph of section 123 and of the provisions of the Building Act (chapter B-1.1) pertaining to licences that contain a restriction as regards the obtention of a public contract” by “sections 21.26 to 21.28 of the Act respecting contracting by public bodies (chapter C-65.1)”.

**74.** Section 123.4.4 of the Act is amended

(1) by replacing “to the Régie du bâtiment du Québec and a mandatory Corporation referred to in section 129.3 of the Building Act (chapter B-1.1)” by “to the Associate Commissioner for Audits appointed under the Anti-Corruption Act (chapter L-6.1)”;

(2) by replacing “the provisions of the Building Act pertaining to licences that contain a restriction as regards the obtention of a public contract” by “Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1)”.

## ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

**75.** Sections 167.2 and 176.0.3 of the Act respecting occupational health and safety (chapter S-2.1) are repealed.

**76.** Section 174 of the Act is amended by replacing “The Commission may” in the second paragraph by “Despite the first paragraph, the Commission may communicate to the Régie du bâtiment du Québec any information that is necessary for the application of the Building Act (chapter B-1.1). Similarly, it may communicate to the Commission de la construction du Québec any information that is necessary for the application of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20). It may also”.

**77.** The Act is amended by inserting the following section after section 174.1:

“**174.2.** The Commission must communicate to the Régie du bâtiment du Québec any information relating to a finding of guilty for an offence under any section of this Act, to the extent that the information is necessary for the application of the provisions of the Building Act (chapter B-1.1) pertaining to the issue, amendment, suspension or cancellation of a licence.”

ACT RESPECTING THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE  
DU QUÉBEC

**78.** Section 23.0.14 of the Act respecting the Société de l'assurance automobile du Québec (chapter S-11.011) is amended by striking out the second paragraph.

**79.** Section 23.0.15 of the Act is repealed.

ACT RESPECTING MIXED ENTERPRISE COMPANIES IN THE  
MUNICIPAL SECTOR

**80.** The Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01) is amended by inserting the following section after section 41:

“**41.1.** Despite sections 40 and 41, sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, to any contract awarded by a mixed enterprise company that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a

contract is deemed to be a public subcontract, every mixed enterprise company is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.

This section also applies to any body that is similar to a mixed enterprise company and is constituted under a private Act, including the legal persons constituted under chapters 56, 61 and 69 of the statutes of 1994, chapter 84 of the statutes of 1995 and chapter 47 of the statutes of 2004.”

#### ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

**81.** Section 103.1 of the Act respecting public transit authorities (chapter S-30.01) is amended by striking out the fourth and fifth paragraphs.

**82.** Section 108.1.1 of the Act is repealed.

**83.** The Act is amended by inserting the following section after section 108.1.1:

**“108.1.2.** Sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any contract awarded by a transit authority that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract, every transit authority is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.”

**84.** Section 108.2 of the Act is amended by replacing “108.1.1” in the first paragraph by “108.1.2”.

#### TRANSITIONAL AND FINAL PROVISIONS

**85.** From 15 January 2013, for the purposes of section 21.17 of the Act respecting contracting by public bodies (chapter C-65.1), the contracts and subcontracts to which that section applies are construction contracts and subcontracts and service contracts and subcontracts that involve an expenditure equal to or greater than \$40,000,000 and for which the award process is underway on or begins after that date.

**86.** Despite the expenditure amount specified in section 85 or determined by the Government under section 21.17 of the Act respecting contracting by public bodies, the Government may, before 31 March 2016, determine that Chapter V.2 of that Act applies to public contracts or subcontracts or to contracts or subcontracts deemed to be public contracts or subcontracts under that Act even if they involve a lower expenditure amount. The Government may also determine that that chapter applies to a category of public contracts or subcontracts or of such deemed public contracts or subcontracts other than the categories determined under those sections or to groups of public contracts or subcontracts or of such deemed public contracts or subcontracts, whether or not they are of the same category. The Government may determine special terms for the applications for authorization that enterprises must file with the Autorité des marchés financiers in respect of such contracts or subcontracts.

**87.** The Government may, before 31 March 2016, require enterprises that are party to public contracts or subcontracts, or contracts or subcontracts deemed to be public contracts or subcontracts under the law, that are in process to file an application for authorization under Chapter V.2 of the Act respecting contracting by public bodies within the time specified by the Government. In such a case, the Government may determine, on the date or dates it sets, the provisions of that chapter that are applicable and modify them as necessary. The Government may also set a different time period from that specified in section 21.19 for the enterprise to be deemed to have defaulted on a contract.

For the purposes of the first paragraph, the Government may target contracts or subcontracts or groups of contracts or subcontracts, whether or not they are of the same category and even if they involve an expenditure that is lower than the expenditure amount specified in section 85 or determined under section 21.17 of the Act respecting contracting by public bodies. The Government may determine special terms for the applications for authorization that enterprises must file with the Autorité des marchés financiers.

**88.** An enterprise that has been refused an authorization or whose authorization has been revoked under Chapter V.2 of the Act respecting contracting by public bodies must be named in the register of enterprises ineligible for public contracts kept under Division II of Chapter V.1 of that Act for a period of five years or until the date preceding the date on which its name is registered in the register of enterprises holding an authorization, if earlier than the expiry of that period.

**89.** Chapter V.2 of the Act respecting contracting by public bodies applies to a body referred to in sections 7 and 7.1 of that Act as they read before being repealed by section 4 as of 7 December 2012.

**90.** Until the coming into force of sections 3 and 4, the second paragraph of section 1 of the Act respecting contracting by public bodies as it read on 6 December 2012 continues to apply. The second paragraph of section 1 of that Act, as replaced by section 1, also applies to bodies referred to in sections 7 and 7.1 of that Act.

**91.** Schedule I to the Regulation respecting the register of enterprises ineligible for public contracts and oversight and monitoring measures (chapter C-65.1, r. 8.1) is replaced by Schedule I to the Act respecting contracting by public bodies. The name of any enterprise named in the register only on account of an offence that is no longer listed in the schedule is removed from the register. Other enterprises named in the register remain so named until the end of the period for which they were declared ineligible for public contracts before the replacement of Schedule I to the regulation. An enterprise found guilty, after the coming into force of this section, of an offence listed in the schedule to the regulation as replaced by this section must be named in the register for a period of five years from the final judgment.

**92.** A policy made or deemed to be made under the Act respecting contracting by public bodies continues to apply to the extent that it is not incompatible with a directive or policy made under that Act as amended by this Act.

**93.** Until their repeal comes into force, sections 21.3 and 21.5 of the Act respecting contracting by public bodies are respectively replaced by sections 21.19 and 21.20 of that Act, with the necessary modifications, and the authorization required under section 65.2.1 of the Building Act (chapter B-1.1) is replaced by the permission required under that section 21.19.

**94.** Until the coming into force of paragraph 2 of section 18, the second paragraph of section 25 of the Act respecting contracting by public bodies is to be read as follows:

“The Conseil du trésor may authorize a public body or a body described in section 7 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.”

**95.** The authorization held by an enterprise under Chapter V.2 of the Act respecting contracting by public bodies stands in lieu of the attestation from Revenu Québec that every enterprise is required to hold in accordance with the regulations under that Act or under the Cities and Towns Act (chapter C-19), the Municipal Code of Québec (chapter C-27.1), the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01), the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) or the Act respecting public transit authorities (chapter S-30.01).

**96.** Until the coming into force of section 9, paragraph 1 of section 2 of the Anti-Corruption Act (chapter L-6.1) is to be read as follows:

“(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 or a contravention of any of sections 21.12

to 21.14 and 27.5 to 27.11 of the Act respecting contracting by public bodies (chapter C-65.1);”.

**97.** Until the coming into force of section 69, the second paragraph of section 7.3 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is to be read as follows:

“The Commission may also, in the same manner, request any person who carries out construction work or causes construction work to be carried out either under a contract described in section 3 of the Act respecting contracting by public bodies (chapter C-65.1) or under a public contract referred to in section 65.4 of the Building Act (chapter B-1.1) to prove to the Commission that they hold an authorization under Chapter V.2 of the Act respecting contracting by public bodies to the extent that they are required to hold one, and that the licence they held on the date they tendered for that contract following a call for tenders, or on the date the contract was awarded in other cases, did not contain any restriction as regards the obtention of a public contract.”

**98.** Until the coming into force of section 73, section 123.4.2 of the Act respecting labour relations, vocational training and workforce management in the construction industry is to be read as follows:

“**123.4.2.** The Commission shall collect and keep updated all data necessary for the purposes of a regulation under subparagraphs 8.2 and 8.3 of the first paragraph of section 123, the provisions of the Building Act (chapter B-1.1) pertaining to licences that contain a restriction as regards the obtention of a public contract and sections 21.26 to 21.28 of the Act respecting contracting by public bodies (chapter C-65.1).”

**99.** Until the coming into force of section 74, section 123.4.4 of the Act respecting labour relations, vocational training and workforce management in the construction industry is to be read as follows:

“**123.4.4.** The Commission shall communicate to the Régie du bâtiment du Québec, a mandatory Corporation referred to in section 129.3 of the Building Act (chapter B-1.1) and the Associate Commissioner for Audits appointed under the Anti-Corruption Act (chapter L-6.1) the information it holds in respect of a contractor and, in the case of a legal person, any of its directors or, in the case of a partnership, any of its partners, that is necessary for the purposes of the provisions of the Building Act pertaining to licences that contain a restriction as regards the obtention of a public contract and for the purposes of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).”

**100.** The first regulation made by the Authority under sections 21.23, 21.40 and 21.45 of the Act respecting contracting by public bodies and the first decision of the Conseil du trésor made under section 21.23 of that Act come into force on the date of their publication in the *Gazette officielle du Québec*

or on any later date specified in the regulation or decision. A decision of the Government under section 86 or 87 comes into force on the date of its adoption or on any later date specified in it, and must be published in the *Gazette officielle du Québec* as soon as possible. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to those decisions or that regulation.

**101.** The Chair of the Conseil du trésor must, not later than 1 February 2014, report to the Government on the implementation of the amendments made by this Act to the Act respecting contracting by public bodies.

The report under the first paragraph is tabled in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the competent committee of the National Assembly.

**102.** This Act comes into force on 7 December 2012, except sections 3, 4, 5 and 9, paragraph 6 of section 13, sections 14 and 16, paragraph 1 of section 18, sections 23, 24, 31 to 39, 43 to 45, 47, 48, 51, 52, 56, 69, 71 to 75, 78, 79, 81 and 82, which come into force on the date or dates to be set by the Government.