

## Regulations and other Acts

Gouvernement du Québec

### O.C. 6-2016, 19 January 2016

Environment Quality Act  
(chapter Q-2)

Approval of the schedule established by RecycleMédias for the 2014 contributions for the newspapers class

WHEREAS, under section 53.31.1 of the Environment Quality Act (chapter Q-2), the persons referred to in subparagraph 6 of the first paragraph of section 53.30 of the Act are required, to the extent and on the conditions set out in sections 53.31.2 to 53.31.20, to compensate the municipalities for the services provided by the municipalities to ensure that the materials designated by the Government under section 53.31.2 of the Act are recovered and reclaimed;

WHEREAS, under the first paragraph of section 53.31.12.1 of the Act, the Government may determine on what conditions the amount of the annual compensation owed to the municipalities that is allotted to the newspapers class may be paid in whole or in part through a contribution in goods or services;

WHEREAS RecycleMédias is a body certified by Recyc-Québec for the newspapers class to represent the persons subject to the obligation to pay compensation pursuant to sections 53.31.1 to 53.31.20 of the Act;

WHEREAS, under the first paragraph of section 53.31.13 of the Act, a certified body may collect from its members and from persons who, without being members, carry on activities similar to those carried on by the members where the designated classes of materials are concerned, the contributions necessary to remit the full amount of compensation, including any interest or other applicable penalties, and to indemnify the body for its management costs and other expenses incidental to the compensation regime;

WHEREAS, under the first paragraph of section 53.31.14 of the Act, the contributions payable must be established on the basis of a schedule of contributions that has been the subject of a special consultation of the persons concerned;

WHEREAS RecycleMédias has conducted such consultation before establishing the schedule of contributions applicable to contributions for 2014 for the newspapers class;

WHEREAS, under the third paragraph of section 53.31.14 of the Act, the schedule of contributions may provide for exemptions or exclusions and may specify the terms according to which the contributions are to be paid to the certified body;

WHEREAS, under the fifth paragraph of section 53.31.14 of the Act, the schedule of contributions must be submitted to the Government, which may approve it with or without modification;

WHEREAS, under subparagraph 4 of the first paragraph of section 8.9 of the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials (chapter Q-2, r. 10), the amount of the annual compensation owed to the municipalities that is allotted to the newspapers class may not exceed, for the year 2014, \$6,840,000;

WHEREAS sections 8.12 and 8.12.1 of the Regulation provide that the amount of such compensation may be paid through a contribution in goods or services, provided that the certified body proposed to Recyc-Québec, in accordance with sections 53.31.14 and 53.31.15 of the Environment Quality Act, the schedule of contributions determining the contributions payable and the manner in which payment may be made, without exceeding \$3,420,000 for the year 2014;

WHEREAS, under section 53.31.15 of the Act, Recyc-Québec gives the Government its opinion on the schedule proposed by a certified body and a favourable opinion was given by Recyc-Québec on the schedule established by RecycleMédias for the 2014 contributions for the newspapers class;

WHEREAS, under Order in Council 135-2007 dated 14 February 2007, the Regulations Act (chapter R-18.1) does not apply to the proposed schedules or schedules of contributions established under section 53.31.14 of the Environment Quality Act;

WHEREAS it is expedient to approve the schedule established by RecycleMédias for the 2014 contributions for the newspapers class, without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the schedule established by RecycleMédias for the 2014 contributions for the newspapers class, attached to this Order in Council, be approved without amendment.

JUAN ROBERTO IGLESIAS,  
*Clerk of the Conseil exécutif*

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## **2014 Schedule of Contributions for “Newspapers”**

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## Definitions

### 1.1. Definitions

In the Schedule, unless the context indicates a different meaning, the following words and expressions mean or designate:

- a) “brand”: a mark that is used by a person for the purpose of distinguishing, or so as to distinguish, newspapers marketed by the person from newspapers marketed by others;
- b) “cash contribution”: the amount that must be paid in cash to RecycleMédias by a person prescribed under the Schedule;
- c) “class of materials”: a class of materials covered by the compensation regime, i.e. the class “newspapers” marketed in Québec;
- d) “compensation regime”: the compensation regime for municipalities established by sub-section 4.1 of Division VII of Chapter I of the Act and by the Regulation, as amended from time to time;
- e) “contribution in ad placements”: the amount that may be paid in the form of ad placements by a prescribed person under the Schedule. Such contributions in ad placements must consist of publishing, at the national, regional and local levels, messages intended to inform, educate or raise awareness about environmental matters, particularly in terms of promoting the recycling and recovery of residual materials, and may be made either in newspapers or through digital products;
- f) “costs of RecycleMédias”: the management costs and other expenses of RecycleMédias incidental to the compensation regime that may be collected by RecycleMédias under section 53.31.13 of the Act;
- g) “costs of RECYC-QUÉBEC”: the management costs and other expenses of RECYC-QUÉBEC incidental to the compensation regime and payable to RECYC-QUÉBEC by RecycleMédias under section 53.31.18 of the Act and section 8.14 of the Regulation;

- h) “digital products”: websites (including portals) and other digital products devoted primarily to current events, that are owned by the prescribed person or another member of the person’s corporate group, or through which a contribution in ad placements may be made;
- i) “distinguishing guise”: the format of a newspaper, the appearance of which is used by a person for the purpose of distinguishing, or so as to distinguish, newspapers marketed by the person from newspapers marketed by others;
- j) “first supplier”: a person who is domiciled or has an establishment in Québec and who is the first to take title, possession or control, in Québec, of a newspaper covered by the Schedule;
- k) “foreign publication”: a newspaper that markets less than 25% of its total materials in Québec;
- l) “materials”: paper and other cellulosic fibres belonging to the class of materials concerned here. Quantities of marketed materials are measured in metric tons;
- m) “name”: the name under which any business is carried on, whether or not it is the name of a legal body, a partnership or an individual;
- n) “newspapers”: as set forth in section 2 of the Regulation, this class includes paper and other cellulosic fibres used as a medium for written current affairs periodicals published on newsprint, particularly dailies and weeklies, as well as containers and packaging used to deliver newspapers directly to the ultimate consumer or recipient;
- o) “prescribed person”: a person subject to the compensation regime, as designated in Chapter 3 of the Schedule;
- p) “RecycleMédias”: an organization accredited by RECYC-QUÉBEC that represents newspapers;
- q) “RECYC-QUÉBEC”: the Société québécoise de récupération et de recyclage, as designated in section 1 of the Act respecting the Société québécoise de récupération et de recyclage, (Chapter S-22.01);

- r) “the Act”: the Environment Quality Act, (Chapter Q-2), as amended from time to time;
- s) “the Regulation”: the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials, (Chapter Q-2, r. 10), as amended from time to time;
- t) “the Schedule”: the present Schedule of Contributions, including appendices.

## 2. Interpretation

### 2.1. Explanatory note

2.1.1. RecycleMédias may publish an explanatory notice or interpretation guide on its website at [www.recyclemedias.com](http://www.recyclemedias.com) to explain its interpretation of the Schedule and how it will be administered.

### 2.2. Continuance of the Schedule

2.2.1. If any provision of the Schedule is deemed invalid or unenforceable by a competent court or for any other reason, it shall not affect the validity of the other provisions of the Schedule, which shall be interpreted as if the invalid provision were omitted.

## 3. Designation of prescribed persons

### 3.1. Prescribed persons

3.1.1. Only the person who is the owner of the brand, name or distinguishing guise that identifies a material subject to contributions under the Schedule shall be required to pay a contribution with regard to that material.

3.1.2. However, if the owner has neither a domicile nor an establishment in Québec, payment of contributions may be required of the first supplier in Québec, whether or not it is the importer of that material.

3.1.3. Any person who marketed materials during 2013 remains fully responsible for any contribution and other amounts provided under the Schedule in respect of these materials, and shall pay, according to the terms provided in the Schedule, notwithstanding the fact that at the time the Schedule came into force or thereafter (i) the person is no longer the owner of the brand, name or distinguishing guise that identifies a material subject to contributions under the Schedule, or (ii) the person no longer markets materials, or (iii) the person no longer is the first supplier of this material in Quebec. Such a person is considered to be a prescribed person for the purposes of the Schedule.

### 3.2. Exempted persons

3.2.1. Prescribed persons who demonstrate to RecycleMédias that the contributions prescribed in Chapters 5 and 6 of the Schedule have been paid in full, on their behalf, by a third party recognized by RecycleMédias as a voluntary contributor under section 3.3, are exempted from those contributions.

3.2.2. Prescribed persons who own the brand, name or distinguishing guise which identifies a material subject to contributions pursuant to the Schedule and who, in 2013, marketed materials weighing less than a total of fifteen (15) metric tons, are also exempted from the contributions prescribed in Chapters 5 and 6 of the Schedule.

### 3.3. Voluntary contributor

3.3.1. A third party whose domicile or establishment is outside of Québec, and who is the owner of a brand, name or distinguishing guise, may be accepted by RecycleMédias as a voluntary contributor, notably if the person satisfies the conditions stipulated below.

3.3.2. A voluntary contributor may only act to fulfill the obligations that would be the responsibility of the first supplier of materials identified by a brand, name or distinguishing guise that is owned by the voluntary contributor. The latter may not act to fulfill the obligations of persons prescribed under section 3.1.1.

3.3.3. A third party may be recognized as a voluntary contributor if it concludes an agreement to that effect with RecycleMédias, which agreement shall include the following provisions:

- that it agrees to fulfill the obligations related to contribution in ad placements under the Schedule;
- that it agrees to pay the cash contribution under the Schedule;
- that it agrees to produce the reports required in Chapter 7 of the Schedule, under the terms set out in that Chapter;
- that it agrees to the foregoing with regard to all of its first suppliers in Québec;
- that it agrees to respect the laws of Québec, and accepts that any legal proceedings will take place in Québec, under the laws of Québec.

A third party recognized as a voluntary contributor thus becomes a prescribed person with respect to both cash contribution and contribution in ad placements.

3.3.4. RecycleMédias may decide to conclude an agreement such as that described in section 3.3.3 with a third party whose domicile or establishment is in Canada but outside of Québec, and which, without being the owner of a brand, name or distinguishing guise, is its principal distributor in Québec. Section 3.3.2 also applies to such a third party, which for the purposes of the Schedule is considered as a voluntary contributor.

3.3.5. The first supplier and the voluntary contributor are solidarily liable for their obligations under the Schedule.

#### 3.4. Publication of the names of prescribed persons

3.4.1. RecycleMédias may publish on its website the name of any person that, in RecycleMédias' view, meets the criteria for a prescribed person in section 3.1 of the Schedule.



#### 4. Compensation regime

##### 4.1. Annual compensation payable

For the year covered by the Schedule, the amount of the annual compensation payable for the class “newspapers”, under the Act and the Regulation, will be \$6,840,000. This amount will be paid through contributions in ad placements in the amount of \$3,420,000 and cash contributions in the amount of \$3,420,000.

##### 4.2. Costs

As well, the amounts corresponding to the costs of RECYC-QUÉBEC and RecycleMédias will be paid by the prescribed persons through cash contributions.

#### 5. Contribution in ad placements

##### 5.1. Determination of contribution in ad placements

5.1.1. For 2014, the contribution in ad placements by a prescribed person corresponds to the quantity of materials marketed by that person in 2013 multiplied by the applicable rate, i.e. \$30.73 per metric ton.

##### 5.2. Foreign publication

5.2.1. For newspapers qualified as foreign publications, the contribution in ad placements is converted into cash contribution that is additional to that provided in Chapter 6. This additional cash contribution is paid to RECYC-QUÉBEC as partial payment of compensation due to municipalities under the Regulation by prescribed persons in the “newspaper” class.

5.2.2. The payment rules for cash contributions set out in Chapter 6 of the Schedule also apply, with the necessary modifications, to the additional cash contribution.

### 5.3. Terms and conditions

- 5.3.1. Ad placements for a maximum value corresponding to the amount of each prescribed person's contribution in ad placements will be requested from such prescribed person by no later than January 31, 2016 (or, if a new advertising campaign has to be realized further to a decision of the "Comité journaux", at a later date not exceeding June 30, 2016) for publication by no later than June 30, 2016 (or, if a new advertising campaign has to be realized further to a decision of the "Comité journaux", at a later date not exceeding November 30, 2016) in respect of contributions in ad placements for 2014.
- 5.3.2. To determine the value of each ad placement and the terms and conditions under which it is provided, the customary government rate card (or national rate card) of the prescribed person (or member of the person's corporate group, as the case may be) shall be applied. Furthermore, in order to avoid that part of its contribution in ad placements be converted into an additional cash contribution as provided under section 5.4 of the Schedule, a prescribed person may choose to make a contribution in ad placements for a value higher than the required value. In such case, the prescribed person will not be entitled to any credit for the additional value thus contributed.
- 5.3.3. For the purpose of making its contribution in ad placements, each prescribed person must collaborate with RecycleMédias, RECYC-QUÉBEC and any advertising agency retained by RECYC-QUÉBEC. RECYC-QUÉBEC and any advertising agency it retains must provide RecycleMédias with the information required for RecycleMédias to ensure that the contributions in ad placements payable pursuant to the Schedule are made according to the terms of the Schedule.

### 5.4. Conversion into additional cash contribution

- 5.4.1. A prescribed person who has not fulfilled the contribution in ad placements, in whole or in part, by the date set in the Schedule and after receiving a proper request therefor will be liable to pay an additional cash contribution corresponding to the value of the owing unpaid contribution in ad placements.
- 5.4.2. The payment rules for the cash contribution set out Chapter 6 also apply, with the necessary modifications, to the additional cash contribution.

### 5.5. Terms of the 2013 contribution in ad placements

The 2013 Schedule for “Newspapers”, which came into force on April 24, 2014 further to Order-in-council 284-2014 which approved it, provides in its section 5.3.1 that the 2013 contribution in ad placements shall be requested from each prescribed person no later than September 30, 2014 for publication no later than December 31, 2014. The Schedule amends such provision in such a way as to provide that these contributions in ad placements shall be requested no later than December 31, 2014 for publication no later than May 31, 2015. The other provisions of the 2013 Schedule remain unchanged.

## 6. Cash contribution

### 6.1. Determination of cash contribution

6.1.1. For 2014, the cash contribution by a prescribed person corresponds to the quantity of materials marketed by that person in 2013 multiplied by the applicable rate, i.e. \$34.57 per metric ton.

### 6.2. Date, place and form of payment

6.2.1. The cash contribution must be paid to RecycleMédias within ninety (90) days after the invoice is received. Unless otherwise decided by RecycleMédias, payment must be in full, in a single instalment.

6.2.2. RecycleMédias may specify a different deadline for payment of the cash contribution.

### 6.3. Penalties, interest and recovery

6.3.1. Cash contributions that are due and unpaid to RecycleMédias bear interest as set out in section 53.31.16 of the Act, i.e. at the rate determined under the first paragraph of section 28 of the *Tax Administration Act*, (Chapter A-6.002). Such interest will be calculated daily on the unpaid amount of the cash contribution, starting from the date when the cash contribution became due and ending on the date of payment, at the rate mentioned above. Any change to that rate automatically changes the interest rate applying under the present section.

6.3.2. In addition to the interest applied under section 6.3.1, a prescribed person who has not paid the cash contribution within two hundred and ten (210) days after receipt of the invoice in respect of the contribution for 2014, will be liable to a penalty equal to 10% of the cash contributions owing.

6.3.3. Pursuant to section 53.31.16 of the Act, when RecycleMédias exercises a remedy to claim a sum that it is owed, a penalty equal to 20% of the amount of the cash contribution will be applied.

#### 6.4. Form of payment

6.4.1. Payment of cash contributions under Chapter 6 of the Schedule must be made in the legal tender of Canada.

### 7. Registration and reporting by prescribed persons

#### 7.1. Registration of prescribed persons

7.1.1. Any prescribed person (including a prescribed person exempted from contributions under section 3.2.2 of the Schedule) must register with RecycleMédias by sending it the information specified in Appendix A of the Schedule by no later than the thirtieth (30<sup>th</sup>) day after the prescribed person becomes subject to the Schedule.

#### 7.2. Reporting of materials

7.2.1. Any prescribed person (including a prescribed person exempted from contributions under section 3.2.2 of the Schedule) must produce a report on the materials marketed by sending to RecycleMédias the information specified in Appendix B of the Schedule, notably:

- a) A list of the brands, names and distinguishing guises covered by the materials report;
- b) A list and description of any excluded materials that were omitted from the materials report;
- c) A statement certifying that the content of the materials report is true and accurate.

7.2.2. The materials report for 2013 must be submitted by no later than the thirtieth (30<sup>th</sup>) day following the date on which the Schedule came into force.

7.2.3. The materials report for 2014 must be made by the prescribed person on the later of March 31, 2015 or the fifteenth (15<sup>th</sup>) day following the date on which the Schedule came into force.

### 7.3. Changes and amendments

- 7.3.1. Any change in the content of documents submitted by a prescribed person, including any change to the information provided pursuant to Appendice A, must be reported in a modification notice sent to RecycleMédias within thirty (30) days after the change occurs.

### 7.4. Transmission medium and format

- 7.4.1. Documents and modification notices must be transmitted to RecycleMédias using digital media. They must be submitted using the forms provided on the website of RecycleMédias, using the procedure described on the site.

### 7.5. Billing

- 7.5.1. RecycleMédias sends each prescribed person a statement of the contribution owing in ad placements and an invoice for the cash contribution owing (and additional cash contribution if any).
- 7.5.2. If a person fails to register under section 7.1 of the Schedule, or fails to send to RecycleMédias a materials report required under section 7.2 of the Schedule, the amounts of the contribution in ad placements and the cash contribution and additional cash contribution (if any) will be determined and billed based on an estimate by RecycleMédias.

### 7.6. Verification of reports

- 7.6.1. Besides the information and documents that must be produced for the purposes of Appendice B of the Schedule, RecycleMédias reserves the right to ask for additional information, such as tables of data, audit reports, or any other information used in preparing the reports.
- 7.6.2. RecycleMédias may review the materials report and require that corrections be made by the prescribed person. RecycleMédias may also choose to make the necessary corrections itself, after notifying the prescribed person. Following such corrections, the prescribed person will be sent a revised statement adjusting the contribution in ad placements and a revised invoice adjusting the cash contribution and, where applicable, the additional cash contribution.

- 7.6.3. A prescribed person that has not followed through on an adjusted contribution in ad placements, in whole or in part, or that has not concluded an agreement with RecycleMédias within sixty (60) days after the revised statement was issued, will be liable to a penalty, payable in cash, of an amount corresponding to the value of the unpaid contributions in ad placements.

The payment rules for the cash contribution set out in Chapter 6 of the Schedule also apply, with the necessary modifications, to such penalties. In the case of a credit, RecycleMédias will apply the value of the credit to the next statement.

- 7.6.4. An adjustment made to the cash contribution must be paid in full, in a single instalment, to RecycleMédias within thirty (30) days after the revised invoice is issued. In the case of a credit, RecycleMédias will apply the value of the credit to the next invoice.

The payment rules for the cash contribution set out in Chapter 6 of the Schedule also apply, with the necessary modifications, to such adjustments.

## 8. Conservation of files

### 8.1. Conservation of files

- 8.1.1. A prescribed person must conserve all documents and other media used in preparing reports and all proofs of publication pertaining to its contributions in ad placements for a period of five (5) years after the reports were transmitted or from the date of publication, as the case may be. Such information must be made available for consultation and copying by RecycleMédias, during normal business hours, following prior notice to that effect by RecycleMédias.

### 8.2. Confidentiality

- 8.2.1. During the period in which RecycleMédias conserves information it has received in connection with the compensation regime, RecycleMédias is bound to take appropriate measures to ensure its security, preserve its integrity, protect its confidentiality, and prohibit access to it by any unauthorized person. RecycleMédias must also ensure the respect of all other obligations prescribed by law with respect to the conservation of such information.

## 9. Dispute resolution

### 9.1. Procedure

- 9.1.1. In the event of dispute between a prescribed person and RecycleMédias concerning the materials or quantity of materials covered by contributions, or concerning the value of ad placements made by a prescribed person, both parties shall attempt to resolve the dispute through discussions between their respective representatives within thirty (30) days after a written notice of the dispute is issued, or by a common agreement, which will be consigned to writing.
- 9.1.2. If the dispute persists after the expiry of the period mentioned in section 9.1.1, it shall be definitely settled by arbitration other than the courts, pursuant to the provisions of the *Code of Civil Procedure*, (Chapter C-25).
- 9.1.3. Non-payment and failure by a prescribed person to submit a report are not subject to arbitration.

## 10. Adjustment

### 10.1. Adjustment clause

- 10.1.1. Amounts received as interest or penalties under the Schedule are applied to the costs of RECYC-QUÉBEC and RecycleMédias for the year after such amounts are received.
- 10.1.2. In the event that RecycleMédias, for 2014, collects an amount exceeding by 5% the amount necessary to pay a) the amount of the annual compensation set forth in section 4.1, including the applicable interest, administrative costs and penalties, if any, b) the costs of RECYC-QUÉBEC and c) the costs of RecycleMédias, RecycleMédias shall grant a credit to the prescribed persons who have paid their cash contributions for 2014. This credit shall correspond to the amount collected beyond the excess of 5% and shall be allocated *pro rata* to the cash contributions paid by the prescribed persons.

10.1.3. Notwithstanding the terms of section 6.1.1, in the event that RecycleMédias, for 2014, does not collect, or deems that it will not likely collect, the amount necessary to pay a) the amount of the annual compensation set forth in section 4.1, including the applicable interest, administrative costs and penalties, if any, b) the costs of RECYC-QUÉBEC and c) the costs of RecycleMédias, RecycleMédias may require from the prescribed persons the payment of the necessary amount to make up the shortfall. This amount shall be allocated *pro rata* to the cash contributions payable by each prescribed person. In such case, the prescribed persons shall pay the said amount to RecycleMédias within thirty (30) following the submission of an invoice to them for this purpose by RecycleMédias. Chapter 6 of the Schedule shall be applicable to this amount, with the necessary adjustments.

## 11. Effective date and duration

### 11.1. Effective date

11.1.1. The Schedule shall come into force on the fifteenth (15<sup>th</sup>) day after its publication in the *Gazette officielle du Québec*.

### 11.2. Duration

11.2.1. The Schedule is valid for the obligation year 2014.

## Appendix A

### Registration of a Prescribed Person

Name of enterprise

Nature of obligation

Address of headquarters and phone number

If the headquarters are not in Québec, address and phone number of the domicile or an establishment in Quebec

Business Website

Name and coordinates of the first respondent of the enterprise



## **Appendix B**

### Materials Report

Report year

Reference year

Quantity of newspapers marketed in Quebec, in metric tons (distinguishing between those subject to section 5.2 of the Schedule and those which are not)

A list of the brands, names and distinguishing guises covered by the materials report

A list and description of any excluded materials that were omitted from the materials report

A statement certifying that the content of the materials report is true and accurate

Notwithstanding the foregoing, as stipulated in section 7.6.1 of the Schedule RecycleMédias reserves the right to ask for any additional information that was used in preparing this report.