

(3) must be designed so that properly attached personal protective equipment cannot be detached involuntarily.

The structure on which the anchorage system is installed must be able to withstand the effort exerted by the anchorage system in addition to the other efforts that it must ordinarily withstand.”

29. The second paragraph of section 350 is replaced by the following:

“Such a belt shall comply with CAN/CSA Standard Z259.1 Body Belts and Saddles for Work Positioning and Travel Restraint.”

30. Sections 351 to 353 are revoked.

31. Section 354 is amended

(1) by inserting “be installed in accordance with the manufacturer’s instruction manual and ” at the beginning of paragraph 1;

(2) by adding the following paragraph at the end:

“(9) bear an indication of the manufacturer’s name and make, the identification number, the year of manufacture and the minimum resistance.”

32. The following is inserted after section 354:

“**354.1. Characteristics of a warning line:** A warning line must be

(1) continuous and installed on all sides of the work area that it delimits;

(2) placed at a distance of 2 m or more from any place where a worker may fall from a height;

(3) made of a rigid strip, a cable or a chain able to withstand a tractive force of at least 2,22 kN;

(4) equipped with flags made of high-visibility materials and placed at intervals of not more than 2 m;

(5) capable of withstanding a load of 100 N applied horizontally at the line’s highest point or vertically at its midpoint between 2 stanchions;

(6) completed at each access point, storage area or hoisting area by a path formed by 2 parallel lines not exceeding 3 metres in length. In places where the access path starts at a roof edge, a guardrail must be installed on the side of the roof, in compliance with section 33.3, so as to cover the first 3 metres on either side of the access path’s starting point; and

(7) installed so that the line is

(a) located between 0,7 m above the work surface at the line’s lowest point and 1,2 m above that surface at its highest point;

(b) supported by stanchions placed at intervals of not more than 2,5 m; and

(c) attached to each stanchion so that pushing on the line between 2 stanchions does not reduce the height of the line between adjacent stanchions by an equivalent amount.”

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

103421

Draft Regulation

Travel Agents Act
(chapter A-10; 2017, chapter 24)

Travel agents — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting travel agents, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The main purpose of the draft Regulation is to complete legislative provisions recently introduced by the Act mainly to modernize rules relating to consumer credit and to regulate debt settlement service contracts, high-cost credit contracts and loyalty programs (2017, chapter 24), assented to on 15 November 2017. In particular it completes the legislative provisions recently adopted with respect to the rules related to the Fonds d’indemnisation des clients des agents de voyages (FICAV). The draft Regulation facilitates access to the FICAV, extends its coverage, increases the sums devoted to its promotion and suspends the collection of contributions.

The draft Regulation strikes out the provision requiring that the president of the Office de la protection du consommateur waits six months before reimbursing customers and increases the ceiling for the total amount of the indemnities that may be paid for a same situation.

The draft Regulation determines the terms and conditions under which a customer of a travel agent may apply to the FICAV for reimbursement and indemnification where, for a reason outside the customer's control, the customer was unable to avail himself or herself of tourism services the customer paid for. The draft Regulation also provides for the reimbursement of incidental expenses, non-pecuniary damages granted by a judgment rendered by a court and tourist services not received following the non-compliant performance of a service.

The draft Regulation increases the amount of the portion of revenue of the FICAV that is to be used for information and educational purposes. The draft Regulation requires that travel agents indicate on receipts given to their customers that they may contact the FICAV where tourist services are not received.

The draft Regulation proposes to interrupt the collection of contributions to the FICAV by travel agents three months after the Regulation is made. The collection could be resumed if the value of the FICAV falls to \$75 million or under and will cease where it again reaches \$125 million.

The draft Regulation lightens certain rules with which travel agents and holders of a restricted outfitter's licence must comply. It sets out rules that apply to holders of a travel agency manager certificate. It exempts certain persons or organizations from the requirement to hold a travel agent licence. Certain proposed measures add an additional burden borne on travel agents while others lighten their burden.

Lastly, the draft Regulation amends certain rules that apply to travel counsellors so that customers may be ensured that they are dealing with a certified counsellor and that the Office may supervise more efficiently compliance with legislative and regulatory provisions related to travel counsellors.

Further information may be obtained by contacting Stéphanie Poulin, Office de la protection du consommateur, Village olympique – 5199, rue Sherbrooke Est, bureau 3671, Montréal (Québec) H1T 3X2; telephone: 514 253-6556, extension 3415; fax: 514 864-2400; email: stephanie.poulin@opc.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister responsible for Consumer Protection and for Housing, 900, place d'Youville, 9^e étage. Québec (Québec) G1R 3P7.

LISE THÉRIAULT,
Minister responsible for Consumer
Protection and for Housing

Regulation to amend the Regulation respecting travel agents

Travel Agents Act
(chapter A-10, ss. 3 and 36; 2017, chapter 24, s. 71)

1. The Regulation respecting travel agents (chapter A-10, r. 1) is amended in section 1.1 by adding the following at the end:

“(h) a person offering tourist guide or local sightseeing tour services of a maximum period of 1 day;

(i) an educational institution or a teacher mandated by the institution if the following conditions are met:

i. the educational institution or teacher organizes a trip of not more than 1 day for students or organizes a trip for them through a travel agent;

ii. the educational institution or teacher receives no form of remuneration for organizing the trip, except the teacher's participation in the trip.

For the purposes of subparagraph *i* of the first paragraph, an educational institution means any institution listed in paragraphs *a* to *g.1* of section 188 of the Consumer Protection Act (chapter P-40.1).”

2. Section 1.2 is amended by adding “They also do not apply to an employee of the holder of a restricted outfitter's licence acting for a travel agent holding a general licence with whom the outfitter entered into an agreement for the sale of packages.” at the end.

3. Section 3 is amended by striking out “establishments of the rugged furnished lodging, hospitality village,” in subparagraph *a* of the first paragraph.

4. Section 4.1 is amended

(1) by replacing “On 1 May 1995 and on 1 May of each subsequent year,” at the beginning of the first paragraph by “On 1 July 2019 and on 1 July of each subsequent year,”;

(2) by inserting “and the indemnity relating to living and accommodation expenses referred to in paragraph *b* of section 43.8 and paragraph *c* of section 43.10” after “and section 31.9” in the first paragraph;

(3) by adding “and indemnity” after “The new duties” in the first paragraph;

(4) by replacing “The duties thus indexed” in the second paragraph by “The duties and indemnity thus indexed”.

5. Section 5 is amended by replacing “once a year on the anniversary date of the licence.” in the second paragraph by “, once a year, not later than 2 months before the anniversary date of the licence.”.

6. Section 6 is amended

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

(2) by replacing subparagraph *g* of the first paragraph by the following:

“(g) subject to section 11.13, a declaration stating that the person holds, at the time of applying for the issue of the licence, a travel agency manager certificate issued by the president after having passed, within less than 5 years, an examination on the knowledge of the laws and regulations applying to the travel sector and the management of a travel agency;”;

(3) by striking out subparagraph *f* of the second paragraph;

(4) by striking out subparagraph *g* of the second paragraph.

7. Section 8.1 is amended by replacing “Subparagraphs *c* and *g*” in the first paragraph by “Subparagraph *g*”.

8. Section 11.2 is amended

(1) by inserting the following after subparagraph *e* of the first paragraph:

“(f) has sent the information required under section 11.4.”;

(2) by replacing the second paragraph by the following: “The certificate is issued or renewed for a period of 2 years.”;

(3) by adding the following after the second paragraph:

“The president renews the certificate if the conditions set out in subparagraphs *b* to *f* of the first paragraph are met.”.

9. Section 11.4 is replaced by the following:

“**11.4.** The travel counsellor must, when applying for the issue or renewal of the certificate, send to the president, on the form provided by the president, the following information:

(a) the counsellor’s name, domicile address, date of birth, personal and professional telephone numbers and, where applicable, personal and professional technological address and fax number;

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

(c) a declaration according to which the counsellor has not committed, in the 5 years preceding the application, an offence against the Act or this Regulation;

(d) a declaration according to which the counsellor has not been found guilty, in the 5 years preceding the application, of fraud, forgery or fraudulent operations in contractual or commercial matters;

(e) a declaration according to which the counsellor has not made a false or misleading declaration or failed to mention an important fact for obtaining the certificate.”.

10. Section 11.5 is replaced by the following:

“**11.5.** The duties for the issue and renewal of the certificate are set at \$116 and \$58, respectively.”.

11. Section 11.7 is amended

(1) by replacing “or cancel” in the portion preceding paragraph *a* by “, cancel or refuse to issue or to renew”;

(2) by adding the following paragraph at the end:

“The president may also suspend, cancel or refuse to issue or to renew a certificate if the president has reasonable grounds to believe that the suspension, cancellation or refusal is necessary to ensure, in the public interest, that the operations proper to a travel agent will be performed with honesty and competence.”.

12. Section 11.8 is amended by replacing “reconduire” in the French text by “renouveler”.

13. Section 11.9 is replaced by the following:

“**11.9.** Where the travel counsellor no longer has an employment relationship or an exclusive service contract with the travel agent, the counsellor’s certificate is suspended until a new employment relationship is established or a new exclusive service contract is entered into with a travel agent.

After a maximum period of 2 years following the suspension and in the absence of a new employment relationship or a new exclusive service contract with a travel agent, the certificate ceases to have effect.

During the suspension period, the counsellor must deal with the formalities related to the renewal of the counsellor’s certificate.”.

14. The following is inserted after section 11.10:

**“DIVISION IV.3
TRAVEL AGENCY MANAGER**

11.11. Sections 11.2 to 11.8 apply, with the necessary modifications, to the applicant for and the holder of a travel agency manager certificate.

11.12. On payment of the duties required under section 11.5, the holder of a travel agency manager certificate also holds a travel counsellor certificate.

11.13. Where the employment relationship with the travel agent for whom the holder works as manager is broken, the person’s manager certificate is suspended. The person may again hold a manager certificate without having again passed the examination provided that the person is again appointed manager within 2 years following the suspension of the certificate.

After that period and in the absence of a new employment relationship with a travel agent as manager, the certificate ceases to have effect.

During the suspension period, the holder must deal with the formalities related to the renewal of the manager’s certificate.

The first 3 paragraphs also apply, with the necessary modifications, to the holder of a travel agent licence.”

15. The following is inserted after section 12:

“12.1. A travel agent must submit interim financial statements at the request of the president within the period set by the president. The financial statements must include a trust account statement. At the request of the president, the statements must also be accompanied by a review engagement report or any other information or document related to the travel agent operations.”

16. Section 13.1 is amended

(1) by inserting “The list must contain the names of the travel counsellors, their certificate number and the date of expiry of the certificate.” after the first sentence;

(2) by adding the following paragraph at the end:

“Where the employment relationship with any of the travel counsellors is broken or the exclusive service contract that binds the counsellor to the agent is resiliated or terminated, the travel agent must so inform the president within 5 days of the event.”

17. The following is inserted after section 13.1:

“13.1.1. A travel agent may not employ a travel counsellor who does not hold a valid travel counsellor certificate. Nor may the travel agent sign an exclusive service contract with a travel counsellor who does not hold such a certificate.”

18. Section 18 is amended

(1) by inserting “, except if they are collected by an outfitter holding a restricted licence exempt from the obligation imposed in section 33 of the Act under section 29.1” at the end of subparagraph *e* of paragraph 2;

(2) by replacing subparagraph *g* of paragraph 2 by the following:

“(g) the amount and percentage of the contribution to the Fonds d’indemnisation des clients des agents de voyages and a mention and the amount of the credit granted by the fund in accordance with section 39.01, where applicable. If necessary, the number of the exemption certificate issued under section 39.1;”;

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

“(i) the following mention near the information provided for in subparagraph *c*: “Tourist services paid but not received, may be reimbursed by the Fonds d’indemnisation des clients des agents de voyages. It is administered by the Office de la protection du consommateur. It is a financial protection for travelers. For more information: www.ficav.gouv.qc.ca”.

19. Section 22 is amended by inserting “Subject to section 29.1,” at the beginning of the first paragraph.

20. Section 22.01 is amended by inserting “and subject to section 29.1,” after “Despite the first paragraph of section 22”.

21. Section 27.1 is revoked.

22. Section 28 is amended

(1) by replacing subparagraph *a* of the first paragraph by the following:

“(a) to compensate in capital, interest and costs, but excluding punitive damages, any customer in possession of a final judgment rendered other than on acquiescence in the judgment, against the travel agent, his employee or a travel counsellor with whom the travel agent has entered into an exclusive employment or service contract related to the performance of the mandate given to them;”;

(2) by striking out “provided for in Division XII” at the end of the last paragraph.

23. The following is inserted after section 29:

“**29.1.** An outfitter holding a restricted licence who deposits an additional security to the president the amount of which is based on the amount of sales subject to the contribution to the fund appearing in the certificate required under the second paragraph of section 8.1 is exempt from the obligation referred to in section 33 of the Act to transfer funds collected on account of a third person in trust; the amount is set as follows:

AMOUNT OF INDIVIDUAL SECURITY OF EXEMPTED OUTFITTER	
Amount of sales	Security
Up to \$0.5M	\$40,000
Up to \$2M	\$80,000
Up to \$5M	\$120,000
Over \$5M	\$160,000

”.

24. Section 30 is amended

(1) by inserting “or, if the president is in a position to accept it, by a transfer of funds to an account held by the president in a financial institution” at the end of paragraph *b*;

(2) by inserting “or 29.1” at the end of paragraph *c*.

25. Section 31.2 is amended by inserting “or 29.1” at the end of the first paragraph.

26. Section 31.6 is amended by replacing “its anniversary date” at the end of the third paragraph by “the date on which the licence ceases to have effect”.

27. Section 31.8 is amended by inserting “or 29.1” at the end of paragraph 4.

28. Section 33 is amended by replacing “which follow the formation of the mandate” in paragraph 4 by “of the date on which the cause of action arose”.

29. Section 35 is amended by adding “or 29.1” at the end.

30. Section 37 is revoked.

31. Section 38 is revoked.

32. Section 39 is replaced by the following:

“**39.** Subject to section 39.1, the amount of the contribution of customers of travel agents is calculated by multiplying the total cost of the purchased tourist services by a percentage varying according to the surplus accumulated in the Fonds d’indemnisation des clients des agents de voyages as of the preceding 31 March; the percentage is set as follows:

CONTRIBUTION TO THE FUND	
Surplus accumulated in the fund	Percentage of tourist services
Up to \$75M	0.35%
Up to \$100M	0.20%
Over \$100M	0.10%

Where applicable, the change to the percentage applicable to the calculation of the contribution takes effect on 1 January of the year following the submission of the financial statements indicating the surplus accumulated in the fund as of 31 March.

The contribution must be collected by the travel agent dealing directly with the customer.”.

33. The following is inserted after section 39:

“**39.01.** Despite section 39, where the financial statements of the Fonds d’indemnisation des clients des agents de voyages indicate that the surplus accumulated in the fund as of 31 March is equal to or greater than \$125M, the customers of travel agents are credited the amount of the contribution to the fund.

In that case, the travel agent must, on the receipt remitted in accordance with section 18, indicate

(*a*) the amount corresponding to the contribution calculated by multiplying the total cost of the purchased tourist services by 0.10%; and

(*b*) on the subsequent line, after the mention “Credit applicable”, the amount corresponding to a credit of a value equivalent to the amount calculated in accordance with subparagraph *a*.

The terms and conditions take effect on 1 January of the year following the submission of the financial statements of the fund.

The terms and conditions are maintained until the financial statements of the fund indicate a surplus accumulated in the fund as of 31 March is \$75M or less. The obligation to contribute to the fund, in accordance with section 39, resumes on 1 January of the year following the submission of the financial statements of the fund.”

34. Section 39.1 is amended

(1) by replacing “is entitled to the reimbursement of the contribution referred to in section 39” in the portion before subparagraph *a* of the first paragraph by “is exempt from paying the contribution to the fund referred to in section 39 provided that the customer obtains an exemption certificate and provides a copy of the certificate to a travel agent before entering into a tourist service contract”;

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

“The exemption certificate is issued by the president on written request submitted by the Ministère des Relations internationales for the benefit of the customer.

The customer who prevailed himself of the exemption may not receive an indemnity or reimbursement under sections 43.7 to 43.14.”

35. Section 40 is amended

(1) by replacing the words “within 30 days of” wherever they appear by “not later than the last day of the month following”;

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

“A licence holder or other officer must, within the period prescribed by the first paragraph, sign and send a report indicating

- (a) the amount of the sales subject to the contribution;
- (b) the total of the contributions collected; and
- (c) the amount remitted.”;

(3) by inserting “the report or” after “who does not remit” in the fourth paragraph;

(4) by inserting the following after the fourth paragraph:

“Where section 39.01 applies, a travel agent is exempt from collecting and remitting the contributions and the report accompanying it to the president.”

36. Section 43 is amended

(1) by striking out the first and second paragraphs;

(2) by replacing “The sums” in the third paragraph by “The sums making up the Fonds d’indemnisation des clients des agents de voyages”.

37. Section 43.2 is amended

(1) by striking out subparagraphs *a*, *b*, *c*, *d* and *g* of the first paragraph;

(2) by replacing “provisional administrator’s fees” at the end of subparagraph *e* of the first paragraph by “the fees of a provisional administrator or a claims manager”;

(3) by striking out the second paragraph.

38. Section 43.3 is amended

(1) by replacing “20% of the surplus accumulated in the fund” by “60% of the surplus accumulated in the fund”;

(2) by replacing “\$5M” by “\$30M”;

(3) by striking out the second sentence.

39. Section 43.4 is revoked.

40. Section 43.5 is revoked.

41. Section 43.6 is amended

(1) by replacing “the lesser of the following sums” by “the higher of the following sums”;

(2) by replacing “under the Act” by “under the Acts under the supervision of the Office de la protection du consommateur”.

42. The following sections are inserted after section 43.6:

“**43.7.** In the case provided for in paragraph *a* of section 30.4 of the Act, the president reimburses to the customer

(a) the sums paid by the customer to the travel agent for the service that was not performed by the supplier in default; and

(b) where applicable, the sums paid by the customer to the travel agent for a tourist service, other than the service referred to in paragraph *a*, of which the customer could not benefit owing to the default of the supplier. If the customer has partially benefited from a tourist service, the reimbursement of the service is proportionate to the unused service.

43.8. In the case provided for in paragraph *b* of section 30.4 of the Act, the president may reimburse to the customer

(a) the reasonable costs paid to replace the tourist benefit not performed owing to the default of the supplier;

(b) the other reasonable costs paid owing to the default of the supplier, such as

i. living and accommodation expenses up to a maximum amount of \$200 per day per person;

ii. where applicable, the costs paid to ensure a departure or repatriation required under the circumstances.

43.9. Cases in which a customer may not prevail himself of tourist services the customer has paid due to the following reasons constitute a reason outside the customer's control for the purposes of section 30.5 of the Act:

(a) a non-compliant performance of a tourist service that deprives the customer from benefiting from the performance of another tourist service paid to the travel agent;

(b) the dissemination, after the purchase of a tourist service, of an official warning from a Canadian public authority to avoid all travel or avoid non-essential travel to the destination;

(c) the occurrence of an event for which a default of the supplier is foreseeable.

43.10. In the cases provided for in section 30.5 of the Act, the president may reimburse to the customer :

(a) the sums paid by the customer to the travel agent for the service the customer did not benefit from. If the customer has partially benefited from a tourist service, the reimbursement of the service must be proportionate to the unused service;

(b) the reasonable costs paid to replace the tourist benefit the customer did not benefit from;

(c) the other reasonable costs paid owing to the event that prevents the customer from availing himself of other tourist services such as

i. living and accommodation expenses up to a maximum amount of \$200 per day per person;

ii. where applicable, the costs paid to ensure a departure or repatriation required under the circumstances.

43.11. In the cases provided for in paragraphs *a* and *b* of section 30.4 and section 30.5 of the Act, on presentation of proof required to show the eligibility and value of the claim, the president may reimburse to the travel agent the reasonable sums the agent reimbursed to the agent's customer or paid for the benefit of the customer in accordance with sections 43.7, 43.8 and 43.10.

No travel agent may be reimbursed by the fund if otherwise paid or reimbursed.

43.12. In the cases provided for in paragraph *b* of section 30.4 and section 30.5 of the Act, the president, on presentation of proof required to show the value of the tourist benefit and on other conditions determined by the president, may mandate a travel agent or supplier and pay them directly the reasonable costs to ensure the departure or repatriation of a customer required under the circumstances.

43.13. In case of insufficient security, the president pays to the customer the sums required

(a) to compensate in capital, interest and costs of a final judgment, but excluding punitive damages, and any sum greater than \$500 granted to compensate moral damage, in the cases referred to in subparagraph *a* of the first paragraph of section 28;

(b) to reimburse a sum paid to the travel agent for the provision of a service not yet provided in the cases referred to in subparagraph *b* of the first paragraph of section 28.

The president may, instead of reimbursing to the client the sum referred to in subparagraph *b* of the first paragraph, pay the sums required to ensure the departure or repatriation of the customer.

43.14. Where the president receives a claim under section 43.8, 43.10, 43.11 or 43.12, the president assesses the reasonableness of the costs claimed taking into consideration that the claimant or the customer may not benefit from unjustified enrichment and that he must minimize damages.”

43. Section 47 is replaced by the following:

“47. Every person who contravenes any of sections 11.6, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22.1, 34, 35, 39, 39.01 or 40 commits an offence and is liable to the fine under section 40 of the Act.”

44. Section 57 is replaced by the following:

“57. The committee sends to the Minister, not later than 30 June of each year, a report on its activities for the preceding financial year.”

TRANSITIONAL AND FINAL

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

(a) section 4 of this Regulation, which comes into force on 1 January 2019;

(b) paragraph 2 of section 8 of this Regulation, and section 10 of this Regulation, which come into force on 1 January 2019;

(c) paragraph 3 of section 18 of this Regulation and section 33 of this Regulation, which come into force on the 1st day of the month following the third month after the coming into force.

46. Sections 43.7 to 43.14, introduced by section 42 of this Regulation, apply where the facts giving rise to indemnification or reimbursement occur after the coming into force of this Regulation. Despite the foregoing, section 43.13 also applies where the facts giving rise to indemnification or reimbursement occurred before the coming into force of this Regulation.

47. Subparagraphs *b, c, d* of section 43.2, struck out by section 37 of this Regulation, continue to apply to the facts giving rise to indemnification and reimbursement that occurred before the coming into force of this Regulation