

chapter C-65.1

## ACT RESPECTING CONTRACTING BY PUBLIC BODIES

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**SCHEDULE I**

OFFENCES

**SCHEDULE II**

BODIES

**REPEAL SCHEDULE**

## CHAPTER I

### PURPOSE AND SCOPE

**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 for the public contracts that a body described in section 7 may enter into with such a contractor.

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 or second paragraph. Such subcontracts are public subcontracts.

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 this section.

2006, c. 29, s. 1; 2011, c. 17, s. 48; 2012, c. 25, s. 1; 2017, c. 27, s. 88.

**2.** In compliance with all applicable intergovernmental agreements, the conditions determined by this Act aim to promote

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

(1) transparency in contracting processes;

(2) the honest and fair treatment of tenderers;

(3) the opportunity for qualified tenderers to compete in calls for tenders made by public bodies;

(3.1) the use of public contracts as a lever for the economic development of Québec and its regions;

(4) the use of effective and efficient contracting procedures, including careful, thorough evaluation of procurement requirements that furthers the pursuit of sustainable development within the meaning of the Sustainable Development Act (chapter D-8.1.1);

(4.1) the search for the best value in the public interest;

(5) the implementation of quality assurance systems for the goods, services or construction work required by public bodies; and

(6) accountability reporting by the chief executive officers of public bodies to verify the proper use of public funds.

For the purposes of this Act, “intergovernmental agreement” means a public procurement liberalization agreement between Québec and another jurisdiction, or an agreement to which Québec has, in accordance with the Act respecting the Ministère des Relations internationales (chapter M-25.1.1), declared itself bound.

2006, c. 29, s. 2; 2012, c. 25, s. 2; 2013, c. 23, s. 104; 2022, c. 18, s. 1.

**3.** The following public procurement contracts are subject to this Act when they involve public expenditure:

(1) supply contracts, including contracts for the purchase, lease or rental of movable property, which may include the cost of installing, operating and maintaining the property, to the extent that they are not for the

acquisition of goods for commercial sale or resale or to be used to produce or provide goods or services for commercial sale or resale;

(2) construction contracts to which the Building Act (chapter B-1.1) applies and for which the contractor must hold the licence required under Chapter IV of that Act; and

(3) service contracts other than contracts to integrate the arts with the architecture and environment of government buildings and sites.

The following contracts are also subject to this Act whether or not they involve public expenditure:

(1) public-private partnership contracts entered into for the purposes of a public infrastructure project for which a public body brings in a contractor to participate in designing, building and operating the infrastructure; and

(2) any other contract determined by government regulation.

A leasing contract is considered to be a supply contract.

Contracts of affreightment, contracts of carriage other than those subject to the Education Act (chapter I-13.3), damage insurance contracts and contracts of enterprise other than construction contracts are considered to be service contracts.

2006, c. 29, s. 3; 2009, c. 53, s. 49; 2013, c. 23, s. 105; 2017, c. 27, s. 89; 2018, c. 10, s. 3.

#### **4.** For the purposes of this Act, public bodies include

(1) government departments;

(2) budget-funded bodies listed in Schedule 1 to the Financial Administration Act (chapter A-6.001), except bodies referred to in section 6;

(3) bodies whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);

(4) bodies other than budget-funded bodies listed in Schedule 2 to the Financial Administration Act, except Héma-Québec, as well as the Commission de la construction du Québec, the Cree-Québec Forestry Board and the Office franco-québécois pour la jeunesse;

(5) school service centres, school boards, the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges, and university institutions referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);

(6) public institutions governed by the Act respecting health services and social services (chapter S-4.2), the health and social services network insurance manager referred to in section 435.1 of that Act, the Nunavik Regional Board of Health and Social Services established under section 530.25 of that Act, the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (chapter S-5) and health communication centres within the meaning of the Act respecting pre-hospital emergency services (chapter S-6.2);

(6.1) subsidiaries of one or more public bodies referred to in subparagraph 4, 5 or 6 of this paragraph; and

(7) any other body or category of bodies that the Government determines.

A person appointed or designated by the Government or a minister, together with the personnel directed by the person, in the exercise of the functions assigned to the person by law, the Government or a minister, is considered to be a body.

For the purposes of subparagraph 6.1 of the first paragraph, a legal person or partnership controlled by one or more public bodies is a subsidiary of one or more public bodies.

A legal person is controlled by one or more public bodies when the body or bodies hold, directly or through legal persons the body or bodies control, more than 50% of the voting rights attached to the participations of the legal person or when the body or bodies can elect a majority of its directors.

A partnership is controlled by one or more public bodies when the body or bodies hold, directly or through legal persons the body or bodies control, more than 50% of the participations. However, a limited partnership is controlled by one or more public bodies when the body or bodies or a legal person the body or bodies control is the general partner of the partnership.

The public bodies referred to in this section are subject to this Act even when exercising the fiduciary functions assigned to them by law.

2006, c. 29, s. 4; 2011, c. 16, s. 182; 2017, c. 21, s. 77; 2017, c. 27, s. 90; 2018, c. 10, s. 4; 2020, c. 1, s. 309; 2020, c. 2, s. 23; 2022, c. 18, s. 105.

**5.** The National Assembly, any person appointed or designated by the National Assembly to exercise functions under its authority, the personnel directed by that person, and the Commission de la représentation are subject to this Act only to the extent determined by an Act.

2006, c. 29, s. 5.

**6.** The Conseil de la magistrature, the committee on the remuneration of the judges and the committee on the remuneration of criminal and penal prosecuting attorneys are not subject to this Act.

2006, c. 29, s. 6; 2011, c. 31, s. 17; I.N. 2015-11-01.

**7.** Government enterprises listed in Schedule 3 to the Financial Administration Act (chapter A-6.001) and their subsidiaries must adopt a contracting policy. The same applies to Héma-Québec. Those bodies must make their policy public not later than 30 days after its adoption.

The policy referred to in the first paragraph must be consistent with any applicable intergovernmental agreement and reflect the principles set out in sections 2 and 14 and the requirements of Division V of Chapter II.

For the purposes of the first paragraph, a legal person or partnership that is controlled by one or more government enterprises and does not compete with the private sector is a subsidiary. The fourth and fifth paragraphs of section 4 apply, with the necessary modifications.

Furthermore, section 11 and Chapters V.0.1.1 and V.1 apply to bodies referred to in the first paragraph and the contracts they enter into, with the necessary modifications.

2006, c. 29, s. 7; 2017, c. 27, s. 91; 2018, c. 10, s. 5; 2022, c. 18, s. 106.

### **7.1.** *(Repealed).*

2011, c. 18, s. 49; 2015, c. 15, s. 151.

**8.** The deputy minister of a government department or, in the case of a public body referred to in any of subparagraphs 2 to 4 and 6 to 7 of the first paragraph of section 4 or of a body referred to in section 7, the person responsible for its administrative management, is to exercise the functions this Act confers on the chief executive officer of a public body.

The chief executive officer, in the case of a body referred to in subparagraph 5 of the first paragraph of section 4, is the board of directors and, in the case of a school board governed by the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14), the council of commissioners. The board of directors or the council of commissioners may, by regulation, delegate all or part of the functions conferred on the chief executive officer to the executive committee, the director general or, in the case of a university institution, a member of the senior administrative personnel within the meaning of the Act respecting educational institutions at the university level (chapter E-14.1).

2006, c. 29, s. 8; 2017, c. 27, s. 92; 2018, c. 10, s. 6; 2020, c. 1, s. 186.

**9.** With regard to public procurement contracts and public-private partnership contracts, this Act prevails over any contrary prior or subsequent general or special Act unless the general or special Act expressly states that it applies despite this Act.

2006, c. 29, s. 9.

## CHAPTER II

### TENDERING AND AWARDING OF CONTRACTS

2006, c. 29, c. II; 2022, c. 18, s. 107.

## DIVISION I

### PUBLIC CALLS FOR TENDERS

**10.** A public body must make a public call for tenders

(1) for any supply, service or construction contract involving an expenditure, including, if applicable, the value of the options, equal to or above the lowest threshold specified in an intergovernmental agreement applicable to the contract and the public body;

(2) for any public-private partnership contract; and

(3) for any other contract determined by government regulation.

For the purposes of subparagraph 1 of the first paragraph, the threshold applicable to a contract not subject to an intergovernmental agreement is the threshold for supply, service or construction contracts, as appropriate.

A public body must tender a contract not subject to an intergovernmental agreement in accordance with section 14.2.

2006, c. 29, s. 10; 2018, c. 10, s. 7; 2022, c. 18, s. 2.

**11.** A public call for tenders is made by publishing a notice on the electronic tendering system approved by the Government.

2006, c. 29, s. 11.

**12.** No public body may split or segment its procurement requirements or amend a contract for the purpose of avoiding the obligation to make a public call for tenders or any other obligation under this Act.

2006, c. 29, s. 12.

## DIVISION II

### CONTRACTS BY MUTUAL AGREEMENT

**13.** A contract involving an expenditure equal to or above the public tender threshold specified in section 10 may be entered into by mutual agreement

- (1) if there is an emergency that threatens human safety or property;
- (2) if there is only one possible contractor because of the existence of a guarantee, an ownership right or an exclusive right such as a copyright or a right based on an exclusive licence or patent, or because of the artistic, heritage or museological value of the required property or service;
- (3) if the contract involves confidential or protected information whose disclosure in a public call for tenders could compromise its confidential nature or otherwise hinder the public interest;
- (4) if the public body considers that it will be able to prove, in accordance with the principles set out in section 2, that a public call for tenders would not serve the public interest given the object of the contract concerned; or
- (5) in any other case determined by government regulation.

In the cases described in subparagraphs 2 to 4 of the first paragraph, the contract must be authorized by the chief executive officer of the public body, who must inform the Conseil du trésor on an annual basis.

Despite the preceding paragraphs, a public body may, in the cases described in subparagraph 5 of the first paragraph, award the contract following an invitation to tender if there is more than one possible contractor.

2006, c. 29, s. 13; 2012, c. 25, s. 6; 2017, c. 27, s. 93.

**13.1.** The public body must, at least 15 days before entering into a contract by mutual agreement under subparagraph 4 of the first paragraph of section 13, publish on the electronic tendering system a notice of intention allowing any enterprise to express its interest in carrying out the contract. The notice of intention must, among other things, specify or include

- (1) the name of the enterprise with which the public body intends to enter into the contract by mutual agreement;
- (2) a detailed description of the public body's procurement requirements and the contract obligations;
- (3) the projected contract date;
- (4) the reasons invoked by the public body for entering into a contract by mutual agreement despite the fact that the contract involves an expenditure equal to or above the public tender threshold; and
- (5) the address at which and the deadline by which an enterprise may express interest electronically and demonstrate that it is capable of carrying out the contract according to the procurement requirements and obligations stated in the notice, that deadline being five days before the projected contract date.

For the purposes of this Act, "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.

2017, c. 27, s. 94.

**13.2.** If an enterprise has expressed interest in accordance with subparagraph 5 of the first paragraph of section 13.1, the public body must, at least seven days before the projected contract date, electronically send the enterprise its decision as to whether or not it still intends to enter into a contract by mutual agreement. If

that seven-day period cannot be complied with, the projected contract date must be deferred by the number of days needed to ensure compliance with that minimum period.

The public body must also inform the enterprise of its right to, as applicable, file a complaint under section 38 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1) or make an application under section 52.1 of that Act within three days after receiving the decision.

If no enterprise has expressed interest by the deadline under subparagraph 5 of the first paragraph of section 13.1, the public body may enter into the contract before the projected contract date specified in the notice of intention.

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2017, c. 27, s. 94; 2022, c. 18, s. 108.

### DIVISION III

#### CONTRACTS INVOLVING AN EXPENDITURE BELOW THE PUBLIC TENDER THRESHOLD

**14.** In accordance with the principles set out in section 2, contracts involving an expenditure below the public tender threshold may, in accordance with section 14.3, either be awarded by a public body following a public call for tenders or an invitation to tender or be awarded by mutual agreement.

The public body must also put in place control measures relating to the amount of such contracts and of any related additional expenditure, especially in the case of contracts entered into by mutual agreement.

Lastly, the public body must set up a monitoring mechanism to ensure that the contracting procedures established for the purposes of the tendering or awarding of a contract referred to in this section are effective and efficient.

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2006, c. 29, s. 14; 2022, c. 18, s. 3.

### DIVISION IV

#### ECONOMIC DEVELOPMENT OF QUÉBEC AND ITS REGIONS

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2022, c. 18, s. 4.

**14.1.** If a contract referred to in subparagraph 1 of the first paragraph of section 10 involves an expenditure, including, if applicable, the value of the options, below the lowest threshold applicable under the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States, a public body may

(1) reserve a public call for tenders for small enterprises in Québec and elsewhere in Canada if the body is covered by a directive made in accordance with the first paragraph of section 14.4;

(2) grant preference based on the Québec or otherwise Canadian value added; or

(3) require Québec or otherwise Canadian goods, services or construction work.

The Conseil du trésor determines, by regulation, the form and maximum percentage of the preference a public body may grant under the first paragraph.

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2022, c. 18, s. 4.

**14.2.** A public body must favour making a regionalized public call for tenders in the case of any contract referred to in section 10 that is not subject to an intergovernmental agreement. If the contract is a supply,

service or construction work contract, the public body must also favour procurement of Québec goods, services or construction work.

If the public body does not make a regionalized public call for tenders or, in the case of a supply, service or construction work contract, does not favour procurement of Québec goods, services or construction work, it must record the circumstances or reasons considered.

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2022, c. 18, s. 4.

**14.3.** If a contract is referred to in the first paragraph of section 14, a public body must,

(1) in the case of a call for tenders, favour regionalizing the call for tenders or inviting enterprises in the region concerned, as applicable, and favour procurement of Québec goods, services or construction work; or

(2) in the case of a contract by mutual agreement, favour procurement of Québec goods, services or construction work from enterprises in the region concerned and use a rotation system among them.

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2022, c. 18, s. 4.

**14.4.** The Conseil du trésor may, by directive, set up a program allowing public bodies to reserve public calls for tenders for small enterprises in Québec and elsewhere in Canada, including social economy enterprises within the meaning of the Social Economy Act (chapter E-1.1.1), or requiring them to do so, for contracts referred to in the first paragraph of section 14.1.

The Conseil du trésor may, by directive, require public bodies to tender contracts referred to in the first paragraph of section 14.1 in accordance with subparagraph 2 or 3 of that paragraph.

A directive may apply to all public bodies or to a group of public bodies in particular, and it may apply to only one category of contracts or to only one group of contracts, whether or not of the same category. Furthermore, it is binding on the public bodies concerned.

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2022, c. 18, s. 4.

**14.5.** The Conseil du trésor defines, by regulation, the expressions “small enterprises in Québec and elsewhere in Canada”, “Québec or otherwise Canadian value added ” and “Québec or otherwise Canadian goods, services or construction work” for the purposes of sections 14.1 and 14.4, and the expression “Québec goods, services or construction work” for the purposes of sections 14.2 and 14.3.

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2022, c. 18, s. 4.

## DIVISION V

### SUSTAINABLE DEVELOPMENT

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2022, c. 18, s. 4.

**14.6.** Before the tendering or awarding process for a contract, a public body must conduct an evaluation of procurement requirements that furthers the pursuit of sustainable development.

A public body subject to the Sustainable Development Act (chapter D-8.1.1) must, more specifically, take into account the Government’s sustainable development policies in addition to the specific objectives it has set under that Act and those determined by the Government in the sustainable development strategy adopted under that Act.

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2022, c. 18, s. 4.

**14.7.** With a view to continual improvement, a public body must give priority to including in the tender documents or the contract, as applicable, at least one condition relating to the responsible nature of the procurement, from an environmental, social or economic perspective.

Such a condition may, among other things, take the form of an eligibility requirement, technical requirement, criterion for quality assessment or preferential margin.

### *Not in force*

A public body must record the circumstances or reasons considered if it does not include such a condition in the tender documents or the contract, as applicable.

2022, c. 18, s. 4.

**14.8.** The conditions relating to the responsible nature of a procurement, from an environmental, social or economic perspective, must be related to the object of the contract unless otherwise authorized by law.

For the purposes of the first paragraph, conditions that relate to goods, services or construction work in any way and at any stage in their life cycle, including the research, development, production, commercialization, delivery, distribution, use, maintenance and end-of-life stages, are deemed to be related to the object of the contract, even where such conditions do not pertain to one of their inherent characteristics.

The second paragraph applies, with the necessary modifications, to any category of contracts.

2022, c. 18, s. 4.

**14.9.** The Conseil du trésor may, by directive and in the cases it determines, require public bodies to include in the tender documents or the contract, as applicable, one or more conditions relating to the responsible nature of a procurement, from an environmental, social or economic perspective.

### *Not in force*

The Conseil du trésor may, by directive, authorize public bodies to not record the circumstances or reasons considered if the bodies do not include a condition relating to the responsible nature of a procurement, from an environmental, social or economic perspective, in the tender documents or the contract, as applicable.

A directive may concern all public bodies or a particular group of public bodies and it may apply only with regard to a category of contracts or to a group of contracts, whether or not the latter are of the same category. Furthermore, such a directive is binding on the public bodies concerned.

2022, c. 18, s. 4.

## CHAPTER II.1

### PUBLIC PROCUREMENT INNOVATION SPACE

2022, c. 18, s. 5.

**14.10.** The purpose of this chapter is to improve contract rules to enable public bodies to better contribute to the achievement of the following government objectives:

(1) increase procurement by public bodies that is responsible in nature;

(2) reduce the actual and potential negative environmental impacts of the goods, services and construction work procured by public bodies, in particular as concerns their carbon footprint and greenhouse gas emissions, and increase their sustainability;

- (3) use public procurement as a vector of influence in the fight against climate change;
- (4) improve representation of Indigenous enterprises and of social economy enterprises within the meaning of the Social Economy Act (chapter E-1.1.1) in public procurement;
- (5) encourage participation, in the performance of public contracts, of persons facing labour market barriers; and
- (6) support the development of innovative goods, services and construction work.

The Government may, by order and on the recommendation of the Conseil du trésor, define any other objective, provided the objective is compatible with the principles set out in section 2.

2022, c. 18, s. 5.

**14.11.** In order to enable a public body to contribute to the achievement of a government objective referred to in section 14.10, the Chair of the Conseil du trésor may determine the procurement through which the body must

- (1) grant a premium in the form of a preferential margin to enterprises that comply with environmental or climate change-related standards more stringent than those set by the applicable legislation or the tender documents;
- (2) before the tendering or awarding process for a contract, use tools or analysis grids that relate to sustainable development or are based on a life cycle approach or a circular economy approach, in particular with respect to climate change mitigation and adaptation;
- (3) grant a premium in the form of a preferential margin to Indigenous enterprises or to enterprises that would involve Indigenous persons in the performance of the contract;
- (4) grant a premium in the form of a preferential margin to social economy enterprises within the meaning of the Social Economy Act (chapter E-1.1.1);
- (5) require that persons facing labour market barriers and belonging to a group identified by the Chair of the Conseil du trésor be assigned to the performance of the contract, even if that requirement is not related to the object of the contract;
- (6) issue an invitation to tender in order to acquire a prototype, despite section 10;
- (7) make a public call for tenders involving a competitive dialogue, on the conditions prescribed by a regulation made under this Act, where there is a need to procure innovative goods, services or construction work;
- (8) use a tendering mode prescribed by a regulation made under this Act, even if that mode is not allowed in respect of all or part of the procurement concerned;
- (9) impose an eligibility requirement, technical requirement, criterion for quality assessment or any other optional condition prescribed by this Act or a regulation made under this Act;
- (10) apply a measure prescribed by the Government in accordance with section 14.12; or
- (11) apply a measure prescribed by the Conseil du trésor in accordance with section 14.13.

To determine procurement for the purposes of the first paragraph, the Chair of the Conseil du trésor may target a contract or a group of contracts, whether or not of the same category.

Every time the Chair of the Conseil du trésor imposes a measure under the first paragraph, the Chair determines the conditions for applying the measure, including, where advisable, the conditions relating to the public subcontracts related to the procurement concerned.

When making an order relating to subparagraph 3 of the first paragraph, the Chair of the Conseil du trésor defines in the order, if applicable, the expression “Indigenous enterprises”. When making an order relating to subparagraph 4 of the first paragraph, the procurement the Chair determines must not include any contract subject to an intergovernmental agreement. When making an order relating to subparagraph 5 of the first paragraph, the persons belonging to the group the Chair identifies must be persons that may be given a premium under intergovernmental agreements.

Goods, services and construction work, whether new or significantly improved, in particular because of new production, service delivery or construction processes or because of a new commercialization or organizational method, are innovative within the meaning of subparagraph 7 of the first paragraph.

Any order made by the Chair of the Conseil du trésor under this section is published in the *Gazette officielle du Québec*.

2022, c. 18, s. 5.

**14.12.** The Government may, by regulation and on the recommendation of the Conseil du trésor, prescribe any other measure that differs from the standards established by this Act, provided the measure is compatible with the principles set out in section 2 and consistent with the pursuit of any of the government objectives listed in section 14.10.

2022, c. 18, s. 5.

**14.13.** The Conseil du trésor may, by regulation, prescribe any other measure that differs from the standards prescribed by a regulation made under this Act, provided the measure is compatible with the principles set out in section 2 and consistent with the pursuit of any of the government objectives listed in section 14.10.

2022, c. 18, s. 5.

**14.14.** For the purposes of this chapter, when so requested by the Chair of the Conseil du trésor, ministers must provide assistance to the Chair in the areas under their jurisdiction.

The same applies to public bodies, in particular to allow the Chair of the Conseil du trésor to determine procurement for the purposes of section 14.11.

Furthermore, ministers and public bodies must provide, on request, the information necessary for the production of any monitoring report required under section 22.4.

2022, c. 18, s. 5.

## CHAPTER III

### JOINT CALLS FOR TENDERS BY PUBLIC BODIES

**15.** Two or more public bodies may make a joint call for tenders.

A public body may also be party to a joint call for tenders with a legal person established in the public interest whose contracting conditions are different from those determined by this Act. In such a case, the conditions for the joint call for tenders are those to which the public body or the legal person established in the public interest is subject.

Despite the second paragraph, where a public body and a legal person established in the public interest make a joint call for tenders through the Centre d'acquisitions gouvernementales or where the public body making a joint call for tenders with such a legal person is the Centre, the conditions for the call for tenders are those determined by this Act.

2006, c. 29, s. 15; 2020, c. 2, s. 24.

**16.** No public body may make a joint call for tenders under section 15 without taking into account and recording its impact on the regional economy.

The same applies to the Centre d'acquisitions gouvernementales when it acquires goods or services on behalf of a public body.

2006, c. 29, s. 16; 2020, c. 2, s. 25; 2022, c. 18, s. 6.

## CHAPTER IV

### CONTRACT AMENDMENTS

**17.** A contract may be amended if the amendment is accessory and does not change the nature of the contract.

However, if the contract involves an expenditure equal to or above the public tender threshold, an amendment that entails an additional expenditure must moreover be authorized by the chief executive officer of the public body. The chief executive officer may delegate, in writing and to the extent specified, the power to authorize such an amendment. Additional expenditures authorized under a given delegation may not total more than 10% of the initial amount of the contract.

Despite the second paragraph, an amendment does not require authorization if it is due to a variation in the amount to which a predetermined percentage is to be applied or, subject to section 12, to a variation in a quantity for which a unit price has been agreed.

2006, c. 29, s. 17; 2012, c. 25, s. 7.

## CHAPTER V

### PUBLIC-PRIVATE PARTNERSHIP CONTRACTS

**18.** Public-private partnership contracts are to be entered into in accordance with this chapter and the principles set out in section 2 and the requirements of Division V of Chapter II.

2006, c. 29, s. 18; 2009, c. 53, s. 50; 2022, c. 18, s. 7.

**19.** A public call for tenders for a public-private partnership contract may involve different stages according to the complexity of the project and the number of potentially interested tenderers. The stages of the call for tenders must be defined in the tender documents. However, a stage may be adapted with the consent of the majority of the tenderers having a stake in the subsequent stages.

2006, c. 29, s. 19.

**20.** The tender documents must include

(1) the criteria and conditions against which the public body will evaluate the tenderers and their proposals;

(2) provisions allowing the public body to ensure compliance at all times with the rules applicable to it, particularly as regards access to documents held by public bodies and the protection of personal information, and to meet accountability reporting requirements; and

(3) conflict of interest rules.

2006, c. 29, s. 20.

**21.** Subject to the conditions specified in the call for tenders and in accordance with its express provisions concerning how it may be amended, the public body may,

(1) after the first stage of the selection process and at any subsequent stage, undertake discussions with each of the selected tenderers to further define the technical, financial or contractual aspects of the project and give each of them the opportunity to submit a proposal based on the outcome of those discussions; and

(2) at the end of the selection process, negotiate, with the selected contractor, the provisions needed to finalize the contract while preserving the basic elements of the tender documents and the proposal.

2006, c. 29, s. 21.

### CHAPTER V.0.1

#### CONTRACT RULES COMPLIANCE MONITOR

2012, c. 25, s. 8.

**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.

2012, c. 25, s. 8.

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

(1) seeing that measures are put in place within the public body to comply with the contract rules prescribed by this Act and the regulations, policies and directives under this Act;

(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.

2012, c. 25, s. 8; 2017, c. 27, s. 95.

## CHAPTER V.0.1.1

### FILING OF A COMPLAINT WITH A PUBLIC BODY

2017, c. 27, s. 96.

#### DIVISION I

##### PROCEDURE

2017, c. 27, s. 96.

**21.0.3.** A public body must provide equitable resolution of complaints filed with it in the course of the tendering or awarding of a public contract. It must, for that purpose, establish a procedure for receiving and examining complaints.

The public body must make the complaint procedure available on its website.

To be admissible, a complaint must be sent electronically to the person in charge identified in the procedure or, failing that, to the chief executive officer of the public body. A complaint referred to in section 21.0.4 must be filed on the form determined by the Autorité des marchés publics under section 45 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1).

2017, c. 27, s. 96; 2022, c. 18, s. 109.

#### DIVISION II

##### COMPLAINT ABOUT CERTAIN CONTRACTING PROCESSES

2017, c. 27, s. 96.

**21.0.4.** In the case of an ongoing public call for tenders, only an enterprise or a group of enterprises interested in participating in the tendering process or its representative may file a complaint about the process on the grounds that the tender documents contain conditions that do not ensure the honest and fair treatment of tenderers, do not allow tenderers to compete although they are qualified to meet the stated procurement requirements, or are otherwise not compliant with the normative framework.

The first paragraph also applies to a process for the certification of goods or the qualification of enterprises, with the necessary modifications.

In the case of a body referred to in section 7, this section applies only to the contracting processes preceding the entering into of a contract governed by an intergovernmental agreement.

2017, c. 27, s. 96; 2022, c. 18, s. 110.

## CHAPTER V.1

### INTEGRITY OF ENTERPRISES

2011, c. 17, s. 49; 2022, c. 18, s. 9.

#### DIVISION I

##### STANDARDS AND DECLARATION OF INTEGRITY

2011, c. 17, s. 49; 2017, c. 27, s. 97; 2022, c. 18, s. 10.

**21.1.** Any enterprise that is party to a public contract or subcontract must meet the high standards of integrity that the public is entitled to expect from a party to such a contract or subcontract, hereinafter called “standards of integrity”. In the cases referred to in Division III, the enterprise must demonstrate before the contract or subcontract is entered into that it meets those standards by obtaining the authorization to contract provided for in that division.

An enterprise that is ineligible for public contracts under Division II is presumed not to meet the standards of integrity.

2011, c. 17, s. 49; 2011, c. 35, s. 46; 2012, c. 21, s. 13; 2017, c. 27, s. 98; 2022, c. 18, s. 10.

##### **21.1.1.** *(Replaced).*

2020, c. 2, s. 26; 2020, c. 16, s. 10; 2022, c. 18, s. 10.

**21.2.** Any enterprise that responds to a call for tenders for a public contract must, at the time it submits its bid, file a written declaration, in the form determined by government regulation, in which it recognizes that it is aware of the standards of integrity and undertakes to take all measures necessary to meet those standards throughout the duration of the contract.

Likewise, any enterprise that enters into a public contract by mutual agreement evidenced in writing before its execution must, at the time the contract is evidenced, file such a declaration.

This section does not apply to an enterprise that holds an authorization to contract under Division III. The second paragraph does not apply where the conditions of the contract are not subject to any discussion between the public body and the enterprise, in particular where the contract is formed by the body’s pure and simple acceptance of an offer to contract that is made in the ordinary course of business of the enterprise and that is not specifically intended for that body.

2011, c. 17, s. 49; 2011, c. 35, s. 47; 2012, c. 21, s. 14; 2017, c. 27, s. 99; I.N. 2017-12-01; 2022, c. 18, s. 10; 2023, c. 24, s. 204.

##### **21.2.0.0.1.** *(Replaced).*

2017, c. 27, s. 100; 2022, c. 18, s. 10.

##### **21.2.0.1.** *(Replaced).*

2015, c. 6, s. 30; 2017, c. 27, s. 101; 2022, c. 18, s. 10.

##### **21.2.1.** *(Repealed).*

2011, c. 35, s. 48; 2017, c. 27, s. 102.

## DIVISION II

### INELIGIBILITY FOR PUBLIC CONTRACTS

2022, c. 18, s. 10.

#### § 1. — *Cases of ineligibility*

2022, c. 18, s. 10.

**21.3.** An enterprise's ineligibility for public contracts may result either from a decision of the Autorité des marchés publics, where so provided by this chapter, or from the fact that the enterprise is in any of the situations provided for in section 21.4.

2011, c. 17, s. 49; 2011, c. 35, s. 49; 2012, c. 21, s. 15; 2017, c. 27, s. 102; 2022, c. 18, s. 10.

#### **21.3.1.** *(Replaced).*

2011, c. 35, s. 50; 2017, c. 27, s. 103; 2022, c. 18, s. 10.

**21.4.** An enterprise is ineligible for public contracts if it does not hold an authorization to contract under Division III and is in any of the following situations:

- (1) it is found guilty, by a final judgment, of an offence listed in Schedule I;
- (2) it is an associate of a person found guilty, by a final judgment, of an offence listed in Schedule I; or

(3) it is a legal person controlled by an enterprise that becomes ineligible for public contracts under subparagraph 1 or following a decision by the Authority under Division III or IV, unless such ineligibility results from a temporary registration in the register of enterprises ineligible for public contracts under the third paragraph of section 21.48.4.

For the purposes of subparagraph 2 of the first paragraph, if an enterprise is a legal person, it is an associate of the natural person who is its majority shareholder. An enterprise is also an associate of any person acting within the enterprise as a director, a partner or otherwise as an officer, but, in those cases, only if the offence under that subparagraph was committed in the exercise of the functions of the person within the enterprise. A person referred to in this paragraph, other than the enterprise itself, is hereinafter designated as an "associate".

For the purposes of subparagraph 3 of the first paragraph, an enterprise is controlled by the enterprise that is its majority shareholder.

For the purposes of this chapter, the majority shareholder is the shareholder that holds shares of a legal person's capital stock that confer 50% or more of the voting rights that may be exercised under any circumstances.

2011, c. 17, s. 49; 2017, c. 27, s. 104; 2022, c. 18, s. 10.

#### **21.4.1.** *(Replaced).*

2011, c. 35, s. 51; 2012, c. 21, s. 16; 2017, c. 27, s. 105; 2022, c. 18, s. 10.

**21.5.** Despite section 21.4, a final judgment referred to in subparagraph 1 or 2 of the first paragraph of that section does not cause an enterprise to become ineligible for public contracts if the offence that led to the finding of guilty was previously considered by the Authority in the course of an examination of the enterprise's integrity carried out under Division IV and following which the Authority rendered a decision.

The same applies in the case of a final judgment rendered in respect of an enterprise whose integrity is being examined by the Authority under Division III or IV. However, if the examination of integrity is not concluded because the application for authorization to contract that gave rise to the examination is withdrawn or cancelled, only the effect of the judgement, in respect of the ineligibility of the enterprise for public contracts, is suspended.

2011, c. 17, s. 49; 2011, c. 35, s. 52; 2017, c. 27, s. 106; 2022, c. 18, s. 10.

**21.5.1.** Before an enterprise is registered in the register of enterprises ineligible for public contracts under section 21.6, an enterprise referred to in section 21.4 may, if it is party to a public contract or subcontract, file an application with the Authority for the examination of its integrity in accordance with Division IV. In such a case, the provisions of that division apply, except the third paragraph of section 21.48.4 and subject to section 21.48.5 applying on the filing of the application with the Authority.

If the enterprise fails to implement, within the time granted, a corrective measure imposed under Division IV, the Authority renders a decision and registers the enterprise in the register of enterprises ineligible for public contracts.

To be considered, an application under this section must be submitted in the form prescribed by the Authority and be filed with the fees determined in accordance with section 84 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1) and the information and documents prescribed by regulation of the Authority.

2022, c. 18, s. 10.

**21.5.2.** For the purposes of this division, an enterprise or an associate is deemed to have been found guilty, by a final judgment, of an offence listed in Schedule I if a penalty has been imposed on the enterprise or associate under any of sections 1079.13.1, 1079.13.2, 1082.0.2 and 1082.0.3 of the Taxation Act (chapter I-3), in connection with an assessment regarding which any time limit for objecting has expired or, if the enterprise or associate has either validly objected to the assessment or filed a contestation with or brought an appeal before a court of competent jurisdiction regarding the assessment, the objection, contestation or appeal, as applicable, has been finally settled.

In such cases, this Act applies, with the necessary modifications.

2022, c. 18, s. 10.

## *§ 2. — Beginning and duration of the period of ineligibility*

2022, c. 18, s. 10.

**21.5.3.** An enterprise becomes ineligible for public contracts as of the date on which the enterprise is registered in the register of enterprises ineligible for public contracts under section 21.6. The period of ineligibility lasts five years, except

(1) where the ineligibility results from the situation described in subparagraph 3 of the first paragraph of section 21.4; in that case, the enterprise's ineligibility ends as soon as the period of ineligibility of the enterprise that caused it to be registered in the register ends; or

(2) where the ineligibility is imposed temporarily; in that case, the period of ineligibility is the one that results from the application of the third paragraph of section 21.48.4.

Despite the first paragraph, the enterprise's ineligibility for public contracts ends as soon as an authorization to contract referred to in Division III is granted to it.

2022, c. 18, s. 10.

§ 3. — *Effects of ineligibility*

2022, c. 18, s. 10.

**21.5.4.** An enterprise that becomes ineligible for public contracts while in the process of performing a public contract is, subject to permission given by the Conseil du trésor under section 25.0.2, deemed to have defaulted on the performance of the contract on the expiry of 60 days after the date on which it becomes ineligible. However, the enterprise is not deemed to have defaulted as regards honouring the contract guarantees.

This section does not apply to an enterprise temporarily registered in the register of enterprises ineligible for public contracts under section 21.48.4.

2022, c. 18, s. 10.

**21.5.5.** An enterprise that is ineligible for public contracts may not, as long as it is ineligible, submit a bid to obtain a public contract, enter into such a contract or enter into a public subcontract.

2022, c. 18, s. 10.

§ 4. — *Register of enterprises ineligible for public contracts*

2022, c. 18, s. 11.

**21.6.** The Authority keeps a register of enterprises ineligible for public contracts.

The Authority must enter in the register the information relating to any enterprise referred to in subparagraph 1 or 2 of the first paragraph of section 21.4, not later than 20 days after the date on which the Authority is informed of the final judgment. However, if the effect of the judgment has been suspended under the second paragraph of section 21.5, the information must be entered in the register as soon as possible after the date the application for authorization to contract is withdrawn or cancelled.

The Authority must also enter in the register the information relating to any enterprise that is in a control situation referred to in subparagraph 3 of the first paragraph of section 21.4 or that is the subject of a decision rendered under this chapter, as soon as possible after the date on which, as applicable, it is informed of the control situation or it renders its decision.

2011, c. 17, s. 49; 2017, c. 27, s. 107; 2022, c. 18, s. 12.

**21.7.** The register must contain the following information for each enterprise ineligible to enter into public contracts:

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

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

(3) as the case may be,

(a) the offence or offences of which the enterprise was found guilty,

(b) the offence or offences of which an associate of the enterprise was found guilty and that caused the enterprise to be registered in the register, the associate's name and the name of the municipality in whose territory the associate resides,

(c) the content of the Authority's decision causing the enterprise to be registered in the register and, if applicable, a reference to the temporary nature of that registration;

(d) a reference to the fact that the enterprise is in a control situation referred to in subparagraph 3 of the first paragraph of section 21.4 as well as the name of the majority shareholder causing the enterprise to be registered in the register and of the municipality in whose territory the shareholder resides;

(4) if the enterprise's ineligibility for public contracts is not temporary, its projected end date; and

(5) any other information prescribed by regulation of the Authority.

2011, c. 17, s. 49; 2011, c. 35, s. 53; 2017, c. 27, s. 108; 2022, c. 18, s. 13.

**21.8.** A public body designated in Schedule II must provide the information required under section 21.7 to the Authority in the cases, on the conditions and in the manner determined by regulation of the Authority.

2011, c. 17, s. 49; 2017, c. 27, s. 109; 2022, c. 18, s. 14.

**21.9.** *(Repealed).*

2011, c. 17, s. 49; 2017, c. 27, s. 110.

**21.10.** The information contained in the register is public information and must be made available by the Authority on its website.

2011, c. 17, s. 49; 2017, c. 27, s. 111.

**21.11.** Public bodies must, before entering into a public contract, ensure that the bidders, or the successful bidder, are not named in the register or, if they are named in the register, that their period of ineligibility for public contracts has ended or that the conditions prescribed in section 25.0.3 have been met.

Similarly, an enterprise that has entered into a public contract must, before entering into any subcontract required for the performance of the contract, ensure that the subcontractors are not named in the register or, if they are named in the register, that their period of ineligibility for public contracts has ended or that the conditions under section 25.0.3 have been met.

2011, c. 17, s. 49; 2011, c. 35, s. 54; 2017, c. 27, s. 112; 2022, c. 18, s. 15.

**21.12.** The Authority informs the enterprise, in writing and without delay, of its registration in the register, of the nature of and grounds for the registration, of the enterprise's period of ineligibility for public contracts and, if the enterprise holds an authorization to contract, of the revocation or suspension of the authorization, as applicable, that results from its registration in the register.

The enterprise must then send the Authority, in writing and within the time determined by the Authority, the name of every public body with which a public contract is in process as well as the name and, if applicable, Québec business number of every legal person of which the enterprise is the majority shareholder. This paragraph does not apply to an enterprise whose registration in the register is temporary.

The Authority must inform each public body concerned, as soon as possible, of the information it obtains under the second paragraph.

2011, c. 17, s. 49; 2011, c. 35, s. 55; 2017, c. 27, s. 113; 2022, c. 18, s. 17.

**21.13.** *(Repealed).*

2011, c. 17, s. 49; 2017, c. 27, s. 114.

**21.14.** *(Repealed).*

2011, c. 17, s. 49; 2017, c. 27, s. 114.

**21.15.** An enterprise that may have been mistakenly named in the register or in respect of whom inaccurate information is recorded in the register may ask the Authority to make the necessary rectifications in the register.

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

2011, c. 17, s. 49; 2017, c. 27, s. 115.

**21.16.** The Authority may, on its own initiative or following a request, remove any unlawful entry from the register.

2011, c. 17, s. 49; 2017, c. 27, s. 116.

### **DIVISION III**

#### **AUTHORIZATION TO CONTRACT**

2022, c. 18, s. 18.

##### **§ 1. — Conditions and obligations**

2022, c. 18, s. 18.

**21.17.** An enterprise that wishes to enter into a contract with a public body involving an expenditure, including an expenditure resulting from an option provided in the contract, equal to or greater than the amount determined by the Government must obtain an authorization for that purpose from the Authority. The amount may vary according to the category of contract.

An enterprise that wishes to enter into a public subcontract that involves an expenditure equal to or greater than that amount must also obtain such an authorization.

For the purposes of this Act, the obligation for an enterprise to obtain or hold the authorization referred to in the first paragraph applies, in the case of a consortium, to every enterprise in the consortium, in addition to applying to the consortium itself if it takes the juridical form of a general or limited partnership.

2012, c. 25, s. 10; 2017, c. 27, s. 117; 2022, c. 18, s. 19.



*For the purposes of section 21.17 of this Act, the service contracts and subcontracts covered are, as of 2 November 2015, service contracts and subcontracts involving an expenditure equal to or greater than \$1,000,000, including, if applicable, the amount of the expenditure that would be incurred if all renewal options were exercised, and for which the award process begins as of 2 November 2015. Order in Council 435-2015 dated 27 May 2015, (2015) 147 G.O. 2, 1019.*

*For the purposes of section 21.17 of this Act, the contracts and subcontracts covered be, as of 24 October 2014, service contracts and subcontracts and construction contracts and subcontracts involving an expenditure equal to or greater than \$5,000,000, including, if applicable, the amount of the expenditure that would be incurred if all renewal options were exercised, and for which the award process begins as of 24 October 2014. Order in Council 796-2014 dated 10 September 2014, (2014) 146 G.O. 2, 2047.*

**21.17.1.** Despite the expenditure amount set by the Government under section 21.17, the Government may, on the conditions it fixes, determine that an authorization is required in respect of public contracts or subcontracts, even if they involve a lower expenditure amount.

The Government may also, on the conditions it fixes, determine that an authorization is required in respect of a category of public contracts or subcontracts other than the categories determined under section 21.17 or determine that an authorization is required in respect of groups of public contracts or subcontracts, regardless of whether they are in the same category.

The Government may determine special terms for the applications for authorization that enterprises must file with the Authority in respect of such contracts or subcontracts.

2017, c. 27, s. 118.

**21.17.2.** The Government may require an enterprise party to a public contract or subcontract in process to obtain, within the time the Government determines, an authorization to contract.

The Government may determine special terms for the application for authorization that the enterprise must file with the Authority.

An enterprise that has not obtained its authorization within the time determined under the first paragraph is deemed to have defaulted on performance of the public contract or subcontract on the expiry of a period of 30 days after that time has expired.

2017, c. 27, s. 118.

**21.17.3.** An enterprise named in the register of enterprises ineligible for public contracts under section 21.4 may, at any time, file with the Authority an application for authorization to contract.

The granting of such an authorization entails, despite any inconsistent provision, the removal of the enterprise's name from the register as well as the removal of the name of any associate of the enterprise named in the register under section 21.4.

2017, c. 27, s. 118; 2022, c. 18, s. 20.

**21.18.** 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. An enterprise that enters into a public contract or subcontract by mutual agreement must hold an authorization on the date the contract or subcontract is entered into.

An authorization must be maintained throughout the contract or subcontract.

2012, c. 25, s. 10; 2022, c. 18, s. 21.

**21.19.** *(Repealed).*

2012, c. 25, s. 10; 2017, c. 27, s. 119.

**21.20.** *(Repealed).*

2012, c. 25, s. 10; 2017, c. 27, s. 119.

**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.

2012, c. 25, s. 10.

**21.22.** To obtain the authorization required under sections 21.17 to 21.17.3, an enterprise must submit an application to the Authority.

2012, c. 25, s. 10; 2017, c. 27, s. 120.

**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 division.

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 in accordance with section 84 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1). The information and documents required may vary according to the type of enterprise or the place where the enterprise mainly carries on its activities.

2012, c. 25, s. 10; 2017, c. 27, s. 121; 2022, c. 18, s. 22.

**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 a certificate 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 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.

2012, c. 25, s. 10; 2015, c. 8, s. 85; 2022, c. 18, s. 23.

**21.25.** *(Repealed).*

2012, c. 25, s. 10; 2015, c. 8, s. 86.

**21.26.** The Authority refuses to grant or renew any enterprise's authorization if, in the preceding five years, a director or officer of the enterprise, or the natural person who is its majority shareholder, was found guilty of an offence listed in Schedule I, unless a pardon was obtained.

2012, c. 25, s. 10; 2015, c. 6, s. 31; 2022, c. 18, s. 24.

**21.26.1.** For the purposes of this division and despite section 21.29, an enterprise, person or entity is deemed to have been found guilty of an offence listed in Schedule I if a penalty has been imposed on the enterprise, person or entity under any of sections 1079.13.1, 1079.13.2, 1082.0.2 and 1082.0.3 of the Taxation Act (chapter I-3), in connection with an assessment regarding which any time limit for objecting has expired or, if the enterprise, person or entity has either validly objected to the assessment or filed a contestation with or brought an appeal before a court of competent jurisdiction regarding the assessment, the objection, contestation or appeal, as applicable, has been finally settled.

In such cases, the provisions of this Act apply, with the necessary modifications.

2020, c. 2, s. 27; 2020, c. 16, s. 11; 2022, c. 18, s. 25.

**21.27.** The Authority refuses to grant or to renew an enterprise's authorization if of the opinion that the enterprise fails to meet the standards of integrity.

In order to verify whether an enterprise meets the standards of integrity, the Authority has the powers set out in Division V.

2012, c. 25, s. 10; 2022, c. 18, s. 26.

**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

(0.1) whether the enterprise, one of its shareholders other than the natural person who is the majority shareholder, one of its partners or another person or entity that has direct or indirect legal or de facto control over it has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(0.2) whether 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;

(0.2.1) whether the enterprise has, in the preceding five years, been the subject of an order of the Minister of Sustainable Development, Environment and Parks under an Act under that minister's administration;

(0.3) whether 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);

(0.4) whether 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;

(1) whether the enterprise or a person or entity referred to in the first paragraph maintains or has maintained, in the preceding five years, connections with a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (R.S.C. 1985, c. 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 (S.C. 1996, c. 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.

For the purposes of this section, legal or de facto control over an enterprise may be established, among other ways, on the basis of participation in the concerted exercise of rights within the enterprise or of powers over the enterprise; each of the participants in the exercise is then presumed to be the holder of control even though none of them would alone be the holder of control. It is presumed that the exercise is concerted if family ties exist between the participants. Furthermore, participation in a concerted exercise is presumed between spouses; each spouse is then presumed to be the holder of control even though only one of them exercises it.

2012, c. 25, s. 10; 2015, c. 6, s. 32; 2017, c. 27, s. 122; 2022, c. 18, s. 27.

**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.

2012, c. 25, s. 10.

**21.30.** When an enterprise submits an application for authorization, the Authority sends the information obtained to the Associate Commissioners for Audits appointed in accordance with section 8 of the Anti-Corruption Act (chapter L-6.1), who exercise the function provided for in paragraph 1.1 of section 10 of that Act, so that one of them conducts, in respect of the enterprise, the audits relating to the elements set out in subparagraphs 1 and 9 of the second paragraph of section 21.28.

As soon as possible after the information is sent, an Associate Commissioner provides to the Authority a report detailing the result of the audits conducted.

The audits required under this section 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 an Associate Commissioner referred to in the first paragraph.

2012, c. 25, s. 10; 2013, c. 23, s. 106; 2017, c. 27, s. 123; 2022, c. 18, s. 28.

**21.31.** An enterprise that withdraws its application for authorization or for renewal may not file a new application within 12 months after the withdrawal unless the Authority allows it. The same applies to an enterprise whose application for authorization is cancelled under section 21.40.1.

2012, c. 25, s. 10; 2013, c. 23, s. 107; 2022, c. 18, s. 29.

**21.32.** *(Repealed).*

2012, c. 25, s. 10; 2013, c. 23, s. 108; 2022, c. 18, s. 30.

**21.33.** *(Repealed).*

2012, c. 25, s. 10; 2013, c. 23, s. 109; 2022, c. 18, s. 30.

**21.34.** *(Repealed).*

2012, c. 25, s. 10; 2013, c. 23, s. 110; 2022, c. 18, s. 30.

**21.35.** *(Repealed).*

2012, c. 25, s. 10; 2017, c. 27, s. 124; 2022, c. 18, s. 30.

**21.36.** Before the granting or renewal of an authorization is refused under section 21.26 or 21.27, the Authority may give the enterprise an opportunity to take the corrective measures that would enable it to meet the standards of integrity. Such measures are determined in accordance with section 21.48.6. The Authority informs the enterprise of the terms and conditions, including the time limit, for implementing any corrective measure, and those for reporting to the Authority on that implementation.

2012, c. 25, s. 10; 2022, c. 18, s. 31.

**21.37.** Before refusing to grant or renew 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.

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

The enterprise concerned by a decision of the Authority refusing the granting or renewal of an authorization becomes ineligible for public contracts in accordance with Division II.

2012, c. 25, s. 10; 2022, c. 18, s. 32.

**21.38.** The authorization to contract held by an enterprise that, following an examination of its integrity initiated under Division IV, becomes ineligible for public contracts is revoked as of the date on which the enterprise becomes ineligible. However, the authorization is merely suspended if the ineligibility is imposed temporarily under section 21.48.4.

2012, c. 25, s. 10; 2017, c. 27, s. 125; 2022, c. 18, s. 33.

**21.39.** The Authority informs 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 first paragraph of section 21.41.1.

2012, c. 25, s. 10; 2013, c. 23, s. 111; 2022, c. 18, s. 34.

**21.40.** An enterprise holding an authorization must annually update the documents and information determined by regulation of the Authority. It must, in addition, notify the Authority of any modification of the information previously provided not later than 30 days after the change in its situation that makes the modification necessary.

Any other terms or conditions relating to such communication of documents and information are determined by regulation of the Authority.

2012, c. 25, s. 10; 2022, c. 18, s. 35.

**21.40.1.** The Authority may cancel an application for authorization or suspend the authorization of any enterprise that fails to communicate to it, within the time granted, a document or information the Authority requires for the purposes of this division or Division IV.

2022, c. 18, s. 35.

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

To maintain its authorization, an enterprise must submit to the Authority an application for renewal at least 90 days before the authorization is to expire. If applicable, the authorization remains valid even if it has expired, until the Authority rules on the application, unless the authorization is revoked in the meantime.

The application for renewal must be submitted in the form prescribed by the Authority. It must be filed together with the documents and information prescribed by regulation of the Authority and the fee determined in accordance with section 84 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1). The requirements so prescribed may vary according to the nature and significance of the changes that have occurred within the enterprise since the granting or latest renewal of the authorization to contract. Those requirements may also vary according to the type of enterprise or the place where the enterprise mainly carries on its activities.

An application for renewal submitted after the time limit specified in the second paragraph is a new application for authorization.

2012, c. 25, s. 10; 2022, c. 18, s. 36.

**21.41.1.** An enterprise whose authorization has expired or is suspended must, within 10 days after the expiry or suspension, send to the Authority, in writing, the name of every public body with which the enterprise has a contract in process.

Such an enterprise must continue to perform any public contract or subcontract for which such an authorization is required. However, it is required to submit to any oversight or monitoring measure the Authority may impose on it, in accordance with Division IV, until the performance of the contract or subcontract ends.

Despite the second paragraph, an enterprise referred to in that paragraph must cease performing the public contract to which it is party, at the request of the public body concerned, if a decision is rendered under section 25.0.4.

The fact that an enterprise's authorization expires while the enterprise is in the process of performing a public contract or subcontract for which such an authorization is required constitutes a failure of the enterprise to comply with this Act for which a monetary administrative penalty may be imposed under Division II of Chapter VIII.2.

2017, c. 27, s. 126; 2022, c. 18, s. 37.

**21.42.** *(Repealed).*

2012, c. 25, s. 10; 2022, c. 18, s. 38.

**21.43.** *(Section renumbered).*

2012, c. 25, s. 10; 2017, c. 27, s. 127; 2022, c. 18, s. 39.



*See section 21.48.17.*

**21.44.** *(Section renumbered).*

2012, c. 25, s. 10; 2017, c. 27, s. 128; 2022, c. 18, s. 40.



*See section 21.48.18.*

**§ 2.** — *Register of enterprises authorized to contract*

2022, c. 18, s. 41.

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

In addition to the information determined by regulation of the Authority, the following information is entered in the register:

(1) the fact that an enterprise's authorization has expired or is suspended, if the expiry or suspension occurs while the enterprise is performing a public contract or subcontract for which such an authorization is required; and

(2) the fact that an oversight or monitoring measure has been imposed under section 21.41.1 on an enterprise referred to in subparagraph 1.

2012, c. 25, s. 10; 2022, c. 18, s. 42.

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

2012, c. 25, s. 10.

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

2012, c. 25, s. 10.

**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.

2012, c. 25, s. 10.

## DIVISION IV

### OVERSIGHT OF ENTERPRISES

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2022, c. 18, s. 43.

**21.48.1.** Any enterprise that is party to a public contract or subcontract and any enterprise that holds an authorization to contract, whether or not the latter is party to such a contract or subcontract, is subject to the oversight of the Autorité des marchés publics.

To ensure such oversight, the Authority may, at any time, conduct audits to ensure that an enterprise meets the standards of integrity; for that purpose, it has the powers set out in Division V. If need be, the Authority undertakes to examine the enterprise's integrity and, if it concludes that the latter does not meet the standards of integrity, it imposes the applicable measures and penalties.

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2022, c. 18, s. 43.

**21.48.2.** The examination of an enterprise's integrity covers all the elements that the Authority may consider in rendering a decision relating to an application for authorization to contract made under Division III.

Such an examination is initiated through a notice sent by the Authority to the enterprise concerned. The notice mentions the information that the enterprise must provide to the Authority and the time limit for doing so.

The notice also mentions, if applicable, any information the Authority already holds that could demonstrate that the enterprise does not meet the standards of integrity and the time granted to the enterprise to submit, as concerns that information, written observations and provide any document or information relevant to the examination.

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2022, c. 18, s. 43.

**21.48.3.** If, once the examination of an enterprise's integrity is completed, the Authority is of the opinion that the enterprise does not meet the standards of integrity, it must, before rendering a decision, notify the enterprise 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.

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

Despite the first paragraph, the Authority may make a decision without complying with the prior obligations set out in that paragraph if urgent action is required or to prevent irreparable harm. In such a case, the enterprise concerned may, within the time 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.

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2022, c. 18, s. 43.

**21.48.4.** If the Authority renders a decision concluding that an enterprise does not meet the standards of integrity, it must, at the same time, impose on the enterprise any corrective measure it considers conducive to enabling the enterprise to meet those standards. If no such measure is imposed, the decision rendered by the Authority mentions it and the enterprise, following that decision, is registered in the register of enterprises ineligible for public contracts referred to in section 21.6.

The Authority informs the enterprise of the terms and conditions, including the time limit, for implementing any corrective measure, and those for reporting to the Authority on that implementation.

If the enterprise fails to implement a corrective measure within the time granted, the Authority temporarily registers the enterprise in the register of enterprises ineligible for public contracts. If the enterprise remedies the failure to the Authority's satisfaction, within three months after its temporary registration, the Authority withdraws the registration from the register. If the enterprise does not remedy the failure within that time, the Authority definitively registers the enterprise in the register, for a period of five years starting on the date it was temporarily registered. Before registering an enterprise in the register of enterprises ineligible for public contracts under this paragraph, the Authority must render a decision establishing the enterprise's failure.

2022, c. 18, s. 43.

**21.48.5.** An enterprise concerned by a decision of the Authority concluding that the enterprise does not meet the standards of integrity must continue to perform any public contract or subcontract to which it is party. However, it is required to submit to any oversight or monitoring measure the Authority may impose on it, until the performance of the contracts or subcontracts ends.

The Authority informs the enterprise of the terms and conditions, including the time limit, for implementing any oversight or monitoring measure, and those for reporting to the Authority on that implementation.

Despite the first paragraph, an enterprise referred to in that paragraph must cease performing the public contract to which it is party, at the request of the public body concerned, if a decision is rendered under section 25.0.4. The same applies if such an enterprise is registered, otherwise than temporarily, in the register of enterprises ineligible for public contracts; in such a case, the enterprise must cease performing the contract as of the effective date of the presumption of default provided for in section 21.5.4, if applicable.

2022, c. 18, s. 43.

**21.48.6.** Any corrective measure or any oversight or monitoring measure imposed by the Authority under this chapter is determined taking into account the enterprise's specific situation and after giving the enterprise the opportunity to submit observations. To determine an oversight or monitoring measure relating specifically to an enterprise's performance of a public contract or subcontract, the Authority may require the enterprise to provide, within the time specified, a copy of the contract or subcontract or, if the subcontract is not evidenced in writing, the information relating to the subcontract that the Authority considers necessary.

The Authority develops a general framework for applying the corrective measures and the oversight or monitoring measures, which specifies, in addition to the types of measures the Authority may impose and the objective pursued by imposing each of those types, the elements it takes into account and the criteria that guide it in determining a measure to be imposed on an enterprise. The framework is published on the Authority's website.

Despite the preceding paragraphs, only measures that have the effect of eliminating any control exercised by a director, officer or shareholder on the enterprise or, in the case of a shareholder who exercises such control, of restricting the latter to the extent the Authority considers necessary may constitute corrective measures in respect of an enterprise that is in the situation described in section 21.26.

2022, c. 18, s. 43.

**21.48.7.** Any corrective measure or any oversight or monitoring measure imposed under this chapter is applied at the expense of the enterprise subject to it.

2022, c. 18, s. 43.

## DIVISION V

### POWERS OF THE AUTORITÉ DES MARCHÉS PUBLICS

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2022, c. 18, s. 43.

**21.48.8.** For the purposes of section 21.48.1, the Authority may, in order to verify whether an enterprise that does not hold an authorization to contract is party to a public contract or subcontract, require the enterprise to send to the Authority, within the time specified, a copy of any public contract or subcontract to which it is party, if applicable, or, if the enterprise is not party to such a contract or subcontract, to confirm that fact to the Authority in writing. That power may be exercised only if the Authority has reasonable grounds to suspect that the enterprise is party to a public contract or subcontract and does not meet the standards of integrity.

If a public subcontract is not evidenced in writing, the enterprise concerned by a request made under the first paragraph must send, in writing, the information determined by the Authority that is necessary for the purpose mentioned in that paragraph.

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2022, c. 18, s. 43.

**21.48.9.** The Authority may require any enterprise subject to its oversight to send it, within the time specified, any document or information enabling the Authority to verify whether it meets the standards of integrity. The Authority may do the same in respect of any director, partner, officer or shareholder of the enterprise or any other person or entity that has, directly or indirectly, legal or de facto control over the enterprise.

If the Authority has reasonable grounds to suspect that an enterprise subject to its oversight is the extension of, or is lending its name to, another enterprise, it may exercise its power under the first paragraph in respect of the other enterprise and of any person or entity that acts, in respect of the other enterprise, in any manner described in that paragraph.

Every person or entity that is subject to a request made under this section must, if the Authority so requires, confirm, in an affidavit, the authenticity of the documents or the veracity of the information communicated.

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2022, c. 18, s. 43.

**21.48.10.** For the purposes of an audit relating to the integrity of an enterprise subject to the oversight of the Authority, any person authorized by the latter may

(1) enter, at any reasonable hour, the establishment of the enterprise being audited or any other premises in which may be kept documents or information enabling the authorized person to verify whether the enterprise meets the standards of integrity;

(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 audit, examine, process, copy or print out such data; and

(3) require from the persons present any information enabling the authorized person to verify whether the enterprise meets the standards of integrity, as well as the making available, for examination and reproduction, of any book, register, account, contract, record or other relevant document.

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

The person conducting the audit must, on request, produce identification and, if applicable, show the document attesting his or her authorization.

2022, c. 18, s. 43.

**21.48.11.** The Authority may, in writing, entrust the mandate of conducting any audit provided for in any of sections 21.48.8 to 21.48.10 to a person who is not a member of its staff and who meets the conditions set out in paragraphs 1 and 2 of section 6 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1). For that purpose, the Authority may delegate the exercise of its powers to that person.

Sections 74 to 76 of the Act respecting the Autorité des marchés publics apply to any person entrusted with a mandate under this section.

2022, c. 18, s. 43.

**21.48.12.** The Authority may require the Associate Commissioners for Audits appointed in accordance with section 8 of the Anti-Corruption Act (chapter L-6.1), who exercise the function provided for in paragraph 1.1 of section 10 of that Act, to conduct, in respect of an enterprise subject to its oversight, any audit relating to the elements set out in sections 21.26 and 21.28 of this Act. To that end, the Authority sends them the relevant information it holds, including the information obtained from the enterprise or a public body or otherwise.

As soon as possible after such a request is sent, an Associate Commissioner provides to the Authority a report detailing the result of the audits conducted.

The audits required under this section 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 an Associate Commissioner referred to in the first paragraph.

2022, c. 18, s. 43.

**21.48.13.** The Authority may require any public body subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) to communicate to the Authority any information necessary for the audit of an enterprise's integrity.

The Authority may, in addition, for the purposes of this chapter, require any public body to communicate to the Authority any information relating to its public contracts in progress and any information relating to the public subcontracts related to those contracts, if the body holds such information.

2022, c. 18, s. 43.

## DIVISION VI

### OTHER PROVISIONS

2022, c. 18, s. 43.

**21.48.14.** For the purposes of this chapter, an agreement must be entered into under section 121 of the Act respecting the legal publicity of enterprises (chapter P-44.1) for the Authority to receive communication of the information contained in the enterprise register and any subsequent updates.

2022, c. 18, s. 43.

**21.48.15.** The Authority may, on an application, review any decision it renders under this chapter if it is informed of a new fact which, had it been known in sufficient time, could have warranted a different decision.

An application for review made under this section must, to be considered by the Authority, be submitted within a reasonable time after the date of the decision or after the date the new fact is discovered.

2022, c. 18, s. 43.

**21.48.16.** The Government may amend Schedules I and II.

2022, c. 18, s. 43.

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

2012, c. 25, s. 10; 2017, c. 27, s. 127; 2022, c. 18, s. 39.

**21.48.18.** A decision of the Government under the first paragraph of section 21.17 or section 21.48.16 comes into force on the 30th day after its publication in the *Gazette officielle du Québec* or on any later date specified in the decision.

In addition, a decision of the Government under section 21.17.1 or 21.17.2 comes into force on the date it is made or on any later date specified in the decision 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.

2012, c. 25, s. 10; 2017, c. 27, s. 128; 2022, c. 18, s. 40.

## CHAPTER VI

### ACCOUNTABILITY REPORTING

2011, c. 17, s. 50.

## DIVISION I

### INFORMATION TO BE PUBLISHED

2011, c. 17, s. 50.

**22.** A public body must, in the cases, on the conditions and in the manner determined by government regulation, publish information on the contracts it has entered into which involve an expenditure equal to or greater than \$25,000. 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.

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.

2006, c. 29, s. 22; 2012, c. 25, s. 11.

## DIVISION II

### REPORT BY THE CHAIR OF THE CONSEIL DU TRÉSOR

2011, c. 17, s. 51.

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

The chief executive officers of public bodies referred to in section 4 provide to the Chair of the Conseil du trésor, at the time determined by the Conseil du trésor, the accountability reporting information considered necessary for the production of that report.

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

2011, c. 17, s. 51; 2012, c. 25, s. 12.

**22.2.** Every year, the Chair of the Conseil du trésor publishes on the website of the secretariat of the Conseil du trésor a report presenting statistics on the regionalized public calls for tenders and the procurement of Québec goods, services and construction work that were favoured by public bodies under section 14.2. The report must also state the circumstances and reasons considered in the cases where such calls for tenders and such procurement were not favoured.

2022, c. 18, s. 8.

**22.3.** Every year, the Chair of the Conseil du trésor publishes on the website of the secretariat of the Conseil du trésor a report presenting statistics on the inclusion of conditions relating to the responsible nature of a procurement, from an environmental, social or economic perspective, in the tender documents or the contracts of public bodies under Division V of Chapter II. The report must also set out the circumstances and reasons considered that were recorded by public bodies under the third paragraph of section 14.7.

The report must, however, pertain only to procurement involving an expenditure equal to or greater than the amount set out in the first paragraph of section 22.

2022, c. 18, s. 8.



*The last sentence of the first paragraph will come into force on the date to be determined by the Government (2022, c. 18, s. 152 (2)).*

**22.4.** Not later than 2 December 2023 and subsequently every year, the Chair of the Conseil du trésor publishes, on the website of the secretariat of the Conseil du trésor, a monitoring report on the carrying out of Chapter II.1.

Every monitoring report must contain the following information:

- (1) the procurement determined for the purposes of section 14.11;
- (2) the progress made as concerns achievement of the government objectives listed in section 14.10 and its anticipated beneficial effects on the environment, society and the economy;
- (3) the recommendations of the Chair of the Conseil du trésor as to the advisability of amending the contract rules concerned; and
- (4) any other element considered relevant by the Chair of the Conseil du trésor.

2022, c. 18, s. 8.

## CHAPTER VII

### REGULATORY POWERS

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

- (1) determine conditions other than those determined in this Act for contracts referred to in the first paragraph of section 3 or subparagraph 1 of the second paragraph of that section 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;

(2) determine contracts to which this Act applies other than those referred to in the first paragraph of section 3 or subparagraph 1 of the second paragraph of that section and determine conditions for those other contracts which may, subject to existing legislative provisions, be different from those otherwise applicable under this Act;

(3) determine bid solicitation procedures and the rules for awarding contracts to public bodies that are applicable to them;

(4) determine cases in which a public call for tenders must be made other than those set out in subparagraphs 1 and 2 of the first paragraph of section 10;

(5) determine cases in which a contract involving an expenditure equal to or above the public tender threshold may be entered into by mutual agreement other than those set out in subparagraphs 1 to 4 of the first paragraph of section 13;

(6) determine the cases, conditions and manner in or on which a public body must publish information on the contracts it has entered into which involve an expenditure equal to or greater than \$25,000;

(7) determine cases in which contracts are subject to authorization by the Government, the Conseil du trésor, the chief executive officer of a public body or a person designated by regulation other than those set out in this Act;

(8) *(paragraph repealed);*

(8.1) *(paragraph repealed);*

(8.2) *(paragraph repealed);*

(9) *(paragraph repealed);*

(10) *(paragraph repealed);*

(11) *(paragraph repealed);*

(12) *(paragraph repealed);*

(13) *(paragraph repealed);*

(13.1) determine the conditions and procedure applicable to complaints referred to in section 21.0.4 and to the processing of such complaints;

(14) determine the documents relating to compliance with certain Acts and regulations that a contractor referred to in the first paragraph of section 1 who is interested in entering into a contract with a public body or into a subcontract related to such a contract must hold, and the cases, conditions and manner in or on which they are to be obtained, held and filed;

(15) determine the regulatory provisions made under this section the violation of which constitutes an offence; and

(16) establish, despite any inconsistent provision of a general or special Act, a mechanism for the settlement of disputes that are likely to have an impact on the payment of a public contract or subcontract and determine the cases and conditions in or on which and the procedure by which such a mechanism applies.

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2006, c. 29, s. 23; 2011, c. 17, s. 52; 2011, c. 18, s. 50; 2011, c. 35, s. 56; 2012, c. 25, s. 13; 2017, c. 27, s. 130.

**23.1.** The Government may, if of the opinion that the public interest requires it and on the recommendation of the Conseil du trésor, enact a regulation relating to any of the objects set out in section 23 when the objects relate to a contract of a body described in section 7.

2011, c. 18, s. 51; 2017, c. 27, s. 131.

**24.** The conditions for contracts and the cases in which contracts are subject to authorization under the first paragraph of section 23 may vary in respect of all contracts, certain categories of contracts or certain contracts entered into by a public body or by a category of public bodies designated by regulation.

2006, c. 29, s. 24; 2011, c. 18, s. 52.

**24.1.** *(Repealed).*

2011, c. 18, s. 53; 2012, c. 25, s. 15.

**24.2.** The Minister of Revenue is responsible for the administration and carrying out of the regulatory provisions made under subparagraphs 14 and 15 of the first paragraph of section 23 and of section 23.1 if so provided in the regulation.

To that end, the Tax Administration Act (chapter A-6.002) applies with the necessary modifications.

An employee of the Commission de la construction du Québec, the Commission des normes, de l'équité, de la santé et de la sécurité du travail or the Régie du bâtiment du Québec authorized by the Minister of Revenue may exercise the functions and powers of the Minister relating to the administration and carrying out of the regulatory provisions referred to in the first paragraph.

2011, c. 18, s. 53; 2015, c. 15, s. 237.

**24.3.** The Chair of the Conseil du trésor may, by order, authorize the implementation of pilot projects aimed at testing various measures to facilitate the payment of enterprises party to the public contracts that the Conseil du trésor determines and to the public subcontracts related to those contracts and defining standards applicable to such payment.

As part of a pilot project, the Chair of the Conseil du trésor may, in particular, despite any inconsistent provision of any general or special Act, prescribe the use of various payment calendars, the use of a dispute settlement mechanism and accountability reporting measures according to terms and conditions the Chair determines, which may differ from those provided for in this Act and the regulations.

The Chair of the Conseil du trésor may modify or terminate a pilot project at any time. The Chair may also determine the terms and conditions of a pilot project whose violation constitutes an offence and set the minimum and maximum amounts for which the offender is liable. Those amounts may not be less than \$2,500 or greater than \$40,000.

The terms and conditions of a pilot project must be published on the website of the secretariat of the Conseil du trésor. Those terms and conditions may vary according to the public bodies and the public contracts and subcontracts concerned.

The Conseil du trésor may, during a period of one year after the coming into force of the terms and conditions referred to in the second paragraph, determine the public contracts that are to be included in a pilot project. That period may be extended by the Conseil du trésor by up to one year.

Despite any inconsistent provision, a pilot project may not continue for more than three years after the coming into force of the terms and conditions referred to in the second paragraph.

2017, c. 27, s. 132.

**24.4.** A public body must, on request, send the Chair of the Conseil du trésor a list of the contracts the body plans to enter into and that meet the conditions the Chair determines.

2017, c. 27, s. 132.

**24.5.** The public bodies and the enterprises that are party to the public contracts and public subcontracts included in a pilot project under section 24.3 must, as part of the prescribed dispute settlement mechanism and if necessary, call on the services of the non-profit legal person established for a private interest that has entered into an agreement with the Chair of the Conseil du trésor to implement that mechanism.

2017, c. 27, s. 132.

**24.6.** The Chair of the Conseil du trésor or any person the Chair designates as an investigator may conduct an investigation into any matter falling within the Chair's jurisdiction regarding the implementation of a pilot project under section 24.3.

Investigators must, on request, identify themselves and produce a certificate of authority signed by the Chair of the Conseil du trésor.

2017, c. 27, s. 132.

**24.7.** At the end of the pilot project, the Chair of the Conseil du trésor publishes on the website of the secretariat of the Conseil du trésor a report on the implementation of the pilot project in which the Chair evaluates the terms of a regulatory framework aimed at establishing measures to facilitate the payment of enterprises party to public contracts and to public subcontracts related to such contracts.

2017, c. 27, s. 132.

## CHAPTER VIII

### POWERS OF THE GOVERNMENT AND THE CONSEIL DU TRÉSOR

2012, c. 25, s. 17.

**25.** The Government may, on the recommendation of the Conseil du trésor, 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 this Act, and determine the conditions for such a contract.

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.

2006, c. 29, s. 25; 2011, c. 17, s. 53; 2012, c. 25, s. 18; 2017, c. 27, s. 133.

**25.0.1.** The Conseil du trésor may, in exceptional circumstances, give a public body permission to enter into a contract by mutual agreement or give such a body or a body described in section 7 permission to continue a public call for tenders despite the fact that the contract or call for tenders is covered by an order of the Autorité des marchés publics under subparagraph 1 or 2 of the first paragraph of section 29 of the Act respecting the Autorité des marchés publics (chapter A-33.2.1). The Conseil du trésor may subject the permission to certain conditions.

The Conseil du trésor may also, for a reason in the public interest, give a public body or a body referred to in section 7 permission to continue performing a contract despite the fact that the contract is covered by a decision of the Authority under subparagraph 6 of the first paragraph of section 29 of that Act. The Conseil du trésor may subject the permission to certain conditions.

2017, c. 27, s. 134.

**25.0.2.** Within 30 days after an enterprise is notified by the Authority of its ineligibility for public contracts, a public body or a body described in section 7 may, for a reason in the public interest, apply to the Conseil du trésor for permission to continue performing a public contract. The Conseil du trésor may subject the permission to certain conditions, including that the enterprise agree to the implementation, at the enterprise's expense, of oversight and monitoring measures.

2017, c. 27, s. 134.

**25.0.3.** Despite section 21.5.5, the Conseil du trésor may, in exceptional circumstances, give a public body or a body described in section 7 permission to enter into a contract with an enterprise that is ineligible for public contracts or give an enterprise permission to enter into a subcontract directly related to a public contract with a subcontractor who is ineligible for public contracts. The Conseil du trésor may subject the permission to certain conditions, including that the ineligible enterprise or subcontractor agree to the implementation, at the enterprise's or subcontractor's expense, of oversight and monitoring measures.

As well, despite section 21.5.5, if a public body or a body described in section 7 finds 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 is ineligible for public contracts or give an enterprise permission to enter into a subcontract directly related to a public contract with a subcontractor who is ineligible for public contracts. The body's chief executive officer must however give the Chair of the Conseil du trésor notice in writing within 15 days.

The first and second paragraphs also apply, with the necessary modifications, in cases where the permission concerned is permission to enter into a public contract or a subcontract directly related to a public contract with an enterprise that does not hold an authorization to contract although such an authorization is required.

2017, c. 27, s. 134; I.N. 2022-06-02.

**25.0.4.** The Conseil du trésor may, at any time, on the recommendation of the Authority, require a public body that is party to a contract with an enterprise referred to in any of sections 21.5.1, 21.41.1 and 21.48.5 to have the enterprise cease performing the contract, immediately or after a period of time. Except as regards honouring the contract guarantees, the enterprise is deemed to have defaulted on performing the contract either as of the date of the decision of the Conseil du trésor or of the end of the time granted to have the enterprise cease performing the contract, as applicable.

If such a period of time is granted, the decision of the Conseil du trésor may be subject to conditions, such as the enterprise being subject, at its own expense, to oversight and monitoring measures.

2017, c. 27, s. 134; 2022, c. 18, s. 44.

**25.0.5.** Within 15 days after the decision of the Conseil du trésor rendered under any of sections 25.0.1 to 25.0.4 or within 15 days after the notice that the Chair of the Conseil du trésor receives from the body's chief executive officer under the second paragraph of section 25.0.3, the Chair of the Conseil du trésor makes public the name of the public body concerned, the name of the enterprise or subcontractor concerned and a summary description of the circumstances or reasons considered by posting them on the website of the secretariat of the Conseil du trésor. The Chair also publishes the information in the *Gazette officielle du Québec*.

2017, c. 27, s. 134; 2022, c. 18, s. 45.

**25.1.** The Conseil du trésor may establish policies to determine conditions applicable to the designation of contract rules compliance monitors and establish measures to support them and ensure that their functions are exercised coherently.

2012, c. 25, s. 19; 2017, c. 27, s. 135.

**26.** The Conseil du trésor may issue directives on the management of the supply, service and construction contracts of public bodies. Such directives may, in particular, determine the cases in which the authorization of a public body's chief executive officer is required. They 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.

2006, c. 29, s. 26; 2012, c. 25, s. 20; 2017, c. 27, s. 136.

**27.** The Conseil du trésor may prescribe model contract forms or other standard documents and model document clauses to be used by the public bodies it determines.

2006, c. 29, s. 27; 2012, c. 25, s. 21; 2017, c. 27, s. 137.

## CHAPTER VIII.1

### AUDITS

2011, c. 17, s. 54.

**27.1.** In order to encourage ongoing improvement in public bodies' contract management, the Chair of the Conseil du trésor is competent to conduct an audit of the tendering and awarding of the contracts of a body or group of bodies governed by this Act and its application of other contract management measures relating to those contracts.

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

2011, c. 17, s. 54; 2017, c. 27, s. 138; 2022, c. 18, s. 114.

**27.2.** *(Repealed).*

2011, c. 17, s. 54; 2017, c. 27, s. 139.

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

2011, c. 17, s. 54.

**27.4.** The Chair of the Conseil du trésor provides an opinion on the audit and makes any appropriate recommendations to the Conseil du trésor. The Conseil du trésor may then require the body to take corrective and appropriate follow-up measures and to comply with any other measure it determines.

2011, c. 17, s. 54; 2014, c. 17, s. 31; 2017, c. 27, s. 140.

## CHAPTER VIII.2

### SANCTIONS

2012, c. 25, s. 22; 2022, c. 18, s. 46.

### DIVISION I

#### PENAL PROVISIONS

2022, c. 18, s. 46.

**27.5.** Every person who makes a false or misleading statement to the Authority to obtain, renew or keep an authorization required under sections 21.17 to 21.17.3 or to have the person's name removed from the register of enterprises authorized to contract 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.

2012, c. 25, s. 22; 2017, c. 27, s. 141; 2022, c. 18, s. 47.

**27.6.** Every person who makes a false or misleading statement in the course of a tendering or awarding process for a public contract or of the performance of such a contract 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.

2012, c. 25, s. 22; 2022, c. 18, s. 48.

**27.7.** An enterprise that is ineligible for public contracts or that does not hold an authorization under the first paragraph of section 21.17 or under section 21.17.1 although required to hold one and that 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 enterprise was given permission to enter into a contract under section 25.0.3.

2012, c. 25, s. 22; 2017, c. 27, s. 142.

**27.8.** An enterprise that, in the course of a contract with a public body or with a body described in section 7, enters into a subcontract with an enterprise that is ineligible or does not hold an authorization under the first paragraph of section 21.17 or under section 21.17.1 although 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, unless the enterprise was given permission to enter into a contract under section 25.0.3. The ineligible or unauthorized subcontractor is also guilty of an offence and liable to the same fine.

2012, c. 25, s. 22; 2017, c. 27, s. 143.

**27.9.** An enterprise that fails to provide information required under the second paragraph of section 21.12 or under the first paragraph of section 21.41.1 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.

2012, c. 25, s. 22; 2017, c. 27, s. 144; 2022, c. 18, s. 49.

**27.10.** An enterprise that fails to carry out the annual update of documents and information referred to in section 21.40 or that fails to notify the Authority, in accordance with that section, 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.

2012, c. 25, s. 22; 2022, c. 18, s. 50.

**27.10.0.1.** Every person who hinders or attempts to hinder a person exercising audit functions, in particular by communicating any false or misleading document or information, by refusing to provide or

make available a document or information the person must send or make available or by concealing or destroying a document or information relevant to an audit, is guilty of an offence and is 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.

2022, c. 18, s. 51.

**27.10.1.** Every person who, before a contract is awarded, communicates or attempts to communicate, directly or indirectly, with a member of a selection committee for the purpose of influencing the member in respect of a call for tenders 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.

The first paragraph does not apply if the tender documents provide that such a communication is to be made after the tender closing date for tender evaluation purposes.

2017, c. 27, s. 145.

**27.10.2.** A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member's knowledge in the exercise of the member's functions within the committee is guilty of an offence and liable to a fine of \$5,000 to \$30,000.

2017, c. 27, s. 145.

**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.

2012, c. 25, s. 22.

**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 \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in all other cases.

2012, c. 25, s. 22; 2015, c. 8, s. 87.

**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.

2012, c. 25, s. 22.

**27.13.1.** In any penal proceedings relating to an offence under this division, proof that the offence was committed by an agent, mandatary or employee of any person is sufficient to establish that it was committed by that person, unless the person establishes that it exercised due diligence and took all necessary precautions to prevent the offence.

2022, c. 18, s. 52.

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

2012, c. 25, s. 22; 2022, c. 18, s. 53.

**27.14.1.** Penal proceedings must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.

2017, c. 27, s. 146.

## DIVISION II

### MONETARY ADMINISTRATIVE PENALTIES

2022, c. 18, s. 54.

#### § 1. — *Failures to comply*

2022, c. 18, s. 54.

**27.15.** A monetary administrative penalty in an amount set under section 27.16 may be imposed by the Autorité des marchés publics on an enterprise

(1) that submits a bid for a public contract or subcontract or enters into such a contract or subcontract although it is ineligible for public contracts or does not hold the authorization to contract required to enter into such a contract or subcontract, unless the enterprise was given permission to enter into a contract or subcontract under section 25.0.3;

(2) that, in the course of the performance of a public contract with a public body or with a body referred to in section 7, enters into a public subcontract with an enterprise that is ineligible or does not hold the authorization to contract required to enter into such a subcontract, unless the enterprise was given permission to enter into that subcontract under section 25.0.3;

(3) whose authorization to contract expires while it is in the process of performing a public contract or subcontract for which such an authorization is required;

(4) that, while it is party to a public contract or subcontract or holds an authorization to contract, fails or refuses to send to the Authority, within the time and on the terms and conditions prescribed, any document or information required for the purposes of Chapter V.1;

(5) that fails or refuses to confirm, in an affidavit, the authenticity of documents or the veracity of information communicated to the Authority; or

(6) that fails to submit to an oversight or monitoring measure imposed on it by the Authority under Chapter V.1 or, if the measure was applied by the Authority, fails to pay to it the costs of such a measure.

A regulation of the Authority may provide that a failure to comply with a regulation made under Chapter V.1 may give rise to a monetary administrative penalty.

2012, c. 25, s. 22; 2017, c. 27, s. 147; 2022, c. 18, s. 54.

**27.16.** A regulation of the Authority determines the amount of the monetary administrative penalty relating to each specific failure to comply provided for in or under section 27.15.

The amounts of the penalties are set based on the relative seriousness of the failures to comply compared to each other and may vary according to the types of enterprises referred to in section 21.23. Furthermore, different amounts may be set in respect of the failure to comply under paragraph 4 of section 27.15 in order to take into account the nature of the information or document the enterprise failed or refused to send.

The amount of a monetary administrative penalty may not exceed \$10,000.

2022, c. 18, s. 54.

**27.17.** Any regulation made by the Authority under this subdivision is submitted for approval to the Government, which may approve it with or without amendment.

2022, c. 18, s. 54.

**27.18.** If a failure to comply for which a monetary administrative penalty could be imposed continues for more than one day, it constitutes a new failure for each day it continues.

2022, c. 18, s. 54.

**27.19.** Persons designated by the president and chief executive officer of the Authority may impose the monetary administrative penalties prescribed in section 27.15 or a regulation made under that section.

For the purposes of the first paragraph, the Authority develops and makes public a general framework for applying such administrative penalties, which specifies, in particular, the following elements:

- (1) the purpose of the penalties, such as urging an enterprise to take rapid measures to remedy a failure or deter its repetition;
- (2) the categories of functions held by the persons designated to impose penalties;
- (3) the criteria that must guide designated persons when a failure to comply has occurred, such as the type of failure, its repetitive nature and the measures taken by the enterprise to remedy it;
- (4) the circumstances in which priority will be given to any penal proceedings; and
- (5) the other procedures connected with such a penalty, such as the fact that it must be preceded by notification of a notice of non-compliance.

In addition, the general framework must set out the categories of administrative or penal sanctions as defined by the Act or the regulations.

2022, c. 18, s. 54.

*§ 2. — Notice of non-compliance and imposition*

2022, c. 18, s. 54.

**27.20.** In the event of a failure to comply referred to in subdivision 1, a notice of non-compliance may be notified to the enterprise urging it to immediately take the necessary measures to remedy the failure. Such a notice must mention that the failure may, in particular, give rise to a monetary administrative penalty and, if applicable, penal proceedings.

2022, c. 18, s. 54.

**27.21.** The imposition of a monetary administrative penalty is prescribed by two years from the date of the failure to comply.

2022, c. 18, s. 54.

**27.22.** The monetary administrative penalty for a failure to comply referred to in subdivision 1 may not be imposed on an enterprise if a statement of offence has already been served on the enterprise for a failure to comply with the same provision on the same day, based on the same facts.

No accumulation of monetary administrative penalties may be imposed on the same enterprise for failure to comply with the same provision if the failure occurs on the same day and is based on the same facts. In cases where more than one penalty would be applicable, the person imposing the penalty determines which one is most appropriate in light of the circumstances and the purpose of the penalties.

2022, c. 18, s. 54.

**27.23.** A monetary administrative penalty is imposed on an enterprise by the notification of a notice of claim.

The notice must state

- (1) the amount of the claim;
- (2) the reasons for it;
- (3) the time from which it bears interest;
- (4) the right, under section 27.24, to obtain a review of the decision to impose the penalty and the time limit for exercising that right; and
- (5) the right to contest the review decision before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

The notice must also include information on the procedure for recovery of the amount claimed. The enterprise must also be informed that the facts on which the claim is founded may result in penal proceedings.

Unless otherwise provided, the amount owing bears interest at the rate determined under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002), from the 31st day after notification of the notice.

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2022, c. 18, s. 54.

*§ 3. — Review and contestation before the Administrative Tribunal of Québec*

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2022, c. 18, s. 54.

**27.24.** Within 30 days after notification of the notice of claim, the enterprise may apply in writing to the Authority for a review of the decision to impose a monetary administrative penalty.

The persons responsible for the review are designated by the president and chief executive officer of the Authority; they must not come under the same administrative authority as the persons responsible for imposing such penalties.

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2022, c. 18, s. 54.

**27.25.** The application for review must be dealt with promptly. After giving the applicant an opportunity to submit observations and produce any documents to complete the record, the person responsible for the review renders a decision on the basis of the record, unless the person deems it necessary to proceed in some other manner.

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2022, c. 18, s. 54.

**27.26.** The review decision must be written in clear and concise terms, with reasons given, must be notified to the applicant and must state the applicant's right to contest the decision before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

If the review decision is not rendered within 30 days after receipt of the application or, if applicable, within the time granted to the applicant to submit observations or produce documents, the interest provided for in the fourth paragraph of section 27.23 on the amount owing ceases to accrue until the decision is rendered.

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2022, c. 18, s. 54.

**27.27.** A review decision that confirms the imposition of a monetary administrative penalty may be contested before the Administrative Tribunal of Québec by the enterprise concerned by the decision, within 60 days after notification of the review decision.

The Tribunal may only confirm or quash a contested decision. When rendering its decision, the Tribunal may make a ruling with respect to interest accrued on the penalty while the matter was pending before it.

2022, c. 18, s. 54.

§ 4. — *Recovery*

2022, c. 18, s. 54.

**27.28.** If an enterprise has defaulted on payment of a monetary administrative penalty, its directors and officers are solidarily liable with it for the payment of the penalty, unless they establish that they exercised due care and diligence to prevent the failure.

2022, c. 18, s. 54.

**27.29.** The payment of a monetary administrative penalty is secured by a legal hypothec on the debtor's movable and immovable property.

For the purposes of this division, “debtor” means the enterprise that is required to pay a monetary administrative penalty and, if applicable, each of its directors and officers who are solidarily liable with it for the payment of the penalty.

2022, c. 18, s. 54.

**27.30.** The debtor and the Authority may enter into a payment agreement with regard to a monetary administrative penalty owing. Such an agreement, or the payment of such a penalty, does not constitute, for the purposes of any other administrative penalty under this Act, an acknowledgement of the facts giving rise to it.

2022, c. 18, s. 54.

**27.31.** If the monetary administrative penalty owing is not paid in its entirety or the payment agreement is not adhered to, the Authority may issue a recovery certificate on the expiry of the time for applying for a review of the decision to impose the penalty, on the expiry of the time for contesting the review decision before the Administrative Tribunal of Québec or on the expiry of 30 days after the Tribunal's final decision confirming the decision to impose the penalty or the review decision, as applicable.

However, a recovery certificate may be issued before the expiry of the time limit specified in the first paragraph if the Authority is of the opinion that the debtor is attempting to evade payment.

A recovery certificate must state the debtor's name and address and the amount of the debt.

2022, c. 18, s. 54.

**27.32.** Where the Minister of Revenue applies, once a recovery certificate has been issued and in accordance with section 31 of the Tax Administration Act (chapter A-6.002), a refund owed to a person under a fiscal law to the payment of the amount due referred to in the certificate, that application interrupts the prescription provided for in the Civil Code with regard to the recovery of that amount.

2022, c. 18, s. 54.

**27.33.** On the filing of the recovery certificate at the office of the competent court, together with a copy of the final decision stating the amount of the debt, the decision becomes enforceable as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

2022, c. 18, s. 54.

**27.34.** The debtor is required to pay a recovery charge in the cases, on the conditions and in the amount determined by regulation of the Authority.

2022, c. 18, s. 54.

**27.35.** The Authority may, by agreement, delegate to a department or other body all or some of the powers relating to the recovery of an amount owing under this Act or the regulations.

2022, c. 18, s. 54.

§ 5. — Register

2022, c. 18, s. 54.

**27.36.** The Authority keeps a register relating to monetary administrative penalties.

The register must contain at least the following information:

- (1) the date the penalty was imposed;
- (2) the date and nature of the failure for which, and the legislative or regulatory provisions under which, the penalty was imposed;
- (3) if the penalty is imposed on a natural person who operates a sole proprietorship, his or her name, the name of the proprietorship, the address of its principal establishment in Québec and, if it is registered, its Québec business number;
- (4) if the penalty is imposed on a legal person or a general, limited or undeclared partnership, its name, the address of its principal establishment in Québec and, if it is registered, its Québec business number;
- (5) the amount of the penalty imposed;
- (6) the date of receipt of an application for review and the date and conclusions of the decision;
- (7) the date a proceeding is brought before the Administrative Tribunal of Québec and the date and conclusions of the decision rendered by the Tribunal, as soon as the Authority is made aware of the information;
- (8) the date a proceeding is brought against the decision rendered by the Administrative Tribunal of Québec, the nature of the proceeding and the date and conclusions of the decision rendered by the court concerned, as soon as the Authority is made aware of the information; and
- (9) any other information the Authority considers of public interest.

The information contained in the register is public information as of the time the decision imposing the penalty becomes final. The information is withdrawn three years after being entered in the register.

2022, c. 18, s. 54.

## CHAPTER IX

### AMENDING PROVISIONS

**28.** *(Omitted).*

2006, c. 29, s. 28.

**29.** *(Amendment integrated into c. A-6.01, s. 77).*

2006, c. 29, s. 29.

**30.** *(Amendment integrated into c. A-29.011, s. 115.14).*

2006, c. 29, s. 30.

**31.** *(Amendment integrated into c. B-1.1, s. 65.4).*

2006, c. 29, s. 31.

**32.** *(Amendment integrated into c. C-29, s. 18.0.1).*

2006, c. 29, s. 32.

**33.** *(Omitted).*

2006, c. 29, s. 33.

**34.** *(Amendment integrated into c. D-8.1, s. 3).*

2006, c. 29, s. 34.

**35.** *(Amendment integrated into c. E-3.3, s. 488.2).*

2006, c. 29, s. 35.

**36.** *(Amendment integrated into c. I-13.3, s. 266).*

2006, c. 29, s. 36.

**37.** *(Amendment integrated into c. I-13.3, s. 452).*

2006, c. 29, s. 37.

**38.** *(Amendment integrated into c. M-19, s. 11.1).*

2006, c. 29, s. 38.

**39.** *(Amendment integrated into c. P-32, s. 35.1).*

2006, c. 29, s. 39.

**40.** *(Amendment integrated into c. S-2.1, ss. 167.1 and 167.2).*

2006, c. 29, s. 40.

**41.** *(Amendment integrated into c. S-2.1, s. 176.0.3).*

2006, c. 29, s. 41.

**42.** *(Amendment integrated into c. S-4.2, s. 264).*

2006, c. 29, s. 42.

**43.** *(Amendment integrated into c. S-4.2, s. 385.9).*

2006, c. 29, s. 43.

**44.** *(Amendment integrated into c. S-4.2, s. 485).*

2006, c. 29, s. 44.

**45.** *(Amendment integrated into c. S-4.2, s. 487).*

2006, c. 29, s. 45.

**46.** *(Amendment integrated into c. S-5, s. 173.1).*

2006, c. 29, s. 46.

**47.** *(Amendment integrated into c. S-11.011, s. 23.0.14).*

2006, c. 29, s. 47.

**48.** *(Amendment integrated into c. S-11.011, s. 23.0.15).*

2006, c. 29, s. 48.

**49.** *(Amendment integrated into c. S-17.1, s. 34).*

2006, c. 29, s. 49.

**50.** *(Amendment integrated into c. V-5.01, s. 67).*

2006, c. 29, s. 50.

**51.** *(Omitted).*

2006, c. 29, s. 51.

**52.** References to the Public Administration Act (chapter A-6.01) are replaced by references to the Act respecting contracting by public bodies (chapter C-65.1) wherever they occur in the following provisions:

- (1) *(amendment integrated into c. C-11.5, s. 43 of Schedule C);*
- (2) *(amendment integrated into c. C-19, ss. 29.9.2 and 573.3.2);*
- (3) *(amendment integrated into c. C-27.1, aa. 14.7.2 and 938.2);*
- (4) *(amendment integrated into c. C-37.01, s. 114);*
- (5) *(amendment integrated into c. C-37.02, s. 107);*
- (6) *(amendment integrated into c. M-28, s. 11.5);*
- (7) *(amendment integrated into c. P-9.001, s. 2);*
- (8) *(paragraph repealed);*

(9) *(amendment integrated into c. V-6.1, ss. 207.1 and 358.5).*

2006, c. 29, s. 52; 2007, c. 23, s. 16.

**53.** Unless the context indicates otherwise, a reference in a regulation, order or other document to Chapter V of the Public Administration Act (chapter A-6.01) or to a regulation under that Act regarding the management of contracts is, where applicable, a reference to the corresponding provision of this Act.

2006, c. 29, s. 53.

## CHAPTER X

### TRANSITIONAL AND FINAL PROVISIONS

**54.** The following regulations and by-laws are deemed to have been made under section 23:

(1) a regulation made or deemed made under the Public Administration Act (chapter A-6.01) regarding contract management;

(2) the By-law respecting special rules governing supply contracts, construction contracts, and services contracts of the Société immobilière du Québec, approved by Order in Council 76-96 (1996, G.O. 2, 1035);

(3) the By-law concerning special rules respecting certain contracts entered into by the Société québécoise d'assainissement des eaux, approved by Order in Council 1229-94 (1994, G.O. 2, 3815); and

(4) a regulation under the General and Vocational Colleges Act (chapter C-29), the Education Act (chapter I-13.3), the Act respecting health services and social services (chapter S-4.2) and the Act respecting health services and social services for Cree Native persons (chapter S-5) regarding procurement contracts, construction contracts or service contracts;

(5) *(paragraph repealed).*

Those regulations and by-laws continue to apply, with the necessary modifications, until replaced or repealed by a regulation under this Act.

2006, c. 29, s. 54; 2011, c. 16, s. 183.



*See the Regulation revoking various regulatory provisions regarding contracts of public bodies. (Order in Council 535-2008 dated 28 May 2008; (2008) 140 G.O. 2, 2109).*

**55.** The Règles sur les frais de déplacement des personnes engagées à honoraires, enacted by decision of the Conseil du trésor C.T. 170100 dated 14 March 1989 and amended by decisions of the Conseil du trésor C.T. 170875 dated 23 May 1989, C.T. 171025 dated 6 June 1989, C.T. 177747 dated 3 July 1991, C.T. 178690 dated 12 November 1991, C.T. 182100 dated 13 January 1993, C.T. 198916 dated 15 October 2002, C.T. 199969 dated 25 June 2003, C.T. 200484 dated 9 December 2003, C.T. 201797 dated 7 December 2004 and C.T. 202701 dated 2 August 2005, remain in force until replaced by provisions to the same effect made under this Act.

2006, c. 29, s. 55.

**56.** The electronic tendering system commonly called SEAO, operated by the service provider selected by the Secrétariat du Conseil du trésor and referred to in Order in Council 493-2004 (2004, G.O. 2, 2701, in French only) is deemed to have been approved by the Government for the purposes of this Act.

2006, c. 29, s. 56.

**57.** Contract award procedures begun before 1 October 2008 are continued in accordance with the provisions in force on the date of the beginning of the procedures.

2006, c. 29, s. 57.

**58.** Any contract in progress on 1 October 2008 is continued in accordance with this Act. If a provision of this Act is incompatible with a provision of the contract, the latter provision prevails.

2006, c. 29, s. 58.

**58.1.** Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), the following may not be disclosed by a public body or a member of its staff:

(1) until the bids are opened, information that allows the number of enterprises that asked for a copy of the tender documents and the number of enterprises that tendered a bid to be known or that allows those enterprises to be identified; and

(2) information that allows a person to be identified as being a member of a selection committee constituted in accordance with the normative framework.

The prohibition under subparagraph 1 of the first paragraph also applies to the operator of the electronic tendering system, except with respect to information that allows an enterprise that requests a copy of the tender documents to be identified, if the enterprise expressly authorized the operator to disclose that information.

2012, c. 25, s. 23; 2017, c. 27, s. 148.

**58.2.** *(Repealed).*

2015, c. 6, s. 33; 2017, c. 27, s. 149.

**59.** The minister who is the Chair of the Conseil du trésor is responsible for the administration of this Act.

2006, c. 29, s. 59; 2011, c. 35, s. 57; 2012, c. 25, s. 24.

**60.** *(Omitted).*

2006, c. 29, s. 60.

# SCHEDULE I

(Sections 21.4, 21.5.2, 21.26, 21.26.1, 21.28 and 21.48.16)

## OFFENCES

| Act or Regulation                       | Section | Summary Description of Offence                                                                                         |
|-----------------------------------------|---------|------------------------------------------------------------------------------------------------------------------------|
| Criminal Code<br>(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                                                                                   |

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|                                                                     | 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<br>(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<br>Public Officials Act<br>(S.C. 1998, c. 34) | 3      | Bribing a foreign public official                                                                        |
| Controlled Drugs and<br>Substances Act<br>(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                                                                                  |
| Cannabis Act<br>(S.C. 2018, c. 16)                                  | 9      | Distribution and possession for the purpose of distributing                                              |
|                                                                     | 10     | Selling and possession for the purpose of selling                                                        |
|                                                                     | 11     | Importing and exporting and possession for the purpose of exporting                                      |
|                                                                     | 12     | Production                                                                                               |
|                                                                     | 14     | Use of a young person                                                                                    |

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| Income Tax Act<br>(R.S.C. 1985, c. 1 (5th<br>Suppl.)) | 239 (1)<br>(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)<br>(b)   | Having destroyed, altered, mutilated, secreted or otherwise disposed of records or books of account to evade payment of a tax                                                                                                                                                                                                                                                                                                                                       |
|                                                       | 239 (1)<br>(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)<br>(d)   | Having wilfully evaded or attempted to evade compliance with the Act or payment of taxes                                                                                                                                                                                                                                                                                                                                                                            |
|                                                       | 239 (1)<br>(e)   | Having conspired with any person to commit an offence described in paragraphs <i>a</i> to <i>d</i> 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)<br>(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)<br>(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<br>(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<br>(R.S.C. 1985, c. E-15)              | 327 (1)<br>(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)<br>(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                                                                                                                                             |

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|                                                                    |                | tax or obtaining a refund or rebate to which the person is not entitled                                                                                                                                                                            |
|                                                                    | 327 (1)<br>(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)<br>(d) | Having wilfully, in any manner, obtained or attempted to obtain a rebate or refund to which a person is not entitled                                                                                                                               |
|                                                                    | 327 (1)<br>(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<br>(chapter 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                                                                                                           |
| Insurers Act<br>(chapter A-32.1)                                   | 515 (4)        | Providing a document or information that is false or inaccurate, or access to such a document or information, to the Autorité des marchés financiers                                                                                               |
| Act respecting the Autorité des marchés publics (chapter A-33.2.1) | 67.2           | Knowingly communicating false or misleading information under section 56 or contravening section 63, or helping or inducing a person to commit either of those offences                                                                            |
| Cities and Towns Act<br>(chapter C-19)                             | 573.3.3.4      | Communicate or attempt to communicate with a member of a selection committee                                                                                                                                                                       |

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|                                                                               | 573.3.3.5 | Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee's proceedings                                                                                             |
| Municipal Code of Québec<br>(chapter C-27.1)                                  | 938.3.4   | Communicate or attempt to communicate with a member of a selection committee                                                                                                                                                          |
|                                                                               | 938.3.5   | Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee's proceedings                                                                                             |
| Act respecting the Communauté métropolitaine de Montréal<br>(chapter C-37.01) | 118.1.3   | Communicate or attempt to communicate with a member of a selection committee                                                                                                                                                          |
|                                                                               | 118.1.4   | Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee's proceedings                                                                                             |
| Act respecting the Communauté métropolitaine de Québec<br>(chapter C-37.02)   | 111.1.3   | Communicate or attempt to communicate with a member of a selection committee                                                                                                                                                          |
|                                                                               | 111.1.4   | Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee's proceedings                                                                                             |
| Act respecting contracting by public bodies<br>(chapter C-65.1)               | 27.5      | Making a false or misleading statement to the Autorité des marchés publics to obtain, renew or keep an authorization to contract or to have the name of an enterprise removed from the register of enterprises authorized to contract |
|                                                                               | 27.6      | Making a false or misleading statement in the course of a tendering or awarding process for a public contract or of the performance of such a contract                                                                                |
|                                                                               | 27.10.0.1 | Hindering or attempting to hinder a person exercising audit functions                                                                                                                                                                 |
|                                                                               | 27.10.1   | Communicating or attempting to communicate with a selection committee member                                                                                                                                                          |
|                                                                               | 27.10.2   | Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee's proceedings                                                                                             |
|                                                                               | 27.11     | Making a false or misleading request for payment                                                                                                                                                                                      |
|                                                                               | 27.13     | Helping or inducing a person to commit an offence under section 27.5, 27.6, 27.10.0.1, 27.10.1, 27.10.2 or 27.11                                                                                                                      |

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| Act respecting financial services cooperatives (chapter 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 (chapter D-9.2) | 16 with 485 | Not acting with honesty and loyalty                                                                                                                                                                                |
|                                                                                    | 469.1       | Making a misrepresentation when pursuing activities governed by the Act                                                                                                                                            |
| Act respecting elections and referendums in municipalities (chapter E-2.2)         | 610 (2)     | Making an illegal contribution referred to in paragraph 1 of section 610                                                                                                                                           |
|                                                                                    | 610 (3)     | Inciting an elector to make a contribution by using threats or coercion or by promising compensation, consideration or a reimbursement                                                                             |
|                                                                                    | 610 (4)     | Making a false declaration concerning a contribution                                                                                                                                                               |
|                                                                                    | 610.1 (2)   | Making an illegal gift of money referred to in paragraph 1 of section 610.1                                                                                                                                        |
| Act respecting school elections (chapter E-2.3)                                    | 219.8 (2)   | Making an illegal contribution referred to in paragraph 1 of section 219.8                                                                                                                                         |
|                                                                                    | 219.8 (3)   | Inciting an elector to make a contribution by using threats or coercion or by promising compensation, consideration or a reimbursement                                                                             |
|                                                                                    | 219.8 (4)   | Making a false declaration concerning a contribution                                                                                                                                                               |
| Election Act (chapter E-3.3)                                                       | 564.1 (1)   | Making a false declaration concerning a contribution                                                                                                                                                               |
|                                                                                    | 564.1 (2)   | Inciting an elector to make a contribution by using threats or coercion or by promising compensation, consideration or a reimbursement                                                                             |
|                                                                                    | 564.2       | Contravening section 87 - contribution made by a person who is not an elector, contribution made in favour of an unauthorized entity or contribution not in accordance with Division II of Chapter II of Title III |
|                                                                                    |             | Contravening section 90 - involuntary contribution of an elector, contribution not made out of the elector's property or                                                                                           |

contribution made with compensation or for consideration or a reimbursement

Contravening section 91 - contribution exceeding the maximum amount allowed

Contravening the first paragraph of section 127.7 - contribution made by a person who is not an elector

Contravening the third paragraph of section 127.7 - contribution exceeding the maximum amount allowed

Contravening the first paragraph of section 127.8 with regard to section 90 - involuntary contribution of an elector, contribution not made out of the elector's property or contribution made with compensation or for consideration or a reimbursement

|                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                        |
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| Money-Services<br>Businesses Act<br>(chapter E-12.000001)                   | 66 (1)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Making a misrepresentation when pursuing activities governed by the Act                                                                                                |
| Taxation Act<br>(chapter I-3)                                               | 1079.8.35, Making a false Revenu Québec certificate<br>1st par.<br>(a)<br><br>1079.8.35, Falsifying or altering a Revenu Québec certificate<br>1st par.<br>(b)<br><br>1079.8.35, Obtaining or attempting to obtain a Revenu Québec certificate<br>1st par. without being entitled to one<br>(c)<br><br>1079.8.35, Using a false, falsified or altered Revenu Québec certificate<br>1st par.<br>(d)<br><br>1079.8.35, Assenting to or acquiescing in an offence under any of<br>1st par. subparagraphs <i>a</i> to <i>d</i><br>(e)<br><br>1079.8.35, Conspiring with a person to commit an offence under any of<br>1st par. subparagraphs <i>a</i> to <i>e</i><br>(f) |                                                                                                                                                                        |
| Deposit Institutions<br>and Deposit<br>Protection Act<br>(chapter I-13.2.2) | 46.2 (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Providing a document or information that is false or inaccurate, or access to such a document or information, to the Autorité des marchés financiers                   |
| Derivatives Act<br>(chapter I-14.01)                                        | 65 with<br>160<br><br>144                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Not acting with honesty and loyalty<br><br>Using information relating to an investment program for one's own benefit in trading in derivatives included in the program |

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|                                                                                                                              | 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                                                                                                                                                                                                                   |
| Anti-Corruption Act<br>(chapter L-6.1)                                                                                       | 34      | Taking or threatening to take reprisals against a person                                                                                                                                                                                                                                                                               |
|                                                                                                                              | 35      | Helping or inducing a person to commit an offence under section 34                                                                                                                                                                                                                                                                     |
| Act respecting labour relations, vocational training and workforce management in the construction industry<br>(chapter 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) | Having destroyed, altered or falsified any register, pay-list, registration system or document relating to the application of the Act, a collective agreement or a regulation or having forwarded any false or inaccurate information or report, or given a false designation to the position of an employee so as to pay a lower wage |
| Trust Companies and Savings Companies Act<br>(chapter S-29.02)                                                               | 305 (4) | Providing a document or information that is false or inaccurate, or access to such a document or information, to the Autorité des marchés financiers                                                                                                                                                                                   |
| Act respecting public transit authorities<br>(chapter S-30.01)                                                               | 108.1.3 | Communicate or attempt to communicate with a member of a selection committee                                                                                                                                                                                                                                                           |
|                                                                                                                              | 108.1.4 | Disclosing or making known, without authorization, confidential information obtained in the course of a selection committee's proceedings                                                                                                                                                                                              |

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| Fuel Tax Act<br>(chapter T-1) | 44 | Obtaining or attempting to obtain a refund by means of false or misleading statements |
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| Securities Act<br>(chapter V-1.1) | 160 with 202 | 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 |

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| Regulation respecting construction contracts of municipal bodies<br>(chapter C-19, r. 3) | 7 with 10 | Producing a certificate from Revenu Québec that contains false or inaccurate information, using the certificate of a third party or making a false declaration on one's holding a certificate |
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|  |           |                                                  |
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|  | 8 with 10 | Assisting another person to contravene section 7 |
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| Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies<br>(chapter C-65.1, r. 1.1) | 7 with 10 | Submitting a certificate from Revenu Québec that contains false or inaccurate information, submitting the certificate of a third person, or making a false declaration regarding the holding of a certificate |
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|  | 8 with 10 | Helping or inducing another person to contravene section 7 |
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|----------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulation respecting supply contracts of public bodies (chapter C-65.1, r. 2)                                       | 37.4 with 45.1 | Submitting a certificate from Revenu Québec that contains false or inaccurate information, producing the certificate of a third person, or making a false declaration regarding the holding of a certificate          |
|                                                                                                                      | 37.5 with 45.1 | Helping or inducing another person to contravene section 37.4                                                                                                                                                         |
| Regulation respecting service contracts of public bodies (chapter C-65.1, r. 4)                                      | 50.4 with 58.1 | Submitting a certificate from Revenu Québec that contains false or inaccurate information, producing the certificate of a third person, or making a false declaration regarding the holding of a certificate          |
|                                                                                                                      | 50.5 with 58.1 | Helping or inducing another person to contravene section 50.4                                                                                                                                                         |
| Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5)                                 | 40.6 with 58.1 | Submitting a certificate from Revenu Québec that contains false or inaccurate information, producing the certificate of a third person, or making a false declaration regarding the holding of a certificate          |
|                                                                                                                      | 40.7 with 58.1 | Helping or inducing another person to contravene section 40.6                                                                                                                                                         |
| Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1) | 65 with 83     | Submitting a certificate from Revenu Québec that contains false or inaccurate information, producing the certificate of a third person, or falsely declaring that the supplier does not hold the required certificate |
|                                                                                                                      | 66 with 83     | Helping or inducing another person to contravene section 65                                                                                                                                                           |

2012, c. 25, s. 25; 2015, c. 6, s. 34; 2015, c. 8, s. 88; 2016, c. 17, s. 44; 2015, c. 8, s. 88; 2017, c. 27, s. 150; 2018, c. 23, s. 750; O.C. 827-2019 of 14.08.2019, (2019) 151 G.O. 2, 2263; 2022, c. 18, s. 55; 2023, c. 10, s. 50.

**SCHEDULE II**

*(Sections 21.8 and 21.48.16)*

**BODIES**

The Agence du revenu du Québec

The Autorité des marchés financiers

The Director of Criminal and Penal Prosecutions

The Chief Electoral Officer

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2017, c. 27, s. 151; 2022, c. 18, s. 56.

REPEAL SCHEDULE

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 29 of the statutes of 2006, in force on 1 August 2009, is repealed, except section 60, effective from the coming into force of chapter C-65.1 of the Revised Statutes.

