

chapter L-6.1

ANTI-CORRUPTION ACT

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CHAPTER I

PURPOSE AND SCOPE

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

2011, c. 17, s. 1; 2012, c. 25, s. 55; 2018, c. 1, s. 1.

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

(1) a contravention of a federal or a Québec law or of a regulation made under such a law, if the contravention pertains to corruption, breach of trust, malfeasance, collusion, fraud or influence peddling in, for example, awarding, obtaining or performing contracts granted, in the exercise of their functions, by a body or a person belonging to the public sector, or in the administration of justice or the granting of rights and privileges, such as an authorization, an appointment or a subsidy, by a body or a person belonging to the public sector;

(1.1) a contravention of any of sections 27.5 to 27.11 and 27.13 of the Act respecting contracting by public bodies (chapter C-65.1);

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

(3) directing or counselling a person to commit a wrongdoing described in paragraph 1, 1.1 or 2.

2011, c. 17, s. 2; 2012, c. 25, s. 96; 2017, c. 27, s. 199; 2018, c. 1, s. 2; 2019, c. 6, s. 1.

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

(1) any public body or government agency within the meaning of the Auditor General Act (chapter V-5.01);

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

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

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

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

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

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

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

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

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

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

(12) the James Bay Regional Administration and any delegate organization referred to in section 126.4 of the Municipal Powers Act (chapter C-47.1); and

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

2011, c. 17, s. 3; 2013, c. 16, s. 112; 2015, c. 8, s. 233; 2020, c. 1, s. 286.

CHAPTER II

ANTI-CORRUPTION COMMISSIONER

DIVISION I

ESTABLISHMENT, MISSION AND ORGANIZATION

2011, c. 17, Div. I; 2018, c. 1, s. 3.

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

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

2011, c. 17, s. 4; 2018, c. 1, s. 4.

5. On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly appoints the Commissioner.

The person proposed by the Prime Minister is chosen from among the candidates declared qualified to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person must meet with Members at a single in camera meeting. To that end, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members must submit a joint report to the Prime Minister containing each Member's recommendation regarding the candidacy of the person they met with. The report is confidential.

2011, c. 17, s. 5; 2018, c. 1, s. 5; 2019, c. 6, s. 2.

5.1. During the year that precedes the end of the Commissioner's term or as soon as the office becomes vacant, the Minister publishes a notice inviting interested persons to apply for the office of Commissioner or to propose the name of a person they consider qualified to hold that office, in accordance with the procedure the Minister determines.

The Minister also forms the selection committee. The committee is made up of the Deputy Minister of Public Security, the secretary of the Conseil du trésor, an advocate recommended by the Bâtonnier of the Province of Québec, a director of a police force recommended by the board of directors of the Association des directeurs de police du Québec, and a person recommended by bodies representing the municipal sector.

The committee promptly evaluates the candidates' aptitude on the basis of their knowledge, particularly in criminal and penal law, their experience and their qualifications, according to the criteria determined by government regulation. Without delay, the committee presents to the Minister a report in which it lists the candidates it has met whom it considers qualified to hold the office of Commissioner. All information and documents regarding the candidates and the proceedings of the committee are confidential.

If, once the evaluation is concluded, fewer than two candidates are considered qualified to hold the office of Commissioner, the Minister must publish a new invitation for applications.

The members of the committee receive no remuneration, except in the cases and on the conditions that may be determined by the Government. They are, however, entitled to the reimbursement of expenses to the extent determined by the Government.

2018, c. 1, s. 5; 2019, c. 6, s. 3.

5.2. The Commissioner is appointed for a non-renewable seven-year term.

At the expiry of the term, the Commissioner remains in office until replaced. The Commissioner may resign at any time by giving written notice to the Minister. The Minister informs the President of the National Assembly without delay, in writing, of such a resignation.

2018, c. 1, s. 5; 2019, c. 6, s. 4.

5.2.1. Subject to a dismissal under a provision of the Police Act (chapter P-13.1), the Commissioner may be dismissed only by the National Assembly, for cause, on a motion of the Prime Minister and with the approval of two-thirds of its Members, after the Minister receives a written report from the Commission de la fonction publique.

Before presenting a motion for the dismissal of the Commissioner, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise. A summary of the report of the Commission de la fonction publique is made available to the designated Members for consultation at a single in camera meeting.

2019, c. 6, s. 5.

5.2.2. The Commissioner may not be suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written report from the Commission de la fonction publique. The suspension may not exceed three months.

2019, c. 6, s. 6.

5.3. The Commissioner must meet the requirements set out in the first paragraph of section 115 of the Police Act (chapter P-13.1), with the exception of subparagraph 4.

2018, c. 1, s. 5.

5.4. In an urgent situation requiring prompt intervention, or in a presumed case of serious fault, the Minister may provisionally relieve the Commissioner from duties, with remuneration.

2018, c. 1, s. 5; 2019, c. 6, s. 7.

5.5. The Government determines the remuneration, employee benefits and other conditions of employment of the Commissioner on the recommendation of the Minister; the Commissioner's remuneration, once set, may not be reduced.

2018, c. 1, s. 5.

5.6. The Commissioner's functions must be exercised on a full-time basis.

The Commissioner may not engage in any partisan political activity.

2018, c. 1, s. 5.

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

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

2011, c. 17, s. 6.

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

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

2011, c. 17, s. 7; 2012, c. 25, s. 57; 2018, c. 1, s. 6.

8. The Government appoints Associate Commissioners for Audits, on the recommendation of the Minister, from among the persons declared qualified to hold the office by a selection committee formed by the Minister and made up of the Commissioner, the Deputy Minister of Public Security and a chartered professional accountant recommended by the Ordre des comptables professionnels agréés du Québec.

The Associate Commissioners for Audits may not be peace officers.

They must take the oath set out in Schedule II before a judge of the Court of Québec.

2011, c. 17, s. 8; 2012, c. 25, s. 58; 2013, c. 23, s. 118; 2018, c. 1, s. 7.

8.1. The Government also appoints an Associate Commissioner for Investigations, on the recommendation of the Minister, from among the persons declared qualified to hold the office by a selection committee formed by the Minister and made up of the Commissioner, the Deputy Minister of Public Security and a director of a police force recommended by the board of directors of the Association des directeurs de police du Québec.

The Associate Commissioner for Investigations is a peace officer throughout Québec.

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

2018, c. 1, s. 7.

8.2. Associate Commissioners are appointed for a fixed term that may not exceed five years.

At the expiry of their term, Associate Commissioners remain in office until reappointed or replaced. Associate Commissioners may resign at any time by giving written notice to the Commissioner.

Associate Commissioners may not be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written report from the Commission de la fonction publique. The suspension may not exceed three months.

2018, c. 1, s. 7; 2019, c. 6, s. 8.

8.3. Associate Commissioners exercise the functions conferred on them under this Act, with the independence provided for in this Act.

Section 5.1, except the second paragraph, and sections 5.3 to 6 apply, with the necessary modifications, in the case of Associate Commissioners.

2018, c. 1, s. 7.

8.4. The following persons form a specialized anti-corruption police force:

- (1) as members of the police force:
 - (a) the Commissioner;
 - (b) the Associate Commissioner for Investigations; and
 - (c) the investigators on secondment from a police force in accordance with section 14;
- (2) the Associate Commissioners for Audits; and
- (3) the members of the Commissioner's personnel appointed in accordance with section 12.

2018, c. 1, s. 7.

8.5. The Government may designate teams or units of persons doing audit or investigation work in departments or bodies to take part in the fight against corruption under the coordination of the Associate Commissioners for Audits or the Associate Commissioner for Investigations, as the case may be.

2018, c. 1, s. 7.

8.6. The police force formed under section 8.4 and the teams or units designated by the Government form the Unité permanente anticorruption.

2018, c. 1, s. 7.

8.7. The policing, investigation and support services of the Sûreté du Québec must be made available to the Commissioner when the latter so requires. To that end, the Director General of the Sûreté du Québec and any Sûreté du Québec member or employee must cooperate with the Commissioner.

Such services are provided in accordance with the terms and conditions set out in an agreement between the Commissioner and the Minister or a person designated by the Minister.

2018, c. 1, s. 7.

8.8. A police force must inform the Commissioner whenever it has reasonable cause to believe, during the course of an investigation, that a wrongdoing has been committed.

The Commissioner determines, in cooperation with the police force, how the investigation is to continue.

2018, c. 1, s. 7.

DIVISION II

FUNCTIONS AND POWERS

9. The Commissioner has the following functions:

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

(2) to act as director of the police force formed under section 8.4;

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

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

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

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

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

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

2011, c. 17, s. 9; 2018, c. 1, s. 8.

10. To the extent authorized by the Commissioner, the Associate Commissioners for Audits exercise the following functions:

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

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

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

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

2011, c. 17, s. 10; 2012, c. 25, s. 59; 2013, c. 23, s. 119; 2018, c. 1, s. 9; 2017, c. 27, s. 200.

10.1. The Associate Commissioner for Investigations has the following functions:

(1) to direct the activities of the specialized investigation unit formed under section 14 and coordinate the activities of any investigation unit designated by the Government; and

(2) to ensure that the investigation units carry out their mandates in their respective fields of competence.

2018, c. 1, s. 10.

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

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

2011, c. 17, s. 11; 2013, c. 23, s. 120.

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

2012, c. 25, s. 60; 2013, c. 23, s. 120.

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

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

(1) be of good moral character; and

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

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

2011, c. 17, s. 12.

13. Subject to the duties and responsibilities entrusted to the Associate Commissioners under this Act, the Commissioner defines the duties and responsibilities of the members of and the other persons who form the police force and directs their work.

2011, c. 17, s. 13; 2013, c. 23, s. 121; 2018, c. 1, s. 11.

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

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

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

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

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

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

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

2012, c. 25, s. 61; 2013, c. 23, s. 122; 2018, c. 1, s. 12.

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

2012, c. 25, s. 61.

14. The Commissioner may designate, from among the Commissioner's personnel, persons to act as investigators within a specialized investigation unit under the authority of the Associate Commissioner for Investigations.

Any member of a police force on secondment to the Commissioner by agreement between the Commissioner and the competent authority in respect of the police force may also act as an investigator within the unit.

The investigators of the unit are peace officers throughout Québec.

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

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

2011, c. 17, s. 14; 2012, c. 25, s. 62; 2018, c. 1, s. 13.

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

For any subsequent offence, the amounts are doubled.

2012, c. 25, s. 63.

14.2. Any person who helps a person to commit an offence under section 14.1 or who, by encouragement, advice or consent or by an authorization or order, induces another person to commit such an offence is guilty of the same offence.

2012, c. 25, s. 63.

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

(1) conduct, at the request of an Associate Commissioner for Audits, the audits provided for in sections 21.30 and 21.32 of the Act respecting contracting by public bodies (chapter C-65.1) and communicate the audit findings to the Associate Commissioner for Audits;

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

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

2011, c. 17, s. 15; 2012, c. 25, s. 64; 2013, c. 23, s. 123; 2018, c. 1, s. 14.

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

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

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

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

2011, c. 17, s. 16; 2018, c. 1, s. 15.

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

2012, c. 25, s. 65; 2013, c. 23, s. 120.

17. Persons acting within the Unité permanente anticorruption may, in the exercise of their functions and in keeping with the constitutional requirements regarding privacy, exchange information, despite the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and any other communication restrictions under other laws of Québec.

2011, c. 17, s. 17; 2013, c. 23, s. 124; 2018, c. 1, s. 16.

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

2011, c. 17, s. 18.

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

2011, c. 17, s. 19; 2013, c. 23, s. 125.

DIVISION III

IMMUNITY

20. No judicial proceedings may be brought against a person acting within the Unité permanente anticorruption or a person authorized to conduct audits for an act or omission in good faith in the exercise of their functions under this Act.

2011, c. 17, s. 20; 2012, c. 25, s. 66; 2013, c. 23, s. 124; 2018, c. 1, s. 17.

21. Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be exercised, nor any injunction granted, against a person acting within the Unité permanente anticorruption or a person authorized to conduct audits in the exercise of their functions under this Act.

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

2011, c. 17, s. 21; 2012, c. 25, s. 66; 2013, c. 23, s. 124; I.N. 2016-01-01 (NCCP); 2018, c. 1, s. 18.

DIVISION IV

REPORT TO THE PUBLIC

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

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

2011, c. 17, s. 22.

DIVISION V

FINANCIAL PROVISIONS AND ANNUAL REPORT

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

2011, c. 17, s. 23.

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

2011, c. 17, s. 24.

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

The report must include the following information:

- (1) the number of disclosures of wrongdoings received and the number looked into;
- (2) the number of case files referred for audit;
- (3) the number of investigations requested by the Commissioner;
- (4) the number of arrests made;
- (5) the number of convictions obtained; and
- (6) any other information the Minister requires.

Within 15 days after the report is laid before the National Assembly, the Commissioner presents it publicly in the national capital.

2011, c. 17, s. 25; 2018, c. 1, s. 19.

CHAPTER III

DISCLOSURE OF WRONGDOINGS

DIVISION I

PROCEDURE FOR DISCLOSURE

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

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

2011, c. 17, s. 26; 2012, c. 25, s. 67.

27. Any person making a disclosure of wrongdoing may do so despite the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), the Act respecting the protection of personal information in the private sector (chapter P-39.1), any other communication restrictions under other laws of Québec and any duty of loyalty or confidentiality that may be binding on the person, in particular, with respect to an employer or a client.

However, the lifting of professional secrecy authorized under this Act does not apply to professional secrecy between a lawyer or a notary and a client.

2011, c. 17, s. 27; 2016, c. 34, s. 42.

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

2011, c. 17, s. 28.

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

If the Commissioner decides to take further action regarding the disclosure, the Commissioner sends the case file to an Associate Commissioner for Audits or the Associate Commissioner for Investigations, as the case may be.

2011, c. 17, s. 29; 2013, c. 23, s. 126; 2018, c. 1, s. 20.

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

2011, c. 17, s. 30; 2013, c. 23, s. 124.

DIVISION II

PROTECTION AGAINST REPRISALS

31. The Commissioner and the Associate Commissioners must take all necessary measures to protect the identity of persons making a disclosure. The Commissioner may however communicate the identity of such persons to the Director of Criminal and Penal Prosecutions.

2011, c. 17, s. 31; 2012, c. 25, s. 68; 2013, c. 23, s. 124.

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

2011, c. 17, s. 32.

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

2011, c. 17, s. 33.

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

- (1) \$2,000 to \$20,000, in the case of a natural person; and
- (2) \$10,000 to \$250,000, in the case of a legal person.

For any subsequent offence, the amounts are doubled.

2011, c. 17, s. 34.

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

2011, c. 17, s. 35.

35.1. Penal proceedings for an offence under a provision of this Act are prescribed three years from the date on which the prosecutor became 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 commission of the offence.

2018, c. 1, s. 21.

CHAPTER III.1

UNITÉ PERMANENTE ANTICORRUPTION OVERSIGHT COMMITTEE

2018, c. 1, s. 22.

DIVISION I

ESTABLISHMENT AND MANDATE

2018, c. 1, s. 22.

35.2. The Unité Permanente Anticorruption Oversight Committee is established.

2018, c. 1, s. 22.

35.3. The mandate of the Committee is to give its opinion, after conducting the necessary verifications and examinations at the times and intervals and in the manner it determines,

(1) on the administration of penal and criminal investigations conducted by the Unité permanente anticorruption;

(2) on the follow-up given under this Act to disclosures of wrongdoings received by the Anti-Corruption Commissioner, except when such disclosures are the subject of an investigation or a proceeding relating to a penal or criminal offence under a federal or Québec law;

(3) on the Anti-Corruption Commissioner's annual management report; and

(4) on any other matter relating to the activities of the Unité permanente anticorruption.

The Committee also gives its opinion on any matter within its jurisdiction whenever the Minister requests it.

The Committee may, in its opinions, make the recommendations it considers appropriate.

2018, c. 1, s. 22.

35.4. In carrying out its mandate, the Committee may not act in a way that interferes with the penal or criminal investigations of the Unité permanente anticorruption and the resulting judicial proceedings or that compromises legally recognized privileges, in particular those relating to the confidentiality of investigation methods and the identity of police informants.

Also, the Committee may not request or accept information that could compromise the independence of peace officers with authority to investigate offences against the law.

2018, c. 1, s. 22.

35.5. The Committee makes its opinions public. However, it must first consult the Director of Criminal and Penal Prosecutions to ensure compliance with section 35.4.

The Committee may communicate to the government authorities and the persons in charge its opinions on any matter which, in its opinion, is within their jurisdiction.

2018, c. 1, s. 22.

35.6. To fulfil its mandate, the Committee or the person it designates may, after having agreed on the applicable procedures with the Anti-Corruption Commissioner,

(1) examine, in relation to the activities of the Unité permanente anticorruption, any person acting within the unit; and

(2) examine any document, book, register or account that, in the opinion of the Committee or designated person, may contain information relevant to the mandate and take notes or make copies.

Any person who has the custody, possession or control of such documents, books, registers or accounts must, if so required, communicate them to the Committee or the person designated by it and facilitate their examination by the Committee or that person.

Committee members and designated persons must, on request, produce identification and show the documents attesting their authorization.

2018, c. 1, s. 22.

35.7. Any person who

(1) hinders or attempts to hinder the work of a member of the Committee or of a person designated by it in the exercise of his or her functions, misleads the member or designated person by concealment or misrepresentation or refuses to provide the member or designated person with information,

(2) by an act or omission, helps a person to commit an offence under subparagraph 1, or

(3) by encouragement, advice or consent or by an authorization or order, induces another person to commit an offence under subparagraph 1,

is guilty of an offence and is liable to a fine of \$4,000 to \$20,000.

For any subsequent offence, the amounts are doubled.

2018, c. 1, s. 22.

DIVISION II

COMPOSITION AND OPERATION

2018, c. 1, s. 22.

35.8. The Committee is composed of three members, including a chair, appointed by the National Assembly on a motion of the Prime Minister and with the approval of two-thirds of its Members.

2018, c. 1, s. 22.

35.9. A person must meet the following minimum requirements to be appointed as a member of the Committee and remain as such:

(1) be of good moral character; and

(2) not have been convicted anywhere of an offence for an act or omission that is either an offence under the Criminal Code (R.S.C. 1985, c. C-46) or an offence, referred to in section 183 of that Code, under any of the Acts listed in that section and that is related to the employment, unless he or she has obtained a pardon.

2018, c. 1, s. 22.

35.10. A candidate for the office of Committee member is first chosen from a list of persons declared qualified to be appointed as such by the selection committee formed by the Minister for that purpose.

The selection committee is made up of the Deputy Minister of Public Security or that Deputy Minister's representative, an advocate recommended by the Bâtonnier of the Province of Québec, and an associate professor or full professor at a Québec university in a field relevant to the Committee's mandate.

The selection committee promptly evaluates the candidates on the basis of their knowledge, experience and qualifications, according to the criteria it determines. Without delay, the selection committee presents to the Prime Minister a report in which it lists the candidates it has met whom it considers qualified to be Committee members. The list must include three, four or five candidates according to whether one, two or three offices are to be filled. All information and documents regarding the candidates and the proceedings of the selection committee are confidential.

The members of a selection committee receive no remuneration, except in the cases, on the conditions and to the extent the Government may determine. They are, however, entitled to the reimbursement of any expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

2018, c. 1, s. 22.

35.11. The chair of the Committee is appointed for a seven-year term and other Committee members, for a five-year term. A Committee member may not be reappointed, whether for a consecutive term or otherwise, in any capacity.

At the expiry of the term, a Committee member remains in office until replaced. A Committee member may resign at any time by giving written notice to the President of the National Assembly.

A Committee member may be dismissed only by a resolution of the National Assembly approved by two-thirds of its Members.

2018, c. 1, s. 22.

35.12. The Government determines the remuneration and other conditions of employment of the Committee members.

2018, c. 1, s. 22.

35.13. The Committee holds meetings at the times and intervals it determines.

It may hold its meetings anywhere in Québec. The quorum consists of the chair and one other member.

2018, c. 1, s. 22.

35.14. The members of the Committee's personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1).

2018, c. 1, s. 22.

35.15. The chair of the Committee directs the activities of the Committee and coordinates its work.

If the chair is absent or unable to act, or if the office of chair is vacant, the Minister designates one of the other Committee members to act as interim chair.

2018, c. 1, s. 22.

35.16. Before taking office, the Committee members must take the oath set out in Schedule III before the President of the National Assembly.

The members of the Committee's personnel and any person designated under section 35.6 must do the same before the chair of the Committee.

2018, c. 1, s. 22.

DIVISION III

REPORTS

2018, c. 1, s. 22.

35.17. The Committee must, not later than 14 June 2019 and each year after that, submit its activity report to the President of the National Assembly.

The President of the National Assembly tables the report in the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 15 days of resumption.

2018, c. 1, s. 22.

35.18. At least once a year, the competent committee of the National Assembly hears the chair of the Committee on the activities of the latter.

2018, c. 1, s. 22.

35.19. The Committee may, at any time, submit a special report to the President of the National Assembly on any matter of such importance or urgency that the Assembly may not, in its opinion, wait for the tabling of its activity report.

The President of the National Assembly tables the report in the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 15 days of resumption.

2018, c. 1, s. 22.

35.20. Before submitting a report under this division, the Committee must consult the Director of Criminal and Penal Prosecutions to ensure compliance with section 35.4.

2018, c. 1, s. 22.

35.21. The Committee must, not later than 14 June 2023, report to the Minister on the carrying out of this chapter.

The Minister tables the report in the National Assembly within 30 days after it is received if the Assembly is sitting or, if it is not, within 15 days of resumption.

2018, c. 1, s. 22.

DIVISION IV

IMMUNITIES

2018, c. 1, s. 22.

35.22. No civil action may be instituted for the publication of an opinion or a report of the Committee under this Act or the publication in good faith of an extract from or summary of such an opinion or report.

2018, c. 1, s. 22.

35.23. No judicial proceedings may be brought against the Committee, its members, the members of its personnel or persons designated under section 35.6 for an act or omission in good faith in the exercise of their functions.

2018, c. 1, s. 22.

35.24. Despite any provision to the contrary in any Act, members of the Committee, members of its personnel or persons designated under section 35.6 may not be compelled, in a judicial proceeding or a proceeding before a person or body exercising adjudicative functions, to make a deposition on information obtained in the exercise of their functions or to produce a document containing such information.

2018, c. 1, s. 22.

35.25. Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be filed nor any injunction granted against the Committee, its members, members of its personnel or persons designated under section 35.6 acting in the exercise of their functions.

2018, c. 1, s. 22.

CHAPTER IV

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

36. *(Amendment integrated into c. A-6.001, Schedule 1).*

2011, c. 17, s. 36.

TAX ADMINISTRATION ACT

37. *(Amendment integrated into c. A-6.002, s. 62).*

2011, c. 17, s. 37.

38. *(Amendment integrated into c. A-6.002, s. 62.0.1).*

2011, c. 17, s. 38.

39. *(Amendment integrated into c. A-6.002, s. 69.1).*

2011, c. 17, s. 39.

40. *(Amendment integrated into c. A-6.002, s. 69.8).*

2011, c. 17, s. 40.

CITIES AND TOWNS ACT

41. *(Amendment integrated into c. C-19, s. 573.3.3.2).*

2011, c. 17, s. 41.

LABOUR CODE

42. *(Amendment integrated into c. C-27, Schedule I).*

2011, c. 17, s. 42.

MUNICIPAL CODE OF QUÉBEC

43. *(Amendment integrated into c. C-27.1, a. 938.3.2).*

2011, c. 17, s. 43.

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

44. *(Amendment integrated into c. C-37.01, s. 118.1.1).*

2011, c. 17, s. 44.

45. *(Amendment integrated into c. C-37.01, s. 118.2).*

2011, c. 17, s. 45.

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

46. *(Amendment integrated into c. C-37.02, s. III.1.1).*

2011, c. 17, s. 46.

47. *(Amendment integrated into c. C-37.02, s. III.2).*

2011, c. 17, s. 47.

ACT RESPECTING CONTRACTING BY PUBLIC BODIES

48. *(Amendment integrated into c. C-65.1, s. 1).*

2011, c. 17, s. 48.

49. *(Amendment integrated into c. C-37.02, ss. 21.1-21.16).*

2011, c. 17, s. 49.

50. *(Amendment integrated into c. C-65.1, heading of Chapter VI and heading of Division I of Chapter VI).*

2011, c. 17, s. 50.

51. *(Amendment integrated into c. C-65.1, heading of Division II of Chapter VI and s. 22.1).*

2011, c. 17, s. 51.

52. *(Amendment integrated into c. C-65.1, s. 23).*

2011, c. 17, s. 52.

53. *(Amendment integrated into c. C-65.1, s. 25).*

2011, c. 17, s. 53.

54. *(Amendment integrated into c. C-65.1, Chapter VIII.1, ss. 27.1 to 27.4).*

2011, c. 17, s. 54.

ACT RESPECTING LABOUR STANDARDS

55. *(Amendment integrated into c. N-1.1, s. 3.1).*

2011, c. 17, s. 55.

56. *(Amendment integrated into c. N-1.1, s. 122).*

2011, c. 17, s. 56.

57. *(Amendment integrated into c. N-1.1, s. 140).*

2011, c. 17, s. 57.

POLICE ACT

58. *(Amendment integrated into c. P-13.1, s. 126).*

2011, c. 17, s. 58.

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

59. *(Amendment integrated into c. R-20, s. 4).*

2011, c. 17, s. 59.

60. *(Amendment integrated into c. R-20, subdivision 3, ss. 15.1 to 15.7).*

2011, c. 17, s. 60.

61. *(Amendment integrated into c. R-20, s. 85).*

2011, c. 17, s. 61.

62. *(Amendment integrated into c. R-20, s. 85.0.1).*

2011, c. 17, s. 62.

ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

63. *(Amendment integrated into c. S-30.01, s. 108.1.1).*

2011, c. 17, s. 63.

64. *(Amendment integrated into c. S-30.01, s. 108.2).*

2011, c. 17, s. 64.

65. *(Omitted).*

2011, c. 17, s. 65.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

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

2011, c. 17, s. 66.

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

2011, c. 17, s. 67.

68. Subject to the rights provided for under the Labour Code (chapter C-27), the certified association representing all employees of the Commission de la construction du Québec on 31 August 2011 continues to represent all employees of the Commission who are not referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) as it reads on 1 September 2011.

The collective agreement applicable on 31 August 2011 continues to apply to those employees until it is replaced.

2011, c. 17, s. 68.

69. Despite the coming into force of section 61, the certified association representing all employees of the Commission de la construction du Québec on 31 August 2011 also represents all employees of the Commission who are referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) as it reads on 1 September 2011, except for the purpose of entering into a collective agreement.

The association ceases to represent employees who are not referred to in that section 85 as soon as another association is certified under the Labour Code (chapter C-27) to represent the employees or, failing that, on 1 March 2012.

2011, c. 17, s. 69.

70. The collective agreement applicable to all employees of the Commission de la construction du Québec on 31 August 2011 continues to apply to the employees who are referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) as it reads on 1 September 2011, until it is replaced by a collective agreement between the employer and the association newly certified to represent those employees.

If no association has been certified to represent those employees on 1 March 2012, the collective agreement ceases to apply to those employees even if it has not been replaced.

2011, c. 17, s. 70.

71. The association certified to represent the employees referred to in section 85 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) as it reads on 1 September 2011 succeeds, where applicable, to the rights and obligations of the certified association representing those employees on 31 August 2011.

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

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

2011, c. 17, s. 71.

72. The Administrative Labour Tribunal may, on a motion, resolve any difficulty arising from the application of any of sections 68 to 71, including one that may arise from the rule set out in the third paragraph of section 71. It may also, in the same manner and if warranted by the circumstances, extend a time limit set by section 69 or 70.

The provisions of the Act to establish the Administrative Labour Tribunal (chapter T-15.1) that pertain to the Administrative Labour Tribunal, its members, their decisions and the exercise of their jurisdiction apply, with the necessary modifications.

2011, c. 17, s. 72; 2011, c. 30, s. 71; 2015, c. 15, s. 172.

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

2011, c. 17, s. 73.

74. *(Omitted).*

2011, c. 17, s. 74.

SCHEDULE I

(Sections 7 and 8.1)

OATH OF OFFICE

I, *(name)*, declare under oath that I will fulfill my duties as *(Anti-Corruption Commissioner or Associate Commissioner for Investigations, as the case may be)* with honesty and justice and in conformity with the Code of ethics of Québec police officers (chapter P-13.1, r. 1) and that I will not accept any sum of money or benefit of any kind for what I do or may do in the discharge of the duties of my office, other than what is allowed me by law.

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

2011, c. 17, Schedule I; 2018, c. 1, s. 23.

SCHEDULE II

(Section 8)

OATH OF OFFICE

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

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

2011, c. 17, Schedule II.

SCHEDULE III

(Section 35.16)

OATH OF OFFICE

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

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

2018, c. 1, s. 24.