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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FIFTH LEGISLATURE

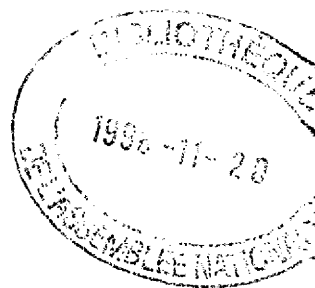
Bill 79

**An Act to establish the Commission des lésions  
professionnelles and amending various  
legislative provisions**

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**Introduction**

**Introduced by  
Mr Matthias Rioux  
Minister of Labour**



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**Québec Official Publisher  
1996**

## EXPLANATORY NOTES

*The purpose of this bill is to reform the entire process for contesting decisions made under the Act respecting industrial accidents and occupational diseases and the Act respecting occupational health and safety.*

*The bill amends the Act respecting industrial accidents and occupational diseases to establish an employment injuries board to be known as the “Commission des lésions professionnelles”, charged with hearing and deciding contestations of decisions made by the Commission de la santé et de la sécurité du travail after an administrative review. The employment injuries board will consist of two divisions, the financial matters division and the employment injuries prevention and compensation division.*

*The bill provides for the composition of the board and the functions, duties and powers of its members. It also determines the mode of operation of the board, the functions of the president and vice-presidents, the number of sittings, and the rules of evidence and procedure applied to proceedings before the employment injuries board.*

*The bill amends the procedure for the medical assessment of a worker who has suffered an employment injury, and in particular the manner in which a health professional is designated to examine a worker at the request of the Commission de la santé et de la sécurité du travail. In addition, the bill allows the physician in charge of a worker to file an additional medical report if there is a difference of opinion between that physician and the health professional having examined the worker at the request of the employer.*

*The bill abolishes the conciliation services offered as part of the review process at the Commission de la santé et de la sécurité du travail. It also eliminates the review boards established under the Act respecting occupational health and safety and replaces them with an administrative review process carried out on the basis of the record by a civil servant of the Commission.*

*Lastly, the bill contains transitional and concordance provisions and provisions of a technical nature.*

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**LEGISLATION AMENDED BY THIS BILL:**

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting the Barreau du Québec (R.S.Q., chapter B-1);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1).



# Bill 79

## AN ACT TO ESTABLISH THE COMMISSION DES LÉSIONS PROFESSIONNELLES AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

**1.** Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by striking out the definition of “board of appeal”.

**2.** Section 43 of the said Act is amended by replacing the words “415 and 415.1” in the second line by the words “429.23, 429.24 and 429.30”.

**3.** Section 204 of the said Act is amended  
(1) by replacing the first paragraph by the following paragraph:

“**204.** The Commission may require that a worker who has suffered an employment injury be examined by the health professional designated by the Commission from among the three health professionals chosen by the physician in charge of the worker from the list prepared under section 205. The Commission shall obtain, from the designated health professional, a written report on any matter relating to the injury. The worker must undergo the examination.”;

(2) by inserting, after the first paragraph, the following paragraphs:

“Where the Commission considers it expedient, it may request that physician in charge of the worker send to the Commission the names of three other health professionals chosen from the list prepared under section 205, for the purposes of a designation under the first paragraph.

If the physician in charge of the worker fails to send the names of the health professionals to the Commission, in writing, within five days of the Commission’s request, the Commission may designate a health professional from the list prepared under section 205.”;

(3) by replacing, in the French text, the words “cet examen” in the first line of the second paragraph by the words “l’examen”.

**4.** The said Act is amended by inserting, after section 204, the following section:

**“204.1.** Where the health professional designated by the Commission cannot examine the worker within 15 days of the Commission’s request, the Commission may designate another health professional from the list prepared under section 205.”

**5.** Section 205 of the said Act is amended

(1) by replacing the words “the Commission may designate for the purposes of section 204” in the first and second lines of the first paragraph by the words “referred to in sections 204 and 204.1”;

(2) by inserting the words “the physician in charge of the worker or” after the word “submitted,” in the second line of the second paragraph;

(3) by replacing the words “the Commission may designate for the purposes of section 204” in the first and second lines of the fourth paragraph by the words “used for the purposes of sections 204 and 204.1”.

**6.** The said Act is amended by inserting, after section 205, the following section:

**“205.1.** If the report of the health professional designated for the purposes of section 204 calls into question the findings of the physician in charge of the worker regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212, the physician shall send to the Commission, within 30 days of the date of receipt of the report of the health professional, a report indicating whether he maintains or modifies any of his findings, and submit new findings, if any.

If the report of the physician in charge of the worker and that of the designated health professional remain divergent, the Commission may contest the certificate or report of the physician in charge of the worker before the Bureau d’évaluation médicale established under section 216.

If the physician in charge of the worker fails to send the report mentioned in the first paragraph to the Commission within the prescribed time, the Commission may contest the certificate or report of the physician in charge of the worker before the Bureau d’évaluation médicale established under section 216.”

**7.** Section 212 of the said Act is amended by striking out the words “, in order that the Commission submit it to the Bureau d’évaluation médicale established by section 216” in the third and fourth lines of the second paragraph.

**8.** The said Act is amended by inserting, after section 212, the following section:

**“212.1.** If the health professional’s report obtained under section 212 calls into question the findings of the physician in charge of the worker regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of that section, the physician in charge of the worker shall send to the Commission, within 30 days of the date of receipt of the health professional’s report, a report indicating whether he maintains or modifies any of his findings, and submit new findings, if any.

The physician in charge of the worker may, within that time, provide the Commission, on the form prescribed by the Commission, with an additional medical assessment report to support his findings. The additional report may include a report from any other health professional consulted by the physician.

If the reports of the physician in charge of the worker and that of the health professional obtained under section 212 remain divergent, the Commission shall submit the reports, including any additional medical assessment report, to the Bureau d'évaluation médicale established under section 216.

If the physician in charge of the worker fails to send to the Commission the report mentioned in the first paragraph within the prescribed time, the Commission shall submit to the Bureau d'évaluation médicale the report obtained under section 212, any report obtained under the second paragraph and the certificate or report of the physician in charge of the worker."

**9.** Section 217 of the said Act is amended by replacing the words "206 and 212" in the second line by the words "205.1, 206 and 212.1".

**10.** Section 224 of the said Act is replaced by the following section:

**"224.** For the purposes of making a decision under this Act and subject to section 224.1, the Commission is bound

(1) by the diagnosis and other findings of the physician in charge of the worker respecting the matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212; or

(2) by any new finding submitted under the first paragraph of section 205.1 or under the first paragraph of section 212.1."

**11.** Section 241 of the said Act is amended by replacing the words "Every application for review and every appeal bearing on" in the first line by the words "An application for review filed under section 358 or a proceeding brought under section 359 in respect of".

**12.** Section 252 of the said Act is amended by replacing the word "jurisdiction" in the first line of the French text by the word "compétence".

**13.** Section 262 of the said Act is amended by adding, at the end, the following paragraph:

"Subject to section 263, the decision has effect immediately, even if it is contested before the Commission des lésions professionnelles."

**14.** The said Act is amended by replacing the words "RIGHT OF APPEAL" in the heading of Chapter XI by the words "PROCEEDING BEFORE THE COMMISSION DES LÉSIONS PROFESSIONNELLES".

**15.** Section 349 of the said Act is amended by replacing the words "decide any matter or" in the first line by the words "examine and decide any".

**16.** Section 351 of the said Act is amended by striking out the words “is not bound to follow the ordinary rules of evidence in civil matters; it” in the first and second lines of the second paragraph.

**17.** Section 358 of the said Act is amended

(1) by striking out the words “by a review office established under the Act respecting occupational health and safety (chapter S-2.1)” in the third and fourth lines of the first paragraph;

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

“However, a person may not apply for the review of any matter of a medical nature in respect of which the Commission is bound under section 224, or for the review of a decision made by the Commission under Division III of Chapter VII.”

**18.** The said Act is amended by inserting, after section 358, the following sections:

“**358.1.** An application for review must be made in writing. The application must state briefly the main grounds on which it is based and the subject of the decision to which it pertains.

“**358.2.** The Commission may extend the time limit prescribed in section 358 or relieve a person of the consequences of a failure to act within the allotted time, if it is established that the application for review could not reasonably have been made within that time.

“**358.3.** After giving the parties an opportunity to present observations, the Commission may confirm, quash or amend the initial decision or order and, if appropriate, make the decision or order that should, in its opinion, have been made initially.

Sections 224, 224.1 and 233 apply in such a case to the Commission and it shall decide accordingly.

“**358.4.** The review shall be carried out by the chairman of the board of directors and chief executive officer of the Commission, or by any person designated by him.

“**358.5.** The decision shall be in writing and give the reasons on which it is based, be notified to the parties, and state their right to contest the decision before the Commission des lésions professionnelles and the time limit for doing so.”

**19.** Section 359 of the said Act is replaced by the following section:

“**359.** A person who believes he has been wronged by a decision made following an application under section 358 may, within 30 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

**20.** The said Act is amended by inserting, after section 359, the following section :

**“359.1.** A person who believes he has been wronged by a decision made by the Commission under Division III of Chapter VII may, within 30 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

**21.** Section 362 of the said Act is amended by replacing the words “of a review office shall have effect immediately, notwithstanding appeal,” in the first and second lines by the words “under section 358.3 shall have effect immediately, even if it is contested before the Commission des lésions professionnelles,”.

**22.** Section 363 of the said Act is amended by replacing the words “a review office or the board of appeal” in the first line by the words “the Commission, following a decision under section 358.3, or the Commission des lésions professionnelles”.

**23.** Section 364 of the said Act is amended by replacing the words “of a review office or of the board of appeal” in the first line of the first paragraph by the words “made by the Commission, following an application under section 358, or by the Commission des lésions professionnelles”.

**24.** Section 365 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph :

**“365.** The Commission may, within 90 days, on its own initiative, reconsider any decision it has made, provided no decision has been made under section 358.3 in respect of that decision, in order to correct any error.”;

(2) by adding, after the second paragraph, the following paragraph :

“Before reconsidering a decision, the Commission shall inform the persons it has notified of the decision.”

**25.** Sections 365.1 and 365.2 of the said Act are repealed.

**26.** Section 366 of the said Act is amended by striking out the words “or 365.2”.

**27.** Chapter XII of the said Act is replaced by the following chapter :

## **“CHAPTER XII**

### **“COMMISSION DES LÉSIONS PROFESSIONNELLES**

#### **“DIVISION I**

##### **“ESTABLISHMENT**

**“367.** A board, to be known as the “Commission des lésions professionnelles”, is hereby established.

**“368.** The head office of the board shall be situated at the place determined by the Government; notice of the address of the head office, and of any change in its address, shall be published in the *Gazette officielle du Québec*.

The board shall have one office at Québec and one office at Montréal. It may also have an office in any other administrative region, if warranted by the number of proceedings in that region.

#### **“DIVISION II**

##### **“JURISDICTION**

**“369.** The board shall, to the exclusion of any other tribunal, make determinations on

- (1) proceedings brought under section 359 or 359.1;
- (2) proceedings brought under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1).

**“370.** The board shall sit in divisions. The divisions are

- (1) the financial matters division;
- (2) the employment injuries prevention and compensation division.

**“371.** Proceedings under section 359 that relate to a decision made pursuant to Chapter IX or Chapter X shall be decided by the financial matters division.

**“372.** Proceedings under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1), proceedings under section 359 other than those referred to in section 371, and proceedings under section 359.1, shall be decided by the employment injuries prevention and compensation division.

**“373.** Within the financial matters division, proceedings shall be heard and decided by a single commissioner.

Within the employment injuries prevention and compensation division, proceedings shall be heard and decided by a panel of three members, including one commissioner.

**“374.** Each panel shall consist of a commissioner, a member appointed under the fourth paragraph of section 384 and a member appointed under the fifth paragraph of section 384.

**“375.** Commissioners may sit in either division of the board.

**“376.** A commissioner has the authority to decide, alone, any application prior to the hearing of a case.

### **“DIVISION III**

#### **“FUNCTIONS, DUTIES AND POWERS**

**“377.** The board has the power to decide any question of law or fact necessary for the exercise of its jurisdiction.

It may confirm, quash or amend a contested decision, order or ordinance and, if appropriate, make the decision, or order that should, in its opinion, have been made initially.

**“378.** The board and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

They are also vested with all the powers necessary for the performance of their duties; they may, in particular, make any order they consider appropriate to safeguard the rights of the parties.

No *judicial* proceedings may be brought against them by reason of an act done in good faith in the performance of their duties.

**“379.** The board may, in a proceeding contesting a decision under section 358.3 that cancels an income replacement indemnity granted by the Commission, order that the execution of the contested decision be postponed as regards that conclusion and that the effects of the initial decision be maintained for the time it indicates if the beneficiary demonstrates that there is an emergency or that he would suffer serious harm were the initial decision of the Commission to cease to have effect.

**“380.** The board shall forward to the Minister, not later than 30 June each year, a report on its activities during the preceding fiscal year.

It may, in its annual report, make recommendations in respect of the Acts, regulations, policies, programs and administrative procedures coming under its jurisdiction.

The Minister shall table the annual report before the National Assembly within 30 days of receiving it if the Assembly is sitting, or within 30 days of resumption.

The report shall not designate by name any person concerned by the matters brought before the board.

The board shall provide to the Minister any additional information he requires concerning its activities.

**“381.** The board shall establish a computerized jurisprudence database and a digitized minute book, and take all necessary steps to ensure that they are accessible to commissioners, assessors, conciliators and to such other members of its personnel as it designates.

The information contained in the jurisprudence database is public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

**“382.** The board shall publish, periodically, a compilation of the decisions it has made.

It shall omit the names of the persons concerned by a decision when it is of the opinion that the decision contains information of a confidential nature the disclosure of which could be prejudicial to the persons concerned.

The decisions published by the board are public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

**“383.** The board may enter into an agreement with any person, association, partnership or body and with the Government or with any of its departments or bodies.

It may also, according to law, enter into an agreement with a government inside or outside Canada or any department or body of such a government or with an international organization or a body of such an organization.

## **“DIVISION IV**

### **“APPOINTMENT OF MEMBERS**

**“384.** The board shall be composed of members, some of whom shall be commissioners.

There shall be not less than 50 commissioners, who shall be advocates or notaries. They shall be appointed by the Government after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

The members other than the commissioners shall be appointed by the Government for each region in which the board has an office, after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

Some of the members appointed under the third paragraph shall be selected from union organizations.

The other members appointed under the third paragraph shall be selected from employers’ associations.

## **“DIVISION V**

### **“RECRUITMENT AND SELECTION OF MEMBERS**

**“385.** Only a person who has the qualifications required by law and at least ten years’ experience pertinent to the exercise of the functions of the board may be a member of the board.

**“386.** Board members shall be appointed by the Government from among persons declared apt according to the recruiting and selection procedure established by government regulation. The regulation shall, in particular,

(1) determine the publicity that must be given to the recruiting procedure and the content of such publicity;

(2) determine the procedure by which a person may become a candidate;

(3) authorize the establishment of selection committees to assess the aptitude of candidates and formulate an opinion concerning them;

(4) fix the composition of the committees and mode of appointment of committee members;

(5) determine the selection criteria to be taken into account by the committees;

(6) determine the information a committee may require from a candidate and the consultations it may hold.

The regulation may provide for recruitment and selection procedures that vary according to whether they apply to commissioners or to other members.

**“387.** The names of the persons declared apt shall be recorded in a register kept at the Ministère du Conseil exécutif.

**“388.** A declaration of aptitude shall be valid for a period of 18 months or for such period as is determined by government regulation.

**“389.** Members of a selection committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

## **“DIVISION VI**

### **“TERM OF OFFICE AND RENEWAL**

**“390.** Subject to the exceptions that follow, the term of office of a commissioner is five years and the term of office of a member other than a commissioner is determined by government regulation.

**“391.** The Government may determine a shorter term of office of a fixed duration in the instrument of appointment where the candidate so requests for a valid reason or where required by special circumstances stated in the instrument of appointment.

**“392.** The term of office of a commissioner shall be renewed for five years

(1) unless the commissioner is notified otherwise at least three months before the expiry of his term by the agent authorized therefor by the Government; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of his term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where required by special circumstances stated in the instrument of renewal.

**“393.** The term of office of a member other than a commissioner shall be renewed for a period determined by government regulation

(1) unless the member is notified otherwise at least two months before the expiry of his term by the agent authorized therefor by the Government; or

(2) unless the member requests otherwise and so notifies the Minister at least two months before the expiry of his term.

A variation of the term of office is valid only for a fixed period that is shorter than the period determined by regulation for a renewal and, except where requested by the member for a valid reason, only where required by special circumstances stated in the instrument of renewal.

**“394.** The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation shall, in particular,

(1) authorize the establishment of committees;

(2) fix the composition of the committees and the mode of appointment of committee members;

(3) determine the criteria to be taken into account by the committees;

(4) determine the information a committee may require from the member and the consultations it may hold.

The regulation may provide for procedures for the renewal of terms of office that may vary according to whether they apply to commissioners or to other members.

**“395.** Members of an examination committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

## **“DIVISION VII**

### **“PREMATURE TERMINATION OF OFFICE AND SUSPENSION**

**“396.** The term of office of a member may terminate prematurely only on his retirement or resignation, or on his being removed from office in the circumstances referred to in this division.

**“397.** To resign, a member must give the Minister reasonable notice in writing and send a copy to the president of the board.

The resignation takes effect on the date it is accepted by the Minister.

**“398.** The Government may remove a member from office for loss of a qualification required by law for holding the office of member.

## **“DIVISION VIII**

### **“OTHER PROVISION REGARDING TERMINATION OF DUTIES**

**“399.** Any member may, with the authorization of and for the time determined by the president of the board, continue to perform his duties after the expiry of his term of office in order to conclude the cases he has begun to hear but has yet to determine; he shall be considered to be a supernumerary member for the time required.

The first paragraph does not apply to a member who has been removed from office.

## **“DIVISION IX**

### **“REMUNERATION AND OTHER CONDITIONS OF OFFICE**

**“400.** The Government shall make regulations determining

(1) the mode of remuneration of the members and the applicable standards and scales;

(2) the conditions subject to which and the extent to which a member may be reimbursed the expenses incurred in the performance of his duties.

The Government may make regulations determining other conditions of office applicable to all or certain members, including benefits other than a pension plan.

The regulatory provisions may vary according to whether they apply to a commissioner or a member other than a commissioner or to a member charged with an administrative office within the board.

The regulations come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec* or on any later date indicated therein.

**“401.** The Government shall fix, in accordance with the regulations, the remuneration, benefits and other conditions of office of the members.

**“402.** Once fixed, a member’s remuneration may not be reduced.

However, additional remuneration attaching to an administrative office within the board shall cease upon termination of such office.

**“403.** The pension plan of commissioners shall be determined pursuant to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) or the Act respecting the Civil Service Superannuation Plan (chapter R-12), as the case may be.

**“404.** A public servant appointed as a member of the board ceases to be subject to the Public Service Act (chapter F-3.1.1) for all matters concerning

such office; for the duration of his term of office, he is on full leave without pay for the purpose of performing his duties of office.

## **“DIVISION X**

### **“ADMINISTRATIVE OFFICE**

**“405.** The Government shall designate, among the commissioners, a president and at least two vice-presidents.

They shall be designated by the Government after consultation with the Conseil consultatif du travail et de la main-d’œuvre.

**“406.** The Minister shall designate a vice-president to replace the president or another vice-president temporarily when required.

If the vice-president so designated is himself absent or unable to act, the Minister shall designate another vice-president as a replacement.

**“407.** The administrative office of the president or a vice-president is of a fixed duration determined in the instrument of appointment or renewal.

**“408.** The administrative office of the president or a vice-president may terminate prematurely only on his relinquishing such office, on the premature termination or non-renewal of his term of office as a member of the board, or on his removal from his administrative office in the circumstances referred to in this division.

**“409.** The Government may dismiss the president or a vice-president from his administrative office for loss of a qualification required by law for the holding of such office.

## **“DIVISION XI**

### **“ETHICS AND IMPARTIALITY**

**“410.** Before taking office, every member shall take an oath, solemnly affirming the following: “ I (...) swear that I will exercise the powers and fulfill the duties of my office impartially and honestly and to the best of my knowledge and abilities.”

The oath shall be taken before the president of the board. The president of the board shall take the oath before a judge of the Court of Québec.

The writing evidencing the oath shall be sent to the Minister.

**“411.** The president, after consulting the vice-presidents and the members, shall establish a code of ethics applicable to them.

The code of ethics shall be submitted to the Government for approval. It shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, or on any later date indicated therein.

**“412.** The code of ethics shall set out the rules of conduct and the duties of the members towards the public, the parties, their witnesses and the persons representing them; it shall, in particular, define the conduct that is derogatory to the honour, dignity or integrity of the members. It may, in addition, determine the activities or situations that are incompatible with the office they hold, their obligations as regards the disclosure of their interests, and the functions they may exercise gratuitously.

The code of ethics must prescribe special rules for the members other than commissioners. It must, in particular, provide that, before he may begin to hear proceedings, such a member must complete the disclosure form prescribed by the code of ethics and disclose any interest, relationships or subject liable to affect his independence or impartiality, or which might reasonably give rise to an appearance of breach of ethics or to an apprehension of partiality.

**“413.** A member may not, on pain of forfeiture of office, have a direct or indirect interest in any enterprise that could cause a conflict between his personal interest and his duties of office, unless the interest devolves to him by succession or gift and he renounces it or disposes of it with dispatch.

**“414.** In addition to observing conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics established under this Act, a member must refrain from pursuing an activity or placing himself in a situation incompatible, within the meaning of the code of ethics, with the exercise of his office.

**“415.** Commissioners shall devote themselves exclusively to their office.

They may, however, carry out any other mandate entrusted to them by order of the Government after consultation with the president of the board.

**“416.** A member other than a commissioner may not engage in any activity that is incompatible with the office he holds. He may not, in particular, act as a director, officer or member of the personnel of an employers’ association or employees’ association within the meaning of the Labour Code (chapter C-27).

Subject to section 412, membership in an employers’ association or employees’ association within the meaning of the Labour Code shall not prevent a person from acting as a member of the board.

## **“DIVISION XII**

### **“MANAGEMENT AND ADMINISTRATION**

**“417.** In addition to the powers and duties that may otherwise be assigned to him, the president is charged with the administration and general management of the board.

The duties of the president include

(1) fostering the participation of members in the formulation of guiding principles for the board so as to maintain a high level of quality and coherence of decisions;

- (2) designating a commissioner with responsibility for the administration of each office of the board;
- (3) coordinating, assigning and supervising the work of the members who shall comply with his orders and directives in that regard;
- (4) seeing to the observance of standards of ethical conduct;
- (5) seeing to the training of the members as regards the exercise of their functions, and promoting their professional development.

**“418.** Upon the appointment of a commissioner, the president shall assign him to one or more regions in which the board has an office.

The president may change such an assignment for the proper dispatch of the business of the board.

**“419.** The president shall determine which commissioners are to be called upon to sit at each sitting of the board. He shall also designate the members appointed under the fourth and fifth paragraphs of section 384 who are to be called upon to sit at such sittings.

Where a panel is constituted to sit at a sitting, the president shall call upon the persons appointed in accordance with the fourth paragraph of section 384 until one declares himself able to act; that person shall then be designated as a member of the panel.

The president shall proceed in the same manner to appoint the other member of the panel, by calling upon the persons appointed in accordance with the fifth paragraph of section 384.

**“420.** The president may, if he considers it expedient, assign one or more assessors to a commissioner or to a panel.

The president may also, if he considers it expedient given the complexity or importance of a proceeding, designate three commissioners to hear the case, one of whom shall preside at the proof and hearing, and, if the case is within the jurisdiction of the employment injuries prevention and compensation division, he may, in addition, designate panel members designated under section 419.

**“421.** The president shall appoint full-time assessors, whose function is to sit with a commissioner or a panel and advise them on any question of a medical, professional or technical nature.

**“422.** The president may, in order to expedite the business of the board, appoint part-time or temporary assessors and determine their fees.

Such assessors are not members of the personnel of the board.

**“423.** The president shall appoint conciliators, whose function is to meet with the parties and endeavour to reach an agreement.

**“424.** The president shall establish a code of ethics applicable to assessors and conciliators, and shall see that it is observed.

The code of ethics may prescribe separate rules for conciliators and assessors.

The code of ethics comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

**“425.** Each year, the president shall present a plan to the Minister in which he shall state his management objectives aimed at ensuring the accessibility of the board and the quality and promptness of its decision-making process and give an account of the results achieved in the preceding year.

**“426.** Each month the president shall forward, to the Minister, in addition to any information otherwise requested by the Minister:

(1) the number of days on which hearings were held and the average number of hours devoted to them;

(2) the number of postponements granted;

(3) the number of cases in which a conciliation meeting took place, the nature thereof, together with the number of such cases in which an agreement was reached between the parties;

(4) the number of cases heard, the nature thereof and the places and dates of the hearings;

(5) the number of cases taken under advisement, the nature thereof and the time devoted to advisement;

(6) the number of decisions made;

(7) the time devoted to proceedings, from the filing of the introductory application to the beginning of the hearing and the making of the decision.

**“427.** The president may delegate all or part of his powers and duties to the vice-presidents or to a commissioner responsible for the management of a regional office.

**“428.** In addition to the powers and duties that may otherwise be assigned to them or delegated to them by the president, the vice-presidents shall assist and advise the president in the performance of his duties and perform their administrative duties under the president’s authority.

## **“DIVISION XIII**

### **“SITTINGS**

**“429.** The sittings of the board, in both divisions, shall be presided by a commissioner.

**“429.1.** The board may sit at any place in Québec, even on a holiday. Where a hearing is held in a locality where a court sits, the clerk of the court shall allow the board to use, free of charge, the premises used by the court, unless they are being used for sittings of the court.

**“429.2.** Where a member of a panel dies, resigns or is unable to act, the board shall immediately designate a replacement, following the same procedure as for the designation of the member being replaced.

#### **“DIVISION XIV**

#### **“PERSONNEL AND MATERIAL AND FINANCIAL RESOURCES**

**“429.3.** The secretary, the full-time assessors, the conciliators and the other members of the personnel of the board shall be appointed and remunerated in accordance with the Public Service Act.

No judicial proceedings may be brought against them for any act done in good faith in the performance of their duties.

**“429.4.** The secretary shall have custody of the records of the board.

**“429.5.** The minutes of a sitting signed by the commissioner who presided are authentic.

The documents emanating from the board are authentic if they are signed, as are copies if they are certified true, by the president, a vice-president or the secretary, or by any person designated by the president for that purpose.

**“429.6.** Once proceedings have been completed, the parties shall reclaim the exhibits they produced and the documents they filed.

The exhibits or documents not reclaimed by the parties may be destroyed after the expiry of one year from the date of the final decision of the board or of the proceeding terminating the proceedings, unless the president decides otherwise.

**“429.7.** The financial year of the board shall end on 31 March.

**“429.8.** Each year, the president shall submit the budgetary estimates of the board for the following financial year to the Minister according to the form, tenor and schedule determined by the Minister.

The estimates shall be submitted to the Government for approval.

**“429.9.** The books and accounts of the board shall be audited by the Auditor General each year and whenever ordered by the Government.

**“429.10.** The sums required for the application of this chapter shall be taken out of the fund of the board.

The fund shall consist of the sums paid into it annually by the board for the purposes of this chapter, in the amount and on the terms and conditions determined by the Government.

## **“DIVISION XV**

### **“RULES OF EVIDENCE AND PROCEDURE**

**“429.11.** Before making a decision, the board shall give the parties an opportunity to be heard.

**“429.12.** The board may proceed on the record if it considers it appropriate and if the parties consent thereto.

**“429.13.** If a duly summoned party does not appear at the time fixed for the hearing without having provided a valid excuse for his absence, or chooses not to be heard, the board may nonetheless proceed with the hearing of the matter and make a decision.

**“429.14.** The Commission may intervene before the board at any time until the end of the proof and hearing.

Where the Commission wishes to intervene, it shall send a notice to that effect to each of the parties and to the board ; it is then considered to be a party to the proceeding.

The same applies to the worker concerned by a proceeding relating to the application of section 329.

**“429.15.** The parties may be represented by the person of their choice.

**“429.16.** The board may accept a written proceeding despite a defect of form or an irregularity.

**“429.17.** The board may extend a time limit or relieve a person of the consequences of a failure to act within the allotted time if it is established that the person could not reasonably have acted within that time and if, in the opinion of the board, no other party suffers serious harm therefrom.

**“429.18.** In the absence of provisions applicable to a particular case, the board may remedy the inadequacy by any procedure consistent with this Act or with its rules of procedure.

**“429.19.** The board may, by way of a by-law passed by a majority of the commissioners, make rules of evidence, procedure and practice specifying the manner in which the rules established under this division are to be applied. The rules shall, in particular, provide for the preparation of a hearing role.

The by-law shall be submitted to the Government for approval.

**“429.20.** A proceeding is brought by means of an application filed in the office of the board of the region in which the domicile of the worker is located or, if the worker is domiciled outside Québec, of a region in which the employer has an establishment.

Where no worker is party to the proceeding, the proceeding is brought at the office of the board of a region in which the employer has an establishment.

The postmark shall be proof, for all legal purposes, of the date of filing of a proceeding in the office of the board.

**“429.21.** The application shall

(1) identify the decision or order in respect of which the proceeding is brought;

(2) contain a short statement of the grounds invoked in support of the proceeding;

(3) set out the conclusion sought;

(4) contain any other information required by the rules of evidence, procedure and practice of the board.

**“429.22.** The rules pertaining to the notice provided for in article 95 of the Code of Civil Procedure (chapter C-25), adapted as required, apply in every case in which a party alleges that a provision referred to in the said article is inapplicable constitutionally or is invalid or inoperative, including in respect of the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 of the 1982 volume of the Acts of the Parliament of the United Kingdom) or of the Charter of human rights and freedoms (chapter C-12).

**“429.23.** Upon receipt of an application, the board shall forward a copy to the other parties and to the Commission.

**“429.24.** Within 30 days of receipt of the application, the Commission shall send to the board and to every party a copy of the record in its possession respecting the contested decision.

**“429.25.** The board may, on an application, dismiss a proceeding it considers improper or dilatory or subject it to certain conditions.

**“429.26.** Where, on examining the application and the contested decision, the board ascertains that the Commission failed to rule upon certain questions although it was required to do so by law, it may, if the date of the hearing has not been fixed, suspend the case for the time it fixes so that the Commission may act.

If, at the expiry of the allotted time, the proceeding is maintained, the board shall hear it as though it were a proceeding in respect of the original decision.

**“429.27.** Cases in which the subject-matter in dispute is substantially the same or which could suitably be combined, whether or not the same parties are involved, may be joined by order of the president or of a person designated by the president on the conditions he fixes.

An order made under the first paragraph may be revoked by the board upon hearing the matter if it is of the opinion that the interest of justice will be better served by doing so.

**“429.28.** A proceeding must be heard and decided by preference

(1) if it is made under section 359 and its object is the reduction or suspension of an indemnity established under subparagraph *e* of paragraph 2 of section 142;

(2) if it is made under section 37.3 of the Act respecting occupational health and safety (chapter S-2.1) and its object is to determine whether a worker can be reassigned to other duties;

(3) if it is made under section 193 of that Act and its object is the closing of the whole or part of a place of employment or the exercise of a right of refusal.

**“429.29.** A proceeding must be heard and decided by preference

(1) if it is made under section 359 in respect of the existence of an employment injury other than a recurrence, relapse or aggravation, or the fact that the person is a worker or is considered to be a worker;

(2) if it is made under section 359 and its object is the date or the foreseeable period of consolidation of the worker’s employment injury, or the existence or the assessment of the worker’s functional disability.

**“429.30.** The board shall have access to the record in the possession of the Commission respecting the contested decision.

**“429.31.** The president or the commissioner designated by him may, if he considers it useful and if the circumstances of the case allow it, call the parties to a pre-hearing conference.

**“429.32.** The pre-hearing conference is held by a commissioner acting alone. The purpose of the pre-hearing conference is

(1) to define the questions to be dealt with at the hearing;

(2) to assess the advisability of clarifying and specifying the pretensions of the parties and the conclusions sought;

(3) to ensure that all documentary evidence is exchanged by the parties;

(4) to plan the conduct of the proceedings and proof at the hearing;

(5) to examine the possibility for the parties of admitting certain facts or of proving them by means of sworn statements;

(6) to examine any other question likely to simplify or accelerate the conduct of the hearing.

**“429.33.** Minutes of the pre-hearing conference shall be drawn up and signed by the parties and by the commissioner who called the parties to the conference.

Agreements and decisions recorded in the minutes shall, as far as they may apply, govern the conduct of the proceeding, unless the board, when hearing the matter, permits a derogation therefrom to prevent an injustice.

**“429.34.** The board shall, so far as possible, facilitate the holding of a hearing at a date and time when the parties and their witnesses, if any, are able to attend without unduly disrupting their usual occupations.

**“429.35.** Notice shall be sent to the parties within reasonable time before the hearing, stating

- (1) the purpose, date, time and place of the hearing;
- (2) that the parties have the right to be assisted or represented;
- (3) that the board has the authority to proceed, without further delay or notice, despite the failure of a party to appear at the time and place fixed if no valid excuse is provided.

**“429.36.** The board may hear the parties by any means provided for in its rules of evidence, procedure and practice.

**“429.37.** A party who wishes to cause witnesses to be heard and to produce documents shall proceed in the manner prescribed in the rules of evidence, procedure and practice of the board.

**“429.38.** A commissioner or a panel may visit premises or order an expert appraisal by a qualified person he or it designates to examine and assess the facts of a case.

The owner, lessee or occupant of premises that the commissioner or panel wishes to visit must facilitate their access thereto.

**“429.39.** Where a commissioner is unable to continue a hearing, another member designated by the president may, with the consent of the parties, continue the hearing and, in the case of oral evidence already produced, rely on the notes and minutes of the hearing or, as the case may be, on the stenographer's notes or on the recording of the hearing.

The same applies where a hearing is continued after the member sitting at the hearing ceases to exercise his functions.

**“429.40.** A member who has knowledge of a valid cause for his recusal must declare that cause in a writing filed in the record and must advise the parties of it.

**“429.41.** A party may, at any time before the decision and provided he acts with dispatch, apply for the recusal of a member seized of the case if he has good reason to believe that a cause for recusal exists.

The application for recusal shall be addressed to the president. Unless the member removes himself from the case, the application shall be decided by the president or by a member designated by the president.

## **“DIVISION XVI**

### **“CONCILIATION**

**“429.42.** If the parties to a proceeding consent thereto, the board may appoint a conciliator who shall meet with the parties and endeavour to reach an agreement.

**“429.43.** Nothing said or written in the course of conciliation may be admitted as evidence, unless the parties consent thereto.

**“429.44.** Every agreement shall be recorded in writing, and any document to which it refers shall be attached thereto. The agreement must be signed by the conciliator and by the parties, and is binding on the parties.

The agreement shall be confirmed by a commissioner to the extent that it is in accordance with law; in such a case, the agreement constitutes a decision of the board which terminates the proceedings.

The decision is mandatory and binding on the parties.

**“429.45.** Where no agreement has been reached or the board refuses to confirm an agreement, the latter shall hold a hearing as soon as possible.

**“429.46.** Conciliators shall not disclose anything revealed to them or learned by them in the exercise of their functions, or produce personal notes or any document made or obtained in the course of their duties before a court or before a body or person exercising judicial or quasi-judicial functions.

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person shall have access to such a document, unless the document is used as the basis for an agreement and for the decision confirming an agreement.

## **“DIVISION XVII**

### **“DECISIONS**

**“429.47.** Where a case is heard by more than one member, it shall be decided by the majority of the members having heard it. If any member dissents, the ground for his dissent may be recorded in the decision.

**“429.48.** Every decision by the board must be in writing, give the reasons on which it is based, be signed and be notified to the parties and to the Commission.

The decision is final, and no appeal lies from it; every person to whom it applies must comply with it without delay.

**“429.49.** The board must make its decision within *nine* months of the filing of the application.

However, in the case of a proceeding under section 429.29, the board must make its decision within 90 days of the filing of the application.

Failure by the board to observe these time limits shall not cause the matter to be withdrawn from the commissioner or the panel, or invalidate a decision or order made by the commissioner or panel after the expiry of the time limit.

**“429.50.** A matter heard by a member and on which he has not made a determination at the time he ceases to exercise his functions shall be decided by the other members of the panel or shall be heard again by the financial matters division.

Where opinions are equally divided on a question, it shall be referred to the president who shall decide according to law.

**“429.51.** A president or a commissioner called upon to hear a matter pursuant to section 429.50 may, with the consent of the parties, rely, as regards oral evidence, on the notes and minutes of the hearing or, as the case may be, on the stenographer's notes or on the recording of the hearing. If the president or commissioner finds them insufficient, he may recall a witness or require any other evidence.

**“429.52.** A decision or order containing an error in writing or in calculation or any other clerical error may be corrected, on the record and without further formality, by the commissioner who presided the hearing.

Where a commissioner is unable to act or has ceased to hold office, another member designated by the president may correct the decision.

**“429.53.** The board, on an application, may review or revoke any decision or order it has made

(1) where a new fact is discovered which, had it been known in time, could have warranted a different decision ;

(2) where a party, owing to reasons considered sufficient, could not be heard ;

(3) where a substantive or procedural defect is of a nature likely to invalidate the decision.

In the case described in subparagraph 3 of the first paragraph, the decision or order may not be reviewed or revoked by the members having made the decision or order.

The review shall be heard, as the case may be, by a commissioner or by a panel in accordance with the provisions of section 373.

The president may, however, if he considers it expedient given the complexity or importance of the application, designate three commissioners to hear the case, one of whom shall preside and, if the case is within the jurisdiction of the employment injuries prevention and compensation division, he may, in addition, designate panel members designated under section 419.

**“429.54.** A proceeding for review or revocation is brought by means of an application filed with the employment injuries division within a reasonable time after the decision concerned or after a new fact likely to warrant a different decision is discovered. The application shall refer to the decision concerned and state the grounds invoked in support of the application. It shall contain any other information required by the rules of evidence, procedure and practice.

A person who makes such an application must first obtain the permission of a commissioner.

The board shall forward a copy of the application to the other parties who may respond, in writing, within 30 days of receipt.

The commissioner shall examine and dispose of the application for permission, on the record.

**“429.55.** If permission is granted, the board shall decide the application without delay and after giving the parties an opportunity to present observations.

**“429.56.** A decision of the board is mandatory according to the terms and conditions stated therein, provided it has been notified to the parties.

Compulsory execution of decisions is effected by deposit at the office of the clerk of the Superior Court in the district in which the proceeding was brought.

Upon the deposit, the decision of the board becomes executory as if it were a final and unappealable judgment of the Superior Court and has all the effects thereof.

**“429.57.** Except on a question of jurisdiction, none of the recourses provided in articles 33 and 834 to 846 of the Code of Civil Procedure may be exercised, and no injunction may be granted against the board or against any of its members acting in their official capacity.

A judge of the Court of Appeal may, on a motion, quash by summary procedure any judgment, order or injunction granted contrary to this section.”

**28.** Section 433 of the said Act is replaced by the following section :

**“433.** The amount due is payable upon the expiry of the time for filing an application for review under section 358 or the time for bringing a proceeding under section 359 or, if the application has been filed or the proceeding brought, on the day of the final decision confirming the decision of the Commission.”

**29.** Section 436 of the said Act is amended by replacing the words “board of appeal” in the second line by the word “board”.

**30.** Section 450 of the said Act is amended

(1) by replacing the words “bring an appeal” in the second line of the second paragraph by the words “contest the decision before the board”;

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

“A proceeding brought under any of the said Acts precludes any proceeding under any other of them and the decision made binds both agencies.”

**31.** Section 451 of the said Act is amended

(1) by replacing the words “bring an appeal” in the second line of the second paragraph by the words “contest the decision before the board”;

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

“A proceeding brought under any of the said Acts precludes any proceeding under any other of them and the decision made binds the Commission for the purposes of each of the said Acts.”

**32.** Section 570.1 of the said Act is amended by replacing the words “appealed from” in the third line of the first paragraph by the words “contested before the board”, by replacing the word “appeal” in the second line of the second paragraph by the word “contestation” and by replacing the words “of, or appeal from,” in the first and second lines of the third paragraph by the words “contestation of”.

**33.** Section 590 of the said Act is replaced by the following section:

“**590.** The Minister of Labour is responsible for the administration of this Act.”

**34.** Schedules VI and VII to the said Act are repealed.

## FINAL PROVISIONS

### ACT RESPECTING THE BARREAU DU QUÉBEC

**35.** Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing the words “or the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001)” in the sixth, seventh and eighth lines of paragraph 3 of paragraph *a* of subsection 2 by the words “, the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001) or the Commission des lésions professionnelles established under the said Act”.

### ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

**36.** Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by adding the words “the Commission des lésions professionnelles if they are commissioners” after the words “the Commission d’appel en matière de lésions professionnelles if they are employed full-time” in paragraph 3.

### ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

**37.** Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended

- (1) by striking out the definition of “review office”;
- (2) by replacing the definition of “board of appeal” by the following definition:

““Commission des lésions professionnelles” means the Commission des lésions professionnelles established by the Act respecting industrial accidents and occupational diseases (chapter A-3.001);”.

- 38.** Section 20 of the said Act is amended by replacing the words “an appeal” in the second line of the first paragraph by the words “a contestation before the Commission des lésions professionnelles”.
- 39.** Section 36 of the said Act is amended by replacing the word “appeal” in the fourth line of the third paragraph by the words “contestation before the Commission des lésions professionnelles”.
- 40.** Section 37.1 of the said Act is amended by replacing the words “thereof by a review office” in the third line by the words “to the Commission in accordance with sections 358.1 to 358.5 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001)”.
- 41.** Section 37.2 of the said Act is replaced by the following section:
- “37.2.** The Commission shall proceed by preference with an application for review under section 37.1.
- The decision made by the Commission on the application has effect immediately, even if it is contested before the Commission des lésions professionnelles.”
- 42.** Section 37.3 of the said Act is replaced by the following section:
- “37.3.** Any person who believes he has been wronged by a decision made by the Commission following an application under section 37.1, may, within 10 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”
- 43.** Section 172 of the said Act is amended
- (1) by replacing the words “hear and decide any matter or question” in the fourth line of the first paragraph by the words “and decide any question”;
  - (2) by replacing the words “an inquiry or hearing” in the first line of the second paragraph by the words “the examination of a question”;
  - (3) by replacing the words “an inquiry or hearing” in the first line of the third paragraph by the words “the examination of a question”.
- 44.** Section 176 of the said Act is amended by replacing the words “, hear and decide any matter or” in the first and second lines by the words “and decide any”.
- 45.** Chapter IX.1 of the said Act is repealed.
- 46.** Section 191.1 of the said Act is amended by replacing the words “a review office” in the second line by the words “the Commission in accordance with sections 358.1 to 358.5 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001)”.

**47.** Section 191.2 of the said Act is amended by replacing the words “review office” in the second line by the word “Commission”.

**48.** Section 192 of the said Act is replaced by the following section:

**“192.** A decision made by the Commission following an application under section 191.1 has effect immediately, notwithstanding any contestation before the Commission des lésions professionnelles.”

**49.** Section 193 of the said Act is replaced by the following section:

**“193.** Any person who believes he has been wronged by a decision made by the Commission following an application under section 191.1, may, within 10 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

**50.** Section 223 of the said Act is amended

(1) by replacing subparagraph 37 of the first paragraph by the following subparagraph:

“(37) establishing rules of procedure applicable to the examination and decision of questions over which an inspector or the Commission has jurisdiction or over which certain persons or the executive committee have jurisdiction pursuant to section 172;”;

(2) by replacing the words “an investigation or hearing held under section 172 or held by a revision office” in the second and third lines of subparagraph 40 of the first paragraph by the words “the examination of a question under section 172”;

(3) by striking out subparagraph 40.1 of the first paragraph.

**51.** Section 223.1 of the said Act is amended

(1) by replacing the words “an appeal” in the second line of paragraph 1 by the words “a contestation”;

(2) by replacing the words “an appeal” in the second line of paragraph 4 by the words “a contestation”.

**52.** Section 228 of the said Act is amended

(1) by striking out the words “and sections 358 and 359” in the first line;

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

“A decision of the Commission may be contested before the Commission des lésions professionnelles in accordance with section 359.1 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).”

## TRANSITIONAL PROVISIONS

**53.** For the purposes of a contestation, any decision of the Commission made before the date of coming into force of this Act is governed, as the case

may be, by section 358 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) or by section 37.1 or 191.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), as they read before the date of coming into force of sections 17, 40 and 46 of this Act.

**54.** Notwithstanding section 45 of this Act, a review office established under the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) before the date of coming into force of this Act shall continue to exist and shall retain its jurisdiction to hear and decide any matter in respect of which a review is applied for under section 358 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) or under section 37.1 or 191.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), as they read before the date of coming into force of sections 17, 40 and 46 of this Act.

**55.** For the purposes of a contestation, any decision made by a review office is governed, as the case may be, by section 359 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) or by section 37.3 or 193 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), as they read before the coming into force of sections 19, 42 and 49 of this Act.

Section 362 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as it read before the coming into force of section 21 of this Act, shall continue to apply to a decision made by a review office.

**56.** Notwithstanding section 27 of this Act, the Commission d'appel en matière de lésions professionnelles established by section 367 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as it read before the date of coming into force of section 27 of this Act, shall continue to exist and shall retain its jurisdiction to hear and decide any appeal from a decision made by a review office that is brought before or after the date of coming into force of this Act.

The Commission d'appel shall also retain jurisdiction to hear and decide any appeal brought under section 360 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as it read before the date of coming into force of section 33 of chapter 11 of the statutes of 1992.

The Commission d'appel shall hear and decide by preference

(1) an appeal in respect of the existence of an employment injury other than a recurrence, relapse or aggravation, or the fact that the person is a worker or is considered to be a worker;

(2) an appeal having as its object the foreseeable date or period of consolidation of a worker's employment injury, or the existence or the assessment of a worker's functional disability.

**57.** Notwithstanding section 384 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 27 of this Act, the commissioners of the Commission d'appel en matière de lésions professionnelles whose term has not expired on the date on which such

commission ceases its activities shall become, for the unexpired portion of their term, commissioners of the Commission des lésions professionnelles, without administrative office.

However, the Government may assign a commissioner of the Commission d'appel en matière de lésions professionnelles to the Commission des lésions professionnelles before the date referred to in the first paragraph. In that case, the commissioner shall become, for the unexpired portion of his term, a commissioner of the Commission des lésions professionnelles, without administrative office.

Once their terms of office have expired, the commissioners referred to in the first and second paragraphs shall be subject to the appointment renewal procedure set out in sections 392 and 394 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 27 of this Act; however, in such a case, the committee charged with examining the renewal of the appointment of such a commissioner shall consult the Conseil consultatif du travail et de la main-d'oeuvre.

**58.** Notwithstanding section 384 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 27 of this Act, the commissioners of the Commission d'appel en matière de lésions professionnelles who, on (*insert here the date preceding the date of coming into force of this section*), hold office as commissioners of the said commission, despite the expiry of their term, shall become commissioners of the Commission des lésions professionnelles and shall be subject to the appointment renewal procedure set out in sections 392 and 394 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 27 of this Act; however, in such a case, the time limit of three months provided in section 392 shall be extended to six months and the committee charged with examining the renewal of the appointment of such a commissioner shall consult the Conseil consultatif du travail et de la main-d'oeuvre.

**59.** The qualifications required by law, including the 10 years of experience pertinent to the exercise of the functions of the Commission des lésions professionnelles, shall not be required of persons who become members of the said commission pursuant to sections 57 and 58, even upon a subsequent renewal of appointment, as long as they remain members.

**60.** The persons who become members of the Commission des lésions professionnelles pursuant to sections 57 and 58 shall continue to receive the remuneration they received before the coming into force of this Act; notwithstanding the coming into force of a regulation respecting remuneration and other conditions of employment, if the remuneration they receive is greater than that prescribed regulation, they shall continue to receive their former remuneration until parity is reached.

If the member held administrative office prior to the coming into force of this Act, any additional remuneration attached to such office shall cease upon the member ceasing, pursuant to this Act, to hold administrative office; such additional remuneration shall correspond to the difference between the annual

salary of the member holding administrative office and the maximum on the salary scale applicable to a commissioner of the Commission d'appel en matière de lésions professionnelles.

**61.** Any benefits other than the pension plan and the other conditions of employment of the commissioners, as they existed before the coming into force of this Act, shall continue to apply to them until the coming into force of a regulation respecting remuneration and other conditions of employment.

**62.** The members of the personnel of the Commission de la santé et de la sécurité du travail who, on *(insert here the date of the day preceding the coming into force of section 45 of this Act)*, are assigned to the administration of Chapter IX.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) shall become, as determined by the Government after agreement between the bodies concerned, members of the personnel of the Commission des lésions professionnelles established by section 27 of this Act.

**63.** Persons who are members of the personnel of the Commission d'appel en matière de lésions professionnelles on *(insert here the date of the day preceding the coming into force of section 27 of this Act)* become, as determined by the Government after agreement between the bodies concerned, members of the personnel of the Commission des lésions professionnelles established by section 27 of this Act.

**64.** This Act comes into force on the date or dates to be fixed by the Government.



**190.** (1) Section 1029.8 of the said Act, amended by section 121 of chapter 1 of the statutes of 1995, by section 126 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing subparagraphs *b* and *c* of the first paragraph by the following subparagraphs:

“(b) that portion of the consideration paid under the contract by the partnership in respect of the research and development undertaken on its behalf in that fiscal period to a person or another partnership with whom or with which a member of the partnership was not dealing at arm’s length at the time the contract was entered into and who or which has undertaken all or part of the research and development, that may reasonably be attributed to the wages paid to the employees of an establishment of that person or other partnership situated in Québec or that could be so attributed if that person or other partnership had such employees;

“(c) one-half of that portion of the consideration paid under the contract by the partnership to a person or another partnership with whom or with which all the members of the partnership were dealing at arm’s length at the time the contract was entered into, that may reasonably be attributed to such research and development undertaken on its behalf in that fiscal period by the employees of an establishment of that person or other partnership situated in Québec or that could be so attributed if that person or other partnership had such employees;”;

(2) by adding, after subparagraph *c* of the first paragraph, the following subparagraphs:

“(d) that portion of the consideration paid by the partnership under a particular contract, other than a contract by which it causes scientific research and experimental development to be undertaken on its behalf, for work undertaken in that fiscal period relating to such research and development, to a person or another partnership with whom or with which a member of the partnership was not dealing at arm’s length at the time the particular contract was entered into and who or which has undertaken all or part of the work, that may reasonably be attributed to the wages paid to the employees of an establishment of that person or other partnership situated in Québec or that could be so attributed if that person or other partnership had such employees; and

“(e) one-half of that portion of the consideration paid by the partnership under a particular contract, other than a contract by which it causes scientific research and experimental development to be undertaken on its behalf, for work relating to such research and development, to a person or another partnership with whom or with which all its members were dealing at arm’s length at the time the particular contract was entered into, that may reasonably be attributed to work undertaken in that fiscal period by the employees of an

establishment of that person or other partnership situated in Québec or that could be so attributed if the person or other partnership had such employees.”;

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

“Furthermore, for the purpose of computing the payments that a taxpayer referred to in the first paragraph, other than a taxpayer that is a large corporation within the meaning of section 1029.6.0.2, is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, for his taxation year in which the fiscal period of the partnership ends, the taxpayer is deemed to have paid to the Minister, as partial payment of the aggregate of his tax payable for the year pursuant to this Part and of his tax payable for the year pursuant to Parts IV, IV.1, VI and VI.1, the amount determined for the year in his respect under the first paragraph, on the date on which the fiscal period ends where that date coincides with the date on or before which the taxpayer is required to make such a payment or, in other cases, on the first date following the end of the fiscal period which is the date on or before which he is required to make such a payment.”;

(4) by inserting, after the third paragraph, the following paragraph:

“For the purposes of the first paragraph, that portion of the consideration paid by the partnership under a particular contract referred to in subparagraph *d* or *e* of that paragraph shall be reduced by any amount paid for the acquisition of property, other than a property resulting from scientific research and experimental development.”

(2) Paragraphs 1, 2 and 4 of subsection 1 apply in respect of expenditures made after 12 May 1994 under a contract entered into after that date.

(3) Paragraph 3 of subsection 1 applies to taxation years that end after 9 May 1996.

**191.** (1) Section 1029.8.0.0.1 of the said Act, enacted by section 127 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is replaced by the following section:

**“1029.8.0.0.1.** A taxpayer shall not be deemed to have paid to the Minister an amount as partial payment of his tax payable for a taxation year under section 1029.7 or 1029.8 in respect of an expenditure that is a portion of a consideration referred to in subparagraph *c* or *e* of the first paragraph of that section, that the taxpayer has paid or the partnership of which he is a member has paid to a person or to a particular partnership under a contract for the purpose of causing to be undertaken, on his behalf, scientific research and experimental development referred to in that subparagraph *c*, or work relating to scientific research and experimental development referred to in that subparagraph *e*, as the case may be, unless he files with the Minister, on or

before the day on or before which he is required to file his fiscal return for the year under section 1000 or would be so required to file such a return if tax were payable by the taxpayer for the year under this Part, a statement in prescribed form containing the following information:

(a) the name of the person or of the particular partnership with whom or with which the taxpayer or the partnership of which the taxpayer is a member has entered into the contract, the registration number assigned to that person or that particular partnership in accordance with the Act respecting the Québec sales tax (chapter T-0.1) and, where the person is an individual, his social insurance number;

(b) the total amount of the consideration provided for in the contract in respect of the scientific research and experimental development or the work relating to scientific research and experimental development, as the case may be; and

(c) the amount of the portion of the consideration provided for in the contract that is paid in the year or, where the taxpayer is a member of a partnership, in the fiscal period of the partnership ending in the year, in respect of the scientific research and experimental development or the work relating to scientific research and experimental development, as the case may be.”

(2) Subsection 1 applies in respect of expenditures made after 12 May 1994 as part of a contract entered into after that date.

**192.** (1) Section 1029.8.1 of the said Act, amended by section 122 of chapter 1 of the statutes of 1995, by section 236 of chapter 49 of the statutes of 1995, by section 129 of chapter 63 of the statutes of 1995 and by section 56 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing paragraphs *a.2* and *b* by the following paragraphs:

“(a.2) “eligible research contract” means a contract entered into after 2 May 1991 between a taxpayer or partnership carrying on a business in Canada or a prescribed linkage agency acting for the benefit of such a taxpayer or partnership in accordance with an agreement entered into between the taxpayer or partnership, as the case may be, and the linkage agency, and an eligible public research centre, or after 14 May 1992 between such a taxpayer, partnership or agency and an eligible research consortium under which the eligible public research centre or the eligible research consortium, as the case may be, binds itself to undertake directly, in Québec, within the scope of its activities, scientific research and experimental development related to a business of the taxpayer or partnership, as the case may be, where the latter are entitled to exploit the results thereof;

“(b) “university research contract” means a contract entered into after 30 April 1987 between a taxpayer or partnership carrying on a business in Canada or a prescribed linkage agency acting for the benefit of such a taxpayer or partnership in accordance with an agreement entered into between the taxpayer or partnership, as the case may be, and the linkage agency, and an eligible university entity under which the eligible university entity binds itself to undertake directly, in Québec, scientific research and experimental development related to a business of the taxpayer or partnership where the latter are entitled to exploit the results thereof;”;

(2) by inserting, after paragraph *f*, the following paragraph :

“(f.1) “university foundation” means a non-profit corporation constituted for the purpose of promoting and providing financial support to the teaching and research activities of an eligible university entity;”.

(2) Paragraph 1 of subsection 1, except where it strikes out “or of the other partnership or the taxpayer contemplated in the seventh paragraph of section 1029.8.7.2 with which the partnership is in relation,” in paragraph *b* of section 1029.8.1 of the said Act, applies

(1) in respect of scientific research and experimental development undertaken after 9 May 1996 under a contract entered into after that date ;

(2) in respect of scientific research and experimental development undertaken after 9 May 1996 under an eligible research contract or university research contract entered into on or before 9 May 1996 if an application for an advance ruling has been filed with the Ministère du Revenu in respect of the contract between 9 May 1996 and 1 September 1996.

(3) Paragraph 1 of subsection 1, where it strikes out “or of the other partnership or the taxpayer contemplated in the seventh paragraph of section 1029.8.7.2 with which the partnership is in relation,” in paragraph *b* of section 1029.8.1 of the said Act, has effect from 15 December 1995.

(4) Paragraph 2 of subsection 1 has effect from 10 May 1996.

**193.** (1) The said Act is amended by inserting, after section 1029.8.1.1, the following section :

**“1029.8.1.1.1.** For the purposes of paragraph *b* of section 1029.8.1, where a corporation, in this section referred to as a “predecessor corporation”, has been amalgamated and, before the amalgamation, the corporation was an eligible university entity by reason of its being a prescribed university hospital medical research centre and had entered into a university research contract, the new corporation resulting from the amalgamation is, in respect of the contract, deemed to be the same corporation as, and a continuation of, the predecessor corporation, if

(a) the new corporation is an eligible university entity by reason of its being a prescribed university hospital medical research centre; and

(b) the new corporation carries on the performance of the contract.”

(2) Subsection 1 has effect from 1 July 1995.

**194.** (1) The said Act is amended by inserting, after section 1029.8.1.2, the following section:

**“1029.8.1.3.** Subject to Division II.4, for the purposes of the first paragraph of section 1029.8.6, where a corporation has paid an amount that is a qualified expenditure under a university research contract and a university foundation has become surety for that corporation in respect of the payment of amounts used for the financing of scientific research and experimental development provided for in the contract, all or any part of the amount of the qualified expenditure that may reasonably be attributed to expenditures for the scientific research and experimental development that an eligible university entity has made in Québec under that contract in a taxation year of the corporation is deemed not to exceed \$1,500,000.

Notwithstanding the first paragraph and section 1029.8.1.2, where the amount of a qualified expenditure would, but for this paragraph, be reduced because of the first paragraph and of that section 1029.8.1.2, all or any part of the amount of a qualified expenditure paid by a corporation under a university research contract that may reasonably be attributed to expenditures for scientific research and experimental development that an eligible university entity has made in Québec under that contract in a taxation year of the corporation, is deemed, subject to Division II.4 and for the purposes of subparagraph *a* of the first paragraph of section 1029.8.6, not to exceed the proportion of \$1,500,000 that the amount of the qualified expenditure determined in accordance with section 1029.8.1.2 for the year is of the amount that the amount of that qualified expenditure would be for the year but for that section 1029.8.1.2 and this section.”

(2) Subsection 1 applies in respect of university research contracts entered into after 9 May 1996.

**195.** (1) Section 1029.8.9 of the said Act, amended by section 135 of chapter 63 of the statutes of 1995, is again amended by adding, after the fifth paragraph, the following paragraph:

“Where an amount is related to a university research contract entered into between a corporation and an eligible university entity and a university foundation has become surety for the corporation in respect of the payment of that amount, the application for an advance ruling relating to that contract shall demonstrate that the university foundation has so become surety for the corporation and that the requirements set out in subparagraphs *a* to *d* of the sixth paragraph of section 1029.8.19.2 in respect of the suretyship are met.”

(2) Subsection 1 applies in respect of university research contracts entered into after 9 May 1996.

**196.** (1) Section 1029.8.9.0.2 of the said Act, amended by section 130 of chapter 1 of the statutes of 1995 and by section 58 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by adding the following definition :

““tax-exempt taxpayer” has the meaning assigned by paragraph b.1 of section 1029.8.1.”;

(2) by replacing the definition of “eligible fee” by the following definition :

““eligible fee” of a taxpayer or partnership, for a taxation year or fiscal period, as the case may be, relating to an eligible research consortium, means the amount obtained by multiplying the lesser of the following amounts by such proportion as the fee or dues paid by the taxpayer or partnership, as the case may be, to the eligible research consortium, during the fiscal period of the latter ending in the taxation year of the taxpayer or the fiscal period of the partnership, to be a member thereof is of the aggregate of the fees or dues paid, during that fiscal period of the eligible research consortium, by all the taxpayers and all the partnerships that are members thereof :

(a) the amount of the expenditures made by the eligible research consortium in respect of scientific research and experimental development related to a business of the taxpayer or partnership undertaken by the eligible research consortium in Québec, after 14 May 1992 in its fiscal period ending in the taxation year of the taxpayer or fiscal period of the partnership; and

(b) the amount by which the aggregate of the fees or dues paid by all the taxpayers and all the partnerships that are members of the eligible research consortium, during its fiscal period ending in the taxation year of the taxpayer or fiscal period of the partnership, exceeds the portion of those fees or dues that may reasonably be considered to be used by the eligible research consortium to make expenditures, other than expenditures for scientific research and experimental development related to a business of the taxpayer or of the partnership, in its fiscal period;”;

(3) by striking out the definition of “tax-exempt corporation”.

(2) Subsection 1 applies in respect of fees or dues paid to an eligible research consortium after 20 December 1995.

**197.** (1) Section 1029.8.9.0.3 of the said Act, replaced by section 136 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again replaced by the following section :

**“1029.8.9.0.3.** A taxpayer, other than a tax-exempt taxpayer, who carries on a business in Canada is deemed to have paid to the Minister on the day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of a taxation year, or that would be referred to in that section 1026.0.1 or in that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year, as partial payment of his tax payable for that year pursuant to this Part, an amount equal to 40% of the aggregate of all amounts each of which is his eligible fee for the year relating to an eligible research consortium.”

(2) Subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

**198.** (1) The said Act is amended by inserting, after section 1029.8.9.0.3, the following section:

**“1029.8.9.0.4.** Where a partnership carries on a business in Canada, every taxpayer, other than a tax-exempt taxpayer, who is a member of the partnership at the end of a fiscal period of the partnership in which the partnership paid an eligible fee to an eligible research consortium, and who is not a specified member of the partnership in that fiscal period, is deemed to have paid to the Minister on the day referred to in section 1026.0.1, in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027, in the case of a corporation, in respect of his taxation year in which the fiscal period ends, or that would be referred to in that section 1026.0.1 or in that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year, as partial payment of his tax payable for that year pursuant to this Part, an amount equal to 40% of his share of the aggregate of all amounts each of which is, for the fiscal period of the partnership ending in the year, an eligible fee of the partnership relating to an eligible research consortium.

For the purposes of the first paragraph, the taxpayer’s share of an amount is equal to such proportion of that amount as the share of the taxpayer of the income or loss of the partnership for the fiscal period of the partnership ending in the taxpayer’s taxation year is of the income or loss of the partnership for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership’s income for that fiscal period is equal to \$1,000,000.”

(2) Subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

**199.** (1) Section 1029.8.10 of the said Act, replaced by section 133 of chapter 1 of the statutes of 1995 and amended by section 138 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again replaced by the following section:

**“1029.8.10.** A taxpayer, other than a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1, who carries on a business in Canada and has made an agreement with a person or partnership whereby the parties agree to undertake or to cause to be undertaken on their behalf in Québec, as part of a contract, scientific research and experimental development and in respect of which either the Minister of Industry, Trade, Science and Technology has issued a validation certificate recognizing that the scientific research and experimental development will be undertaken as part of a pre-competitive research project, or, on or before 31 December 1996, the scientific research and experimental development referred to therein was the subject of a decision of the Cabinet recognizing that such scientific research and experimental development will be undertaken as part of a catalyst project or an environmental technology innovation project, is deemed, subject to the second paragraph, to have paid to the Minister, on the day referred to in section 1026.0.1 in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027 in the case of a corporation, in respect of his taxation year during which the scientific research and experimental development related to a business of the taxpayer was undertaken, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year, as partial payment of his tax payable for that year pursuant to this Part, an amount equal to 40% of the aggregate of

(a) the total or part of a qualified expenditure the taxpayer has made in Québec that can reasonably be attributed to such scientific research and experimental development directly undertaken by the taxpayer in that year;

(b) the total or part of a qualified expenditure the taxpayer has made in Québec under a contract entered into with a person or partnership with whom or with which the taxpayer was not dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or partnership on behalf of the taxpayer in that year; and

(c) 80% of an amount representing the total or part of a qualified expenditure the taxpayer has made in Québec under a contract entered into with a person or partnership with whom or with which the taxpayer was dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or partnership on behalf of the taxpayer in that year.

Furthermore, for the purpose of computing the payments that a taxpayer referred to in the first paragraph, other than a taxpayer that is a large corporation within the meaning of section 1029.6.0.2, is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, the taxpayer is deemed to have paid to the Minister, as partial payment of the aggregate of his tax payable for the year pursuant to this Part and of his tax payable for the year pursuant to Parts IV, IV.1, VI and VI.1, on

the date on or before which each payment is required to be made, the amount which would be determined under the first paragraph if it applied only to the period covered by the payment.

For the purposes of subparagraphs *a* to *c* of the first paragraph, a qualified expenditure referred to therein does not include an expenditure made after 31 December 1998 in respect of scientific research and experimental development undertaken as part of a catalyst project or an environmental technology innovation project.”

(2) Subsection 1 applies in respect of scientific research and experimental development undertaken after 9 May 1996. However, where it replaces the second paragraph of section 1029.8.10 of the said Act, it applies to taxation years that end after 9 May 1996.

**200.** (1) Section 1029.8.11 of the said Act, replaced by section 134 of chapter 1 of the statutes of 1995 and amended by section 139 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again replaced by the following section:

**“1029.8.11.** Where a particular partnership carries on a business in Canada and has made an agreement with a person or partnership whereby the parties agree to undertake or to cause to be undertaken on their behalf in Québec, as part of a contract, scientific research and experimental development and in respect of which either the Minister of Industry, Trade, Science and Technology has issued a validation certificate recognizing that the scientific research and experimental development will be undertaken as part of a pre-competitive research project, or, on or before 31 December 1996, the scientific research and experimental development referred to therein was the subject of a decision of the Cabinet recognizing that such scientific research and experimental development will be undertaken as part of a catalyst project or an environmental technology innovation project, every taxpayer who is a member of the particular partnership at the end of a fiscal period of the particular partnership in which the scientific research and experimental development related to a business of the particular partnership was undertaken and who is not a tax-exempt taxpayer within the meaning of paragraph *b.1* of section 1029.8.1, or a specified member of the particular partnership in that fiscal period, is deemed, subject to the second paragraph, to have paid to the Minister, on the day referred to in section 1026.0.1 in the case of an individual, or in subparagraph *b* of the first paragraph of section 1027 in the case of a corporation, in respect of his taxation year in which the fiscal period ends, or that would be referred to in that section 1026.0.1 or that subparagraph *b*, as the case may be, if the taxpayer had a remainder of tax payable for that taxation year, as partial payment of his tax payable for that year pursuant to this Part, 40% of his share of an amount equal to the aggregate of

(*a*) the total or part of a qualified expenditure the particular partnership has made in Québec that can reasonably be attributed to such scientific research

and experimental development directly undertaken by the particular partnership in that fiscal period;

(b) the total or part of a qualified expenditure the particular partnership has made in Québec under a contract entered into with a person or another partnership with whom or with which a member of the particular partnership was not dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or the other partnership on behalf of the particular partnership in that fiscal period; and

(c) 80% of an amount representing the total or part of a qualified expenditure the particular partnership has made in Québec under a contract entered into with a person or another partnership with whom or with which all the members of the particular partnership were dealing at arm's length at the time the contract was entered into, that can reasonably be attributed to such scientific research and experimental development directly undertaken by the person or the other partnership on behalf of the particular partnership in that fiscal period.

Furthermore, for the purpose of computing the payments that a taxpayer referred to in the first paragraph, other than a taxpayer that is a large corporation within the meaning of section 1029.6.0.2, is required to make under section 1025 or 1026, subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 where they refer to that subparagraph *a*, for his taxation year in which the fiscal period of the particular partnership ends, the taxpayer is deemed to have paid to the Minister, as partial payment of the aggregate of his tax payable for the year pursuant to this Part and of his tax payable for the year pursuant to Parts IV, IV.1, VI and VI.1, the amount determined for the year in his respect under the first paragraph, on the date on which the fiscal period ends where that date coincides with the date on or before which the taxpayer is required to make such a payment or, in other cases, on the first date following the end of the fiscal period which is the date on or before which he is required to make such a payment.

For the purposes of the first paragraph, the taxpayer's share of an amount is equal to such proportion of that amount as the share of the taxpayer of the income or loss of the particular partnership for the fiscal period of that partnership ending in the taxpayer's taxation year is of the income or loss of that partnership for that fiscal period, on the assumption that, if the income and loss of the particular partnership for that fiscal period are nil, the particular partnership's income for that fiscal period is equal to \$1,000,000.

For the purposes of subparagraphs *a* to *c* of the first paragraph, a qualified expenditure referred to therein does not include an expenditure made after 31 December 1998 in respect of scientific research and experimental development undertaken as part of a catalyst project or an environmental technology innovation project."

(2) Subsection 1 applies in respect of scientific research and experimental development undertaken after 9 May 1996. However, where it replaces the second paragraph of section 1029.8.11 of the said Act, it applies to taxation years that end after 9 May 1996.

**201.** (1) Section 1029.8.17.1 of the said Act, enacted by section 142 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is repealed.

(2) Subsection 1 applies to taxation years that end after 9 May 1996.

**202.** (1) Section 1029.8.18 of the said Act, replaced by section 138 of chapter 1 of the statutes of 1995 and by section 143 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended, in the first paragraph,

(1) by inserting, in the portion before subparagraph *a*, after “1029.8.9.0.3,”, “1029.8.9.0.4,”;

(2) by replacing subparagraph *b* by the following subparagraph:

“(b) the share of a taxpayer who is a member of a partnership of the amount of the wages or of part of a consideration paid, of a qualified expenditure, except a prescribed proxy amount, or of an eligible fee, referred to in any of sections 1029.8, 1029.8.7, 1029.8.9.0.4 and 1029.8.11, as the case may be, shall be reduced, where applicable,

i. by his share of the amount of any contract payment, government assistance or non-government assistance, attributable to the wages or to part of the consideration paid, to the qualified expenditure or to the eligible fee, as the case may be, that the partnership has received, is entitled to receive or may reasonably expect to receive at the time of the filing of the taxpayer’s fiscal return for that taxation year in which the fiscal period of the partnership in which the wages, part of the consideration or the eligible fee were paid or the qualified expenditure was made, as the case may be, ends, or

ii. by the amount of any government assistance or non-government assistance, attributable to the wages or part of the consideration paid, to the qualified expenditure or to the eligible fee, as the case may be, that the taxpayer has received, is entitled to receive or may reasonably expect to receive at the time of the filing of his fiscal return for that taxation year in which the fiscal period of the partnership in which the wages, part of the consideration or the eligible fee were paid or the qualified expenditure was made, as the case may be, ends.”

(2) Subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

**203.** (1) Section 1029.8.18.1 of the said Act, replaced by section 145 of chapter 63 of the statutes of 1995, is amended

(1) by replacing the portion before paragraph *b* by the following :

**“1029.8.18.1.** Where, at any particular time, a taxpayer pays a particular amount that may reasonably be considered to be the repayment of government assistance or non-government assistance that reduced, by reason of subparagraph *a* of the first paragraph of section 1029.8.18 or 1029.8.18.0.1, a particular expenditure or a particular eligible fee for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer under Divisions II to II.3, the following rules apply :

(*a*) the particular amount is deemed, for the purposes of those divisions,

i. where the assistance reduced a particular expenditure, to be an expenditure for scientific research and experimental development made at the particular time by the taxpayer on the same basis as was the particular expenditure, and

ii. where the assistance reduced a particular eligible fee, to be an eligible fee for the taxation year in which the taxpayer paid the particular amount;” ;

(2) by replacing subparagraphs i and ii of paragraph *b* by the following subparagraphs :

“i. to be equal to the amount that, were it not for the assistance, would have been deemed to have been paid to the Minister by the taxpayer under those divisions in respect of that portion of the particular expenditure or particular eligible fee corresponding to the assistance so repaid, and

“ii. to have been paid to the Minister under the same provisions of those divisions as the provisions under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the particular expenditure or particular eligible fee corresponding to the assistance so repaid.”

(2) Subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

**204.** (1) Section 1029.8.18.1.1 of the said Act, enacted by section 146 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing the portion before paragraph *b* by the following :

**“1029.8.18.1.1.** Where, at any particular time, a partnership pays a particular amount that may reasonably be considered to be the repayment of government assistance or non-government assistance that reduced, by reason

of subparagraph i of subparagraph b of the first paragraph of section 1029.8.18 or 1029.8.18.0.1, the share of a taxpayer who is a member of the partnership of a particular expenditure made by the partnership or of a particular eligible fee of the partnership, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer under Divisions II to II.3, the following rules apply :

(a) the particular amount is deemed, for the purposes of those divisions,

i. where the assistance reduced a particular expenditure, to be an expenditure for scientific research and experimental development made at the particular time by the partnership on the same basis as was the particular expenditure, and

ii. where the assistance reduced a particular eligible fee, to be an eligible fee for the fiscal period of the partnership in which it paid the particular amount;”;

(2) by replacing subparagraphs i and ii of paragraph b by the following subparagraphs :

“i. to be equal to the amount that, were it not for the assistance and if his share of the income or loss of the partnership were the same as the share determined at the end of the fiscal period of the partnership which includes the particular time, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership’s income for that fiscal period is equal to \$1,000,000, would have been deemed to have been paid to the Minister by the taxpayer under those divisions in respect of that portion of the particular expenditure or particular eligible fee corresponding to the assistance so repaid, and

“ii. to have been paid to the Minister under the same provisions of those divisions as the provisions under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the particular expenditure or particular eligible fee corresponding to the assistance so repaid.”

(2) Subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

**205.** (1) Section 1029.8.18.1.2 of the said Act, enacted by section 146 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing the portion before paragraph b by the following :

**“1029.8.18.1.2.** Where, at any particular time, a taxpayer who is a member of a partnership pays a particular amount that may reasonably be

considered to be the repayment of government assistance or non-government assistance that reduced, by reason of subparagraph ii of subparagraph *b* of the first paragraph of section 1029.8.18 or 1029.8.18.0.1, the taxpayer's share of a particular expenditure made by the partnership or of a particular eligible fee of the partnership, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year by the taxpayer under Divisions II to II.3, the following rules apply:

(a) the particular amount is deemed, for the purposes of those divisions,

i. where the assistance reduced the taxpayer's share of a particular expenditure, to be the taxpayer's share of an expenditure for scientific research and experimental development made at the particular time by the partnership on the same basis as was the particular expenditure, and

ii. where the assistance reduced the taxpayer's share of a particular eligible fee, to be the taxpayer's share of an eligible fee of the partnership for the fiscal period of the partnership ending in the taxation year of the taxpayer in which he pays the particular amount;"

(2) by replacing subparagraphs i and ii of paragraph *b* by the following subparagraphs:

"i. to be equal to the amount that, were it not for the assistance, would have been deemed to have been paid to the Minister by the taxpayer under those divisions in respect of that portion of the taxpayer's share of the particular expenditure or particular eligible fee corresponding to the assistance so repaid, and

"ii. to have been paid to the Minister under the same provisions of those divisions as those under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the taxpayer's share of the particular expenditure or particular eligible fee corresponding to the assistance so repaid."

(2) Subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995. In addition, where subparagraphs i and ii of paragraph *b* of section 1029.8.18.1.2 of the said Act, replaced by subsection 1, apply to a taxation year that ends after 9 May 1995 and otherwise than in respect of eligible fees paid to an eligible research consortium after 20 December 1995, the English text thereof shall be read as follows:

"i. to be equal to the amount that, were it not for the assistance, would have been deemed to have been paid to the Minister by the taxpayer under those divisions in respect of that portion of the taxpayer's share of the particular expenditure corresponding to the assistance so repaid, and

“ii. to have been paid to the Minister under the same provisions of those divisions as those under which, but for the assistance, the taxpayer would have been deemed to have paid an amount to the Minister in respect of that portion of the taxpayer’s share of the particular expenditure corresponding to the assistance so repaid.”

**206.** (1) Section 1029.8.19.2 of the said Act, amended by section 142 of chapter 1 of the statutes of 1995, by section 148 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing, in the first paragraph, “from a person who is a party to the project, from a person not dealing at arm’s length with that person, or from any other person” by “from a person or a partnership who or that is a party to the project, from a person or a partnership not dealing at arm’s length with that person or partnership, or from any other person or partnership”;

(2) by inserting, after the first paragraph, the following paragraph:

“Notwithstanding sections 1029.7 and 1029.8, in respect of the portion of a consideration referred to in subparagraph *e* of the first paragraph of each of those sections, where, in respect of a contract for work relating to scientific research and experimental development referred to in those sections or in respect of the performance of the contract, a taxpayer, a partnership, a member of that partnership, a person not dealing at arm’s length with the taxpayer, the partnership or any member thereof, or any other person designated by the Minister, has obtained, is entitled to obtain or may reasonably expect to obtain a contribution or, upon a determination by the Minister to that effect, is deemed to have obtained or to be entitled to obtain a contribution, from a person or a partnership who or that is a party to the work, from a person or a partnership not dealing at arm’s length with that person or partnership, or from any other person or partnership designated by the Minister, the taxpayer or any taxpayer who is a member of the partnership, as the case may be, is deemed not to be deemed to have paid to the Minister an amount under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *e* of the first paragraph of that section, in respect of that contract.”;

(3) by replacing the portion of the second paragraph before subparagraph *c* by the following:

“A contribution to which the first paragraph refers in respect of a scientific research and experimental development project or in respect of the carrying out of such a project, or to which the second paragraph refers in respect of a contract for work relating to scientific research and experimental development or in respect of the performance of the contract, means

(*a*) a contribution whether in the form of a payment in currency, a transfer of ownership of a property, an assignment of the use or of a right to use a

property or in any other form or manner, other than a property resulting from scientific research and experimental development undertaken as part of the project or arising from the work relating to scientific research and experimental development carried out as part of the contract, as the case may be;

(b) a former, present or future right in the proceeds of disposition of part or all of the intellectual property arising from the project or contract, as the case may be;”;

(4) by replacing, wherever they appear in the portion of the third paragraph before subparagraph *a*, the words “second paragraph” by the words “third paragraph”;

(5) by replacing, in the fourth paragraph, the words “third paragraph” by the words “fourth paragraph”;

(6) by adding, after the fourth paragraph, the following paragraphs:

“Notwithstanding the third paragraph, where a university foundation, within the meaning of paragraph *f.1* of section 1029.8.1, becomes surety for a corporation in respect of the payment of amounts used for the financing of scientific research and experimental development provided for in a university research contract, within the meaning of paragraph *b* of section 1029.8.1, entered into before 1 January 1998 between the corporation and an eligible university entity, within the meaning of paragraph *f* of section 1029.8.1, the amount furnished under the suretyship is deemed not to be a contribution referred to in that third paragraph if

(a) the corporation carries on an eligible business throughout its taxation year in which the contract is entered into and the three preceding taxation years;

(b) the assets of the corporation shown in its financial statements submitted to the shareholders or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown if such financial statements had been prepared in accordance with generally accepted accounting principles, for its taxation year that precedes the taxation year in which the contract is entered into, were less than \$5,000,000;

(c) the amount under the suretyship does not exceed 40% of the portion of the cost of the contract that is attributable to such scientific research and experimental development; and

(d) the term of the contract does not exceed 36 months and its cost does not exceed the proportion of \$4,500,000 that the number of months in the term of the contract is of 36.

For the purposes of subparagraph *a* of the sixth paragraph, sections 1029.7.3 to 1029.7.6 apply, with the necessary modifications, for the purpose of determining the assets of a partnership.”

(2) Paragraphs 1 to 5 of subsection 1 apply in respect of a consideration paid after 12 May 1994 as part of a contract entered into after that date.

(3) Paragraph 6 of subsection 1 applies in respect of university research contracts entered into after 9 May 1996.

**207.** (1) Section 1029.8.19.3 of the said Act, replaced by section 143 of chapter 1 of the statutes of 1995 and by section 149 of chapter 63 of the statutes of 1995, is again replaced by the following section :

**“1029.8.19.3.** Notwithstanding section 1029.8.19.2, a taxpayer may be deemed to have paid an amount to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *c* of the first paragraph of each of those sections, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10 and 1029.8.11, in respect of a project referred to in the first paragraph of that section 1029.8.19.2 in which the scientific research and experimental development is undertaken, in whole or in part, on behalf of the taxpayer or the partnership of which he is a member, by another person or partnership if, were it not for section 1029.8.19.2, an amount would have been deemed to have been paid to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *c* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10 and 1029.8.11 and if each contribution referred to in the first paragraph of section 1029.8.19.2, in respect of the project or the carrying out thereof, constitutes an expenditure made by the other person or the other partnership to undertake, in whole or in part, the scientific research and experimental development.

Notwithstanding section 1029.8.19.2, a taxpayer may be deemed to have paid an amount to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *e* of the first paragraph of each of those sections, under a contract referred to in the second paragraph of that section 1029.8.19.2 in which the work relating to scientific research and experimental development is undertaken, in whole or in part, on behalf of the taxpayer or the partnership of which he is a member, by another person or partnership if, were it not for section 1029.8.19.2, an amount would have been deemed to have been paid to the Minister under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *e* of the first paragraph of that section and if each contribution referred to in the second paragraph of that section 1029.8.19.2, in respect of the contract or the performance of the contract, constitutes an expenditure made by the other person or the other partnership to undertake, in whole or in part, that work.

Where the first or second paragraph applies to a taxpayer, the amount deemed to have been paid to the Minister, under section 1029.7 or 1029.8, in respect of the portion of a consideration referred to in subparagraph *c* or *e* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10 and 1029.8.11, shall be determined only on the portion of the

qualified expenditure in respect of which an amount was otherwise deemed to have been paid to the Minister under that section 1029.7 or 1029.8 in respect of the portion of the consideration referred to in subparagraph *c* or *e* of the first paragraph of that section, or under any of sections 1029.8.6, 1029.8.7, 1029.8.10 and 1029.8.11, reduced by the amount of a contribution referred to in the first paragraph of section 1029.8.19.2 in respect of the project or the carrying out thereof or in the second paragraph of that section in respect of the contract or the performance thereof, as the case may be.”

(2) Subsection 1 applies in respect of a consideration paid after 12 May 1994 as part of a contract entered into after that date.

**208.** (1) Section 1029.8.19.5 of the said Act, amended by section 150 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing, in the first paragraph, “from a person who is a party to the project, from a person not dealing at arm’s length with that person, or from any other person” by “from a person or a partnership who or that is a party to the project, from a person or a partnership not dealing at arm’s length with that person or partnership, or from any other person or partnership”;

(2) by inserting, after the first paragraph, the following paragraph:

“Notwithstanding sections 1029.7 and 1029.8, in respect of the portion of a consideration referred to in subparagraph *d* of the first paragraph of each of those sections, where, in respect of a contract for work relating to scientific research and experimental development referred to in that subparagraph or in respect of the performance of the contract, a taxpayer, a partnership, a member of that partnership, a person not dealing at arm’s length with the taxpayer, the partnership or any member thereof, or any other person designated by the Minister, has obtained, is entitled to obtain or may reasonably expect to obtain a contribution or, upon a determination by the Minister to that effect, is deemed to have obtained or to be entitled to obtain a contribution, from a person or a partnership who or that is a party to the work, from a person or a partnership not dealing at arm’s length with that person or partnership, or from any other person or partnership designated by the Minister, the taxpayer or any taxpayer who is a member of the partnership, as the case may be, is deemed not to be deemed to have paid to the Minister an amount under either of those sections, in respect of the portion of a consideration referred to in subparagraph *d* of the first paragraph of each of those sections, in respect of that contract.”;

(3) by replacing the portion of the second paragraph before subparagraph *b* by the following:

“A contribution to which the first paragraph refers in respect of a scientific research and experimental development project or in respect of the carrying out of such a project, or to which the second paragraph refers in respect of a contract for work relating to scientific research and experimental development or in respect of the performance of the contract, means

(a) a former, present or future right in the proceeds of disposition of part or all of the intellectual property arising from the project or contract, as the case may be;”.

(2) Subsection 1 applies in respect of a consideration paid after 12 May 1994 as part of a contract entered into after that date.

**209.** (1) Section 1029.8.19.7 of the said Act, enacted by section 151 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is replaced by the following section :

**“1029.8.19.7.** For the purposes of the first paragraph of section 1029.8.19.2, in respect of a scientific research and experimental development project referred to in that paragraph or in respect of the carrying out of such a project, and for the purposes of the second paragraph of that section, in respect of a contract for work relating to scientific research and experimental development referred to in that paragraph, or in respect of the performance of the contract, a contribution whether in the form of a payment in currency, a transfer of ownership of a property, an assignment of the use or of the right to use a property, referred to in subparagraph *a* of the third paragraph of that section, is deemed, subject to a determination to the contrary by the Minister, not to be a contribution in respect of the project or the carrying out thereof, or in respect of the contract or the performance thereof, as the case may be, where

(a) the contribution results from the acquisition of property or the provision of a service following a transaction occurring in the ordinary course of a business carried on by the taxpayer, the partnership, the member or the person referred to in the first or second paragraph of that section 1029.8.19.2, as the case may be;

(b) the property or the provision of the service being the object of the transaction is acquired or supplied for an amount not exceeding its fair market value where the person or the partnership making the contribution is the purchaser of the property or of the provision of the service and for an amount equal to or greater than its fair market value where the person or the partnership making the contribution is the person or partnership who or that is disposing of the property or supplying the provision of the service; and

(c) the contribution is not in the form of an expenditure made to undertake the scientific research and experimental development referred to in the first paragraph of section 1029.8.19.3 or the work relating to scientific research

and experimental development referred to in the second paragraph of that section 1029.8.19.3, or to cause such scientific research and experimental development or such work relating to scientific research and experimental development to be undertaken.”

(2) Subsection 1 applies in respect of a consideration paid after 12 May 1994 as part of a contract entered into after that date.

**210.** (1) Section 1029.8.21.3 of the said Act, enacted by section 145 of chapter 1 of the statutes of 1995 and amended by section 153 of chapter 63 of the statutes of 1995, is again amended

(1) by inserting, in the first paragraph, after “1029.8.9.0.3,” “1029.8.9.0.4,”;

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

“The rule prescribed in the first paragraph does not apply in respect of an expenditure described therein for a taxation year if the Minister reclassifies that expenditure as an expenditure in respect of scientific research and experimental development and determines or redetermines the amount deemed to have been paid by the taxpayer to the Minister as partial payment of his tax payable for that year.”

(2) Paragraph 1 of subsection 1 applies in respect of eligible fees paid to an eligible research consortium after 20 December 1995.

(3) Paragraph 2 of subsection 1 has effect from 22 February 1994 in respect of wages or part of a consideration paid, a qualified expenditure paid or incurred or an eligible fee paid, as the case may be, at any time.

**211.** (1) Section 1029.8.22 of the said Act, amended by section 457 of chapter 40 of the statutes of 1994, by section 146 of chapter 1 of the statutes of 1995, by sections 154 and 261 of chapter 63 of the statutes of 1995 and by section 59 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended, in the first paragraph,

(1) by replacing paragraphs *a* and *a.1* of the definition of “qualified training costs” by the following paragraphs:

“(a) the aggregate of all amounts each of which is the cost of a qualified training activity, other than such an activity referred to in any of sections 1029.8.23.1 to 1029.8.23.4, in which an eligible employee of the qualified corporation or the qualified partnership, as the case may be, is enrolled that is incurred by the qualified corporation or the qualified partnership directly with the qualified training institution or with the entity located outside Québec offering the qualified training activity or refunded by the qualified corporation or the qualified partnership to another person or entity where the cost of such an activity has been paid by the other person or entity directly to the qualified training institution or to the entity located outside Québec offering it, to the

extent that, in all cases, the cost may reasonably be attributed to training particular to that eligible employee ;

“(a.1) the aggregate of all amounts, other than the portion of an expenditure which may reasonably be attributed to a salary or wages and which is referred to in paragraph *c.3* or *c.4* of the definition of “qualified training expenditure” and other than an amount referred to in paragraph *d* or *e*, each of which is an amount paid by the qualified corporation or the qualified partnership, as the case may be, directly to a qualified training institution within the framework of a contract referred to in subparagraph *d* of the first paragraph of section 1029.8.23.1 or paragraph *d* of any of sections 1029.8.23.2 to 1029.8.23.4 or refunded by the qualified corporation or the qualified partnership to another person or entity that paid it directly to such an institution within the framework of a contract referred to in any of sections 1029.8.23.2 to 1029.8.23.4, in respect of a qualified training activity consisting of a course given to an eligible employee by an employee acting as an instructor, where the involvement of the qualified training institution in respect of that qualified training activity meets the requirements set out in subparagraph *e* of the first paragraph of section 1029.8.23.1 or paragraph *e* of any of sections 1029.8.23.2 to 1029.8.23.4, as the case may be;”;

(2) by replacing paragraph *g* of the definition of “qualified training costs” by the following paragraph :

“(g) the aggregate of all amounts each of which is costs paid by the qualified corporation or the qualified partnership, as the case may be, directly to the Société québécoise de développement de la main-d’oeuvre or refunded by the qualified corporation or the qualified partnership to another person or entity that paid them directly to the Société québécoise de développement de la main-d’oeuvre, where, in all cases, the costs are paid

i. in respect of the filing of the statement referred to in subparagraph *i* of any of subparagraphs *d* to *d.2* of the first paragraph of section 1029.8.23, in respect of a qualified training activity, or

ii. for the purpose of obtaining the authorization referred to in the definition of “qualified training activity” in respect of such a qualified training activity;”;

(3) by replacing the definition of “registered private training company” by the following definition :

““registered private training company” at a particular time means an instructor who, at that time, is accredited by the Société québécoise de développement de la main-d’oeuvre, or a corporation, or a partnership all the members of which are corporations, that is, at that particular time, registered as a private training company with the Société québécoise de développement de la main-d’oeuvre;”.

(2) Paragraph 1 of subsection 1, where it enacts paragraph *a* of the definition of “qualified training costs” in the first paragraph of section 1029.8.22 of the said Act, has effect from 27 April 1990. However, that paragraph *a*,

(1) where it applies in respect of a training expenditure made before 15 May 1992, shall be read as follows :

“(a) the aggregate of all amounts each of which is the cost of a qualified training activity in which an eligible employee of the qualified corporation is enrolled that is incurred by the qualified corporation directly with the entity offering the qualified training activity or refunded by the qualified corporation to another person or entity where the cost of such an activity has been paid by the other person or entity directly to the entity offering it, to the extent that, in all cases, the cost may reasonably be attributed to training given to that eligible employee;”;

(2) where it applies in respect of a training expenditure made after 14 May 1992, other than such an expenditure in respect of a qualified training activity held pursuant to the terms of a contract in writing entered into after 31 August 1993 and before the qualified training activity is held, shall be read as follows :

“(a) the aggregate of all amounts each of which is the cost of a qualified training activity in which an eligible employee of the qualified corporation or the qualified partnership, as the case may be, is enrolled that is incurred by the qualified corporation or the qualified partnership directly with the entity offering the qualified training activity or refunded by the qualified corporation or the qualified partnership to another person or entity where the cost of such an activity has been paid by the other person or entity directly to the entity offering it, to the extent that, in all cases, the cost may reasonably be attributed to training given to that eligible employee;”.

(3) Paragraph 1 of subsection 1, where it enacts paragraph *a.1* of the definition of “qualified training costs” in the first paragraph of section 1029.8.22 of the said Act, applies in respect of a qualified training activity held pursuant to the terms of a contract in writing entered into after 31 August 1993 and before the qualified training activity is held.

(4) Paragraph 2 of subsection 1 applies in respect of costs paid to the Société québécoise de développement de la main-d’oeuvre after 14 September 1993.

(5) Paragraph 3 of subsection 1 applies in respect of an instructor accredited by the Société québécoise de développement de la main-d’oeuvre after 31 December 1995.

**212.** (1) Section 1029.8.22.1 of the said Act, enacted by section 147 of chapter 1 of the statutes of 1995 and amended by sections 155 and 261 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the*

*chapter number of Bill 42)* of the statutes of (*insert the year of assent to Bill 42*), is again amended, in the first paragraph,

(1) by replacing subparagraph *a* by the following subparagraph:

“(a) an amount equal to the cost of the qualified training activity in which an eligible laid-off employee of the qualified corporation or qualified partnership, as the case may be, is enrolled, other than such an activity referred to in any of sections 1029.8.23.1 to 1029.8.23.4, that is paid, with the approval of a committee on reclassification, by a person who is a member of the committee, directly to the qualified training institution offering the qualified training activity, or refunded by such a person, with the committee’s approval, to another person or entity where the cost of such an activity has been paid by the other person or entity to the qualified training institution offering the activity, to the extent that the cost may reasonably be attributed to training given to that eligible laid-off employee;”;

(2) by replacing subparagraph *h* by the following subparagraph:

“(h) an amount, other than an amount referred to in any of paragraphs *c* to *g*, that is paid, with the approval of a committee on reclassification, by a person who is a member of the committee, directly to the qualified training institution within the framework of a contract referred to in subparagraph *d* of the first paragraph of section 1029.8.23.1 or paragraph *d* of any of sections 1029.8.23.2 to 1029.8.23.4, or refunded by such a person to another person or entity that paid it directly to such an institution within the framework of a contract referred to in paragraph *d* of any of sections 1029.8.23.2 to 1029.8.23.4, in respect of a qualified training activity consisting of a course given by an employee acting as an instructor, where the involvement of the qualified training institution in respect of that qualified training activity meets the requirements set out in subparagraph *e* of the first paragraph of section 1029.8.23.1 or paragraph *e* of any of sections 1029.8.23.2 to 1029.8.23.4, as the case may be; and”.

(2) Subsection 1 applies in respect of expenditures paid after 30 November 1993 in respect of qualified training activities held pursuant to the terms of a contract in writing entered into after that date between a qualified training institution and a qualified corporation or a qualified partnership, as the case may be, or an entity responsible for the organization of the qualified training activity.

**213.** (1) Section 1029.8.23 of the said Act, amended by section 148 of chapter 1 of the statutes of 1995, by section 156 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended by adding, after subparagraph *g* of the first paragraph, the following subparagraph:

“(h) an expenditure that relates to a qualified training activity and corresponds

i. to qualified training costs to the extent that it may reasonably be considered that the qualified training activity is offered after 31 December 1998, or

ii. to the wages or salary paid to an employee that may reasonably be attributed to the employee's participation, after 31 December 1998, in that qualified training activity."

(2) Subsection 1 has effect from 1 January 1996.

**214.** (1) Section 1029.8.25 of the said Act, amended by section 154 of chapter 1 of the statutes of 1995, by section 157 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

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

"ii. in other cases, if the qualified training activity to which it relates is completed after 31 December 1996.";

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

(3) by replacing, in the second paragraph, "sections 1145, 1159.7 and 1175" and "pursuant to Parts IV, IV.1 and VI" by "sections 1145, 1159.7, 1175 and 1175.19" and "pursuant to Parts IV, IV.1, VI and VI.1", respectively.

(2) Paragraphs 1 and 2 of subsection 1 have effect from 1 January 1996.

(3) Paragraph 3 of subsection 1 applies to taxation years that end after 9 May 1996.

**215.** (1) Section 1029.8.25.1 of the said Act, amended by section 155 of chapter 1 of the statutes of 1995, by section 158 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

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

"ii. in other cases, if the qualified training activity to which it relates is completed after 31 December 1996.";

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

(3) by replacing, in the second paragraph, "sections 1145, 1159.7 and 1175" and "pursuant to Parts IV, IV.1 and VI" by "sections 1145, 1159.7, 1175 and 1175.19" and "pursuant to Parts IV, IV.1, VI and VI.1", respectively.

(2) Paragraphs 1 and 2 of subsection 1 have effect from 1 January 1996.

(3) Paragraph 3 of subsection 1 applies to taxation years that end after 9 May 1996.

**216.** (1) Section 1029.8.33.2 of the said Act, enacted by section 156 of chapter 1 of the statutes of 1995 and amended by section 163 of chapter 63 of the statutes of 1995 and by section 60 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended by striking out, in paragraph *c* of the definition of “eligible trainee” in the first paragraph, the words “approved by the Minister of Education,”.

(2) Subsection 1 applies in respect of wages and costs paid within the framework of a qualified training period that begins after 9 May 1995.

**217.** (1) Section 1029.8.33.5.1 of the said Act, enacted by section 168 of chapter 63 of the statutes of 1995 and amended by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is repealed.

(2) Subsection 1 applies to taxation years that end after 9 May 1996.

**218.** (1) Section 1029.8.33.10 of the said Act, enacted by section 156 of chapter 1 of the statutes of 1995 and amended by section 172 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended by replacing the portion of the second paragraph before subparagraph *a* by the following:

“The attestation described in subparagraphs *a* to *c* of the first paragraph shall also contain the following information:”.

(2) Subsection 1 applies in respect of wages and costs paid within the framework of a qualified training period that begins after 9 May 1995.

**219.** (1) Section 1029.8.34 of the said Act, amended by section 174 of chapter 63 of the statutes of 1995, by section 273 of chapter 39 of the statutes of 1996 and by section 61 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended, in the definition of “qualified manpower expenditure” in the first paragraph,

(1) by striking out, in subparagraph 2 of subparagraph *i* of paragraph *a*, the words “, of any assistance referred to in section 1049.31 in respect of the property, not exceeding 400% of the penalty to which the corporation was liable in a taxation year preceding the year under the said section 1049.31 in respect of such assistance,”;

(2) by inserting, after subparagraph 2 of subparagraph *i* of paragraph *a*, the following subparagraph:

“(2.1) 250% of the lesser of a repayment made by the corporation in the year, pursuant to a legal obligation to do so, of any assistance referred to in subparagraph i of subparagraph d of the first paragraph of section 1129.2, in respect of the property, and of the tax under Part III.1 which the corporation is required to pay in a taxation year preceding the year by reason of the said subparagraph d in respect of such assistance, and”;

(3) by replacing subparagraph 3 of subparagraph i of paragraph a by the following subparagraph:

“(3) the amount by which the aggregate of all amounts each of which is, for a taxation year preceding the year in respect of the property, the manpower expenditure of the corporation, an amount determined under subparagraph 2 or 2.1 or 250% of the amount by which the amount which, but for the fourth paragraph of section 1029.8.35, the corporation would be deemed to have paid to the Minister under that section exceeds the amount that the corporation is deemed to have paid to the Minister under that section, exceeds the aggregate of all amounts each of which is a qualified manpower expenditure of the corporation in respect of the property for a taxation year before the end of which the main filming and taping of the property began and which precedes the year, exceeds”;

(4) by striking out subparagraph 2 of subparagraph ii of paragraph b;

(5) by adding, after subparagraph 2 of subparagraph ii of paragraph b, the following subparagraph:

“(3) 250% of the aggregate of all amounts each of which is the amount by which the amount which, but for the fourth paragraph of section 1029.8.35, the corporation would be deemed to have paid to the Minister under that section, for a taxation year preceding the year in respect of the property, exceeds the amount which it is deemed to have paid to the Minister under that section;”.

(2) Paragraphs 1 and 4 of subsection 1 have effect from 9 May 1996.

(3) Paragraphs 2, 3 and 5 of subsection 1 have effect from 10 May 1995.

**220.** (1) Section 1029.8.35 of the said Act, amended by section 50 of chapter 21 of the statutes of 1994, by section 175 of chapter 63 of the statutes of 1995 and by section 71 of chapter (*insert the chapter number of Bill 42*) of the statutes of (*insert the year of assent to Bill 42*), is again amended

(1) by replacing, in the first paragraph, the words “that was issued in favour of the corporation” by the words “that was given or issued”;

(2) by replacing, in the second paragraph, “sections 1145, 1159.7 and 1175” and “pursuant to Parts IV, IV.1 and VI” by “sections 1145, 1159.7, 1175 and 1175.19” and “pursuant to Parts IV, IV.1, VI and VI.1”, respectively;

(3) by adding, after the third paragraph, the following paragraph:

“In addition, where the property referred to in the first paragraph is a televised magazine or a variety program the main filming and taping of which began after 9 May 1995, other than a televised magazine or variety program intended for children under 13 years of age, the amount determined under that paragraph in respect of that property for the year shall not exceed the amount by which 40% of the amount determined for the year in respect of that property under subparagraph i of paragraph b of the definition of “qualified manpower expenditure” in the first paragraph of section 1029.8.34 exceeds the aggregate of all amounts that the corporation is deemed to have paid to the Minister under this section in respect of that property for a preceding taxation year and the amount of any assistance, attributable to the production costs of that property which are referred to in that subparagraph i for the year, that the corporation has received or is entitled to receive from the Société de développement des entreprises culturelles in respect of that property, under production assistance programmes of the Société de développement des entreprises culturelles in force before 1 April 1996, at the time of the filing of its fiscal return for the year and that it has not repaid at that time pursuant to a legal obligation to do so.”

(2) Paragraph 2 of subsection 1 applies to taxation years that end after 9 May 1996.

(3) Paragraph 3 of subsection 1 has effect from 10 May 1995.

**221.** (1) The said Act is amended by inserting, after section 1029.8.36, the following:

**“DIVISION II.6.0.1**

**“CREDIT FOR MULTIMEDIA TITLES**

**“1029.8.36.0.1.** In this division,

“certified production costs” of a corporation for a taxation year in respect of a property that is a multimedia title means the amount entered as such on the final certificate or document validating the operating receipts, as the case may be, issued to the corporation in respect of the property by the Société de développement des entreprises culturelles;

“eligible operating receipts” of a corporation for a taxation year in respect of a property that is a multimedia title means the lesser of

(a) the aggregate of

i. the operating receipts of the corporation for the year in respect of the property, and

ii. the amount by which the aggregate of the operating receipts of the corporation in respect of the property for a taxation year preceding the year exceeds the aggregate of the eligible operating receipts of the corporation in respect of the property for a taxation year preceding the year; and

(b) the amount by which

i. 50% of the amount by which the certified production costs of the corporation for the year in respect of the property exceeds the aggregate of all amounts each of which is the amount by which the amount of any government assistance or non-government assistance attributable to those costs, that the corporation has received, is entitled to receive or may reasonably expect to receive at the time of filing its fiscal return for the year, exceeds the portion of that amount it has paid, by that time, as repayment of the assistance pursuant to a legal obligation to do so, exceeds

ii. the amount by which the aggregate of the eligible operating receipts of the corporation in respect of the property for a taxation year preceding the year exceeds 500% of the aggregate of all amounts each of which is tax the corporation is required to pay under Part III.1.1 in respect of the property for a taxation year preceding the year and that is attributable to an amount that the corporation is deemed to have paid to the Minister under paragraph c of section 1029.8.36.0.2;

“eligible production costs” of a corporation for a taxation year in respect of a property that is a multimedia title means the amount entered as such on the preliminary certificate issued for the year to the corporation in respect of the property by the Société de développement des entreprises culturelles;

“government assistance” means assistance from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance, other than an amount of financial assistance granted by the Conseil des arts et des lettres du Québec, by the information highway fund or by the Société de développement des entreprises culturelles and an amount that a corporation is deemed to have paid to the Minister for a taxation year under this division;

“manpower expenditure” of a corporation for a taxation year in respect of a property that is a multimedia title means, subject to the second paragraph, the expenditure indicated as such by the Société de développement des entreprises culturelles on the preliminary or final certificate, as the case may be, issued to the corporation by the Société for the year in respect of the property;

“multimedia title” of a corporation for a taxation year means an organized set of numerical information in respect of which the Société de développement des entreprises culturelles issues for the year a certificate or document validating the operating receipts for the purposes of this division;