



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 1

Integrity in Public Contracts Act

Introduction

Introduced by
Mr. Stéphane Bédard
Minister responsible for Government Administration and
Chair of the Conseil du trésor

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EXPLANATORY NOTES

This bill amends the Act respecting contracting by public bodies to enhance integrity in public contracts.

To that end, it proposes a system under which audits will be conducted to ascertain that enterprises wishing to enter into contracts with public bodies or municipalities meet the required conditions as regards integrity.

To enter into such contracts, enterprises must first obtain an authorization from the Autorité des marchés financiers (the Authority). The Authority may refuse to grant an authorization if it considers that public confidence is undermined by a lack of integrity on the part of the enterprise, any of its partners, directors or officers or a person or partnership that has direct or indirect legal or de facto control over the enterprise.

To ensure that the Authority has all the relevant information it needs to make decisions as regards authorizations, it is empowered to mandate the Associate Commissioner for Audits appointed under the Anti-Corruption Act to conduct the audits the Associate Commissioner considers necessary. The factors to be considered by the Authority in making such decisions are specified in the bill.

An authorization will be valid for a period of three years but may be revoked if the Authority considers that public confidence is undermined for reasons specified in the Act.

The scope of the Act respecting contracting by public bodies is broadened in order to extend the concept of “public body” to include other State entities and thus bring them under the Act.

Other amendments are made for more effective enforcement of the law.

LEGISLATION AMENDED BY THIS BILL:

- Tax Administration Act (chapter A-6.002);
- Act respecting the Autorité des marchés financiers (chapter A-33.2);

- Building Act (chapter B-1.1);
- Cities and Towns Act (chapter C-19);
- Labour Code (chapter C-27);
- Municipal Code of Québec (chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);
- Act respecting contracting by public bodies (chapter C-65.1);
- Anti-Corruption Act (chapter L-6.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);
- Act respecting occupational health and safety (chapter S-2.1);
- Act respecting the Société de l'assurance automobile du Québec (chapter S-11.011);
- Act respecting public transit authorities (chapter S-30.01).

Bill 1

INTEGRITY IN PUBLIC CONTRACTS ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING CONTRACTING BY PUBLIC BODIES

1. Section 1 of the Act respecting contracting by public bodies (chapter C-65.1) is replaced by the following section:

“**1.** The purpose of this Act is to determine the conditions applicable with regard to public contracts between a public body and a contractor who is a legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship.

The purpose of this Act is also to determine certain conditions applicable to subcontracts directly or indirectly related to a contract described in the first paragraph.”

2. Section 2 of the Act is amended by inserting the following subparagraph before subparagraph 1 of the first paragraph:

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

3. Section 4 of the Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) bodies at least half of whose members or directors are appointed or elected by the Government or a minister;”.

4. Sections 7 and 7.1 of the Act are repealed.

5. Section 10 of the Act is amended by inserting the following paragraph after the second paragraph:

“For the purposes of this section, if no threshold is applicable under an intergovernmental agreement, the threshold to be applied by a public body is the threshold set by the Government.”

6. Section 13 of the Act is amended

(1) by inserting “equal to or” after “expenditure” in the first paragraph;

(2) by replacing “minister responsible” in the last paragraph by “Conseil du trésor”.

7. Section 17 of the Act is amended by inserting “equal to or” after “involves an expenditure” in the first sentence of the second paragraph.

8. The Act is amended by inserting the following chapter after section 21:

“CHAPTER V.0.1

“CONTRACT RULES COMPLIANCE MONITOR

“21.0.1. The chief executive officer of a public body must designate a contract rules compliance monitor.

However, two public bodies under the responsibility of the same minister may agree to have the contract rules compliance monitor of one public body act in the same capacity for the other.

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

(1) seeing that the contract rules prescribed by this Act and the regulations, policies and directives under this Act are complied with;

(2) advising, and making recommendations or providing advisory opinions to, the chief executive officer on compliance with contract rules;

(3) seeing that measures are put in place within the public body to ensure the integrity of internal processes;

(4) seeing to the professional fitness of the personnel involved in contractual activities; and

(5) exercising any other function the chief executive officer may require to ensure that contract rules are complied with.”

9. Chapter V.1 of the Act, comprising sections 21.1 to 21.16, is repealed.

10. The Act is amended by inserting the following chapter after section 21.16:

“CHAPTER V.2

“PRIOR AUTHORIZATION FOR PUBLIC CONTRACT OR PUBLIC SUBCONTRACT

“DIVISION I

“CONDITIONS AND OBLIGATIONS

“21.17. An enterprise that wishes to enter into a contract with a public body whose value exceeds the amount determined by the Government must obtain an authorization for that purpose from the Autorité des marchés financiers (the Authority). The amount may vary according to the category of contract.

An enterprise that wishes to enter into a subcontract whose value exceeds that amount and which is related to a contract described in the first paragraph or to a subcontract related to such a contract must also obtain such an authorization.

This section applies as well to an enterprise that conducts its activities on a permanent basis in an establishment situated outside Québec.

For the purposes of this chapter, “enterprise” means a legal person established for a private interest, a general, limited or undeclared partnership or a natural person who operates a sole proprietorship.

“21.18. An enterprise that responds to a call for tenders must hold an authorization on the date the bid is submitted. A contractor who enters into a contract by mutual agreement must hold an authorization on the date the contract is entered into. Every enterprise in a consortium must hold an authorization.

A subcontractor must hold an authorization on the date the subcontract is entered into.

If the contract is obtained, the authorization required under the first or second paragraph must be maintained throughout the contract or subcontract.

“21.19. A contractor who is in the process of performing a contract and whose authorization is revoked or whose application for renewal is refused is deemed to have defaulted on the contract on the expiry of a period of 60 days after notification of the Authority’s decision. However, the contractor is not deemed to have defaulted for the purpose of honouring contract guarantees.

Despite the first paragraph, a public body may apply to the Conseil du trésor for permission for continued performance of a public contract within 30 days after notification of the withdrawal of the authorization. The Conseil du trésor may subject the permission to certain conditions, including that the contractor agree to the implementation, at the contractor’s expense, of oversight and monitoring measures.

“21.20. Despite section 21.17, the Conseil du trésor may give a public body permission to enter into a contract with a contractor or give a contractor of a public body permission to enter into a subcontract if the Conseil du trésor is satisfied that it is in the public interest that a particular contract or subcontract be performed by that contractor or subcontractor.

In addition, if a public body considers that urgent action is required and there is a threat to human safety or property, it may enter into a contract with a contractor or give a contractor permission to enter into a subcontract. The public body must inform the Conseil du trésor within 30 days.

The secretariat of the Conseil du trésor publishes the names of contractors who have entered into a contract under the first paragraph in the *Gazette officielle du Québec*.

“21.21. To obtain the authorization required under section 21.17, an enterprise that wishes to enter into a public contract or a subcontract directly or indirectly related to a public contract must submit an application to the Authority.

“21.22. The application for authorization must be filed with the Authority by the operator if it is for a sole proprietorship, by a director or an officer if it is for a legal person and by a partner if it is for a partnership. The person filing the application acts as respondent for the purposes of this chapter.

The application must be in the form prescribed by the Authority and be filed together with the information and documents prescribed by regulation of the Authority and the fee determined by a decision of the Conseil du trésor.

“21.23. In order for an application for authorization to be considered by the Authority, the enterprise must

(1) if it has an establishment in Québec, provide an attestation from Revenu Québec, issued not more than 30 days before the date on which the application is filed, stating that the enterprise has filed the returns and the reports that it was required to file under fiscal laws and that it has no overdue account payable to the Minister of Revenue, including when recovery of an account has been legally suspended or arrangements have been made with the enterprise to ensure payment and the enterprise has not defaulted on the payment arrangements; and

(2) not have been refused an authorization under any of sections 21.24 to 21.26 in the preceding 12 months.

Subparagraph 1 also applies to applications for renewal.

“21.24. The Authority refuses to grant or to renew an authorization, or revokes an authorization, if

(1) the enterprise has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(2) any of the enterprise's shareholders holding 50% or more of the voting rights attached to the shares that may be exercised under any circumstances has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(3) any of the enterprise's directors or officers has, in the preceding five years, been found guilty of an offence listed in Schedule I;

(4) the enterprise has, in the preceding five years, been found guilty by a foreign court of an offence which, if committed in Canada, could have resulted in criminal or penal proceedings for an offence listed in Schedule I;

(5) the enterprise has been found guilty of an offence under section 641.2 of the Act respecting elections and referendums in municipalities (chapter E-2.2), section 221.1.2 of the Act respecting school elections (chapter E-2.3) or section 564.3 of the Election Act (chapter E-3.3), and the prohibition prescribed by that section in connection with the offence has not expired;

(6) the enterprise has, in the preceding two years, been ordered to suspend work by a decision enforceable under section 7.8 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20); or

(7) the enterprise has, in the preceding two years, been ordered by a final judgment to pay an amount claimed under subparagraph *c.2* of the first paragraph of section 81 of that Act.

A finding of guilty must be disregarded if a pardon has been obtained.

“21.25. The Authority may refuse to grant or to renew an authorization or may revoke an authorization if, in its opinion, public confidence in the enterprise concerned is undermined on account of a lack of integrity on the part of the enterprise, any of its partners, directors or officers or another enterprise that has direct or indirect legal or de facto control over the enterprise.

“21.26. For the purposes of section 21.25, the Authority may consider such factors as

(1) whether the enterprise, any of its shareholders or a person or entity referred to in section 21.25 maintains connections with a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or with any other person or entity that engages in laundering of proceeds of crime or in trafficking in a substance included in any of Schedules I to IV to the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19);

(2) whether indictments have been issued, in the preceding five years, against the enterprise, any of its shareholders or a person or entity referred to in section 21.25 for offences listed in Schedule I;

(3) whether any of the enterprise's shareholders, directors, partners or officers or a person or entity referred to in section 21.25 that has direct or indirect legal or de facto control over the enterprise is or was, at the time an offence listed in Schedule I was committed by another enterprise, a person or entity referred to in section 21.25 that had direct or indirect legal or de facto control over that other enterprise, provided the other enterprise was found guilty of the offence in the preceding five years;

(4) whether the enterprise is under the direct or indirect legal or de facto control of another enterprise that has, in the preceding five years, been found guilty of an offence listed in Schedule I or any of whose directors, partners or officers has been found guilty of such an offence in that period;

(5) whether the enterprise, any of its shareholders or a person or entity referred to in section 21.25 has, in the preceding five years, been found guilty of or indicted for any other criminal or penal offence committed in the course of the enterprise's business or has, in that period, behaved in a reprehensible way in the course of the enterprise's business;

(6) whether a reasonable person would conclude that the enterprise is the extension of another enterprise that would be unable to obtain an authorization;

(7) whether the enterprise can be perceived as lending its name to another enterprise that would be unable to obtain an authorization;

(8) whether the enterprise is unable to prove that it has legal sources of financing enabling it to carry out the contracts it has obtained; and

(9) whether the enterprise's structure enables the enterprise to evade the application of this Act.

A finding of guilty must be disregarded if a pardon has been obtained.

“21.27. When an enterprise submits an application for authorization or for renewal, the Authority sends the Associate Commissioner for Audits appointed under section 8 of the Anti-Corruption Act (chapter L-6.1) all relevant information so that the audit the Associate Commissioner considers necessary may be conducted.

“21.28. As soon as possible after receiving the information, the Associate Commissioner for Audits provides an advisory opinion to the Authority on the enterprise concerned.

The advisory opinion must state the grounds for any recommendation that an authorization be refused, not be renewed or be revoked under section 21.24 or 21.26.

“21.29. At any time during the validity period of an authorization, the Associate Commissioner may audit the enterprise concerned. If the Associate Commissioner, in the course of such an audit, finds that the validity of an authorization may be undermined, the Associate Commissioner provides an advisory opinion to that effect to the Authority.

“21.30. The Authority sends the Associate Commissioner any new information regarding the enterprise that it obtains from the enterprise or a public body or otherwise.

“21.31. The Authority may require that an enterprise communicate any information needed for the purposes of this chapter.

“21.32. Before refusing to grant or renew or before revoking an authorization, the Authority may order the enterprise concerned to take the necessary corrective measures within the time it specifies.

“21.33. Before refusing to grant or renew or before revoking an authorization, the Authority must notify the enterprise concerned in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the enterprise at least 10 days to submit written observations and provide additional documents to complete the file.

The Authority may make a decision without complying with those prior obligations if urgent action is required or to prevent irreparable harm. In such a case, the enterprise concerned may, within the time limit specified in the decision, submit written observations and provide additional documents to complete the file for the purposes of a review of the decision by the Authority.

“21.34. On the expiry of the time limit specified in the first paragraph of section 21.33 and after examining any observations submitted by the enterprise, the Authority informs the enterprise of its decision.

An enterprise to which the Authority has refused to grant an authorization or whose authorization it has refused to renew or has revoked must, within 10 days after receiving the decision, provide in writing to the Authority the name of every public body with which the enterprise has entered into a contract and the name of every enterprise with which it has entered into a subcontract directly related to a public contract, stating the name of the public body that is party to the contract.

“21.35. An enterprise holding an authorization must notify the Authority, within the time specified by regulation of the Authority, of any change to any information previously provided.

“21.36. An authorization is valid for a period of three years.

To maintain its authorization, an enterprise must submit an application for renewal. The application for renewal must be submitted to the Authority at least 90 days before the authorization is to expire.

An authorization for which an application for renewal is submitted in time remains valid until the Authority rules on the application, unless the authorization is revoked in the meantime. The procedure for filing an application for renewal is the same as for an application for authorization, and the same conditions apply.

Despite section 21.18, an enterprise that no longer holds an authorization for the sole reason that it did not submit an application for renewal in time as required under the first paragraph may, despite the expiry of the authorization, continue contracts or subcontracts already in process provided that it complies with the authorization conditions.

“21.37. The Government may amend Schedule I.

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

The Conseil du trésor may make such a regulation if the Authority fails to make it within the time determined by the Conseil du trésor.

“21.39. A decision of the Government under the first paragraph of section 21.17 or under section 21.37, a regulation of the Authority and the decision of the Conseil du trésor under section 21.22 come into force on the 30th day after their publication in the *Gazette officielle du Québec* or on any later date specified in the decision or regulation. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to those decisions and regulations.

“DIVISION II

“REGISTER OF AUTHORIZATIONS

“21.40. The Authority keeps a register of enterprises holding an authorization to enter into a contract or a subcontract under this chapter.

The content of the register is determined by regulation of the Authority.

“21.41. The register is public and the Authority must make it accessible to the public.

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

“21.43. An enterprise may ask the Authority to remove it from the register.”

11. Section 22 of the Act is amended by replacing “over” by “equal to or greater than”.

12. Section 22.1 of the Act is amended by replacing “The Minister of Health and Social Services and the Minister of Education, Recreation and Sports” in the second paragraph by “The chief executive officers of public bodies referred to in section 4”.

13. Section 23 of the Act is amended

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

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

(2) by inserting “equal to or” after “expenditure” in subparagraph 5 of the first paragraph;

(3) by replacing “over” in subparagraph 6 of the first paragraph by “equal to or greater than”;

(4) by replacing “the minister responsible, the chief executive officer of a public body, a health and social services agency” in subparagraph 7 of the first paragraph by “the chief executive officer of a public body”;

(5) by striking out subparagraphs 8 to 13 of the first paragraph;

(6) by striking out the last paragraph.

14. Section 23.1 of the Act is repealed.

15. Section 24.1 of the Act is repealed.

16. Section 24.2 of the Act is amended by replacing “subparagraphs 14 and 15 of the first paragraph of section 23 and of section 23.1” in the first paragraph by “paragraphs 14 and 15 of section 23”.

17. The heading of Chapter VIII of the Act is amended by replacing “THE MINISTERS RESPONSIBLE” by “THE CONSEIL DU TRÉSOR”.

18. Section 25 of the Act is amended

(1) by striking out “or a body described in section 7” in the first paragraph;

(2) by replacing “minister responsible for a public body or a body described in section 7 may authorize the body” in the second paragraph by “Conseil du trésor may authorize a public body”.

19. The Act is amended by inserting the following section after section 25:

“25.1. The Conseil du trésor may establish policies and determine directions, conditions or measures to support contract rules compliance monitors and ensure that their functions are exercised coherently.”

20. Section 26 of the Act is amended

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

“26. The Conseil du trésor may establish policies for the management of the supply, service and construction contracts of public bodies. Such policies may apply to all public bodies or a particular group of public bodies. The Conseil du trésor sees that such policies are implemented and complied with by those public bodies.”;

(2) by striking out “a non-profit legal person established for a private interest,” in the second paragraph.

21. Section 27 of the Act is replaced by the following section:

“27. The Conseil du trésor may prescribe model contract forms or other standard documents to be used by public bodies or by a particular group of public bodies.”

22. The Act is amended by inserting the following chapter after section 27.4:

“CHAPTER VIII.2

“PENAL PROVISIONS

“27.5. Every person who makes a false statement to the Authority for the purpose of obtaining, renewing or keeping an authorization required under section 21.17 is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case.

“27.6. Every person who makes a false statement when submitting a bid under this Act is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case.

“27.7. A contractor who knowingly, despite not holding an authorization under the first paragraph of section 21.17 although required to hold one, submits a bid for a public contract in response to a call for tenders or enters into a public contract is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the

case of a natural person and \$7,500 to \$40,000 in any other case, unless the contractor was given permission to continue a contract under section 21.19 or to enter into a contract under section 21.20.

“27.8. A contractor who, in the course of a contract described in section 21.17 entered into with a public body, enters into a subcontract with an enterprise that does not hold an authorization although it is required to hold one, is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case. The subcontractor is also guilty of an offence and liable to the same fine.

“27.9. An enterprise that fails to provide, in accordance with the second paragraph of section 21.34, the name of every public body referred to in that paragraph is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case.

“27.10. A contractor who knowingly makes a request for payment to a public body for an amount that includes an amount to which the contractor is not entitled is guilty of an offence and liable to a fine of \$2,500 to \$13,000 in the case of a natural person and \$7,500 to \$40,000 in any other case.

“27.11. Every person who contravenes a provision of a regulation whose contravention constitutes an offence under paragraph 15 of section 23 is guilty of an offence and liable to a fine of \$500 to \$5,000.

“27.12. For a subsequent offence, the minimum and maximum fines prescribed in this chapter are doubled.”

23. The Act is amended by inserting the following section after section 58:

“58.1. Despite section 57 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), any information allowing a person to be identified as a member of a selection committee set up under this Act or the regulations is not personal information that is public information.”

24. The Act is amended by inserting the following schedule after section 60:

“SCHEDULE I
“(Sections 21.24, 21.26 and 21.37)

“OFFENCES

Act or Regulation	Section	Summary Description of Offence
Criminal Code (R.S.C. 1985, c. C-46)	119	Bribery of judicial officers
	120	Bribery of officers
	121	Frauds on the government
	122	Breach of trust by public officer
	123	Municipal corruption
	124	Selling or purchasing office
	125	Influencing or negotiating appointments or dealing in offices
	132	Perjury
	136	Witness giving contradictory evidence
	220	Causing death by criminal negligence in connection with a public contract
	221	Causing bodily harm by criminal negligence in connection with a public contract
	236	Manslaughter committed in connection with a public contract
	336	Criminal breach of trust
	362	False pretence or false statement
	366	False document
	368	Use of forged document
	375	Obtaining something by instrument based on forged document
	380	Fraud – property, money or valuable security or service
	388	Misleading receipt or acknowledgment
	397	Falsification of books and documents
	398	Falsifying employment record
	426	Secret commissions
	462.31	Laundering proceeds of crime
	463	Attempting to commit, and accessory to the commission of, an offence listed in this schedule
	464	Counselling another person to commit an offence listed in this schedule, if the offence is not committed
	465	Conspiring with another person to commit an offence listed in this schedule
	467.11	Participation in activities of criminal organization
467.12	Commission of offence for criminal organization	

	467.13	Instructing commission of offence for criminal organization
Competition Act (R.S.C. 1985, c. C-34)	45	Conspiracies, agreements or arrangements between competitors
	46	Implementation of foreign directives
	47	Bid-rigging
Corruption of Foreign Public Officials Act (S.C. 1998, c. 34)	3	Bribing a foreign public official
Controlled Drugs and Substances Act (S.C. 1996, c. 19)	5	Trafficking in substances and possession for purpose of trafficking
	6	Importing or exporting substances and possession for the purpose of exporting
	7	Production of substance
Income Tax Act (R.S.C. 1985, c. 1, 5th Supplement)	239(1)(a)	Making, or participating in, assenting to or acquiescing in the making of, false or deceptive statements in a return, certificate, statement, document or answer
	239(1)(b)	Having destroyed, altered, mutilated, secreted or otherwise disposed of records or books of account to evade payment of a tax
	239(1)(c)	Making, or assenting to or acquiescing in the making of, false or deceptive entries, or having omitted to enter a material particular, in records or books of account of a taxpayer
	239(1)(d)	Having wilfully evaded or attempted to evade compliance with the Act or payment of taxes
	239(1)(e)	Having conspired with any person to commit an offence described in paragraphs <i>a</i> to <i>d</i> of subsection 239(1)
	239(1.1)	Obtaining or claiming a refund or credit to which the person or another person is not entitled or a refund or credit in an amount greater than the amount to which the person or another person is entitled
	239(2.1)	Wilfully providing another person with an incorrect identification number for a tax shelter

- 239(2.2)(a) Knowingly providing, or knowingly allowing to be provided, to any person any taxpayer information – knowingly allowing any person to have access to any taxpayer information – knowingly using any taxpayer information otherwise than in the course of the administration or enforcement of this Act, the Canada Pension Plan, the Unemployment Insurance Act or the Employment Insurance Act or than for the purpose for which it was provided under this section
- 239(2.2)(b) Knowingly contravening an order made to implement such measures as are necessary to ensure that taxpayer information is not used or provided to any person for any purpose not relating to a legal proceeding relating to the supervision, evaluation or disciplining of an authorized person
- 239(2.21) Knowingly using, providing to any person, allowing the provision to any person, or allowing any person access to, taxpayer information provided for a particular purpose for any other purpose
- 239(2.3) Unlawfully using, communicating, or allowing the communication of, the social insurance number of an individual or the business number of a taxpayer or partnership

Excise Tax Act
(R.S.C. 1985,
c. E-15)

- 327(1)(a) Making, or participating in, assenting to or acquiescing in the making of, false or deceptive statements in a return, application, certificate, statement, document or answer
- 327(1)(b) Destroying, altering or otherwise disposing of documents or making, or assenting to or acquiescing in the making of, false entries, or omitting to enter, or assenting to or acquiescing in the omission of, a material particular in the documents of a person for the purpose of evading payment or remittance of any tax or obtaining a refund or rebate to which the person is not entitled
- 327(1)(c) Having wilfully evaded or attempted to evade compliance with the Act or payment or remittance of tax or net tax imposed under the Act

	327(1)(d)	Having wilfully, in any manner, obtained or attempted to obtain a rebate or refund to which a person is not entitled
	327(1)(e)	Having conspired with any person to commit an offence described in paragraphs <i>a</i> to <i>c</i> of subsection 327(1)
Tax Administration Act (c. A-6.002)	60.1	Contravening section 34.1 – keeping a register in electronic form with a “zapper”
	60.2	Contravening section 34.2 – manufacturing or making a “zapper” available
	62	Making false or deceptive statements – evading payment or remittance of a duty – obtaining a refund without being entitled to it – conspiring to commit such an offence
	62.0.1	Failing to pay, deduct, withhold, collect or remit a duty and failing to file a return – conspiring to commit such an offence
	62.1	Evading remittance or payment of a duty – destroying, altering or secreting registers and supporting documents – false entries – omitting to enter a material particular in records or supporting documents – conspiring to commit such an offence
	68	Having directed, authorized or participated in the commission by a corporation of an offence listed in this schedule
	68.0.1	Aiding another person to commit a fiscal offence listed in this schedule
	71.3.2	Communicating or using information contained in a tax record or originating from such a record for a purpose not provided for in the Act
Deposit Insurance Act (c. A-26)	46(b)	Furnishing the Autorité des marchés financiers with false information
Act respecting insurance (c. A-32)	406(c)	Knowingly giving the Autorité des marchés financiers incorrect information
Act respecting contracting by public bodies (c. C-65.1)	27.5	Making a false statement to the Autorité des marchés financiers to obtain an authorization to enter into contracts
	27.6	Making a false statement in connection with a bid
	27.10	Knowingly making a request for payment without entitlement

Act respecting financial services cooperatives (c. C-67.3)	605	Knowingly furnishing information, reports or other documents that are false or misleading
Act respecting the distribution of financial products and services (c. D-9.2)	16 with 485 469.1	Not acting with honesty and loyalty Making a misrepresentation when pursuing activities governed by the Act
Money-Services Businesses Act (c. E-12.000001)	66(1)	Making a misrepresentation when pursuing activities governed by the Act
Derivatives Act (c. I-14.01)	65 with 160 148(6)	Not acting with honesty and loyalty Providing false documents or information, or access to false documents or information, to the Autorité des marchés financiers
Act respecting labour relations, vocational training and workforce management in the construction industry (c. R-20)	84 111.1 122(4)	Molesting, hindering or insulting any member or employee of the Commission de la construction du Québec in the performance of duties, or otherwise obstructing such performance Carrying out construction work or causing such work to be carried out in contravention of a decision ordering the suspension of the work rendered under section 7.4.1 Knowingly destroying, altering or falsifying any register, pay-list, registration system or document relating to the application of the Act, a regulation or a collective agreement
Act respecting trust companies and savings companies (c. S-29.01)	356	Giving false or misleading information
Fuel Tax Act (c. T-1)	44	Obtaining or attempting to obtain a refund by means of false or misleading statements
Securities Act (c. V-1.1)	160 with 202 195(6)	Not dealing fairly, honestly, loyally and in good faith Providing the Autorité des marchés financiers with false documents or information, or access to false documents or information

	195.2	Influencing or attempting to influence the market price or the value of securities by means of unfair, improper or fraudulent practices
	196	Making a misrepresentation
	197 with 208	Making a misrepresentation
Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (c. C-65.1, r. 1.1)	7 with 10	Submitting an attestation from Revenu Québec that contains false or inaccurate information, submitting the attestation of a third person, or making a false declaration regarding the holding of an attestation
	8 with 10	Helping another person to contravene section 7
Regulation respecting supply contracts of public bodies (c. C-65.1, r. 2)	37.4 with 45.1	Submitting an attestation from Revenu Québec that contains false or inaccurate information, producing the attestation of a third person, or making a false declaration regarding the holding of an attestation
	37.5 with 45.1	Helping another person to contravene section 37.4
Regulation respecting service contracts of public bodies (c. C-65.1, r. 4)	50.4 with 58.1	Submitting an attestation from Revenu Québec that contains false or inaccurate information, producing the attestation of a third person, or making a false declaration regarding the holding of an attestation
	50.5 with 58.1	Helping another person to contravene section 50.4
Regulation respecting construction contracts of public bodies (c. C-65.1, r. 5)	40.6 with 58.1	Submitting an attestation from Revenu Québec that contains false or inaccurate information, producing the attestation of a third person, or making a false declaration regarding the holding of an attestation
	40.7 with 58.1	Helping another person to contravene section 40.6
Regulation respecting construction contracts of municipal bodies (c. C-19, r. 3)	7 with 10	Forwarding an attestation from Revenu Québec that contains false or inaccurate information, using the attestation of a third person, or making a false declaration regarding the holding of an attestation

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AMENDING PROVISIONS

TAX ADMINISTRATION ACT

25. The Tax Administration Act (chapter A-6.002) is amended by inserting the following section after section 69.4:

“**69.4.1.** The Associate Commissioner for Audits appointed under section 8 of the Anti-Corruption Act (chapter L-6.1) may communicate, without the consent of the person concerned, information obtained under subparagraph y of the second paragraph of section 69.1 to the Autorité des marchés financiers for the purposes of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).”

ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

26. The Act respecting the Autorité des marchés financiers (chapter A-33.2) is amended by inserting the following section after section 43.1:

“**43.2.** No later than 31 July each year, the Authority must file with the Chair of the Conseil du trésor, for the previous fiscal year, a financial report and a report on its activities relating to the administration of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).

The reports must contain all the information required by the Chair.”

27. Section 44 of the Act is amended by replacing “and the financial statements” in the second paragraph by “, the financial statements and the financial report”.

28. Section 749 of the Act is amended by adding “, except for the provisions relating to the administration of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1), which is under the responsibility of the Minister who is the Chair of the Conseil du trésor” at the end.

BUILDING ACT

29. Section 56 of the Building Act (chapter B-1.1) is amended by striking out “or restriction” in the third paragraph.

30. Subdivision 3.1 of Division II of Chapter IV of the Act, including its heading and sections 65.1 to 65.4, is repealed.

31. Section 66 of the Act is amended by replacing “and the classes or subclasses of such licences and any restriction under section 65.1” by “and the classes and subclasses of such licences”.

32. Section 71 of the Act is amended by striking out paragraph 7.

33. Section 109.6 of the Act is amended by striking out paragraphs 2 and 3.

34. Section 197 of the Act is amended by replacing “, the first paragraph of section 37.1, the first paragraph of section 65.2 or section 65.3” by “or the first paragraph of section 37.1”.

CITIES AND TOWNS ACT

35. Section 573.3.3.2 of the Cities and Towns Act (chapter C-19) is repealed.

36. The Act is amended by inserting the following section after section 573.3.3.2:

“573.3.3.3. Sections 21.17 to 21.20, 21.30, 27.6 to 27.10 and 27.12 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any municipal contract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that is related to such a contract is deemed to be a public subcontract, every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts and subcontracts, the responsibilities conferred on the Conseil du trésor.”

LABOUR CODE

37. Schedule I to the Labour Code (chapter C-27) is amended by striking out “the first paragraph of section 80.2,” in paragraph 18.

MUNICIPAL CODE OF QUÉBEC

38. Article 938.3.2 of the Municipal Code of Québec (chapter C-27.1) is repealed.

39. The Code is amended by inserting the following article after article 938.3.2:

“938.3.3. Sections 21.17 to 21.20, 21.30, 27.6 to 27.10 and 27.12 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with

the necessary modifications, in respect of any municipal contract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that is related to such a contract is deemed to be a public subcontract, every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts and subcontracts, the responsibilities conferred on the Conseil du trésor.”

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

40. Section 118.1.1 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01) is repealed.

41. The Act is amended by inserting the following section after section 118.1.1:

“**118.1.2.** Sections 21.17 to 21.20, 21.30, 27.6 to 27.10 and 27.12 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any contract awarded by the Community whose value exceeds the amount determined by the Government under section 21.17 of that Act and that pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that is related to such a contract is deemed to be a public subcontract, the Community is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts and subcontracts, the responsibilities conferred on the Conseil du trésor.”

42. Section 118.2 of the Act is amended by replacing “118.1.1” in the first paragraph by “118.1.2”.

ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

43. Section 111.1.1 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) is repealed.

44. The Act is amended by inserting the following section after section 111.1.1:

“**111.1.2.** Sections 21.17 to 21.20, 21.30, 27.6 to 27.10 and 27.12 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with

the necessary modifications, in respect of any contract awarded by the Community whose value exceeds the amount determined by the Government under section 21.17 of that Act and that pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that is related to such a contract is deemed to be a public subcontract, the Community is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts and subcontracts, the responsibilities conferred on the Conseil du trésor.”

45. Section 111.2 of the Act is amended by replacing “111.1.1” in the first paragraph by “111.1.2”.

ANTI-CORRUPTION ACT

46. Section 1 of the Anti-Corruption Act (chapter L-6.1) is amended by inserting “and to enhance public confidence in the public procurement process” at the end of the first sentence.

47. Section 2 of the Act is amended by adding “or a contravention of any of sections 27.5 to 27.10 of the Act respecting contracting by public bodies (chapter C-65.1)” at the end of paragraph 1.

48. Section 7 of the Act is amended by adding the following sentence at the end of the first paragraph: “The Commissioner has the authority to prevent, detect or repress crime or statutory offences and to apprehend offenders.”

49. Section 8 of the Act is amended by inserting the following paragraph after the first paragraph:

“Furthermore, the Associate Commissioner is responsible for conducting the audits the Associate Commissioner considers necessary for the purposes of sections 21.24 to 21.26 of the Act respecting contracting by public bodies (chapter C-65.1) and providing advisory opinions to the Autorité des marchés financiers.”

50. Section 10 of the Act is amended by inserting the following paragraph after paragraph 2:

“(2.1) to provide advisory opinions to the Autorité des marchés financiers under sections 21.28 and 21.29 of the Act respecting contracting by public bodies (chapter C-65.1);”.

51. The Act is amended by inserting the following sections after section 13:

“13.1. The Associate Commissioner may authorize any person to conduct audits for the purposes of the function provided for in paragraph 2.1 of section 10.

The auditor submits the audit report to the Associate Commissioner.

“13.2. The auditor, in the exercise of auditing functions, may

(1) enter, at any reasonable hour, the establishment of an enterprise, within the meaning of section 21.17 of the Act respecting contracting by public bodies (chapter C-65.1), that has applied for an authorization to enter into a public contract under Chapter V.2 of that Act or that holds an authorization to enter into such a contract, and carry out inspections and examinations;

(2) require from the persons present any information related to the carrying out of that chapter as well as the production of any book, register, account, contract, record or other relevant document; and

(3) examine and make copies of documents containing information that is relevant to the carrying out of that chapter.

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

“13.3. The auditor must, on request, produce identification and show the document attesting his or her authorization.”

52. Section 14 of the Act is amended by replacing the second paragraph by the following paragraphs:

“Those investigators act within a specialized investigation unit under the authority of the Commissioner. They are peace officers for the whole territory of Québec and have the authority to prevent, detect or repress crime or statutory offences and to apprehend offenders.

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

53. The Act is amended by inserting the following sections after section 14:

“14.1. Any person who hinders or attempts to hinder an auditor or an investigator in the exercise of auditing or investigating functions, refuses to provide any information or document the auditor or investigator is entitled to require or examine, or conceals or destroys any document relevant to an audit or investigation is guilty of an offence and is liable to a fine of \$2,000 to \$10,000.

For any subsequent offence, the amounts are doubled.

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

54. The Act is amended by inserting the following section after section 16:

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

55. Sections 20 and 21 of the Act are amended by replacing “or members” by “, members” and by inserting “or a person authorized to conduct audits under section 13.1” after “Government”.

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

56. Section 7.3 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is amended by replacing the second paragraph by the following paragraph:

“The Commission may also, in the same manner, request any person who carries out construction work or causes construction work to be carried out under a contract described in section 3 of the Act respecting contracting by public bodies (chapter C-65.1) to prove to the Commission that they hold an authorization under Chapter V.2 of that Act to the extent that they are required to hold one.”

57. Section 7.5 of the Act is replaced by the following section:

“7.5. The Commission may authorize the resumption of the suspended construction work upon proof by the person who intends to carry out the work or cause the work to be carried out that

(1) they are the holder of the appropriate licence issued under the Building Act (chapter B-1.1) and, where applicable, of the appropriate competency certificate or proof of exemption issued under this Act;

(2) that every person whose services they intend to hire to carry out the work or whom they intend to assign to the work is the holder of such a competency certificate or proof of exemption or, where applicable, of a licence referred to in paragraph 1; and

(3) that they hold an authorization under Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1) if required to hold one or that they have been permitted to continue a public contract under section 21.19 of that Act.”

58. Section 80.2 of the Act is repealed.

59. Section 123 of the Act is amended

(1) by striking out subparagraphs 8.2 and 8.3 of the first paragraph;

(2) by striking out the last paragraph.

60. Section 123.4.2 of the Act is amended by replacing “a regulation under subparagraphs 8.2 and 8.3 of the first paragraph of section 123 and of the provisions of the Building Act (chapter B-1.1) pertaining to licences that contain a restriction as regards the obtention of a public contract” by “sections 21.24 to 21.26 of the Act respecting contracting by public bodies (chapter C-65.1)”.

61. Section 123.4.4 of the Act is amended

(1) by replacing “to the Régie du bâtiment du Québec and a mandatory Corporation referred to in section 129.3 of the Building Act (chapter B-1.1)” by “to the Associate Commissioner for Audits appointed under the Anti-Corruption Act (chapter L-6.1)”;

(2) by replacing “the provisions of the Building Act pertaining to licences that contain a restriction as regards the obtention of a public contract” by “Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1)”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

62. Sections 167.2 and 176.0.3 of the Act respecting occupational health and safety (chapter S-2.1) are repealed.

ACT RESPECTING THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

63. Section 23.0.14 of the Act respecting the Société de l'assurance automobile du Québec (chapter S-11.011) is amended by striking out the second paragraph.

64. Section 23.0.15 of the Act is repealed.

ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

65. Section 108.1.1 of the Act respecting public transit authorities (chapter S-30.01) is repealed.

66. The Act is amended by inserting the following section after section 108.1.1:

“108.1.2. Sections 21.17 to 21.20, 21.30, 27.6 to 27.10 and 27.12 of the Act respecting contracting by public bodies (chapter C-65.1) apply, with the necessary modifications, in respect of any contract awarded by a transit authority whose value exceeds the amount determined by the Government under section 21.17 of that Act and that pertains to the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract whose value exceeds the amount determined by the Government under section 21.17 of that Act and that is related to such a contract is deemed to be a public subcontract, every transit authority is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts and subcontracts, the responsibilities conferred on the Conseil du trésor.”

67. Section 108.2 of the Act is amended by replacing “108.1.1” in the first paragraph by “108.1.2”.

TRANSITIONAL AND FINAL PROVISIONS

68. From (*insert the date of assent to this Act*), construction contracts and subcontracts and construction-related service contracts and subcontracts whose value is equal to or greater than \$50,000,000 and which have not yet been entered into on that date, whether or not the awarding process has begun, are contracts and subcontracts to which section 21.17 of the Act respecting contracting by public bodies (chapter C-65.1) applies.

69. Despite section 21.17 of the Act respecting contracting by public bodies, the Government may also determine that that section is to apply to groups of public contracts or subcontracts, or to groups of contracts or subcontracts deemed, under that Act, to be public contracts or subcontracts, although the contracts or subcontracts in a particular group are of a lower value than the value determined under that section, are of another category than those determined under that section or are not of the same category.

70. An enterprise that has been refused an authorization or whose authorization has been revoked under Chapter V.2 of the Act respecting contracting by public bodies must be named, for a period of three years, in the register of enterprises ineligible for public contracts kept under Division II of Chapter V.1 of that Act.

71. Chapter V.2 of the Act respecting contracting by public bodies applies to a body described in section 4 of that Act as of (*insert the date of assent to this Act*).

72. Until the coming into force of paragraph 2 of section 18, the second paragraph of section 25 of the Act respecting contracting by public bodies is to be read as follows:

“The Conseil du trésor may authorize a public body or a body described in section 7 to enter into a contract on conditions different from those applicable to it under a regulation under this Act, and determine the conditions for such a contract.”

73. Until the coming into force of section 56, the second paragraph of section 7.3 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is to be read as follows:

“The Commission may also, in the same manner, request any person who carries out construction work or causes construction work to be carried out either under a contract described in section 3 of the Act respecting contracting by public bodies (chapter C-65.1) or under a public contract referred to in section 65.4 of the Building Act (chapter B-1.1) to prove to the Commission that they hold an authorization under Chapter V.2 of the Act respecting contracting by public bodies to the extent that they are required to hold one, and that the licence they held on the date they tendered for that contract following a call for tenders, or on the date the contract was awarded in other cases, did not contain any restriction as regards the obtention of a public contract.”

74. Until the coming into force of section 60, section 123.4.2 of the Act respecting labour relations, vocational training and workforce management in the construction industry is to be read as follows:

“**123.4.2.** The Commission shall collect and keep updated all data necessary for the purposes of a regulation under subparagraphs 8.2 and 8.3 of the first paragraph of section 123, the provisions of the Building Act (chapter B-1.1) pertaining to licences that contain a restriction as regards the obtention of a public contract and sections 21.24 to 21.26 of the Act respecting contracting by public bodies (chapter C-65.1).”

75. Until the coming into force of section 61, section 123.4.4 of the Act respecting labour relations, vocational training and workforce management in the construction industry is to be read as follows:

“**123.4.4.** The Commission shall communicate to the Régie du bâtiment du Québec, a mandatory Corporation referred to in section 129.3 of the Building Act (chapter B-1.1) and the Associate Commissioner for Audits appointed under the Anti-Corruption Act (chapter L-6.1) the information it holds in respect of a contractor and, in the case of a legal person, any of its directors or, in the case of a partnership, any of its partners, that is necessary for the purposes of the provisions of the Building Act pertaining to licences that contain a restriction

as regards the obtention of a public contract and for the purposes of Chapter V.2 of the Act respecting contracting by public bodies (chapter C-65.1).”

76. This Act comes into force on (*insert the date of assent to this Act*), except sections 3, 4, 5 and 9, paragraph 5 of section 13, sections 14 and 16, paragraph 2 of section 18, sections 29 to 35, 37, 38, 40, 43, 56 and 58 to 65, which come into force on the date or dates to be set by the Government.

