



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 29

**An Act to protect consumers from
planned obsolescence and to promote
the durability, repairability and
maintenance of goods**

Introduction

**Introduced by
Mr. Simon Jolin-Barrette
Minister of Justice**

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EXPLANATORY NOTES

This bill mainly proposes amendments to the Consumer Protection Act.

In this respect, the bill introduces a legal warranty of good working order for certain new goods that are commonly used. As regards the warranty of good working order for used automobiles, the bill updates the classes of such automobiles.

The bill enhances the legal warranty of availability of replacement parts and repair services for goods of a nature that requires maintenance work by specifying that the availability of the information necessary to maintain or repair the goods must also be guaranteed. Merchants or manufacturers who are bound by the warranty of availability must make the parts, repair services and information necessary to maintain or repair the goods available at a reasonable price. The bill also provides that it must be possible to install the replacement parts using commonly available tools, without causing irreversible damage to the goods. In addition, consumers have the right, under certain circumstances, to request the repair of goods requiring it.

Under the bill, merchants must provide information on legal warranties of good working order before entering into a contract that includes an additional warranty. Consumers may resolve such a contract, at their discretion, within 10 days after the contract is entered into.

The bill proposes to prohibit the business of trading in goods for which obsolescence is planned and to prohibit the use of techniques that make it more difficult for consumers to maintain or repair goods. In addition, automobile manufacturers must provide the owner or long-term lessee of a vehicle, or the repairer of the vehicle, with free access to the vehicle's data.

With respect to long-term contracts of lease of automobiles, the bill provides that merchants must propose an inspection free of charge of the automobile before the end of the consumer's lease and specifies the cases in which the merchant may not claim charges for the abnormal wear of goods.

The bill gives the Government the regulatory power to determine technical or manufacturing standards for goods, including standards for interoperability between goods and chargers.

The bill also allows a court to declare, on an application by the consumer, that an automobile is a “seriously defective vehicle”, in particular if the defects affecting it render it unfit for the purposes for which it was intended and several attempts have been made to repair it.

The amounts of penal fines are increased in the case of the contravention of a provision of the Consumer Protection Act or of a regulation made under it, and monetary administrative penalties may be imposed. The sums collected as a result of the imposition of such penalties are credited to the Access to Justice Fund.

Lastly, the bill contains transitional and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Ministère de la Justice (chapter M-19);
- Consumer Protection Act (chapter P-40.1).

Bill 29

AN ACT TO PROTECT CONSUMERS FROM PLANNED OBSOLESCENCE AND TO PROMOTE THE DURABILITY, REPAIRABILITY AND MAINTENANCE OF GOODS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CONSUMER PROTECTION ACT

1. The Consumer Protection Act (chapter P-40.1) is amended by inserting the following section after section 2:

“**2.0.1.** The provisions of this Act pertaining to legal persons also apply, with the necessary modifications, to partnerships, trusts and associations.”

2. Section 6.1 of the Act is amended by replacing “277” by “276.1”.

3. The Act is amended by inserting the following sections after section 38:

“**38.1.** The following new goods that are the object of a contract of sale or long-term contract of lease carry with them a warranty of good working order: a range, a refrigerator, a freezer, a dishwasher, a washing machine, a dryer, a television set, a desktop computer, a laptop computer, an electronic pad, a cellular telephone, a video game console, an air conditioner, a heat pump and any other goods determined by regulation.

The duration of the warranty for the goods referred to in the first paragraph is determined by regulation.

“**38.2.** The warranty provided for in section 38.1 covers parts and labour.

“**38.3.** The warranty provided for in section 38.1 does not cover

(a) normal maintenance service and the replacement of parts resulting from it;

(b) damage resulting from abuse by the consumer; or

(c) any accessory other than that determined by regulation.

“**38.4.** The warranty provided for in section 38.1 takes effect upon the delivery of the goods.

“38.5. In the case of repairs under the warranty provided for in section 38.1,

(a) the merchant or the manufacturer shall assume the reasonable transportation or shipping costs incurred in respect of the performance of the warranty of good working order; or

(b) the merchant or the manufacturer shall carry out the repairs to the goods and assume their cost or shall permit the consumer to have the repairs carried out by a third person and shall assume their cost.

“38.6. The merchant or the manufacturer is liable for the performance of the warranty provided for in section 38.1 to a consumer who is the subsequent purchaser of the goods.

“38.7. The manufacturer of goods carrying a warranty of good working order provided for in section 38.1 must disclose, in the manner and on the conditions prescribed by regulation, the information relating to the warranty that is determined by the regulation.

“38.8. The merchant must indicate the duration of the warranty of good working order of the goods referred to in the first paragraph of section 38.1 near their advertised price or, in the case of a long-term lease of the goods, near their retail value, in a manner as equally prominent as that price or value.

“38.9. After a contract of sale or a long-term contract of lease of goods carrying a warranty of good working order provided for in section 38.1 has been entered into, the merchant must send to the consumer, in the manner and on the conditions prescribed by regulation, the information relating to the warranty that is determined by the regulation.”

4. Section 39 of the Act is replaced by the following sections:

“39. Where goods forming the object of a contract are of a nature that requires maintenance work, the replacement parts, repair services and information necessary to maintain or repair the goods, including, where applicable, any diagnostic software and its updates, must be available for a reasonable time after the contract has been entered into.

It must be possible to install the replacement parts using commonly available tools and without causing irreversible damage to the goods.

A merchant or a manufacturer may be released from the obligation prescribed in the first paragraph by warning the consumer in writing, before the contract is entered into, that he does not supply the replacement parts, repair services or information necessary to maintain or repair the goods.

A regulation may determine the replacement parts and information necessary to maintain or repair goods in respect of which no merchant or manufacturer may be released from the obligation prescribed by the first paragraph, the time

for which those parts and that information must be available and the time within which the merchant or the manufacturer must, at the consumer's request, provide them to the consumer.

For the purposes of this section, goods whose use may require the replacement, cleaning or updating of one of their components are deemed to be of a nature that requires maintenance work.

“39.1. The manufacturer must disclose, in the manner and on the conditions prescribed by regulation, the information determined by the regulation relating to the replacement parts, repair services and information necessary to maintain or repair the goods whose availability must be guaranteed by him under the first paragraph of section 39.

“39.2. The merchant must disclose, before the contract is entered into and in the manner and on the conditions prescribed by regulation, the information determined by the regulation relating to the replacement parts, repair services and information that are necessary to maintain or repair the goods whose availability is guaranteed by the merchant or the manufacturer under the first paragraph of section 39.

“39.3. The merchant or the manufacturer who is required to guarantee the availability of a replacement part, a repair service or information necessary to maintain or repair goods under the first paragraph of section 39 must make it available at a reasonable price.

For the purposes of the first paragraph, the price of a replacement part, a repair service or information necessary to maintain or repair goods is reasonable if it does not discourage the consumer from accessing it.

A regulation may determine cases in which such a price is presumed to discourage consumer access.

“39.4. The manufacturer of an automobile must provide the automobile owner or long-term lessee, or their mandatary, with access to the automobile's data for purposes of diagnostic, maintenance or repair. The manufacturer may not be released from that obligation under the third paragraph of section 39. Despite section 39.3, such access must be provided free of charge.

“39.5. Where a merchant or a manufacturer fails to make available the replacement parts, repair services or information necessary to repair goods for the time provided for in section 39, the consumer may request that the merchant or the manufacturer repair the goods requiring it.

The merchant or the manufacturer must advise the consumer in writing, within 10 days of the consumer's request, of the time within which they propose to carry out the repairs.

“39.6. If the merchant or the manufacturer fails to provide a response in conformity with the second paragraph of section 39.5, the merchant or the manufacturer must replace the consumer’s goods or reimburse the price. In such a case, the consumer must return the goods to the merchant or the manufacturer.

“39.7. The consumer may accept or decline a proposal of the merchant or the manufacturer that is in conformity with the second paragraph of section 39.5.

If the consumer accepts the proposal, but the merchant or the manufacturer fails to comply with the time specified to repair the goods, section 39.6 applies, with the necessary modifications.

The consumer who declines the proposal may have the repairs carried out by a third person and the merchant or the manufacturer shall assume their costs.”

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

“53.1. On an application by a consumer who is the owner or long-term lessee of an automobile, an automobile is declared a “seriously defective vehicle” by the court where

(a) attempts to repair one or more defects affecting the automobile have been made under the automobile’s basic conventional warranty given gratuitously by the manufacturer, namely

i. three unsuccessful attempts for the same defect;

ii. one or two unsuccessful attempts for the same defect where the merchant or the manufacturer responsible for performing the warranty has had the automobile in his possession for more than 30 days; or

iii. twelve attempts for unrelated defects;

(b) the defects have appeared within three years of the first sale or long-term lease of the automobile to a party other than a merchant authorized by the manufacturer to distribute the automobile where the automobile has not covered more than 60,000 kilometres; and

(c) the defects render the automobile unfit for the purposes for which it is ordinarily intended or substantially diminish its usefulness.

The presence of a latent defect is deemed to be affecting an automobile that is declared a seriously defective vehicle.”

6. Section 54 of the Act is amended by replacing “or 38” in the second paragraph by “, 38 or 39”.

7. Section 54.4 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph *d.1* of the first paragraph:

“(d.2) if applicable, the duration of the warranty of good working order provided for in section 38.8;

“(d.3) if applicable, the replacement parts, repair services and information necessary to maintain or repair goods whose availability is guaranteed by the merchant or the manufacturer under the first paragraph of section 39;”;

(2) by adding the following sentence at the end of the second paragraph: “The written offer must, where applicable, indicate the duration of the warranty of good working order of goods referred to in the first paragraph of section 38.1 near their advertised price or, in the case of a long-term lease of the goods, near their retail value, in a manner as equally prominent as that price or value.”

8. Section 58 of the Act is amended by inserting the following subparagraph after subparagraph *h* of the first paragraph:

“(h.1) where applicable, the replacement parts, repair services and information necessary to maintain or repair goods whose availability is guaranteed by the merchant or the manufacturer under the first paragraph of section 39;”.

9. The Act is amended by inserting the following section after section 150.9:

“**150.9.1.** No long-term contract of lease may contain a stipulation whereby the merchant may claim

(a) charges on the ground that the nature or quality of a part or component installed as part of the normal maintenance service does not satisfy the merchant, unless the contract expressly provides that the goods may only be returned with a component of a specific nature or quality; or

(b) charges on the ground that the part is not an original part from the manufacturer or that the maintenance service was not performed by the manufacturer or a merchant approved by the manufacturer.”

10. The Act is amended by inserting the following section after section 150.17:

“**150.17.1.** The merchant must offer to the consumer, at least 90 days before the end of the lease, to carry out, free of charge, an inspection of the automobile that is the object of a long-term contract of lease or of any other long-term leased goods determined by regulation.

If the consumer consents to the inspection, it must be carried out not less than 30 days but not more than 60 days before the end of the lease at the consumer's residence or at the establishment of the merchant, at the latter's choice. Following the inspection, the merchant must immediately give the consumer a written report indicating, where applicable, the parts or components of the goods which, in the merchant's opinion, show abnormal wear and the consumer's right to repair these parts or components within 10 days following receipt of the notice or to have them repaired by a third person within the same time.

When the goods are returned at the end of the lease, or in the event of a voluntary return or forced repossession of the goods, the merchant who considers that the wear of the goods is abnormal must give the consumer a written notice indicating which parts or components show abnormal wear and mentioning the consumer's right to repair those parts or components within 10 days following receipt of the notice or to have them repaired by a third person within the same time.

No merchant may claim charges for the abnormal wear of a part or component of the goods in the following cases:

(a) the inspection report provided for in the second paragraph was not given to the consumer who consented to the inspection;

(b) the written notice provided for in the third paragraph was not given to the consumer; or

(c) the merchant sells or re-leases the goods before the end of the 10-day period indicated in the written notice provided for in the third paragraph."

11. Section 156 of the Act is amended by inserting the following subparagraph after subparagraph *d* of the first paragraph:

"(d.1) if such is the case, the fact that the automobile has been declared a seriously defective vehicle within the meaning of section 53.1;".

12. Section 160 of the Act is amended

(1) by replacing "two" and "40,000" in paragraph *a* by "four" and "80,000", respectively;

(2) by replacing "three" and "60,000" in paragraph *b* by "five" and "100,000", respectively;

(3) by replacing "five" and "80,000" in paragraph *c* by "seven" and "120,000", respectively.

13. Section 182 of the Act is amended by replacing paragraph *a* by the following paragraph:

“(a) “household appliance” means a range, a refrigerator, a freezer, a dishwasher, a microwave oven, a washing machine, a dryer, an audio device, an audio-video device, a computer and its peripheral equipment, a cellular telephone, an air conditioner, a dehumidifier, a heat pump or any other goods determined by regulation;”.

14. The Act is amended by inserting the following sections after section 227:

“227.0.1. No manufacturer may fail to disclose the information referred to in section 38.7 in the manner prescribed by that section.

“227.0.2. No merchant may fail to disclose the information referred to in section 38.8 in the manner prescribed by that section.

“227.0.3. Subject to any applicable regulations, no merchant or manufacturer may use a technique that has the effect of making it more difficult for the consumer or his mandatary to maintain or repair goods.

A technique referred to in the first paragraph includes the use, by the manufacturer of an automobile, of a technique that has the effect of making it more difficult for the automobile owner or long-term lessee, or their mandatary, to have access to the automobile’s data for the purposes of diagnostic, maintenance or repair.

“227.0.4. No person may, by any means, carry on the business of trading in goods for which obsolescence is planned. The manufacturer of such goods is deemed to carry on such business.

The obsolescence of goods is planned where a technique aimed at reducing its normal operating life is used on them.

For the purposes of the first paragraph, goods are traded in each time they are offered to a consumer or are the object of a contract entered into with a consumer.”

15. The Act is amended by inserting the following sections after section 228.1:

“228.2. Before proposing to a consumer to purchase a contract that includes an additional warranty on goods that are the object of a warranty provided for in section 38.1, section 159 or the second paragraph of section 164, the merchant must inform the consumer orally, in the manner prescribed by regulation, of the existence and duration of the warranty.

The third paragraph of section 228.1 applies to this section with the necessary modifications.

“228.3. A merchant who proposes to a consumer to purchase a contract of additional warranty on goods or proposes clauses of a contract regarding such a warranty must inform the consumer that he may, within 10 days after the contract has been entered into, resolve the contract without cost or penalty.

The consumer may, at his discretion, by sending the merchant or his representative a written notice, resolve without cost or penalty a contract of additional warranty on goods or clauses of a contract regarding such a warranty within 10 days after the contract has been entered into. That time limit is however extended to one year if the merchant has failed to

(a) indicate the duration of the warranty provided for in section 38.1, in accordance with section 38.8;

(b) indicate the information relating to the warranty provided for in section 159 on the label that must be affixed on a used automobile under section 155;

(c) indicate the information relating to the warranty provided for in the second paragraph of section 164 on the label that must be affixed on a used motorcycle under the first paragraph of section 164;

(d) inform the consumer, in accordance with section 228.1; or

(e) inform the consumer orally of the existence and duration of the warranty provided for in section 38.1, section 159 or the second paragraph of section 164, in accordance with section 228.2.

The contract of additional warranty or the clauses of a contract regarding such a warranty are resolved by operation of law from the sending of the notice to the merchant or the merchant’s representative and the merchant must, as soon as possible, return to the consumer the sum received from the consumer under that contract or those clauses.

This section does not apply to a contract for which the underwriter is an insurer authorized under the Insurers Act (chapter A-32.1).”

16. The Act is amended by inserting the following section after section 237:

“237.1. No person may advertise an automobile that has been declared a seriously defective vehicle without disclosing that fact.”

17. The Act is amended by inserting the following section after section 260.27:

“260.27.1. A road vehicle dealer or recycler who sells an automobile to another road vehicle dealer or another recycler must disclose to the dealer or recycler, where applicable, the fact that the automobile has been declared a seriously defective vehicle within the meaning of section 53.1.”

18. The Act is amended by inserting the following chapter after section 276:

“CHAPTER II.1

“MONETARY ADMINISTRATIVE PENALTIES

“276.1. The Government may determine by regulation the objectively observable failures to comply with a provision of this Act or of a regulation, or with a voluntary undertaking made under section 314 or whose application has been extended by an order made under section 315.1 which may give rise to a monetary administrative penalty imposed by the president.

The Government may also set out the conditions for applying a monetary administrative penalty and determine the amounts or the methods for calculating them. The amounts may vary in particular according to the seriousness of the failure to comply, without exceeding the amount of \$1,750 in the case of a natural person or \$3,500 in any other case.

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

“276.3. In the event of a failure to comply that may give rise to a monetary administrative penalty, a notice of non-compliance may be notified to the person who is failing to comply urging him to immediately take the necessary measures to remedy the failure.

The notice of non-compliance must mention that the failure to comply could, in particular, give rise to a monetary administrative penalty.

The notice of non-compliance must also mention to the person concerned that he has the opportunity to present observations and, where applicable, to produce documents to complete his record while specifying the time limit within which this may be done.

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

However, when false representations are made to the president, the monetary administrative penalty may be imposed within two years after the date on which the failure to comply was noted by the president.

“276.5. A monetary administrative penalty for a failure to comply with a provision of this Act or of a regulation, or with a voluntary undertaking made under section 314 or whose application has been extended by an order made under section 315.1 may not be imposed on the person responsible for the failure to comply if a statement of offence has already been served on that person for a failure to comply with the same provision on the same day, based on the same facts.

For the purposes of this chapter, “person responsible for a failure to comply” means a person on which a monetary administrative penalty is imposed or is likely to be imposed.

“276.6. A monetary administrative penalty is imposed on the person responsible for a failure to comply by the notification of a notice of claim.

The notice must state

(a) the amount claimed and the due date for payment;

(b) the reasons for it;

(c) the time from which it bears interest; and

(d) the right to contest the imposition of the penalty before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

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

“276.7. If the person responsible for a failure to comply has failed to pay a monetary administrative penalty, the person’s directors and officers are solidarily liable with the person for the payment of the penalty unless they establish that they exercised due care and diligence to prevent the failure.

“276.8. The payment of a monetary administrative penalty is secured by a legal hypothec on the movable and immovable property of the debtor.

For the purposes of this chapter, “debtor” means the person responsible for a failure to comply who is required to pay a monetary administrative penalty and, where applicable, each of his directors and officers who are solidarily liable with him for the payment of the penalty.

“276.9. The debtor and the president may enter into a payment agreement with regard to the amount owing. Such an agreement, or the payment of the amount owing, does not constitute, for the purposes of penal proceedings or any administrative penalty under this Act or a regulation, an acknowledgement of the facts giving rise to it.

“276.10. In the case of a failure to pay the full amount owing or to adhere to the agreement entered into for that purpose, the president may file a decision at the office of the competent court.

The president’s decision then becomes enforceable, as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

“276.11. The debtor is required to pay recovery charges in the cases and on the conditions determined by regulation.”

19. Sections 277 to 282 of the Act are replaced by the following sections:

“277. Anyone who contravenes any of sections 19.1, 25 to 28, 32, 36, 38.7 to 39.7, 44 to 46, 54.3 to 54.7, 58, 60, 62, 71, 80, 81, 94, 98, 99, 100.2 to 102, 103.4, 105, 111 to 115, 115.2, 119.1 to 122, 125, 126, 126.3, 127, 128, 128.1, 129, 130, 134, 139, 142, 147, 148, 150, 150.4 to 150.7, 150.13, 150.14, 150.17.1, 150.19, 150.20, 150.22, 150.25, 150.30, 150.32, 155 to 157, 168, 170 to 173, 180, 183 to 185, 187.2, 187.7, 187.14, 187.16, 187.17, 187.19, 187.20, 187.24, 187.27, 190, 192, 199 to 201, 206, 208, 211, 214.2, 214.4, 214.9 to 214.11, 214.15, 214.16, 214.25, 228.3, 240, 241, 260.27 to 260.29, 329.3, 330 and 331 is liable, in the case of a natural person, to a fine of \$1,500 to \$37,500 and, in any other case, to a fine of \$3,000 to \$75,000.

“278. Anyone who contravenes any of sections 10 to 13, 19, 54.13, 54.16, 63, 83, 90 to 92, 103.2, 103.3, 122.1, 123, 124, 126.1, 127.1, 128.3, 136, 150.3.1, 150.9, 150.9.1, 150.26, 179, 187.3 to 187.5, 187.8, 187.15, 187.18, 187.25, 195, 196, 203, 205, 214.3, 214.7, 214.8, 214.14, 214.20, 214.23, 214.24, 214.26 to 214.28, 219 to 228.2, 229 to 239, 242 to 248, 250 to 251.2, 254 to 258, 260.7 to 260.10, 260.12, 260.13, 260.21 and 260.22 is liable

(a) to a minimum fine of \$2,500 in the case of a natural person and \$5,000 in any other case, or of an amount equal to twice the pecuniary benefit derived from the commission of the offence, whichever is greater; or

(b) to a maximum fine of \$62,500 in the case of a natural person and \$125,000 in any other case, or of an amount equal to four times the pecuniary benefit derived from the commission of the offence, whichever is greater.

“279. Anyone who

(a) does not hold a permit although required to hold one under any of the subparagraphs of the first paragraph of section 321;

(b) gives false or misleading information to the Minister or the president;

(c) hinders the application of this Act or of a regulation;

(d) contravenes section 307;

(e) does not comply with a voluntary undertaking made under section 314 or whose application has been extended by an order under section 315.1;

(f) does not comply with a decision of the president, other than a decision imposing a monetary administrative penalty;

(g) does not comply with a requirement of the president under any of sections 311, 312 and 313;

(h) being subject to an order of the court under section 288, fails to comply with the order; or

(i) on applying for the issuance or renewal of a permit or at any time during the permit's term of validity, acts as a prête-nom, calls on a prête-nom or has a prête-nom among his directors or partners

is liable, in the case of a natural person, to a fine of \$3,500 to \$87,500 and, in any other case, to a fine of \$7,000 to \$175,000.

“280. Anyone who contravenes a provision of this Act that is not referred to in sections 277 to 279 is liable, in the case of a natural person, to a fine of \$600 to \$15,000 and, in any other case, to a fine of \$1,200 to \$30,000.

“281. The amounts of the fines prescribed in sections 277 to 280 or in the regulations are doubled for a second or subsequent offence.

“282. In determining the amount of the fine, the court takes into account the following factors, among others:

(a) the size of the offender's undertaking, assets, turnover, revenues or market share;

(b) the offender's failure to take reasonable measures to prevent the commission of the offence or mitigate its consequences despite the offender's ability to do so;

(c) the pecuniary benefit and the other benefits that were derived or could have been derived from the commission of the offence;

(d) the economic loss caused to consumers by the commission of the offence;

(e) the number of consumers who were wronged or could have been wronged by the commission of the offence; and

(f) the offender's past conduct as regards compliance with this Act, in particular failure to act on warnings aimed at preventing the offence.

A court that, despite the presence of an aggravating factor, decides to impose the minimum fine must give reasons for the decision.

“282.1. If a person commits an offence under this Act or a regulation, any of the person's directors, officers, mandataries, representatives or ultimate beneficiaries, within the meaning of section 0.4 of the Act respecting the legal publicity of enterprises (chapter P-44.1), is presumed to have committed the

offence unless it is established that they exercised due diligence, taking all necessary precautions to prevent the offence or, in the case of an ultimate beneficiary, it is established that he does not have any influence enabling him to have control in fact of the person.

For the purposes of the first paragraph, in the case of a partnership, all partners, except special partners, are presumed to be directors of the partnership unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.

For the purposes of the first paragraph, in the case of an association, all members are presumed to be directors of the association unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the association.”

20. Section 287 of the Act is repealed.

21. Section 288 of the Act is amended by replacing “under a provision of section 278” in the first paragraph by “constituting a prohibited practice or an offence under section 279”.

22. Section 289 of the Act is amended by replacing “section 278” by “sections 277 to 280”.

23. Section 290.1 of the Act is amended

(1) by replacing “shall be” in the first paragraph by “or of a regulation are”;

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

“However, penal proceedings for an offence under section 227.0.4 are prescribed by five years from the date of the commission of the offence.”

24. Section 321 of the Act is amended by inserting “a contract underwritten by” after “except” in subparagraph *d* of the first paragraph.

25. Section 325 of the Act is amended

(1) by striking out “or” at the end of paragraph *d*;

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

“(f) despite a monetary administrative penalty having been imposed on the applicant for a failure to comply with a provision of this Act or of a regulation, the applicant still fails to comply with the provision;

“(g) the applicant has failed to pay a monetary administrative penalty for which the time limit for contestation before the Administrative Tribunal of Québec has expired; or

“(h) in his opinion, there are reasonable grounds to believe that the applicant acts as a prête-nom, calls on a prête-nom or has a prête-nom among the applicant’s directors or partners.”

26. Section 326 of the Act is amended

(1) by inserting “or a regulation” after “this Act”;

(2) by adding the following sentence at the end: “The president may also require the ultimate beneficiary, within the meaning of section 0.4 of the Act respecting the legal publicity of enterprises (chapter P-44.1), to comply with the same requirements.”

27. Section 329 of the Act is amended by adding the following paragraphs at the end:

“(f) does not comply with a provision of this Act or a regulation despite a monetary administrative penalty having been imposed on him for a failure to comply with the provision;

“(g) fails to pay a monetary administrative penalty for which the time limit for contestation before the Administrative Tribunal of Québec has expired; or

“(h) acts as a prête-nom, calls on a prête-nom or has a prête-nom among his directors or partners.”

28. Section 338 of the Act is replaced by the following section:

“**338.** In accordance with the terms and conditions prescribed by regulation, the security is to be used, in the following order,

(a) to compensate any consumer who has a claim against the person who gave the security or that person’s representative;

(b) to pay the fine imposed on the person who gave the security or that person’s representative; and

(c) to pay the monetary administrative penalty imposed on the person who gave the security.”

29. Section 338.1 of the Act is amended, in the first paragraph,

(1) by inserting “, in the following order,” after “used” in the introductory clause;

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

“(e) to pay the monetary administrative penalty imposed on the person who gave the security.”

30. Section 339 of the Act is replaced by the following section:

“339. A decision of the president may be contested before the Administrative Tribunal of Québec, within 30 days of notification of the decision, by

(a) any person whose application for a permit has been dismissed or whose permit has been suspended or cancelled;

(b) any merchant for whom a provisional administrator has been appointed; or

(c) any person on whom a monetary administrative penalty has been imposed.

In the case of a decision referred to in subparagraph *c* of the first paragraph, the Tribunal may only confirm or quash the contested decision.”

31. The Act is amended by inserting the following section after section 340:

“340.1. When rendering a decision concerning a notice of claim referred to in section 276.6, the Tribunal may rule on the interest accrued between the date the contestation was brought and the date of the Tribunal’s decision.”

32. Section 350 of the Act is amended

(1) by inserting the following paragraphs after paragraph *d*:

“(d.1) determining technical or manufacturing standards for goods, including standards for ensuring interoperability between goods and chargers, and prescribing in what cases and on what terms and conditions they apply;

“(d.2) establishing standards relating to the content and physical presentation of the information on the standards referred to in paragraph *d.1* and prescribing in what cases and on what terms and conditions they apply;

“(d.3) determining the duration of the warranty of good working order for the goods referred to in the first paragraph of section 38.1;

“(d.4) determining any other new goods to which the warranty of good working order provided for in section 38.1 applies;

“(d.5) determining, for the purposes of paragraph *c* of section 38.3, any accessory included in the warranty provided for in section 38.1;

“(d.6) determining, for the purposes of section 38.7, the information the manufacturer must disclose to the consumer, the manner in which it is to be disclosed and the applicable conditions;

“(d.7) determining, for the purposes of section 38.9, the information the manufacturer must provide to the consumer, the manner in which it is to be provided and the applicable conditions;

“(d.8) determining the replacement parts and information necessary to maintain or repair goods in respect of which no merchant or manufacturer may be released from the obligation prescribed by the first paragraph of section 39, the time for which those parts and that information must be available and the time within which the merchant or the manufacturer must provide them to the consumer;

“(d.9) determining, for the purposes of section 39.1, the information the manufacturer must disclose to the consumer, the manner in which it is to be disclosed and the applicable conditions;

“(d.10) determining, for the purposes of section 39.2, the information the merchant must disclose to the consumer, the manner in which it is to be disclosed and the applicable conditions;

“(d.11) determining, for the purposes of section 39.3, cases in which a price is presumed to discourage consumer access;

“(d.12) determining, for the purposes of section 150.17.1, all other goods leased on a long-term basis;”;

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

“(z.7) determining the objectively observable failures to comply with a provision of this Act or of a regulation, or with a voluntary undertaking made under section 314 or whose application has been extended by an order made under section 315.1 which may give rise to the imposition of a monetary administrative penalty, setting out the conditions for applying the penalty and determining the amounts or the methods for calculating them. The amounts may vary according to the seriousness of the failure to comply, without exceeding the amounts provided for in section 276.1; and

“(z.8) determining among the provisions of a regulation those whose contravention constitutes an offence and setting for each offence the minimum and maximum amounts of the fines to which the offender is liable, which may not exceed those referred to in section 279.”

ACT RESPECTING THE MINISTÈRE DE LA JUSTICE

33. Section 32.0.3 of the Act respecting the Ministère de la Justice (chapter M-19) is amended by inserting the following paragraph after paragraph 2.1:

“(2.2) the amounts from the monetary administrative penalties imposed under section 276.6 of the Consumer Protection Act (chapter P-40.1);”.

34. The Act is amended by inserting the following section after section 32.0.5:

“32.0.5.1. The amounts referred to in paragraph 2.2 of section 32.0.3 are reserved for the carrying out of projects or activities geared towards consumers.”

TRANSITIONAL AND FINAL PROVISIONS

35. Section 9 does not apply to long-term contracts of lease in force on (*insert the date of assent to this Act*) unless they have been amended after that date.

Stipulations in contracts in force that are contrary to section 150.9.1 of the Consumer Protection Act (chapter P-40.1), as enacted by section 9 of this Act, are without effect for the future.

36. Section 10 does not apply to long-term contracts of lease in force on (*insert the date that is six months after the date of assent to this Act*).

37. This Act comes into force on (*insert the date of assent to this Act*), except

(1) the provisions of section 10, section 12 and section 32 insofar as it enacts paragraph *d.12* of section 350 of the Consumer Protection Act, which come into force on (*insert the date that is six months after the date of assent to this Act*);

(2) the provisions of section 2, section 18, section 19, except to the extent that it enacts section 277 of the Consumer Protection Act as concerns contraventions of sections 38.7 to 38.9 and 39 to 39.7 of that Act, sections 21 and 22, section 25, sections 27 to 31, paragraph 2 of section 32, and sections 33 and 34, which come into force on (*insert the date that is 15 months after the date of assent to this Act*);

(3) the provisions of section 4, section 7 insofar as it enacts subparagraph *d.3* of the first paragraph of section 54.4 of the Consumer Protection Act, section 8, section 14 insofar as it enacts section 227.0.3 of the Consumer Protection Act, section 19 insofar as it enacts section 277 of the Consumer Protection Act as concerns contraventions of sections 39 to 39.7 of that Act, and section 32 insofar as it enacts paragraphs *d.8* to *d.11* of section 350 of the Consumer Protection Act, which come into force on (*insert the date that is two years after the date of assent to this Act*);

(4) the provisions of section 3, paragraph 1, insofar as it enacts subparagraph *d.2* of the first paragraph of section 54.4 of the Consumer Protection Act, and paragraph 2 of section 7, section 14 insofar as it enacts sections 227.0.1 and 227.0.2 of the Consumer Protection Act, section 15 insofar as it enacts section 228.2 and the second sentence of the second paragraph of section 228.3 of the Consumer Protection Act, section 19 insofar as it enacts

section 277 of the Consumer Protection Act as concerns contraventions of sections 38.7 to 38.9 of that Act, and section 32 insofar as it enacts paragraphs *d.3* to *d.7* of section 350 of the Consumer Protection Act, which come into force on *(insert the date that is three years after the date of assent to this Act)*.

