

THIRD SESSION

THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 72

Consumer Protection Act

First reading
Second reading
Third reading

MADAME LISE PAYETTE

Ministre des consommateurs, coopératives
et institutions financières

L'ÉDITEUR OFFICIEL DU QUÉBEC

1 9 7 8

EXPLANATORY NOTES

This bill proposes a new act on consumer protection.

The bill consolidates the existing act and certain regulations made pursuant to it. It also regulates business practices, and modifies the structure of the Office de la protection du consommateur.

The proposed act is made up of six titles. Title I sets down general rules governing the making of contracts, and the basic warranties, in respect of all goods and services offered to the consumer. It particularly governs contracts made with itinerant merchants, credit contracts, the sale of used autos, auto repairs, the repair of household appliances and the hiring of services for sequential performance.

Title II deals with business practices. It describes and prohibits practices that might be used by certain merchants, manufacturers or advertisers in order to mislead the consumer.

Title III seeks to protect the consumer in certain specified circumstances by requiring that the merchant deposit in a trust account the sums of money he receives from the consumer.

Title IV establishes certain rules of proof and procedure that are essential for the enforcement of the act. It indicates the rights of action of the consumer where the merchant, the manufacturer or the advertiser breaks the law. It also defines offences to the act and provides the penalties to which perpetrators of such offences are liable.

Title V describes the new structure of the Office de la protection du consommateur: it provides that the Office is composed of up to fifteen members, and authorizes the establishment of regional advisory bodies. It lists the powers of the president of the Office in view of the application of the act. It indicates the classes of business that require operating permits and defines the rules governing their issuance.

*Title VI sets out the transitional provisions. It specifies that the *Ministre des consommateurs, coopératives et institutions financières* is responsible for the application of the act.*

Bill 72

Consumer Protection Act

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

PRELIMINARY TITLE

INTERPRETATION AND APPLICATION

Defini-
tions:

“address”;

1. In this act, unless the context indicates otherwise,

(a) “address”

(i) of the merchant means the place of his establishment or office indicated in the contract, or of a new establishment or office of which he has subsequently notified the consumer, except a post office box;

(ii) of the manufacturer means the place of his establishment in Canada, except a post office box;

(iii) of the consumer means the place of his ordinary residence indicated in the contract, or of a new residence of which he has subsequently notified the merchant;

“auto-
mobile”;

(b) “automobile” means a vehicle, except a moped, propelled by any power other than muscular force and adapted for transportation on the public highways;

“used auto-
mobile”;

(c) “used automobile” means an automobile which has been used for any purpose other than its delivery or preparation for delivery by the merchant, the manufacturer or their representative;

“goods”;

(d) “goods” means any moveable property;

“consum-
er”;

(e) “consumer” means any person, except a merchant who obtains goods or services for the purposes of his business;

“credit”;

(f) “credit” means the right granted by a merchant to a consumer to delay his performance of an obligation in consideration of certain charges;

"manufacturer": (g) "manufacturer" means a person in the business of assembling, producing or processing goods, and, in particular,

(i) a person who represents himself to the public as the manufacturer of goods;

(ii) where the manufacturer has no establishment in Canada, a person who imports or distributes goods manufactured outside Canada or a person who allows his trademark to be used on goods;

"advertisement": (h) "advertisement" means a message designed to promote goods, services or an organization in Québec;

"Minister": (i) "Minister" means the Ministre des consommateurs, coopératives et institutions financières;

"Office": (j) "Office" means the Office de la protection du consommateur established under section 275;

"permit": (k) "permit" means a permit required by this act;

"president": (l) "president" means the president of the Office;

"advertiser": (m) "advertiser" means a person who prepares, publishes, distributes or broadcasts an advertisement or who causes an advertisement to be prepared, published, distributed or broadcast;

"regulation": (n) "regulation" means a regulation made by the Government under this act;

"representative": (o) "representative" means a person acting for a merchant or a manufacturer or regarding whom a merchant or a manufacturer has given reasonable cause to believe that such person is acting for him;

"vice-president": (p) "vice-president" means the vice-president of the Office.

Contracts covered. **2.** This act applies to every contract for goods or services entered into between a consumer and a merchant in the course of his business.

Applicability. **3.** Notwithstanding section 4 of the Cooperative Agricultural Associations Act (Revised Statutes, 1964, chapter 124), section 74 of the Cooperative Associations Act (Revised Statutes, 1964, chapter 292), section 76 of the Savings and Credit Unions Act (Revised Statutes, 1964, chapter 293) or section 6 of the Cooperative Syndicates Act (Revised Statutes, 1964, chapter 294), cooperative agricultural associations, cooperative associations, savings and credit unions and cooperative syndicates are subject to the application of this act.

Non-profit corporations. Non-profit corporations cannot invoke their non-profit status to avoid the application of this act.

Applica-
bility.

4. The Government and the government departments and agencies are subject to the application of this act.

Contracts
not
covered.

5. The following are exempt from the application of the title on contracts relating to goods and services and the title on trust accounts:

(a) transactions dealing with securities within the meaning of the Securities Act (Revised Statutes, 1964, chapter 274);

(b) insurance and annuity contracts, except credit contracts entered into for the payment of insurance premiums;

(c) contracts of sale of electricity or gas by a distributor within the meaning of the Electricity and Gas Board Act (Revised Statutes, 1964, chapter 87), by Hydro-Québec established by the Hydro-Québec Act (Revised Statutes, 1964, chapter 86), by a municipal corporation or by a cooperative governed by the Rural Electrification Act (1945, chapter 48);

(d) contracts of public services made under an authorization of the Régie des services publics.

Idem.

6. Business practices and contracts regarding

(a) the sale or construction of an immoveable;

(b) credit, secured or not by hypothec, to finance the purchase, repair, maintenance, improvement or expansion of an immoveable;

(c) credit secured by hypothec;

(d) the performance of services for the repair, maintenance or expansion of an immoveable, or both the performance of such services and the sale of goods incorporated with the immoveable, are exempt from the application of this act.

Surety.

7. The surety of a consumer benefits to the same extent as the consumer by the provisions of sections 31, 32, 102, 104 to 109, 115 and 260.

TITLE I

CONTRACTS REGARDING GOODS AND SERVICES

CHAPTER I

GENERAL PROVISIONS

Annulment
of contract,
etc.

8. The consumer may demand that the contract be annulled or the obligations thereunder reduced where the respective obligations of the parties are so disproportionate as to amount to

exploitation or where the obligations of the consumer are excessive.

Degree of
consumer's
consent.

9. Where the court must determine whether a consumer consented to a contract, it shall take into account the condition of the parties, the circumstances in which the contract was entered into and the benefits to the consumer deriving from the contract.

Stipulation
prohibited.

10. Any stipulation whereby a merchant is released from the consequences of his own act or the act of his representative is prohibited.

Idem.

11. Any stipulation whereby a merchant reserves the right to decide unilaterally

(a) that the consumer has failed to satisfy one or another of his obligations, or

(b) that a fact or circumstance has occurred,
is prohibited.

Claim for
costs.

12. No costs may be claimed from a consumer unless the amount thereof is precisely indicated in the contract.

Stipulation
prohibited.

13. Any stipulation requiring the consumer, upon the non-performance of his obligation, to pay costs other than judicial costs, is prohibited, except to the extent permitted by regulation.

Provisions
to apply.

14. Sections 104 to 109 apply, *mutatis mutandis*, to resolute clauses or to agreements to the same effect in favour of the merchant, and to contracts containing a forfeiture of benefit of term clause, whether or not such contracts are contracts of credit.

Provisions
to apply.

15. Sections 132 to 147 apply, *mutatis mutandis*, to a contract, whether a contract of credit or not, whereby the transfer of ownership of goods sold by a merchant to a consumer is deferred until the performance by the consumer of the whole or a part of his obligation.

Obligation
of
merchant.

Sequential
performance.

16. The principal obligation of the merchant is to deliver the goods or to perform the service provided for in the contract.

In a contract calling for sequential performance, the merchant is considered to be performing his principal obligation when he begins to perform it in accordance with the contract.

Interpreta-
tion.

17. Notwithstanding article 1019 of the Civil Code, in case of doubt or ambiguity, the contract must be interpreted in favour of the consumer.

Merchant
bound.

18. Where a merchant inserts in a contract or document a clause that this act or a regulation requires to be included in another contract or document, this clause is binding on the merchant and it may be invoked by the consumer.

Stipulation
prohibited.

19. Any stipulation in a contract that such contract is wholly or partly governed by a law other than an act of the Parliament of Canada or of the Legislature of Québec is prohibited and is void.

Remote-
parties
contract.

20. A remote-parties contract is a contract entered into between a merchant and a consumer who are in the presence of one another neither at the time of the offer, which is addressed to one or more consumers, nor at the time of acceptance, provided that the offer has not been solicited by a particular consumer.

Where
entered
into.

21. The remote-parties contract is deemed entered into at the address of the consumer.

Collection
of
payment.

22. Subject to section 295, no merchant being party to a remote-parties contract may collect any payment, in full or in part, before reception of the goods by the consumer.

CHAPTER II

RULES GOVERNING THE MAKING OF A CONTRACT IN RESPECT OF WHICH TITLE I REQUIRES A WRITING

Provisions
to apply.

23. This chapter applies to contracts which, under section 57, 79, 155, 184 or 193, must be evidenced in writing.

Provisions
not to
apply.

This chapter does not apply to notarial instruments.

Prelimi-
nary
offers,
etc., not
binding.

24. The offers, promises or agreements preliminary to a contract that must be evidenced in writing are not binding on the consumer until they are inscribed in a contract made in accordance with this title.

Contract
in
duplicate,
etc.

25. The contract must be drawn up clearly and legibly, and at least in duplicate.

Language
of
contracts.

26. The contract and the documents attached thereto must be drawn up in French. They may be drawn up in another language if the parties expressly agree thereto. Where they are drawn up in French and in another language, if the texts are divergent, the interpretation more favourable to the consumer prevails.

Writing
to be
signed,
etc.

27. The merchant must sign the contract duly filled out, give it to the consumer and allow him to examine its terms and scope before signing it.

Where
signed.

28. The parties must sign the last page of each duplicate of the contract, at the end of the stipulations.

Contract
complete.

29. The contract is formed when the parties have signed it.

Representative's
signature
binding.

30. The merchant is bound by his representative's signature on the contract.

Duplicate
to consumer.

31. After the contract is signed, the merchant must give a duplicate of it to the consumer.

Consumer
bound.

32. The consumer is not bound to perform his obligations until he is in possession of the duplicate intended for him.

CHAPTER III

PROVISIONS RELATING TO CERTAIN CONTRACTS

DIVISION I

WARRANTIES

Applicability.

33. This division applies to contracts of sale or of lease of goods or services and to mixed contracts of sale and lease.

More advantageous
warranty.

34. A warranty provided in this act does not prevent the merchant or the manufacturer from offering a more advantageous warranty to the consumer.

Transfer
of ownership
of goods.

35. A merchant transferring the ownership of goods to a consumer by way of a contract must free such goods from every charge in favour of a third person, or declare such charge at the time of the sale. He is bound to discharge the goods of every surety-bond, even declared, unless the consumer has assumed the debt so secured.

Goods must be
fit for normal
purpose.

36. Goods being the subject of a contract must be fit for use for their normally intended purpose.

Goods must be
durable.

37. Goods being the subject of a contract must be durable in normal use for a reasonable time, taking account of their price, the terms of the contract and the conditions of use or operation of the goods.

38. Where goods being the subject of a contract are of a nature that requires maintenance, replacement parts and repair service must be available for a reasonable time after the making of the contract.

Exception. The merchant or the manufacturer may release himself from this obligation by warning the consumer, before the contract is entered into, that he does not supply replacement parts or repair service.

39. The goods or services provided must conform to the description made of them in the contract.

40. The goods or services provided must conform to the statements and advertisements regarding them made by the merchant or the manufacturer. The statements and advertisements form part of the contract.

41. A written or verbal statement by the representative of a merchant or of a manufacturer regarding goods or services is binding on that merchant or manufacturer.

42. A warranty regarding goods or services that is mentioned in a statement or advertisement of the merchant or the manufacturer forms part of the contract. This rule applies to the written warranties of the merchant or the manufacturer not written in the contract.

43. In a conventional warranty, exclusions are prohibited unless they are clearly indicated in separate and successive clauses.

44. Every warranty certificate must be clearly drawn up and indicate

- (a) the name and address of the person giving the warranty;
- (b) the person who may invoke the warranty;
- (c) the obligations of the person giving the warranty if the goods are defective or if the services are improperly performed;
- (d) the manner in which the consumer is to proceed to obtain execution of the warranty, and the persons authorized to execute it; and
- (e) the term for which the warranty is valid.

45. The valid term of a warranty mentioned in a contract or in an advertisement of a merchant or a manufacturer must be determined precisely, in accordance with the terms and conditions prescribed by regulation.

Manufac-
turer's
warranty.

46. Where the manufacturer's conventional warranty is valid only if the goods or services are supplied by a merchant certified by the manufacturer, another merchant supplying such goods or services without being certified by the manufacturer must, before supplying the goods to the consumer, notify the consumer that the manufacturer's warranty is invalid.

Charges
demanded.

47. No charge may be demanded by the merchant or the manufacturer on the performance of a conventional warranty unless the warranty certificate stipulates otherwise and precisely determines the amount.

Real cost of
transportation, etc.

48. The merchant or the manufacturer shall assume the real cost of transportation or shipping incurred on the performance of a conventional warranty, unless stipulated otherwise in the warranty certificate.

Extension
of war-
ranty.

49. The valid term of a warranty provided for by this act or of a conventional warranty shall be extended for a period equal to the time during which the merchant or the manufacturer has had the goods or a part of the goods in his possession for the performance of the warranty.

Warranty
by third
person.

50. The designation by the merchant or the manufacturer of a third person to perform the warranty provided for by this act or a conventional warranty does not free them of their obligation of warranty to the consumer.

Validity
of conven-
tional
warranty.

51. The merchant or the manufacturer shall not make the validity of a conventional warranty dependent upon the consumer's using a product having a specified brand name, unless at least one of the three following conditions is fulfilled:

(a) the product is supplied to him free of charge;

(b) the warranted goods will not operate normally unless that product is used; or

(c) the conventional warranty is the subject of a separate contract for valuable consideration.

Claim by
consumer.

52. Without prejudice to his claims against the merchant, a consumer having entered into a contract with a merchant may take action directly against the manufacturer to assert a claim based on a defect in the design or manufacture of the goods being the subject of the contract, unless the defect would have been apparent to the consumer on an ordinary examination.

Idem.

The same rule applies where there is a lack of directions necessary for the protection of the user against a risk or danger of which he would otherwise be unaware.

Ignorance
of defect,
etc.

The manufacturer shall not allege that he was ignorant of the defect or lack of directions.

Subse-
quent
purchaser.

The rights of action against the manufacturer may be exercised by any subsequent purchaser.

Rights of
action
based on
certain
provisions.

53. Without prejudice to his claims against the merchant, a consumer having entered into a contract with a merchant may take action directly against the manufacturer to assert a claim based on an obligation resulting from section 36, 37, 38, 39, 40 or 42.

Subse-
quent
purchaser.

Rights of action against the manufacturer based on an obligation resulting from section 36 or 37 may be exercised by any subsequent purchaser.

DIVISION II

CONTRACTS ENTERED INTO BY ITINERANT MERCHANTS

Definition.

54. An itinerant merchant is a merchant who, personally or through a representative, elsewhere than at his address,

(a) solicits a particular consumer for the purpose of making a contract; or

(b) makes a contract with a consumer.

Provisions
to apply.

55. Sections 57 to 64 apply to contracts of sale or lease of goods or services and to mixed contracts of sale and lease entered into by an itinerant merchant, except

(a) contracts under which the total amount of the obligation of the consumer does not exceed \$25;

(b) contracts excluded by regulation.

Exception.

56. Subject to the regulations, a contract entered into at the domicile of the consumer upon his express demand does not constitute a contract entered into by an itinerant merchant, provided such contract was not solicited elsewhere than at the merchant's address.

Content of
writing.

57. The contract must be evidenced in writing and indicate:

(a) the itinerant merchant's permit number;

(b) the name and address of the consumer, of the itinerant merchant and, where such is the case, of his representative;

(c) the place and date of the contract;

(d) a description of the subject of the contract, including, where they apply, the model year and any other distinguishing mark;

- (e) the cash price of each item of goods or services;
- (f) the chargeable duties under any federal or provincial act;
- (g) the total of amounts to be disbursed by the consumer under the contract;
- (h) every other particular prescribed by regulation.

Form to be included.

The merchant must attach a form conformable to the model in Schedule 1 to the duplicate of the contract intended for the consumer.

Delay for dissolution.

58. The contract made between an itinerant merchant and a consumer may be dissolved at the discretion of the consumer within ten days following that on which each of the parties is in possession of the duplicate of the contract intended for him.

Payment exigible.

59. The itinerant merchant cannot receive a partial payment or payment in full from the consumer before the expiry of the delay for dissolution provided for in section 58 so long as the consumer has not received the goods being the subject of the contract.

Option of dissolution.

60. The consumer avails himself of the option of dissolution

(a) by returning the goods to the itinerant merchant or his representative;

(b) by returning the form referred to in section 57 to the itinerant merchant or his representative; or

(c) by sending another written notice to that effect to the itinerant merchant or his representative.

When dissolved.

61. The contract is dissolved of right from the return of the goods or the sending of the notice or the form.

Delay to restore.

62. Within ten days following the sending of the notice or the form, the parties must restore what they have received from one another.

Costs.

The itinerant merchant shall assume the costs of restitution.

Risk of loss, etc.

63. The itinerant merchant shall assume the risk of loss or deterioration, even by fortuitous event, of the goods being the subject of the contract, until the expiry of the delay provided for in section 62.

Act, etc.,
bar to right
of dissolution.

64. The consumer shall not dissolve the contract if, as a result of an act or a fault for which he is liable, he is unable to restore the goods to the itinerant merchant in the condition in which he received them.

DIVISION III

CONTRACTS OF CREDIT

Contracts covered. **65.** This division contemplates all contracts of credit, particularly

- (a) contracts for the loan of money;
- (b) contracts extending variable credit;
- (c) contracts involving credit.

§ 1.—*General provisions*

Interpretation: **66.** For the purpose of this division,
 "total obligation"; (a) "total obligation" means the aggregate of the net capital and the credit charges;
 "period"; (b) "period" means a space of time of not over five weeks;
 "down payment". (c) "down payment" means a sum of money, the value of a negotiable instrument payable on demand, or the agreed value of goods given on account at the time of the contract.

Net capital. **67.** The net capital is
 (a) in the case of a contract for the loan of money, the sum actually received by the consumer or paid into or credited to his account by the merchant;
 (b) in the case of a contract involving credit or a contract extending variable credit, the sum for which credit is actually extended.

Charges excluded. Every component of the credit charges is excluded from this sum.

"Credit charges". **68.** "Credit charges" means the sum the consumer must pay under the contract in addition to

- (a) the net capital in the case of a contract for the loan of money or a contract extending variable credit;
- (b) the net capital and the down payment in the case of a contract involving credit.

Components of credit charges. **69.** The credit charges shall be determined as the sum of their components, particularly the following:

- (a) the sum claimed as interest;
- (b) the premium for insurance subscribed for, except any automobile insurance premium;

(c) the rebate;

(d) administration charges, brokerage fees, appraiser's fees, contract fees and the cost incurred in obtaining a credit report;

(e) membership or renewal fees;

(f) the commission;

(g) the value of the rebate or of the discount to which the consumer is entitled if he pays cash;

(h) the duties chargeable, under a federal or provincial act, on the credit.

Applica-
bility
of credit
charges.

70. The merchant must state the credit charges in terms of dollars and cents, and indicate that they apply

(a) to the whole term of the contract in the case of a contract for the loan of money or a contract involving credit, or

(b) to the period covered by the statement of account in the case of a contract extending variable credit.

Computa-
tion of
credit
rate.

71. The credit rate is the amount of the credit charges expressed as an annual percentage. It must be computed and disclosed in the manner prescribed by regulation.

Exclu-
sions.

In computing the credit rate in the case of a contract extending variable credit, the following components of the credit charges are not considered:

(a) membership or renewal fees; and

(b) the value of the rebate or of the discount to which the consumer is entitled if he pays cash.

Delay for
dissolu-
tion.

72. Contracts for the loan of money and contracts involving credit may be dissolved without cost or penalty, at the discretion of the consumer, within two days following that on which each of the parties is in possession of the duplicate of the contract intended for him.

Option of
dissolution.

73. In the case of a contract for the loan of money, the consumer avails himself of the option of dissolution

(a) by returning the net capital to the merchant or his representative, if he received it at the time at which each of the parties came into possession of the duplicate of the contract intended for him;

(b) by either returning the sum or sending notice in writing to that effect to the merchant or his representative, in all other cases.

Option of
dissolution.

74. In the case of a contract involving credit, the consumer avails himself of the option of dissolution

(a) by returning the goods to the merchant or his representative, if he received delivery of the goods at the time at which each of the parties came into possession of the duplicate of the contract intended for him;

(b) by either returning the goods or sending notice in writing to that effect to the merchant or his representative, in all other cases.

Date of
dissolution.

75. The contract is dissolved *pleno jure* from the return of the goods or of the sum of money or from the sending of the notice to the merchant or his representative.

Delay to
restore.

76. Where a contract is dissolved by virtue of section 72, the parties must as soon as possible return to each other what they have received from each other. The merchant shall assume the costs of restitution.

Risk of
loss, etc.

77. The merchant shall assume the risk of loss or deterioration, even by fortuitous event, of the goods being the subject of the contract, until the expiry of the delay provided for in section 72.

Act, etc.,
bar to
right of
dissolution.

78. The consumer shall not dissolve the contract if, as a result of an act or a fault for which he is liable, he is unable to return the goods to the merchant in the condition in which he received them.

Contracts
must be
written.
Credit
rate.

79. Contracts of credit must be evidenced in writing.

80. Contracts of credit, except contracts extending variable credit, must stipulate a only one credit rate.

Exemption.

81. Contracts governed by the Act respecting small loans (Revised Statutes of Canada, 1970, chapter S-11) are exempt from the application of section 80, provided the credit rate is indicated in the manner prescribed by regulation; credit charges must be applied in the manner provided by the aforesaid act.

Credit
charged
exacted.

82. The merchant shall not exact, on a sum owing by the consumer, credit charges computed at a higher credit rate than the lesser of the rate computed in accordance with this act and that stated in the contract.

Deferred
payment.

83. The contract must provide for only one deferred payment during each period.

Reckoning
credit
charge,
etc.

84. Notwithstanding section 83, the date on which the consumer must make his first payment may be fixed at will, but if it is fixed at over five weeks after that of the making of the contract, the credit charges do not run between the date of the contract and the commencement of the period for which that payment is stipulated.

Id., if
per-
formance
delayed.

85. If the merchant's principal obligation is performed more than seven days after the contract is entered into, the credit charges cannot run, and the merchant shall not demand any payment from the consumer, before the date of such performance.

Mode of
payment.

86. Except for a contract extending variable credit, deferred payments must be equal, except the final payment, which may be a lower payment.

Exception:
seasonal
employ-
ment.

87. A contract to which a consumer who earns his principal income from an occupation that he carries on for not more than eight months per year is a party is exempt from the application of sections 83 to 86, provided that the contract contains the following clause, drawn up in accordance with the requirements of this act and signed separately by the consumer:

"Mrs, Miss or Mr . . . (insert here the name of the consumer and the occupation which is his main source of income) declares that she or he has a seasonal income."

Idem.

The same rule applies to the contract entered into by a merchant and a consumer relating to goods necessary for the carrying on of the trade, art or profession of the consumer, provided that the contract contains the following clause, drawn up in accordance with the requirements of this act and signed separately by the consumer:

"Mrs, Miss or Mr . . . (insert here the name and the main occupation of the consumer) declares that the goods being the subject of the contract are necessary for the carrying on of her or his trade, art or profession."

Merchant
entitled
to act.

The merchant is entitled to act on the strength of a declaration so drawn up, unless he knows it to be false.

Contract
exempt.

88. A contract for the loan of money is exempt from the application of sections 83, 84 and 86, on the conditions prescribed by regulation, whereunder

(a) the consumer's principal obligation is repayable in full on one specified date,

(b) the capital is payable on demand,

(c) the date of maturity is not fixed, or

(d) the amount of the payments is not fixed.

Credit
charge
exacted.

88. In the case of a contract for the loan of money, and notwithstanding the second paragraph of section 16, no credit charge may be exacted from the consumer except on such sums as he has actually received from the merchant and on such as have been paid into or credited to his account by the merchant.

Computa-
tion of
credit
charge.

89. The credit charges must be computed according to the actuarial method prescribed by regulation.

Computa-
tion of
credit
charges.

90. Credit charges, whether imposed as a penalty, arrears charge, extension charge or otherwise must be computed in the manner provided in section 90, except the charges provided for in subparagraphs *a* and *b* of the second paragraph of section 71 in the case of a contract extending variable credit.

Payment
before
maturity.

91. The consumer may make full payment or partial payment of his obligation before maturity.

Balance
owing.

The balance owing from a consumer for the payment of his obligation is equal at all times to the aggregate of the net capital balance and the credit charges computed in accordance with section 90.

Statement
of account.

92. The merchant must, on such terms and conditions in respect of time and form as are prescribed by regulation, send to the consumer a statement of account setting out the information prescribed by regulation.

Billing
error.

93. A consumer discovering a billing error in the statement of account provided to him by a merchant with whom he has entered into a contract of credit may address a writing to the merchant, informing him of

- (a) his identity,
- (b) the error discovered and the sum involved, where that is the case, and
- (c) his grounds for believing the error exists.

Notice to
merchant.

94. The merchant receiving the writing provided for in section 94 from a consumer shall, within sixty days from the date of mailing of that writing, advise the consumer, in writing,

- (a) that the billing error has been corrected, together with any credit charges erroneously billed; or
- (b) that he refuses to correct the statement of account, explaining to the consumer his grounds for not acceding to his request to make the correction; in this case, the merchant must, without charge, provide the consumer, on demand, with documentary proof of his grounds for refusal.

Loss of
right to
claim.

96. A merchant who contravenes section 95 loses his right to claim from the consumer the sum mentioned by the latter under the terms of paragraph *b* of section 94 and the corresponding credit charges.

New
contract
in case of
amend-
ments.

97. If the parties to a contract of credit wish to amend certain stipulations of the contract and if the credit rate or the credit charges are thereby increased, they must draw up a new contract containing

- (a) the identification of the original contract;
- (b) the amount exacted from the consumer to discharge, before maturity, his obligation under the original contract;
- (c) the net capital, the credit charges and the credit rate; and
- (d) the total amount of the consumer's obligation and the terms and conditions of payment.

Consolida-
tion of
debts
contract.

98. In the case of a contract of credit resulting from the consolidation of debts owed to the same merchant, the particulars required under paragraphs *a* and *b* of section 97 must be set out separately for each of the original contracts.

Exemp-
tions.

99. The following are exempt from the application of section 97:

- (a) on the conditions prescribed by regulation, contracts for the loan of money payable on demand, those providing no fixed date of maturity or providing no fixed amounts of payments; and
- (b) the correction of a clerical error in the contract with the agreement of both parties.

Right to
receipt,
etc., after
payment.

100. When the consumer discharges his obligation in full, the merchant shall give him a receipt and return to him every object or document received as an acknowledgement of or security for such obligation.

Negotiable
instru-
ment.

101. A negotiable instrument signed at the time of a contract to acknowledge deferred payments is indivisible from the contract and neither such instrument nor the contract may be assigned separately by the merchant or subsequent assignee.

Rights of
assignee of
debt.

102. The assignee of a debt owed to a merchant under a contract to which the latter is a party cannot have more rights than the merchant and is jointly and severally liable with the merchant for the performance of the merchant's obligations up to the amount of such debt at the time it is assigned to him or, if he assigns it in turn, up to the amount of the payment he has received.

I. FORFEITURE OF BENEFIT OF TERM

Clause of
forfeiture.

103. Every stipulation in a contract which has the effect of requiring the consumer in default to pay all or part of the balance of his obligation before maturity is a clause of forfeiture of benefit of term.

Notice to
consumer.

104. The merchant who avails himself of such clause must advise the consumer thereof by means of a notice in writing drawn up in accordance with the form appearing in Schedule 2. The merchant must attach to that notice a statement of account containing the information prescribed by regulation.

Delay.

105. The forfeiture of benefit of term takes effect only after a delay of thirty days following the receipt of the notice and statement of account provided for in section 104.

Motion to
change
terms and
conditions
of pay-
ment.

106. If the consumer does not remedy his default within the delay provided for in section 105, the balance of his obligation becomes payable unless, upon a motion by the consumer, the court changes the terms and conditions of payment according to such conditions as it considers reasonable or authorizes the consumer to return the goods to the merchant.

Service.

107. The motion must be served before the expiry of the delay provided for in section 105.

Basis for
decision.

108. The motion must be heard and decided by preference, considering, in particular, the following facts:

(a) the total of amounts that the consumer must disburse under the contract;

(b) the sums already paid;

(c) the value of the goods at the time the consumer defaulted;

(d) the balance due to the merchant;

(e) the consumer's ability to pay; and

(f) the reason for which the consumer is in default.

Effect of
return
of goods.

109. The return of the goods to the merchant authorized by virtue of section 106 extinguishes the consumer's contractual obligation and the merchant is not bound to return the amount of the payments he has received.

II. INSURANCE

Insurance
policy
offered by
merchant.

110. No person may refuse to enter into a contract of credit on the pretext that the consumer does not sign, through the intermediary of the merchant who is party to the contract, an insurance policy offered by the latter.

Existing
policy held
by con-
sumer.

111. If subscription to an insurance policy is a condition of the making of a contract of credit, the consumer may fulfil this condition by an insurance policy he already holds.

Notice to
consumer.

Before the making of the contract, the merchant must inform the consumer of such right by a writing drawn up in the form and according to the terms and conditions prescribed by regulation.

Group life
or health
insurance.

112. A merchant subscribing to a group life or health insurance contract covering the consumer on his entering into a contract of credit must provide the consumer with a membership form concordant with article 283 of the general regulations under the Act respecting insurance (1974, chapter 70).

Delay for
providing
copies.

113. For other insurance subscribed on the making of a contract of credit, the merchant must, within thirty days, provide the consumer with a copy of the policy and of the application for insurance.

§ 2.—*Contracts for the loan of money*

Content of
writing.

114. A contract for the loan of money must reproduce the particulars provided for in Schedule 3, in addition to those prescribed by regulation.

Ground of
defence.

115. The consumer who has used the net capital of a contract for the loan of money to make full or partial payment for the purchase or the lease of goods or services may, if the money lender and the vending or leasing merchant regularly cooperate for the granting of loans of money to consumers, plead against the money lender any ground of defence that he may urge against the vending or leasing merchant.

Suspension
of repay-
ment.

116. Where legal proceedings intervene between the consumer and the vending or leasing merchant, the court may, on a motion of the consumer, order the suspension of the repayment of the loan until final judgment is rendered.

Accrued
credit
charges.

At the time of the final judgment, the court shall indicate which party must pay the credit charges accrued during the suspension of repayment of the loan.

§ 3.—*Contracts extending variable credit*

Variable
credit
defined.

117. A contract extending variable credit is a contract by which credit is extended in advance by a merchant to a consumer

who may avail himself of it, in whole or in part, from time to time, in accordance with the terms and conditions of the contract.

Credit
cards, etc.,
included.

Contracts extending variable credit include, in particular, contracts made for the use of what are commonly called credit cards, credit accounts, budget accounts, revolving credit accounts, marginal credit and credit openings and any other contract of a similar nature.

Interpre-
tation.

118. For the purposes of section 117, penalties imposed for non-payment on maturity are deemed to be credit charges.

Issuing
credit
cards.

119. No person may issue or send a credit card to a consumer unless the consumer has applied for it in writing.

Renewal,
etc.

120. Section 119 does not apply to the renewal or replacement, on the same conditions, of a credit card which the consumer has used during the period for which it was issued or renewed.

Exception.

No person may, however, renew or replace a credit card if the consumer has notified in writing the issuer of the card of his intention to cancel such card.

Cards
bearing
same
number.

121. No person may issue more than one credit card bearing the same number unless the consumer in whose name the card is issued applies therefor in writing.

Loss or
theft.

122. In case of loss or theft of a credit card, the consumer incurs no liability for a debt resulting from the use of such card by a third person after the issuer is notified of the loss or theft by telephone, telegraph, written notice or any other means.

Liability
limited.

123. Even where such notice is not given, the liability of the consumer whose credit card is lost or stolen is limited to the sum of \$50.

Content of
writing.

124. Contracts extending variable credit must reproduce the particulars prescribed in Schedule 4, in addition to those prescribed by regulation.

Statement
of account.

125. At the end of each period, the merchant must furnish the consumer who owes him a debt with a statement of account, mailed not less than twenty-one days before the date on which the creditor may impose credit charges, if the consumer does not discharge his obligation in full; in the case of an advance of money, these charges may accrue from the date of that advance until the date of payment.

Content.

The statement of account must indicate:

(a) the date of the end of the period;

(b) the balance of the account at the end of the preceding period, specifying the portion of the balance to which the advances of money granted correspond;

(c) the date, description and value of each transaction debited to the consumer's account during the period;

(d) the date and amount of each payment made or sum credited during the period;

(e) the credit charges imposed during the period;

(f) the balance of the account at the end of the period;

(g) the minimum payment required for such period; and

(h) the delay during which the consumer may discharge his obligation without being required to pay credit charges except on advances of money.

Copy of
vouchers.

The consumer may require the merchant to send to him without charge a copy of the vouchers of each of the transactions debited to the consumer's account during the period.

Delay for
exacting
credit
charges.

126. Until the consumer receives a statement of account at his address, the merchant shall not exact credit charges on the unpaid balance except on advances of money.

Increase
in variable
credit.

127. Where the merchant has indicated to the consumer the amount up to which variable credit is extended to him, the merchant shall not increase such amount unless the consumer expressly applies therefor.

Amend-
ments.

128. Notwithstanding section 97, the merchant may amend the contract extending variable credit to increase the amount chargeable as membership or renewal fees or the credit rate.

Notice.

The merchant must send to the consumer, not later than six months preceding the date of the coming into force of the increase, a notice setting out exclusively the amended clauses, as they formerly read and as they read now, and the date of the coming into force of the increase.

Prohibited
amend-
ments.

The unilateral amendment of a contract extending variable credit not conformable to this section cannot be invoked against the consumer.

Transfer
of owner-
ship of
goods sold.

129. No contract extending variable credit may include a clause whereby the transfer of the ownership of the goods sold by a merchant to a consumer is deferred until the consumer's performance of all or part of his obligation.

§ 4.—*Contracts involving credit*Applica-
bility.

130. This subdivision applies to instalment sales and to all other contracts involving credit.

I. INSTALMENT SALES

Instal-
ment sale
defined.

131. An instalment sale is a contract involving credit whereby the transfer of ownership of the goods sold by a merchant to a consumer is deferred until the consumer's performance of all or part of his obligation.

Merchant
assumes
risks.

132. The merchant shall assume the risks of loss or deterioration by fortuitous event until the ownership of the goods is transferred to the consumer.

Content of
writing.

133. The contract must set out the particulars provided for in Schedule 5, in addition to those prescribed by regulation.

Sale with
a term.

134. Every instalment sale not conformable to the requirements of Division III of this chapter is a sale with a term which transfers to the consumer the ownership of the goods sold.

Provisions
prohibited.

135. Every provision

(a) intended to prevent the consumer from moving the goods within Québec without the permission of the merchant, or

(b) enabling the merchant to retake possession of the goods without the express consent of the consumer or the court, is prohibited.

Balance
exigible.

136. The balance of the sale price becomes exigible when the goods are sold by judicial authority or when the consumer conveys them to a third person without the merchant's consent.

Option
when con-
sumer in
default.

137. If the consumer is in default to perform his obligation in accordance with the terms and conditions of the contract, the merchant may

(a) exact immediate payment of the instalments due;

(b) exact, in the manner provided for in sections 104 and following, immediate payment of the balance of the debt if the contract contains a clause of forfeiture of benefit of term; or

(c) retake possession of the goods sold in the manner provided for in sections 138 and following.

Prior
notice.

138. Before exercising the right conferred by paragraph *c* of section 137, the merchant must send to the consumer a written notice drawn up in accordance with the form appearing in Schedule 6.

Delay.

139. The consumer may remedy the fact that he is in default or return the goods to the merchant within thirty days following receipt of the notice provided for in section 138.

Right
of repos-
session.

The right of repossession cannot be exercised until the expiry of a delay of thirty days after receipt of the notice by the consumer.

Consumer's
obligation
extinguish-
ed, etc.

140. If, following such notice, the voluntary return or forced repossession of the goods is effected, the contractual obligation of the consumer is extinguished and the merchant is not bound to return the amount of the payments already received.

One-half of
amount
paid, etc.

141. If, upon his default, the consumer has already paid at least one-half of the amount of the total obligation and of the down payment, the merchant cannot exercise his right of repossession unless he obtains the permission of the court.

Motion.

142. Such permission is applied for by a motion served on the consumer which must be heard and decided by preference.

Disposal of
motion.

The court shall dispose of such motion after taking into account the particulars mentioned in section 108.

Effect of
dismissal
of motion.

143. If the court dismisses the motion, it shall allow the consumer to retain the goods and it may change the terms and conditions of payment of the balance according to such conditions as it deems reasonable.

Risk of
loss, etc.

144. A consumer who retains the goods in accordance with section 143 assumes, from the judgment, the risk of loss or deterioration, even by fortuitous event.

Option of
merchant.

145. The merchant who opted for the recourse provided for in paragraph *b* of section 137 may, after the expiry of the delay of thirty days, avail himself of the recourse provided for in paragraph *c* of the same section.

Idem.

The merchant who opted for the recourse provided for in paragraph *c* of section 137 may, after the expiry of the delay of thirty days, avail himself of the recourse provided for in paragraph *b* of the same section.

Option of
consumer.

The consumer may then, at his option, before the expiry of a delay of thirty days after receipt of a second notice, either remedy the default or return the goods.

Consumer's
obligation
extinguish-
ed, etc.

If, following such second notice, the voluntary return or forced repossession of the goods is effected, the contractual obligation of the consumer is extinguished and the merchant is not bound to return the amount of the payments already received.

Variable
credit.

146. Instalment sales shall not involve variable credit.

Goods
covered.

147. The contract of sale by instalment must relate only to goods sold on the same day.

II. OTHER CONTRACTS INVOLVING CREDIT

Content of
writing.

148. A contract involving credit, other than a contract of sale by instalment, must reproduce the particulars provided for in Schedule 7, in addition to those prescribed by regulation.

DIVISION IV

CONTRACTS RELATING TO AUTOMOBILES

§ 1.—*General provisions*

Repair
warranty,
etc.

149. In the case of repairs under a warranty provided for by this act or under a conventional warranty:

(a) the merchant or the manufacturer shall assume the reasonable costs of towing or breakdown service, whether the towing or breakdown service is effected by the merchant, the manufacturer or a third person;

(b) the merchant or the manufacturer shall make the repairs and assume their cost or shall permit the consumer to cause the repairs to be made by a third person and shall assume their cost.

Subse-
quent pur-
chaser.

150. The merchant or the manufacturer is liable for the performance of a warranty provided for by this act or of a conventional warranty towards a subsequent purchaser of the automobile.

Parts and
labour
included.

151. The warranty provided for by this act includes parts and labour.

§ 2.—*Contracts of sale of used automobiles*

Label.

152. The merchant must affix a label on every used automobile that the offers for sale, at the place and in the manner prescribed by regulation.

Content.

153. The label must disclose:

- (a) the price at which the used automobile is offered;
- (b) the number of miles or kilometres showing on the odometer, and the number of miles or kilometres really covered by the automobile, if different from that indicated on the odometer;
- (c) the model year ascribed by the manufacturer, the serial number, the make, the model and the cubic capacity of the engine;
- (d) if such is the case, the fact that the automobile has been used as a taxi-cab, a drivers' school automobile, a police car, an ambulance, a leased automobile, an automobile for the customers or demonstrator and the identity of every business or of every public agency that owned the automobile or rented it on a long term basis;
- (e) every repair done on the used automobile since it has been in the possession of the merchant, if such is the case;
- (f) the class provided for in section 157;
- (g) the characteristics of the warranty offered by the merchant;
- (h) that a certificate of inspection of the vehicle issued in conformity with subsection 4 of section 23 of the Highway Code (Revised Statutes, 1964, chapter 231) will be remitted to the purchaser upon the signing of the contract; and
- (i) that the merchant must, at the request of the consumer, provide him with the name, occupation and telephone number of the last owner other than the merchant.

Label part
of contract.
Idem.

154. The label must be appended to the contract.

All that is disclosed on the label forms an integral part of the contract, except the price at which the automobile is offered and the specifications of the warranty, which may be changed.

Content of
writing.

155. The contract must be evidenced in writing and indicate:

- (a) the merchant's permit number;
- (b) the place and date of the contract;
- (c) the name and address of the consumer and of the merchant;
- (d) the price of the automobile; and
- (e) the specifications of the warranty.

Warranty.

156. The sale of a used automobile comprises a warranty of the good working order of the automobile and of its accessories:

- (a) for six months or 10 000 kilometres, whichever comes first, in the case of a class A automobile;

(b) for three months or 5 000 kilometres, whichever comes first, in the case of a class B automobile;

(c) for one month or 1 700 kilometres, whichever comes first, in the case of a class C automobile.

Classes of
used auto-
mobiles.

157. For the application of section 156, used automobiles are divided into the following classes:

(a) class A automobiles, namely, where not more than two years have elapsed between the date of marketing, by the manufacturer, of his automobiles of the same model and of the same model year, and the date of the sale contemplated in the said section, provided that the automobile has not covered more than 40 000 kilometres;

(b) class B automobiles, namely, where more than two years but not more than three years have elapsed between the date of marketing, by the manufacturer, of his automobiles of the same model and of the same model year, and the date of the sale contemplated in the said section, provided that the automobile has not covered more than 60 000 kilometres;

(c) class C automobiles, namely, where more than three years but not more than five years have elapsed between the date of marketing, by the manufacturer, of his automobiles of the same model and of the same model year, and the date of the sale contemplated in the said section, provided that the automobile has not covered more than 80 000 kilometres;

(d) class D automobiles, namely, automobiles not contemplated in any of paragraphs a, b and c.

Limitation
of
warranty.

158. The warranty provided for by section 156 does not cover:

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

(b) the upholstery or exterior decorative elements;

(c) damage as the result of abuse by the consumer after delivery of the automobile;

(d) clocks, radios, tape recorders, transmitters or receivers; and

(e) any other accessory specified by regulation.

Estimate
of defects.

159. Where the merchant offers a class A, B or C automobile for sale, he may indicate on the label all the defects of the automobile, with an estimate of the cost for their repair. The merchant is bound by the estimate and he guarantees that the repair may be carried out for the price mentioned in the estimate.

Defects not covered.

In that case, the merchant is not subject to the obligation of warranty for the defects mentioned on the label.

When effective.

160. The warranty is effective upon the delivery of the used automobile.

§ 3.—*Automobile repairs*

Repair defined.

161. For the purposes of this subdivision, repair means work carried out by a merchant on an automobile, except work provided for by regulation.

Written estimate required.

162. Before carrying out any repairs, the merchant must give the consumer a written estimate. The merchant cannot be released from this obligation without a waiver written in its entirety by and signed by the consumer.

Exception.

No estimate is required where the repairs are to be made free of charge to the consumer.

Charge for estimate.

163. A merchant cannot charge a price for making an estimate unless he advises the consumer of the price before undertaking to make the estimate.

Cost of re-assembly.

164. If, to make an estimate, it is necessary to disassemble an automobile or part of an automobile in whole or in part, the amount mentioned under section 163 must include the cost of re-assembling in the case where the consumer decides not to have the repairs carried out and the costs of labour and of the element required to replace an object that is not recuperable or re-usable that was destroyed during the disassembling.

Content of estimate.

165. The estimate must indicate:

(a) the name and address of the consumer and of the merchant;

(b) the make, the model and the registration number of the automobile;

(c) the nature and total price of the repairs to be done; and

(d) the part to be installed, specifying a new, used, re-tooled or reconditioned part.

Estimate binding on merchant.

166. The estimate accepted by the consumer is also binding on the merchant. No additional costs may be charged to the consumer for the repairs provided for in the estimate.

Repairs
not in-
cluded in
estimate.

167. The merchant shall not carry out repairs not provided for in the accepted estimate before obtaining the express authorization of the consumer.

Record of
verbal
estimate.

In the case where the merchant obtains a verbal authorization, he must record it in the estimate, indicating the date, the time, the name of the person who gave it and, where such is the case, the telephone number dialed.

Content
of bill.

168. When the merchant has carried out repairs, he must remit to the consumer a bill indicating:

(a) the name and address of the consumer and of the merchant;

(b) the make, the model and the registration number of the automobile;

(c) the repairs made;

(d) the part installed, specifying a new, used, re-tooled or reconditioned part and its price;

(e) the number of hours of labour charged, the hourly rate and the total cost of labour;

(f) the total of amounts the consumer must disburse under paragraphs *d* and *e*; and

(g) the specifications of the warranty.

Sub-
contractor.

169. Where repairs are carried out by a subcontractor, the merchant has the same obligation as if he had carried them out himself.

Parts
replaced.

170. The merchant must, if the consumer so requires when requesting the repairs to be made, remit to the consumer, when the latter takes delivery of his automobile, the parts that have been replaced, except:

(a) where the repairs are carried out without cost to the consumer;

(b) where the part is exchanged for a re-tooled or reconditioned part; or

(c) where the replaced part is the subject of a warranty contract under which the merchant must remit that part to the manufacturer or to the distributor.

Guarantee.

171. Repairs are guaranteed for three months or 5 000 kilometres, whichever comes first.

Abuse by
consumer.

172. The guarantee provided for in section 171 does not cover damage as a result of abuse by the consumer after the repairs.

Consumer's
recourse
not pre-
judiced.

173. The acceptance of the estimate or the payment of the consumer does not prejudice his recourse against the merchant for a price that is too high, bad workmanship or the absence of a prior authorization for the repairs.

Retention
of auto-
mobile.

174. Notwithstanding article 441 of the Civil Code, the merchant shall not retain possession of the consumer's automobile:

(a) if the merchant has omitted to give an estimate to the consumer before carrying out the repairs; or

(b) if the total price of the repairs exceeds the amount of the price indicated in the estimate and of the price agreed upon when the change was authorized.

Posting up
of placard.

175. A merchant who carries out automobile repairs must, in accordance with the requirements prescribed by regulation, post up in a conspicuous place in his establishment a placard informing consumers of the main provisions of this subdivision.

DIVISION V

REPAIR OF HOUSEHOLD APPLIANCES

Defini-
tions:

176. For the purposes of this division,

"household
appliance";

(a) "household appliance" means a kitchen range, a refrigerator, a clothes washer, a clothes dryer or a television set;

"repair".

(b) "repair" means work done by a merchant on a household appliance except work provided for by regulation.

Written
estimate
required.

177. Before making any repair, the merchant must supply the consumer with a written estimate. The merchant cannot be released from this obligation without a waiver written in its entirety by and signed by the consumer.

Exception.

No estimate is required where the repair is to be made free of charge to the consumer.

Content of
estimate.

178. Every estimate must indicate:

(a) the name and address of the consumer and of the merchant;

(b) a description of the household appliance; and

(c) the nature and the total price of the repair to be made.

Content
of bill.

179. When the repair has been made, every merchant must remit to the consumer a bill indicating:

(a) the name and address of the consumer and of the merchant;

- (b) a description of the household appliance;
- (c) the repair made;
- (d) the replaced part and its price;
- (e) the number of hours of labour billed, the hourly rate and the total cost for labour;
- (f) the total of the sums that the consumer must disburse under paragraphs *d* and *e*; and
- (g) the characteristics of the warranty.

Guarantee. **180.** Every repair is guaranteed for three months.

Provisions to apply. **181.** Sections 163, 166, 167, 169, 170, 172, 173 and 174 apply, *mutatis mutandis*, to the repair of household appliances.

DIVISION VI

LEASE OF SERVICES INVOLVING SEQUENTIAL PERFORMANCE

§ 1.—*General provisions*

Interpretation. **182.** For the purposes of this division, every person offering or providing any of the services referred to in section 183 is considered to be a merchant, except:

- (a) school corporations and the schools under their authority;
- (b) general and vocational colleges;
- (c) universities;
- (d) faculties, schools or institutes of a university that are administered by a corporation distinct from that which administers the university;
- (e) institutions declared to be of public interest in accordance with the Private Education Act (1968, chapter 67) for the subsidized teaching provided by them;
- (f) institutions recognized for purposes of grants in accordance with the Private Education Act (1968, chapter 67) for the subsidized teaching provided by them;
- (g) government departments and schools administered by the government or by one of the government departments;
- (h) municipal corporations;
- (i) professionals who are members of a professional corporation governed by the Professional Code (1973, chapter 43);

(j) persons and classes of persons who carry on an activity referred to in section 183 without demanding or receiving any remuneration, directly or indirectly, and

(k) persons and classes of persons specified by regulation.

§ 2.—*Principal contracts*

Applica-
bility.

183. This subdivision applies to contracts for the lease of services involving sequential performance, the object of which is

(a) to obtain instruction, training or assistance for the purpose of developing, maintaining or improving the health, appearance, skills, qualities, knowledge or the intellectual, physical or moral faculties of a person,

(b) to assist a person in establishing, maintaining or developing personal or social relations, or

(c) to grant a person the right to use goods to attain any of the purposes provided for in paragraph *a* or *b*.

Content of
writing.

184. The contract must be evidenced in writing and indicate:

(a) the name and address of the consumer and of the merchant;

(b) the place and date of the contract;

(c) a description of the object of the contract and the date on which the merchant is to begin the performance of his obligation;

(d) the term of the contract and the place where it is to be performed;

(e) the number of hours or days over which the services are distributed and the hourly or daily rate, as the case may be;

(f) the total sum that the consumer must disburse under the contract;

(g) the terms and conditions of payment; and

(h) any other particular prescribed by regulation or, where such is the case, by the Private Education Act or a statutory regulation under that act.

Form to be
appended.

The merchant must append to the duplicate intended for the consumer a form consistent with Schedule 8.

Rate to
remain
constant.

185. The hourly rate or the daily rate must be the same for the whole term of the contract.

Collection of payment. **186.** The merchant shall not collect any payment from the consumer before beginning to perform his obligation.

Terms and conditions of payment. The merchant shall not collect payment of the consumer's obligation in less than two approximately equal instalments. The date of payment of the instalments must be so fixed as to be situated approximately at the beginning of approximately equal periods of the term of the contract.

Dissolution of contract. **187.** The consumer may, at any time and at his discretion, dissolve the contract by sending the form provided for in section 184 or another written notice to that effect to the merchant. The contract is dissolved of right from the sending of the form or notice.

No cost, etc., to consumer. **188.** If the consumer dissolves the contract before the merchant has begun the performance of his principal obligation, the dissolution is effected without cost or penalty to the consumer.

Liability of consumer. **189.** If the consumer dissolves the contract after the merchant has begun the performance of his principal obligation, the only sums that the merchant may exact from him are:

(a) the price of the services rendered, computed on the basis of the hourly or daily rates stipulated in the contract, and

(b) as a penalty, the lesser of the following sums: \$50 and a sum representing not more than 10% of the price of the services that were not rendered.

Delay to remit. **190.** Within ten days from the dissolution of a contract, the merchant must remit to the consumer the sum of money he owes him.

§ 3.—*Accessory contracts*

Accessory contract. **191.** No merchant may make the entering into or the performance of the main contract dependent upon the consumer's entering into another contract.

Contract for lease. **192.** Where, upon the making or the performance of a principal contract, the consumer enters with the merchant into a contract for the lease of goods or services that would not otherwise be provided for in this division, such contract is governed by sections 184 to 190, *mutatis mutandis*.

Content of writing. **193.** Where, upon the making or the performance of a principal contract, the merchant sells goods to the consumer, he must remit to him a contract evidenced in writing setting forth:

(a) the name and address of the consumer and of the merchant;

(b) the place and date of the contract;

(c) a description of the object of the contract, including, where such is the case, the model year or other distinctive mark;

(d) the price in cash of each item of goods;

(e) any other particular prescribed by regulation.

Form to be
appended.

The merchant must append to the duplicate of the contract intended for the consumer a form consistent with Schedule 9.

Delay for
dissolution.

194. The consumer may, at his discretion, dissolve the contract contemplated in section 193 within ten days following the day the goods are delivered or the day the merchant begins the performance of his obligation under the principal contract, whichever occurs last.

Consumer's
option of
dissolution.

195. The consumer avails himself of his option of dissolution

(a) by returning the goods to the merchant;

(b) by returning to the merchant the form provided for in section 193; or

(c) by another written notice to that effect to the merchant.

Date of
dissolution.

The contract is dissolved of right from the return of the goods or the sending of the form or notice.

Delay to
return.

196. Within ten days following the sending of the form or notice, the parties must return to one another what they have received from each other.

Costs.

The merchant shall assume the costs of returning the goods.

Risk of
loss, etc.

The merchant shall assume the risk of loss or deterioration, even by fortuitous event, of the goods being the subject of the contract until the longer of the two terms contemplated in section 194 has expired.

Dissolution
of
accessory
contract.

197. Where a consumer dissolves a principal contract, he may also, even after the delay provided for in section 194 has expired, dissolve a contract contemplated in section 193 by returning the goods to the merchant within ten days following the dissolution of the first contract.

Limitation.

However, the consumer shall not dissolve a contract contemplated in section 193 if he has been in possession of the goods for a period of two months or a period equivalent to one-third of the term stipulated in the main contract, whichever is shorter.

Dissolution
prohibited.

198. Notwithstanding sections 194 and 197, the consumer shall not dissolve a contract contemplated in section 193 if, as a result of an act or a fault for which he is liable, he is unable to return the goods to the merchant in the condition in which he received them.

Provisions
not to
apply.

199. Sections 193 to 198 do not apply to a contract under which the total amount of the consumer's obligation does not exceed \$100.

TITLE II

BUSINESS PRACTICES

Prohibited
practice
defined.

200. Any practice contemplated in sections 204 to 236 constitutes a prohibited practice for the purposes of this title.

Represent-
ation
defined.

201. For the purposes of this title, representation includes an affirmation, a behaviour or an omission.

Use of
prohibited
practice.

202. The fact that a prohibited practice has been used is not dependent on whether or not a contract has been made.

Represent-
ation.

203. To determine whether or not a representation constitutes a prohibited practice, the general impression it gives, and, as the case may be, the literal meaning of the terms used therein must be taken into account.

False, etc.,
repre-
sentations.

204. No merchant, manufacturer or advertiser may by any means whatever, make false or misleading representations to a consumer.

Prohibited
practices.

205. No merchant, manufacturer or advertiser may, falsely, by any means whatever,

(a) ascribe certain special advantages to goods or services;

(b) hold out that the acquisition or use of goods or services will result in pecuniary benefit;

(c) hold out that the acquisition or use of goods or services confers or insures rights, recourses or obligations.

Id.,
respecting
quality,
etc. of
goods or
services.

206. No merchant, manufacturer or advertiser may, falsely, by any means whatever,

(a) hold out that goods or services include certain parts, components or ingredients;

(b) hold out that goods have a particular dimension, weight, size or volume;

(c) hold out that goods are of a specified standard;

(d) represent that goods are of a particular category, type, model or year of manufacture;

(e) hold out that goods are new, reconditioned or used to a specified degree;

(f) hold out that goods have particular antecedents and have been used for a particular purpose;

(g) ascribe certain characteristics of performance to goods or services.

Prohibited
practices.

207. No merchant, manufacturer or advertiser may, falsely, by any means whatever,

(a) hold out that goods or services are available for a determined reason;

(b) discredit goods or services offered by others;

(c) hold out that goods or services have been furnished;

(d) hold out that goods are made according to a determined mode of manufacture;

(e) hold out that goods or services are necessary in order to replace a part or make a repair;

(f) hold out that goods or services have a determined geographic origin;

(g) indicate the quantity of goods or services at his disposal.

Sale
price
must be
indicated.

208. A merchant must indicate the sale price clearly and legibly on all the goods or, if the goods are wrapped, on the wrapping of all the goods offered for sale in his establishment, subject to the regulations.

Prohibited
practices
respecting
price.

209. No merchant, manufacturer or advertiser may, by any means whatever,

(a) lay lesser stress, in an advertisement, on the price of a set of goods or services than on the price of any goods or services forming part of the set;

(b) subject to sections 229 to 232, disclose, in an advertisement, the amount of the instalments to be paid to acquire goods or to obtain a service without also disclosing the total price of the goods or services and laying the greater stress on such total price;

(c) demand, for goods or services, a price greater than that advertised.

Prohibited
practices.

210. No merchant, manufacturer or advertiser may, falsely, by any means whatever,

(a) invoke a price reduction;

(b) indicate a regular price or another reference price for goods or services;

(c) let it be believed that the price of goods or services is advantageous.

Refusal to
perform
warranty.

211. No merchant or manufacturer may refuse to perform the warranty granted by him on the pretext that the document evidencing it has not reached him or was not validated.

Prohibited
practices
respecting
warranty.

212. No merchant, manufacturer or advertiser may, by any means whatever, make false representations concerning the existence, the scope or the term of a warranty.

Failure to
mention
serious
factor.

213. No merchant, manufacturer or advertiser may fail to mention a serious factor in any representation made to a consumer.

Prohibited
practices
respecting
profit-
ability,
etc.

214. No person may, by any means whatever, make false representations concerning the profitability or any other aspect of a business opportunity offered to a consumer.

Prohibited
practices.

215. No merchant, manufacturer or advertiser may, by any means whatever,

(a) demand any sum whatever for any goods that he has sent to a consumer without the consumer's having ordered them;

(b) give charitable or philanthropic motives as a pretext for soliciting for the sale of goods or the lease of services.

Insufficient
quantity.

216. No merchant, manufacturer or advertiser may, by any means whatever, advertise goods or services of which he has an insufficient quantity to meet public demand unless mention is made in his advertisement that only a limited quantity of the goods or services is available and such quantity is indicated.

No
infraction.

The merchant, manufacturer or advertiser who establishes to the satisfaction of the court that he had reasonable cause to believe that he could meet public demand or who offered the consumer, for the same price, other goods of the same nature of an equal or greater cost price is not guilty of any infraction of this section.

Emphasis
on
premium.

217. No merchant, manufacturer or advertiser may, by any means whatever, put greater emphasis, in an advertisement, on a premium than on the goods or services offered.

"Premium"
defined.

"Premium" means any goods, services, rebate or other benefit offered or remitted with the sale of goods or the lease of services, which may be granted or obtained immediately or in a deferred manner, from the merchant, manufacturer or advertiser, either gratuitously or on conditions explicitly or implicitly presented as advantageous.

Terms and
conditions
for
obtaining
gift, etc.

218. No merchant, manufacturer or advertiser may offer a gift, a prize or a rebate on any goods in connection with a contest or a drawing without clearly disclosing all the terms and conditions for obtaining it.

Rebate for
cash,
etc.

219. No person may refuse to enter into agreement with a merchant, or terminate an agreement binding between him and a merchant, by reason of the fact that such merchant grants a rebate to the consumer who pays him cash or by negotiable instrument.

Rebate,
etc.,
dependent
on further
contract.

220. No person may, directly or indirectly, in a contract made with a consumer, make the granting of a rebate, payment or other benefit dependent upon the making of a contract of the same nature between that person or consumer and another person.

Pyramid
sale, etc.

221. The contract commonly called a sale by reference, a multiple level sale, a pyramid sale, or a chain sale and any other similar mode of sale is in particular contemplated in section 220.

Odometer
of auto-
mobile.

222. No person may alter the odometer of an automobile so as to cause it to show incorrectly the number of miles or kilometres covered by the automobile.

Odometer
replaced.

Where the odometer of an automobile is replaced, the owner of the automobile must indicate, in the place and manner prescribed by regulation, the number of kilometres covered by the automobile prior to the installation of the new odometer, which must indicate zero on being installed.

Prohibited
practices
respecting
status of
merchant,
etc.

223. No merchant, manufacturer or advertiser may, falsely, by any means whatever,

(a) hold out that he is certified, recommended, sponsored or approved by a third person, or that he is affiliated or associated with the latter;

(b) hold out that a third person recommends, approves, certifies or sponsors any goods or services;

(c) state that he has a particular status or identity.

Distortion
of
meaning,
etc.

224. No merchant, manufacturer or advertiser may, by any means whatever,

(a) distort the meaning of any information, opinion or testimony;

(b) found representations on data or analyses falsely presented as scientific.

Permit,
etc., no
proof of
compe-
tence, etc.

225. No person may invoke the fact that he holds a permit or has made a deposit required by this act or a regulation or is the representative of a person holding a permit or having made a deposit required by this act or a regulation, to hold out that his competence, solvency, conduct or operations are recognized or approved.

Advertise-
ment
respecting
permit,
etc.

226. No person may invoke in any advertisement the fact that he holds a permit or has made a deposit required by this act or a regulation, or that he is the representative of a person who holds a permit or has made a deposit required by this act or a regulation.

Identity
of
merchant.

227. No merchant may fail to mention his identity, and the fact that he is a merchant, in any advertisement.

Address of
estab-
lishment.

228. No merchant or manufacturer may, in any advertisement of goods or services offered to the consumer, give a post office box as his address without mentioning at least the address of his establishment in Canada.

Advice on
credit
offered.

229. No person may in any advertisement of goods or services, advise consumers of the credit offered to them except to mention the availability of credit in the manner prescribed by regulation.

Urging
consumers
to use
credit.

230. No person may, in any advertisement concerning credit, urge consumers to obtain goods or services on credit or illustrate goods or services.

Credit
charges.

231. No person may make use of advertising regarding credit unless it includes the credit charges computed and presented in the manner prescribed by regulation.

Terms and
conditions
of credit.

232. No person may make use of advertising regarding the terms and conditions of credit, except the credit rate, unless such advertising includes the particulars prescribed by regulation.

Advertis-
ing for
persons
under 13.

233. No person may make use of commercial advertising intended for persons under thirteen years of age.

Criteria
of intent.

234. To determine whether or not an advertisement is intended for persons under thirteen years of age, account must be taken of the context of its presentation, and in particular of

(a) the nature and destination of the goods advertised;

(b) the manner of presenting such advertisement;

Presump-
tion.

(c) the time and place it is shown.

The fact that such advertisement may be contained in printed matter intended for persons thirteen years of age and over or intended both for persons under thirteen years of age and for persons thirteen years of age and over, or broadcast during air time intended for persons thirteen years of age and over or intended both for persons under thirteen years of age and for persons thirteen years of age and over does not create a presumption that it is not intended for persons under thirteen years of age.

Advertise-
ment
respecting
govern-
ment
cheques,
etc.

235. No person shall advertise that a merchant exchanges or accepts as payment cheques or other orders to pay delivered by the government of Québec, that of Canada or a municipal corporation.

No charge
for
exchange
of govern-
ment
cheques,
etc.

236. No person shall demand any charge for the exchange or cashing of a cheque or other order to pay delivered by the government of Québec, that of Canada or a municipal corporation.

"to
advertise"
or "to
make use of
advertis-
ing".

237. For the purposes of sections 216, 231, 232, 233 and 235, "to advertise" or "to make use of advertising" means to prepare, utilize, distribute, publish or broadcast an advertisement, or to cause it to be distributed, published or broadcast.

Presump-
tion.

238. Where a merchant, manufacturer or advertiser makes use of a prohibited practice referred to in paragraph *a* or *b* of section 205, *a*, *b*, *c*, *d* or *e* of section 206, *d*, *e* or *f* of section 207, or *c* of section 209 or in section 213, 222 or 224, it is presumed that had the consumer been aware of such practice, he would not have agreed to the contract or would not have paid such a high price.

Contract
annulled,
etc.

In such a case, the consumer may demand that the contract be annulled, or that his obligations under it be reduced.

TITLE III

TRUST ACCOUNTS

Placing of
sum in
trust
account.

239. Every merchant who receives a sum of money from a consumer before the making of a contract must place that sum in a trust account until the sum is repaid to the consumer on demand, or the contract is made.

Placing of
sum in
trust
account.

240. Every merchant who collects a sum of money from a consumer under a contract contemplated in section 55 must place that sum in a trust account until the delay provided in section 58 has expired or the contract is dissolved by virtue of that section.

Idem.

241. Where a merchant receives a sum of money from a consumer pursuant to a contract under which the principal obligation of the merchant is performed more than two months after the said contract was made, he must place that sum in a trust account until the performance of his principal obligation.

One
account
only.

242. The merchant shall, at all times, have only one trust account in a chartered bank or other institution authorized by law to receive deposits, to keep the sums of money contemplated in sections 239 to 241.

President
to be
informed.

From the time the account is opened, he must inform the president of the place where such account is kept and the number of such account.

Accounting
items.

243. Every merchant must enter in his books or registers the appropriate accounting items in regard to the amounts he receives from a consumer and that he must place in trust under sections 239 to 241.

Account
to be
rendered.

The merchant must, on demand of the consumer, render account of every sum he has received from him.

Liability
of
directors.

244. Where the merchant is a corporation, each director is jointly and severally liable with the corporation for the sums which must be placed in a trust account in accordance with sections 239 to 241, unless the director establishes his good faith.

TITLE IV

PROOF, PROCEDURE AND PENALTIES

CHAPTER I

PROOF AND PROCEDURE

Deroga-
tion.

245. No person may derogate from this act by private agreement.

Waiving of
rights.

246. No consumer may waive the rights granted to him by this act unless otherwise provided herein.

Proof by
testimony.

247. Notwithstanding article 1234 of the Civil Code, every consumer may make proof by testimony, even to contradict or vary the terms of a writing, to establish that this act has not been complied with.

Value.

248. Every document certified true to the original by the president, the vice-president or any person empowered under this act to conduct an investigation is receivable as proof and has the same value as the original.

Authenticity of minutes, etc.

249. The minutes of the sittings of the Office certified true by the president or the vice-president are authentic. The same rule applies to documents or copies emanating from the Office or forming part of its records when they are signed by the president or the vice-president of the Office.

Exemption from security.

250. The Procureur général and the president are exempt from the obligation to give security in order to obtain an injunction under this act.

Motion for contempt of court.

251. Where an injunction granted under this act is not complied with, a motion for contempt of court may be presented before the court of the place where the contempt was committed.

Same language as contract.

252. Every notice given by a merchant under this act must be drawn up in the same language as the contract to which it refers.

Computing delays.

253. In computing any delay provided for by any act or regulation the application of which must be supervised by the Office,

(a) the day which marks the start of the delay is not counted, but the terminal day is counted;

(b) non-juridical days are counted; but when the last day is a non-juridical day, the delay is extended to the next following juridical day;

(c) Saturday, 2 January and 26 December are considered non-juridical days.

Provisions additional.

254. The provisions of this act are additional to any provision of another act granting a right or a recourse to a consumer.

CHAPTER II

CIVIL RECOURSES

Annulment of contract.

255. If any rule provided in sections 25 to 28 governing the making of contracts is not observed or if a contract does not conform to the requirements of this act or the regulations, the consumer may demand to have the contract annulled.

Contract of credit.

In the case of a contract of credit, if any of the terms and conditions of payment, or the computation or any indication of the

credit charges or the credit rate does not conform to this act or the regulations, the consumer may at his option demand to have the contract annulled or demand to have the credit charges cancelled and to be reimbursed all or part of the credit charges already paid.

Consumer's
demand
granted.

The court shall grant the demand of the consumer unless the merchant shows that the consumer was not injured by the fact that one of the above mentioned rules or requirements was not respected.

Merchant,
etc., at
fault.

256. If the merchant or the manufacturer fails to fulfil an obligation imposed on him by this act or the regulations regarding a contract, the consumer may demand, as the case may be, unless this act provides other recourses,

(a) the specific performance of the obligation;

(b) the authorization to have it performed at the merchant's or manufacturer's expense;

(c) that his obligations be reduced;

(d) that the contract be rescinded;

(e) that the contract be cancelled, or

(f) that the contract be annulled;

without prejudice to his claim for damages, in all cases. He may also claim exemplary damages.

Prescrip-
tion.

257. Subject to the prescriptions of sections 258 and 259, an action based on this act is prescribed by three years reckoning from the making of the contract.

Idem.

258. An action based on section 36, 37 or 52 of this act is prescribed by five years reckoning from the making of the contract.

Idem.

259. An action based on the warranty provided for in section 156, 171 and 180 of this act is prescribed by three months reckoning from the discovery of the defect.

Consumer
may
invoke ex-
ception,
etc.

260. The consumer may invoke in his defence or cross-demand an exception provided by this act which tends to rebut an action or indicate a right although the delay to avail himself thereof by a direct action has expired.

CHAPTER III

OFFENCES AND PENALTIES

Offences.

261. Every person who

(a) contravenes this act or any regulation;

(b) gives false information to the Minister, the president or any person empowered to make an investigation under this act;

(c) hinders the application of this act or of any regulation;

(d) does not conform to a voluntary agreement subscribed under section 299;

(e) does not comply with an order or decision of the president;

(f) being subject to an order of the court under section 272, omits or refuses to conform to such order,
is guilty of an offence.

Penalties.

262. Every person other than a corporation who is guilty of an offence constituting a prohibited practice or who infringes paragraph *b*, *c*, *d*, *e* or *f* of section 261 is liable

(a) for the first offence, to a fine of two hundred dollars to five thousand dollars;

(b) for a subsequent offence to the same provision of this act or a regulation committed within a period two years, to a fine of four hundred dollars to ten thousand dollars, to imprisonment for not more than six months, or to both a fine and imprisonment.

Corporation.

A corporation guilty of an offence contemplated in the preceding paragraph is liable to a minimum fine five times greater and to a maximum fine ten times greater than those provided for in the preceding paragraph.

Penalties.

263. A person other than a corporation who is guilty of an offence other than an offence contemplated in section 262 is liable

(a) for the first offence, to a fine of one hundred to two thousand dollars;

(b) for a subsequent offence to the same provision of this act or a regulation committed within a period of two years, to a fine of two hundred dollars to four thousand dollars.

Corporation.

A corporation guilty of an offence contemplated in the preceding paragraph is liable to a minimum fine five times greater and to a maximum fine ten times greater than those provided for in the preceding paragraph.

Criteria
for deter-
mination
of fine.

264. In determining the amount of the fine, the court shall take into account, in particular,

(a) first, the financial prejudice caused by the offence to a consumer or to several consumers;

(b) secondly, the income that the person who committed the offence derived from committing the offence.

Seizure
and sale.

265. If a condemnation provides for a fine, the court, after ordering the payment of that sum, with or without costs, may order that on failure to pay immediately or within a delay determined by him, that fine, and, where such is the case, costs shall be recovered by seizure and sale of the moveable property and effects of the defendant.

Directors,
etc.,
deemed
party to
offence,
etc.

266. Where a corporation commits an offence against this act or any regulation, every director or representative of such corporation who had knowledge of the said offence is deemed to be a party to the offence and is liable to the penalty provided for in section 262 or 263 for a person other than a corporation, unless he establishes to the satisfaction of the court that he did not acquiesce in the commission of such offence.

Complicity.

267. Every person who performs or omits to perform an act in view of aiding a person to commit an offence against this act or a regulation or who advises, encourages or incites a person to commit an offence is guilty of the offence himself and is liable to the same penalty.

Proceed-
ings.

268. Proceedings under this act are instituted by the Procureur général or a person generally or specially authorized by him for such purpose. The Summary Convictions Act (Revised Statutes, 1964, chapter 35) applies to such proceedings.

Presump-
tion.

269. The filing of a complaint is proof of the signature of the person authorized to make it.

Subse-
quent
offence.

270. The filing of a previous judgment convicting an accused under this act is a presumption that the offence complained of is a subsequent offence.

Error in
good
faith.

271. Penal proceedings instituted against a merchant or an advertiser under Title II shall not be maintained if it is established that the offence alleged was committed only because the accused had reasonable grounds to rely on information given by the merchant or, as the case may be, the manufacturer.

Judgment,
etc., com-
municated
to con-
sumers.

272. The court convicting a person accused of an offence provided for in section 262, may in addition, on the motion of the

person suing, order that the offender distribute, in accordance with the terms and conditions which the court considers proper to ensure a prompt and adequate communication to consumers, the findings of the judgment rendered against him, and the corrections, explanations, warnings and other information which the court considers necessary to restore the facts concerning any goods or services or any advertisement made in relation to any goods or services which have or could have induced consumers into error.

Written
report
from
Office.

273. Where a person pleads guilty or is found guilty of an offence provided for in section 262, the court may request from the Office a written report on the financial and commercial activities of the offender, in order to enable it to impose a sentence.

Inter-
locutory
injunction.

274. If a person commits repeated offences against this act or the regulations, the Procureur général, after having instituted penal proceedings against him, may apply to the Superior Court for a writ of interlocutory injunction enjoining such person, his officers, representatives or employees to cease committing the offences complained of until a final judgment has been rendered in the penal proceedings.

Final
judgment.

After such judgment has been rendered, the Superior Court shall itself render a final judgment on the application for an injunction.

TITLE V

ADMINISTRATION

CHAPTER I

OFFICE DE LA PROTECTION DU CONSOMMATEUR

DIVISION I

ESTABLISHMENT AND ADMINISTRATION OF THE OFFICE

Office es-
tablished.

275. An agency is established under the name of "Office de la protection du consommateur".

Duties.

276. The duties of the Office are to protect the consumer and, to that end,

(a) to supervise the application of this act and of any other act under which such supervision is devolved upon it;

(b) to receive the complaints of consumers;

(c) to educate and inform the population on matters of consumer protection;

(d) to carry out studies respecting consumer protection and where required, make recommendations to the Minister;

(e) to promote and subsidize the establishment and development of consumer protection services or agencies and to cooperate with such services and agencies;

(f) to make manufacturers, merchants and advertisers aware of consumer needs and demands;

(g) to promote the interests of consumers before those governmental agencies whose activities affect consumers;

(h) to evaluate goods and services offered to consumers;

(i) to cooperate with the various government departments and agencies of Québec in matters of consumer protection and to coordinate the work done by such departments and agencies for such purpose;

(j) to create, by regulation, consumer protection regional advisory councils for the regions designated by it, to determine their composition, functions, duties and powers, and their administrative modes and procedures, and to provide emoluments to their members.

Head
office.

277. The Office has its head office at the place determined by the Government; notice of the place or, of a change of place of the head office is published in the *Gazette officielle du Québec*.

Place of
sittings.

The Office may hold its sittings at any place in Québec.

Composi-
tion.

278. The Office is composed of not more than fifteen members including the president and the vice-president, all appointed by the Government.

Members.

The members of the Office shall be persons who, by reason of their activities, are likely to contribute in a particular manner to the solution of consumer problems.

Term of
office.

279. The president and the vice-president are appointed for not more than five years. The other persons chosen as members of the Office are appointed for a term of not more than three years.

Continu-
ance.

280. Each of the members of the Office, including the president and vice-president, shall remain in office at the expiry of his term, until he is replaced or reappointed.

Replace-
ment of
member.

281. If a member of the Office other than the president and vice-president does not fill out his term of office, the Government shall appoint a person to replace him for the remainder of the term.

Fees, etc.

|| **282.** The Government shall fix the fees, allowances or salary of the members of the Office. ||

Appoint-
ment etc.,
of
personnel. [[**283.** The other functionaries and employees of the Office
are appointed and remunerated in accordance with the Civil
Service Act (1965, 1st session, chapter 14).]]

Powers of
president. The president shall exercise in that regard the powers vested
by the said act in the deputy-heads of departments.

No
plurality. **284.** The president and vice-president shall exercise their
functions on a full time basis.

Duties of
president. **285.** The president presides the meetings of the Office. He
is responsible for the administration of the Office.

Replace-
ment of
president. **286.** If the president is unable to act, he is replaced by the
vice-president.

Annual
report. **287.** The Office shall each year send to the Minister a re-
port of its activities for the preceding fiscal year. The Minister
shall table such report in the Assemblée nationale if it is sitting
or, if it is not, within thirty days after the opening of the next
session or after resumption.

By-laws. **288.** The Office may pass internal management by-laws.

Approval. These by-laws and the regulations made pursuant to para-
graph *j* of section 276 come into force, after being approved by
the Government, on their publication in the *Gazette officielle du*
Québec or on any later date indicated therein.

DIVISION II

POWERS OF THE PRESIDENT

Powers of
investi-
gation,
etc. **289.** The president may investigate any matter respecting
the application of the laws and regulations the application of
which the Office must supervise. For such purpose, he has the
powers and immunity granted to commissioners appointed under
the Public Inquiry Commission Act (Revised Statutes, 1964,
chapter 11).

Authoriza-
tion to
investigate,
etc. The president may authorize a person generally or specially
to investigate any matter relating to any law or regulation the
application of which the Office must supervise. Every person so
authorized is vested with the immunity granted to commissioners
appointed under the Public Inquiry Commission Act (Revised
Statutes, 1964, chapter 11). Such person must, on demand, pro-
duce a certificate signed by the president, attesting his authority.

Delega-
tion of
powers. **290.** The president may authorize the vice-president to ex-
ercise all the powers granted to the president under this act.

Idem. **291.** The president may authorize a person generally or
specially to exercise the powers that are conferred upon him by
sections 292, 298, 299 and 300.

Inspection
during
investiga-
tion, etc.

292. In making an investigation, the president may

(a) enter and inspect the establishment of a merchant, a manufacturer or an advertiser at any reasonable hour; such an inspection may include the examination of the registers, books, accounts, vouchers and other documents and the goods offered for sale or sold by the merchant and the taking of specimens for the purposes of expert appraisal;

(b) require any information relating to the application of this act or the regulations, and the production of any document connected therewith.

Receivable
as
evidence.

Every book, register or other document having been examined by the president or produced to him may be copied or photographed and every copy or photocopy of such book, register or document certified by the president to be a copy or photocopy of the original is receivable as evidence and has the same value as the original.

Prohibi-
tion.

293. It is prohibited to hinder the action of the president in any way or any person authorized by him in the performance of his duties, to mislead him by concealment or misrepresentation, to refuse to give him any information or document which he is entitled to obtain under this act, or to hide or destroy a document or any other object relating to the investigation.

Exemp-
tion.

294. The president may exempt from the application of sections 239 to 242 every merchant who delivers to him security for an amount equal to 125% of the sums that should have been kept in trust for the twelve months preceding the application for exemption, as determined by a public accountant after auditing the merchant's books. The security is valid for one year.

Refusal of
exemp-
tion.

The president may refuse the exemption on grounds provided for in section 308, 309 or 310, *mutatis mutandis*.

Exemp-
tion.

295. The president may exempt from the application of section 22 every merchant who delivers to him a deposit the form, terms, conditions and amount of which are prescribed by regulation.

Refusal of
exemp-
tion.

The president may refuse the exemption on grounds provided for in section 308, 309 or 310, *mutatis mutandis*.

Application
for in-
junction.

296. Where the president has reason to believe that the funds that must be kept in trust in accordance with sections 239, 240 and 241 may be misappropriated, he may apply for an injunction ordering any person in the province of Québec having the deposit, control or custody of such funds to keep them in trust for the period and on the conditions determined by the court.

Communi-
cation of
informa-
tion.

297. The president may require that a merchant who makes contracts of credit contemplated by this act communicate to him, in accordance with the terms and conditions of form and time prescribed by regulation, any information relating to the credit rates the merchant exacts from consumers and to the criteria used to establish such rates.

Informa-
tion public.

The president may make public any such information.

Order.

298. Where the president has reason to believe that a person has contravened or is contravening any law or regulation the application of which the Office must supervise, he may, as the case may be, order such person to comply with the law or regulation in question.

Voluntary
under-
taking.

299. Where the president has reason to believe that a person has contravened or is contravening any law or regulation the application of which the Office must supervise, he may accept a voluntary undertaking from such person to comply with the law or regulation in question.

Terms and
conditions.

300. The president shall determine the terms and conditions regarding voluntary undertakings, which may provide in particular for

(a) the publication or distribution of the content of the voluntary undertaking;

(b) the indemnification of consumers;

(c) the reimbursement of the costs of investigation and any other expenses;

(d) the obligation to give security or another form of guarantee to indemnify consumers.

Applica-
tion for
injunction.

301. Where a person has used or is using a prohibited practice contemplated in Title II, the president may apply to the court for an injunction ordering that person to abstain from using such practice.

Court
order.

302. The court may, in addition, order the person who is the subject of a permanent injunction

(a) to reimburse the costs of investigation incurred by the applicant;

(b) to publish and distribute, in the manner and on the conditions which the court considers appropriate for the insurance of prompt and adequate communication to consumers, the findings of the judgment rendered against him, and the corrections, explanations, warnings and other information that the court considers necessary to restore the facts concerning any goods or ser-

vices or any advertising done in relation to any goods or services that have or could have induced consumers into error.

President
may
intervene.

303. In any action relating to any law or regulation the application of which must be supervised by the Office, the president may intervene, of right, at any time before the judgment.

CHAPTER II

PERMITS

Permit
holders.

304. The following persons must hold a permit:

(a) every itinerant merchant, except the itinerant merchant who makes a contract contemplated in section 56;

(b) every merchant who sells used automobiles; and

(c) every merchant who makes contracts of loan of money governed by this act.

Application
for annul-
ment.

305. Where the merchant does not hold the permit required by this act, a consumer may apply to have the contract annulled.

Contract
for loan of
money.

In the case of a contract for the loan of money, the consumer may apply instead, at his option, for the suppression of the credit charges and the return of any part of the credit charges already paid.

Application
for
permit.

306. Every person wishing to obtain a permit must send his application to the president in the form prescribed by regulation, together with the documents prescribed by regulation.

Security.

Such application must, in the cases provided for by regulation, be accompanied by security in the amount and form prescribed therein.

Itinerant
merchants.

307. Where several itinerant merchants deal in the goods or services of the same merchant or the same manufacturer, the latter may apply in their place and stead for an itinerant merchant's permit.

Presump-
tion.

In such a case, the itinerant merchants carrying on business in the goods and services of the applicant are, for the purposes of this act, deemed to be his representatives in the carrying on of that business.

Refusal of
permit.

308. The president may refuse to issue a permit in the following cases:

(a) the applicant, by reason of his financial condition, is not in a position to assume the obligations arising from his business;

(b) the applicant cannot establish, to the satisfaction of the president, his honesty and competence;

(c) the name of the partnership or corporation applying for the permit is identical to that of another partnership or corporation holding a permit, or so resembles it that it may be mistaken for it; or

(d) the applicant does not meet a requirement prescribed by this act or by regulation.

Corpora-
tion, etc.

309. If the applicant is a corporation or a partnership, the president may require every director or partner thereof to comply with the same requirements as those prescribed by this act in respect of any person applying for a permit.

Refusal of
permit.

310. The president may refuse to issue a permit to any applicant who, during the three years preceding his application, was found guilty of

(a) an offence against any law or regulation the application of which must be supervised by the Office, or

(b) an indictable offence.

Suspension,
etc., of permit.

311. The president may suspend or cancel the permit of any holder who, during the term of the permit, has been found guilty of

(a) an offence against any law or regulation the application of which must be supervised by the Office, or

(b) an indictable offence.

Idem.

312. The president may suspend or cancel the permit of any holder who, during the term of his permit, no longer meets the requirements prescribed by this act or the regulations for the issuance of a permit.

Establish-
ment in
Québec.

313. Every holder of a permit must have an establishment in Québec.

Idem.

Such establishment must be situated in an immovable or part of an immovable in which the holder carries on business and of which he is the owner or lessee.

Notice of
change.

314. Every holder of a permit must notify the president within fifteen days of any change

(a) of address;

(b) of name or firm name;

(c) of directors or officers, in the case of a corporation; or

(d) of partners, in the case of a partnership.

Misrepresentation,
etc.

315. The president may refuse to issue and may suspend or cancel a permit by reason of the fact that an applicant or holder made misrepresentations or distorted an important fact when he applied for a permit.

Hearing.

316. The president, before refusing to issue a permit to a person or before suspending or cancelling the permit he has issued to him, must give such person an opportunity to be heard.

Written
notice of
decision.

317. Any decision refusing to issue, suspending or cancelling a permit must give the reason therefor. The president must give written notice of his decision to the person concerned.

Validity,
etc.

318. Every permit is valid for two years. It is renewed on the conditions prescribed by this act and the regulations.

Idem.

The president may however issue a permit for a shorter period if he deems that the public interest is at stake or for administrative reasons.

Bankruptcy.

319. If a permit holder becomes bankrupt, the trustee in bankruptcy who continues the business of the holder does so under the same permit and security. In such case, he is subject to all the obligations imposed on such holder by this act and by regulation.

Transfer
of permit.

320. The rights conferred by a permit cannot be transferred except in the case of the death of the holder of such permit. In such case, the president may authorize the transfer upon payment of the duties exigible and on the conditions prescribed by this act and by regulation.

Use of
security.

321. In accordance with the terms and conditions prescribed by regulation, the security shall be used first to indemnify any consumer who has a claim against the person who gave the security or his representative, then to pay any fine imposed on him.

CHAPTER III

APPEALS

Appeal.

322. Every person whose application for a permit has been dismissed by the president or whose permit has been suspended or cancelled by the president may appeal to the Provincial Court from the decision of the president.

Idem.

An appeal also lies to the Provincial Court from any order made pursuant to section 298.

Motion.

323. The appeal is brought by a motion filed in the office of the Provincial Court at the chief place of the judicial district of the domicile or establishment of the applicant and served on the president within fifteen days following receipt by the applicant of the order or decision of the president.

Record
sent to
Provincial
Court.

324. Upon service of such motion, the president shall send to the Provincial Court the record relating to the order or decision the review of which is applied for.

Decision.

The court must render its decision on the record transmitted to it by the president.

Additional
evidence.

325. The court may also, in exceptional circumstances, and where required for the purposes of justice, authorize the presentation of additional documentary or oral evidence.

Authoriza-
tion.

The application for an authorization is made by a written and sworn motion; it is presented to the court for adjudication after the adverse party is notified.

Examina-
tion, etc.,
of
witnesses.

If the motion is granted, each party may examine and cross-examine the summoned witnesses and state his arguments.

Execution
of order,
etc.,
despite
appeal.

326. The appeal does not suspend the execution of the order or decision of the president, unless the court orders otherwise. In order to determine whether or not to suspend execution of the order or decision, the court shall principally consider the interests of the consumer.

Notice of
hearing.

327. The court, in the manner it considers appropriate, shall notify the parties at least five days in advance, of the date, time and place where they may be heard.

Absence,
etc., of
party.

328. If a party so convened fails to appear or refuses to be heard at the sitting held for such purpose, or at any resumption of such sitting, the court may proceed *ex parte*.

Privileges,
etc., of
witnesses.

329. Every witness has the same privileges and immunity as a witness before the Superior Court, and articles 307 to 310 of the Code of Civil Procedure apply in respect of such witness, *mutatis mutandis*.

Decision
of court.

330. The court may confirm, amend or quash any order or decision submitted to it and issue the order that it considers should have been issued or render the decision that should have been rendered.

Judgment
in writing
and
reasons
given.

331. The judgment must be recorded in writing. Such writing shall contain, in addition to the findings, a statement of the reasons on which the judgment is based.

Certified
copies to
parties.

332. A certified copy of the judgment shall be sent forthwith by registered mail to each of the parties.

CHAPTER IV

REGULATIONS

Regulatory
powers.

333. The Government may make regulations

(a) determining the content and physical presentation and the terms and conditions of distribution or remittance of all contracts, statements of account or other documents contemplated by the laws and regulations the application of which must be supervised by the Office;

(b) establishing models for contracts or other documents contemplated by the laws and regulations the application of which must be supervised by the Office;

(c) determining standards for instructions respecting the maintenance or use of goods, packing, labelling or presentation of goods and the disclosure of the price of goods or services;

(d) determining standards of quality, safety and warranty for goods or services;

(e) determining the nature of the costs that may be imposed on a consumer in the case of non-performance of his obligations;

(f) determining the terms and conditions of disclosure of the period during which a warranty is valid;

(g) determining the rules respecting the terms and conditions of calculation and disclosure of the conditions of payment, the credit rate and credit charges in a contract, an example chart or other document or in advertising;

(h) identifying the contracts that constitute contracts made by an itinerant merchant;

(i) determining the conditions of renewal or extension of credit or those of credit resulting from a consolidation of debts;

(j) determining the terms and conditions of form and time according to which the information that may be required by the president from a merchant making contracts of credit are to be forwarded to him;

(k) determining the content, the physical presentation and the place of labels or placards required by this act;

(l) identifying the accessories of a used automobile that are not covered by the warranty established by this act;

(m) determining the work that does not constitute repairs within the meaning of this act;

(n) determining rules for the advertising of contracts, goods, services, warranties, credit or the terms and conditions of credit or for advertising in which the availability of credit is mentioned;

(o) determining the cases where security may be required, the form, terms and conditions and amount of the security and the manner of disposing of the security in case of cancellation or confiscation or for the indemnification of a consumer or the recovery of a fine;

(p) fixing the terms and conditions according to which the distance covered by an automobile before a new odometer is installed is to be indicated;

(q) determining the qualifications required of any person applying for a permit or the renewal of a permit, or in the case provided for in section 320, the transfer of a permit, the conditions he must fulfil, the information and documents he must furnish and the duties he must pay;

(r) determining standards, conditions and modes and procedures for the receipt and keeping of sums deposited in trust;

(s) establishing rules for the keeping of merchant's registers, accounts, books and records to the extent that consumer protection is involved;

(t) exempting, in whole or in part, from the application of this act, any class of persons, goods, services or contracts that it determines.

Notice of
draft reg-
ulation.

334. No draft regulation may be adopted unless it is preceded by a notice of thirty days published in the *Gazette officielle du Québec*. Such prior notice must reproduce the text of the draft.

Coming
into force.

A regulation comes into force on the day of publication in the *Gazette officielle du Québec* of a notice stating that it has been approved by the Government, and, where amended by the latter, of its final text.

TITLE VI

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Minister
respon-
sible.

335. The Minister has charge of the carrying out of this act.

1971, c. 74,
replaced.

336. This act replaces the Consumer Protection Act (1971, chapter 74), except sections 84 to 88 of the act, which are repealed.

Interpre-
tation.

337. In any act, proclamation, order in council, contract or document, a reference to the Consumer Protection Act replaced by this act, is deemed a reference to this act or to the equivalent provision of this act.

Director,
etc., of
Bureau.

338. The director, assistant director and other officers of the Bureau established by virtue of section 76 of the Consumer Protection Act replaced by this act, in office on the day this act comes into force, become, without other formality, the president, vice-president and officers of the Office established by this act.

Permits
remain in
force.

339. Permits issued under the Consumer Protection Act replaced by this act remain in force until their date of expiry pursuant to the act so replaced, whereupon they are renewed in accordance with this act.

Regula-
tions
remain in
force.

340. The regulations made by the Government by virtue of the Consumer Protection Act remain in force, to such extent as they are consistent with this act, until they are repealed, or until they are amended or replaced by regulations made by virtue of this act.

Proceed-
ings con-
tinued.

341. Proceedings instituted under the Consumer Protection Act are continued, as are contraventions to and prescriptions begun under the said act, and these, respectively, shall be prosecuted or are completed under the said act.

1968, c. 67,
s. 62a,
added.

342. The Private Education Act (1968, chapter 67) is amended by inserting after section 62, the following section:

Provisions
not to
apply.

“62a. Sections 59 to 62 do not apply to contracts governed by the Consumer Protection Act (1978, chapter *insert here the chapter number of Bill 72*).”

Appropri-
ations trans-
ferred.

[[343. Appropriations for the carrying out of the Consumer Protection Act shall be transferred to enable the carrying out of this act.

Supple-
mentary
appropria-
tions, etc.

Supplementary appropriations for the carrying out of this act for the fiscal year 1978/1979 and the appropriations for the fiscal year 1979/1980 shall be taken out of the consolidated revenue fund.

Subse-
quent
appropria-
tions.

For subsequent fiscal years, the appropriations shall be taken out of the moneys granted each year by the Legislature.]]

Coming
into force.

344. This act will come into force on the date to be fixed by proclamation of the Government, except any provisions excluded by that proclamation, which will come into force on any later date that may be fixed by proclamation of the Government.

SCHEDULE 1

CANCELLATION FORM

(CONSUMER PROTECTION ACT, S. 57)

To:
(name of itinerant merchant or his representative)

.....

.....
(address of itinerant merchant or his representative)

Date:
(date of sending of this form)

By virtue of section 58 of the Consumer Protection Act,
 I cancel the contract (No.....)
(number of the contract if indicated)

made at
(date when the contract was made) (place where the contract was made)

.....
(name of consumer)

.....
(signature of consumer)

.....

.....
(address of consumer)

for a total amount of \$. at this date.
(amount due)

Consequently, if the consumer does not remedy his default by paying the amount due within thirty days of receiving this notice, the balance of the total obligation, in the amount of \$ shall become payable at that time.

The consumer may, however, by motion, petition the court to change the terms and conditions of payment or, in the case of a contract involving credit, to be authorized to return the goods sold to the merchant.

Such motion must be served and filed in the office of the court within thirty days after the consumer receives this notice.

The consumer is advised to examine his contract and, if further information is necessary, to contact the Office de la protection du consommateur.

.....
(name of merchant)

.....
(signature of merchant)

- | | | |
|---|---------|---------|
| 1. Net capital | | \$..... |
| 2. Interest | \$..... | |
| 3. Insurance premiums | \$..... | |
| 4. Other components — describe (<i>see</i>
paragraphs <i>c</i> to <i>h</i> of section 69) | \$..... | |
| 5. Additional duties payable on the
credit | \$..... | |
| 6. Credit charges for the whole term
of the loan | | \$..... |
| 7. Total obligation of the consumer | | \$..... |
| 8. Credit rate | | % |

.....
(description)

The merchant performs his principal obligation upon the making of this contract ☐ or on
Yes (date of performance of the merchant's principal obligation)

.....
(signature of the merchant)

.....
(signature of the consumer)

(CONSUMER PROTECTION ACT, S. 124)

.....
(address of consumer)

1. The amount up to which credit is extended (if such amount is limited) \$.....
2. Membership or renewal fees \$.....
3. The term of each period for which a statement of account is furnished.....
4. The minimum credit charge for each period \$.....
or
the minimum annual charge \$.....
5. The delay during which the consumer may discharge his obligation without being compelled to pay credit charges
6. The credit rate exigible on the unpaid balance at the expiry of each period _____%

A table of examples of the credit charges on the unpaid balance at the end of each period.

--

The total obligation of the consumer is payable at
 in deferred payments of \$ on
 the day of each consecutive month from
 and a final payment of \$

 on

The consumer shall give to the merchant as acknowledgement of or security for his obligation the following object or document:

.....
(description)

The merchant shall deliver the goods being the subject of this contract on the making of the contract yes or on
(date of delivery of the goods)

The merchant remains the owner of the goods sold and the transfer of the right of ownership does not take place when the contract is made but shall take place only
(time and terms and conditions of such transfer)

.....
(signature of the merchant)

.....
(signature of the consumer)

for a total amount of \$..... at this date.
(amount due)

The consumer may, within thirty days after receipt of this notice,

(a) remedy the default by paying the amount due at this date, or

(b) return the goods to the merchant.

If the consumer has not remedied the default or has not returned the goods to the merchant at
(address)

within thirty days after the receipt of this notice, the merchant will exercise his right of repossession by having the goods seized, at the consumer's expense.

If the consumer has already paid one-half of his total obligation, the merchant will not be entitled to exercise his right of repossession unless he obtains the permission of the court.

In the case of voluntary return or forced repossession following this notice, the contractual obligation of the consumer is extinguished and the merchant is not bound to return the amount of the payments already received.

The consumer is advised to examine his contract and, if further information is necessary, to contact the Office de la protection du consommateur.

.....
(name of the merchant)

.....
(signature of the merchant)

- | | | |
|---|----|-------|
| 2. (a) Total cash price | \$ | _____ |
| (b) Down-payment | \$ | _____ |
| 3. (a) Balance — Net capital | \$ | _____ |
| (b) Interest | \$ | _____ |
| (c) Insurance premiums | \$ | _____ |
| (d) Other components — describe
(see paragraphs c to h of sec-
tion 69) | \$ | _____ |
| (e) Duties imposed on the credit | \$ | _____ |
| 4. Total credit charges for the whole
term of the contract | \$ | _____ |
| 5. Total obligation of the consumer | \$ | _____ |
| Credit rate | % | _____ |

The total obligation of the consumer is payable at
(address)
 in deferred payments of \$ on the
(number)
 day of each consecutive month from and a final
(date when the first payment is due)
 payment of \$ on

The consumer shall give to the merchant as acknowledgement
 of or security for his obligation the following object or document:

.....
(description)

The merchant delivers the goods being the subject of this
 contract on the making of this contract ☐ or on
yes (date of delivery of the goods)

.....
(signature of the merchant)

.....
(signature of the consumer)

.....
(address of consumer)

(CONSUMER PROTECTION ACT, S. 193)

.....

Date:
(date of sending of this form)

made at
(date when the contract was made) *(place where the contract was made)*

.....
(signature of consumer)

.....

(address of consumer)

