

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1992, chapter 18
**AN ACT TO AMEND THE FINANCIAL ADMINISTRATION
ACT AND THE ACT RESPECTING MUNICIPAL DEBTS
AND LOANS**

Bill 7

Introduced by Mr Daniel Johnson, Minister for Administration and the Public Service
and Chairman of the Conseil du trésor

Introduced 6 May 1992

Passage in principle 14 May 1992

Passage 22 June 1992

Assented to 23 June 1992

Coming into force: on the date or dates fixed by the Government

— 19 August 1992: ss. 1 to 6
G.O., 1992, Part 2, p. 4337

Acts amended:

Financial Administration Act (R.S.Q., chapter A-6)

Act respecting municipal debts and loans (R.S.Q., chapter D-7)



CHAPTER 18

An Act to amend the Financial Administration Act and the Act respecting municipal debts and loans

[Assented to 23 June 1992]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. A-6,
s. 29.1,
added

1. The Financial Administration Act (R.S.Q., chapter A-6) is amended by inserting, after section 29, the following section:

Deposit

“29.1 The sums referred to in section 29 and received under a contract or agreement which provides for their appropriation for a specific purpose may be deposited in a specific purpose account.

Specific
purpose
account

A specific purpose account is created by the Government on a joint proposition by the chairman of the Conseil du trésor and the Minister; the Government shall determine the nature of the activities and costs which may be charged to the account and the limits in respect of the disbursements which may be made from the account. The terms of management of the account are determined by the Conseil du trésor.

Consolidat-
ed revenue
fund

The consolidated revenue fund shall be charged with all disbursements which are chargeable to such an account, up to the amounts determined by the Government at the time the account is created.

Exception

None of the revenues of the Government of Québec which are derived from levies, taxes and duties, or from transfer payments by the Government of Canada under the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act (R.S.C. 1985, chapter F-8) and the Canada Assistance Plan (R.S.C. 1985, chapter C-1), may be deposited in a specific purpose account.”

c. A-6,
ss. 72.1-
72.5, added

2. The said Act is amended by inserting, after section 72, the following:

“DIVISION VIII.1

“INSTRUMENTS AND CONTRACTS OF A FINANCIAL NATURE INVOLVING PUBLIC
SECTOR BODIES

Interpreta-
tion

“72.1 For the purposes of the provisions of this division,

(1) “instruments or contracts of a financial nature” means any financial instrument or contract whose object is the management of financial risks, in particular currency exchange agreements, interest rate exchange agreements, options and futures contracts;

(2) “public sector bodies” means

(a) the bodies referred to in subparagraphs 1 to 4 of the first paragraph of section 69.6;

(b) the government agencies or bodies contemplated by section 4 and paragraph 1 of section 5 of the Auditor General Act (R.S.Q., chapter V-5.01);

(c) joint stock companies of which all the voting shares form part of the public domain.

Agreements

“72.2 Public sector bodies which have the power to borrow may, with the authorizations and approvals required by law for the exercise of that power, conclude currency exchange agreements or interest rate exchange agreements, or terminate such agreements according to their terms.

Exception

The provisions of the first paragraph do not apply to a public sector body in respect of an agreement contemplated by that paragraph, to the extent that the power to enter into such an agreement is expressly provided by law or by the constituting act of the body.

Powers

“72.3 In addition to the powers granted to them under section 72.2, public sector bodies which have the power to borrow may, with the authorizations and approvals required by law for the exercise of that power, and if they deem it appropriate for their financial management, acquire, hold, invest in, conclude, dispose of or terminate, according to its terms, any instrument or contract of a financial nature which the Government may determine for one or several bodies or for a category of bodies.

Exception

The provisions of the first paragraph do not apply to a public sector body in respect of an instrument or contract of a financial nature, to the extent that the power to acquire, hold, invest in or conclude such an instrument or contract is expressly provided by law or by the constituting act of the body.

Authorizations and approvals

“72.4 Transactions carried out within the framework of a program established by a public sector body and approved by the Government are not subject to the authorizations and approvals referred to in the first paragraph of sections 72.2 and 72.3 where the program establishes the principal compulsory characteristics of the transactions and limits the financial commitments which may result from them.

Exemption

“72.5 The Government may, in respect of those instruments and contracts of a financial nature which it determines and in respect of currency exchange agreements or interest rate exchange agreements, exempt one or several public sector bodies or a category of such bodies, with or without conditions, from the obligation to obtain the authorizations and approvals required by the first paragraph of sections 72.2 and 72.3.”

c. D-7, Div. VI, heading replaced

3. The Act respecting municipal debts and loans (R.S.Q., chapter D-7) is amended by replacing the heading of Division VI by the following heading:

“LOANS IN FOREIGN CURRENCY AND INSTRUMENTS AND CONTRACTS OF A FINANCIAL NATURE”

c. D-7, ss. 15.3-15.7, added

4. The said Act is amended by inserting, after section 15.2, the following sections:

Agreements

“15.3 A municipality may, with the authorizations required by law for the exercise of its borrowing power, conclude any currency exchange agreement or interest rate exchange agreement or terminate such an agreement according to its terms.

Transactions

“15.4 In addition to the powers granted to it under section 15.3, a municipality may, with the authorizations required by law for the exercise of its borrowing power, enter into transactions in respect of instruments or contracts of a financial nature which the Government may determine for one or several municipalities or for a category of municipalities.

Authorizations

“15.5 Transactions carried out within the framework of a program established by a municipality and approved by the Government are not subject to the authorizations required by sections 15.3 and 15.4 where the program establishes the principal compulsory

characteristics of the transactions and limits the financial commitments which may result from them.

Exemption **“15.6** The Government may, in respect of those instruments and contracts of a financial nature which it determines and in respect of currency exchange agreements or interest rate exchange agreements, exempt one or several municipalities or a category of municipalities, with or without conditions, from the obligation to obtain the authorizations required by sections 15.3 and 15.4.

“instru-
ments or
contracts
of a finan-
cial nature” **“15.7** For the purposes of sections 15.3 to 15.6, “instruments or contracts of a financial nature” means any financial instrument or contract whose object is the management of financial risks, in particular currency exchange agreements, interest rate exchange agreements, options and futures contracts.”

Validity **5.** The instruments or contracts of a financial nature in respect of which a transaction has been carried out before (*insert here the date on which this section comes into force*) by a public sector body contemplated by section 72.1 of the Financial Administration Act or by a municipality to which sections 15.3 to 15.7 of the Act respecting municipal debts and loans apply, are valid from the date of the transaction, and their validity may not be contested if they have been signed by the duly qualified representatives of the body or municipality, except where the cause of invalidity is established by the terms of the transaction.

Coming into
force **6.** The provisions of this Act will come into force on the date or dates fixed by the Government.