



QUÉBEC LEGISLATION ON INTERNATIONAL ADOPTION

Compilation
September 2011

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à l'adoption
internationale

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COMPILATION OF QUÉBEC LEGISLATION ON INTERNATIONAL ADOPTION

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CIVIL CODE OF QUÉBEC

Updated to 1 March 2006

BOOK ONE PERSONS

TITLE TWO CERTAIN PERSONALITY RIGHTS

CHAPTER II RESPECT OF CHILDREN'S RIGHTS

32. Every child has a right to the protection, security and attention that his parents or the persons acting in their stead are able to give to him.

33. Every decision concerning a child shall be taken in light of the child's interests and the respect of his rights.

Consideration is given, in addition to the moral, intellectual, emotional and physical needs of the child, to the child's age, health, personality and family environment, and to the other aspects of his situation.

34. The court shall, in every application brought before it affecting the interest of a child, give the child an opportunity to be heard if his age and power of discernment permit it.

TITLE THREE CERTAIN PARTICULARS RELATING TO THE STATUS OF PERSONS

CHAPTER II DOMICILE AND RESIDENCE

75. The domicile of a person, for the exercise of his civil rights, is at the place of his principal establishment.

76. Change of domicile is effected by actual residence in another place coupled with the intention of the person to make it the seat of his principal establishment.

The proof of such intention results from the declarations of the person and from the circumstances of the case.

77. The residence of a person is the place where he ordinarily resides; if a person has more than one residence, his principal residence is considered in establishing his domicile.

78. A person whose domicile cannot be determined with certainty is deemed to be domiciled at the place of his residence.

A person who has no residence is deemed to be domiciled at the place where he lives or, if that is unknown, at the place of his last known domicile.

79. A person called to a temporary or revocable public office retains his domicile, unless he manifests a contrary intention.

80. An unemancipated minor is domiciled with his tutor.

Where the father and mother exercise the tutorship but have no common domicile, the minor is presumed to be domiciled with the parent with whom he usually resides unless the court has fixed the domicile of the child elsewhere.

81. A person of full age under tutorship is domiciled with his tutor; a person under curatorship is domiciled with his curator.

82. Married or civil union spouses may have separate domiciles without prejudice to the rules respecting their living together.

83. The parties to a juridical act may, in writing, elect domicile with a view to the execution of the act or the exercise of the rights arising from it.

Election of domicile is not presumed.

CHAPTER IV
REGISTER AND ACTS OF CIVIL STATUS

DIVISION IV
ALTERATION OF THE REGISTER OF CIVIL STATUS

132.1. Where a child domiciled outside Québec is adopted by a person domiciled in Québec, the registrar of civil status draws up the act of birth on the basis of the judgment rendered in Québec, the decision judicially recognized in Québec or any other act notified to the registrar which, under the law, produces the effects of adoption in Québec.

The clerk of the court notifies the judgment to the registrar of civil status as soon as it becomes *res judicata* and, where applicable, attaches the decision or the act thereto.

The clerk of the court also notifies to the registrar of civil status any certificate the clerk issues under the Act respecting adoptions of children domiciled in the People's Republic of China.

The Minister of Health and Social Services notifies to the registrar of civil status the certificate issued by the foreign competent authority and the declaration containing the name chosen for the child transmitted to the Minister under the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3), unless the Minister has applied to the court for a ruling under the second paragraph of section 9 of that Act. Where applicable, the Minister also notifies the certificate drawn up by the Minister under the same section to attest to the conversion of the adoption.

BOOK TWO
THE FAMILY

TITLE TWO
FILIAION

CHAPTER II
ADOPTION

DIVISION I
CONDITIONS FOR ADOPTION

§ 1. — General provisions

543. No adoption may take place except in the interest of the child and on the conditions prescribed by law.

No adoption may take place for the purpose of confirming filiation already established by blood.

544. No minor child may be adopted unless his father and mother or his tutor have consented to the adoption or unless he has been judicially declared eligible for adoption.

545. No person of full age may be adopted except by the persons who stood in *loco parentis* towards him when he was a minor.

The court, however, may dispense with this requirement in the interest of the person to be adopted.

546. Any person of full age may, alone or jointly with another person, adopt a child.

547. A person may not be an adopter unless he is at least 18 years older than the person adopted, except where the person adopted is the child of the spouse of the adopter.

The court may, however, dispense with this requirement in the interest of the person to be adopted.

548. Consent provided for in this chapter shall be given in writing and before two witnesses.

The same rule applies to the withdrawal of consent.

§ 2. — Consent of the adopted person

549. No child 10 years of age or over may be adopted without his consent, unless he is unable to express his will.

However, when a child under 14 years of age refuses to give his consent, the court may defer its judgment for the period of time it indicates, or grant adoption notwithstanding his refusal.

550. Refusal by a child 14 years of age or over is a bar to adoption.

§ 3. — Consent of parents or tutor

551. When adoption takes place with the consent of the parents, the consent of both parents to the adoption is necessary if the filiation of the child is established with regard to both of them.

If the filiation of the child is established with regard to only one parent, the consent of that parent is sufficient.

552. If either parent is deceased, or if he is unable to express his will, or if he is deprived of parental authority, the consent of the other parent is sufficient.

553. If both parents are deceased, if they are unable to express their will, or if they are deprived of parental authority, the adoption of the child is subject to the consent of the tutor, if the child has a tutor.

554. A parent of minor age may himself, without authorization, give his consent to the adoption of his child.

555. Consent to adoption may be general or special; special consent may be given only in favour of an ascendant of the child, a relative in the collateral line to the third degree or the spouse of that ascendant or relative; it may also be given in favour of the spouse of the father or mother. However, in the case of de facto spouses, they must have been cohabiting for at least three years.

556. Consent to adoption entails, until the order of placement, delegation by operation of law of parental authority to the person to whom the child is given.

557. A person who has given his consent to adoption may withdraw it within 30 days from the date it was given.

The child shall then be returned without formality or delay to the person who has withdrawn his consent.

558. If a person has not withdrawn his consent within 30 days, he may, at any time before the order of placement, apply to the court to have the child returned.

§ 4. — Declaration of eligibility for adoption

559. The following may be judicially declared eligible for adoption:

1) a child over three months old, if neither his paternal filiation nor his maternal filiation has been established;

2) a child whose care, maintenance or education has not in fact been taken in hand by his mother, father or tutor for at least six months;

3) a child whose father and mother have been deprived of parental authority, if he has no tutor;

4) a child who has neither father nor mother, if he has no tutor.

560. An application for a declaration of eligibility for adoption may be made by no one except an ascendant of the child, a relative in the collateral line to the third degree, the spouse of such an ascendant or relative, the child himself if 14 years of age or over, or a director of youth protection.

561. A child may not be declared eligible for adoption unless it is unlikely that his father, mother or tutor will resume custody of him and take in hand his care, maintenance or education. This unlikelihood is presumed.

562. The court, when declaring a child eligible for adoption, designates the person who is to exercise parental authority in his regard.

§ 5. — Special conditions respecting adoption of a child domiciled outside Québec

563. Every person domiciled in Québec wishing to adopt a child domiciled outside Québec shall previously undergo a psychosocial assessment made in accordance with the conditions provided in the Youth Protection Act.

564. The adoption arrangements are made by a body certified by the Minister of Health and Social Services pursuant to the Youth Protection Act, unless an order of the Minister published in the Gazette officielle du Québec provides otherwise.

565. The adoption of a child domiciled outside Québec must be granted abroad or granted by judicial decision in Québec. A judgment granted in Québec is preceded by an order of placement. A decision granted abroad must be recognized by the court in Québec, unless the adoption has been certified by the competent authority of the State where it took place as having been made in accordance with the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

DIVISION II

ORDER OF PLACEMENT AND ADOPTION JUDGMENT

566. The placement of a minor may not take place except on a court order nor may the adoption of a child be granted unless the child has lived with the adopter for at least six months since the court order.

The period may be reduced by up to three months, however, particularly in consideration of the time during which the minor has already lived with the adopter before the order.

567. An order of placement may not be granted before the lapse of 30 days after the giving of consent to adoption.

568. Before granting an order of placement, the court ascertains that the conditions for adoption have been complied with and, particularly, that the prescribed consents have been validly given for the purposes of an adoption resulting in the dissolution of the pre-existing bond of filiation between the child and the child's family of origin.

Where the placement of a child domiciled outside Québec is made under an agreement entered into by virtue of the Youth Protection Act, the court also verifies that the procedure followed is as provided in the agreement. Where the placement of a child is made within the framework of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the court verifies that the conditions provided therein have been complied with.

Even if the adopter has not complied with the provisions of articles 563 and 564, the placement may be ordered for serious reasons and if the interest of the child demands it. However, the application shall be accompanied with a psychosocial assessment made by the director of youth protection.

569. The order of placement confers the exercise of parental authority on the adopter; it allows the child, for the term of the placement, to exercise his civil rights under the surname and given names chosen by the adopter, which are recorded in the order.

The order is a bar to the return of the child to his parents or to his tutor and to the establishment of filial relationship between the child and his parents by blood.

570. The effects of the order of placement cease if placement terminates or if the court refuses to grant the adoption.

571. If the adopter fails to present his application for adoption within a reasonable time after the expiry of the minimum period of placement, the order of placement may be revoked on the application of the child himself if he is 14 years of age or over or by any interested person.

572. Where the effects of the order of placement cease and no adoption has taken place, the court, even of its own motion, designates the person who is to exercise parental authority over the child; the director of youth protection who was the legal tutor before the order of placement again becomes the legal tutor.

573. The court grants adoption on the application of the adopters unless a report indicates that the child has not adapted to his adopting family. In this case or whenever the interest of the child demands it, the court may require any additional proof it considers necessary.

573.1. Where the court, within the framework of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, grants an adoption in Québec of a child habitually residing outside Québec, it issues the certificate provided for in the Convention as soon as the adoption judgment becomes *res judicata*.

574. The court, where called upon to recognize a decision granting an adoption made outside Québec, ascertains that the rules respecting consent to adoption and eligibility for adoption have been observed and that the consents have been given for the purposes of an adoption resulting in the dissolution of the pre-existing bond of filiation between the child and the child's family of origin.

Where the decision granting the adoption has been made outside Québec under an agreement entered into by virtue of the Youth Protection Act, the court also verifies that the procedure followed is as provided in the agreement.

Even if the adopter has not complied with the provisions of articles 563 and 564, recognition may be granted for serious reasons and if the interest of the child demands it. However, the application shall be accompanied with a psychosocial assessment.

575. If either of the adopters dies after the order of placement, the court may grant adoption even with regard to the deceased adopter.

The court may also recognize a decision granting an adoption made outside Québec notwithstanding the death of the adopter.

576. The court assigns to the adopted person the surname and given names chosen by the adopter unless, at the request of the adopter or of the adopted person, it allows him to keep his original surname and given names.

DIVISION III EFFECTS OF ADOPTION

577. Adoption confers on the adopted person a filiation which replaces his or her original filiation.

The adopted person ceases to belong to his or her original family, subject to any impediments to marriage or a civil union.

578. Adoption creates the same rights and obligations as filiation by blood.

The court may, however, according to circumstances, permit a marriage or civil union in the collateral line between the adopted person and a member of his or her adoptive family.

578.1. If the parents of an adopted child are of the same sex and where different rights and obligations are assigned by law to the father and to the mother, the parent who is biologically related to the child has the rights and obligations assigned to the father in the case of a male couple and those assigned to the mother in the case of a female couple. The adoptive parent has the rights and obligations assigned by law to the other parent.

If neither parent is biologically related to the child, the rights and obligations of each parent are determined in the adoption judgment.

579. When adoption is granted, the effects of the preceding filiation cease; the tutor, if any, loses his or her rights and is discharged from his or her duties regarding the adopted person, save the obligation to render account.

Notwithstanding the foregoing, a person's adoption of a child of his or her spouse does not dissolve the bond of filiation between the child and that parent.

580. Where one of the adopters dies after the order of placement is made, the adoption produces its effects from the date of the order.

581. The recognition of a decision granting an adoption produces the same effects as an adoption judgment rendered in Québec from the time the decision granting the adoption was pronounced outside Québec.

The recognition by operation of law of an adoption as provided for in the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption produces the same effects as an adoption judgment rendered in Québec from the time the decision granting the adoption is pronounced, subject to section 9 of the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

DIVISION IV CONFIDENTIALITY OF ADOPTION FILES

582. The judicial and administrative files respecting the adoption of a child are confidential and no information contained in them may be revealed except as required by law.

However, the court may allow an adoption file to be examined for the purposes of study, teaching, research or a public inquiry, provided that the anonymity of the child, of the parents and of the adopter is preserved.

583. An adopted person of full age or an adopted minor 14 years of age or over is entitled to obtain the information enabling him to find his parents if they have previously consented thereto. The same holds true of the parents of an adopted child if the child, once of full age, has previously consented thereto.

An adopted minor under 14 years of age is entitled to obtain information enabling him to find his parents if the parents and the adoptive parents have previously consented thereto.

Consent may not be solicited; however, an adopted minor may not be informed of the application for information made by his father or mother.

584. Where serious injury could be caused to the health of the adopted person, whether a minor or of full age, or of any of his close relatives if he is deprived of the information he requires, the court may allow the adopted person to obtain such information.

A close relative of the adopted person may also avail himself of such right if the fact of being deprived of the information he requires could be the cause of serious injury to his health or the health of any of his close relatives.

BOOK TEN PRIVATE INTERNATIONAL LAW

TITLE TWO CONFLICT OF LAWS

CHAPTER I PERSONAL STATUS

DIVISION II SPECIAL PROVISIONS

§ 4. — Filiation by blood or through adoption

3091. Filiation is established in accordance with the law of the domicile or nationality of the child or of one of his parents, at the time of the child's birth, whichever is more beneficial to the child.

The effects of filiation are subject to the law of the domicile of the child.

3092. The rules respecting consent to the adoption and the eligibility of the child for adoption are those provided by the law of his domicile.

The effects of adoption are subject to the law of the domicile of the adopter.

(...)

TITLE THREE

INTERNATIONAL JURISDICTION OF QUÉBEC AUTHORITIES

CHAPTER II

SPECIAL PROVISIONS

DIVISION I

PERSONAL ACTIONS OF AN EXTRAPATRIMONIAL AND FAMILY NATURE

3147. A Québec authority has jurisdiction in matters of filiation if the child or one of his parents is domiciled in Québec.

It has jurisdiction in matters of adoption if the child or plaintiff is domiciled in Québec.

CODE OF CIVIL PROCEDURE

R.S.Q., chapter C-25

BOOK I GENERAL PROVISIONS

TITLE II THE COURTS

CHAPTER I JURISDICTION OF THE COURTS

SECTION IV.1

36.1. The Court of Québec has jurisdiction, to the exclusion of the Superior Court, in matters respecting adoption.

In other matters respecting youth, the jurisdiction of the Court and the procedure to be followed before the Court are determined by special Acts.

(...)

BOOK II ORDINARY PROCEDURE IN COURTS OF FIRST INSTANCE

TITLE I INTRODUCTION OF ACTIONS AND APPLICATIONS, APPEARANCE AND CASE MANAGEMENT

CHAPTER I PRELIMINARY PROVISIONS

SECTION I PROCEDURE APPLICABLE TO ACTIONS AND APPLICATIONS

110. Actions and applications are introduced by means of a motion. They are pursued according to the procedure set out in this Title, subject to special rules otherwise prescribed. However, actions and applications pertaining to contempt of court, habeas corpus, non-contentious matters and the recovery of small claims are governed by their own special rules.

(...)

TITLE IV PROCEEDINGS IN FAMILY CASES

CHAPTER I GENERAL PROVISIONS

SECTION I PROCEEDINGS INTRODUCTIVE OF SUITS OR INTERLOCUTORY PROCEEDINGS

813. Except where otherwise provided in this Title, applications based on Book Two of the Civil Code or on the Divorce Act (Revised Statutes of Canada, 1985, chapter 3, 2nd Supplement) follow the general rules applicable to other actions and applications.

813.3. The conclusions sought in a motion to institute proceedings may relate to provisional measures and accessory measures as well as to the principal application.

Orders to safeguard the rights of the parties issued in urgent cases or where the hearing on provisional measures is deferred lapse 30 days after they are issued, unless their valid period is extended by the parties by mutual agreement or, in case of disagreement, by the court.

(...)

813.10. If the parties so wish, they each may present their evidence by means of a single affidavit, which must be sufficiently detailed to establish all facts in support of their claims. If the respondent proceeds in this manner, the applicant is entitled to serve one additional detailed affidavit on the respondent as a reply. Any further detailed affidavit must be authorized by the court.

(...)

813.16. In addition to the evidence that has been presented by means of detailed affidavits, the parties may present oral evidence at the hearing.

(...)

SECTION II PROCEEDINGS

815.1. At any time during the hearing, the court may order, even of its own motion, the production of any additional evidence or the summoning of any person whose testimony it considers expedient, or convoke, for hearing, any person whose interests could be affected by the judgment.

(...)

815.4. No information that would allow the identification of a party to a proceeding or of a child whose interest is at stake in a proceeding may be published or broadcast unless the court or the law authorizes it or unless that publication or broadcast is necessary to permit the application of an Act or a regulation.

Furthermore, the judge may, in a special case, prohibit or restrict, for such time and on such conditions as he may deem fair and reasonable, the publication or broadcast of information pertaining to a sitting of the court.

SECTION IV JUDGMENT

817.1. Where the court renders a judgment ordering the drawing up or correction of an act of civil status or otherwise entailing the alteration of the register of civil status, it orders, even of its own motion, the registrar to alter the register. The particulars that are to be entered in the register are stated in the judgment.

(...)

CHAPTER VI APPLICATIONS PERTAINING TO ADOPTION

SECTION I GENERAL PROVISIONS

823. Applications in matters pertaining to the adoption of a minor must be served on the director of youth protection having jurisdiction in the child's place of residence or, in the case of the adoption of a child domiciled outside Québec, in the place where the adopter is domiciled.

The director may intervene of right in connection with such application.

823.1. Whenever notice of an application must be served on a party or on an interested person, the notice must be served and preserve the anonymity of the adopters to the father, mother and tutor, and vice versa. Furthermore, the notice must contain a statement of the object of the application, the grounds invoked and the conclusions sought.

(...)

823.3. The court must admit to its sittings any member of the Commission des droits de la personne et des droits de la jeunesse or any other person authorized by the Commission to be present thereat. In no case may such persons disclose any information thus obtained or be compelled to do so.

(...)

SECTION IV

APPLICATIONS FOR PLACEMENT AND ADOPTION

825. The application for placement of the child is presented by the adopter and by the director of youth protection, except in the case of special consent to adoption, where it may be presented by the adopter acting alone.

825.1. A notice of the application for placement stating the name of the applicant and his place of domicile is served on the child 10 years of age or older. Where the child's father, mother or tutor is domiciled in Québec and has given consent to adoption within one year preceding the application, notice of the application is served on him or her by the director of youth protection.

Where consent to adoption is special, the notice of the application for placement is served by the applicant.

(...)

825.4. The application for adoption is presented by the adopter. If the adoption is made by two persons, the application is made jointly.

825.5. Where a report indicating that a child has not adapted to his adopting family is filed with the court, the court sends a copy of the report to the adopter and, if such is the case, to the tutor or attorney of the child. It notifies them at the same time of the period granted to contest the report.

If the person to be adopted is 14 years of age or over, the court may, if it considers it expedient, send a copy of the report to that person; the court must do so if it intends to refuse adoption on the basis of the report.

SECTION V

RECOGNITION OF DECISIONS MADE OUTSIDE QUÉBEC

825.6. The application for recognition of a decision granting an adoption made outside Québec must be presented by the adopter or the adopted person.

The application, in order to be admissible, must be accompanied with certified copies of the decision granting the adoption and of the foreign law.

825.7. The applicant may attach accessory applications to his application, such as for the change of the name or given name of the adopted person and the alteration of the register of civil status.

YOUTH PROTECTION ACT

R.S.Q., chapter P-34.1
Updated to 1 March 2006

CHAPTER IV SOCIAL INTERVENTION

DIVISION VII ADOPTION

§ 1. — Provisions relating to the adoption of a child domiciled in Québec

Means to facilitate adoption.

71. Where the director considers that adoption is the measure most likely to ensure that children's rights are respected, the director shall take all reasonable means to facilitate their adoption, in particular,

- 1) by examining applications for adoption as the need arises;
- 2) by receiving the general consents required for adoption;
- 3) by taking charge of children entrusted to the director for adoption;
- 4) where necessary, by having children judicially declared eligible for adoption; and
- 5) by seeing to the placement of children.

Child's antecedents.

71.1. As soon as an order of placement is granted and where requested by the adopter, the director shall give the adopter a summary of the child's antecedents.

Adopter's antecedents.

As well, where requested by the parents, the director shall give them a summary of the adopter's antecedents.

Older child.

A child 14 years of age or over is entitled to receive, on request, a summary of his or her antecedents.

Anonymity and conformity.

71.2. Every summary must preserve the parents' or the adopter's anonymity and be in conformity with the standards prescribed by regulation.

Financial assistance.

71.3. An institution operating a child and youth protection centre may, in the cases and in accordance with the criteria and conditions prescribed by regulation, grant financial assistance to facilitate the adoption of a child.

§ 2. — Provisions relating to the adoption of a child domiciled outside Québec by a person domiciled in Québec

Minister's responsibilities.

71.4. The Minister shall exercise the following responsibilities:

- 1) counsel adopters and certified bodies, particularly by informing them of the services available to them;
- 2) intervene in all cases of adoption of a child domiciled outside Québec, in accordance with the applicable legislative provisions or when required by the competent authorities of the State of origin; and
- 3) retain the files respecting the adoption of children domiciled outside Québec and grant requests for research into family and medical antecedents and requests for reunions, to the extent provided for in the Civil Code and in cooperation with the persons exercising authority in matters of adoption in Québec and abroad.

Certified body.

71.5. When the arrangements for the adoption of children domiciled outside Québec are made by a certified body, it shall receive the applications and transmit a copy to the Minister.

Applications.

The applications must contain the information specified in the form furnished by the Minister and be accompanied by any documents the Minister may require.

Terms and conditions.

71.6. The Government may, by regulation, prescribe the terms and conditions of the adoption process.

Ministerial order.

Where a ministerial order is made under article 564 of the Civil Code, the order shall specify any special terms and conditions that apply to the adoption process.

Psychosocial assessment.

71.7. A psychosocial assessment of persons wishing to adopt a child domiciled outside Québec shall be made by the director of youth protection or by any person acting under section 33. It shall deal in particular with the capacity of the adopters to meet the physical, psychological and social needs of the child.

Adoption outside Québec.

Where the adoption is to be granted outside Québec in a State that is not a State Party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the assessment may be made by a member of the Ordre des psychologues du Québec or the Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec, chosen by the adopter from a list of names supplied by the order concerned and transmitted to the Minister.

Assessment criteria.

The assessment shall be made, at the expense of the adopter, on the basis of criteria agreed between the two professional orders, the directors of youth protection and the Minister. Additional criteria shall be established for cases involving an older child, a child with special needs or siblings, and the assessment must deal specifically with the adopter's capacity to ensure the integration of the child or children into their new environment. The Minister shall see to the dissemination of the assessment criteria.

Written attestation.

71.8. Where a child domiciled outside Québec is to be adopted, the adopter or the body may not proceed with the adoption process unless the Minister issues a written attestation to the effect that the Minister has no grounds for objection, in accordance with the Regulation respecting the selection of foreign nationals (R.R.Q., 1981, chapter M-23.1, r.2).

Placement.

71.9. Where the adoption of a child domiciled outside Québec is to be granted in Québec, the director shall take charge of the child and see to the child's placement. The director shall intervene in accordance with the terms and conditions determined by regulation.

Protection of child.

In urgent or seriously problematic circumstances, the situation of a child who is the subject of a motion for recognition of the decision granting an adoption made abroad may be referred to the director by the court or by any person acting in the child's interest. The director shall take charge of the situation of the child and see that the necessary measures provided by law for the child's protection are carried out.

Intergovernmental agreement.

71.10. The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with another government or with any of its departments or bodies concerning the adoption of children domiciled outside Québec.

Supervisory measures.

71.11. The Minister may, in accordance with the applicable legislative provisions, after consulting the Minister of International Relations and subject to observance of international commitments applicable to Québec, take various supervisory measures relating to the adoption of children domiciled outside Québec, which may go as far as the suspension of adoptions involving a State or a territorial unit if the circumstances so warrant.

Confidential information.

71.12. The persons and the courts having responsibilities under the law in matters of adoption of children domiciled outside Québec may exchange, communicate or obtain confidential information concerning the adoption, family and medical antecedents or reunions, to the extent necessary for the exercise of those responsibilities.

Information from public bodies.

71.13. The Minister may, for the purposes of research into family and medical antecedents or reunions, obtain information from public bodies to locate the parties concerned.

Child's antecedents.

71.14. The Minister shall give the adopter a summary of the child's antecedents on request.

Adopter's antecedents.

The Minister shall also give the parents a summary of the adopter's antecedents on request.

Older child.

A child 14 years of age or over is entitled to receive, on request, a summary of his or her antecedents.

Anonymity and conformity.

71.15. Every summary must preserve the parents' or the adopter's anonymity and be in conformity with the standards prescribed by regulation.

§ 3. — Certification

Eligible bodies.

71.16. The Minister may grant certification to a body whose mission is to defend children's rights, promote their interests and improve their living conditions, so that it may make arrangements on behalf of adopters domiciled in Québec for the adoption of children domiciled outside Québec.

Criteria.

71.17. A body applying for certification must be a legal person established under a statute of Québec for non-profit purposes and be directed and managed by persons who, by their ethical standards, training and experience, are qualified to work in the field of intercountry adoption. In addition, the body must demonstrate its ability to fulfil its mission effectively.

Requirements.

The Minister shall, by an order published in the Gazette officielle du Québec, determine the qualifications required of a body applying for certification or renewal of certification, and of the persons directing and managing the body, the requirements and terms and conditions the body and those persons must comply with as well as the documents, information and reports they must furnish.

Factors considered.

71.18. The Minister may grant certification if the Minister considers it warranted in the public interest and in the interests of children and after considering such factors as

- 1) the number of certifications necessary to meet the needs in the State concerned; and
- 2) the situation in the State concerned and the guarantees given to the children, their parents and the future adopters.

Conditions, restrictions and prohibitions.

The Minister may, in addition, impose any condition, restriction or prohibition the Minister considers necessary, and may at any time modify them or impose new conditions, restrictions or prohibitions.

Certification.

71.19. The certification shall indicate the place for which it is issued, its period of validity and any conditions, restrictions or prohibitions attached. The certification may not be transferred.

Initial period and terms of renewal.

71.20. The certification shall be issued for an initial two-year period. It may be renewed for a three-year period and thereafter for the same period on the conditions determined by this Act and by an order of the Minister published in the Gazette officielle du Québec.

Shorter period.

The Minister may issue or renew certification for a shorter period where the Minister considers that the circumstances so warrant.

Renewal.

Upon renewal of certification, the Minister may consider the factors mentioned in section 71.18 and modify any condition, restriction or prohibition imposed on the certification holder. The Minister may, at any time, modify the conditions, restrictions or prohibitions or impose new ones.

Requirements to maintain certification.

71.21. The Minister shall, by an order published in the Gazette officielle du Québec, determine the conditions, responsibilities and obligations that a certified body must comply with to maintain certification, and the documents, information and reports it must furnish.

Termination of activities.

71.22. A certification holder wishing to terminate activities in the place for which the certification was issued must first notify the Minister in writing and comply with the conditions determined by the Minister.

Suspension, revocation or refusal to renew certification.

71.23. The Minister may suspend, revoke or refuse to renew certification

- 1) if the body no longer meets the requirements for certification or has failed to comply with a condition, restriction or prohibition specified in the certification;
- 2) if the Minister considers it warranted in the public interest, in the interests of children or owing to urgent circumstances;
- 3) if the Minister considers it necessary, in view of the situation in the State concerned to suspend, revoke or refuse to renew the certification;
- 4) if the competent authorities of the place for which the certification is issued no longer authorize adoption or, where applicable, have withdrawn the authorization they had granted to the body;
- 5) if the Minister considers that the body is not complying with this Act or a regulation or a ministerial order under this Act; or
- 6) if the body or any of its officers, managers or directors has been convicted of an offence under a ministerial order made under the second paragraph of section 71.17 or under section 71.21 or of an offence under any of sections 135.1, 135.1.1 and 135.1.2.

Delayed effect.

The Minister may decide that the revocation or suspension of certification or the refusal to renew certification will only take effect on the expiry of a period determined by the Minister during which the body may continue its activities so as to complete the adoption processes it has begun.

Completion of adoption processes.

The Minister may also, where the Minister considers it expedient, complete the adoption processes begun by a certified body.

Corrective measure.

71.24. The Minister may, instead of suspending, revoking or refusing to renew a body's certification, order the body to take the necessary corrective measures within the time the Minister specifies.

Failure to comply.

If the body fails to comply with the Minister's order within the specified time, the Minister may suspend, revoke or refuse to renew the certification.

Notification.

71.25. Except in urgent cases, the Minister shall, before refusing to issue certification or before suspending, revoking or refusing to renew certification, notify the body in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the body at least 10 days to present observations.

Appeal.

71.26. Any body whose certification has been suspended or revoked or has not been renewed may appeal to the court by motion within 30 days after receiving the decision to be appealed. The decision may be overturned if the grounds of law or fact invoked therein are manifestly erroneous or if there is a serious procedural irregularity.

Hearing and decision.

The motion shall be heard and decided by preference and the judgment is final.

Effect of appeal.

The appeal does not suspend execution of the Minister's decision, unless the court decides otherwise.

Judgment.

The judgment of the court must be in writing and give reasons. The clerk shall transmit a copy of the judgment to each of the parties.

File.

71.27. A certified body must send the Minister the file respecting the adoption of a child domiciled outside Québec

- 1) upon ceasing its activities or if its certification is revoked or not renewed; or
- 2) within two years after the arrival of the child in Québec or withdrawal from the adoption process.

Authorization to consult a file.

The Minister may, in the situations and on the conditions the Minister determines, authorize a body to consult a file it has sent to the Minister.

§ 4. — Inspections and inquiries

Inspection.

71.28. A person authorized in writing by the Minister to make an inspection may at any reasonable time enter any premises in which the person has grounds to believe that operations or activities for which certification is required by this Act are carried on, in order to ascertain whether this Act, the regulations and any ministerial order, and the laws and regulations governing the adoption of a child domiciled outside Québec, are being complied with.

Powers.

That person may, during an inspection,

- 1) examine and make a copy of any document relating to operations and activities for which certification is required under this Act; and
- 2) require any information relating to the application of this Act or any law governing the adoption of a child domiciled outside Québec, and the production of any document connected therewith.

Access to documents.

Any person having custody, possession or control of such documents shall, on request, make them available to the person making the inspection.

Identification.

A person making an inspection shall, if so required, produce a certificate signed by the Minister attesting to the person's capacity.

Failure to cooperate.

72. No person may, in any manner whatsoever, hinder an inspector performing inspection duties, mislead the inspector through concealment or false statements or refuse to provide a document or information the inspector is entitled to obtain under this Act, a regulation or a ministerial order.

Immunity.

72.1. An inspector may not be prosecuted for any act done in good faith in the performance of inspection duties.

Inquiry.

72.2. The Minister may entrust a person with making an inquiry into any matter in connection with the administration or operation of a certified body.

Powers and immunity.

72.3. The person so designated has, for the purposes of the inquiry, the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to impose imprisonment.

Suspension of powers.

72.4. Where an inquiry is so ordered, the Minister may suspend the powers of the certification holder and appoint an administrator to exercise those powers for the duration of the inquiry.

CHAPTER VII
PENAL PROVISIONS

Fine.

135.0.1. Every person who contravenes section 72 is guilty of an offence and is liable to a fine of \$1,000 to \$6,000 and, in the case of a second or subsequent conviction, to a fine of \$3,000 to \$18,000.

Prohibition.

135.1. Whether the placement or the adoption takes place in Québec or elsewhere and whether or not the child is domiciled in Québec, no person may

(a) give, receive or offer or agree to give or receive, directly or indirectly, a payment or a benefit either for giving or obtaining a consent to adoption, for finding a placement or contributing to a placement with a view to adoption or for obtaining the adoption of a child;

(b) contrary to this Act or to any other legislative provision relating to the adoption of a child, place or contribute to the placement of a child with a view to the child's adoption or contribute to the child's adoption;

(c) contrary to this Act or to any other legislative provision relating to the adoption of a child, adopt a child.

Offence.

135.1.1. No person may cause to enter or contribute towards causing to enter Québec a child domiciled outside Québec with a view to adoption of the child contrary to the procedure for adoption provided in articles 563 and 564 of the Civil Code and in sections 71.7 and 71.8 of this Act.

Offence.

135.1.2. No person may falsely represent himself to be a certified organization or falsely lead to the belief that an organization is certified by the Minister for the purposes of the provisions of this Act respecting adoption of a child domiciled outside Québec.

Penalties.

135.1.3. Every person who contravenes a provision of any of sections 135.1, 135.1.1 and 135.1.2 is guilty of an offence and is liable

(a) to a fine of \$10,000 to \$100,000 in the case of a natural person or to a fine of \$25,000 to \$200,000 in the case of a legal person, for a contravention of paragraph a or b of section 135.1 or a contravention of section 135.1.1 or 135.1.2;

(b) to a fine of \$2,500 to \$7,000 for a contravention of paragraph c of section 135.1.

Subsequent conviction.

135.2. For each subsequent conviction, the amounts of the fines provided for in sections 134, 135 and 135.1.3 are doubled.

Abetment.

135.2.1. Every person who assists another person in committing an offence under any of sections 135.1, 135.1.1 and 135.1.2 or who, by encouragement, advice or consent, or by an authorization or an order, induces another person to commit such an offence, is guilty of an offence. The same applies to any person who attempts to commit an offence under any of those sections.

Penalty.

A person convicted of an offence under this section is liable to the same penalty as that prescribed for the offence the person assisted in committing or induced or attempted to commit.

AN ACT TO IMPLEMENT THE CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

R.S.Q., chapter M-35.1.3

Convention.

1. The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, made on 29 May 1993 at The Hague and set out in the schedule to this Act, has force of law in Québec. The Convention takes effect on 1 February 2006.

Central Authority.

2. The Minister of Health and Social Services is the Central Authority for Québec for the purposes of the Convention.

Duties.

The Minister shall perform the duties of the Central Authority, unless such duties, insofar as they are not exclusive to the Central Authority, are assigned by law to other authorities or bodies.

Consent.

3. Where Québec is the State of origin, any consent to adoption referred to in article 4 of the Convention, whether general or special, shall be received by the director of youth protection.

Certification.

4. The certification issued to a body in accordance with the Youth Protection Act (chapter P-34.1) shall, in Québec, stand in place of the authorization required by article 12 of the Convention.

30-day period.

5. The report provided for in article 16 of the Convention may not be transmitted before the expiry of the period of 30 days allowed by article 557 of the Civil Code for the withdrawal of consent to adoption and no application for the return of the child is admissible after that period, notwithstanding article 558 of the Civil Code.

Consents.

6. The adoption may proceed under subparagraph c of article 17 of the Convention only if the consents required for adoption have been given for the purposes of an adoption resulting in the dissolution of the pre-existing bond of filiation between the child and the child's family of origin.

Adopter outside Québec.

7. A child habitually resident in Québec may not be adopted by a person habitually resident outside Québec unless that person obtains an order of the competent tribunal in Québec conferring parental authority on the person and authorizing the transfer of the child outside Québec with a view to his or her adoption.

Compliance with Convention.

Before granting such an order, the court shall ascertain that the rules of the Convention have been complied with and, in particular, that the agreements referred to in subparagraph c of article 17 have been given.

Rules not applicable.

The rules of the Civil Code pertaining to orders of placement do not apply to the order referred to in the first paragraph.

Transmission of certificate.

8. The adopter shall transmit to the Minister the certificate issued to the adopter by the competent authority of the Contracting State where the adoption took place, within 60 days after its issue.

Verification.

9. The Minister shall ensure that the certificate issued by the foreign competent authority contains the elements required under article 23 of the Convention.

Application for a ruling.

The Minister may, where the Minister considers it necessary, apply to the Court of Québec for a ruling on the validity of the certificate or on the recognition of the adoption in Québec having regard to article 24 of the Convention.

Conversion of an adoption.

Where the certificate was issued in respect of an adoption which did not result in the dissolution of the pre-existing bond of filiation between the child and the child's family of origin, the Minister shall, after ascertaining that the consents required under section 6 of this Act have been given, draw up a certificate attesting to the conversion of the adoption into an adoption dissolving the pre-existing bond of filiation. The Minister shall give a copy of the certificate to the adopter.

Interpretation.

10. For the purposes of the Convention, any reference in a legislative provision to the concept of domicile must be understood as a reference to the concept of habitual residence.

Minister responsible.

11. The Minister of Health and Social Services is responsible for the administration of this Act.

12 to 31 omitted

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Permanent certifications.

32. Permanent certifications issued under Division VII of Chapter IV of the Youth Protection Act (chapter P-34.1) remain valid until 1 September 2007.

Adoption process continued by adopter.

33. An adoption process in respect of a child domiciled outside Québec undertaken by an adopter and authorized by the Minister in writing before the coming into force of section 14 may be continued by the adopter.

Adoption process continued by Minister.

34. An adoption process in respect of a child domiciled outside Québec which the Minister agreed, in writing, to undertake on behalf of the adopter before the coming into force of section 14 may be continued by the Minister.

Transitional measures.

35. The Government may, by regulation, prescribe transitional measures for the purposes of this Act.

Regulation.

Such a regulation must be made not later than 1 February 2007 and may, if it so provides, be applicable from a date not prior to 1 February 2006.

36. (Omitted).

SCHEDULE

CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

(Concluded 29 May 1993)

The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions:

CHAPTER I
SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are:

- (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law;
- (b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- (c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

1) The Convention shall apply where a child habitually resident in one Contracting State ("the State of origin") has been, is being, or is to be moved to another Contracting State ("the receiving State") either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

2) The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, sub-paragraph c, have not been given before the child attains the age of 18 years.

CHAPTER II REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin:

- (a) have established that the child is adoptable;
- (b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;
- (c) have ensured that:
 - 1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,
 - 2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,
 - 3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and
 - 4) the consent of the mother, where required, has been given only after the birth of the child; and
- (d) have ensured, having regard to the age and degree of maturity of the child, that:
 - 1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,
 - 2) consideration has been given to the child's wishes and opinions,
 - 3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and
 - 4) such consent has not been induced by payment or compensation of any kind.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State:

- (a) have determined that the prospective adoptive parents are eligible and suited to adopt;
- (b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and
- (c) have determined that the child is or will be authorized to enter and reside permanently in that State.

CHAPTER III

CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

- 1) A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.
- 2) Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

- 1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.
- 2) They shall take directly all appropriate measures to:
 - (a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;
 - (b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to:

- (a) collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- (b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- (c) promote the development of adoption counselling and post-adoption services in their States;
- (d) provide each other with general evaluation reports about experience with intercountry adoption;
- (e) reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall:

- (a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;

- (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- (c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorized it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

1) If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.

2) It shall transmit the report to the Central Authority of the State of origin.

Article 16

1) If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall:

(a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;

(b) give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;

(c) ensure that consents have been obtained in accordance with Article 4; and

(d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

2) It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if:

(a) the Central Authority of that State has ensured that the prospective adoptive parents agree;

(b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;

- (c) the Central Authorities of both States have agreed that the adoption may proceed; and
- (d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorized to enter and reside permanently in the receiving State.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

- 1) The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.
- 2) The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.
- 3) If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

1) Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular:

(a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;

(b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents ;

(c) as a last resort, to arrange the return of the child, if his or her interests so require.

2) Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

1) The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.

2) Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who:

(a) meet the requirements of integrity, professional competence, experience and accountability of that State; and

(b) are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.

3) A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.

4) Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.

5) Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

CHAPTER V RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

1) An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognized by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph c, were given.

2) Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a Contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the Convention that it will not be bound under this Convention to recognize adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

1) The recognition of an adoption includes recognition of:

(a) the legal parent-child relationship between the child and his or her adoptive parents;

(b) parental responsibility of the adoptive parents for the child;

(c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

2) In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognized, rights equivalent to those resulting from adoptions having this effect in each such State.

3) The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognizes the adoption.

Article 27

1) Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognizes the adoption under the Convention, be converted into an adoption having such an effect:

(a) if the law of the receiving State so permits; and

(b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

2) Article 23 applies to the decision converting the adoption.

CHAPTER VI GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs a to c, and Article 5, sub-paragraph a, have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

1) The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.

2) They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

1) No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

2) Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

3) The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the Contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;
- (c) any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorized to act in the relevant territorial unit;
- (d) any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant territorial unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

- 1) The Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States Parties to such instrument.
- 2) Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

CHAPTER VII FINAL CLAUSES

Article 43

- 1) The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Seventeenth Session and by the other States which participated in that Session.

2) It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 44

1) Any other State may accede to the Convention after it has entered into force in accordance with Article 46, paragraph 1.

2) The instrument of accession shall be deposited with the depositary.

3) Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph b of Article 48. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

Article 45

1) If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2) Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

3) If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

Article 46

1) The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third instrument of ratification, acceptance or approval referred to in Article 43.

2) Thereafter the Convention shall enter into force:

(a) for each State ratifying, accepting or approving it subsequently, or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

(b) for a territorial unit to which the Convention has been extended in conformity with Article 45, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 47

1) A State Party to the Convention may denounce it by a notification in writing addressed to the depositary.

2) The denunciation takes effect on the first day of the month following the expiration of 12 months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

Article 48

The depositary shall notify the States Members of the Hague Conference on Private International Law, the other States which participated in the Seventeenth Session and the States which have acceded in accordance with Article 44, of the following:

(a) the signatures, ratifications, acceptances and approvals referred to in Article 43;

(b) the accessions and objections raised to accessions referred to in Article 44;

(c) the date on which the Convention enters into force in accordance with Article 46;

(d) the declarations and designations referred to in Articles 22, 23, 25 and 45;

(e) the agreements referred to in Article 39;

(f) the denunciations referred to in Article 47.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at The Hague, on the 29th day of May 1993, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Seventeenth Session and to each of the other States which participated in that Session.

ORDER RESPECTING THE ADOPTION WITHOUT A CERTIFIED BODY OF A CHILD DOMICILED OUTSIDE QUÉBEC BY A PERSON DOMICILED IN QUÉBEC

c. P-34.1, r.0.02

Youth Protection Act

(R.S.Q., c. P-34.1, s. 71.6 ; 2004, c. 3, s. 22)

Civil Code of Québec

(art. 564 ; 2004, c. 3, s. 14)

DIVISION 1 GENERAL

1. *This Order governs the adoption of a child domiciled outside Québec by a person domiciled in Québec when the adoption arrangements are made without a body certified by the Minister under the Youth Protection Act (R.S.Q., c. P-34.1).*
2. *Pursuant to article 564 of the Civil Code, only persons who meet the criteria and conditions set out in this Order may, without a body certified by the Minister, make arrangements for the adoption of a child domiciled outside Québec.*
3. *A prospective adopter must satisfy the Minister of Health and Social Services that the criteria and conditions set out in this Order and in the provisions that apply in Québec and in the child's State of origin have been met.*
4. *A prospective adopter authorized by the Minister must make the adoption arrangements under the supervision or with the assistance of the Minister, as the case may be.*
5. *Unless otherwise provided in this Order, the provisions relating to the adoption of a child domiciled outside Québec by a person domiciled in Québec apply to adoptions under this Order.*
6. *A prospective adopter in pursuing the proposed adoption must comply with the provisions that apply in Québec and in the child's State of origin.*

DIVISION 2 ADOPTIONS AUTHORIZED

§ 1. *Adoption by the adopters themselves of a child domiciled outside Québec*

7. *A person may be authorized to make adoption arrangements without a certified body if*

(1) the proposed adoption is of a brother, sister, nephew, niece, grandson, grand-daughter, cousin, half brother or half sister of the person or of the person's spouse including a de facto spouse with whom the person has been living for at least 3 years, provided that neither the person nor the person's spouse is bound to another person by marriage, civil union or another form of conjugal union that is still valid ;

(2) the proposed adoption is of a child in the care of a competent child protection or adoption authority who is domiciled in a State for which no body has been certified, if

(a) the prospective adopter is or was a national of the State in which the adoption is being sought ; and

(b) under the law of that State, only a person who is or was a national of that State can adopt a child domiciled in that State ; or

(3) In the opinion of the Minister, owing to exceptional circumstances and for humanitarian considerations, the adoption of a child by the prospective adopter is the measure most likely to ensure the child's rights are respected owing to any of the following reasons :

(a) the child is in a situation such that the child's life or health would be in serious danger if the child were not adopted by the prospective adopter ;

(b) the child has a handicap or biological characteristics that cause the child's rejection by the community in the child's State of origin ; or

(c) the child has been placed in the care of the prospective adopter and the prospective adopter has, for 6 consecutive months in the past 2 years in the child's State of origin, assumed the custody and supervision of the child and has fed and maintained the child and ensured the child's education because of the parents' or tutor's inability to do so.

§ 2. Adoption by the adopters themselves of a child domiciled in another province or a territory of Canada

8. A person may be authorized to make adoption arrangements without a certified body if the proposed adoption is of a child domiciled in a province or territory of Canada who has been placed in the care of a competent public child protection or adoption authority in that province or territory.

§ 3. Adoption with the assistance of the Minister

9. The Minister may assist the adopter with the adoption arrangements if

(1) the certification of the body with which the adopter has entered into a contract has not been renewed or has been suspended or revoked by the Minister and the adopter's file has already been forwarded to the State of origin ;

(2) the adoption cannot take place through the certified body because the child's State of origin no longer authorizes the body to make adoption arrangements in its territory and the adopter's file has already been forwarded to the State of origin ;

(3) the Minister wishes to assess the advisability of certifying a body for a State of origin for which no body has been certified ;

(4) the child's State of origin requests the Minister intervene ; or

(5) an agreement entered into between Québec and the child's State of origin provides for adoption with such assistance.

DIVISION 3

TERMS AND CONDITIONS OF THE ADOPTION PROCESS

§ 1. Authorization to initiate adoption arrangements without a certified body

10. The Minister receives the application from a prospective adopter who wishes to adopt without a certified body and must ascertain whether the application is eligible under this Order and the provisions that apply in Québec and in the child's State of origin.

11. To determine whether the prospective adopter satisfies the provisions of the State of origin, the Minister may require the prospective adopter to provide a certified true copy of those provisions. The Minister may also require the prospective adopter to provide a certificate drawn up by a jurisconsult.

12. The Minister must furnish the prospective adopter having filed an eligible application with a form allowing the Minister to collect the information required concerning

(1) the identity of the prospective adopter, establishing compliance with the age, civil status or family situation criteria ;

(2) where applicable, the identity of the child and a description of the child's living conditions ; and

(3) where applicable, the identity of the persons or authorities in whose care the child has been placed.

13. A prospective adopter must submit in support of the application all the documents required by the form to allow the following in particular to be established :

- (1) the age of the prospective adopter and, if applicable, the age of the child ;
- (2) the nationality of the prospective adopter and, if applicable, the nationality of the child ;
- (3) if applicable, the kin relationship between the prospective adopter and the child ; and
- (4) the exceptional circumstances, if any, that warrant the processing of the application on humanitarian grounds.

14. The Minister must verify the information and documents received. In considering the application, the Minister may contact the prospective adopter and if the Minister considers it necessary, call the prospective adopter to an interview.

15. In considering the application and at any stage in the adoption process, the Minister may consult the Immigration authorities and the competent adoption authorities in Québec or in the child's State of origin.

In deciding the application, the Minister must consider the situation in the State in which the child is domiciled and the guarantees given to the child, the child's parents and the prospective adopter.

16. After the application has been considered and all additional information and documents required by the prospective adopter's or the child's specific situation have been provided, the prospective adopter receives, if applicable, confirmation authorizing the prospective adopter to undergo a psychosocial assessment and, if the recommendation in the assessment is positive, to initiate adoption arrangements in the State of origin concerned, on the conditions provided for by law and on any conditions the Minister considers necessary.

Except in urgent circumstances, the Minister must notify the prospective adopter in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) before refusing to grant the authorization referred to in the first paragraph, and allow the prospective adopter at least 10 days to present observations. The Minister's decision must be in writing and give reasons ; an original must be sent to the prospective adopter.

17. The evaluator must send an original of the psychosocial assessment to the Minister.

18. On confirmation by the Minister of receipt of the positive psychosocial assessment, the prospective adopter may, pursuant to the authorization granted under section 16, initiate adoption arrangements in the State of origin concerned.

§ 2. Adoption arrangements and post-adoption follow-up

19. An adopter authorized to make adoption arrangements without a certified body must personally prepare his or her file and submit it to the State in which he or she is seeking to adopt.

20. The adopter must inform the Minister of the arrangements made and, on request, provide the Minister with documents showing that the adoption arrangements are in conformity with the provisions that apply in Québec and in the child's State of origin.

21. Before accepting an adoption proposal, the adopter must file a copy of the proposal with the Minister who must ascertain whether it conforms to the recommendation in the adopter's psychosocial assessment.

22. The adopter must show that the child is eligible for adoption by producing a decision issued by the competent authority in the State of origin.

23. The adopter must provide the Minister with proof that all consents have been given in view of a full adoption, as prescribed by articles 568 and 574 of the Civil Code.

The Minister may require consent in the appropriate form attached as a schedule to this Order.

24. Every document produced pursuant to this Order and written in a language other than French or English must be accompanied by a translation into French certified by an accredited translator, or in the absence of an accredited translator, by a qualified person in Québec.

25. Except for the adoptions referred to in paragraph 1 or subparagraph c of paragraph 3 of section 7, an adopter may not establish contact with the biological parents in any of the following circumstances : before the child is born, before the child has been declared eligible for adoption, before the consents to the adoption have been given, or before adoption in the State of origin has been considered for the child, if such an adoption is possible.

26. The adopter must immediately inform the Minister of any change in his or her situation, or of any change concerning the child to be adopted or the persons, institutions or authorities in whose care the child has been placed, if the changes could affect the Minister's decision. The notice must be accompanied by any document or information relevant to the change.

If the Minister considers the change is material, the Minister may request an interview with the adopter or any other person concerned by the proposed adoption.

27. The Minister may amend or withdraw an authorization and terminate the adopter's arrangements if the Minister's verifications reveal an irregularity in the adoption process, or if the adopter has made misrepresentations or distorted a material fact in the application or in any document or information required in connection with the proposed adoption.

Except in urgent circumstances, the Minister must notify the adopter in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., c. J-3) before amending or withdrawing the authorization, and allow the adopter at least 10 days to present observations. The Minister's decision must be in writing and give reasons ; an original must be sent to the adopter.

An amended authorization or a notice of withdrawal, as the case may be, must be sent by the Minister to the persons or authorities concerned by the application. A copy must be sent to the adopter.

28. A person who withdraws from the proposed adoption must so inform the Minister in writing within 30 days of the person's decision.

29. The adopter must as soon as possible inform the Minister of the child's arrival in Québec.

30. The adopter must, within 6 months after the child's arrival in Québec, undertake the judicial procedures required for the adoption to produce its effects in Québec.

The adopter must send a copy of the court's decision to the Minister as soon as it is received.

31. The adopter must, if required, produce and send the child's progress reports in the form, at the intervals and within the time determined by the child's State of origin, and file a copy of the reports with the Minister.

ORDER RESPECTING THE CERTIFICATION OF INTERCOUNTRY ADOPTION BODIES

c. P-34.1, r.0.03

Youth Protection Act

(R.S.Q., c. P-34.1, s. 71.17, 2nd par., s. 71.20, 1st par., s. 71.21 and s. 71.23, 1st par., subpar. 6; 2004, c. 3, s. 22)

DIVISION 1

CONDITIONS AND QUALIFICATIONS FOR CERTIFICATION

1. Intercountry adoption certification is granted to a body that applies therefore in writing and meets the conditions and qualifications prescribed by the Act and by this Order.
2. A body applying for intercountry adoption certification must satisfy the following conditions :
 - (1) have its head office in Québec ;
 - (2) have a board of directors composed of no fewer than 5 persons domiciled in Québec and who are Canadian citizens or permanent residents ;
 - (3) have intercountry adoption as one of its objects, in its articles, and carry on no activity in Québec or elsewhere that is inconsistent with that object ;
 - (4) have a trust account ;
 - (5) in the previous 12 months, have travelled to the State of origin concerned and observed at first hand the conditions in which the adoption arrangements will be made ;
 - (6) hold a resolution from its board of directors by which the body declares being bound by ethical principles and rules of conduct that are sensitive to the public interest and international context of intercountry adoption and that pertain to such matters as the services provided to adopters, respect for the rights of the children, the biological parents and the adopters, conflicts of interest, the use of the sums disbursed by the adopters, and relations with the other certified bodies ; and
 - (7) have the human, physical and financial resources necessary to make arrangements on behalf of adopters domiciled in Québec for the adoption of a child domiciled in the State of origin concerned.
3. The body must also show that it is directed, managed and administered by persons who
 - (1) are aware of and adhere to the ethical principles and rules of conduct to which the body has declared itself bound ;
 - (2) have sufficient knowledge of the current intercountry adoption laws in Québec and in the State of origin concerned and of the relevant immigration rules ;
 - (3) have sufficient knowledge of the process leading to the adoption of a child domiciled in the State of origin concerned ;
 - (4) have sufficient knowledge of the culture and socio-political situation in the State of origin concerned ;
 - (5) know the competent intercountry adoption authorities in Québec and in the State of origin concerned ;
 - (6) have the training or relevant experience to work in the field of intercountry adoptions, in particular in the areas of management, law, psychology, social work, international relations, child care or humanitarian aid ;

- (7) have produced a signed and sworn statement in which they declare having no direct or indirect interest in an enterprise or activity placing their personal interest in conflict with that of the body ; and
 - (8) are domiciled in Québec and are Canadian citizens or permanent residents.
4. The body must make a certification application for each State of origin concerned using the form furnished by the Minister, and provide the following information :
- (1) the name and address of the person authorized by the board of directors to file the certification application on the body's behalf ;
 - (2) the name of the body and the registration number assigned to it under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45) ;
 - (3) the name, address and occupation of each member of its board of directors ;
 - (4) the name, address and occupation of each person having responsibilities assigned by the body in connection with the pursuit of the arrangements made on behalf of the adopter in Québec and in the State of origin concerned ; and
 - (5) the name and address of the public or private institutions in the State of origin concerned and the name, address and occupation of the persons working therein who collaborate or are in liaison with the body to obtain adoption proposals.
5. The body must furnish the following documents with its application :
- (1) a copy of the resolution of its board of directors authorizing the filing of a certification application for the State of origin concerned ;
 - (2) the body's articles and general by-laws ;
 - (3) a certified true copy of an official version of the laws of the State of origin concerned ;
 - (4) a copy of the documents establishing the terms of cooperation between the body and the persons having responsibilities assigned by the body in connection with the pursuit of the arrangements made on behalf of the adopter in Québec and in the State of origin concerned, and describing the services that those persons are to provide and the fees charged for them ;
 - (5) a true copy of the internal procedures for opening files and protecting the personal information the body collects, holds, uses or communicates to third parties in the course of its activities ;
 - (6) budget projections for 24 months ;
 - (7) a copy of the standard contract to be entered into with adopters, accompanied by a detailed list of the services offered to the adopters and a detailed breakdown of the costs of adopting in Québec and in the State of origin concerned ;
 - (8) a copy of the resolution of its board of directors attesting that the body has declared itself bound by ethical principles and rules of conduct ; and
 - (9) a certified true copy of the accreditation, if any, granted by the State of origin concerned.
6. A body that must be accredited by a competent authority in the State of origin in order to make adoption arrangements must obtain the required accreditation within 12 months after being certified, unless extenuating circumstances exist.
7. Pursuant to the first paragraph of section 71.17 of the Act, every person who is an officer, manager or director of the body must provide the Minister with a certified criminal record check in relation to the offences listed in section 27 of this Order, completed by a police force in Québec.

DIVISION 2
OBLIGATIONS OF A BODY CERTIFIED BY THE MINISTER

§ 1. General obligations

8. A certified body must comply with the laws and regulations governing the adoption of a child domiciled outside Québec, including the provisions relating to the protection of personal information set out in the Civil Code and in the Act respecting the protection of personal information in the private sector (R.S.Q., c. P-39.1).

The certified body must also comply at all times with the conditions required to obtain certification, and with any conditions imposed at the time certification is granted.

9. Every document produced pursuant to this Order that is drawn up outside Québec or is intended for a public or private institution in the State of origin concerned, if written in a language other than French or English, must be accompanied by a translation into French certified by an accredited translator, or in the absence of an accredited translator, by a qualified person in Québec.

10. A certified body must suspend registrations if so required by the situation in the State of origin concerned or if the body encounters difficulties in meeting its commitments to the adopters or the Minister. In such a case, the body must immediately so inform the Minister.

§ 2. Obligations towards adopters

11. Before making arrangements for the adoption of a child domiciled outside Québec on behalf of the adopters, the certified body must enter into a written contract with the adopters that specifies the services the body undertakes to provide to them and the respective responsibilities of each party to the contract; the contract must contain a breakdown of estimated costs with an indication of the person to whom the costs are payable and whether they may fluctuate, the manner in which the contract may be modified or terminated, and the refund procedure in the event the contract is terminated. The contract must specify when it takes effect and when it ends.

The certified body must respect the commitments in the contract and provide to the adopters the services specified therein.

12. As minimum services provided to the adopters, a certified body must

(1) provide them with information on the services offered by the certified body, the conditions in the State of origin concerned, the profile of the children proposed for adoption, the adoption procedure and the documents required by the State of origin concerned, and the support services available in Québec after the child's arrival;

(2) inform the adopters of any change likely to have an impact on how their proposed adoption is to proceed;

(3) ensure that the adopters' file is complete and forward it to the State of origin concerned;

(4) receive adoption proposals and give effect to them, taking into account the recommendations contained in the psychosocial assessment;

(5) see that the adoption process is pursued in the proper manner, in particular by the timely forwarding of all documents required by the authorities in Québec or in the State of origin concerned;

(6) inform the adopters on the procedures after the child arrives in Québec, such as the judicial procedure and application for citizenship, and conduct follow-up;

(7) conduct follow-up on the sending of the child's progress reports in accordance with the requirements of the State of origin; and

(8) cooperate in research into family and medical antecedents or reunions.

13. A certified body may not require an amount of money be paid to it by the adopters before the contract has been signed by the parties.

The body must provide receipts for all amounts of money paid to it by the adopters.

14. A certified body may not propose a child for adoption before receiving the positive psychosocial assessment report on the adopters.

An adoption proposal that does not conform to the psychosocial assessment must be processed in collaboration with the Minister.

§ 3. Obligations towards the Minister

15. A certified body must inform the Minister in writing of any change in the information furnished in the certification application within 30 days following the change or, if the body is unable to do so within that time, as soon as the body is able to do so.

16. A certified body must send to the Minister a copy of the documents setting out the terms of its cooperation with the public or private institutions in the State of origin concerned.

The terms of the cooperation must be consistent with the laws that apply in Québec and in the State of origin.

§ 4. Trust accounts

17. A certified body must deposit in its trust account all amounts paid to it for services to be provided, disbursements to be made or charges to be paid to third parties.

18. A certified body must maintain books, records and accounts pertaining to its activities and enter therein all sums of money received by the body in trust, all disbursements made by it out of the trust account and the unexpended balance of the money held by it in trust.

19. A certified body must also maintain accounting records showing all receipts and all disbursements, distinguishing between

- (1) money received in trust for adopters and disbursements of money held in trust ; and
- (2) money received and money disbursed in the body's own account.

§ 5. Reports and follow-up on the body's activities

20. The fiscal year of a certified body begins on 1 April and ends on 31 March.

21. A certified body must make an annual report to the Minister on its activities. The report, which is to cover the period ending on 31 March of the current year, must be made on or before 30 June of each year and contain the following information and documents :

- (1) its financial statements prepared by a certified accountant, a certified management accountant or a certified general accountant ;
- (2) a copy of the standard contract used by the body ;
- (3) a list of adopters who have completed the process and the date on which their file was forwarded to the State of origin concerned ;
- (4) the name and address of the financial institution in which the trust account has been opened, the account number and the balance at 31 March ;
- (5) an estimate of the average cost of an adoption, with a breakdown by spending item, and the cost range for each ; and
- (6) a summary of its development activities that concern intercountry adoption and humanitarian aid.

The certified body is to make only one report if it is certified or accredited in more than one State of origin. In such a case, the required information and documents must enable the report to be examined State by State.

22. The Minister is to monitor the activities of the certified body for the entire duration of certification. The Minister may send a written notice of non-compliance to a certified body if the body

(1) does not comply with the conditions of its certification ;

(2) fails to perform a legal duty ; or

(3) fails to inform the Minister of a change in the particulars submitted in support of the certification application such as the costs of adoption, the names of the foreign collaborators or the standard contract.

23. A written notice of non-compliance becomes part of the certified body's file.

DIVISION 3

CONDITIONS FOR CERTIFICATION RENEWAL

24. A certified body wishing to renew certification must make a written application to the Minister 6 months before the expiry of current certification, using the form furnished by the Minister. A certification renewal application must include an updating of the documents and information furnished under sections 4, 5 and 6.

25. The conditions and qualifications referred to in sections 2 and 3 of this Order apply to a certification renewal application.

26. Before renewing certification, the Minister must assess the certified body's past record in intercountry adoptions and the situation in the State of origin concerned. For that purpose the Minister may consult the competent adoption or immigration authorities.

The Minister must consider such factors as

(1) the number of adoptions that have taken place and the conduct of the process in those adoptions ;

(2) the number of complaints made against the certified body ;

(3) the notices of non-compliance entered in the certified body's file ;

(4) the certified body's relations with the institutions and public or private authorities in the State of origin concerned ; and

(5) the certified body's relations with the Minister and the competent adoption or immigration authorities in Québec.

DIVISION 4

LIST OF OFFENCES

27. For the purposes of subparagraph 6 of the first paragraph of section 71.23 of the Act, the offences that may lead the Minister to suspend, revoke or refuse to renew certification are the following, whether committed in Canada or abroad :

(1) an offence with violence or of a sexual nature ;

(2) an offence relating to child protection ;

(3) an offence relating to the falsification of documents, fraud, false pretenses, theft, false representation or corruption ;

(4) a criminal organization offence ;

(5) an offence relating to privacy or the protection of personal information ; and

(6) an offence relating to the possession, trafficking, importing or exporting of weapons, drugs or other illicit substances.

The certified body or any officer, manager or director wishing to remain in office, must without delay notify the Minister of any conviction for an offence listed in the first paragraph and as soon as feasible provide the Minister with any document or information enabling the Minister to make an enlightened decision regarding the suspension or revocation of certification or refusal to renew certification.

DIVISION 5

FINAL

28. This Order replaces the Minister's Order respecting the conditions for certification of an organization that takes steps on behalf of the adopter with a view to the adoption of a child domiciled outside Québec (M.O. 1991, 91-03-14).

29. (Omitted).

September 2011

This document has no official status.

Full texts of the Québec legal framework available at : www2.publicationsduquebec.gouv.qc.ca