

*chapter E-8*

***FIRE INVESTIGATIONS ACT***

*Chapter E-8 is replaced by the Fire Safety Act (chapter S-3.4). (2000, c. 20, s. 158).  
2000, c. 20, s. 158.*

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***SCHEDULE***

***REPEAL SCHEDULE***

***DIVISION I***

***FIRE INVESTIGATION COMMISSIONERS***

***1.*** *The Government may appoint a fire investigation commissioner for any judicial district of Québec. Such an investigation commissioner shall only exercise his functions within the limits of the judicial district for which he is appointed.*

*1968, c. 16, s. 1.*

***2.*** *One or more deputy investigation commissioners may also be appointed by the Government to each fire investigation commissioner.*

*A deputy commissioner shall be competent to act instead of the investigation commissioner when the latter so requires; he shall act in his stead ex officio when the investigation commissioner is unable to act or is dead. In each such case, the deputy commissioner shall have the same powers and shall be subject to the same obligations as the investigation commissioner whom he replaces.*

*1968, c. 16, s. 2.*

***3.*** *(Repealed).*

*1968, c. 16, s. 3; 1983, c. 41, s. 195.*

***4.*** *Every investigation commissioner who is unable or expects to become unable to act may, by a writing over his signature, delegate his powers in any part of the territory for which he was appointed and for which no investigation commissioner or deputy commissioner is competent to act, to an investigation commissioner of an adjoining territory.*

*The writing shall specify the investigations or inquiries for which such powers are delegated, or indicate the period for which the delegation is valid.*

*A duplicate of the written delegation shall be transmitted forthwith to the clerk of the Court of Québec of the judicial district in which the investigation commissioner who delegates his duties is competent to act.*

*1968, c. 16, s. 4; 1992, c. 61, s. 287.*

***5.*** *The Minister of Public Security may specially authorize any person to investigate or inquire into a fire or explosion at any place in Québec. Every person so authorized shall have the same competence as the fire investigation commissioner of the place for which he was appointed and shall replace him; he shall then have the same powers and be subject to the same obligations as the investigation commissioner whom he replaces.*

*1968, c. 16, s. 5; 1986, c. 86, s. 41; 1988, c. 46, s. 24.*

***6.*** *Every fire investigation commissioner or deputy commissioner and every person authorized to make an investigation or hold an inquiry under section 5 shall, before assuming his functions, take the oath of allegiance and of office according to the schedule to this Act.*

*Such oath shall be taken before a judge, a clerk of the Superior Court, a clerk of the Court of Québec or a notary; deputy commissioners may also take such oath before the investigation commissioner to whom they are appointed.*

*A certificate of the taking of such oath shall be transmitted to the clerk of the Court of Québec of the judicial district comprising the territory for which the person who took it has been appointed.*

*1968, c. 16, s. 6; 1983, c. 41, s. 196; 1988, c. 21, s. 66; 1992, c. 61, s. 288; 1999, c. 40, s. 118.*

**7.** *Every fire investigation commissioner shall be ex officio a justice of the peace, without any property qualification being required; every such investigation commissioner may exercise all the rights, powers and privileges granted to, and shall be subject to all the duties, obligations and responsibilities imposed by law upon, justices of the peace.*

*No fire investigation commissioner may act as a justice of the peace in cases arising from facts that were the subject of his investigation or inquiry.*

*Any act performed in contravention of the provision of the second paragraph is absolutely null.*

*1968, c. 16, s. 7; 1992, c. 61, s. 289.*

**8.** *The permanent investigation commissioners shall be appointed in accordance with the Public Service Act (chapter F-3.1.1); the others shall be appointed by order in council and remunerated in fees, as the Government may determine.*

*A deputy commissioner shall be appointed in accordance with the Public Service Act if the investigation commissioner to whom he is appointed is himself appointed in accordance with such Act; in other cases, he shall be appointed by the Minister of Public Security and remunerated in fees.*

*Investigation commissioners and deputy commissioners who are remunerated in fees shall be so remunerated according to the tariff established for such purpose by the Government.*

*1968, c. 16, s. 8; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1986, c. 86, s. 41; 1988, c. 46, s. 24.*

**9.** *The Government may also appoint, to fire investigation commissioners to whom the Public Service Act (chapter F-3.1.1) applies, such other functionaries and employees as are necessary for the carrying out of this act.*

*Such functionaries and employees shall be appointed in accordance with the said Public Service Act.*

*1968, c. 16, s. 9; 1978, c. 15, s. 140; 1983, c. 55, s. 161.*

## **DIVISION II**

### **INFORMATION TO THE FIRE INVESTIGATION COMMISSIONER**

**10.** *The director or chief of the fire-brigade of any local municipality in whose territory a fire or an explosion has destroyed or damaged a building, or the person in charge of the fire protection service in such territory or, if there is no such chief or person in the territory, the secretary-treasurer or the clerk of the municipality shall, as soon as possible, give notice of such fire or explosion to the fire investigation commissioner who has jurisdiction in the territory in which the fire or explosion occurred.*

*1968, c. 16, s. 10; 1996, c. 2, s. 666.*

## **DIVISION III**

### **INVESTIGATIONS**

**11.** *The fire investigation commissioner may investigate the cause, origin and circumstances of any fire or explosion that has caused personal injury or property damage.*

*He shall also make such an investigation whenever the Minister of Public Security requires him to do so.*

*1968, c. 16, s. 11; 1986, c. 86, s. 41; 1988, c. 46, s. 24; 1999, c. 33, s. 1; 1999, c. 40, s. 118.*

**12.** *For the purposes of his investigation, the investigation commissioner may, with the written authorization of a justice of the peace who is not a fire investigation commissioner, visit the premises where the fire or explosion occurred, examine any objects found there and take possession of any objects which may be useful for the purposes of such investigation.*

*The justice of the peace may grant the authorization, subject to such conditions as he may specify therein, where he is satisfied, on the basis of a sworn statement by the fire investigation commissioner, that there is reasonable cause to believe that the fire or explosion occurred in the circumstances described in section 11 and that visiting the premises, examining or taking possession of the objects found there may be useful for the purposes of the investigation. The authorization, whether acted upon or not, shall be returned to the justice of the peace who granted it, not later than 15 days after its issue.*

*No authorization is required, however, if the conditions for obtaining it exist and if, owing to exigent circumstances, the delay necessary to obtain the authorization may result in danger to human health or to the safety of persons or property or in the disappearance, destruction or loss of anything that may be useful for the purposes of the investigation.*

*1968, c. 16, s. 12; 1983, c. 28, s. 44; 1986, c. 95, s. 135.*

**12.1.** *The investigation commissioner shall have custody of any object of which he takes possession.*

*He shall return the object to the person who establishes his right to it, unless it is required for the purposes of this Act or the administration of justice.*

*1986, c. 95, s. 135.*

**13.** *When the investigation commissioner establishes by his investigations that no inquiry is necessary, the investigation commissioner shall draw up a summary minute of the information obtained, deposit it forthwith in the records of the clerk of the Court of Québec of the district where the fire or explosion occurred, and send a copy thereof to the Director General of Fire Prevention appointed under the Fire Prevention Act (chapter P-23).*

*He shall also make a return to the Minister of Public Security, sending him forthwith a copy of his minute and a statement of his fees and disbursements, if any, attested by his oath and accompanied by vouchers.*

*1968, c. 16, s. 13; 1986, c. 86, s. 41; 1988, c. 46, s. 24; 1992, c. 61, s. 290; 1999, c. 33, s. 2.*

**13.1.** *In no case may an investigation commissioner making an investigation draw a conclusion as to civil liability or criminal responsibility.*

*1999, c. 33, s. 3.*

## **DIVISION IV**

### **INQUIRIES**

#### **§ 1. — General provisions**

**14.** *Following an investigation, the fire investigation commissioner may hold an inquiry into the cause, origin and circumstances of any fire or explosion that has caused personal injury or property damage if the investigation commissioner has reason to believe that holding an inquiry would be expedient and would not impede the progress of any police investigation.*

*He must also hold an inquiry whenever the Minister of Public Security requires him to do so.*

*1968, c. 16, s. 14; 1986, c. 86, s. 41; 1988, c. 46, s. 24; 1999, c. 33, s. 4; 1999, c. 40, s. 118.*

**14.1.** *In determining whether it is expedient to hold an inquiry, the investigation commissioner shall consider whether it is necessary to hear witnesses, in particular*

*(1) to obtain information that will allow the cause, origin and circumstances of the fire or explosion to be determined;*

*(2) to inform the public about the cause, origin and circumstances of the fire or explosion;*

*(3) to allow recommendations to be made to better ensure the safety of persons and property.*

*1999, c. 33, s. 5.*

**15.** *Notwithstanding section 14, where criminal proceedings are brought against a person in connection with a fire or explosion, the investigation commissioner may not hold or continue an inquiry into the fire or explosion until the judgment on those proceedings has become res judicata.*

*1968, c. 16, s. 15; 1986, c. 86, s. 21; 1988, c. 46, s. 24; 1999, c. 33, s. 6.*

**16.** *If several buildings have been damaged or destroyed in the same fire or by the same explosion and the cause of the fire or explosion appears to be the same for all such buildings, the investigation commissioner shall hold a single inquiry respecting such fire or explosion.*

*1968, c. 16, s. 16.*

**17.** *The investigation commissioner must hold his inquiry as soon as possible, in the locality where the fire or explosion occurred unless, by reason of exceptional circumstances, he is justified in holding it in another locality.*

*He shall inform the Minister of Public Security and all persons whom he considers to be interested of the place, day and time when he will hold his inquiry.*

*For the purposes of the inquiry, the investigation commissioner may exercise the powers provided in sections 12 and 12.1.*

*1968, c. 16, s. 17; 1986, c. 86, s. 41; 1986, c. 95, s. 136; 1988, c. 46, s. 24.*

**§ 2. — Procedure and evidence**

**18.** *Investigation commissioners' inquiries shall be public wherever they are held.*

*Notwithstanding the foregoing, the investigation commissioner may direct, in the interest of public order, that the inquiry or any part thereof be held in camera.*

*No person shall publish anything whatsoever revealing the name of a child less than 18 years of age called to testify at an investigation commissioner's inquiry or any information permitting the identification of such child.*

*Every person who contravenes the preceding paragraph is guilty of contempt of court.*

*1968, c. 16, s. 18; 1977, c. 20, s. 149; 1986, c. 86, s. 41; 1986, c. 95, s. 137; 1992, c. 61, s. 291.*

**19.** *Before proceeding with the inquiry, the investigation commissioner shall inform the persons present of the object of his inquiry, the reasons which justify it and, if necessary, his reasons for holding it in a locality other than that where the fire or explosion occurred. Such information shall be recorded in writing and attested under his oath of office.*

*1968, c. 16, s. 19.*

**20.** *The investigation commissioner shall summon such witnesses as he deems it necessary to hear, by means of a summons signed by him and served by any bailiff or peace officer; the persons so summoned shall obey his order, under the penalties provided respecting witnesses who do not obey regular summons before the Superior Court.*

*1968, c. 16, s. 20.*

**21.** *Where the investigation commissioner has reasonable cause to believe that a person whom he intends to summon as a witness in an inquiry will evade service of the summons or will not attend in response to the summons, he may apply to a judge of the Court of Québec for a warrant enjoining a peace officer to arrest the person and cause him to appear:*

*Where the investigation commissioner is satisfied that another person has reasonable cause to believe that a witness in the inquiry will evade service of a summons or will not attend in response to a summons, he may authorize that person to apply to a judge of the Court of Québec for a warrant enjoining a peace officer to arrest the witness and cause him to appear.*

*The person arrested shall appear promptly before a judge of the Court of Québec. The person arrested and the person who applied for the warrant shall then be given the opportunity to be heard before a ruling is made as to detention or release.*

*1968, c. 16, s. 21; 1969, c. 21, s. 35; 1983, c. 41, s. 197; 1986, c. 95, s. 138; 1988, c. 21, s. 66.*

**21.1.** *If the person arrested is under 18 years of age, he is required to be entrusted to the director of youth protection until his appearance.*

*The director of youth protection shall place the person so arrested with an institution which operates a rehabilitation centre within the meaning of the Act respecting health services and social services (chapter S-4.2) or a reception centre within the meaning of the Act respecting health services and social services for Cree Native persons (chapter S-5) and notify without delay his parents, or any other person having parental authority, of the place where he is, of the time and place at which he is to appear and of the proceedings of which he is the object.*

*1984, c. 4, s. 62; 1992, c. 21, s. 166; 1994, c. 23, s. 23.*

**21.2.** *The judge before whom the person arrested appears may*

*(1) order that the person be released on recognizance, unconditionally or subject to reasonable conditions, with or without sureties, that he will attend and give evidence at the inquiry; or*

*(2) order that the person be detained in a house of detention for a period not exceeding eight days or, if the person is under 18 years of age, that he be entrusted to the director of youth protection designated by the judge.*

*A ruling made under the first paragraph may, on a motion, be revised by a judge of the Superior Court.*

*1986, c. 95, s. 139.*

**21.3.** *The person detained by order of the judge before whom he appeared must be called to give evidence at the inquiry within eight days of his appearance.*

*1986, c. 95, s. 139.*

**21.4.** *The powers conferred by this Act on a judge of the Court of Québec may be exercised by a justice of the peace appointed under section 158 of the Courts of Justice Act (chapter T-16), if no judge of the Court of Québec is available in the judicial district.*

*1986, c. 95, s. 139; 1988, c. 21, s. 87; 1992, c. 61, s. 292.*

**22.** *The witnesses shall testify after having been sworn by the investigation commissioner and, if he so requires, out of each other's presence. Any person able to testify may be compelled to do so under the penalties provided respecting witnesses who refuse to answer before the Superior Court.*

*The investigation commissioner shall inform a witness of his right to request the protection of section 5 of the Canada Evidence Act (Revised Statutes of Canada, 1985, chapter C-5) in respect of any question tending to criminate him.*

*1968, c. 16, s. 22; 1984, c. 4, s. 63.*

**22.1.** *If the investigation commissioner is of the opinion that it would be in the interest of a person under 18 years of age to be represented by an advocate, he shall inform that person of his right to be represented by an advocate and grant him a reasonable time to obtain the services of an advocate and if necessary, delay for that purpose the giving of his testimony.*

*1984, c. 4, s. 64.*

**23.** *The persons whom the investigation commissioner deems interested or their counsel may put to the witnesses any questions pertinent to the purposes of the inquiry.*

*The advocate representing the Attorney General at the inquiry may examine and cross-examine the witnesses, and require the investigation commissioner to summon any person whose testimony appears to him to be useful.*

*1968, c. 16, s. 23.*

**24.** *The depositions of the witnesses shall be taken down in writing, either word for word or in summary, and shall be signed by each of them.*

*Nevertheless, the investigation commissioner may have the depositions taken down by stenography or recorded in any other manner allowed before the courts of Québec.*

*Any interested person may ask that the depositions be so taken down or recorded, provided that he first deposits with the investigation commissioner an amount sufficient to pay the costs, and that the required personnel be available.*

*The stenographer or the person charged with recording the depositions shall, before acting, take oath before the investigation commissioner in accordance with the schedule.*

*1968, c. 16, s. 24.*

**25.** *The investigation commissioner has authority over the presentation of evidence and the conduct of the inquiry. The investigation commissioner must ensure that the inquiry is conducted in a fair manner. The investigation commissioner may admit any evidence the commissioner considers relevant to the purposes of the inquiry, exclude any evidence that is repetitious or the conclusiveness of which is minimal, and limit any vexatious examination or cross-examination of a witness.*

*1968, c. 16, s. 25; 1999, c. 33, s. 7.*

**26.** *The investigation commissioner may, if he deems it necessary, retain the services of a secretary or of an interpreter and swear in a sufficient number of peace officers to maintain peace and good order during the inquiry; the persons whose services are so required and any witnesses shall be entitled to the fees and indemnities provided in the tariff established for such purpose by the Government.*

*1968, c. 16, s. 26; 1983, c. 28, s. 45.*

**27.** *The investigation commissioner may adjourn an inquiry in order to view the premises or to ascertain any other fact that he considers useful, or when it appears to him absolutely impossible to ascertain the truth immediately.*

*The Minister of Public Security may require an investigation commissioner to resume an adjourned inquiry or to hold another inquiry.*

*1968, c. 16, s. 27; 1986, c. 86, s. 41; 1988, c. 46, s. 24.*

§ 3. — Returns

**28.** *The investigation commissioner shall declare the inquiry closed after hearing the witnesses; he shall draw up as soon as possible a written return and transmit it forthwith to the Minister of Public Security and to the Director General of Fire Prevention appointed under the Fire Prevention Act (chapter P-23).*

*The return shall state, in relation to the fire or explosion,*

- (1) the date and place;*
- (2) the probable origin and cause;*
- (3) the circumstances;*
- (4) any recommendation designed to better ensure the safety of persons and property.*

*1968, c. 16, s. 28; 1986, c. 86, s. 41; 1988, c. 46, s. 24; 1999, c. 33, s. 8.*

**28.1.** *In no case may an investigation commissioner holding an inquiry draw a conclusion as to civil liability or criminal responsibility.*

*1999, c. 33, s. 9.*

**29.** *The investigation commissioner shall transmit to the Minister of Public Security, as soon as possible after the close of the inquiry:*

- (a) a copy of the text of the information given under section 19;*
- (b) a copy of the text of the depositions of the witnesses;*
- (c) the text of the return contemplated in section 28, and*
- (d) a statement of his fees and disbursements, if there is occasion, attested by his oath and accompanied by vouchers.*

*He shall also deposit forthwith in the office of the clerk of the Court of Québec of the district where the inquiry was held the originals of the documents mentioned in paragraphs a, b and c and a copy of the return contemplated in section 28.*

*1968, c. 16, s. 29; 1986, c. 86, s. 41; 1988, c. 46, s. 24; 1992, c. 61, s. 293.*

**29.1.** *If the investigation commissioner considers it necessary in the public interest or for the protection of a person's privacy, reputation or right to a just and fair trial, the investigation commissioner may ban the publication or release of all or some of the documents referred to in subparagraphs b and c of the first paragraph of section 29 for the period determined by the investigation commissioner. The investigation commissioner shall inform accordingly the Minister of Public Security and the clerk of the Court of Québec at whose office the investigation commissioner's return is deposited.*



*However, where warranted in the public interest, the Minister may publish or release information that is subject to the ban.*

*1999, c. 33, s. 10.*

## ***DIVISION V***

### ***FORMS***

**30.** *The Minister of Public Security shall establish such forms as he deems necessary or expedient to facilitate the carrying out of this Act.*

*He may also establish rules respecting the procedure to be followed for the holding of inquiries and the preparation and auditing of investigation commissioners' accounts.*

*1968, c. 16, s. 30; 1986, c. 86, s. 41; 1988, c. 46, s. 24.*

## ***DIVISION V.1***

### ***REGULATIONS***

*1983, c. 28, s. 46.*

**30.1.** *The Government may, by regulation,*

*(1) determine the tariff of the fees, indemnities and other costs which may be paid in making a fire investigation or inquiry;*

*(2) determine in what cases, on what conditions and to what categories of persons the tariff is applicable;*

*(3) fix the amount payable to obtain a certified copy of minutes or a return drawn up by a permanent investigation commissioner or a deputy commissioner appointed pursuant to the Public Service Act (chapter F-3.1.1).*

*1983, c. 28, s. 46; 1983, c. 55, s. 161.*

**30.2.** *Regulations made under this Act come into force on the tenth day after their publication in the Gazette officielle du Québec or on any later date fixed therein.*

*1983, c. 28, s. 46.*

## ***DIVISION VI***

### ***MISCELLANEOUS AND PENAL PROVISIONS***

*1992, c. 61, s. 294.*

**31.** *The following persons are guilty of an offence and liable to a fine of not more than \$500:*

*(1) every person who contravenes any provision of section 10;*

*(2) every person who hinders or attempts to hinder an investigation commissioner in the performance of his duties.*

*1968, c. 16, s. 31; 1990, c. 4, s. 413.*

**32.** *An investigation commissioner, a deputy commissioner or any person appointed under section 5 shall not be prosecuted by reason of official acts done in good faith in the performance of his duties.*

*1968, c. 16, s. 32.*

**33.** *The salary of the investigation commissioner and of the deputy commissioner appointed for the territory of Ville de Montréal under this Act, but otherwise than in accordance with the Public Service Act (chapter F-3.1.1), and the amount of their contingent costs, shall be fixed by the Government; they shall be paid by the city and recoverable from the fire insurance companies in accordance with its charter, in the proportion and manner indicated therein, as in the case of the salaries of the fire commissioners mentioned therein.*

*1968, c. 16, s. 33; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1996, c. 2, s. 667.*

**34.** *The investigation commissioner appointed for the territory of Ville de Québec under this Act shall be entitled to receive from the city, if he has not been appointed under the Public Service Act (chapter F-3.1.1), the annual salary which is provided in its charter for the fire commissioner and the amount thereof may be recovered in accordance with such charter in the proportion and manner indicated therein.*

*1968, c. 16, s. 34; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1996, c. 2, s. 668.*

**34.1.** *This Act does not apply where a death has occurred in a fire or an explosion.*

*In such a case, the coroner is also responsible for determining the probable causes and the circumstances surrounding the fire or explosion in accordance with the Act respecting the determination of the causes and circumstances of death (chapter R-0.2).*

*1983, c. 41, s. 198; 1999, c. 33, s. 11.*

**34.2.** *An investigation commissioner or a deputy investigation commissioner contemplated in section 33 or 34 and in office on 21 December 1983 is ex officio coroner in a case contemplated in section 34.1.*

*1983, c. 41, s. 198.*

**35.** *The Minister of Public Security is responsible for the administration of this Act.*

*1968, c. 16, s. 36; 1986, c. 86, s. 22; 1988, c. 46, s. 24.*

**36.** *(This section ceased to have effect on 17 April 1987).*

*1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.*

***SCHEDULE***

*(Section 6)*

*Oath of Allegiance and Office*

*I, A. B., declare under oath that I will be loyal and bear true allegiance to constituted authority and that I will fulfill the duties of my office of ..... honestly and justly, and that I will not receive any sum of money or consideration for what I have done or may do in the discharge of the duties of my office, other than my salary or what may be allowed me by law or by an order in council.*

*And I have signed.*

*A. B.*

*Sworn before me .... at ....., this .... day of ....., 19....*

*(Section 24)*

*Stenographer's Oath*

*Canada,*

*Province of Québec,*

*Judicial District of ....*

*Before A. B., investigation commissioner for ....*

*I, the undersigned, C. D., stenographer of the judicial district of (name of the district), residing at (address of the stenographer) in the said district, declare under oath that I will take down faithfully and correctly by stenography the depositions of the witnesses who will be heard at the inquiry held before A. B., investigation commissioner of .... on the .... day of .... one thousand nine hundred and ....., respecting the fire of .... and that the copies or transcripts that I will furnish to the investigation commissioner or to any other person will be true and exact transcripts of my stenographic notes.*

*And I have signed.*

*C. D.*

*Sworn before me .... at ....., this .... day of ....., 19....*

*1968, c. 16, Schedule; 1996, c. 2, s. 669; 1999, c. 40, s. 118.*

*REPEAL SCHEDULE*

*In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 16 of the statutes of 1968, in force on 31 December 1977, is repealed, except sections 35, 38 and 39, effective from the coming into force of chapter E-8 of the Revised Statutes.*

