



NATIONAL ASSEMBLY

FIRST SESSION

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Bill 48
(2015, chapter 22)

**An Act to modernize the governance of
Conservatoire de musique et d'art
dramatique du Québec**

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Assented to 21 October 2015**

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EXPLANATORY NOTES

This Act proposes various amendments to the constituting Act of the Conservatoire de musique et d'art dramatique du Québec, mainly as regards the organization and operation of its governance bodies.

The proposed amendments concern, in particular, the composition of the board of directors. In addition, in keeping with more recent governance practices introduced in various bodies, the Act provides for the establishment, under the authority of the board, of an audit committee, a governance and ethics committee and a human resources committee. It also introduces new planning and reporting measures.

In addition to updating the Act in general, the Act includes transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

– Act respecting the Conservatoire de musique et d'art dramatique du Québec (chapter C-62.1).

Bill 48

AN ACT TO MODERNIZE THE GOVERNANCE OF CONSERVATOIRE DE MUSIQUE ET D'ART DRAMATIQUE DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The heading of Chapter I of the Act respecting the Conservatoire de musique et d'art dramatique du Québec (chapter C-62.1) is replaced by the following heading:

“ESTABLISHMENT”.

2. Sections 4 to 39 of the Act are replaced by the following:

“CHAPTER II

“OBJECTS AND POWERS

“4. The objects of the Conservatoire are to administer and operate, in various regions of Québec, institutions providing instruction in music and institutions providing instruction in dramatic art for the professional training and continuing education of performing artists and creative artists.

In the pursuit of its objects, the Conservatoire shall take into account the specific characteristics of each of those institutions.

“5. Within the scope of its mission, the Conservatoire shall consider, in particular,

(1) the importance of transmitting, according to the highest standards of excellence, the knowledge and expertise required to enhance the professional visibility of its students and allow them to aspire to a successful artistic career;

(2) the search for broad access to high-quality education for all young people with remarkable talent, regardless of their place of residence or socio-economic background;

(3) the benefits its various educational institutions provide to communities, including fostering and encouraging high standard initial training in the field of music, and their impact on the presence and vitality of bodies essential to the world of music and dramatic art;

(4) opportunities for teaching, material and artistic partnership and collaboration with other educational and artistic production institutions;

(5) the importance of academic freedom in teaching so as to encourage students' appropriation of knowledge and allow them to acquire esthetic techniques and principles and develop their artistic individuality; and

(6) the necessity of remaining aware of innovation, new trends, technological developments and evolving markets.

“6. The Conservatoire may offer training at different levels, including the college and university levels. It issues college- and university-level diplomas in accordance with sections 9 and 10 and with other applicable legislative and regulatory measures.

“7. The Conservatoire may establish any place of training useful to its mission.

It may also enter into any association or affiliation agreement, with or without consideration, with a body that offers training in the scenic arts field or audiovisual field.

“8. The Conservatoire shall establish, by by-law, education regulations applicable to instruction in music, and education regulations applicable to instruction in dramatic art.

These regulations must pertain, subject to section 9, to the general organizational framework for educational services, in particular as regards the admission and registration of students, regular student attendance, programs of study, the evaluation of learning achievement and the certification of studies.

“9. The College Education Regulations, established under section 18 of the General and Vocational Colleges Act (chapter C-29), apply to the college-level instruction that the Conservatoire may offer, with the authorization of the minister responsible for the administration of this Act, any reference to colleges being read as a reference to the Conservatoire.

Diplomas or other attestations relating to programs of college studies must be awarded pursuant to the College Education Regulations.

“10. The Conservatoire may award the degrees, diplomas, certificates or other attestations of university studies to which a program of study established and implemented by the Conservatoire with the authorization of the minister responsible for the administration of the Act respecting educational institutions at the university level (chapter E-14.1) leads.

“11. In the pursuit of its mission, the Conservatoire may, in particular,

(1) adopt programs of study;

(2) subject to sections 9 and 10, award degrees, diplomas, certificates or other attestations of studies, including the “Prix du Conservatoire”;

(3) create competitions for the awarding of prizes, and set the related conditions;

(4) form juries responsible for evaluating candidates for the “Prix du Conservatoire” and candidates participating in any other competition or examination, and determine their operating rules;

(5) establish the terms governing residency programs and bursaries programs or other forms of financial assistance to encourage excellency and to support, in particular, access to and attendance of the Conservatoire;

(6) establish rules of conduct and discipline applicable to its students, including the related sanctions;

(7) prescribe the payment of admission or registration fees and tuition fees for educational, professional training or continuing education services;

(8) set the terms of payment for the fees referred to in subparagraph 7 and determine the sanctions and penalties that apply, or may apply, in case of failure to pay or late payment; and

(9) determine the cases where withdrawal from a course gives entitlement to a refund of all or part of the tuition fees.

Fees may vary according to the category of students or the course or program of study involved, or apply only to certain categories of students or certain courses or programs of study.

The payability and amount of tuition fees are governed by the rules applicable on the date the Conservatoire registers a student for courses.

“12. The Conservatoire may also, in particular,

(1) enter into service agreements, with or without consideration, with any person or body;

(2) enter into agreements, in accordance with the law, with governments other than the Gouvernement du Québec, with a department or body of such a government or with an international organization or a body of such an organization; and

(3) solicit and receive gifts, legacies, subsidies and other contributions provided that any attached conditions are compatible with the objects of the Conservatoire.

“**13.** The Conservatoire may not acquire, build, enlarge, convert, hypothecate or alienate an immovable without the authorization of the Government.

“**14.** No person may, unless authorized by the Conservatoire, use a title or designation, or give a name to a diploma, prize, award, competition or course that gives the impression it is from the Conservatoire or one of its institutions, or is recognized by them.

“CHAPTER III

“GOVERNANCE BODIES

“DIVISION I

“BOARD OF DIRECTORS

“§1. — *Composition*

“**15.** The affairs of the Conservatoire are administered by a board of directors composed of 17 members, as follows:

(1) the chair of the board of directors;

(2) the director general;

(3) nine members appointed by the Government on the recommendation of the Minister and taking into consideration the expertise and experience profile established by the board. The members are appointed as follows, after consultation with bodies the Minister considers representative of the community concerned:

(a) two persons from the field of education, including one from the elementary or secondary education sector;

(b) two persons from the field of culture, with expertise as performing artists, creative artists, producers or promoters of artistic works; and

(c) five other persons;

(4) the academic director;

(5) one principal of a Conservatoire institution providing instruction in music and one principal of a Conservatoire institution providing instruction in dramatic art, elected, respectively, by a majority of the votes cast by their peers, in accordance with the Conservatoire’s by-laws;

(6) one teacher from a Conservatoire institution providing instruction in music and one teacher from a Conservatoire institution providing instruction

in dramatic art, elected, respectively, by a majority of the votes cast by their peers, in accordance with the Conservatoire's by-laws; and

(7) the president of the Conservatoire's student association accredited under the Act respecting the accreditation and financing of students' associations (chapter A-3.01) or, if there is no accredited association, the full-time student elected by a majority of the votes cast by the student's peers, in accordance with the Conservatoire's by-laws.

“16. At least 10 board members, including its chair, must, in the opinion of the Government, qualify as independent directors within the meaning of section 4 of the Act respecting the governance of state-owned enterprises (chapter G-1.02). Sections 5 to 8 of that Act apply, with the necessary modifications.

“17. One of the board members must be a member of the professional order of accountants mentioned in the Professional Code (chapter C-26).

At least eight members must come from outside the Montréal and Québec regions.

“18. The Government must tend towards gender parity when appointing board members. The appointments must also be consistent with the government policy established under subparagraph 1 of the first paragraph of section 43 of the Act respecting the governance of state-owned enterprises (chapter G-1.02).

“19. The chair of the board and the director general are appointed by the Government; those offices may not be held concurrently.

The director general is appointed on the recommendation of the board, taking into consideration the expertise and experience profile established by the board.

If the board does not recommend a candidate for the position of director general within a reasonable time, the Government may appoint the director general after notifying the board members.

“20. The chair of the board and the director general are appointed for a term of up to five years.

The term of the board members referred to in paragraphs 3 and 5 of section 15 is up to four years and that of a teacher referred to in paragraph 6 is up to two years.

“21. Board members may be reappointed twice to serve in that capacity only for a consecutive or non-consecutive term.

In addition to terms served as a board member, the chair of the board may be reappointed twice to serve in that capacity for a consecutive or non-consecutive term.

“22. At the end of their term, the board members shall remain in office until replaced, reappointed or re-elected.

“23. A vacancy on the board is filled in accordance with the rules governing the appointment of the member to be replaced.

Absence from a number of board meetings determined by the by-laws made under section 37 constitutes a vacancy.

“§2.— Organization and operation

“1. GENERAL PROVISIONS

“24. The director general and the academic director may not have a direct or indirect interest in a body, enterprise or association that places their personal interests in conflict with the Conservatoire’s interests. If such an interest devolves to them, including by succession or gift, it must be renounced or disposed of with dispatch.

Any other board member who has a direct or indirect interest in a body, enterprise or association that places the member’s personal interests in conflict with the Conservatoire’s interests must disclose it in writing to the chair of the board and abstain from participating in any discussion or decision involving that body, enterprise or association. The member must also withdraw from the meeting while the matter is discussed or voted on.

“25. A board member who is a Conservatoire personnel member must, on pain of forfeiture of office, abstain from voting on any matter concerning the board member’s employment status, remuneration, employee benefits and other conditions of employment, or those of the category of employees to which the member belongs. The member must also, after having been given an opportunity to submit observations, withdraw from the meeting while the matter is discussed or voted on.

The first paragraph applies in the same manner to every board member who is a personnel member, except the director general and the principals of Conservatoire institutions, with respect to any matter concerning the remuneration, employee benefits and other conditions of employment of other categories of employees.

Despite the first paragraph, the director general may vote on any matter concerning the employment status, remuneration, employee benefits or other conditions of employment of the academic director.

“26. If a board member is sued by a third party for an act done in the exercise of the functions of office, the Conservatoire shall assume the member’s defence and pay any damages awarded as compensation for the injury resulting from that act, unless the member committed a gross fault or a personal fault separable from those functions.

In penal or criminal proceedings, however, the Conservatoire shall pay the member's defence costs only if the member was discharged or acquitted, or if it judges that the member acted in good faith.

“27. If the Conservatoire sues a board member for an act done in the exercise of the functions of office and loses its case, it shall pay the member's defence costs if the court so decides.

If the Conservatoire wins its case only in part, the court may determine the amount of the defence costs it must pay.

“28. Board members receive no remuneration except in the cases, on the conditions and to the extent that may be determined by the Government. However, they are entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“2. CHAIR

“29. The chair of the board of directors shall preside at board meetings and see to the proper operation of the board.

The chair shall also see to the proper operation of the board committees.

At the written request of a majority of the board members in office, the chair shall call an extraordinary board meeting.

“30. The chair of the board shall evaluate the performance of the other board members according to criteria established by the board.

The chair shall assume any other function assigned by the board.

“31. The board shall designate the chair of one of the committees established under section 34 as vice-chair to temporarily replace the chair of the board when the chair of the board is absent or unable to act.

“3. RESPONSIBILITIES AND FUNCTIONS

“32. The board of directors shall determine the Conservatoire's strategic directions, see to their implementation and inquire into any matter it considers important.

The board is accountable to the Government, and its chair is answerable to the Minister, for the Conservatoire's decisions.

“33. The board exercises the functions described in sections 15 to 18 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), including, with the necessary modifications,

- (1) adopting the strategic plan;
- (2) approving the Conservatoire's financial statements, annual activity report and annual budget;
- (3) approving the expertise and experience profiles to be used in appointing board members, and the profiles recommended for the office of director general and the selection of an academic director;
- (4) adopting the Conservatoire's education regulations and programs of study; and
- (5) if applicable, adopting a policy framework concerning the criteria for associations, affiliations or other partnerships.

“34. The board must establish an audit committee, a governance and ethics committee and a human resources committee.

The governance and ethics committee and the human resources committee must be composed, in the majority, of independent members and be chaired by an independent member. The director general may not be a member of those committees.

The audit committee must be composed solely of independent members.

The responsibilities and rules applicable to the committees are those set out in sections 22 to 27 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), with the necessary modifications.

“35. The board may establish other committees than those provided for by this Act to examine specific matters or facilitate the proper operation of the Conservatoire.

The board shall determine the composition, functions, duties and powers of the committees, the rules governing the administration of their affairs and any other measure useful for the proper operation of the committees.

“36. The chair of the board may take part in any committee meeting.

“37. The board may make by-laws to govern the internal management of the Conservatoire.

The internal management by-laws may provide that absence from the number of meetings they determine constitutes a vacancy in the cases and circumstances they specify.

“38. The quorum at board meetings is the majority of its members, including the chair of the board or the director general.

Board decisions are made by a majority of the votes cast by the members present.

In the case of a tie vote, the person presiding at the meeting has a casting vote.

“39. No deed, document or writing binds the Conservatoire, unless it is signed by its director general or, to the extent and on the conditions determined by a by-law of the Conservatoire, by another person authorized to do so.

The by-law may also, subject to the conditions it determines, allow a required signature to be affixed by means of an automatic device to the documents it determines, or a facsimile of a signature to be engraved, lithographed or printed on such documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person authorized by the chair of the board or the director general.

“39.1. The minutes of board meetings, approved by the board and certified true by the chair of the board or any other person authorized to do so by the Conservatoire, are authentic, as are the documents and copies emanating from the Conservatoire or forming part of its records, provided they are signed or certified true by one of those persons.

“4. DIRECTOR GENERAL

“39.2. The director general is responsible for the direction and management of the Conservatoire within the framework of its by-laws and policies.

The director general shall propose strategic directions to the board of directors, as well as a capital plan and an operating plan for the Conservatoire.

The director general shall also assume any other function assigned by the board.

“39.3. The director general must make sure that the board of directors is given, at its request, adequate human, material and financial resources to enable it and its committees to perform their functions.

“39.4. The office of director general is a full-time position.

“39.5. The Government shall determine the remuneration, employee benefits and other conditions of employment of the director general.

“39.6. If the director general is absent or unable to act, the board may designate a member of the Conservatoire’s personnel to temporarily exercise the functions of that office.

“5. ACADEMIC DIRECTOR AND OTHER PERSONNEL MEMBERS

“**39.7.** After obtaining the opinion of the academic councils, the board of directors shall appoint an academic director.

Under the authority of the director general, the academic director shall deal with academic matters.

“**39.8.** The Conservatoire’s other personnel members are appointed in accordance with the staffing plan and standards established by the Conservatoire.

“**39.9.** Subject to the provisions of a collective agreement, the Conservatoire shall determine the standards and scales of remuneration, employee benefits and other conditions of employment of its personnel members in accordance with the conditions defined by the Government.

“DIVISION II

“ACADEMIC COUNCILS

“**39.10.** A music academic council and a dramatic art academic council are hereby established at the Conservatoire.

“**39.11.** The function of the academic councils, in their respective fields, is to advise the Conservatoire on any matter concerning the education regulations, the programs of study offered by the Conservatoire and the evaluation of learning achievement, including the procedures for the certification of studies.

“**39.12.** The academic councils shall give the board of directors their opinion on any question submitted by the board in matters within their jurisdiction, and they may make recommendations to the board and refer any question to the director general that the academic councils believe requires the board’s attention.

The following must be submitted to the competent academic council before being decided on by the board:

- (1) draft by-laws relating to the education regulations;
- (2) proposed programs of study of the Conservatoire;
- (3) proposals concerning the “Prix du Conservatoire” and Conservatoire competitions;
- (4) proposals concerning bursaries or other forms of financial assistance to encourage excellency;

(5) proposed policy frameworks on criteria for association and affiliation with a body that offers training in the scenic arts field or audiovisual field;

(6) the proposed strategic plan for matters within the jurisdiction of the academic councils; and

(7) the selection criteria for and the appointment of the academic director.

“39.13. Subject to the measures set out in this division, the operating rules of the academic councils are determined by by-law of the Conservatoire.

“39.14. The music academic council is composed of the following members:

(1) the Conservatoire’s academic director, who acts as chair;

(2) one principal of a Conservatoire institution providing instruction in music, appointed by the Conservatoire;

(3) one teacher from each of the Conservatoire institutions providing instruction in music, elected by a majority of the votes cast by their peers, in accordance with the Conservatoire’s by-laws;

(4) two full-time music students of the Conservatoire, appointed in accordance with section 32 of the Act respecting the accreditation and financing of students’ associations (chapter A-3.01) or, where that provision cannot be applied, elected by a majority of the votes cast by their peers, in accordance with the Conservatoire’s by-laws;

(5) a former music student of the Conservatoire or of the Conservatoire de musique et d’art dramatique de la province de Québec established by the Act respecting the Conservatoire de musique et d’art dramatique (chapter C-62), appointed by the Conservatoire; and

(6) one person appointed by the other members of the academic council in office.

The student representatives must be from different institutions.

“39.15. The dramatic art academic council is composed of the following members:

(1) the Conservatoire’s academic director, who acts as chair;

(2) two principals of Conservatoire institutions providing instruction in dramatic art, appointed by the Conservatoire;

(3) four teachers from Conservatoire institutions providing instruction in dramatic art, including two from the Montréal institution and two from the

Québec City institution, elected, respectively, by a majority of the votes cast by their peers, in accordance with the Conservatoire's by-laws;

(4) two full-time dramatic art students of the Conservatoire, one studying in Montréal and the other in Québec City, appointed in accordance with section 32 of the Act respecting the accreditation and financing of students' associations (chapter A-3.01) or, where that provision cannot be applied, elected by a majority of the votes cast by their peers, in accordance with the Conservatoire's by-laws;

(5) a former dramatic art student of the Conservatoire or of the Conservatoire de musique et d'art dramatique de la province de Québec established by the Act respecting the Conservatoire de musique et d'art dramatique (chapter C-62), appointed by the Conservatoire; and

(6) one person appointed by the other members of the academic council in office.

“39.16. The secretary of the Conservatoire acts as secretary of the academic councils, but may delegate all or part of that function to another person designated by the secretary.

“39.17. The members of the academic councils are not remunerated. However, they are entitled, on the presentation of vouchers, to the reimbursement of reasonable expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Conservatoire.

“39.18. The person in charge of academic affairs at a Conservatoire institution may represent the principal of that institution, with full exercise of the principal's powers, on an academic council.

“39.19. The academic councils must each meet at least twice a year.

In addition, they may maintain a discussion mechanism or forum conducive to sharing problems and proposals related to student training.

They must hold a joint meeting at least once a year.

“39.20. Every year, the academic director must submit to the board of directors, according to the terms determined by the board, a report on the academic councils' activities for the previous year.”

3. The Act is amended by replacing **“DIVISION II”** in Chapter III by **“DIVISION III”**.

4. The Act is amended by inserting the following section after section 40:

“40.1. The orientation committee shall give its opinion on any matters submitted by the Conservatoire concerning the institution’s policy directions and the organization of the services it offers.

The orientation committee must be consulted by the Conservatoire concerning

- (1) the appointment of the principal of the institution;
- (2) the terms governing implementation of the education regulations at the institution;
- (3) the terms governing the organization of instruction at the institution;
- (4) draft by-laws concerning the conduct and discipline of students; and
- (5) the budget allotted to the institution.

The orientation committee may also, on its own initiative, advise the Conservatoire. Its recommendations may concern, in particular,

- (1) the objectives to be achieved in initial training in the field of music;
- (2) the adequacy of the training offered, taking into account labour market prospects for holders of diplomas, regional needs as regards music and dramatic art, and the presence and vitality of bodies essential to the world of music and dramatic art;
- (3) measures to improve the services provided by the institution;
- (4) in collaboration with schools, means to more accurately identify and to encourage students with remarkable talent; and
- (5) measures to encourage philanthropic endeavours benefiting the institution and its current students and recent graduates.”

5. Sections 49 and 50 of the Act are repealed.

6. The heading of Chapter IV of the Act is replaced by the following heading:
“PLANNING, AUDITING AND REPORTING”.

7. The Act is amended by inserting the following section after the heading of Chapter IV:

“51.1. The Conservatoire must prepare a strategic plan and submit it to the Government for approval. The plan must take into account the policy directions and objectives given by the Minister.

The plan must be submitted on or before the date set by the Minister and established in accordance with the form, content and intervals determined by the Minister.

The plan must include

- (1) the context in which the Conservatoire operates and the main challenges it faces;
- (2) the Conservatoire's objectives and strategic directions;
- (3) the results targeted over the period covered by the plan;
- (4) the performance indicators to be used in measuring results; and
- (5) any other element determined by the Minister.”

8. Section 59 of the Act is amended by inserting the following paragraphs after the second paragraph:

“The report must include the information required under sections 36 to 39 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), with the necessary modifications.

The financial statements and the report must also include all other information required by the Minister.”

9. The Act is amended by inserting the following chapter after section 65:

“CHAPTER IV.1

“POWERS AND RESPONSIBILITIES OF THE MINISTER

“**65.1.** The Minister may issue directives on the direction and general objectives to be pursued by the Conservatoire.

The directives must be approved by the Government and come into force on the day they are approved. Once approved, they are binding on the Conservatoire, which must comply with them.

The directives are tabled in the National Assembly within 15 days after they are approved by the Government or, if the Assembly is not sitting, within 15 days of resumption.

“**65.2.** At least once every 10 years, the Minister must report to the Government on the administration of this Act. The report must include recommendations concerning the updating of the Conservatoire's mission.

The Minister tables the report in the National Assembly.”

10. Section 72 of the Act is amended by replacing “section 4” in paragraph 2 by “section 15”.

11. Sections 81, 82 and 82.1 of the Act are repealed, subject to any remaining practical effect being maintained with respect to any documents or persons that could still be concerned by those sections.

TRANSITIONAL AND FINAL PROVISIONS

12. The academic director of the Conservatoire de musique et d’art dramatique du Québec in office on *(insert the date of coming into force of section 15 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec (chapter C-62.1) enacted by section 2)* continues in office on the same terms, for the unexpired portion of the academic director’s term, until that office is filled in accordance with section 39.7 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec (chapter C-62.1) enacted by section 2.

The other members of the academic commissions in office on that date continue in office on the same terms, for the unexpired portion of their term, until they are replaced or reappointed in accordance with sections 39.14 and 39.15 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec, enacted by section 2 of this Act, and with the Conservatoire’s by-laws relating to the designation of persons forming those commissions.

13. The director general of the Conservatoire de musique et d’art dramatique du Québec in office on *(insert the date of coming into force of section 15 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec (chapter C-62.1) enacted by section 2)* continues in office on the same terms, for the unexpired portion of the director general’s term, until that office is filled in accordance with section 19 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec enacted by section 2.

The term of the other members of the board of directors of the Conservatoire in office on *(insert the date preceding the date of coming into force of section 15 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec (chapter C-62.1) enacted by section 2)* ends on that date.

14. The Government may, in accordance with sections 4 to 8 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), determine that a member of the board of directors of the Conservatoire de musique et d’art dramatique du Québec, in office on *(insert the date of coming into force of section 15 of the Act respecting the Conservatoire de musique et d’art dramatique du Québec (chapter C-62.1) enacted by section 2)*, has the status of independent director.

15. Persons and enterprises already using the expression “Conservatoire” in their name or corporate name or to describe their activities on *(insert the date of coming into force of section 14 of the Act respecting the Conservatoire*

de musique et d'art dramatique du Québec (chapter C-62.1) enacted by section 2) may continue to do so on the same conditions.

16. The first fiscal year covered by the strategic plan prepared under section 51.1 of the Act respecting the Conservatoire de musique et d'art dramatique du Québec, enacted by section 7 of this Act, is the 2017–2018 fiscal year.

17. The provisions of this Act come into force on the date or dates to be determined by the Government, which may not be later than 1 April 2016.

