

The New Fire Safety Act

By Daniel Bouchard and Pierre F. Carter

Last June 16, the Fire Safety Act (Bill 112), introduced by the Minister of Public Security¹, Mr. Serge Ménard, passed the final stage of assent and became Chapter 20 of the Quebec Laws of the Year 2000 (Lois du Québec de l'an 2000). This Act will come into force by decree, probably in the fall of 2000.

Fire Safety in Quebec: far from enviable ratings

For more than 30 years, various organizations in the field of fire safety claimed a reform in fire safety without ever getting through until the former Minister, Mr. Robert Perreault, laid an ear. That is when things started to change.

In April 1997, the Minister set up a forum on fire safety bringing together all stakeholders involved directly or indirectly in fire safety in municipalities. From then on, things evolved rapidly as indicated in Table 1.

During the 1997 forum, everyone agreed on the need to improve the existing situation in Quebec, having deemed it unacceptable. All participants stated indeed being preoccupied among other things by the situation in Quebec where the rate of losses pertaining to fires is the highest in Canada. This far from enviable situation in Quebec has an



impact on insurance since premiums in Quebec are higher than anywhere else in Canada.

On the other hand, considering the actual state of fire safety in Quebec, municipal governments must face an ever increasing number of legal actions before the courts. Therefore, the decisions rendered by our courts of law

are becoming more and more severe towards municipalities, faulting them for the lack of vocational training of firefighters and criticizing their methods of intervention.

Finally, the level of fire protection offered to citizens, varying considerably from one municipality to the next due to a wide disparity between their fire safety plans, was really disquieting to the forum members.

¹ For the sake of conciseness, the Minister of Public Security shall be referred to as the "Minister".

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Table 1: REFORM CASE HISTORY

April 1997:	First forum on fire safety: « Les défis de l'avenir » (Challenge for the future)
May 1997:	Setting up of a task force composed of representatives from the fire and insurance circles, the departments of Public Security and Municipal Affairs, and the city. Goal: formulation of an organizational guidebook containing the minimum requirements necessary to provide efficient fire protection.
March 1998:	Production of panel reports by various representatives and consultants.
April 1998:	Second forum on fire safety «L'importance d'agir ensemble» (The importance of working together).
May 1998:	Appointment of an advisory committee.
June 5, 1999:	Production of a working paper entitled: «Feu vert à une réforme de la sécurité incendie au Québec» (Go-ahead on fire safety reform in Quebec).
November 1999:	Congress of the Fédération québécoise des municipalités ² with a forum dealing with fire safety.
December 15, 1999:	Draft-bill on Fire Safety.
May 2, 2000:	Introduction of Bill 112 on Fire Safety.
June 16, 2000:	Assent of the Fire Safety Act and commencement by government decree.

The new *Fire Safety Act* objectives

The three main objectives of the reform, which translate into the provisions of the new Act, are:

1. Increase the effectiveness of the municipal organizations in fire safety
2. Reduce the property losses resulting from a fire which are much higher in Quebec than elsewhere in Canada
3. Reduce the cost of insurance premiums which are higher in Quebec than in other provinces

² Hereinafter called F.Q.M. (formerly UMRCQ).

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In order to reach these objectives, the provisions of the new legislation aim to oversee the various aspects of fire safety, namely, fire prevention, emergency response procedures and operations, the training of fire safety services personnel. To this end, it replaces many laws and amends others.

Legislation replaced by the <i>Fire Safety Act</i>	Some of the legislation amended by the <i>Fire Safety Act</i>
<ul style="list-style-type: none"> • Fire Investigations Act • Act respecting municipal fire fighting cooperation • Fire Prevention Act 	<ul style="list-style-type: none"> • Act respecting industrial accidents and occupational diseases • Building Act • Municipal Code of Québec • Act respecting the Ministère de la Sécurité publique • Act respecting municipal regulation of public buildings

The new legislation, in short

New obligations incumbent on every person

The new legislation places emphasis on prevention. Therefore, it provides for all persons to seek to remove or reduce fire hazards. Furthermore, a person whose activities or property constitutes a high or particular fire hazard is bound to report the hazard to the treasurer or clerk of the local municipality where the fire hazard is located.

New obligation for insurers or claims adjusters

The new legislation provides for the obligation for insurers and claims adjusters whose services are required following a fire to, not later than March 31 of the year that follows the fire, report to the Minister various information on the occurrence, such as the date, time and place of occurrence, as well as the findings of the insurer and adjuster and any information they possess regarding the assessment of the damage, the point of origin, the probable causes of the fire, etc.

However, when an information is liable to affect legal proceedings in which the insurer or the claims adjuster has an interest, legislation provides for this information not to be communicated until the judgment has acquired the status of *res judicata*.

Allocation of responsibilities

The legislator spread responsibilities among the various entities concerned, as illustrated in Table 2. Specifically, he relies on regional authorities, namely, the regional county municipalities (RCM) and the urban communities (UC), to establish a fire safety plan. To attain this objective, each RCM³ shall make a list and an evaluation of the fire risks present on its territory.

³ We will use this acronym herein to designate at the same time regional county municipalities and urban communities.

Table 2: ALLOCATION OF RESPONSIBILITIES

<p>Minister</p> <ul style="list-style-type: none"> • As provincially responsible for fire safety, he is in charge of determining policies concerning fire prevention, personnel training, emergency preparedness and emergency response procedures for regional and local authorities. • He shall classify fire risks, list and describe the fire protection objectives and the minimum measures to be considered by regional and local authorities in the establishment of their fire safety cover plan and in their implementation plan. • He may grant financial assistance to a regional or local authority for the establishment, amendment or revision of a fire safety cover plan or for the implementation planned actions.
<p>RCM and UC</p> <ul style="list-style-type: none"> • Already responsible for regional development⁴, the RCM have the duty to elaborate fire safety schema in order to guide local municipalities in the adoption of their regulations.
<p>Towns⁵ and villages</p> <ul style="list-style-type: none"> • Focused on local interests, they must adopt fire protection regulations overseeing the work of firefighters by taking into consideration regional planning and the level of fire protection they intend to offer their population in the various sectors of their territory. • They must prepare a fire prevention program. • They must make sure that their firefighters, full-time as well as part-time, have adequate training.
<p>Municipal Fire Safety Service</p> <ul style="list-style-type: none"> • It is in charge of firefighting and rescue operations in the event of a fire. • It can only cover one municipal territory or many (via the execution of intermunicipal agreements). • It participates in the evaluation of fire risks, prevention of fires, emergency response procedures as well as in the determination of the point of origin, probable causes and circumstances of the fire. • It may be staffed by firefighters from many local municipalities.

In conjunction with the local municipalities, the RCM shall determine the level of fire protection desired for each class of risk or each part of the territory. After having listed the firefighting resources and equipment available, the RCM shall plan the organization according to the risks and the level of protection targeted taking into consideration the human, physical and financial resources.

At the local level, each municipality shall provide the regional authority with the information necessary for the drawing up of the fire safety schema. They must also cooperate by indicating to their RCM the means they can resort to optimize their resources as regards fire safety matters. The local municipality shall also be responsible for transmitting to the RCM the fire hazard reports received by the citizens of its territory.

Once the fire safety cover plan has been established at the regional level, each local municipality shall then determine, by regulation or in agreement with regional planning, the level of fire protection it intends to offer its population in the various sectors of its territory, whether it be urban, scarcely accessible, remote or inaccessible areas.

⁴ Under the *Act respecting land use planning and development* (R.S.Q., c. A-19.1).

⁵ Here we include the cities governed by the *Cities and Towns Act* as well as the municipalities governed by the *Municipal Code of Québec* and other cities governed by their specific charter.

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Municipalities shall also take part in the preparation of a **fire prevention program**. Finally, to reach the objectives put forth by the new legislation, local municipalities shall make sure that their firefighters, whether full-time or part-time, have **adequate training**.

In this respect, the new legislation provides for the establishment of a firefighters school called **École nationale des pompiers du Québec**, whose mission is to ensure that firefighters and other municipal fire safety personnel in Quebec receive pertinent, high-quality and coherent qualifying professional training.

Immunity from prosecution

Upon reading this new legislation, we notice that the legislator imposes additional obligations on municipalities, regional as well as local, in matters of fire services organization. By increasing the obligations of municipalities, their liability will also increase. Consequently, the chances of seeing a decrease in recourses in damages against them seems far-fetched, if the legislator had not, while adding obligations, provided municipalities with a certain immunity.

The new legislation therefore provides the members of the fire safety service and the authority having established the service, with an exemption, in so far as an implementation plan in accordance with the regional fire safety cover plan approved by the Minister will be established.

This immunity was intended to stimulate the improvement of the level of fire safety while guaranteeing a reduction in the number of proceedings against municipalities and promoting as a consequence a decrease in insurance premiums.

The municipality or the members of the fire safety service shall not, however, invoke immunity when the damage caused is a result of their intentional or gross fault.

The schedule for the implementation of this reform (Table 3) indicates the steps to be taken prior to a fire safety cover plan being effective in RCM. Consequently, before a municipality may be able to invoke the immunity provided in the new legislation, as part of defense on an action in damages resulting from a fire, many years may go by...

Fire safety cover plan

The cornerstone of the fire safety reform is undoubtedly the establishment of fire safety cover plans. Fire safety cover plans are designed to determine, for their respective territories, fire protection objectives and the actions required to achieve them.

As previously mentioned, the RCM are in charge of the preparation of a plan for their whole respective territories.

A fire safety cover plan must contain:

- **fire hazard reports** from persons whose activities and property constitute a high or particular higher hazard;
- the inventory, evaluation and **classification of the fire risks** present in the territory concerned and their location;
- the inventory and evaluation of existing or intended fire protection measures, the human, physical and financial resources allocated to fire safety by the local or regional authorities or by intermunicipal boards and the infrastructures and water sources available for fire safety purposes;
- the analysis of the functional relations between those resources and an evaluation of the operational procedures in force.

Furthermore, for each class of risk listed or each part of the territory defined, the fire safety cover plan shall contain:

- optimum fire protection objectives that can be achieved **towards the measures and resources in place**;
- the actions which the municipalities and, where applicable, the regional authority must take to achieve these objectives on incorporating their implementation plans;
- a periodical assessment procedure of the effectiveness of the actions taken; and
- the degree to which the determined objectives have been attained.

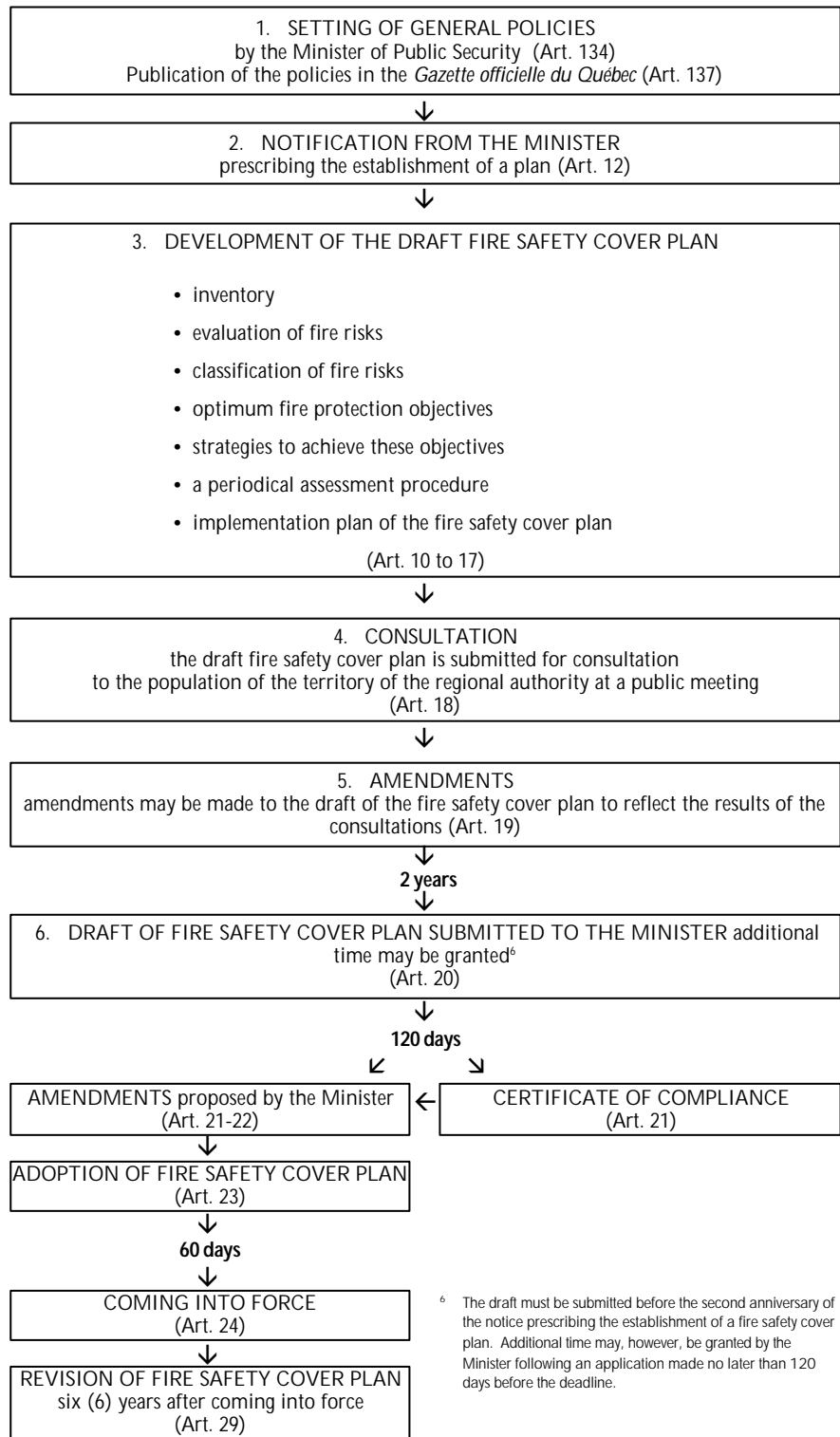
The fire safety cover plan comes into force on the day of the publication of a notice to that effect, by the regional authority, in a newspaper circulated in its territory, or on a later date specified in the notice. However, the date of its coming into force shall not be later than sixty (60) days after the date of issue of the **certificate of compliance**.

Once in force, the fire safety cover plan binds the RCM and the local municipalities concerned.

The implementation process of a fire safety cover plan can be summarized in Table 3:

Table 3

SCHEDULE



⁶ The draft must be submitted before the second anniversary of the notice prescribing the establishment of a fire safety cover plan. Additional time may, however, be granted by the Minister following an application made no later than 120 days before the deadline.

Conclusion

A lot more can be said on the new *Fire Safety Act* and its foreseeable impacts at the municipal as well as the insurance levels. Let us mention in particular the provisions of law not dealt with here and pertaining to the functions and powers of the firefighters on the scene of the fire, those of the fire chief of the fire safety service and of the fire investigation commissioner and the whole section pertaining to firefighter training.

The goal intended here was not however to cover all provisions of the new legislation but rather to raise the awareness of all persons involved in this field on the introduction of a new legislation which will undoubtedly disturb the field of fire safety in the very near future.

The previous *Fire Prevention Act* dated back to the 1960s. It will have taken three years of debate before the new *Fire Safety Act* emerged. It will be a few years now before we can determine its tangible effects.

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