



CHAPTER 22

An Act to promote the parole of inmates and to amend the Probation and Houses of Detention Act

[Assented to 8 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée
nationale du Québec, enacts as follows:

CHAPTER I

DEFINITIONS

Defini-
tions:

1. In this act, unless the context indicates a different
meaning,

"commis-
sion";

(a) "commission" means the Commission québécoise des libé-
rations conditionnelles established under section 2;

"inmate";

(b) "inmate" means a person imprisoned in a house of detention
for a term of imprisonment of six months or more following convic-
tion under any law or regulation in force in Québec;

"house of
detention";

(c) "house of detention" means any establishment established
under the Probation and Houses of Detention Act (1969, chapter
21);

"parole" or
"condition-
al libera-
tion";
"remis-
sion".

(d) "parole" or "conditional liberation" means the release of an
inmate during a term of imprisonment;

(e) "remission" means a remission of the term of imprisonment
granted under the Probation and Houses of Detention Act, the
Prisons and Reformatories Act (Statutes of Canada) or the Peni-
tentiary Act (Statutes of Canada).

CHAPTER II

ESTABLISHMENT OF THE COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

Body es-
tablished.

2. A body is established under the name of "Commission qué-
bécoise des libérations conditionnelles".

- 3.** The commission is composed of five full-time members including a chairman and a vice-chairman and at least one part-time member per region determined by regulation; they are appointed by the Government.
- 4.** The full-time members are appointed for terms not to exceed five years and the other members for terms not to exceed two years.
- 5.** The secretary and the other members of the staff of the commission are appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14).
- 6.** The Government fixes the salary and the allowances of the full-time members and the fees and allowances of the other members of the commission.
- 7.** Every member of the commission remains in office at the expiry of his term until he is reappointed or replaced.
- 8.** The office of full-time member of the commission is incompatible with any other function.
- 9.** If a member of the commission is temporarily absent or unable to act, the Government may appoint a person to replace him for as long as he is absent or unable to act.
- 10.** A member of the commission must recuse himself for any of the grounds provided for in article 234 of the Code of Civil Procedure to the extent that they are applicable.
- 11.** The quorum of the commission is fixed by regulation, but includes at least two members, one of whom is a full-time member.
- 12.** The commission has its head office at the place determined by the Government; notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.
- 13.** The commission may hold its sittings at any place determined by it.
- It may sit in several places simultaneously.
- 14.** Minutes of the sittings approved by the commission and certified true by the chairman or the secretary are authentic. The same rule applies to documents or copies emanating from the

commission or forming part of its records when they are signed by the chairman or the secretary of the commission.

Immunity.

15. The members of the commission shall not be prosecuted by reason of official acts done in good faith in the carrying out of their duties.

Rules of practice.

16. The commission shall adopt rules of practice for its internal management.

Exclusive jurisdiction.

17. The commission shall have exclusive jurisdiction to decide the parole of an inmate.

Extraordinary recourse, etc., prohibited.

18. No extraordinary recourse provided by articles 834 to 850 of the Code of Civil Procedure may be exercised and no injunction granted against the commission or its members acting in their official capacity.

Annulment of writ, etc.

A judge of the Court of Appeal may, on a motion, summarily annul any writ and any order or injunction issued in contravention to the first paragraph.

CHAPTER III

FUNCTIONS OF THE COMMISSION

DIVISION I

CONDITIONAL LIBERATION

§ 1.— *Granting of parole*

Qualification.

19. An inmate qualifies for parole

(a) after serving seven years of imprisonment, in the case of a sentence of imprisonment for life imposed as a maximum sentence;

(b) after serving one-half of the sentence of imprisonment imposed by the court or seven years, whichever period is shorter, in the case of a sentence of imprisonment for at least five years, for an offence making him liable to imprisonment for at least ten years, in committing which the inmate seriously endangered the life or security of a third person, subjected him to serious physical maltreatment or caused him grave psychological damage; or

(c) after serving one-third of the sentence of imprisonment imposed by the court or seven years, whichever period is shorter, in other cases.

Computation.

Any period spent in prison for that offence from the arrest until the sentence is comprised in computing the period provided for in subparagraph *a*.

Examination of record.

20. From the time an inmate is committed to a house of detention, the commission is seized of right of his record and examines it at the times fixed by regulation, unless he renounces thereto in writing.

Proviso.

The commission may, upon application, examine the case of an inmate whose parole it has previously refused or revoked. However, it is not bound to examine an application for parole produced within six months following the decision to refuse or to revoke parole, by an inmate whose sentence of imprisonment is less than two years, nor an application produced within two years of that decision, by an inmate whose sentence of imprisonment is at least two years.

Parole.

21. The commission may, on such conditions as it may determine, release an inmate on parole to facilitate his social rehabilitation unless there is serious risk that he will not comply with the conditions of his release or that serious prejudice to society will result therefrom.

Advice of warden, etc.

22. Before rendering its decision, the commission shall take the advice of the warden of the house of detention where the inmate is imprisoned. It may also take the advice of any other person.

Decision.

23. In making its decision, the commission shall take into account, in particular, the inmate's personality and behaviour, his ability to meet obligations, his plans, his family and social relations, his former employments, his aptitudes for work, his judicial record and his conduct during a period of temporary absence granted under the Probation and Houses of Detention Act, or during a period of imprisonment or a period of conditional liberation.

Term of parole.

24. The term of parole shall consist of the time remaining to be served by the inmate at the time parole is granted, to which the remission time then credited to him must be added.

One sentence.

25. A person sentenced to more than one term of imprisonment or to a term of imprisonment during a period of imprisonment is deemed to serve only one sentence beginning on the day when the first of these sentences is effective and ending at the expiry of the last of them.

§ 2.— *Suspension and revocation of parole*

Suspension, etc.

26. A member of the commission or a person designated by him in writing, if he has reasonable ground to believe that the inmate has contravened any condition of parole or that it is necessary to intervene to prevent such contravention, may suspend any parole, authorize, by warrant, the apprehension of the inmate and order that he be committed to a house of detention of the region where he was apprehended or to that wherefrom he was paroled.

Decision.

Such decision must be rendered and substantiated in writing.

Copy.

27. The warden of the house of detention must, with the least possible delay, give the inmate a copy of the decision.

Examination.

28. The commission must examine the decision contemplated in section 26 with the least possible delay and it may revoke the inmate's parole or order his commitment, or release him on such conditions as it may determine.

Term of imprisonment to be completed.

29. The inmate whose parole is revoked must complete the portion of his term of imprisonment that remained to be served at the time he was granted parole to which any remission time then to his credit is added, less

(a) any time spent on parole;

(b) any time spent in custody by reason of the suspension of his parole; and

(c) any remission time for the period spent in custody by reason of such suspension.

Remission time.

30. Notwithstanding section 29, the commission may re-credit an inmate whose parole is revoked with all or part of the remission time credited to him at the time he was granted parole.

§ 3. — *Procedure before the commission*

Applicability.

31. This subdivision applies to the procedure before the commission when the latter renders a decision under sections 19 to 30.

Right to be present, etc.

32. An inmate is entitled to be present and to be heard before the commission unless he renounces thereto in writing.

Right to be represented, etc.

He is also entitled to be represented before the commission by any person of his choice other than another inmate imprisoned in another house of detention or to be assisted by such person.

- Decision. **33.** The commission shall, as soon as possible, render a written and substantiated decision.
- Idem. The decision forms part of the records of the commission and it is without appeal.
- Copy. Copy of the decision must be remitted to the inmate without delay.

§ 4. — *Review*

- Applica-
tion. **34.** Any inmate may forward to the secretary of the commission an application for the review of the decision to refuse or to revoke parole.
- Review
board. **35.** The secretary of the commission shall transmit the application for review to a review board composed of three persons chosen by the chairman from among the members of the commission who have not participated in the decision.
- Chairman,
etc. **36.** The chairman, or the vice-chairman if he did not participate in the decision, must be a member of the review board.
- Confirma-
tion, etc.,
of
decision. **37.** The review board, after examining the record and new facts, if any, may confirm or quash the decision of the commission and, in the latter case, render the decision that should have been rendered.

§ 5. — *Change of conditions*

- Mitigation,
etc. **38.** A full-time member of the commission or any person designated in writing by the commission may mitigate or suppress the conditions during the parole.
- Copy. **39.** Copy of the decision which must be rendered in writing and substantiated shall be transmitted with the least possible delay to the inmate and to the secretary of the commission.

DIVISION II

APPEALS IN THE MATTER OF TEMPORARY ABSENCE

- Appeal. **40.** By a written notice addressed to the secretary of the commission, any inmate may appeal to a full-time member of the commission from any decision of the Director General in the matter of temporary absence rendered under section 22*b* of the Probation and Houses of Detention Act.

- Record. **41.** The secretary shall transmit, with the least possible delay, a copy of the notice contemplated in section 40 to the Director General, who shall then remit the record to the commission.
- Content of notice. **42.** The notice of appeal shall set out the grounds for appeal and every other new fact, if any.
- Decision. **43.** The member of the commission who hears the appeal may, after he has examined the record and the new facts, if any, confirm or quash the decision of the Director General, and, in the latter case, render the decision that should have been rendered.

CHAPTER IV

GENERAL AND FINAL PROVISIONS

- Applica-
tion of
1975, c. 6. **44.** Except where otherwise provided by this act, Chapter III shall have effect notwithstanding sections 23 and 34 of the Charter of human rights and freedoms (1975, chapter 6).
- Pardon,
etc. **45.** Any decision rendered under this act shall not have the effect of limiting the power of the Government to grant a pardon or to commute a sentence.
- Warrent of
arrest, etc. **46.** A warrant of arrest or a warrant of committal shall be carried out by a peace officer.
- Annual
report. **47.** Not later than 30 June each year, the commission shall make to the Ministre de la justice a report of its activities for the preceding fiscal year.
- Tabling. The Minister shall table the report of the commission before the Assemblée nationale within thirty days of his receiving it. If he receives it while the Assemblée nationale is not sitting, he shall table it within thirty days of the opening of the next session or, as the case may be, of resumption.
- Agree-
ment. **48.** The Minister may, in accordance with the Intergovernmental Affairs Department Act (1974, chapter 15), enter into agreement with another government of Canada for the transfer to a house of detention of a person confined in a prison as defined by the Prisons and Reformatories Act or in a penitentiary as defined in the Penitentiary Act.
- Regula-
tions. **49.** The Government may make regulations to

(a) determine regions for the purpose of the application of this act;

(b) determine the contents of the information that the commission must furnish to an inmate who qualifies for parole;

(c) enact the rules of procedure necessary for the application of Chapter III;

(d) fix the quorum of the commission in accordance with the term of imprisonment of the inmate and determine the number of votes necessary for the taking of a decision by the commission.

Coming
into force.

Such regulations shall come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Sums
necessary.

50. The sums necessary for the application of this act shall be taken, for the fiscal years 1978/1979 and 1979/1980, out of the consolidated revenue fund and, for subsequent fiscal years, out of the sums appropriated annually for that purpose by the Legislature.

1969, c. 21,
s. 12, am.

51. Section 12 of the Probation and Houses of Detention Act (1969, chapter 21), is amended by adding, at the end, the following paragraph:

“(e) supervise a person released on parole under the Act to promote the parole of inmates (1977, chapter 22), ensure that he respects the conditions imposed upon him and, if necessary, report to the Commission québécoise des libérations conditionnelles.”

Id., s. 16
am.

52. Section 16 of the said act is amended by replacing the second paragraph by the following paragraphs:

Respon-
sibility of
warden.

“The warden of every house of detention shall admit thereto any person who, under the law, must be detained in such establishment; he shall inform him of the provisions of the Act to promote the parole of inmates.

Idem.

He shall be responsible for the custody of such person until such person has been released or transferred to another establishment.”

1969, c. 21,
s. 18,
replaced.

53. Section 18 of the said act is replaced by the following section:

Remission
of punish-
ment.

“**18.** Any person imprisoned in a house of detention following conviction for an infringement of a law or a regulation shall be entitled to a remission of punishment equal to one-third of his term of imprisonment; such remission of punishment shall be computed on the basis of one day out of two days of imprisonment during which he complies with the regulations and directives.

Remission
of punish-
ment.

A first remission of punishment shall be granted not later than at the end of the month following the month during which such person was admitted to the establishment; subsequently, remission of punishment shall be granted not later than every three months.

Idem.

If that person does not comply with the regulations and directives, the warden may, to the extent provided for by regulation, grant him no remission of punishment, or only part of the remission.

1969, c. 21,
s. 20,
repealed.
Id.,
ss. 22a-
22g, added.

54. Section 20 of the said act is repealed.

55. The said act is amended by inserting, after section 22, the following:

“DIVISION Va

“TEMPORARY ABSENCE

Inmate.

“22a. For the application of this division, an inmate is a person confined to a house of detention for a sentence of imprisonment of less than six months following conviction under a law or a regulation in force in Québec.

Temporary
absence.

“22b. The Director General may, to facilitate the social rehabilitation of an inmate, on such conditions as he may determine, allow him to be absent temporarily from the house of detention.

Qualifica-
tion.

“22c. An inmate qualifies for temporary absence when he has served one-third of the sentence of imprisonment imposed by the court.

Humanita-
rian
reasons.

“22d. Notwithstanding section 22a, the Director General may, for humanitarian reasons, on such conditions as he may determine, authorize an inmate to be absent temporarily, whatever the term of his imprisonment and even if the condition of section 22c is not complied with.

Time
limit.

“22e. No temporary absence contemplated in section 22b or 22d shall exceed fifteen days.

Decision,
etc.

“22f. In the cases provided for in section 22b or 22d, the Director General shall render his decision on the recommendation of a committee on temporary absence which must be established in every house of detention.

Commit-
tee.

Such committee shall be composed of three persons designated by the warden of the house of detention, in accordance with the regulations.

- Recom-
mendation,
etc. **"22g.** The committee, in its recommendation, and the Director General, in his decision, shall take into account, in particular, the inmate's personality and behaviour, his ability to meet obligations, his plans, his family and social relations, his former employments, his aptitudes for work, his judicial record and his conduct during a period of temporary absence granted under the Probation and Houses of Detention Act, a period of imprisonment or a period of conditional liberation.
- Written
applica-
tion. **"22h.** The inmate must address his application to the committee in writing.
- Right to be
heard. **"22i.** The inmate is entitled, if he applies therefor, to be heard and to be represented before the committee by the person of his choice or to be assisted by such person except by another inmate imprisoned in another house of detention.
- Examina-
tion of
applica-
tion, etc. **"22j.** With the least possible delay following receipt of the application, the committee shall examine it, make the necessary consultations and transmit to the Director General its recommendation and the record the contents of which are determined by regulations.
- Decision. **"22k.** The Director General shall render his decision in writing giving the reasons therefor and notify the inmate in writing with the least possible delay following receipt of the committee's recommendation.
- Idem. He shall not be bound by the recommendation of the committee.
- Appeal. **"22l.** In the case contemplated in section 22b, the inmate may appeal from the decision rendered by the Director General, in accordance with the Act to promote the parole of inmates.
- Medical
reasons. **"22m.** Notwithstanding section 22a, the Director General may, for medical reasons, on such conditions as he may determine, authorize an inmate to be absent temporarily, whatever the term of his imprisonment and even if the condition of section 22c is not complied with.
- Violation,
etc. **"22n.** The violation of a condition of temporary absence imposes the immediate return of the inmate to the house of detention or the application of measures required to return him to such establishment.
- Notice,
etc. As soon as the warden of a house of detention is informed thereof, he must notify the Director General who shall indicate to him the sanctions to be taken against the inmate.

Delegation.

"22o. The powers of the Director General under this division may be exercised by a person designated by him in writing.

One sentence.

"22p. A person sentenced to more than one term of imprisonment or to a term of imprisonment during a period of imprisonment is deemed to serve only one sentence beginning on the day when the first of the sentences is effective and ending at the expiry of the last of them.

Provision applicable.

"22q. This division also applies where the Director General is exercising the power contemplated in section 19a."

1969, c. 21,
s. 23, am.

56. Section 23 of the said act is amended by adding, after paragraph *r*, the following paragraphs:

"(s) determine the form and contents of an application for temporary absence;

"(t) determine the categories of persons who may be members of a committee on temporary absence;

"(u) determine the contents of the record to be transmitted by a committee on temporary absence to the Director General or by the Director General to the Commission québécoise des libérations conditionnelles."

Minister responsible.

57. The Ministre de la justice is responsible for the application of this act.

Coming into force.

58. This act shall come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by such proclamation, which shall come into force on any later date to be fixed by proclamation of the Government. (*)

(*) Sections 1 to 18, 49, 50, 57 and 58 of this act came into force on 14 June 1978 (Gazette officielle du Québec, 1978, page 3687).

Section 53 came into force on 19 July 1978 (Gazette officielle du Québec, 1978, page 4335).