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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-FIFTH LEGISLATURE

Bill 87

## An Act to amend the Legal Aid Act

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### Introduction

Introduced by  
**Mr Paul Bégin**  
Minister of Justice



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## EXPLANATORY NOTES

*This bill proposes a reform of the legal aid system.*

*Firstly, the object of legal aid is defined, which is to afford persons who are financially eligible for legal aid the benefit of professional legal services before the courts and in other circumstances specified by the bill. Legal services will be provided within the limits permitted by the human, material and financial resources available for such purposes. The bill also sets out the principles that are to guide the management and provision of legal aid services.*

*The Government is conferred the power to make regulations prescribing the rules whereby the financial eligibility of applicants for legal aid is to be determined. The administrators of the legal aid plan, however, are given some discretion in this regard to declare persons not financially eligible for legal aid to be financially eligible therefor where that is warranted by exceptional circumstances.*

*Moreover, the professional services for which legal aid is to be granted in criminal or penal matters and in other matters are specified, as are the conditions on which it is to be granted in certain cases. Circumstances are also described in which legal aid may be refused or withdrawn. Some discretion, to be exercised within certain limits, is allowed concerning the services for which legal aid may be provided.*

*The bill proposes various other amendments to the Act.*

*Thus, a mechanism is introduced for the recovery of legal aid costs. In this connection, the cases in which a recipient will be required to repay the cost of legal aid are described, for instance when legal aid is withdrawn or when the value of the rights obtained by the recipient thanks to legal aid renders him ineligible for legal aid.*

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*Under the bill, the Minister of Justice is empowered to make agreements with other governments regarding legal aid.*

*Furthermore, the duties of legal aid centres concerning individual or general information programs designed to inform persons eligible for legal aid of their rights and obligations are expressly prescribed.*

*In addition, the committee charged with reviewing decisions regarding the granting of legal aid is given more flexible operating rules.*

*The bill also contains various rules designed to ensure administrative efficiency of the legal aid plan. For example, the Commission des services juridiques and legal aid centres are expressly prohibited from making expenditures or assuming obligations, in a fiscal year, in excess of the funds at their disposal for that year and from making financial commitments, in a fiscal year, in excess of the amount authorized for that purpose. In addition, in order to ensure sound management of public funds, certain areas of activity may, according to the circumstances, be reserved to advocates and notaries employed by legal aid centres or to advocates and notaries in private practice. As well, an information bulletin will be distributed by the Commission des services juridiques so as to facilitate a coherent application of the Act and the regulations by the different legal aid centres.*

*Lastly, terminological changes are made to harmonize the language of the Act with that introduced by the Civil Code of Québec.*



# Bill 87

## An Act to amend the Legal Aid Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** The heading of Division I of the Legal Aid Act (R.S.Q., chapter A-14) is replaced by the following heading:

“INTERPRETATION”.

**2.** Section 1 of the said Act is amended

(1) by replacing the words “an economically underprivileged” in the first line of paragraph *a* by the word “a”;

(2) by replacing the words “physical person or a group of persons or a non-profit corporation whose members are economically underprivileged physical persons” in the first, second and third lines of paragraph *b* by the words “natural person or a group of persons or a legal person operated without purpose of gain whose members are natural persons financially eligible for legal aid”;

(3) by striking out paragraph *c*;

(4) by replacing paragraphs *e* and *f* by the following paragraphs:

“(e) “regional legal aid centre” or “regional centre”: a regional centre established under this Act and authorized by the Commission to provide legal aid;

“(f) “legal aid centre” or “centre”: a regional legal aid centre or a local centre referred to in paragraph *c* of section 32;”;

(5) by replacing the word “corporation” in the second line of paragraph *g* by the word “centre”;

(6) by replacing the word “corporation” in the second line of paragraph *h* by the word “centre”.

**3.** The said Act is amended by inserting, after section 1, the following sections:

**“1.1** The word “spouses” means

- (1) persons who are married to each other and who cohabit;
- (2) persons who live together as husband and wife and who are the mother and father of one and the same child;
- (3) persons of full age who live together as husband and wife and who, at one time, have cohabited for a period of not less than one year.

**“1.2** A family is composed of

- (1) the father, the mother or, in the cases determined by regulation, another person designated therein, and of the minor children who are neither married nor the father or mother of a child and of the children of full age who attend, within the meaning of the regulations, an educational institution and who are neither a person’s spouse nor the father or mother of a child;
- (2) two spouses and any child described in subparagraph 1;
- (3) two spouses, where there are no children.

However, a person shall become or cease to be a member of a family in such circumstances as are prescribed by regulation.”

**4.** Section 2 of the said Act is repealed.

**5.** The said Act is amended by inserting, after Division I, the following division:

#### “DIVISION I.1

##### “OBJECT AND PRINCIPLES

**“3.1** The object of the legal aid plan established by this Act is to afford persons who are financially eligible for legal aid the benefit of professional legal services before the courts. A further object is to afford such persons the benefit of the professional services referred

to in section 4.12 and, by way of exception, of those referred to in section 4.13.

Such services to financially eligible persons shall be provided to the extent provided for in this Act and the regulations and within the limits permitted by the human, material and financial resources made available to the Commission and to legal aid centres.

**“3.2** For the purposes of this Act, the management and provision of legal aid services shall be guided by the following principles:

(1) the importance of providing legal services to financially eligible persons, within the limits permitted by the available public funds allocated for such purpose;

(2) the need for efficient management of such services and of the resources allotted to their provision;

(3) the importance, in order to achieve the objective defined in paragraph 2, of coordinating the activities of the Commission and of legal aid centres through concerted action and cooperation between the Commission and the centres and among the members of their personnel in order to ensure a rational utilization of resources;

(4) the importance of facilitating, through concerted action, a coherent application of this Act and the regulations throughout the regions;

(5) the importance of informing the public adequately so that financially eligible persons make judicious use of legal aid services.”

**6.** The heading of Division II and section 4 of the said Act are replaced by the following:

## “DIVISION II

### “GRANTING AND EFFECT OF LEGAL AID

**“4.** Legal aid may be granted, on application, to a person who is financially eligible therefor according to the provisions of subdivision 1 of this division for the professional legal services described in subdivision 2 of this division and to the extent provided for therein.

“§ 1.— *Financial eligibility*

**“4.1** To be financially eligible for legal aid, a person must demonstrate that his net income and net assets, within the meaning of the regulations, and the net income and net assets of his family do not exceed the level and value fixed by regulation for financial eligibility.

Any person who receives benefits, other than special benefits, under Chapter II of the Act respecting income security (R.S.Q., chapter S-3.1.1) or any member of a family receiving such benefits is deemed to be financially eligible for legal aid.

**“4.2** Where an application therefor is made to the director general, he may, with the approval of the administrative committee of the regional centre, declare a person to be financially eligible for legal aid although the person's net income and net assets and those of his family exceed the level and value fixed by regulation for financial eligibility, if the director general considers that it is warranted by exceptional circumstances and that failure to declare the person to be financially eligible for legal aid would cause the person irreparable harm.

The decision of the director general is not subject to review by the committee formed under paragraph *k* of section 22.

“§ 2.— *Professional services for which legal aid is granted*

**“4.3** Legal aid shall be granted, to the extent determined by the provisions of this subdivision and the regulations, for matters brought or to be brought before a court; it may be granted at any stage of the proceedings, in first instance or in appeal; it may be granted, to the same extent, in respect of proceedings in execution.

Legal aid may also be granted for the professional services referred to in section 4.12 and, by way of exception, for those referred to in section 4.13.

“*Criminal or penal matters*

**“4.4** In criminal or penal matters, legal aid shall be granted, in first instance,

(1) for the defense of a person facing prosecution before a court for an indictable offence under an Act of the Parliament of Canada;



(2) for the defense of a young person facing proceedings before a court under the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1);

(3) for the defense of a person, other than a young person, facing prosecution before a court for an offence under an Act of the Parliament of Canada that is punishable on summary conviction, or for the defense of a person, whether an adult or a person under 18 years of age, facing prosecution before a court under the Code of Penal Procedure (R.S.Q., chapter C-25.1) when, in either case, the director general is of the opinion that upon conviction there is likelihood either of imprisonment or committal to custody, or of loss of means of earning a livelihood or where the director general believes that it is in the interests of justice that legal aid be granted to the accused, having regard to exceptional circumstances, for instance the seriousness or complexity of the case; or

(4) for the defense of a person facing proceedings before a court under the Extradition Act (Revised Statutes of Canada, 1985, chapter E-23) or the Fugitive Offenders Act (Revised Statutes of Canada, 1985, chapter F-32).

**“4.5** In criminal or penal matters, legal aid shall be granted in appeal or for the exercise of an extraordinary remedy

(1) where the appeal is filed or the extraordinary remedy exercised by the prosecutor in any matter referred to in section 4.4;

(2) where the appeal is filed or the extraordinary remedy exercised by the accused in any matter referred to in section 4.4 if the director general considers the appeal or extraordinary remedy to be reasonably founded.

*“In matters other than criminal or penal matters*

**“4.6** In matters other than criminal or penal matters, where the case is brought or, in the opinion of the director general, will be brought before a court, legal aid shall be granted,

(1) for any family case to which Title IV of Book V of the Code of Civil Procedure (R.S.Q., chapter C-25) applies, except for mediation conducted under a court order;

(2) for any case relating to the survival of the obligation to provide support, based on Chapter V of Title III of Book III of the Civil Code of Québec;

(3) for any case relating to tutorship to a minor, protective supervision of a person of full age or a mandate given in anticipation of the mandator's incapacity, or for any case based on article 865.2 of the Code of Civil Procedure;

(4) for any proceedings to obtain a change of name for a minor by way of judicial process or to obtain the review by the court of a decision of the registrar of civil status relating to the assignment of a name to a minor or to the change of a minor's name if, in the opinion of the director general, application to the court would ensure the physical or mental safety of the minor;

(5) for any case to which the Act respecting the civil aspects of international and interprovincial child abduction (R.S.Q., chapter A-23.01) applies;

(6) for any case in respect of which the court exercises its powers under the Youth Protection Act (R.S.Q., chapter P-34.1);

(7) for any other case if, in the opinion of the director general, the freedom of the person to whom legal aid would be granted is or is likely to be seriously restricted, due to the possibility of committal to custody or detention, particularly; or

(8) for any other case if, in the opinion of the director general, the matter threatens or will in all likelihood threaten a person's physical or mental safety, means of earning a livelihood or ability to provide for his essential needs or those of his family.

**"4.7** In any matter other than a criminal or penal matter, legal aid may be refused or withdrawn, as the case may be, in first instance or in appeal, where the director general is of the opinion that, having regard to all the circumstances and from the standpoint of an ordinary advocate and client relationship, the case does not appear founded because

(1) it has in all likelihood very little chance of succeeding;

(2) the costs involved would be unreasonable in relation to the possible gain or loss for the applicant or recipient, as the case may be;

(3) the judgment would probably not be susceptible of execution;  
or

(4) the person applying for or receiving legal aid refuses, without valid cause, a reasonable proposal for settlement of the case.

Moreover, legal aid shall be refused or withdrawn where, in the opinion of the director general, the services for which legal aid is applied for can be obtained otherwise, particularly through another government service or another body, under an insurance contract or through a union or association to which the applicant or recipient, as the case may be, belongs.

**“4.8** No legal aid shall be granted

(1) for any defamation or libel case, as regards the plaintiff only;

(2) for any case relating to an election or referendum;

(3) for a motion based on Chapter II of Title VI of Book V of the Code of Civil Procedure;

(4) for an action for damages for breach of promise of marriage, as regards the plaintiff only;

(5) for an action for damages for alienation of affections, as regards the plaintiff only.

*“Other provisions*

**“4.9** In any matter where legal aid is or may be granted under this Act, a further application for legal aid must be made each time proceedings are brought before a court, including in appeal.

**“4.10** Legal aid shall be refused or withdrawn, as the case may be, in any matter, where, having regard to the circumstances, the director general believes the application for legal aid to be unreasonable, in particular if the applicant or recipient, as the case may be, has already been provided legal services under this Act either in respect of similar proceedings or offences, or for such an amount that the granting of additional aid would constitute an excessive allocation of public legal aid funds for the benefit of one individual.

**“4.11** No legal aid shall be granted for the defense of a person facing prosecution under an Act, regulation or by-law for an offence relating to parking.

**“4.12** Notwithstanding the provisions of this subdivision, where an application therefor is made to the director general, he may, at his discretion,

(1) grant legal aid if he considers that in the circumstances

(a) a minor requires the assistance of an advocate for the purposes of an agreement pertaining to the application of voluntary measures under the Youth Protection Act;

(b) a young person requires the assistance of an advocate for the purposes of a program of alternative measures or the review of a disposition under the Young Offenders Act;

(2) grant legal aid for the drawing up of a document that is customarily within the scope of the professional duties of a notary or advocate if, in the opinion of the director general, such professional service is necessary because of the difficulty the person is having in preserving or asserting his rights and because of the harmful consequences for the person's physical or mental health or that of his family that would result from not being provided the service.

**“4.13** Where an application therefor is made to the director general, he may, with the approval of the administrative committee of the regional centre, grant legal aid to a person who cannot be the recipient of legal aid according to the other provisions of this subdivision and the regulations, if he considers that it is warranted by exceptional circumstances and that denying the person legal aid would cause him irreparable harm. However, the director general may not grant legal aid under this section for services in respect of which it is provided in sections 4.8 and 4.11 that no legal aid may be granted.

The provisions of the first paragraph may apply, subject to the conditions fixed therein, to allow the applicant to establish his rights before a person or body acting in a context other than that of a matter brought before a court.

The decision of the director general is not subject to review by the committee formed under paragraph *k* of section 22.”

**7.** The said Act is amended by inserting, before section 5, the following:

“§ 3.— *Effects of legal aid as regards payment of fees, expenses and costs*”.

**8.** Section 5 of the said Act is amended

(1) by replacing the word “registrateur” in the third line of subparagraph *b* of the first paragraph of the French text by the words “officier de la publicité des droits”;

(2) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) fees and expenses of experts who, with the prior authorization of the director general, act for the recipient and are paid by the centre.”;

(3) by replacing the second paragraph by the following paragraph:

“However, in the cases provided for by this Act or the regulations, the costs of the legal aid received shall be recovered in accordance with the provisions of Division VI.1.”

**9.** Section 10 of the said Act is repealed.

**10.** Section 18 of the said Act is amended by replacing the word “incapacité” in the first line of the second paragraph of the French text by the word “empêchement”.

**11.** Section 19 of the said Act is replaced by the following section:

**“19.** The Commission is a legal person.”

**12.** Section 21 of the said Act is amended by replacing the words “corporate seat” in the first line of the first paragraph by the words “head office”.

**13.** Section 22 of the said Act is amended

(1) by replacing paragraph *a* by the following paragraph:

“(a) see that legal aid is provided, to the extent provided for in this Act and the regulations, to persons financially eligible therefor;”;

(2) by inserting, after paragraph *d*, the following paragraph:

“(d.1) facilitate, through concerted action, a coherent application of this Act and the regulations by legal aid centres;”;

(3) by replacing the words “to economically underprivileged persons on” in the first and second lines of paragraph *f* by the words “for persons financially eligible for legal aid concerning”;

(4) by replacing paragraph *k* by the following paragraph:

“(k) form a review committee for the purposes of sections 74 and 75;”;

(5) by striking out paragraph *m*.

**14.** The said Act is amended by inserting, after section 23, the following section:

**“23.1** The Commission shall publish, in particular so as to facilitate a coherent application of this Act and the regulations, a periodic bulletin containing general or special information concerning the application of this Act and the regulations. The bulletin may also include a digest of the decisions made under this Act.

The Commission shall distribute the bulletin to its members, the members of the boards of directors of legal aid centres, its employees and the employees of legal aid centres. The Commission shall also make it accessible to the extent it determines.”

**15.** Section 24 of the said Act is amended by inserting, after paragraph *a*, the following paragraph:

“(a.1) if, after investigation, the Commission ascertains that the centre has made during a fiscal year financial commitments, other than financial commitments referred to in the third paragraph of section 85, in excess of the amount authorized by the Commission for that fiscal year;”.

**16.** Section 31 of the said Act is amended

(1) by replacing the words “corporation shall be a corporation within the meaning of the Civil Code” in the first and second lines by the words “centre is a legal person”;

(2) by replacing the words “such a corporation” in the fourth line by the words “a legal person”.

**17.** Section 32 of the said Act is amended by replacing the words “economically underprivileged persons” in the second and third lines and in the fifth and sixth lines of paragraph *d* by the words “persons financially eligible for legal aid”.

**18.** The said Act is amended by inserting, after section 32, the following sections:

**“32.1** It shall be within the functions of every legal aid centre to develop and implement, in collaboration with the Commission, individual or general information programs designed to apprise persons financially eligible for legal aid of their rights and obligations.

**“32.2** Any regional centre or, if so agreed among them, any group of regional centres may make an agreement, with individuals who agree to act as experts in one or more regions, concerning the fees and expenses to which they will be entitled when acting within the scope of this Act. Such an agreement may also be made with an association of experts.

The fees and expenses stipulated in an agreement may vary according to the region in which the agreement applies.

The Commission may make such an agreement with experts for and on behalf of a regional centre which has not done so.

Where an agreement has been made, a regional centre may in no case pay for the services of an expert fees or expenses in excess of those stipulated in the agreement.

Where no agreement has been made, the director general shall fix the amount of the fees and expenses payable to experts.”

**19.** Section 45 of the said Act is amended by replacing the words “applies, *mutatis mutandis*,” in the first and second lines by the words “, adapted as required, applies”.

**20.** Section 50 of the said Act is amended

(1) by replacing the words “Division VI” in the fourth line of the second paragraph by the words “Divisions VI to VI.2”;

(2) by replacing the words “apply *mutatis mutandis*” in the fifth line of the second paragraph by the words “adapted as required, apply”;

(3) by adding, at the end of the second paragraph, the following sentence: "However, the powers conferred on the director general by sections 4.2, 4.13 and 73.9 may in no case be delegated."

**21.** Section 52 of the said Act is amended by replacing the second paragraph by the following paragraphs:

"However, the Government, by regulation, may determine, considering the imperatives of sound management of public legal aid funds, legal services or types of legal services that are to be provided, on a permanent basis, either exclusively by advocates or notaries in the employ of a legal aid centre or exclusively by advocates or notaries not in the employ of such a centre.

Furthermore, the Commission, by regulation, may determine, considering the imperatives of sound management of public legal aid funds, legal services or types of legal services that are to be provided, on a temporary basis, exclusively by advocates or notaries in the employ of a legal aid centre. The regulation shall specify the legal services or types of legal services that are to be provided exclusively by advocates or notaries in the employ of a legal aid centre, and shall fix the period for which the regulation applies, which may not exceed the end of the fiscal year in which the regulation is made. The regulation may also provide that its application is restricted to the regions designated in the regulation. The regulation of the Commission shall be submitted to the Minister of Justice for approval. The Commission shall, upon submitting the regulation to the Minister, forward a copy to the Barreau du Québec and to the Chambre des notaires du Québec.

Exclusivity regulations made for the purposes of the second or third paragraph may also pertain to fields of activity.

No exclusivity regulation made for the purposes of this section shall render sections 53 to 55 inoperative."

**22.** Section 61 of the said Act is amended by replacing the words "employed full time by" in the second line of the first paragraph by the words "in the employ of".

**23.** Section 62 of the said Act is amended

(1) by replacing the words "Subject to the regulations, an economically underprivileged person who wishes to receive legal aid must make his application to the local corporation" in the first and second lines of the first paragraph by the words "To receive legal



aid, a person must apply therefor, in accordance with the regulations, to the local centre”;

(2) by replacing the words “Where the probable existence of a right, or, as the case may be, the need of legal service has been established, the person is bound to pay, for the examination of his application, costs” in the first, second and third lines of the second paragraph by the words “The person is required to pay, for the examination of his application, a charge”.

**24.** Section 63 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**63.** Subject to the provisions of the second paragraph of section 50, the director general alone has the authority to make decisions as to the granting of legal aid.”

**25.** Section 64 of the said Act is replaced by the following section:

“**64.** An applicant must, in accordance with the regulations, set out his financial condition and that of his family and establish the facts on which his application is based.

He must supply or arrange for the supply of all the information and documents that are prescribed by regulation and are necessary to determine and verify his eligibility for legal aid.

The director general or a member of his personnel designated by him for such purposes may, for verification purposes, request from any person any information or document relating to an applicant's financial eligibility for legal aid, examine such documents and make a copy thereof. Any person to whom such a request is made is required to comply therewith.”

**26.** Section 66 of the said Act is amended

(1) by replacing the words “registration office” in the fourth line of the first paragraph by the words “registry office”;

(2) by striking out the second paragraph.

**27.** Section 67 of the said Act is replaced by the following section:

**“67.** In urgent cases, the director general may, before an applicant’s file has been thoroughly examined, issue a conditional certificate of eligibility for the performance of conservatory acts necessary for the preservation of the applicant’s rights, particularly as regards appearance in criminal or penal proceedings. The director general may subsequently issue, if the applicant is determined to be eligible for legal aid, a definitive certificate of eligibility having retroactive effect.

If the advocate or notary who performs conservatory acts for the applicant is not in the employ of a legal aid centre, he is entitled to the fees and to recovery of the expenses relating to such conservatory acts only if the director general issues a definitive certificate having retroactive effect.

Where legal services are rendered under a conditional certificate by an advocate or notary in the employ of a legal aid centre, the applicant is required to repay the cost of the legal aid received, in accordance with the provisions of Division VI.1, if, after examination of his application, he is determined not to be eligible for legal aid.”

**28.** Section 68 of the said Act is amended by replacing the words “making inaccurate any information supplied by him to obtain legal aid” in the third and fourth lines by the words “or that of his family which affects his eligibility for legal aid”.

**29.** The French text of section 69 of the said Act is amended by replacing the word “eligible” in the second line of the first paragraph by the word “admissible”.

**30.** Section 70 of the said Act is amended

(1) by striking out the word “, suspended” in the first line;

(2) by replacing the word “eligible” in the second line of the French text by the word “admissible”;

(3) by replacing paragraph *a* by the following paragraphs:

“(a) refuses or neglects to supply the information or documents required for the examination of his application;

“(a.1) has supplied information deliberately and the director general has reasonable cause to believe that such information is false or inaccurate;”;

(4) by adding, at the end, the following paragraphs:

“Moreover, legal aid may be refused or withdrawn if the applicant or recipient or a member of his family has disposed of property or liquidities without adequate consideration so as to render the applicant or recipient financially eligible for legal aid.

Legal aid may be withdrawn at any stage of the proceedings. The centre shall pay to the advocate or notary, if he is not in the employ of the centre, the fees to which he is entitled for the services he rendered before being notified of the withdrawal.”

**31.** Section 71 of the said Act is replaced by the following section:

“**71.** Legal aid may be maintained, in respect of a recipient who has ceased to be eligible therefor, for the services for which a certificate of eligibility had been issued to him. In such a case, however, the recipient shall repay, in accordance with the provisions of Division VI.1, the costs of the legal aid received.”

**32.** Section 72 of the said Act is repealed.

**33.** Section 73 of the said Act is amended

(1) by striking out the word “, suspension” in the first and second lines;

(2) by replacing the words “le registrateur” in the fifth line of the French text by the words “l’officier de la publicité des droits”;

(3) by adding, at the end, the following sentence: “The decision of the director general shall mention that the applicant or recipient, as the case may be, has the right to apply for a review of the decision and shall specify the time allotted for making such an application.”

**34.** The said Act is amended by inserting, after section 73, the following:

#### “DIVISION VI.1

##### “RECOVERY OF LEGAL AID COSTS

“**73.1** A person shall, in accordance with the regulations and to the extent determined therein, repay on request to the legal aid centre the costs of the legal aid received

(1) where legal services have been rendered to the person by an advocate or notary in the employ of a legal aid centre, under a conditional certificate of eligibility issued under section 67 or 74 and, upon examination of his application, the person is determined by the director general or the review committee not to be eligible for legal aid;

(2) where, as a result of legal aid services received under this Act, the person obtained property or a pecuniary right that makes him financially ineligible for legal aid or where the person, being the recipient of legal services under this Act, ceases to be financially eligible for legal aid by reason of a change in his condition or that of his family;

(3) where legal aid is withdrawn from the person in any of the cases provided for in section 70.

**“73.2** Where the financial eligibility of a minor was determined, in accordance with the regulations, on the basis of the income and assets of the minor alone, his father and mother or any other person designated in a regulation under subparagraph 1 of the first paragraph of section 1.2 shall, except in the cases determined by regulation, repay on request to the legal aid centre the costs of the legal aid received by the minor.

However, repayment is not exigible from persons who are themselves financially eligible for legal aid.

**“73.3** Repayment of legal aid costs is exigible

(1) in cases described in paragraph 1 of section 73.1, from the date of the decision of the director general or, where applicable, of the review committee whereby the person to whom a conditional certificate was issued is determined not to be eligible for legal aid;

(2) in cases described in paragraph 2 of section 73.1, from the date the recipient ceases to be financially eligible for legal aid or, if legal aid is maintained, from the date the provision of legal services is completed;

(3) in cases described in paragraph 3 of section 73.1, from the date of the withdrawal of legal aid by the director general or from the date of the decision of the review committee confirming the decision of the director general.

**“73.4** The recovery of legal aid costs is prescribed upon the expiry of three years from the time repayment becomes exigible. In cases of bad faith, the recovery of legal aid costs is prescribed upon the expiry of three years from the date on which the director general becomes aware that the costs are recoverable, but not later than ten years after the date on which repayment would otherwise have been exigible.

**“73.5** The director general shall give the debtor formal notice, stating the amount of the debt and the reasons for which it is exigible and mentioning that the debtor has the right to apply for a review of the decision.

The formal notice interrupts prescription.

**“73.6** The debtor shall repay his debt within the time prescribed by regulation, unless the director general agrees to repayment of the debt or any part thereof in instalments.

The debt becomes exigible in full if the debtor fails to comply with the terms agreed upon with the director general.

**“73.7** Where a debtor fails to repay his debt or any part thereof, the director general or a member of his personnel designated by him for such purpose may, on the expiry of the time allotted for making an application for review or, if a review is conducted, from the date of the decision of the review committee confirming the decision of the director general in whole or in part, issue a certificate attesting the exigibility and amount of the debt. In the absence of any evidence to the contrary, the certificate shall be proof of the exigibility and amount of the debt.

**“73.8** The debtor is required to pay interest in the cases and according to the terms and conditions determined by regulation and at the rate fixed therein.

**“73.9** The director general may, with the approval of the administrative committee of the regional centre, remit all or any part of a debt if he considers that it is warranted by exceptional circumstances. The decision of the director general is not subject to review by the committee formed under paragraph *k* of section 22.

The regional centre shall include a statement of such remissions in the report of activities it submits to the Commission, in accordance with the regulations, for each fiscal year. The statement shall set out the reasons justifying the remissions.”

**35.** Section 74 of the said Act is replaced by the following:

“DIVISION VI.2

“REVIEW

“**74.** Any person who is refused legal aid or from whom legal aid is withdrawn or from whom the repayment of legal aid costs is required may, within fifteen days of the decision of the director general, apply for a review by the committee formed under paragraph *k* of section 22. The application shall be decided by three members, including at least one advocate. The application releases the advocate of the person applying for the review and the director general from their obligation of professional secrecy with regard to the review committee.

Where the decision reviewed concerns a refusal or withdrawal of legal aid, the director general shall, in urgent cases, issue a conditional certificate of eligibility for the performance of conservatory acts necessary for the preservation of the rights of the person applying for the review. Where such a certificate is issued, the review shall be conducted by preference.

If the advocate or notary who performs conservatory acts for the person applying for the review is not in the employ of a legal aid centre, he is entitled to the fees and to recovery of the expenses relating to such conservatory acts only if the review committee determines that the person applying for the review is eligible for legal aid.

The last paragraph of section 67, adapted as required, applies where legal services have been rendered under a conditional certificate by an advocate or notary in the employ of a legal aid centre.”

**36.** Section 75 of the said Act is amended

(1) by replacing the words “right of a person to” in the first and second lines of the first paragraph by the words “financial eligibility of a person for”;

(2) by replacing the words “an appeal shall lie to the review committee from the decision of the general manager” in the third and fourth lines of the first paragraph by the words “the decision of the director general is subject to review by the review committee,”;

(3) by striking out the second paragraph.

**37.** Section 77 of the said Act is replaced by the following section:

**“77.** The applicant or recipient and, where applicable, the person contesting a person’s financial eligibility for legal aid shall be given the opportunity to present their views to the review committee.”

**38.** Section 78 of the said Act is replaced by the following section:

**“78.** Once the persons having applied for the review have been given the opportunity to present their views, the review committee shall rule on the application and notify forthwith the interested persons and the centre of its final decision and of the reasons on which it is based.”

**39.** Section 80 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraphs:

**“(a)** determine, for the purpose of determining financial eligibility for legal aid, in what case a family is composed of a person, other than the father or mother, and children, designate that person and prescribe in what cases or circumstances and, where applicable, on what conditions a person becomes or ceases to be a member of a family and define, for the purposes of section 1.2, what constitutes attendance of an educational institution;

**“(a.1)** determine the period for which income and assets are to be considered for the purpose of determining financial eligibility for legal aid and prescribe the conditions in which such determination is made;

**“(a.2)** determine in what cases and on what conditions the income and assets of the spouse or of the other family members are not to be considered for the purpose of determining financial eligibility for legal aid;

**“(a.3)** determine what constitutes net income and net assets for the purpose of determining financial eligibility for legal aid and, to that end, determine what income and assets are to be considered or excluded, indicate the amounts deductible from income, prescribe calculation methods for determining income or the value of property and determine what is included in liquidities;

“(a.4) fix the level of net income and the value of net assets, including liquidities, below which a person is financially eligible for legal aid;

“(a.5) adjust financial eligibility rules in respect of persons residing in remote regions and, for such purpose, fix the minimum period of residence in a remote region and determine what a remote region is;”;

(2) by replacing subparagraphs *b* and *b.1* of the first paragraph by the following subparagraphs:

“(b) determine, where a minor requires legal services, in what cases the income and assets of the minor and those of his family are to be considered for the purpose of determining the financial eligibility of the minor for legal aid and in what cases the income and assets of the minor alone are to be considered;

“(b.1) determine, in addition to those already specified in this Act, the legal services or types of legal services for which legal aid may be granted and, if expedient, define on what conditions it may be granted therefor, and determine, in addition to those already excluded, the legal services or types of legal services for which legal aid may not be granted;

“(b.2) define the terms and expressions used in this Act or the scope thereof;”;

(3) by replacing subparagraph *e* of the first paragraph by the following subparagraph:

“(e) determine the form and content of certificates of eligibility issued under this Act;”;

(4) by replacing subparagraph *h* of the first paragraph by the following subparagraphs:

“(h) determine the form and content of applications for legal aid as well as the tenor of the undertakings to be made by applicants;

“(h.1) determine the documents and information to be supplied by applicants for legal aid and designate the classes of persons who are dispensed from supplying certain documents or information;

“(h.2) define what is an applicant for legal aid and designate the persons or bodies that are not authorized to make an application for legal aid on behalf of another person;



“(h.3) determine the documents and information relating to an application for legal aid that may be subjected to verification and who may be contacted for the purposes of such verification and determine the authorizations which may be required for such purposes;”;

(5) by adding, at the end of subparagraph *k* of the first paragraph, the words “, particularly as regards the operation of the review committee formed for the purposes of Division VI.2”;

(6) by replacing subparagraph *l* of the first paragraph by the following subparagraph:

“(l) provide, if expedient, for the necessary measures to ensure the carrying out of an agreement, in accordance with the provisions of the third paragraph of section 94;”;

(7) by striking out subparagraph *o* of the first paragraph;

(8) by replacing subparagraph *s* of the first paragraph by the following subparagraph:

“(s) determine, for the purposes of the recovery of legal aid costs, what is included in such costs, fix the method for determining the amount exigible, determine the sums, or the part of any sum, which the debtor is not required to repay, and the cases in which there is to be no recovery of costs, prescribe the time allotted for and the terms and conditions of such repayment, determine the cases in which the debtor is required to pay interest and fix the rate of interest;”;

(9) by adding, at the end of the first paragraph, the following subparagraphs:

“(t) regulate the permanent exclusivity of services provided for in the second and fourth paragraphs of section 52;

“(u) regulate the temporary exclusivity of services provided for in the third and fourth paragraphs of section 52.”;

(10) by replacing the second and third paragraphs by the following paragraphs:

“The provisions of regulations under subparagraphs *a* to *a.5* of the first paragraph may vary according to whether a person alone or a family is concerned, according to the composition of the family,

according to the condition of the applicant or of a member of his family, according to the number of children or, in the case of subparagraph *a.2* or *b* of the first paragraph, according to the legal service provided or, in the case of subparagraph *h.1* of the first paragraph, according to whether the applicant is a natural person, a group of persons or a legal person. The calculation method for determining income or the value of property referred to in subparagraph *a.3* of the first paragraph may vary according to the type of income and assets being considered. The method referred to in subparagraph *s* of the first paragraph for determining the amount exigible from a person required to repay legal aid costs may vary in the different cases provided for in section 73.1 or in the regulations. The provisions of a regulation under subparagraphs *t* and *u* of the first paragraph may vary according to the legal services or types of legal services provided or the fields of activity in which legal services are provided and, in the case of subparagraph *u* of the first paragraph, according to the regions in which and the period for which the provisions are applicable.

Regulations under subparagraphs *a*, *a.1* to *a.5*, *b*, *b.1*, *b.2*, *h*, *h.1* to *h.3*, *l*, *q*, *r*, *s* and *t* of the first paragraph are made by the Government.

All other regulations are made by the Commission and shall be submitted to the Government for approval, except a regulation made for the purposes of subparagraph *u* of the first paragraph, which shall be submitted to the Minister of Justice for approval. A regulation may be approved with or without amendment.

Notwithstanding section 11 of the Regulations Act (R.S.Q., chapter R-18.1), a regulation made by the Commission for the purposes of subparagraph *u* of the first paragraph may be submitted for approval to the Minister of Justice on the expiry of fifteen days from the date of its publication in the *Gazette officielle du Québec*. Notwithstanding section 17 of the said Act, the regulation, once approved, shall come into force ten days after the date of its publication in the *Gazette officielle du Québec*.

Once approved, a regulation made by the Commission for the purposes of subparagraph *k* of the first paragraph shall be published in the *Gazette officielle du Québec*. It shall come into force on the date of publication or on any later date indicated therein."

**40.** Section 81 of the said Act is amended

- (1) by striking out the last sentence of the second paragraph;

(2) by inserting, after the second paragraph, the following paragraph:

“A tariff established under this section may fix an all-inclusive fee for all professional services provided within the scope of a single mandate. It may also determine the maximum amount of fees that may be paid under this Act to one professional in the course of a period specified by the tariff and beyond which the fees paid to the professional are to be reduced, in respect of each mandate, in the proportion specified by the tariff. The provisions of the tariff pertaining to the maximum amount of fees that may be paid to one professional may vary according to the class of professionals to which they apply.”

**41.** Section 82 of the said Act is replaced by the following sections:

**“82.** Every person who

(1) knowingly makes a statement containing false or misleading information or transmits a document containing such information so as to

(a) make himself eligible or so as to remain eligible for legal aid;

(b) make a member of his family eligible for legal aid or remain eligible for legal aid;

(c) help another person to obtain legal aid to which he is not entitled,

(2) being an advocate or notary, receives, contrary to section 60 or the second paragraph of section 61, a sum of money or any other advantage not provided for by this Act, or

(3) being an advocate or notary to whom the first paragraph of section 61 applies, fails to remit to the centre which employs him the fees and expenses collected by him pursuant to a judgment or transaction,

is guilty of an offence and is liable to a fine of not less than \$500 and not more than \$1 400 in the case of a natural person, and of not less than \$1 000 and not more than \$7 000 in the case of a legal person.

**“32.1** Every person who refuses or neglects to supply any information or document requested under the third paragraph of section 64 is guilty of an offence and is liable to a fine of not less than \$250 and not more than \$1 000.”

**42.** The French text of section 84 of the said Act is amended by replacing the words “l’année financière subséquente” in the second line by the words “l’exercice financier subséquent”.

**43.** Section 85 of the said Act is replaced by the following section:

**“85.** The Commission and the legal aid centres shall not make expenditures or assume obligations the amount of which exceeds, in a fiscal year, the sums at their disposal for that fiscal year.

The Commission shall not, in a fiscal year, make financial commitments in excess of the amount authorized for such purpose by the Minister of Justice for that fiscal year. Nor shall legal aid centres, in a fiscal year, make financial commitments in excess of the amount authorized for such purpose by the Commission for that fiscal year.

This section shall not operate so as to prevent the Commission or a centre from making a financial commitment for more than one fiscal year in respect of the lease of movable or immovable property, a collective agreement or the remuneration and conditions of employment of employees not governed by a collective agreement.”

**44.** Section 86 of the said Act is amended by inserting the word “particularly” after the figure “52” in the fifth line.

**45.** Section 87 of the said Act is amended

(1) by replacing the words “année financière” in the second line of the French text by the words “exercice financier”;

(2) by inserting the word “particularly” after the figure “52” in the fifth line.

**46.** The French text of section 87.2 of the said Act is amended by replacing the word “registrateur” in the second line by the words “officier de la publicité des droits”.

**47.** Section 92 of the said Act is replaced by the following section:

**“92.** The Commission, a legal aid centre or a legal aid bureau may avail itself of the provisions of section 88 of the Professional Code (R.S.Q., chapter C-26). For such purposes, they shall be regarded as persons having recourse to the services of a member of a professional order.”

**48.** Section 93 of the said Act is amended by adding, at the end, the following paragraph:

“The report of activities of the Commission shall include a statement of the remissions granted by each of the regional centres under section 73.9 and of the reasons justifying the remissions.”

**49.** Section 94 of the said Act is replaced by the following section:

**“94.** The Minister of Justice may, according to law, make agreements concerning legal aid with any other government, a government department or body or another authority outside Québec which is responsible for granting legal aid.

Moreover, the Minister may, according to law, make agreements with the Government of Canada or with one of its departments or bodies concerning the payment by Canada to Québec of that part of the expenditures necessary for the carrying out of this Act which is determined by such agreements.

The Government may, if expedient, make such regulations as it considers necessary for the carrying out of the provisions of an agreement, particularly to provide for the granting of legal aid in accordance with the agreement.”

**50.** Unless the context indicates otherwise, in all Acts and statutory instruments and in all contracts and documents, the terms “regional legal aid corporation” and “regional corporation”, where they refer to a regional legal aid corporation, are replaced by the terms “regional legal aid centre” and “regional centre”, respectively, with such modifications as are required.

**51.** Unless the context indicates otherwise, in all Acts and statutory instruments and in all contracts and documents, the terms “local legal aid corporation” and “local corporation”, where they refer to a local legal aid corporation, are replaced by the terms “local legal aid centre” and “local centre”, respectively, with such modifications as are required.

**52.** Unless the context indicates otherwise, in all Acts and statutory instruments and in all contracts and documents, the terms “legal aid corporation” and “corporation”, where they refer to a regional legal aid corporation or local legal aid corporation, are replaced by the terms “legal aid centre” and “centre”, respectively, with such modifications as are required.

**53.** In the English text of the said Act,

(1) the words “general manager” wherever they appear in paragraph *h* of section 1, in sections 35, 40, 42, 44, 46, 47, 49 to 58, 63, 65, 66, 69, 73 and 75, in subparagraph *q* of the first paragraph of section 80 and in sections 90 and 91 are replaced by the words “director general”;

(2) the words “attestations to qualify” in section 50 are replaced by the words “certificates of eligibility”;

(3) the words “qualified to receive” in section 63 are replaced by the words “eligible for”;

(4) the words “entitled to” in section 65 are replaced by the words “eligible for”;

(5) the word “qualification” in sections 66 and 69 is replaced by the word “eligibility”.

**54.** Agreements made with another government or a government department or body and in force in Québec on (*insert here the date preceding the date of coming into force of section 49 of this Act*) are deemed, as far as the provisions pertaining to legal aid contained therein are concerned, to have been made pursuant to section 94 of the Legal Aid Act, as replaced by section 49 of this Act.

**55.** Section 5 of the Regulation respecting eligibility for legal aid, made by Order in Council 941-83 dated 11 May 1983, shall continue to apply with regard to persons having their domicile or principal residence in another province or in a territory of Canada until it is amended or repealed by the Government.

**56.** Applications for legal aid received by a local legal aid corporation or a legal aid bureau before (*insert here the date preceding the date of coming into force of this section*) shall continue to be governed by the provisions applicable to them on that date.

**57.** The following regulations may be made without the publication of a draft regulation in the *Gazette officielle du Québec*:

(1) the first regulation respecting financial eligibility for legal aid, applications for legal aid and the recovery of legal aid costs, made by the Government on or before (*insert here the date of coming into force of section 39 of this Act*) under subparagraphs *a*, *a.1* to *a.5*, *b*, *b.1*, *b.2*, *h*, *h.1* to *h.3*, *l*, *q*, *s* and *t* of the first paragraph of section 80 of the Legal Aid Act, as amended by section 39 of this Act;

(2) the first regulation amending or replacing the Regulation respecting the application of the Legal Aid Act made by the Commission des services juridiques on or before (*insert here the date of coming into force of section 39 of this Act*) under subparagraphs *c*, *d*, *e*, *f*, *g*, *i*, *j*, *k*, *m*, *n* and *p* of the first paragraph of section 80 of the Legal Aid Act, as amended by section 39 of this Act.

**58.** The provisions of this Act will come into force on the date or dates to be fixed by the Government.