



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 105

An Act respecting administrative justice

Introduction

**Introduced by
Mr Gil Rémillard
Minister of Justice**

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EXPLANATORY NOTES

This bill identifies the administrative tribunals to which it applies and gives their characteristics.

It contains provisions that apply to the members of those tribunals, and others that regulate appointments, the term and renewal of mandates, remuneration and other conditions of employment, suspension and premature termination of mandates.

It also prescribes the general duties and powers of administrative tribunal members, in particular as regards conflicts of interest, activities inconsistent with their office and exclusivity of service.

The bill formulates the rules applicable to the chairmen and vice-chairmen of administrative tribunals, in particular as regards their designation and administrative duties and the renewal and premature termination of administrative mandates.

In addition, the bill contains basic rules of evidence and procedure for the exercise of the judicial functions of the tribunals concerned, including rules relating to hearings, evidence, recusation of a member and decisions.

It provides for the creation of a Conseil de la justice administrative and establishes its composition, functions and powers, especially with regard to ethics, complaints against members and the other inquiries the council is authorized to make in respect of members of the administrative tribunals concerned.

Finally, the bill amends other legislation to ensure concordance with the principles introduced, and contains a number of transitional provisions concerned, among other things, with the mandates, remuneration and other conditions of employment of members.

ACTS AMENDED BY THIS BILL:

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Automobile Insurance Act (R.S.Q., chapter A-25);
- Charter of the French language (R.S.Q., chapter C-11);
- Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34);
- Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Act respecting the Ministère des Communautés culturelles et de l'Immigration (R.S.Q., chapter M-23.1);
- Public Health Protection Act (R.S.Q., chapter P-35);
- Act to preserve agricultural land (R.S.Q., chapter P-41.1);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5);
- Act respecting health services and social services and amending various legislation (1991, chapter 42).

Bill 105

An Act respecting administrative justice

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE

- 1.** This Act applies to the administrative tribunals listed in the schedule to this Act and to their members.
- 2.** The administrative tribunals, composed of members appointed by the Government, are established to exercise judicial appeal or review functions in respect of decisions by a public administration.

CHAPTER II

STATUS OF MEMBERS

DIVISION I

APPOINTMENT AND RENEWAL OF MANDATE

- 3.** Only a person who has the qualifications required by law and who has at least ten years experience in a field relevant to the exercise of the functions of an administrative tribunal may be appointed as a member of the tribunal.
- 4.** The term of the mandate of a member is five years, subject to the exceptions set forth hereinafter.

5. A mandate with a fixed term of less than five years may be provided for in the act of appointment if the candidate so requests or if required by special circumstances.

6. The term of the mandate of a supernumerary member, whose appointment is authorized by the Act constituting the administrative tribunal to expedite its business, shall be fixed in the act of appointment or shall be capable of being determined by reference to a special mission described in the act of appointment.

7. The term of the mandate of an interim member, appointed specially to assume the responsibilities attaching to the office of chairman while the office is vacant, terminates on the date on which the new holder of that office takes up duties.

8. The mandate of a member other than that of a supernumerary or interim member shall be renewed by the Government for five years

(1) unless the member is given written notice to the contrary by the administrative authority designated for the purpose by the Government at least six months before the expiry of his term;

(2) unless the member requests otherwise and gives notice in writing to the minister responsible for the administrative tribunal.

Any variation in the term of the mandate may be valid only for a fixed duration of less than five years determined in the act of renewal and, other than in the case of a member's request, where required by special circumstances.

DIVISION II

REMUNERATION AND OTHER CONDITIONS OF EMPLOYMENT

9. The Government, within the framework of the policy established by it to that effect, shall determine members' remuneration, fringe benefits and other conditions of employment.

10. Once determined, a member's remuneration may not be reduced, except by a measure applicable to all members of the administrative tribunals to which this Act applies or to a class of member.

Additional remuneration attaching to an administrative responsibility within an administrative tribunal is, however, no longer payable once the exercise of that responsibility terminates.

11. The pension plan of full-time members is determined pursuant to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) or the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), whichever applies.

12. The remuneration of a member who is a judge of the Court of Québec, including any additional remuneration, and fringe benefits, including the pension plan, are determined pursuant to the Courts of Justice Act (R.S.Q., chapter T-16).

13. A public servant appointed as a member of an administrative tribunal ceases to be subject to the Public Service Act (R.S.Q., chapter F-3.1.1) for all matters concerning his responsibilities as a member; for the term of his mandate he is on full leave without pay if he is a full-time member, or is on part-time leave without pay if he is a part-time member, for the purpose of performing the duties of his office.

DIVISION III

PREMATURE TERMINATION OF MANDATE AND SUSPENSION

14. The mandate of a member may terminate prematurely only on his death, retirement or resignation, if the member is removed from office or otherwise relieved of his duties on the conditions set out in this division, or if the administrative tribunal is abolished.

15. The Government may remove a member from office if the Conseil de la justice administrative so recommends, after an inquiry held as a result of a complaint lodged under section 91.

Likewise, the Government may suspend a member without remuneration for any period recommended by the council.

16. The Government may relieve a member of his duties for either of the following reasons:

(1) loss of a qualification required by the Act constituting the administrative tribunal to hold office;

(2) a permanent disability which, in the opinion of the Government, prevents the member from satisfactorily performing the duties of his office; permanent disability is determined by the Conseil de la justice administrative, after an inquiry held at the request of the minister responsible for the tribunal.

17. Section 15 and paragraph 2 of section 16 do not apply to a member who is a judge of the Court of Québec; however, the mandate of that member terminates if, under the Courts of Justice Act, he retires owing to permanent disability or is removed from office.

DIVISION IV

CONTINUATION OF A MEMBER'S DUTIES

18. With the authorization of and for the time determined by the chairman of the administrative tribunal, a member may continue to perform his duties on the expiry of his mandate in order to terminate cases he has begun to hear or that he has not decided. In such case, he shall be considered to be a supernumerary member for the time required.

This section does not apply to a member who has been removed from office or relieved of his duties.

CHAPTER III

DUTIES AND POWERS OF MEMBERS

19. Before taking office, every member shall take the following oath or solemn affirmation: "I (...) swear (*or solemnly affirm*) that I will impartially and honestly, and to the best of my knowledge and abilities, exercise the powers and fulfill the duties of my office."

The obligation shall be discharged before the chairman of the administrative tribunal who for the purpose is a commissioner for oaths. The chairman of the administrative tribunal shall take the oath or make a solemn affirmation before a judge of the Court of Québec.

The writing evidencing the oath or solemn affirmation shall be sent to the minister responsible for the administrative tribunal.

20. In addition to observing the requirements of law respecting conflicts of interest, the rules of conduct and the obligations set out in the code of ethics adopted under this Act, a member may not pursue an activity or place himself in a situation incompatible, within the meaning of the code, with the performance of his duties.

21. Unless otherwise provided by law, full-time members shall perform their duties exclusively.

22. Any member may carry out a mandate entrusted to him by order of the Government after consultation with the chairman of the tribunal.

23. Sections 19 to 22 do not apply to members who are judges of the Court of Québec; the oath or solemn affirmation taken or made by them pursuant to the Courts of Justice Act is valid for the performance of their duties as members of an administrative tribunal and they are subject, in the performance of such duties, to the code of ethics adopted under that Act.

24. Administrative tribunals and their members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

CHAPTER IV

CHAIRMAN AND VICE-CHAIRMAN OF AN ADMINISTRATIVE TRIBUNAL

DIVISION I

DESIGNATION AND RENEWAL OF ADMINISTRATIVE MANDATE

25. The chairman and vice-chairman of an administrative tribunal shall be designated from among the members.

26. Where the chairman is absent or unable to act, the vice-chairman or, where there is more than one, the vice-chairman designated by the minister responsible for the administrative tribunal, shall act as chairman.

Where that rule cannot be observed because there is no vice-chairman or because the vice-chairman or the designated vice-chairman is likewise absent or unable to act, the minister responsible for the tribunal may appoint another member to act as interim chairman.

27. Where the office of chairman is vacant, the Government may appoint a person who is already a member of the tribunal at the time of the vacancy to act as chairman, or may appoint another member specially for that purpose.

Where the office of vice-chairman is vacant, the Government may appoint a person who is already a member of the tribunal at the time of the vacancy to act as vice-chairman.

28. The administrative mandate of the chairman or the vice-chairman, other than an interim mandate, shall be for a fixed duration determined by the act of designation or renewal.

29. The term of the administrative mandate carried out by an interim chairman terminates on the date on which the new holder takes up duties.

DIVISION II

PREMATURE TERMINATION OF AN ADMINISTRATIVE MANDATE

30. The administrative mandate of the chairman or vice-chairman may terminate prematurely only if he relinquishes his administrative responsibilities, on the premature termination or non-renewal of his mandate as a member, or if he is dismissed or otherwise relieved of his administrative responsibilities on the conditions set out in this division.

31. The Government may dismiss the chairman or a vice-chairman from his administrative responsibilities, after consultation with the Conseil de la justice administrative, for an act or omission in respect of which a complaint cannot be made to the council under section 91 and that relates solely to the performance of his administrative duties.

32. The Government may relieve the chairman or a vice-chairman from his administrative responsibilities for loss of a qualification required by the Act constituting the administrative tribunal to assume those responsibilities.

DIVISION III

ADMINISTRATIVE DUTIES

33. In addition to the duties that may be assigned to him, the chairman of an administrative tribunal is responsible for the administration and general direction of the tribunal.

The duties of the chairman include

(1) fostering participation by the members in the formulation of the tribunal's general orientations with a view to maintaining a high level of quality and coherence of decisions;

(2) coordinating and assigning the work of the members of the tribunal who, in that regard, must comply with his orders and directives;

(3) seeing to the observance of the code of ethics.

34. At least once a year, the chairman shall send the following information, compiled by the tribunal on a monthly basis, to the minister responsible for the administrative tribunal:

(1) the number of days on which hearings were held and the average number of hours devoted to the hearings;

(2) the number of adjournments granted;

(3) the nature and number of cases heard and the places and dates of the hearings;

(4) the nature and number of cases taken under advisement and the time devoted to the advisements;

(5) the number of decisions and the time devoted to the proceedings, from the date of the statement of claim to the date of the decision.

35. The chairman shall promptly inform the minister responsible for the administrative tribunal of any vacancy occurring on the tribunal.

CHAPTER V

RULES OF EVIDENCE AND PROCEDURE

DIVISION I

PRELIMINARY PROVISION

36. This chapter enacts basic rules for the exercise of judicial functions by administrative tribunals.

DIVISION II

PRINCIPLE AND OTHER GENERAL PROVISIONS

37. An administrative tribunal may not decide a case if the parties have not been heard or summoned.

38. An administrative tribunal is exempt from the requirement to hear or summon a party where it is to grant an unchallenged complaint or application, or if a party, after being informed of the procedure to follow in order to be heard, fails to make known his wish to be heard or waives his right to be heard, in particular by deciding to set out his allegations in writing rather than orally.

In addition, if a party who has been summoned fails to appear at the time set for the hearing without having justified his absence, or appears at the hearing but refuses to be heard, the tribunal may proceed with the hearing and make a decision.

39. The parties to a proceeding are the persons designated by law and any other interested persons entitled by law to be parties and who have intervened in the proceedings.

40. The members of the personnel of an administrative tribunal shall assist any person who so requests in drafting an application, a complaint, an opposition, an intervention or any other proceeding directed to the tribunal.

41. The administrative tribunals and their members shall have all the powers required for the exercise of their duties, in addition to the powers resulting from the application of the Act respecting public inquiry commissions.

42. Cases in which the subject-matter in dispute is substantially the same or which could feasibly be combined, whether or not the same parties are involved, may be joined by order of the chairman of the administrative tribunal on the conditions he may fix.

An order made under the first paragraph may be revoked by the tribunal when hearing the case if it considers that the interests of justice will be better served by doing so.

43. In the absence of provisions applicable to a particular case, the administrative tribunal may remedy the inadequacy by adopting any procedure consistent with the law or with its rules of evidence, procedure and practice.

44. The rules of evidence, procedure and practice relating to the conduct of the affairs of an administrative tribunal may be made only after consultation with the Conseil de la justice administrative.

DIVISION III

PRE-HEARING CONFERENCE

45. In appropriate circumstances, the chairman of the administrative tribunal or the member designated by him may call the parties to a pre-hearing conference.

46. The purpose of the pre-hearing conference is

- (1) to define the matters to be discussed at the hearing;
- (2) to assess the advisability of amending the proceedings to clarify and more clearly delimit them;
- (3) to ensure the parties exchange all documentary evidence;
- (4) to plan the conduct of the proceedings and evidence at the hearing;
- (5) to examine the possibility of admitting certain facts or evidence of certain facts by affidavit;
- (6) to examine any other matter likely to simplify or accelerate the conduct of the hearing.

47. Minutes of the pre-hearing conference shall be drawn up and signed by the parties and by the member who called the parties to the conference.

Pre-hearing conference agreements and decisions shall, as far as they go, govern the conduct of the proceedings, unless the person hearing the case permits a derogation therefrom to prevent an injustice.

DIVISION IV

HEARING

48. An administrative tribunal has full authority over the conduct of a hearing.

49. In all cases where a hearing is necessary, it shall be fixed, so far as is possible, on a date and at a time when the parties and their witnesses, if any, are able to attend without unduly disrupting their usual occupations.

50. Notice shall be sent to the parties within reasonable time, stating

- (1) the purpose, date, time and place of the hearing;
- (2) the parties have the right to be assisted or represented, and listing the classes of persons entitled by law to assist or represent a party before the administrative tribunal;
- (3) the parties have the right to submit their allegations in writing rather than orally;
- (4) the administrative tribunal has the authority to proceed, without further delay or notice, despite the default of a party if such default is not justified.

51. At the hearing, the members of the administrative tribunal shall provide fair and impartial assistance to each party and shall ensure that the rights of the parties are respected.

52. Any party may examine and cross-examine witnesses to the extent necessary to ensure fair proceedings.

An intervener in a case who is unable to demonstrate a distinct and particular interest may examine or cross-examine witnesses only with leave of the administrative tribunal.

53. A witness may not refuse, without valid reason, to answer a question legally put to him by the administrative tribunal or by the parties, including by an intervener authorized pursuant to section 52.

However, no witness may be compelled to answer in the cases and conditions described in articles 307 and 308 of the Code of Civil Procedure (R.S.Q., chapter C-25).

54. An administrative tribunal may adjourn a sitting, on the conditions it may determine, if it is of the opinion that the adjournment will not cause unreasonable delay in the proceedings or a denial of justice, in particular with a view to fostering a settlement by private agreement.

55. In the event that a hearing cannot be continued because a member is unable to act, it may be continued by another member designated by the chairman of the administrative tribunal, with the consent of the parties; in the case of oral testimony, the designated member shall remain within the notes and minutes of the hearing.

The above provisions apply in the case of a hearing continued after a member sitting in the hearing has ceased to hold office.

DIVISION V

EVIDENCE

56. Each party may plead any ground of law or fact relevant to the determination of his rights and obligations.

57. An administrative tribunal may refuse to admit any evidence that is not relevant or is of a nature unlikely to further the interests of justice.

58. Unless otherwise provided by law, an administrative tribunal is not required to adhere to the ordinary rules of evidence applicable in civil matters.

The administrative tribunal shall dismiss any evidence obtained under circumstances breaching fundamental rights and freedoms, and evidence which, if used, would likely discredit the administration of justice.

59. In addition to facts so well-known as to not reasonably be questionable, the administrative tribunals must take judicial notice of the law in force in Québec in the fields within their competence. Unless otherwise provided by law, statutory instruments not published in the *Gazette officielle du Québec* or in any other manner provided for in law must be pleaded.

60. A member may, of his own initiative, raise generally-known facts, opinions and information which fall within his specialization or that of the administrative tribunal.

61. No evidence may be retained by an administrative tribunal in its decision unless the parties have been given an opportunity to comment on the substance of the evidence or to refute it.

Other than in the case of facts that must be judicially admitted pursuant to section 59, an administrative tribunal may not base its decision on grounds of law or fact raised on a member's own initiative if it has not first given the parties, other than parties who have waived their right to state their allegations, an opportunity to be heard.

DIVISION VI

RECUSATION OF A MEMBER

62. A member who has personal knowledge of a valid cause for recusation to which he is liable must declare that cause in a writing filed in the record and must notify the parties of it.

63. A party may, at any time before the decision and provided he acts with diligence, apply for the recusation of a member of the administrative tribunal seized of the case if he has serious reason to believe that a cause for recusation exists.

The application for recusation shall be addressed to the chairman of the tribunal. Unless the member agrees to resign, the application shall be decided by the chairman or by a member designated by him.

DIVISION VII

DECISIONS

64. In any case of whatever nature, the decision must be given within six months after being taken under advisement. The chairman of the administrative tribunal may, however, extend that period.

Where a member seized of a case fails to decide within six months or, as the case may be, within such additional time as is granted under the first paragraph, the chairman may, of his own initiative or on a party's application, remove the case from the member.

Before granting an extension or removing a case from the member who failed to decide within the time prescribed, the chairman shall take account of the circumstances and of the interests of the parties.

65. A case that has been removed from a member shall be decided by the other members who sat at the hearing if their number is sufficient to constitute a quorum. Failing a quorum, the case shall be heard again.

66. A case heard by a member and which has not been decided at the time the member ceases to perform his duties is governed by the rules set forth in section 65.

67. A member called to hear a case pursuant to sections 65 and 66 may, as regards oral testimony, and with the consent of the parties,

remain within the notes and minutes of the hearing. If the member finds them insufficient, he may recall a witness or request any other evidence.

68. Where a member is unable to act or has ceased to hold office and cannot sign the minute of a decision given at the hearing, another member designated by the chairman of the administrative tribunal may sign the minute of the decision.

69. The decisions of an administrative tribunal terminating a case, even if given orally at the hearing, shall be in writing and include reasons.

The decisions must also include any order to hold the hearing *in camera* and any order banning publication, disclosure or release made by the administrative tribunal.

70. A copy of the decision shall be sent to each of the parties and to any other person specified in the law.

71. An administrative tribunal may not correct, review or revoke its decision unless expressly authorized to do so by law.

72. A decision containing an error in writing or in calculation or any other clerical error may be corrected without further formality by the member who made the decision.

73. An administrative tribunal, of its own initiative or at the request of a party, and after giving the parties to the original proceedings an opportunity to be heard, may review or revoke any decision it has made and which has not been appealed from

(1) where a new fact is discovered which, had it been known in time, could have warranted a different decision;

(2) where a party, owing to reasons considered sufficient, could not be heard;

(3) where a substantive or procedural defect is of a nature likely to invalidate the decision.

In the case described in subparagraph 3, the decision must be reviewed or revoked by a member other than the member who made the decision.

74. The review or revocation procedure must be undertaken within the time provided for by law or, failing such provision, within

reasonable time following the challenged decision or following the discovery of a new fact susceptible of warranting a different decision.

CHAPTER VI

CONSEIL DE LA JUSTICE ADMINISTRATIVE

DIVISION I

ESTABLISHMENT AND ORGANIZATION

75. A council bearing the name “Conseil de la justice administrative” is hereby established.

76. The council has its seat in the territory of the Communauté urbaine de Québec. Notice of the location or of any relocation of the seat shall be published in the *Gazette officielle du Québec*.

77. The council is made up of the following members appointed by the Government:

(1) one chairman appointed from among the chairmen of the administrative tribunals to which this Act applies;

(2) two members appointed from among the members of those tribunals, other than the chairmen;

(3) four other members who are not members of those tribunals and of whom at least one person practises a legal profession.

78. The mandate of each member is three years.

The mandate of each member may not be renewed consecutively more than once.

A member may continue on the expiry of his mandate to perform his duties in order to terminate cases he has begun to hear but has not yet decided.

79. Any vacancy which occurs during a mandate shall be filled according to the rules of appointment and for the term set out in sections 77 and 78.

80. Before they may sit on the council, the members shall take the following oath or solemn affirmation: “I (...) swear (*or* solemnly affirm) that I will neither reveal nor disclose, without being so authorized by law, anything of which I may gain knowledge in the

performance of the duties of my office and that I will perform those duties impartially and honestly to the best of my knowledge and abilities.”

The obligation shall be discharged before the chairman of the council who for the purpose is a commissioner for oaths. The chairman of the council shall take the oath or make a solemn affirmation before a judge of the Court of Québec.

81. The members of the council are not remunerated, except in the cases, on the conditions and to the extent that may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

82. The minister responsible for the application of this chapter shall, to the extent possible and on the conditions determined by the Government, place at the disposal of the council the human, physical and financial resources necessary for the performance of its duties.

The ministers responsible for an administrative tribunal to which this Act applies shall, to the extent possible and on the conditions determined by the Government, contribute to the expenses required for the purpose.

83. The council shall meet as often as necessary, at the request of the chairman, a majority of the members or the minister responsible for the application of this chapter.

The council may sit *in camera* and hold its sittings at any place in Québec.

84. The minutes of the sittings of the council or of one of its committees are authentic if they are approved by the members thereof and are signed by the chairman of the sitting.

Documents emanating from the council or forming part of its records are authentic if they are signed, as are copies of such documents if they are certified by the chairman of the council.

85. The council may make rules for its internal management. It may also form committees and determine their duties.

86. The council shall provide the minister responsible for the application of this chapter with any report or information he requires on its activities.

DIVISION II

FUNCTIONS AND POWERS

87. The functions of the council in respect of the administrative tribunals to which this Act applies or their members are as follows:

(1) to foster the effectiveness and concordance of the rules of evidence, procedure and practice of the tribunals and to give its opinion on the draft rules submitted to it;

(2) to adopt a code of ethics applicable to the members;

(3) to receive and examine any complaint lodged against a member pursuant to Division IV;

(4) to make an inquiry, at the request of the minister responsible for the tribunal, in order to determine whether or not a member other than a judge of the Court of Québec is suffering from a permanent disability;

(5) to advise the Government on any act or omission invoked as grounds for the dismissal of a chairman or vice-chairman from his administrative responsibilities in the case provided for in section 31;

(6) to report to the minister responsible for the application of this chapter on any other matter he may submit to the council.

88. The council may make rules of evidence, procedure and practice applicable to its inquiries. The rules must be submitted to the Government for approval.

DIVISION III

CODE OF ETHICS

89. The council, after consultation with the members of the administrative tribunals to which this Act applies, shall, by by-law, adopt a code of ethics applicable to the members of the tribunals.

The code of ethics must be submitted to the Government for approval.

The code of ethics does not apply to members who are judges of the Court of Québec.

90. The code of ethics shall set out the rules of conduct and the duties of members towards the public, the parties, their witnesses and the representatives of those persons. It shall specify, in particular, any conduct that is derogatory to the members' honour, dignity or integrity. It may also determine the activities or situations that are incompatible with the responsibilities they have assumed, their obligations in respect of disclosure of their interests, and the duties they may perform gratuitously.

The code of ethics may contain special rules applicable to members of an administrative tribunal or to part-time members.

DIVISION IV

COMPLAINTS

91. Any person may lodge a complaint with the council against a member, other than a judge of the Court of Québec, of an administrative tribunal to which this Act applies, on the grounds that he has failed to comply with the code of ethics or to perform a duty under this Act, or has infringed provisions of law relating to conflicts of interest or incompatible duties.

Until the coming into force of the code of ethics applicable to members of a tribunal, the following grounds may also be invoked in a complaint lodged against a member of the tribunal:

- (1) that he has not effectively performed his duties;
- (2) that he has placed himself in a position such that he cannot effectively perform his duties;
- (3) that he has committed an act derogatory to honour, dignity or integrity that is incompatible with the performance of his duties.

92. A complaint must be in writing and must briefly state the reasons on which it is based.

It shall be transmitted to the seat of the council.

93. If the complaint is lodged by a member of the council, that member cannot take part in the examination of the complaint.

94. The council may reject any complaint it considers frivolous. It shall notify the plaintiff of the rejection and the reasons therefor.

95. Where the council considers that the complaint is admissible, or where the complaint is lodged by the minister

responsible for the administrative tribunal, the council shall transmit a copy of it to the member, to the minister responsible for the application of this chapter and, where applicable, to the minister responsible for the tribunal.

In addition, the council shall form an inquiry committee composed of three of its members, entrusted with conducting an inquiry into the complaint and deciding the complaint on behalf of the council. At least one member of the committee shall be a member of an administrative tribunal to which this Act applies.

96. The council shall designate a chairman from among the members of the committee; the chairman shall convene the sittings of the committee.

97. For the purposes of an inquiry, the inquiry committee and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions, except the power to order imprisonment.

98. The council may, for a compelling reason and after consulting the inquiry committee, suspend a member for the duration of the inquiry.

99. After giving the member who is the subject of the complaint, the minister responsible for the administrative tribunal and the plaintiff an opportunity to be heard, the committee shall decide the complaint.

If the committee considers the complaint to be justified, it may recommend that the member be reprimanded, suspended for a period it may determine or removed from office.

The committee shall send its inquiry report and conclusions to the council, giving reasons therefor, together with its recommendations, where applicable, in respect of the punishment.

100. The council shall then send a copy of the committee's conclusions to the member who is the subject of the complaint, to the plaintiff, to the minister responsible for the administrative tribunal and to the minister responsible for the application of this chapter.

101. If the committee finds the complaint to be justified, the council, depending on the committee's recommendation, shall administer a reprimand to the member and notify the minister responsible for the administrative tribunal and the minister

responsible for the application of this chapter that it has done so, or shall send the recommendation for suspension or removal from office, together with the committee's inquiry report, to the minister responsible for the tribunal and to the minister responsible for the application of this chapter.

Where the recommended punishment is the member's removal from office, the council may immediately suspend the member for a period of 30 days.

DIVISION V

PERMANENT DISABILITY OF A MEMBER

102. At the request of the minister responsible for an administrative tribunal to which this Act applies, and after sending a copy of the request to the member concerned and to the minister responsible for the application of this chapter, the council shall form an inquiry committee entrusted with determining on its behalf whether a member is suffering from a permanent disability which prevents him from satisfactorily exercising the duties of his office.

103. The committee shall be formed and chaired according to the rules described in the second paragraph of section 95 and in section 96. The committee and its members are vested with the powers and immunity referred to in section 97.

104. The council may, for a compelling reason and after consulting the inquiry committee, suspend the member for the duration of the inquiry.

105. After giving the member concerned and the minister responsible for the administrative tribunal an opportunity to be heard, the committee shall send its conclusions, with reasons, to the council. The council shall send a copy of the conclusions to the member, to the minister responsible for the tribunal and to the minister responsible for the application of this chapter.

CHAPTER VII

AMENDING PROVISIONS

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

106. Section 368 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is replaced by the following section:

“368. The board of appeal is composed of not fewer than 12 full-time commissioners, including a chairman and not more than two vice-chairmen, appointed by the Government.

The Government may, to expedite the business of the board of appeal, appoint supernumerary commissioners.”

107. Section 371 of the said Act is amended

(1) by replacing the words “president and the vice-presidents” in the second and third lines of the first paragraph by the words “chairman, the vice-chairmen and the supernumerary commissioners”;

(2) by adding, at the end, the following paragraph:

“The procedure for selecting commissioners does not apply to renewal of a term.”

108. Sections 372 to 376 of the said Act are repealed.

109. Section 377 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing the word “He” in the first line of the second paragraph by the words “The chairman”;

(3) by replacing the words “For the purposes of the first paragraph, the president” in the first line of the third paragraph by the words “In performing his administrative duties, the chairman”.

110. Sections 379 and 381 of the said Act are repealed.

111. Section 383 of the said Act is amended

(1) by replacing the word “powers” in the first line of the first paragraph by the word “duties”;

(2) by striking out the second paragraph.

112. Section 385 of the said Act is amended by replacing the first paragraph by the following paragraph:

“385. Two-thirds of the commissioners appointed pursuant to the first paragraph of section 368 shall, at a meeting called for that purpose by the chairman, adopt a code of ethics for assessors.”

113. Section 406 of the said Act is repealed.

114. Section 407 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing the word "He" in the first line of the second paragraph by the words "A commissioner".

115. Section 408 of the said Act is repealed.

116. Section 412 of the said Act is amended by inserting the words "the first paragraph of" after the word "to" in the first line of the first paragraph.

117. Section 422 of the said Act is repealed.

118. Section 423 of the said Act is repealed.

119. Sections 424 and 427 of the said Act are repealed.

120. Schedules VI and VII to the said Act are repealed.

AUTOMOBILE INSURANCE ACT

121. Section 83.49 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by striking out the second paragraph.

CHARTER OF THE FRENCH LANGUAGE

122. Section 83.1 of the Charter of the French language (R.S.Q., chapter C-11) is amended by replacing the words "The committee has all the necessary powers for the exercise of its jurisdiction; it" in the first and second lines by the words "The committee".

123. Section 83.2 of the said Charter is amended by inserting the words "by the Act respecting administrative justice (*insert here the chapter number of this Act*) and" after the word "prescribed" in the second line.

124. Section 83.3 of the said Charter is repealed.

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

125. Sections 3 to 5 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) are replaced by the following sections:

“3. The Commission shall consist of members appointed by the Government, which shall determine their number and choose a chairman and two vice-chairmen from among them.

“4. The chairman must be a judge or an advocate.

The vice-chairmen must be advocates.

At least ten other members must be physicians, including at least four psychiatrists, and at least two other members must be professional social workers.

“5. The chairman and the vice-chairmen must perform their duties on a full-time basis.

“5.1 Members of the Commission, even full-time members, may act as members of the board provided for in section 672.38 of the Criminal Code (Revised Statutes of Canada (1985), chapter C-46).”

126. Section 7 of the said Act is repealed.

127. Section 8 of the said Act is amended by adding, at the end, the words “from among the full-time members who are advocates”.

128. Section 9 of the said Act is amended by striking out the words “and which assessors” in the second line of the second paragraph.

129. Section 10 of the said Act is amended by striking out the words “and assessors” in the first and second lines of the first paragraph.

130. Section 12 of the said Act is repealed.

131. Section 13 of the said Act is amended by striking out the words “assessors and” in the first line.

132. Section 14 of the said Act is amended by replacing the words “, its members or assessors” in the third line by the words “or its members”.

133. Sections 16 to 19 of the said Act are repealed.

134. Section 22 of the said Act is amended by replacing the second paragraph by the following paragraph:

“No appeal shall suspend the execution of the decision appealed from unless a member of the Commission who is an advocate or, in the case of an appeal brought under section 81 of the Act respecting income security, who is either an advocate or a physician, orders otherwise in case of urgency.”

135. Section 23 of the said Act is amended by striking out the words “shall have all the powers necessary to exercise its jurisdiction and” in the first and second lines of the first paragraph.

136. Section 24 of the said Act is repealed.

137. Section 26 of the said Act is amended

(1) by replacing the words “one of whom is an assessor” in the second paragraph by the words “only one of whom is an advocate”;

(2) by replacing the words “the assessor must be a physician” in the fifth line of the third paragraph by the words “one advocate and one physician constitute a quorum”.

138. Section 27 of the said Act is amended by replacing the words “two of whom are assessor-psychiatrists” in the first line of the second paragraph by the words “one of whom must be an advocate and the remaining two psychiatrists”.

139. Section 29 of the said Act, amended by section 139 of chapter 21 of the statutes of 1992, is again amended

(1) by inserting the words “who is an advocate” after the word “member” in the first line of the first paragraph;

(2) by inserting the words “who are advocates” after the word “members” in the second line of the second paragraph;

(3) by replacing the words “including one assessor who is a physician” in the third line of the third paragraph by the words “two of whom must be advocates and the third a physician”.

140. Section 30 of the said Act, amended by section 4 of chapter 13 of the statutes of 1991, is again amended by inserting the words

“who are advocates” after the word “members” in the second paragraph.

141. Section 31 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Three members, two of whom must be advocates and the third a physician, constitute a quorum”.

142. Section 31.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Three members, two of whom must be advocates and the third a physician, constitute a quorum”.

143. Section 31.2 of the said Act is replaced by the following section:

“31.2 Where the quorum fixed by the Act is three advocates or two advocates and a physician, the chairman may, where he sees fit, reduce the quorum to two advocates or to one advocate and one physician, as the case may be.”

144. Sections 36 and 37 of the said Act are repealed.

145. Section 38 of the said Act is amended

- (1) by striking out the first paragraph;
- (2) by striking out the second sentence of the second paragraph.

ACT TO SECURE THE HANDICAPPED IN THE EXERCISE OF THEIR RIGHTS

146. Section 30 of the Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1) is amended by striking out the words “, which shall dispose of the appeal according to its rules of proof, procedure and practice” in the second and third lines.

147. Section 44 of the said Act is amended by striking out the words “, which shall dispose of the appeal in accordance with its rules of proof, procedure and practice” in the third and fourth lines.

148. Section 48 of the said Act is amended by striking out the words “, which shall dispose of the appeal in accordance with its rules of proof, procedure and practice” in the third and fourth lines.

149. Section 59 of the said Act is amended by striking out the words “, which shall dispose of the appeal in accordance with its rules of proof, practice and procedure” in the third, fourth and fifth lines.

ACT RESPECTING MUNICIPAL TAXATION

150. Section 87 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by striking out the words “are permanent members, and” in the first line of the second paragraph.

151. Section 89 of the said Act is amended by replacing the term “deputy-chairman” in the first and second lines by the term “vice-chairman”.

152. Section 90 of the said Act is replaced by the following section:

“90. The chairman of the board shall assign the members to each section.”

153. Section 91 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing the words “Moreover, the deputy-chairman” in the first line of the second paragraph by the words “The vice-chairman of the board”.

154. Section 92 of the said Act is amended by replacing the term “deputy-chairman” in the first line by the term “vice-chairman”.

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

“Sections 28 and 30 to 32 of the Act respecting administrative justice (*insert here the chapter number of this Act*) apply to the administrative mandate of a deputy-chairman of a section and to that of a vice-chairman of an administrative tribunal.”

156. Sections 94 to 96 of the said Act are repealed.

157. Section 98 of the said Act is amended by replacing the figure “90” in the second line by the words and figure “33 of the Act respecting administrative justice”.

158. Section 102 of the said Act is amended by replacing the term “deputy-chairman” in the first line of the second paragraph by the term “vice-chairman”.

159. Section 111 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing the words “shall be summoned” in the first line of the second paragraph by the words “summoned by the board shall be summoned”.

160. Section 113 of the said Act is amended by replacing the words “this act or” in the first line by the words “the Act respecting administrative justice, with this Act or with”.

161. Section 141 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “Such notice shall not contain the particulars required under paragraph 3 of section 50 of the Act respecting administrative justice.”

162. Section 148 of the said Act is amended by replacing the first and second paragraphs by the following paragraph:

“**148.** The board may not correct, under section 72 of the Act respecting administrative justice, a decision containing an error of transcription, a miscalculation or any other clerical error at the demand of one of the parties if the decision has been appealed from or, if the decision has become executory, correct such an error of its own initiative.”

ACT RESPECTING THE MINISTÈRE DES COMMUNAUTÉS CULTURELLES ET DE
L'IMMIGRATION

163. Section 18 of the Act respecting the Ministère des Communautés culturelles et de l'Immigration (R.S.Q., chapter M-23.1) is amended

(1) by striking out the words “for a term not exceeding five years” in the third line of the first paragraph;

(2) by replacing the word “additional” in the second line of the second paragraph by the word “supernumerary”.

164. Section 19 of the said Act is repealed.

165. Section 20 of the said Act is replaced by the following section:

“20. The members of the Bureau de révision are appointed on a full-time basis.”

166. Section 21 of the said Act is repealed.

167. Section 22 of the said Act is replaced by the following section:

“22. Where the Bureau de révision has only one member, the member shall perform the duties of the chairman provided for in the Act respecting administrative justice (*insert here the chapter number of the said Act*).”

168. Section 32 of the said Act is repealed.

169. The said Act is amended by inserting, after section 32, the following section:

“32.1 Where the Bureau de révision has only one member, the six-month period applicable to advisements under section 64 of the Act respecting administrative justice may not be extended except with the written consent of the parties.”

170. Section 33 of the said Act is amended by striking out the second sentence.

171. Section 35 of the said Act is repealed.

PUBLIC HEALTH PROTECTION ACT

172. Section 16.7 of the Public Health Protection Act (R.S.Q., chapter P-35) is amended by striking out the words “which shall dispose of the appeal according to its rules of evidence, procedure and practice” in the third, fourth and fifth lines.

ACT TO PRESERVE AGRICULTURAL LAND

173. Section 21.0.1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended

(1) by replacing the words “for not more than five years by the Government is hereby established under the name of “Tribunal d’appel en matière de protection du territoire agricole”. Once established, the term of office of the members cannot be reduced” in the second, third, fourth, fifth and sixth lines of the first paragraph by the words “by the Government is hereby established under the

name of “Tribunal d’appel en matière de protection du territoire agricole”;

(2) by striking out the second and third paragraphs.

174. Section 21.0.2 of the said Act is amended by striking out the second paragraph.

175. Section 21.0.8 of the said Act is replaced by the following section:

“21.0.8 The commission is a party to the proceedings.”

ACT RESPECTING THE QUÉBEC PENSION PLAN

176. Section 188 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing the words “with the Commission des affaires sociales an appeal which shall be dealt with in accordance with the Act respecting the Commission des affaires sociales (chapter C-34)” in the second, third and fourth lines by the words “an appeal with the Commission des affaires sociales”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

177. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by section 293 of chapter 21, section 71 of chapter 44, section 53 of chapter 67 and section 153 of chapter 68 of the statutes of 1992, and by Order 1353-91 dated 9 October 1991, Order 398-92 and Order 399-92 dated 25 March 1992, Order 669-92 dated 6 May 1992, Order 1263-92 dated 1 September 1992, Order 1666-92 dated 25 November 1992 and Order 327-93 dated 17 March 1993, is again amended

(1) by striking out, in paragraph 3, the following words:

“the Commission des affaires sociales

“the Commission d’appel en matière de lésions professionnelles if they are employed full-time”;

(2) by striking out paragraph 7.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

178. Schedule II to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by section 46

of chapter 66 of the statutes of 1992 and by the decision of the Conseil du trésor C.T. 179668 dated 17 March 1992, is again amended by replacing paragraph 2 by the following paragraphs:

"2. THE MEMBERS OF THE OFFICE DES PROFESSIONS DU QUÉBEC

"2.1 THE FULL-TIME MEMBERS OF ADMINISTRATIVE TRIBUNALS TO WHICH THE ACT RESPECTING ADMINISTRATIVE JUSTICE (*insert here the chapter number of the said Act*) APPLIES, WHO ARE NOT DESIGNATED IN SCHEDULE I TO THIS ACT, EXCEPT THE PERSONS REFERRED TO IN BOTH THE FOURTH PARAGRAPH OF SECTION 65 OF CHAPTER 31 OF THE STATUTES OF 1973 AND IN PART VI OR VI.1 OF THE COURTS OF JUSTICE ACT (R.S.Q., CHAPTER T-16)".

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE AND INUIT
NATIVE PERSONS

179. Section 19 of the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5) is amended by replacing the words " ; such request shall be dealt with in accordance with" in the fifth and sixth lines of the second paragraph by the words "to obtain an order pursuant to the second paragraph of section 25 of".

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AND AMENDING VARIOUS
LEGISLATION

180. Section 619.2 of the Act respecting health services and social services and amending various legislation (1991, chapter 42), enacted by section 68 of chapter 21 of the statutes of 1992, is amended by replacing the words "which shall be dealt with in accordance with" in the fifth and sixth lines of the second paragraph of subparagraph 3 of the second paragraph by the words "to obtain an order pursuant to the second paragraph of section 25 of".

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

181. Section 3 does not apply to members of an administrative tribunal in office on the date that section comes into force, for as long as they remain members of the tribunal.

182. Section 4 does not affect mandates existing on the date that section comes into force.

However, the mandate of a member who remained in office in accordance with the law despite the expiry of his mandate shall terminate on that date, subject to section 18.

183. The remuneration of a member of an administrative tribunal in office on the date on which the first policy referred to in section 9 would be applicable to him comes into force, shall correspond to the remuneration he was receiving before that date if it is more advantageous, until the remuneration fixed within the framework of that policy has become equivalent. The member's remuneration may, however, be reduced pursuant to the conditions set forth in section 10; for the purposes of the second paragraph, that part of a member's remuneration corresponding to the minimum additional remuneration that could be granted within the framework of the policy for carrying out an administrative responsibility is considered to be additional remuneration granted for the exercise of such administrative responsibility.

The member's fringe benefits, other than the pension plan, and the member's other conditions of employment, as they existed before the date of the coming into force referred to above, are deemed to be determined within the framework of the policy if they are more advantageous; they remain applicable so long as the member's mandate has not expired, subject to changes made in conformity with the policy and ordered for all the members benefiting from the measure in question.

184. In addition to the exemption resulting from the application of paragraph 7 of section 4 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), the Government and Public Employees Retirement Plan does not apply to any member of an administrative tribunal who is entitled to compensation in lieu of participation in the plan and to whom the plan would have become applicable on the date section 11 of this Act comes into force, for as long as that member is entitled to such compensation.

185. Notwithstanding section 12 of this Act, the provisions of section 162 of the Act to amend the Courts of Justice Act and other legislation to establish the Court of Québec (1988, chapter 21) concerning the conditions of employment of judges who were members of an administrative tribunal on 31 August 1988 shall apply.

186. Section 13 of this Act shall apply to every public servant who is a member of an administrative tribunal on the date that section comes into force.

187. The members of an administrative tribunal in office on the date section 19 comes into force must take the oath or make the solemn affirmation provided for in that section within 30 days from that date, unless they are judges of the Court of Québec.

188. Sections 21 and 22 shall not operate to prevent a member of an administrative tribunal from continuing to perform, for a one-year period beginning on the date those sections come into force, the duties he was legally authorized to perform before that date.

189. The administrative mandate of a chairman or vice-chairman of an administrative tribunal in office on the date Division II of Chapter IV comes into force may be terminated prematurely on the conditions prescribed in that division, without affecting his mandate as a member, as though his mandate as a member were separate from his administrative mandate.

190. The full-time or part-time assessors of the Commission des affaires sociales become, respectively, full-time or part-time members of the Commission.

Sections 181 to 183 and 186 to 188, adapted as required, apply to them.

191. The deputy-chairman of the Bureau de révision de l'évaluation foncière du Québec becomes the vice-chairman of the board and the vice-chairmen become vice-chairmen of sections.

192. Section 189 of this Act likewise applies to the administrative mandates of vice-chairmen of sections of the Bureau de révision de l'évaluation foncière du Québec referred to in the second paragraph of section 93 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), enacted by section 155 of this Act, from the date section 155 comes into force.

193. The Code of Ethics of Commissioners and Assessors of the Commission d'appel en matière de lésions professionnelles, approved by Order 539-86 dated 23 April 1986, shall continue to apply, until it is replaced and with any necessary changes, to the Commission's assessors.

194. The Government shall designate the ministers responsible for the application of the provisions of this Act.

195. The provisions of this Act will come into force on the date or dates fixed by the Government.

SCHEDULE

ADMINISTRATIVE TRIBUNALS TO WHICH THIS ACT APPLIES

1. The Bureau de révision de l'évaluation foncière du Québec (R.S.Q., chapter F-2.1);
 2. The Bureau de révision en immigration (R.S.Q., chapter M-23.1);
 3. The appeals committee established under section 83 of the Charter of the French language (R.S.Q., chapter C-11);
 4. The Commission d'appel en matière de lésions professionnelles (R.S.Q., chapter A-3.001);
 5. The Commission des affaires sociales (R.S.Q., chapter C-34);
 6. The Tribunal d'appel en matière de protection du territoire agricole (R.S.Q., chapter P-41.1).
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