



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 129

An Act to amend the Act respecting municipal courts

Introduction

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

**Québec Official Publisher
1993**

EXPLANATORY NOTES

This bill amends the Act respecting municipal courts, principally to streamline the procedure for establishing municipal courts when a common court shared by several municipalities or a regional county municipal court is established. A mechanism is introduced to accelerate the processing of applications within the jurisdiction of municipal courts upon an amalgamation of municipal territories.

In addition, the bill removes the obligation for a municipality to establish that no cases are pending when it voluntarily abolishes a municipal court or withdraws its territory from the jurisdiction of a municipal court. The obligation is replaced with provisions which preserve the remedies applied for before the voluntary or forced abolition of a municipal court, while ensuring the execution of previously rendered judgments.

Lastly, the bill makes various amendments of a technical nature to the Act.

Bill 129

An Act to amend the Act respecting municipal courts

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 8 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by inserting the words “or which intends to abolish the municipal court it has established or to withdraw its territory from the jurisdiction of such a court” after the word “court” in the third line of the first paragraph.

2. Section 9 of the said Act is amended by adding, at the end, the following paragraphs:

“Where only one of the local municipalities which adopt such a by-law has established a local municipal court to serve its territory, the agreement may provide that the court becomes the common municipal court, on the conditions which are provided therein.

Where local municipalities which adopt such a by-law have established a common municipal court which does exercise its jurisdiction over the territory of any other municipality, the agreement may provide for the transfer of the administration of the common municipal court to the regional county municipality, on the conditions provided in the agreement.

In the cases described in the second and third paragraphs, the clerk and, where applicable, the deputy clerk and the replacement clerk appointed in the chief-place of the municipal court established prior to the agreement become, without any other formality, clerk, deputy clerk and replacement clerk, respectively, in the chief-place of the common municipal court the administration of which is under the jurisdiction of the regional county municipality.”

3. Section 11 of the said Act is amended by replacing the words “it establishes” in the last line by the word “established”.

4. The said Act is amended by inserting, after section 11, the following section:

“11.1 Where a local municipality cannot, in given circumstances, establish a local municipal court or enter into an agreement to establish a common municipal court with a local municipality whose territory is situated in the territory of the same regional county municipality or the same urban community or with the regional county municipality, nor join such an agreement, it may enter into any agreement provided for in this Act with another regional county municipality whose territory is contiguous to that of the regional county municipality in which the local municipality is situated or with any local municipality situated in the territory of a contiguous regional county municipality or urban community, or join such an agreement, provided that the other prescriptions contained in this Act are complied with.”

5. The said Act is amended by inserting, after section 18, the following headings and sections:

“DIVISION 11.1

“APPLICATIONS RELATING TO MUNICIPAL COURTS IN THE EVENT OF THE
AMALGAMATION OR ANNEXATION OF MUNICIPAL TERRITORIES

“18.1 The Minister of Municipal Affairs shall give notice to the Minister of Justice of every joint application for the amalgamation of municipal territories and every annexation by-law received by him.

“18.2 From the coming into force of the order made pursuant to section 108 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9)

(1) the local municipal court which, at the time the joint application for the amalgamation of municipal territories is filed under section 85 of the said Act, has jurisdiction over the territory of only one of the municipalities party to the joint application for amalgamation; or

(2) the common municipal court which, at the time the joint application for the amalgamation of municipal territories is filed under section 85 of the said Act, has jurisdiction over the territory of at least two of the municipalities party to the joint application for

amalgamation, provided that that municipal court does not have jurisdiction over the territory of a municipality which is not party to the joint application for amalgamation;

shall become, without any other formality, the municipal court of the municipality resulting from the amalgamation of municipal territories.

This section applies provided that only one municipal local or common court, as the case may be, has been established at the time the joint application for amalgamation of municipal territories is filed.

The Minister of Justice shall inform the public thereof by means of the *Gazette officielle du Québec* or any other means he considers appropriate.

18.3 In any case other than those described in section 18.2, where one or several municipal courts have jurisdiction over the territory of one or several municipalities party to a joint application for the amalgamation of municipal territories filed under section 85 of the Act respecting municipal territorial organization, the application must include, in accordance with the prescriptions of this Act, provisions relating to such municipal courts.

Where, pursuant to the application, a municipal court, established by one of the municipalities party to the application, is to have jurisdiction over the territory of the municipality resulting from the amalgamation, the said application must be accompanied, in particular, with an agreement providing for the extension of the jurisdiction of that municipal court over the territory of the municipality resulting from the amalgamation.

The clerk or the secretary-treasurer of the applicant municipality with the largest population shall, when forwarding the joint application for the amalgamation of municipal territories to the Minister of Municipal Affairs, send a copy of it to the Minister of Justice accompanied, where applicable, with any by-law or any agreement required by this Act.

No order relating to the municipal court may be made nor come into force before the order made pursuant to section 108 of the Act respecting municipal territorial organization.”

6. The English text of section 55 of the said Act is amended by replacing the words “at least” in the sixth line of the first paragraph and in the second line of the second paragraph by the words “less than”.

7. Section 102 of the said Act is amended by replacing the words “of which he had been seized” in the second line by the words “entered on one of the rolls of the court”.

8. Section 103 of the said Act is amended by replacing the words “and of which the judge has not been seized” in the fourth and fifth lines of the first paragraph by the words “which have not been entered on one of the rolls of the court before the order took effect”.

9. Section 111 of the said Act is amended by striking out subparagraph 2 of the first paragraph.

10. Sections 116 and 117 of the said Act are repealed.

11. The said Act is amended by inserting, before the heading of Chapter VIII, the following headings and sections:

“DIVISION IV

“EFFECTS OF ABOLITION

117.1 Notwithstanding, where applicable, section 39, the judge of the court retains his jurisdiction to hear and dispose of cases entered on one of the rolls of the court before the date on which the abolition of the municipal court or the withdrawal of the territory of a municipality from the jurisdiction of a municipal court became effective; he shall sit for that purpose at the place indicated in the order.

117.2 In the month following the date on which the order for abolition or withdrawal becomes effective the clerk of the court is required to transfer all the records relating to the cases pending in the territory served by the court or, as the case may be, in the territory withdrawn from the jurisdiction of the court which had not been entered on one of the rolls of the court before the date on which the abolition or withdrawal became effective, to the offices of the courts of competent jurisdiction.

However, where a municipal court is established following the abolition of a municipal court or the withdrawal of the territory of a municipality from the jurisdiction of a municipal court, the clerk is required to transfer to the office of the municipal court so established, in the month following the date on which the order to establish the municipal court became effective, the records relating to the cases

pending in the territory served by the abolished court or in the territory withdrawn from the jurisdiction of the court which had not been entered on one of the rolls of the court before the abolition or withdrawal became effective.

The clerk shall notify the parties thereof.

“117.3 Execution of the judgments rendered in accordance with the Code of Penal Procedure by the judge of the municipal court before the date on which the abolition of the municipal court or the withdrawal of the territory of a municipality from the jurisdiction of a municipal court became effective, is effected or, as the case may be, continued

(1) from the date on which the order for abolition becomes effective, by the collector designated for the judicial district in which the municipality is situated, where the municipal court is abolished;

(2) from the date on which the order for withdrawal becomes effective, by the collector designated for the judicial district in which the municipality is situated or by the collector designated for the competent municipal court before the date on which the order for withdrawal became effective, where the territory of a municipality is withdrawn from the jurisdiction of the court;

(3) from the date on which the order to establish a municipal court becomes effective, by the collector designated for the competent municipal court after the date on which the order for establishment became effective, where the municipal court is established following the abolition of the court or the withdrawal of the territory from the jurisdiction of the court.

The powers conferred on a judge under Chapter XIII of the said Code for the execution of the judgments shall be, from the date on which the order becomes effective, exercised, as the case may be, by a judge having competent jurisdiction.

“117.4 The forced execution of the judgments rendered in accordance with the provisions of the Code of Civil Procedure by the judge of the municipal court prior to the date on which the order for abolition or withdrawal becomes effective, is effected or, as the case may be, continued,

(1) from the date on which the order for abolition becomes effective, before the court having jurisdiction in the judicial district in which the municipality is situated, where the municipal court is abolished;

(2) from the date on which the order for withdrawal becomes effective, either before the court having jurisdiction in the judicial district in which the municipality is situated or before the municipal court having jurisdiction prior to the date on which the order for withdrawal became effective, where the territory of a municipality is withdrawn from the jurisdiction of the court;

(3) from the date on which the order for the establishment of a municipal court becomes effective, before the municipal court having jurisdiction from the date on which the order for establishment became effective, where a municipal court is established following the abolition of the court or the withdrawal of the territory from the jurisdiction of the court.

“117.5 During the period required for the implementation of the provisions of this division,

(1) any regulations concerning costs that the Government may make under section 77 or under the Code of Penal Procedure shall continue, where applicable, to apply, notwithstanding the abolition of a municipal court or the withdrawal of the territory of a municipality from the jurisdiction of a municipal court;

(2) the clerk and, as the case may be, the replacement clerk shall continue to carry out the duties assigned to them by this Act, notwithstanding the abolition of a court, where that is the case;

(3) the municipalities shall continue to pay the cost incurred for maintaining the court and its office and for the remuneration, conditions of employment and fringe benefits of the judge and the necessary court staff.”

12. Section 206 of the said Act is repealed.

13. Section 208 of the said Act is amended by striking out the second paragraph.

14. Any condition of an agreement for the establishment of a common municipal court, entered into before (*insert here the date of coming into force of this Act*), according to which a municipality must establish, in the event it intends to abolish the common municipal court or withdraw its territory from the jurisdiction of a common municipal court, that no cases are pending in respect of its territory, is deemed never to have been written.

15. Notwithstanding section 13, applications for the withdrawal of the territory of a municipality from the jurisdiction of a municipal

court made pursuant to the second paragraph of section 208 of the Act respecting municipal courts and received by the Minister of Justice before *(insert here the date of coming into force of this Act)* remain subject to the rules in force on 31 March 1991.

16. This Act comes into force on *(insert here the date of assent to this Act)*.