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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 144

## **An Act to establish the Conseil d'administration des tribunaux judiciaires**

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### **Introduction**

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

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**Québec Official Publisher  
1993**

## EXPLANATORY NOTES

*This bill establishes the “Conseil d’administration des tribunaux judiciaires”.*

*To that end, the bill amends the Courts of Justice Act and lays down the rules governing the establishment and organization of the Council. It defines the mission of the Council, which is to provide, in the fields of activity determined by the Government, administrative support for the judicial activity of the Court of Appeal, the Superior Court and the Court of Québec and, to this end, to assume the financial management of the appropriations voted for that purpose by the Parliament.*

*The bill provides that the Council is to be composed of eight judges of the Courts concerned. The Chief Justice of the Court of Appeal is to be the president of the Council.*

*In addition, the bill provides for the appointment by the Government, after consulting the Council, of a General Administrator of the Courts of Justice to exercise the functions and powers of the Council under the latter’s authority, and to be responsible for the management of the administrative affairs of the Courts of Justice and the management of the personnel of the Council.*

*Finally, the bill enacts various provisions of a technical or transitional nature.*

# Bill 144

## Act to establish the Conseil d'administration des tribunaux judiciaires

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** The Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting, after Part III, the following Part:

### “PART III.0.1

#### “ADMINISTRATIVE SUPPORT FOR THE COURTS OF JUSTICE

**“157.1** For the purposes of this Part, the expression “Courts of Justice” means the Court of Appeal, the Superior Court and the Court of Québec.

### “CHAPTER I

#### “CONSEIL D'ADMINISTRATION DES TRIBUNAUX JUDICIAIRES

#### “DIVISION I

##### “ESTABLISHMENT AND ORGANIZATION

**“157.2** A body, referred to as the Council, is hereby established under the name of the “Conseil d'administration des tribunaux judiciaires”.

**“157.3** The head office of the Council is in the territory of the Communauté urbaine de Québec, at the place determined by the Government. Notice of the location of the head office or of any change of the location shall be published in the *Gazette officielle du Québec*.

The Council may hold its meetings at any place in Québec.

**“157.4** The Council is composed of eight members as follows:

(1) the Chief Justice of Québec, who is the president of the Council;

(2) the Chief Justice of the Superior Court;

(3) the Senior Associate Chief Justice of the Superior Court;

(4) the Associate Chief Justice of the Superior Court;

(5) the chief judge of the Court of Québec;

(6) the two senior associate chief judges of the Court of Québec;

(7) one associate chief judge of the Court of Québec, designated by the chief judge of the Court of Québec for the period he determines.

In case of absence or inability to act, the Chief Justice of Québec may delegate as his representative at meetings of the Council the puisne judge of the Court of Appeal who is senior according to the date of his appointment.

**“157.5** The Chief Justice of the Superior Court and the chief judge of the Court of Québec are *ex officio* vice-presidents of the Council.

If the president is absent or unable to act, one of the vice-presidents, according to the order in which they are named in the first paragraph, shall act as president.

**“157.6** The quorum at meetings of the Council is five members, including the president or either of the vice-presidents and at least one representative of each Court of Justice.

**“157.7** All decisions of the Council are made by a majority vote of the members present.

In the case of a tie, the president has a casting vote.

**“157.8** If they consent thereto, the members of the Council may participate in a meeting through the use of any method allowing them to communicate with each other orally, in particular by telephone. In such case, the participants are deemed to have attended the meeting.

**“157.9** The Council may form committees and determine their functions and powers.

It may, by by-law, provide for its internal management.

**“157.10** The minutes of meetings of the Council or of one of its committees are authentic if approved by the Council or by the committee, as the case may be, and certified by the president of the Council or by any person authorized to do so by by-law of the Council. The same rule applies to documents or copies emanating from the Council or forming part of its records where they are so certified.

**“157.11** No act or document is binding on the Council unless it is signed by the president or by the person authorized by by-law of the Council to do so, in the cases determined therein.

## “DIVISION II

### “MISSION AND POWERS OF THE COUNCIL

**“157.12** The mission of the Council is to provide administrative support for the judicial activities of the Courts of Justice without infringing upon the autonomy and independence of each Court.

For the carrying out of its mission, the Council shall put at the disposal of the Courts the administrative support services necessary for the exercise of their judicial functions, and shall assume, subject to the applicable Acts, regulations and rules, the financial management of the appropriations voted by Parliament for that purpose.

**“157.13** The Council shall provide administrative services in the fields of activity determined by the Government after consulting the Council.

## “CHAPTER II

### “GENERAL ADMINISTRATOR AND THE PERSONNEL OF THE COUNCIL

**“157.14** After consulting the Council, the Government shall appoint a General Administrator of the Courts of Justice for a term of office of not more than five years, and shall determine his remuneration, social benefits and other conditions of employment.

For the purposes of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), the General Administrator is deemed to be a full-time member and chairman or president of a government body established under an Act of Québec.

At the expiry of his term, the General Administrator shall remain in office until he is replaced or reappointed.

**“157.15** The General Administrator shall exercise the functions and powers of the Council under the latter’s authority. He shall be responsible for the administration of the Courts of Justice and the management of the personnel of the Council.

The General Administrator shall perform his duties on a full-time basis.

**“157.16** The General Administrator is not a member of the Council. He is, however, entitled to receive notice of the meetings of the Council and of every committee of the Council and to participate in the meetings, but he is not entitled to vote.

**“157.17** The General Administrator shall not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places his personal interest in conflict with that of the Council. However, forfeiture of office is not incurred where such an interest devolves to him by succession or gift, provided that he renounces or disposes of it with diligence.

**“157.18** The personnel of the Council is appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

The General Administrator shall exercise, in respect of the personnel of the Council, the powers conferred by the said Act on the chief executive officer of an agency.

### “CHAPTER III

#### “FINANCIAL PROVISIONS

**“157.19** The fiscal year of the Council shall end on 31 March each year.

**“157.20** The General Administrator shall exercise, in respect of applications for the charging of commitments and applications for payment, the powers conferred by the Financial Administration Act (R.S.Q., chapter A-6) on the chief executive officer of an agency.

**“157.21** Sections 40, 46 and 56 of the Financial Administration Act relating to the division of appropriations, the suspension of the right to commit appropriations and the suspension of payments do not apply to the appropriations granted for the purposes of this Part.

## “CHAPTER IV

### “ACCOUNTS AND REPORTS

**“157.22** The Council shall send to the Minister, not later than 30 September each year, its financial statements and a report on its administration and on its activities for the previous fiscal year.

**“157.23** The Minister shall table the report of activities and the financial statements before the National Assembly, within 30 days of receiving them or, if the Assembly is not sitting, within 30 days of resumption.

**“157.24** The books and accounts of the Council shall be audited by the Auditor General every year and also whenever so ordered by the Government.

The auditor's report shall accompany the report of activities and the financial statements of the Council.

**“157.25** The Council shall, at least once a year, answer for its administration before the competent parliamentary committee of the National Assembly. The committee may inquire into the objectives, activities and management of the Council.

**“157.26** Neither the examination by the parliamentary committee nor the report to the Minister shall bear on the exercise of the jurisdictional functions of the Courts of Justice.

## “CHAPTER V

### “MISCELLANEOUS PROVISIONS

**“157.27** In no case may the Council, a member of the Council, the General Administrator or a member of the personnel of the Council be prosecuted for an omission or an official act performed in good faith in the carrying out of its or his duties.

**“157.28** None of the recourses provided for in articles 33 and 834 to 845 of the Code of Civil Procedure (R.S.Q., chapter C-25) may be exercised and no injunction may be granted against the Council, a member of the Council, the General Administrator or a member of the personnel of the Council in the carrying out of its or his duties.

A judge of the Court of Appeal may, on a motion, summarily annul any judgment, order or injunction rendered, made or granted contrary to the provisions of the first paragraph.”

## TRANSITIONAL AND FINAL PROVISIONS

**2.** The personnel of the Direction générale des Services judiciaires of the Ministère de la Justice shall become the personnel of the Conseil d'administration des tribunaux judiciaires to the extent and in accordance with the terms and conditions prescribed by the Government after consulting the Council.

The same applies to the personnel of the Direction des services de sécurité et de protection of the Ministère de la Sécurité publique.

**3.** The administrative records of the Direction générale des Services judiciaires of the Ministère de la Justice shall become the records of the Council, to the extent determined by the Government.

**4.** The appropriations granted for the fiscal year (*insert here the fiscal year during which this section comes into force*) to the Ministère de la Justice and the Ministère de la Sécurité publique shall be transferred to the Council to the extent and in accordance with the terms and conditions determined by the Government.

**5.** The decisions made by the Government for the purposes of section 157.13, enacted by section 1 of this Act, and for the purposes of sections 2, 3 and 4 of this Act shall be made by way of one or several orders in council.

**6.** In any order in council, order, contract or other document, a reference to the Minister or Deputy Minister of Justice, the Ministère de la Justice, the Direction générale des Services judiciaires or the Associate Deputy Minister thereof shall, where it relates to an activity the administration of which is assigned to the Council, be a reference to the Council.

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