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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 68

**An Act to amend the Act respecting  
police organization and amending  
the Police Act and various  
legislation**

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**Introduction**

**Introduced by  
Mr Sam L. Elkas  
Minister of Public Security**

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#### EXPLANATORY NOTES

*This bill provides for the establishment of the Comité de déontologie policière, which will hear complaints concerning the conduct of police officers. It also contains provisions with regard to the composition, powers and organization of that committee.*

*Furthermore, the bill allows an appeal from decisions rendered by the Comité de déontologie policière to a judge of the Court of Québec whose decision will be final.*

*The bill also contains concordance amendments.*

#### OTHER ACT AMENDED BY THIS BILL:

- Police Act (R.S.Q., chapter P-13).

## Bill 68

### **An Act to amend the Act respecting police organization and amending the Police Act and various legislation**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 44 of the Act respecting police organization and amending the Police Act and various legislation (1988, chapter 75) is replaced by the following section:

**“44.** If the commissioner is absent or unable to act, he shall be replaced by the deputy commissioner designated by the Government.

If a deputy commissioner is absent or unable to act because of illness, the Government shall appoint a person to replace him while he is absent or unable to act and shall determine his fees.”

**2.** Section 61 of the said Act is amended by replacing the words “an ethics committee” in the fifth line by the words “the Comité de déontologie policière”.

**3.** Section 64 of the said Act is amended by replacing the words “an ethics committee” in the second line by the words “the Comité de déontologie policière”.

**4.** Section 66 of the said Act is amended by replacing the words “competent ethics committee” in the fifth line by the words “Comité de déontologie policière”.

**5.** Section 74 of the said Act is amended by striking out the word “competent” in the first line of subparagraph 2 of the first paragraph.

**6.** Section 75 of the said Act is amended by replacing the words “competent ethics committee” in the fourth and fifth lines of the second paragraph by the words “Comité de déontologie policière”.

**7.** Section 76 of the said Act is amended

(1) by replacing the words “competent ethics committee” in the fourth line by the words “Comité de déontologie policière”;

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

“The application for review shall be heard by a member of the division concerned of the Comité de déontologie policière referred to in subparagraph 1 of the first paragraph of section 107.1. The decision rendered by him is the decision of the ethics committee.”

**8.** Section 77 of the said Act is amended by replacing the words “with the clerk of the ethics committees” in the first and second lines by the words “in the office of the Comité de déontologie policière”.

**9.** Section 78 of the said Act is amended

(1) by striking out the figure “128,” in the first line;

(2) by replacing the figures and word “163 and 167” in the first line by the figures and word “142 and 147”;

(3) by replacing the words “an ethics committee” in the second line by the words “the ethics committee in”.

**10.** Section 81 of the said Act is replaced by the following section:

**“81.** In no case may the member of the Comité de déontologie policière who has heard an application for review under section 76 subsequently hear and dispose of a citation relating to the same facts.”

**11.** The heading of Chapter III in the English text and Division I of Chapter III of Title II of the said Act are replaced by the following:

“COMITÉ DE DÉONTOLOGIE POLICIÈRE

“DIVISION I

“ESTABLISHMENT, JURISDICTION AND ORGANIZATION

**“89.** An ethics committee is established under the name of “Comité de déontologie policière”.

The ethics committee has exclusive jurisdiction to hear and dispose of any citation in matters of police ethics.

**“90.** A citation is a proceeding subsequent to a complaint concerning the conduct of a police officer, the purpose of which is to decide whether the conduct is a transgression of the Code of ethics which may entail the imposition of a penalty.

**“91.** The ethics committee shall comprise three divisions, namely

(1) the division of the Sûreté du Québec, which shall hear and dispose of a citation against any member of that police force;

(2) the division of the Police Department of the Communauté urbaine de Montréal, which shall hear and dispose of a citation against any member of that police force;

(3) the division of municipal police forces, which shall hear and dispose of a citation against any member of any other municipal police force.

**“92.** The seat of the ethics committee is located in the territory of the Communauté urbaine de Québec, at the place determined by the Government; notice of the location and any relocation of its seat shall be published in the *Gazette officielle du Québec*.

The division of the Sûreté du Québec and the division of municipal police forces may sit anywhere in Québec.

The division of the Police Department of the Communauté urbaine de Montréal may sit in any municipality of that urban community.

**“93.** Where a sitting of the ethics committee is to be held in a locality where the Court of Québec sits, the clerk of the Court is required to allow the committee to use, free of charge, the premises used by the Court, unless the Court is sitting there at that time.

In no case may the ethics committee hold a sitting in an immovable occupied by a police force or the police ethics commissioner.

**“94.** Each division shall be composed of advocates, police officers and members who are neither advocates nor police officers.

**“95.** The members of the ethics committee shall be appointed by the Government, in such number as the Government determines,

as full-time or part-time members, for a specified term not exceeding five years. Their term may be renewed.

A member whose term has expired may continue to hear and decide a matter notwithstanding the expiry of his term.

**“96.** The Government shall designate a chairman and three vice-chairmen from among the full-time members who are advocates and have been members of the Barreau du Québec for not less than ten years.

**“97.** Police officers shall be appointed to the division of the Sûreté du Québec after consultation with the Director General of the Sûreté du Québec.

Police officers shall be appointed to the division of the Police Department of the Communauté urbaine de Montréal after consultation with the director of the Police Department, and members who are neither advocates nor police officers shall be appointed to that division after consultation with the executive committee of the Communauté urbaine de Montréal.

Police officers shall be appointed to the division of municipal police forces after consultation with the association representing the chiefs of police of Québec, and members who are neither advocates nor police officers shall be appointed to that division after consultation with the bodies which represent the municipalities concerned.

**“98.** The Government shall fix the remuneration and social benefits of the full-time members and shall determine the other conditions attached to their office.

**“99.** The part-time members shall receive the fees determined by the Government. They are also entitled, in the cases, on the conditions and to the extent determined by the Government, to the reimbursement of expenses incurred in the performance of their committee duties.

**“100.** Notwithstanding sections 98 and 99, the members who are police officers are entitled only to the salary they receive from their employer as police officers. Nevertheless, the Minister shall reimburse, in the cases, on the conditions and to the extent determined by the Government, the expenses they incur in the performance of their committee duties.

**“101.** The deed of appointment of each member other than the chairman shall specify the division to which he is appointed.

However, the chairman may, for the dispatch of the business of the committee, assign a member temporarily to another division.

**“102.** Before taking office, the members of the ethics committee shall take the oaths or make the solemn affirmations provided in Schedules I and II.

They shall do so before a judge of the Court of Québec.

The writing evidencing the oath or solemn affirmation shall be transmitted to the Minister.

**“103.** The clerk and the other members of the staff of the ethics committee shall be appointed and remunerated in accordance with the Public Service Act.

**“104.** The chairman is responsible for the administration and overall management of the ethics committee. His duties include coordinating and distributing the work of the committee members, who shall comply with his orders and directives in that regard.

**“105.** Each vice-chairman shall preside over the division to which he is appointed.

Under the authority of the chairman, he shall coordinate the work of his division, fix the date of hearings and designate the members who are to hear a matter.

**“106.** If the chairman is absent or unable to act, he shall be replaced by the vice-chairman designated by the Government.

If any other member is absent or unable to act, the Government shall appoint another person to replace him while he is absent or unable to act and shall determine his fees.

**“107.** The divisions of the ethics committee may hold several sittings simultaneously.

**“107.1** Sittings of the ethics committee shall be held by three members, namely

(1) the chairman of the ethics committee, the vice-chairman appointed to the division concerned or a member who is an advocate, designated by the vice-chairman; this person shall preside;

(2) a member who is a police officer;

(3) a member who is neither an advocate nor a police officer.

The decision rendered by the three members is the decision of the ethics committee.

**“107.2** The chairman of the ethics committee or one of the vice-chairmen shall preside at every sitting at which a citation against a senior officer or junior officer who is not an employee within the meaning of the syndical plan of his police force is heard and disposed of. Moreover, the police officer who is designated to take part in the sitting must be of equal or higher rank than the police officer cited to appear.

**“107.3** The fiscal year of the ethics committee ends on 31 March.

**“107.4** Each year, the ethics committee shall submit its budget for the next fiscal year to the Government for approval, at the time and in the form and tenor determined by the Government.

**“107.5** Within four months after the end of its fiscal year, the ethics committee shall submit to the Minister its financial statements and a report of its activities for the fiscal year just ended.

The Minister shall table the report of the ethics committee in the National Assembly within 30 days after receiving it if the Assembly is in session or, if it is not sitting, within 30 days after the opening of the next session or resumption.

**“107.6** The books and accounts of the ethics committee shall be audited by the Auditor General each year and also whenever the Government so orders.

**“107.7** Any document or copy of a document emanating from the ethics committee or forming part of its records, certified by the chairman, a vice-chairman or the clerk, is authentic.”

**12.** Section 109 of the said Act is replaced by the following section:

**“109.** The ethics committee is seized of a matter by the filing of a citation in the office of the committee.”

**13.** Section 112 of the said Act is amended by striking out the last sentence.

**14.** Section 115 of the said Act is amended by replacing the word “chairman” in the first line by the words “vice-chairman appointed to the division concerned”.



**15.** Section 126 of the said Act is amended by replacing the words “presiding member of the ethics committee” in the first line by the words “member presiding at the sitting”.

**16.** Section 130 of the said Act is amended by replacing the word “an” in the first line by the word “the”.

**17.** The said Act is amended by inserting, after section 132, the following section:

**“132.1** The ethics committee, by a by-law adopted by a majority vote of its members, may establish rules of evidence, procedure and practice for the conduct of hearings.

Every by-law adopted under this section shall be submitted to the Government for approval.”

**18.** Section 133 of the said Act is amended by replacing the words “lies to the Tribunal de la déontologie policière” in the first line by the words “may be brought before a judge of the Court of Québec”.

**19.** Chapter IV of Title II of the said Act is replaced by the following chapter:

## “CHAPTER IV

### “APPEAL

**“135.** Within 20 days after notification of the decision of the ethics committee, the person who lodged the complaint under section 51 may transmit in writing to the commissioner his views as to the advisability of appealing from the decision.

**“136.** Any person who is a party to proceedings before the ethics committee may bring an appeal from any final decision of the committee before a judge of the Court of Québec.

**“137.** The jurisdiction conferred by this chapter on a judge of the Court of Québec shall be exercised by those judges of that Court who are so designated by the chief judge and the senior associate chief judge, within the limits of their respective territorial jurisdictions.

**“138.** An appeal is brought by filing a notice of appeal, within 30 days after the appellant receives the decision of the ethics committee, in the office of the Court of Québec in the judicial district where the ethics committee heard the matter in first instance.

The notice of appeal shall contain a statement of the grounds for the appeal and be accompanied with a copy of the decision rendered by the ethics committee.

**“139.** The notice of appeal shall be served, within the time limit fixed in section 138, on the parties, the ethics committee and the person who lodged the complaint.

Service may be made by registered or certified mail.

**“140.** Upon service of the notice of appeal, the clerk of the ethics committee shall transmit to the clerk of the Court of Québec the record of the case and all documents relating thereto.

**“141.** The appeal suspends the execution of the decision of the ethics committee.

**“142.** The appeal shall be heard and decided by preference.

**“143.** Subject to any new relevant and useful evidence the judge may admit, he shall render his decision on the basis of the record transmitted to the Court, after allowing the parties to be heard.

**“144.** The judge has all the necessary powers for the exercise of his jurisdiction. He may, in particular, render any order he deems expedient for the protection of the rights of the parties.

**“145.** Sections 53 and 124, the second paragraph of section 129 and sections 131 and 132, adapted as required, apply to appeals heard pursuant to this chapter.

**“146.** The judge may confirm the decision submitted to him; conversely, he may quash the decision and render the decision which, in his judgment, should have been rendered in the first instance.

**“147.** The decision of the judge is final and without appeal and cannot be submitted to an arbitrator contemplated by Chapter IV of the Labour Code or to an arbitration officer contemplated by Division III of the Act respecting the Syndical Plan of the Sûreté du Québec. It is executory notwithstanding any contrary Act or agreement.

**“148.** The judge may revise or revoke any decision he has made where a new fact is discovered which, if it had been known in due time, might have justified a different decision.

**“149.** The Court of Québec may, in the manner set out in the Courts of Justice Act (R.S.Q., chapter T-16), adopt such rules of evidence, procedure and practice as are necessary for the carrying out of this chapter.”

**20.** Section 175 of the said Act is amended by replacing the word “three” in the first line of the first paragraph by the word “five”.

**21.** Section 255 of the said Act is amended by replacing the words “Tribunal de la déontologie policière” in the first line by the words “police ethics commissioner”.

**22.** Section 257 of the said Act is replaced by the following section:

**“257.** Inquiries concerning a police force in progress before the Commission de police du Québec on *(insert here the date of coming into force of Title IV of this Act)* shall be continued by the Minister or by the person mandated by him, in accordance with the provisions of the Police Act as they read on the day preceding the said date.”

**23.** Section 258 of the said Act is replaced by the following section:

**“258.** Inquiries into the conduct of any member of the Sûreté du Québec or the Police Department of the Communauté urbaine de Montréal or of any municipal police officer or special constable, in progress before the Commission de police du Québec on *(insert here the date of coming into force of Title II of this Act)* or requested of the Commission pursuant to section 21 of the Police Act before the said date, shall be continued or, as the case may be, conducted by the Comité de déontologie policière in accordance with the provisions of the Police Act as they read on the day preceding the said date.

Effective *(insert here the date of coming into force of section 210 of this Act)*, the police ethics commissioner shall decide whether to hold the inquiries requested of the Commission de police du Québec pursuant to the second paragraph of section 21 of the Police Act.

Appeals brought before the Commission de police before the said date under the third paragraph of section 79 of the Police Act shall be heard and decided by the Comité de déontologie policière in accordance with the provisions of the Police Act as they read on the day preceding the said date.”

**24.** Section 261 of the said Act is repealed.

**25.** Section 264 of the said Act is amended by replacing the words “Tribunal de la déontologie policière” in the second line of the second paragraph by the words “police ethics commissioner”.

**26.** Section 268 of the said Act is replaced by the following section:

**“268.** The division of municipal police forces of the ethics committee and, in appeal, the judge of the Court of Québec referred to in section 136 have exclusive jurisdiction to hear and dispose of any citation against a special constable.”

**27.** The said Act is amended by inserting, after section 268, the following section:

**“268.1** Where a special constable is in the employ of the Sûreté du Québec or the Police Department of the Communauté urbaine de Montréal, the competent division of the Comité de déontologie policière is, as the case may be, the division of the Sûreté du Québec or the division of the Police Department of the Communauté urbaine de Montréal.”

**28.** Schedules I and II to the said Act are amended by replacing the word and figures “, 99 and 140” by the word and figure “and 102”.

**29.** The said Act is amended by replacing the words “an ethics committee” or “a committee” wherever they appear in sections 108, 118, 120, 122, 123, 132 to 134 by the words “the ethics committee” or “the committee”, making the necessary adaptations, and by replacing the words “No ethics committee may” in the first line of section 117 by the words “In no case may the ethics committee”.

**30.** Section 98.1 of the Police Act (R.S.Q., chapter P-13) is amended by replacing the word “fourth” in the second line by the word “third”.

**31.** Section 98.8 of the said Act, replaced by section 239 of chapter 75 of the statutes of 1988, is amended by replacing the figure “7” in the second line by the figure “6.1”.

**32.** This Act comes into force on 1 September 1990.