



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 43

An Act respecting the Bibliothèque nationale du Québec

Introduction

**Introduced by
Madam Lise Bacon
Minister of Cultural Affairs**

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EXPLANATORY NOTES

The object of this bill is to incorporate the “Bibliothèque nationale du Québec”.

The bill provides that the library will be a mandatary of the Government and will be administered by a board of directors composed of members appointed by the Government.

The functions of the library will be to assemble, preserve and make available the published Québec documentary heritage and any related document, as well as documents relating to Québec that are published outside Québec.

The bill requires publishers or persons or agencies assuming the responsibility of producing a published document to deposit, in accordance with regulations of the Government, all the documents they publish.

The bill contains, in that respect, penal provisions imposing fines on contraveners.

The bill empowers the Minister of Cultural Affairs to designate a person to verify whether the library is complying with the provisions of the Act and the regulations or to inquire into the management or activities of the library.

The Minister may also issue directives to the library concerning its aims and objectives. Every directive will require the approval of the Government and will be tabled before the National Assembly.

Finally, the bill provides that the staff of the Bibliothèque nationale du Québec will be governed by the Public Service Act.

ACT REPLACED BY THIS BILL:

- Act respecting the Bibliothèque nationale du Québec (R.S.Q., chapter B-2)

ACTS AMENDED BY THIS BILL:

- Archives Act (R.S.Q., chapter A-21.1)
- Quebec National Library Act (1966-67, chapter 24)

Bill 43

An Act respecting the Bibliothèque nationale du Québec

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

ESTABLISHMENT AND ORGANIZATION

1. A national library is hereby established under the name of “Bibliothèque nationale du Québec”.

2. The library is a corporation.

3. The library is a mandatary of the Government.

The property of the library forms part of the public domain, but the performance of its obligations may be levied against its property except published documents, manuscripts and property forming part of its collections.

4. The head office of the library shall be located in the territory of the Communauté urbaine de Montréal at the place determined by the Government. Notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

5. The affairs of the library shall be administered by a board of directors composed of nine members appointed by the Government, including a chairman and a vice-chairman.

Three of the members, other than the chairman, shall be appointed after consultation with other libraries and with publishers, associations of writers and universities.

6. The chairman of the library shall direct and manage the affairs of the library within the scope of its by-laws and policies and he shall devote his full time to his official duties. The chairman is *ex officio* the director general of the library.

7. The chairman is appointed for a term of not over five years and the other members of the board for a term of not over three years.

8. At the expiry of their terms, the members shall remain in office until they are replaced or reappointed.

Any vacancy occurring during the term of office of a member shall be filled in accordance with the mode of appointment prescribed for the member to be replaced.

9. The quorum at sittings of the board of directors is five members.

In the case of a tie-vote, the chairman has a casting vote.

10. The Government shall fix the remuneration, social benefits and other conditions of employment of the chairman.

The other members of the board are not remunerated except in such cases, on such conditions and to such extent as the Government may determine. They are entitled, however, to the reimbursement of the expenses they incur in the performance of their duties, on the conditions and to the extent determined by the Government.

11. If the chairman is unable to act, he shall be replaced by the vice-chairman.

12. The chairman shall not, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting his personal interest in conflict with the duties of his office.

Forfeiture is not incurred if the interest devolves to the chairman by succession or gift, provided he renounces or disposes of it with dispatch.

Any other member of the board having such an interest in an undertaking shall, under pain of forfeiture of office, disclose it in writing

to the chairman and abstain from participating in any deliberation or decision concerning the undertaking in which he has an interest.

13. The members of the staff of the library shall be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

The chairman shall exercise towards them the powers conferred by the said Act on the chief executive officer of an agency.

14. The library may make any by-law with respect to the exercise of its powers and its internal management. It may also prescribe, by by-law, rules respecting the internal management of the establishment and the surveillance and safety of the property found therein.

15. The library may set up committees composed of persons whose function shall be to advise it on the acquisition of property and on any matter within the scope of their functions and it may prescribe, by by-law, rules respecting the operations of such committees.

The members of committees are not remunerated except in such cases, on such conditions and to such extent as the Government may determine. They are entitled, however, to the reimbursement of the expenses they incur in the performance of their functions, on the conditions and to the extent determined by the Government.

16. The minutes of the sittings of the board of directors, approved by it and certified true by the chairman or the secretary, are authentic.

The same applies to any copy of a document of the library certified true by the chairman or a person he designates.

DIVISION II

FUNCTIONS AND POWERS

17. The functions of the library shall be to assemble, preserve and disseminate the Québec published documentary heritage and any related document presenting a cultural interest.

The functions of the library also include that of assembling, preserving and disseminating documents relating to Québec that are published outside Québec.

18. The library may, in particular, for the purposes of its functions,

(1) preserve a copy of the documents published in Québec, preferably in their original form or, failing that, on a medium using modern techniques of preservation;

(2) acquire any document published outside Québec which may further the development of Québec documentation;

(3) publish a bibliography of the documents published in Québec, an analytical index of the articles contained in the major magazines published in Québec and any document which may be useful for research purposes;

(4) make known and enhance its collections and the collections of other libraries or agencies by exhibitions or any other appropriate means;

(5) establish forms of cooperation with other persons, societies or agencies engaged in the field of documentation;

(6) acquire, dispose of, rent, lend, borrow, exchange, preserve and restore documents in accordance with the conditions prescribed by regulations;

(7) solicit and receive gifts, legacies, subsidies or other contributions and make use of them.

No gift, legacy, other contribution or subsidy in money to which a charge or condition is attached may be accepted by the library, except to the extent authorized by the Government.

19. The library may, according to law, enter into an agreement with a government other than that of Québec, or with any department or agency of such government for the carrying out of its functions.

It may also, with the authorization of the Government, enter into any agreement with an international organization or any of its agencies.

20. In no case may the library, without the prior authorization of the Government,

(1) acquire, alienate or hypothecate an immovable;

(2) enter into a contract for a term of more than three years, except a service contract in connection with an exhibition or other informational activity.

21. The Government may fix a maximum amount beyond which the library must obtain the authorization of the Government to

(1) contract a loan that increases the aggregate of the unrepaid borrowings of the library to an amount that exceeds the prescribed maximum;

(2) lease an immovable.

22. The library must call for public tenders in all cases where a department is required to do so according to the rules adopted under the Financial Administration Act (R.S.Q., chapter A-6).

23. The Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) does not apply to a document acquired, rented, received in exchange or borrowed by the library from a person or a body or agency not referred to in sections 3 to 7 of the said Act.

DIVISION III

GOVERNMENT GUARANTEES

24. The Government may determine the conditions under which it may grant any subsidy to the library to provide for the total or partial payment in principal and interest of any loan or other obligation of the library.

[[**25.** The Government may guarantee, on the conditions it determines, the payment, in principal and interest, of any loan or other obligation of the library. The sums required for the administration of this section shall be taken out of the consolidated revenue fund.]]

DIVISION IV

ACCOUNTS AND REPORTS

26. The fiscal year of the library ends on 31 March each year.

27. The library shall submit its budget for the following year to the Government for approval within such time and in such form as the Government may determine.

28. The library, within four months after the end of its fiscal year, shall transmit its financial statements and a report of its activities for the preceding fiscal year to the Minister.

The financial statements and the report of activities must contain all the information required by the Minister.

29. The Minister shall table the report of activities and the financial statements before the National Assembly within 30 days of receiving them if the Assembly is in session or, if it is not sitting, within 30 days of resumption.

30. The library must furnish to the Minister any information he requires on its activities.

31. The books and accounts of the library shall be audited every year by the Auditor General and whenever the Government so orders.

The report of activities and the financial statements of the library must be accompanied with the auditor's report.

32. Within the four months preceding the beginning of its fiscal year, the library shall submit to the Minister the aims and objectives it intends to pursue in the course of that year.

After receiving the aims and objectives of the library, the Minister may issue directives in that respect to the library for that year.

The directives must be approved by the Government and they become effective on the day of their approval. Once approved, the directives are binding on the library, which shall comply with them.

Every directive issued under this section must be tabled before the National Assembly within 30 days of its approval by the government if the Assembly is in session or, if it is not sitting, within 30 days of resumption.

DIVISION V

PROVISIONAL ADMINISTRATION

33. The Minister of Cultural Affairs may entrust a person he designates to ascertain whether the library is complying with the provisions of this Act and the regulations or to inquire into the management or activities of the library.

The person so designated shall be vested, for the purposes of an inquiry, with the immunity and powers of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

34. The Government may, during or after an examination or inquiry and after giving the members of the board of directors an

opportunity to present their views, order that the powers of the library be suspended for the period it determines and appoint an administrator who shall exercise the powers of the board where the library engages in any practice or tolerates any state of affairs that is incompatible with the pursuit of its objects and those of sound management.

35. The administrator appointed by the Government may, subject to the right of third persons in good faith, revoke any decision made by the library.

DIVISION VI

DEPOSIT OF PUBLISHED DOCUMENTS

36. Every publisher shall deposit with the library, at his expense, two copies of every edition of every document published by him, within seven days of its publication.

37. The deposit requirement does not apply to a film within the meaning of section 1 of the Cinema Act (R.S.Q., chapter C-18.1).

38. The deposit of a document transfers the ownership of the document.

39. Where the retail price of a document varies according to the edition, the publisher shall deposit a copy of the document in the highest-priced edition and a copy of any of the other editions.

40. Notwithstanding sections 36 and 39, the publisher shall deposit only one copy of any document

(1) of a class of published documents prescribed by regulation;

(2) where the retail price of the document falls between two amounts fixed by regulation.

41. Notwithstanding section 36, the Government may, by regulation, exempt publishers from the requirement to deposit certain classes of published documents and any document the retail price of which exceeds the amount fixed by regulation.

The publisher shall transmit to the library, in respect of such documents, any information prescribed by regulation, at the time indicated therein.

42. The library may acquire, at the expense of a publisher who fails to deposit a document, such number of copies as is required for the deposit.

43. The publisher shall enter on every published document or on the container of such a document the particulars concerning the deposit that are prescribed by regulation.

44. This division also applies to every person or body who or which assumes the responsibility of producing a published document.

DIVISION VII

REGULATORY PROVISIONS

45. The library may, by by-law,

(1) determine rules respecting the exercise of its powers, its internal management, the internal management of the establishment, and the surveillance and safety of the property found therein;

(2) establish rules respecting the operations of the committees set up by it;

(3) determine conditions respecting the acquisition, alienation, renting, lending, borrowing, exchange, reservation or restoration of documents.

Every by-law of the library must be submitted to the Government for approval and shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

46. The Government may, by regulation, after consultation with the library,

(1) determine the classes of published documents for which the deposit of a single copy of one edition of the document is required;

(2) fix the two amounts referred to in paragraph 2 of section 40;

(3) exempt publishers from the requirement to deposit certain classes of published documents and any document the retail price of which exceeds the amount fixed by regulation;

(4) prescribe, in respect of certain documents excluded from the deposit requirement, the information that a person or agency who or

which assumes the responsibility of producing a published document, or a publisher, is required to transmit to the library and indicate the time at which they must be transmitted;

(5) determine the particulars concerning the deposit which must be mentioned on any published document or on the container of such a document;

(6) determine, among the provisions of a regulation made under paragraphs 1 to 5, those the contravention of which constitutes an offence.

DIVISION VIII

PENAL PROVISIONS

47. Every publisher or every person or body mentioned in section 44 who or which contravenes section 36 or 39 or a regulatory provision made under paragraph 1 or 5 of section 46 and the contravention of which constitutes an offence under paragraph 6 of section 46 is liable, in addition to costs, to a fine of \$100 to \$400.

48. Every publisher, person or agency mentioned in section 44 who or which contravenes a regulatory provision made under paragraph 2 or 4 of section 46 and the contravention of which constitutes an offence under paragraph 6 of section 46 is liable, in addition to costs, to a fine of \$500 to \$2 000.

49. Proceedings are brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

DIVISION IX

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

50. Division VI, VII and VIII are binding on the Government, government departments and agencies which are mandataries of the Government.

51. The expression “Bibliothèque nationale du Québec” shall not be used to designate any immovable, enterprise or body without the written authorization of the Bibliothèque nationale du Québec.

52. The Bibliothèque nationale du Québec established under this Act becomes, from (*insert here the date of coming into force of this section*),

the owner of the documents and property acquired under the Act respecting the Bibliothèque nationale du Québec (R.S.Q., chapter B-2).

53. Unless otherwise required by the context, the Bibliothèque nationale du Québec is substituted by operation of law for the Bibliothèque nationale du Québec division at the Ministère des Affaires culturelles, and for the chief librarian, in any regulation, by-law, order in council, order, directive, contract or other document where such division or the chief librarian is mentioned.

54. The staff of the Direction de la Bibliothèque nationale of the Ministère des Affaires culturelles in office on (*insert here the date of the day preceding the date of coming into force of this section*) become, without other formality, the staff of the library.

55. Notwithstanding section 7, four of the first members of the board of directors of the library, other than the chairman, shall be appointed for a term of two years.

56. Section 2 of the Archives Act (R.S.Q., chapter A-21.1) is amended by replacing the words “(chapter B-2)” in the fourth line of the definition of the word “document” by the words “(1988, chapter *insert here the chapter number of that Act in the annual volume of statutes for 1988*)”.

57. The Public Libraries Act (R.S.Q., chapter B-3) does not apply to the Bibliothèque nationale du Québec.

58. This Act replaces the Act respecting the Bibliothèque nationale du Québec (R.S.Q., chapter B-2).

59. Sections 13 and 17 of the Quebec National Library Act (1966-67, chapter 24) are repealed.

60. The Minister of Cultural Affairs is responsible for the administration of this Act.

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