



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 12

Regulations Act

Introduction

Introduced by
Mr Herbert Marx
Minister of Justice



Québec Official Publisher
1986

EXPLANATORY NOTES

The object of this bill is to institutionalize a standard procedure for the passage and coming into force of regulations made or approved by the Government, the Conseil du trésor, a minister or a governmental agency and to establish a mechanism for control and supervision of such regulations by the National Assembly.

For that purpose, this bill proposes, first of all, that all proposed regulations must in future be examined by the Minister of Justice or a person designated by him and be published in the Gazette officielle du Québec.

This bill proposes in addition that all regulations, once made or approved, as the case may be, must be published in the Gazette officielle du Québec.

Further, it sets out rules on the time when regulations come into force and makes provision for the disallowance of regulations or particular clauses of regulations by the National Assembly.

Provisions regarding the scope and administration of the proposed Act complete the bill.

As proposed by this bill, the Act will, with certain exceptions, have precedence over any inconsistent provision of any general or special Act assented to before the coming into force of this Act.

Lastly, this bill amends the Interpretation Act to specify, in particular, that regulations made under a replaced provision of law remain in force so far as they are consistent with the new provisions.

ACTS AMENDED BY THIS ACT

- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Interpretation Act (R.S.Q., chapter I-16).

Bill 12

Regulations Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

INTERPRETATION AND APPLICATION

1. In this Act,

“**proposed regulation**” means the text which an authority proposes to make as a regulation, where no approval by any other authority is required by law, or, where such approval is so required, the text which must be submitted for approval;

“**regulation**” means a normative instrument of a general and impersonal nature, made under an Act and having force of law when it is in effect.

2. This Act applies to every proposed regulation or proposed by-law and to every regulation or by-law that may be made or approved by the Government, the Conseil du trésor, a minister or an agency the majority of whose members are appointed by the Government or a minister, whose staff must, by law, be appointed or remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), or at least one-half of whose capital stock forms part of the public domain.

3. This Act does not apply to

(1) proposed regulations or by-laws or regulations or by-laws regulating internal management, the exercise of borrowing powers or

the management of human resources, including all conditions of employment determined by the Government or the Conseil du trésor and those approved by the latter pursuant to the constituting Acts of agencies;

(2) proposed by-laws or the by-laws of municipalities or of an agency which may make by-laws in the place of the municipalities, or of agencies of such municipalities, or of supramunicipal bodies within the meaning of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16), or of the Kativik Regional Government;

(3) proposed by-laws or the by-laws of school boards, or of general and vocational colleges, or of the University of Québec;

(4) proposed regulations or by-laws or the regulations or by-laws of establishments within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5), or of regional health and social service councils established under that Act;

(5) proposed rules of practice or the rules of practice of the courts of justice.

DIVISION II

EXAMINATION OF PROPOSED REGULATIONS

4. Every proposed regulation shall be transmitted for examination, by the authority proposing to make it or, in the case of a text to be submitted for approval, by the authority that must approve it, to the Minister of Justice or a person designated by him.

5. The examination shall be made to ensure that the proposed regulation

- (1) is authorized by the Act under which it is proposed;
- (2) is in harmony with the existing Acts and regulations;
- (3) is juridically appropriate to the object pursued;
- (4) is coherent;
- (5) meets the standards of draftsmanship.

6. Following the examination of the proposed regulation, a substantiated opinion shall be given to the authority that transmitted it.

7. If the proposed regulation on which an opinion has been given is subsequently amended otherwise than as recommended in the opinion, it shall be returned for examination.

DIVISION III

PUBLICATION OF PROPOSED REGULATIONS

8. Every proposed regulation shall be published in the *Gazette officielle du Québec*.

9. Section 8 does not require the publication in the *Gazette officielle du Québec* of any text referred to in a proposed regulation.

10. Every proposed regulation published in the *Gazette officielle du Québec* shall be accompanied with a notice stating, in particular, the period within which no proposed regulation may be made or submitted for approval but within which interested persons may transmit their comments to a person designated in the notice.

11. No proposed regulation may be made or submitted for approval before the expiry of 45 days from its publication in the *Gazette officielle du Québec*, or before the expiry of the period indicated in the notice accompanying it or in the Act under which the proposed regulation may be made or approved, where the notice or the Act provides for a longer period.

12. A proposed regulation may be made or approved at the expiry of a shorter period than the period applicable to it, or without having been published, if the authority making or approving it is of the opinion that a reason provided for in the Act under which the proposed regulation may be made or approved, or one of the following circumstances, warrants it:

(1) the urgency of the situation requires it;

(2) the publication of the proposed regulation before it is made or approved is contrary to the public interest.

13. The reason justifying a shorter publication period shall be published with the proposed regulation, and the reason justifying the absence of such publication shall be published with the regulation.

14. A proposed regulation may be amended after its publication without being published a second time.

DIVISION IV

PUBLICATION AND COMING INTO FORCE OF REGULATIONS

15. Every regulation shall be published in the *Gazette officielle du Québec*.

16. Section 15 does not require the publication in the *Gazette officielle du Québec* of any text referred to in a regulation.

No person may be convicted of an offence under a text that has not been published in the *Gazette officielle du Québec* and that is referred to by a regulation unless it is proved that the text has been published otherwise and that the persons to whom the text may be applicable were in a position to acquaint themselves with it at the time the offence was committed.

17. A regulation comes into force fifteen days after the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in the regulation or in the Act under which it is made or approved.

18. A regulation may come into force on the date of its publication in the *Gazette officielle du Québec* or between that date and the date applicable under section 17 where the authority that has made or approved it is of the opinion that a reason provided for in the Act under which the regulation may be made or approved, or one of the following circumstances, warrants it:

(1) the urgency of the situation requires it;

(2) the publication of the regulation prior to its coming into force is contrary to the public interest.

The reason justifying such coming into force shall be published with the regulation.

19. Where a regulation comes into force in accordance with section 18, no person may be convicted of an offence under the regulation, committed between the date of its coming into force and the fifteenth day after the date of its publication in the *Gazette officielle du Québec*, unless it is proved that the persons to whom the regulation may be applicable were in a position to acquaint themselves with it at the time the offence was committed.

20. Every person is bound to acquaint himself with the regulations published in the *Gazette officielle du Québec*, and those regulations do not need to be specially pleaded.

DIVISION V

DISALLOWANCE OF REGULATIONS

21. The National Assembly may, in accordance with its standing orders, vote the disallowance of any regulations or any prescriptions of a regulation.

22. The Secretary General of the National Assembly shall immediately cause to be published in the *Gazette officielle du Québec*, notice that a regulation or, as the case may be, any prescription of a regulation, has been disallowed, with notice of the date of the disallowance.

Every person is bound to acquaint himself with the notice so published, and the notice does not need to be specially pleaded.

23. The disallowance of a regulation or of any prescription of a regulation takes effect on the date of passage of the motion of disallowance or on any later date indicated in the motion.

24. The disallowance of a regulation or of any prescription of a regulation has the same effect as the repeal of a regulation.

DIVISION VI

FINAL PROVISIONS

25. Failure to carry out an obligation prescribed under this Act does not invalidate a regulation unless the obligation is contemplated in one or another of sections 8, 10, 13 and 15 or in the second paragraph of section 18.

26. Sections 1 to 25 take precedence over any inconsistent provision of any general law or special Act assented to before 1 September 1986.

Any provision of an Act assented to before 1 September 1986 takes precedence over section 8 if it expressly provides that a proposed regulation may be made or approved without having been published in the *Gazette officielle du Québec*.

27. This Act does not prevent a regulation from taking effect before the date of its publication in the *Gazette officielle du Québec* where the Act under which it is made or approved expressly provides therefor.

28. Section 131 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by replacing the first line of the third paragraph by the following:

“The regulation comes into force fifteen days after the date of its publication in”.

29. Section 157 of the said Act is amended by replacing the first line by the following:

“**157.** A regulation made under section 155 comes into force fifteen days after the”.

30. Section 13 of the Interpretation Act (R.S.Q., chapter I-16) is amended by adding, after the first paragraph, the following paragraph:

“Regulations or other instruments made under the replaced or consolidated provision remain in force to the extent that they are consistent with the new provisions; the instruments remaining in force are deemed to have been made under the new provisions.”

31. Sections 1 to 19, 25, 28 and 29 do not apply to regulations made before 1 September 1986.

The sections mentioned in the first paragraph also do not apply to proposed regulations transmitted on or before 1 September 1986 for publication in the *Gazette officielle du Québec*.

32. The Minister of Justice is responsible for the administration of this Act, with the exception of Division V.

33. This Act comes into force on 1 September 1986.