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# NATIONAL ASSEMBLY

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FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 197

## **An Act respecting public-opinion polling and government advertising**

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**Introduction**



**Introduced by  
Mr Richard D. French  
Member for Westmount**

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## EXPLANATORY NOTES

*The object of this bill is to place advertising and opinion polling carried on by governmental agencies under certain rules regarding their registration, disclosure and availability to the public.*

*Chapter I sets out the definitions.*

*Chapter II deals with opinion polling by governmental agencies, filing of polls with a responsible minister, and access to poll results.*

*Chapter III deals with advertising by governmental agencies, restrictions on such advertising, and parliamentary control where required.*

*Chapter IV provides for penalties.*

*Chapter V contains the final provisions.*

# Bill 197

## **An Act respecting public-opinion polling and government advertising**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### INTERPRETATION

**1.** In this Act, unless the context indicates otherwise,

(1) “advertisement” means a notice disseminated by any written, audio-visual or electronic medium, including leaflets;

(2) “technical document” means any form, questionnaire, magnetic tape, deck of punched cards or compiler and any technical information necessary for the computer processing of the data contained therein;

(3) “governmental agency” means the Government, its departments, and agencies to which the majority of the members are appointed by the Government, whose personnel is, by law, appointed or remunerated in accordance with the Civil Service Act (R.S.Q., chapter F-3.1), or whose capital stock forms part of the public domain, but not Crown corporations, general and vocational colleges, or the Université du Québec or its constituent universities, research institutes or superior schools;

(4) “results of a poll” means any finding or any information derived from an opinion poll and any interpretation based directly on such a finding or such information;

(5) “opinion poll” means a survey, research or a process, other than an election or referendum, conducted in order to learn the distribution of opinions, attitudes or preferences within the population or a group of persons, by a sampling of at least one hundred persons;

(6) “data collection” means the step in an opinion poll in which the person conducting the poll communicates directly with the persons whose replies are sought.

## CHAPTER II

### OPINION POLLING BY GOVERNMENTAL AGENCIES

**2.** The person highest in authority in a governmental agency is responsible for opinion polling at the agency.

He may delegate the responsibility to a member of the personnel of the agency.

The delegation must be made in writing. The person delegating must give public notice to that effect.

**3.** Within sixty days after the end of the data collection for an opinion poll conducted by or for a governmental agency, the person responsible for opinion polling at the agency must file every technical document used for the poll with the responsible minister.

**4.** Within thirty days after the day that a governmental agency obtains results of an opinion poll conducted by or for the agency, the person responsible for opinion polling must file them with the responsible minister.

**5.** At the end of each month, the responsible minister shall make public a list of the opinion polls in respect of which technical documents or results have been filed with him during that month in accordance with sections 3 and 4.

**6.** Every person has a right of access, on request, to the technical documents and results filed with the responsible minister.

The right of access may be exercised by examining the documents on the premises during regular working hours. It may also be exercised by obtaining a copy of a document, including a computerized document.

The responsible minister shall give public notice of the place where the documents and results are kept.

At the written request of the applicant, a computerized document must be communicated to him in the form of a written and intelligible transcript.

**7.** Access provided for in section 6 is free of charge.

However, a fee not greater than the cost of transcription, reproduction or transmission may be charged to the applicant.

The amount and the terms and conditions of payment of the fee are prescribed by government regulation.

**8.** Members of the National Assembly are exempt from payment of the fee contemplated in section 7.

**9.** Not later than 1 April each year, the person responsible for opinion polling at a governmental agency must file with the responsible minister a list of all the opinion polls conducted by or for the agency during the previous financial year. The list must indicate, for each poll,

(1) its title or subject;

(2) its objectives;

(3) the dates of data collection;

(4) the number of persons questioned;

(5) the person or the organization that conducted the data collection and data processing;

(6) the cost; and

(7) the date on which the results were filed with the responsible minister.

**10.** Not later than 1 April, the person responsible for opinion polling at a governmental agency must also file with the responsible minister a list of all subsidies granted by the agency to non-governmental agencies for polling purposes during the previous financial year.

The list must indicate, for each subsidy,

(1) the name and address of the non-governmental agency;

(2) the title or subject of the opinion poll;

(3) the objectives of the opinion poll;

(4) the date and the amount of the subsidy.

Any opinion poll conducted with the assistance of a subsidy from a governmental agency must be made public by the subsidized agency not later than the end of the financial year following that in which the subsidy was granted.

Any subsidy granted to a private firm within the scope of an industrial development program in order to evaluate the marketing of products or services is excluded from the purview of this section.

**11.** Not later than 1 May each year, the responsible minister must table in the National Assembly a compilation of the information he has received under section 9.

If the Assembly is not sitting at that time, the minister must table the compilation within fifteen days of resumption.

**12.** The regulations provided for in this chapter must be published in the *Gazette officielle du Québec* not later than thirty days after they are approved by the Government.

**13.** The Government shall appoint a minister responsible for the administration of this chapter.

### CHAPTER III

#### ADVERTISING BY GOVERNMENTAL AGENCIES

**14.** No governmental agency may place an advertisement or cause it to be placed unless its object is

(1) to inform the population on the conditions and modalities of a governmental program requiring direct communication between an individual and an employee of a governmental agency;

(2) to inform the population about new provisions of law or regulations passed by Parliament or the Government, where the new provisions may require individuals to modify their behaviour;

(3) to inform the population about any public inquiry duly constituted under the law;

(4) to promote tourism in Québec;

(5) to promote the purchase of services and products manufactured in Québec;

(6) to communicate with government employees or a group of them, except as in section 15;

(7) to inform the population with a view to better ensuring their health or physical safety;

(8) to influence the behaviour of the public as consumers; or

(9) to promote equal opportunity for groups of individuals who are disadvantaged in relation to others.

**15.** All advertising by a governmental agency relating to the negotiation of collective labour agreements with its employees or a group of them is prohibited during the negotiating period.

**16.** All advertising by a governmental agency is prohibited during an election or referendum period.

The prohibition does not apply to advertising by or on behalf of the Director General of Elections.

The prohibition does not apply to advertising by a governmental agency in a case of emergency.

**17.** The person highest in authority in a governmental agency is responsible for advertising at the agency.

He may delegate the responsibility to a member of the personnel of the agency.

The delegation must be made in writing. The person delegating must give public notice to that effect.

**18.** Every advertisement placed by or for a governmental agency must be authorized in writing by the person responsible for advertising before it is published or broadcast.

**19.** Not later than 1 April each year, the person responsible for advertising at a governmental agency must file with the responsible minister a report of the advertisements placed by or for the agency during the year.

The report must indicate, for each advertisement or series of advertisements,

(1) its object;

(2) its date of publication or broadcast;

(3) the communications medium or media used;

(4) the cost;

(5) the name of the advertising agency and of any other person whose services were retained; and

(6) the date on which the advertisement or series of advertisements was authorized by the person responsible for advertising.

**20.** Not later than 1 May each year, the responsible minister must table in the National Assembly a compilation of the information he has received under section 19.

If the Assembly is not sitting at that time, the Minister must table the information within fifteen days of resumption.

**21.** Ten Members of the Assembly may demand the convocation of the Committee on the National Assembly to hear the person responsible for advertising at a governmental agency, the minister responsible for the governmental agency or any other person the Committee considers it advisable to hear.

The Committee on the National Assembly may make any recommendation it sees fit to the National Assembly.

**22.** The demand to convene the committee is made by tabling a written requisition in the National Assembly, signed by not fewer than ten Members of the Assembly.

If the Assembly is not sitting at that time, the written requisition is sent to the President of the National Assembly.

Within fifteen days of the tabling or sending of the requisition, the President of the National Assembly shall convene the Committee on the National Assembly.

**23.** Neither the responsible minister nor his parliamentary assistant may be a member of the Committee on the National Assembly when it sits pursuant to section 21. The responsible minister must be heard at the witness stand. He may be accompanied by his officers.

**24.** When its proceedings have ended, the committee shall report its findings and recommendations to the National Assembly.

**25.** The Government shall designate the minister responsible for the administration of this chapter.

## CHAPTER IV

### PENALTIES

**26.** Every person who contravenes this Act is guilty of an offence and liable, in addition to costs, to a fine of \$500 to \$2 500.

**27.** Proceedings under this chapter are instituted by the Attorney General, a person generally or specially authorized by him for that purpose or any individual with leave of the Attorney General.

The Summary Convictions Act (R.S.Q., chapter P-15) applies to the proceedings.

## CHAPTER V

### FINAL PROVISIONS

**28.** The provisions of Chapter II apply notwithstanding Chapter II of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

**29.** This Act does not restrict a person's right of access to a document under an Act or a practice established before the coming into force of this Act.

**30.** This Act does not prohibit a governmental agency from making public the results of an opinion poll.

**31.** This Act does not prohibit a governmental agency from publishing or disseminating a public notice when the publication or dissemination of the notice is required by law.

**32.** This Act will come into force within 180 days of the date of assent to this Act.