

FIRST SESSION

THIRTY-SECOND LEGISLATURE

# NATIONAL ASSEMBLY OF QUÉBEC

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## Bill 17

**An Act to amend certain Acts  
relating to the administration of justice**

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First reading .....

Second reading .....

Third reading .....

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**M. MARC-ANDRÉ BÉDARD**

Minister of Justice

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## EXPLANATORY NOTES

*This bill amends several legislative Acts. The amendments are technical and their object is to facilitate the administration of the Acts affected by them.*

*The bill amends:*

- the Civil Code;*
- the Code of Civil Procedure (R.S.Q., chapter C-25);*
- the Registry Office Act (R.S.Q., chapter B-9);*
- the Act respecting the Conseil consultatif de la justice (R.S.Q., chapter C-54);*
- the Act respecting fabriques (R.S.Q., chapter F-1);*
- the Interpretation Act (R.S.Q., chapter I-16);*
- the Jurors Act (R.S.Q., chapter J-2);*
- the Act to promote the parole of inmates (R.S.Q., chapter L-1.1);*
  - the Act respecting lotteries, racing, publicity contests and amusement machines (R.S.Q., chapter L-6);*
  - the Summary Convictions Act (R.S.Q., chapter P-15);*
  - the Act respecting probation and houses of detention (R.S.Q., chapter P-26);*
  - the Courts of Justice Act (R.S.Q., chapter T-16);*
  - the Act to amend the Civil Code and the Companies and Partnerships Declaration Act (1978, chapter 99);*
  - the Act respecting liquor permits (1979, chapter 71);*
  - the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter (insert here the new number of chapter C-33)).*



Sec. 1. *The proposed amendment is for concordance with section 4.*

Sec. 2. *The proposed amendment is for concordance with section 28.*

Sec. 3. *The object of the proposed amendment is to specify that, in the registry offices having no computerized system, the index of names will apply to acts not registered in the index of immoveables; in the registry offices where a computerized system is used, the index of names will also apply to acts registered in the index of immoveables.*

## **Bill 17**

An Act to amend certain Acts  
relating to the administration of justice

HER MAJESTY, with the advice and consent of the National Assembly, enacts as follows:

### **Civil Code**

**1.** Article 1040*a* of the Civil Code, enacted by section 1 of chapter 67 of the statutes of 1964 and amended by section 4 of chapter 11 of the statutes of 1980, is again amended by adding, at the end of the last paragraph, the following: “and to each beneficiary under a declaration of family residence whose address or elected domicile is the subject of a notice”.

**2.** Article 2011 of the said Code is amended

(1) by striking out paragraph 1 of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“These claims are privileged only upon the immoveable specially assessed, and rank concurrently.”

**3.** Article 2161 of the said Code, amended by section 1 of chapter 39 of the statutes of 1902, section 1 of chapter 48 of the statutes of 1912, section 1 of chapter 76 of the statutes of 1918, section 1 of chapter 91 of the statutes of 1922, section 8 of chapter 46 of the statutes of 1943, section 33 of chapter 45 of the statutes of 1948 and by section 20 of chapter 11 of the statutes of 1980, is again amended by replacing paragraph 1 by the following paragraph:

“1. An alphabetical index or repertory of the names of all persons mentioned in the acts or documents registered but not entered in the index of immoveables as acquiring or conveying any

*Sec. 4. The object of this section is to allow a notice of address of the beneficiary under a declaration of family residence to be given to the registrar.*

*Secs. 5 to 8. The proposed amendments are for concordance with section 4. Section 5 proposes an amendment for concordance with article 2161b of the Civil Code in that it prescribes that article 2161c applies henceforth to lots or subdivisions encumbered with a privilege.*

right affected by such registration, with a reference to the number of the act or document; in the registry offices where a computerized system is used, the names of the persons mentioned in the acts or documents registered and entered in the index of immoveables shall also be entered in the former index or repertory.”

**4.** Article 2161*b* of the said Code, enacted by article 5843 of the Revised Statutes of 1888 and amended by section 6 of chapter 66 of the statutes of 1945 and by section 22 of chapter 11 of the statutes of 1980, is again amended by replacing the second paragraph by the following paragraphs:

“Every spouse having registered a declaration of residence pursuant to article 455 of the Civil Code of Québec or every beneficiary under such declaration shall give to the registrar of the registration division wherein the immoveable mentioned in the declaration is located, notice of the address of the beneficiary under such declaration or of his elected domicile and, in the case of a change, of his new address.

The notice of address is without effect after thirty years from the date of registration of the deed constituting or giving effect to the hypothec, privilege or declaration of residence.”

**5.** Article 2161*c* of the said Code, enacted by article 5843 of the Revised Statutes of 1888 and amended by section 23 of chapter 11 of the statutes of 1980, is again amended by replacing the second paragraph by the following paragraph:

“The number of each notice is noted in the index of immoveables on the page or in the space allotted for the lot or subdivision hypothecated or encumbered with a privilege in favour of the person giving the notice. In the case of a declaration of family residence, a similar notice is made in favour of the beneficiary under such declaration.”

**6.** Article 2161*e* of the said Code, enacted by article 5843 of the Revised Statutes of 1888 and amended by section 2 of chapter 30 of the statutes of 1905, section 1 of chapter 94 of the statutes of 1935, section 7 of chapter 66 of the statutes of 1945 and by section 24 of chapter 11 of the statutes of 1980, is again amended by inserting, after the first paragraph, the following paragraph:

“The notice must also be sent, on the same conditions and for the same reasons, to the beneficiary under the declaration of family residence whose address or elected domicile is the subject of a notice.”

**7.** Article 2161*i* of the said Code, enacted by article 5843 of the Revised Statutes of 1888 and amended by section 6 of chapter

Sec. 9. *This section proposes that an amendment be made to article 2176a for concordance with articles 2168 and following of the Civil Code.*

Sec. 10. *The proposed amendment is for concordance with section 28.*

Sec. 11. *The object of this section is to allow, with a judge's leave, the joint summons of the heirs of a person who has been dead for 2 years or more.*

Sec. 12. *The proposed amendment is for concordance with section 40.*

Sec. 13. *The amendment proposed to article 479 of the Code of Civil Procedure is for concordance with an amendment made in 1979 to article 555 of the said Code that abolished making written requisitions for writs of execution.*



30 of the statutes of 1905, section 3 of chapter 76 of the statutes of 1915, section 8 of chapter 71 of the statutes of 1947 and by section 25 of chapter 11 of the statutes of 1980, is again amended by adding, after the first paragraph, the following paragraph:

“The notice must also be sent by registered or certified mail to each beneficiary under the declaration of family residence whose address or elected domicile is the subject of a notice.”

**8.** Article 2174*b* of the said Code, enacted by section 27 of chapter 11 of the statutes of 1980, is amended by inserting, after the first paragraph, the following paragraph:

“That person is also required to give notice of the filing, by registered or certified mail, to each beneficiary under the declaration of family residence whose address or elected domicile is the subject of a notice.”

**9.** Article 2176*a* of the said Code, enacted by article 5848 of the Revised Statutes of 1888 and amended by section 31 of chapter 11 of the statutes of 1980, is again amended by replacing the expression “Lieutenant-Governor in Council” in the first paragraph by the following expression: “Minister of Energy and Resources”.

This section has effect as from 18 June 1980.

### Code of Civil Procedure

**10.** Article 35 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by repealing paragraph 2.

**11.** Article 116 of the said Code is amended by replacing the first paragraph by the following paragraph:

“**116.** The heirs of a person deceased within the previous two years or for two years or more, may, though in the latter case with leave from the judge, be summoned collectively, without mentioning their names or residences.”

**12.** Article 305 of the said Code, amended by section 14 of chapter 37 of the statutes of 1979, is again amended by replacing the words “the judicial district of Abitibi” in the second paragraph by the following words: “the judicial districts of Abitibi and Roberval”.

**13.** Article 479 of the said Code is amended by replacing the second sentence by the following sentence: “Nevertheless the party himself may execute for the costs if the consent of his attorney appears on the writ of execution.”

Sec. 14. *The object of the proposed amendment is to transfer the obligation to serve a copy of the garnishee's first declaration on the debtor from the garnishee to the seizing creditor.*

Sec. 15. *The object of the proposed amendment is to prescribe that the judgment contemplated in section 641.2 be served on and no longer notified to the prothonotary.*

Sec. 16. *This section extends from five to ten days the time period given to a debtor against whom a seizure by garnishment is made to file an objection.*

Sec. 17. *This section amends the starting point of the time period prescribed in section 647 of the Code of Civil Procedure.*

Sec. 18. *The said section prescribes that the collector of support of the district where the judgment was rendered and not that of the district where the petition is made acts in the capacity of seizing creditor.*

Sec. 19. *This section extends the period during which the garnishee must deposit from five to ten days.*

**14.** Article 641 of the said Code, amended by section 32 of chapter 37 of the statutes of 1979, is again amended:

(1) by replacing the words “on the debtor and seizing creditor” in the sixth line of the second paragraph by the expression: “on the seizing creditor”;

(2) by adding at the end of the second paragraph the following sentence: “A copy of such declaration must also be served, in the same manner, on the debtor by the seizing creditor and proof of the service must be filed in the office of the court.”

**15.** Article 641.2 of the said Code, enacted by section 7 of chapter 21 of the statutes of 1980, is amended by replacing the words “service of the judgment on the prothonotary” by the words “service of the judgment on the prothonotary, which may be made by registered or certified mail”.

**16.** Article 641.3 of the said Code, renumbered by section 8 of chapter 21 of the statutes of 1980, is amended by replacing the words “five days” by the following words: “ten days”.

**17.** Article 647 of the said Code, amended by section 9 of chapter 21 of the statutes of 1980, is again amended by replacing the first paragraph by the following paragraph:

“**647.** Ten days after the first garnishee’s declaration is served on the debtor, the moneys the garnishee has deposited are paid by the prothonotary to the seizing creditor on demand, if no opposition or claim has been filed.”

**18.** Article 659.3 of the said Code, enacted by section 10 of chapter 21 of the statutes of 1980, is amended

(1) by replacing the words “in which the application was made” in the first paragraph by the words “in which the judgment was rendered”;

(2) by inserting after the first paragraph the following paragraph:

“Whenever the application is made in a district other than that where the judgment was rendered, the collector receiving the application forwards the documents mentioned in article 659.2 to the collector of the district in which the judgment was rendered.”

**19.** Article 659.8 of the said Code, enacted by section 10 of chapter 21 of the statutes of 1980, is amended by replacing the words “five days” by the following words: “ten days”.

Sec. 20. *This section proposes an amendment for concordance with article 2159 of the Civil Code, under which the Minister of Justice appoints the registrars.*

Sec. 21. *This section is new law.*

Sec. 22. *The proposed amendment is for concordance with section 20.*

Sec. 23. *The existing text of paragraphs b, d, j and k of section 1 of the Act respecting fabriques is as follows:*

“(b) “pastor”: the cleric entrusted with the administration of a parish; this term includes a pastor, a quasi-pastor, a parochial vicar, a vicar economé, an interim vicar, a vicar coadjutor and a vicar substitute;

“(d) “ministering cleric”: the cleric appointed to administer a chapelry;

“(j) “parishioner”: a person of full age of the Roman Catholic religion who belongs to a parish or chapelry and is not a cleric assigned to administer to that parish or chapelry;

## Registry Office Act

**20.** Section 6 of the Registry Office Act (R.S.Q., chapter B-9) is amended

(1) by replacing the words “The Government shall appoint,” in the first line of the first paragraph by the words: “The Minister of Justice shall appoint, by order,”;

(2) by replacing the second paragraph by the following paragraph:

“Such deputies have, in all respects, the same powers, duties and obligations as the registrar and exercise them under the authority of the registrar.”;

(3) by striking out the third paragraph.

### Act respecting the Conseil consultatif de la justice

**21.** The Act respecting the Conseil consultatif de la justice (R.S.Q., chapter C-54) is amended by inserting after section 9 the following section:

“**9.1** The Council may establish committees and determine their duties. Such committees shall be composed of members of the Council.”

**22.** Section 10 of the said Act is amended by inserting, in the third line, after the word “Council”, the words “or of the committees of which they are members”.

### Act respecting fabriques

**23.** Section 1 of the Act respecting fabriques (R.S.Q., chapter F-1) is amended

(1) by replacing paragraph *b* by the following paragraph:

“(b) “pastor”: the person entrusted with the administration of a parish,”;

(2) by replacing paragraph *d* by the following paragraph:

“(d) “ministering cleric”: the person appointed to administer a chapelry,”;

(3) by replacing paragraph *j* by the following paragraph:

“(j) “parishioner”: a person of full age of the Roman Catholic religion who belongs to a parish or chapelry and is not the pastor or the cleric assigned to administer to that parish or chapelry,”;

(4) by striking out paragraph *k*.

Secs. 24 and 25. *These amendments are for concordance with section 23.*

“(k) “land-owning parishioner”: a parishioner who has possessed as proprietor for at least six months an immoveable situated in the parish or chapelry;”.

Sec. 26. *This amendment is for concordance with section 28.*

Sec. 27. *The object of this amendment is to allow a churchwarden to fill two consecutive terms of office.*

Sec. 28. *This section strikes out Division IX of the Act respecting fabriques, entitled “Assessments”.*

Secs. 29 and 30. *These amendments are for concordance with section 28.*

Sec. 31. *This section is for concordance with section 28, in particular.*

Sec. 32. *This amendment is for concordance.*

**24.** Section 17 of the said Act is amended by replacing paragraph *h* by the following paragraph:

“(h) the name of the person who holds the office of Roman Catholic bishop of the diocese, pastor of a parish or ministering cleric of a chapelry.”.

**25.** Section 18 of the said Act is amended by replacing paragraph *u* by the following paragraph:

“(u) contribute to a pension fund or a group insurance plan for the benefit of its employees, the pastor, the ministering cleric or the clerics attached to the parish or chapelry whose property it holds.”.

**26.** Section 29 of the said Act is amended by striking out the words “or of land-owning parishioners” in the fourth line.

**27.** Section 38 of the said Act is replaced by the following section:

“**38.** The churchwardens shall retire in succession, one third at the end of each fiscal year; however, their term of office is extended until they are replaced.

A churchwarden remains eligible for that office but he may never remain in office for more than two consecutive terms.”

**28.** Division IX of the said Act, comprising sections 57 to 68, is repealed.

**29.** Section 69 of the said Act is repealed.

**30.** Section 71 of the Fabrique Act (1965, 1st session, chapter 76), amended by section 13 of chapter 78 of the statutes of 1968, is again amended by striking out the second paragraph.

**31.** Section 2, section 10, paragraph 4 of section 23, sections 26, 28 and 30 have no effect in respect of acts of assessment homologated before (*insert here the date of the tabling of this bill*).

### Interpretation Act

**32.** Section 61 of the Interpretation Act (R.S.Q., chapter I-16) is amended by replacing the word “Gouvernement” in paragraph 12 of the English text by the word “Government”.

Sec. 33. *This amendment is for concordance with the new Election Act and section 3 of the Jurors Act.*

Sec. 34. *This section is for concordance with section 33.*

Sec. 35. *This section increases the number of full-time members of the Commission québécoise des libérations conditionnelles.*

Sec. 36. *The existing text of the first paragraph of section 4 is the following:*

*“At least one member must be a judge of the Provincial Court or of the Court of the Sessions of the Peace.”*

Sec. 37. *This section does away with the obligation for a justice of the peace to countersign the memorandum drawn up by the clerk.*

Sec. 38. *This section renders section 49 of the Summary Convictions Act applicable to a judge of the Youth Court.*

Sec. 39. *This section renders section 19.7 of the Act respecting probation and houses of detention applicable to a person executing a probation order involving community work.*



## **Jurors Act**

**33.** Section 4 of the Jurors Act (R.S.Q., chapter J-2) is amended by replacing paragraph *d* by the following paragraph:

“(d) judges of the Supreme Court of Canada, the Federal Court, the Court of Appeal, the Superior Court, the Provincial Court, the Court of the Sessions of the Peace, the Youth Court, municipal judges and officers of the court;”.

**34.** Section 6 of the said Act is amended by striking out the second paragraph.

## **Act to promote the parole of inmates**

**35.** Section 3 of the Act to promote the parole of inmates (R.S.Q., chapter L-1.1) is amended by replacing the words “five full-time members” by the words “six full-time members”.

## **Act respecting lotteries, racing, publicity contests and amusement machines**

**36.** Section 4 of the Act respecting lotteries, racing, publicity contests and amusement machines (R.S.Q., chapter L-6) is amended by striking out the second paragraph.

## **Summary Convictions Act**

**37.** Section 47 of the Summary Convictions Act (R.S.Q., chapter P-15) is amended by striking out the words “and shall be countersigned by the justice of the peace” at the end of the second paragraph.

**38.** Section 49 of the said Act is amended

(1) by inserting after the word “sessions” in the first line of the first paragraph, the following: “, judge of the Youth Court”;

(2) by inserting after the word “sessions” in the fourth line of the second paragraph, the following: “, judge of the Youth Court”.

## **Act respecting probation and houses of detention**

**39.** The Act respecting probation and houses of detention (R.S.Q., chapter P-26) is amended by adding at the end of section 19.7, the following words: “or a person who carries out a probation order involving community work.”

Sec. 40. *This section is new law.*

Sec. 41. *This amendment is for concordance with sections 42 and 43.*

Sec. 42. *This section changes the territory over which the judges of the districts of Arthabaska and Frontenac have concurrent jurisdiction.*

Sec. 43. *This section changes the territory over which the judges of the districts of Saint-François and Frontenac have concurrent jurisdiction.*

## Courts of Justice Act

**40.** The Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting, after section 59, the following:

“ §2.—*Provisions respecting the territory of Abitibi*

**“60.** The courts, the judges of such courts and the justices of the peace sitting in the judicial district of Roberval have, within their respective jurisdictions, concurrent jurisdiction with those of the judicial district of Abitibi over the territory of Abitibi and over the territory of Mistassini in all civil, criminal and penal matters.

However, a beneficiary of the Agreement concerning James Bay and Northern Québec may, if he is party to a suit, request that the demand or action brought against him be heard in the district of Abitibi and not in that of Roberval.”

**41.** The heading of subdivision 4 of Division V of Part I of the said Act, amended by section 8 of chapter 15 of the statutes of 1979, is replaced by the following heading:

“ §4.—*Provisions respecting the districts of  
Arthabaska, Frontenac and Saint-François*”.

**42.** Section 62 of the said Act, replaced by section 16 of chapter 7 of the statutes of 1975 and amended by section 8 of chapter 15 of the statutes of 1979, is again replaced by the following section:

**“62.** The courts, the judges of such courts and the justices of the peace sitting in the judicial district of Arthabaska have concurrent jurisdiction with those of the judicial district of Frontenac, within their respective jurisdictions in civil, criminal and penal matters, over the territory of the municipalities of Lyster, Sainte-Julie, Sainte-Sophie, the city of Plessisville, the parishes of Plessisville and Notre-Dame-de-Lourdes and the village of Laurierville.”

**43.** Section 63 of the said Act, replaced by section 17 of chapter 7 of the statutes of 1975 and by section 9 of chapter 15 of the statutes of 1979, is again replaced by the following section:

**“63.** The courts, the judges of such courts and the justices of the peace sitting in the judicial district of Saint-François have, within their respective jurisdictions, concurrent jurisdiction with those of the district of Frontenac, in civil, criminal and penal matters, over the territories of the municipalities of Lambton and Saint-Evariste-de-Forsyth, the village of la Guadeloupe and the parish of Courcelles.”

Sec. 44. *This section specifies that the Superior Court, as a criminal court of original jurisdiction, shall hold, in each district, at least three terms each year rather than only one term.*

Sec. 45. *This section refers to the terms contemplated in section 44.*

Sec. 46. *The proposed amendment is for concordance with sections 44 and 45.*

Sec. 47. *The object of this section is to increase from sixty-eight to seventy-one the number of judges of the Court of the Sessions of the Peace.*

Secs. 48 and 49. *These sections are new law.*

Sec. 50. *The proposed amendment is for concordance with the Act respecting the Ministère des affaires intergouvernementales.*

Sec. 51. *The object of the proposed amendment is to facilitate the application of the new provisions contemplated by this Act to a limited partnership already in existence on the date of its coming into force.*

**44.** Section 74 of the said Act is replaced by the following section:

**“74.** The Superior Court, sitting as a criminal court of original jurisdiction, shall hold, in each district, at least three terms each year.”

**45.** Section 75 of the said Act is replaced by the following section:

**“75.** The Chief Justice or the Senior Associate Chief Justice, as the case may be, shall fix the dates on which those terms begin and shall give notice of them in the *Gazette officielle du Québec*.

The notice is also posted in the office of the court of the district concerned.”

**46.** Section 77 of the said Act is repealed.

**47.** Section 79 of the said Act is amended by replacing the words “sixty-eight judges” in the second paragraph by the words “seventy-one judges”.

**48.** The said Act is amended by inserting, after section 115.1, the following section:

**“115.2** Every judge of the Youth Court who sits in the judicial district of Abitibi may exercise the jurisdiction that the law confers upon the Provincial Court or its judges as if he were a judge of that court.”

**49.** The said Act is amended by inserting, after section 134, the following section:

**“134.1** Every judge of the Provincial Court who sits in the judicial district of Abitibi may exercise the jurisdiction that the law confers upon the Youth Court or its judges as if he were a judge of that court.”

**50.** Section 220 of the said Act is amended by replacing subparagraph *a* by the following subparagraph:

“(a) before a head of post, delegate or delegate-general of Québec;”.

### **Act to amend the Civil code and the Companies and Partnerships Declaration Act**

**51.** Section 8 of the Act to amend the Civil Code and the Companies and Partnerships Declaration Act (1978, chapter 99),

Sec. 52. *This section provides that permits may be signed not only by the secretary but also by the chairman or vice-chairman.*

Sec. 53. *This section is new law.*

Sec. 54. *The proposed amendment is for concordance with section 53.*

Sec. 55. *The object of this section is to restrict the application of section 62 of the Act respecting liquor permits to permits authorizing the sale of alcoholic beverages for consumption on the premises.*

Sec. 56. *The object of this section is to extend the application of section 64 of the Act respecting liquor permits to the Société des alcools du Québec.*

amended by section 123 of chapter 11 of the statutes of 1980, is again amended by replacing the second paragraph by the following paragraph:

“It also applies to existing partnerships filing a declaration in accordance with articles 1877 and 1879 of the Civil Code as enacted under this Act. Such partnerships are deemed continued.”

This section has effect from 7 March 1979.

### **Act respecting liquor permits**

**52.** Section 48 of the Act respecting liquor permits (1979, chapter 71) is amended by replacing the first paragraph by the following paragraph:

“**48.** A permit must bear the signature of the chairman, vice-chairman or secretary.”

**53.** Section 49 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“However, a permit, other than the reunion permit, issued to a person already holding a permit expires on the same date as the latter permit. The duties payable are adjusted by the Régie according to the time the permit is in use.”

**54.** Section 51 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**51.** A permit may be renewed by the Régie, either every two years on the same date as it was obtained or in the case of a permit referred to in the second paragraph of section 49, on its expiry date.”

**55.** Section 62 of the said Act is replaced by the following section:

“**62.** No holder of a permit may admit a person to a room or a terrace where a permit authorizing alcoholic beverages to be sold or served for consumption on the premises is used outside the hours during which the permit may be used, nor tolerate a person’s remaining there for more than thirty minutes after the time the permit must ceased to be used, unless the person is an employee of the establishment.”

**56.** Section 64 of the said Act is amended by adding, at the end, the following paragraph:

“This section also applies to the Société des alcools du Québec.”

Sec. 62. *This section extends the period of prescription from 4 to 6 months.*



**“164.** In each case provided for in section 163, the appeal must be taken by petition before a judge of the Court of Appeal at the place where appeals in the district where the judgment was rendered are brought. It must be taken within fifteen days from the date of the judgment or within any number of days not exceeding thirty that is fixed by the Court of Appeal or one of its judges, either before or after the fifteen days have elapsed. The appeal is heard before a division of three judges of the Court of Appeal at its next term, with priority over all other cases when it relates to a judgment entailing imprisonment.”

**62.** Section 179 of the said Act is amended by replacing the word “four” in the first line of the first paragraph, by the word “six”.

This section has effect solely in respect of offences committed after it's coming into force.

### **Final provision**

**63.** This Act comes into force thirty days after its sanction.