

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 31

An Act to amend the Civil Code

First reading

Second reading

Third reading

M. MARC-ANDRÉ BÉDARD
Ministre de la justice



EXPLANATORY NOTES

The object of this bill is to amend the Civil Code to give effect to the Agreement concerning James Bay and Northern Québec and the Northeastern Québec Agreement as regards the keeping of acts of civil status. It also facilitates the keeping of registers of civil status for certain churches and provides that Roman Catholic deacons will be competent to solemnize marriages.

Furthermore, the bill transfers the exercise of certain powers from the Government to the Ministre de la justice, it establishes concordance in certain matters relating to residential leasing and it recognizes the right to draw up certain documents in English intended for the cancelling of the registration of real rights.

Sec. 1. *The object of the amendment proposed to article 42 of the Civil Code is to allow the keeping of registers of civil status for the Cree, Inuit and Naskapi communities.*

Sec. 2. *The amendment proposed to article 43 of the Code provides concordance with sections 1 and 3 of the bill.*

Sec. 3. *The amendment proposed to article 44 of the Code has two objects: on the one hand, it allows, in the case of the Roman Catholic Church, the keeping of registers by deacons or other authorized persons, and, on the other, it provides that in the Cree, Inuit and Naskapi communities, the registers may also be kept by local registry officers.*

Bill 31

An Act to amend the Civil Code

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1. Article 42 of the Civil Code, replaced by section 5777 of the Revised Statutes of 1888 and amended by section 1 of chapter 82 of the statutes of 1968, is again amended by inserting, between the first and second paragraphs, the following paragraph:

“Such registers may also be kept for each of the Cree, Inuit and Naskapi communities contemplated in the Act respecting Cree and Inuit Native persons (1978, chapter 97).”

2. Article 43 of the said Code, replaced by section 1 of chapter 20 of the statutes of 1966 and amended by section 3 of chapter 82 of the statutes of 1968, is replaced by the following article:

“**43.** The churches, congregations or religious communities themselves furnish the registers kept by them.”

3. Article 44 of the said Code, replaced by section 5779 of the Revised Statutes of 1888 and by section 1 of chapter 71 of the statutes of 1919 and amended by section 1 of chapter 82 of the statutes of 1928, section 1 of chapter 90 of the statutes 1931/1932, section 1 of chapter 57 of the statutes of 1951/1952 and by section 2 of chapter 20 of the statutes of 1966, is again amended by inserting, between the second and third paragraphs, the following paragraph:

“In addition, in the case of Roman Catholic churches, private chapels or missions, the registers may also be kept by any deacon or any other person authorized to do so by competent ecclesiastical authority; in the case of Cree, Inuit or Naskapi communities, the registers may also be kept by a local registry officer

Sec. 4. *The amendment proposed to article 45 of the Code provides concordance with sections 1 and 3 of the bill.*

Sec. 5. *The object of the amendment proposed to article 45a of the Code is to transfer to the Ministre de la justice the power now held by the Government to indicate to the prothonotary the method of rectifying irregularities committed when registers are authenticated.*

Sec. 6. *The object of the amendment proposed to article 47 of the Code is to transfer a power from the Government to the Ministre de la justice.*

appointed under the Act respecting Cree and Inuit Native persons.”

4. Article 45 of the said Code, amended by section 2 of chapter 26 of the statutes of 1869, replaced by section 5780 of the Revised Statutes of 1888 and by section 3 of chapter 20 of the statutes of 1966, and amended by section 4 of chapter 82 of the statutes of 1968, is again amended:

(a) by inserting, between the first and second paragraphs, the following paragraph:

“The registers kept by a local registry officer shall be presented to the prothonotary of the district in which they must be kept for authentication in the same manner.”; and

(b) by replacing the fourth paragraph by the following paragraph:

“In the case of a Roman Catholic church, private chapel or mission, the attestation of the register must be granted under the name mentioned in the certificate of authorization given by the bishop as defined in the Fabrique Act (1965, 1st session, chapter 76) and the person who presents the register must exhibit such certificate to the prothonotary.”

5. Article 45a of the said Code, enacted by section 1 of chapter 83 of the statutes of 1928 and amended by section 4 of chapter 20 of the statutes of 1966, is replaced by the following article:

“**45a.** Whenever registers of civil status have not been authenticated, numbered or initialed in the manner prescribed, the Ministre de la justice may, in each particular case, indicate to the prothonotary the method of rectifying the irregularity committed.

Every register of civil status irregularly authenticated, numbered or initialed which has been so rectified has the same authenticity, validity and effect as if it had been originally authenticated, numbered and initialed in accordance with the law.”

6. Article 47 of the said Code, amended by section 3 of chapter 26 of the statutes of 1869, replaced by section 5781 of the Revised Statutes of 1888 and amended by section 1 of chapter 100 of the statutes of 1933, section 1 of chapter 71 of the statutes of 1947 and by section 5 of chapter 82 of the statutes of 1968, is again amended by replacing the last two paragraphs by the following paragraphs:

“When a parish is transferred from one judicial district to another, the Ministre de la justice may order by decree that the

Sec. 7. *The amendment proposed to article 49 of the Code provides concordance with section 3 of the bill.*

Sec. 8. *The object of the amendment proposed to article 129 of the Code is to declare deacons competent to solemnize marriages.*

Sec. 9. *The amendment proposed to article 130 of the Code provides concordance with section 8 of the bill.*

Sec. 10. *The amendment proposed to article 134 of the Code provides concordance with section 8 of the bill.*

duplicate registers of civil status for that parish deposited in the office of the Superior Court of the district to which it previously belonged, be transferred to the office of the Superior Court of the district of which it now forms part.

That decree shall be published in the *Gazette officielle du Québec*."

7. Article 49 of the said Code, replaced by section 5783 of the Revised Statutes of 1888, is again replaced by the following article:

"49. The other duplicate register remains in the custody and possession of the person who kept it, to be preserved and transmitted to his successor in office.

In the case of a Roman Catholic mission, such other duplicate is deposited by the person in charge of such mission at the palace of the bishop of the diocese to which that mission belongs; and for the purpose of authenticating copies or extracts from any such register and for all other purposes connected therewith, the bishop or his secretary is deemed to be the depositary thereof."

8. Article 129 of the said Code, replaced by section 11 of chapter 82 of the statutes of 1968, is amended by replacing the first paragraph by the following paragraph:

"129. All priests, deacons, rectors and ministers authorized by law to keep registers of acts of civil status and, in the judicial district for which they are appointed, the prothonotary and each of his deputies whom he designates, are competent to solemnize marriage."

9. Article 130 of the said Code, replaced by section 2 of chapter 47 of the statutes of 1903 and by section 12 of chapter 82 of the statutes of 1968, is amended by replacing the first paragraph by the following paragraph:

"130. In the case of marriages solemnized by a priest, deacon, rector or minister, the bans are published in the church to which the parties to be married belong, at morning service or, if there be no morning service, at evening service, on three Sundays or holidays, and in the case of persons belonging to the Jewish religion, on three Saturdays or holidays, with reasonable intervals. If the parties to be married belong to different churches, these publications take place in each of such churches."

10. Article 134 of the said Code, replaced by section 13 of chapter 82 of the statutes of 1968, is again replaced by the following article:

Sec. 11. The object of the amendment proposed to article 134a of the Code is to transfer to the Ministre de la justice the power of the Government to make rules on the solemnizing of marriages and to approve the classes of buildings where marriages may be solemnized.

Sec. 12. The amendment proposed to article 1664t of the Code provides concordance rendered necessary by the Charter of human rights and freedoms and the Act to secure the handicapped in the exercise of their rights.

Sec. 13. The amendment proposed to the Schedule following article 1665 of the Code provides concordance rendered necessary by the Charter of human rights and freedoms and the Act to secure the handicapped in the exercise of their rights.

“134. The priests, deacons, rectors and ministers authorized by law to solemnize marriages may grant a dispensation to exempt the marriages to be solemnized by them from the publication of bans. But if the rules of their religion so require, such dispensation must be granted by the ecclesiastical authorities having jurisdiction over them.”

11. Article 134*a* of the said Code, enacted by section 13 of chapter 82 of the statutes of 1968, is replaced by the following article:

“134*a*. The prothonotary or the deputy-prothonotary shall solemnize marriages in a suitable place in the court house or in any class of buildings approved by the Ministre de la justice.

He shall comply with the other rules enacted by the Ministre de la justice and collect from the parties to be married, on behalf of the Ministre des finances, any amount fixed by regulation of the Lieutenant-Governor in Council.”

12. Article 1664*t* of the said Code, enacted by section 1 of chapter 74 of the statutes of 1973, replaced by section 95 of chapter 6 of the statutes of 1975 and amended by section 79 of chapter 7 of the statutes of 1978, is again replaced by the following article:

“1664*t*. Whoever contravenes articles 1664*i*, 1664*l* or 1664*n* to 1664*r* is guilty of an offence and is liable, in addition to the costs, to a fine of not more than \$500 for each offence.”

13. The Schedule following article 1665 of the said Code, enacted by section 1 of chapter 74 of the statutes of 1973, is amended:

(*a*) by replacing clause number 28 in Section II by the following clause:

“28. Only in the case where the lessee applies therefor in writing, the lessor identifies in accordance with the Act to secure the handicapped in the exercise of their rights (1978, chapter 7) the dwelling of the lessee if it is occupied by a person significantly restricted in his movements. (Article 1664*i* C.C.)”;

(*b*) by striking out clause number 38 in the said section; and

(*c*) by replacing clause number 39 in the said section by the following clause:

“39. Whoever contravenes articles 1664*i*, 1664*l* or 1664*n* to 1664*r* (clauses numbers 28, 31 and 33 to 37) is guilty of an offence and is liable, in addition to the costs, to a fine of not more than \$500 for each offence. (Article 1664*t* C.C.)”.

Sec. 14. *The object of the amendment proposed to article 2151 of the Code is to remove the ambiguity concerning the language of certain deeds that entail the cancelling of the registration of real rights.*

Sec. 15. *The object of the amendment proposed to article 2160 of the Code is to transfer a power of the Government to the Ministre de la justice.*

14. Article 2151 of the said Code, amended by section 8 of chapter 98 of the statutes of 1938 and by section 16 of chapter 85 of the statutes of 1971, is again amended by replacing the first paragraph by the following paragraph:

“2151. The consent to the cancelling and the acquittance or certificate of discharge may be in authentic form or under private signature; when they are intended for the cancelling of the registration of a real right, they may be drawn up in English.”

15. Article 2160 of the said Code, replaced by section 5842 of the Revised Statutes of 1888, amended by section 1 of chapter 44 of the statutes of 1904, section 7 of chapter 46 of the statutes of 1943 and by section 2 of chapter 61 of the statutes of 1970, is again amended by replacing the second paragraph by the following paragraph:

“The Ministre de la justice may, however, by decree, change such hours for any registry office.”

16. Section 14 has effect from 26 August 1977.

17. This act comes into force on the day of its sanction.