

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 36

**An Act respecting intergovernmental agreements regarding
mutual aid in judicial matters**

First reading
Second reading
Third reading

M. MARC-ANDRÉ BÉDARD
Ministre de la justice

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The object of this bill is to enable the making and carrying out of intergovernmental agreements regarding mutual aid in judicial matters.

Thus, it grants to the Ministre de la justice the power to enter into an agreement with the authorized representative of another government in order to promote mutual aid in judicial matters between Québec, that government, the residents of Québec and the residents of the territory over which that government has jurisdiction. The bill also indicates the matters on which the agreement may bear.

Such an agreement will then require approval by a regulation of the Government. The terms and conditions of application of the agreement may be specified in the regulation. The regulation as well as the agreement will have to be published in the Gazette officielle du Québec, and, in addition, the agreement will be tabled before the Assemblée nationale by the Ministre de la justice.

An agreement regarding mutual aid in judicial matters may have effect notwithstanding an inconsistent provision of a general law or special act, or of a regulation thereunder. Thus, the agreement may derogate from the rules on the authenticity of documents provided in the Civil Code, or the rules on service of written proceedings, exequatur or rogatory commissions contained in the Code of Civil Procedure or the Special Procedure Act.

Bill 36

An Act respecting intergovernmental agreements regarding mutual aid in judicial matters

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

Power to
enter into
agree-
ments.

1. The Ministre de la justice may, in conformity with the law, enter into an agreement with the authorized representative of another government in order to promote mutual aid in judicial matters between Québec, that government, the residents of Québec and the residents of the territory over which that government has jurisdiction.

Persons
respon-
sible.

2. An agreement may designate the persons who are responsible for its carrying out and determine their powers.

Content.

3. An agreement may

(a) exempt a person from the application of article 65 of the Code of Civil Procedure or exempt him from giving any other security required within the scope of a procedure by reason of the fact that he does not reside in Québec;

(b) provide a mode of transmission, service or remittance of judicial or extra-judicial written proceedings, rules relating to proof of the transmission, service or remittance of a proceeding and rules relating to the establishment and payment of the costs resulting therefrom;

(c) provide terms and conditions respecting the transmission, use and execution of a rogatory commission, and respecting the establishment and payment of the costs resulting therefrom.

Content.

4. An agreement may, with regard to decisions on the status and capacity of a person, the custody of a minor or an alimentary obligation, fix standards for the recognition of a judicial decision rendered outside Québec or for according it authority as a *res*

judicata. An agreement may also establish rules relating to the procedure of *exequatur*.

Content.

5. An agreement may also

(a) establish criteria enabling the determination of the authenticity of a document;

(b) establish rules for the issue, free of charge, of acts of civil status;

(c) exempt documents transmitted under the agreement from formalities of procedure and proof;

(d) establish rules on the exchange of information, inquiries or documents;

(e) fix rules of mutual aid regarding the custody or protection of minors, and the recognition of the rights of alimentary creditors;

(f) establish rules of reciprocity in the matter of judicial aid.

Approval.

6. The Government may by regulation approve an agreement and specify the terms and conditions of its carrying out.

Coming into force.

The regulation and agreement are published in the *Gazette officielle du Québec* and come into force on the date of such publication or on the earlier or later date fixed by the regulation.

Tabling.

7. Within fifteen days after an agreement is entered into, it shall be tabled before the Assemblée nationale by the Ministre de la justice. If the agreement is entered into while the Assemblée nationale is not in session, the Minister shall table it within fifteen days of the opening of the next session, or resumption, as the case may be.

Paramountcy.

8. In matters contemplated by this act, an agreement has effect notwithstanding any inconsistent provision of a general law or special act or of a regulation thereunder; it may, in particular, derogate from

(a) articles 1207 and 1220 of the Civil Code;

(b) articles 120 to 146, 178 to 180 and 426 to 437 of the Code of Civil Procedure;

(c) sections 16 to 27 of the Special Procedure Act (Revised Statutes, 1964, chapter 22).

Interpretation.

9. An agreement shall be construed broadly and liberally in order to ensure the achievement of its object.

Idem.

In case of doubt, the provisions of the agreement are interpreted in favour of the persons benefiting by it.

Minister
respon-
sible.

10. The Ministre de la justice is responsible for the carrying out of this act.

Effective
date.

11. This act has effect as from 9 September 1977.

Coming
into force.

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