

ASSEMBLÉE NATIONALE DU QUÉBEC



Bill 101

An Act to amend the Public Officers Act

First reading
Second reading
Third reading

M. JACQUES PARIZEAU
Ministre des finances

EXPLANATORY NOTE

The object of this bill is to amend the Public Officers Act so as to remove the requirement from the public employees contemplated in the act to give security.

Sec. 1. *The amendment submitted provides concordance with section 6 of the bill and uses the text of the second paragraph of section 1 of the act.*

Sec. 2. *Sections 12 and 13 of the act require every person appointed to any office or employment in a public department of the Government or to any office or place of trust in which he receives or pays out public moneys, and prothonotaries of the Superior Court, clerks of the Magistrate's Court, sheriffs, bailiffs and registrars to give security.*

Section 14 also authorizes the Procureur général to require certain officers appointed under the Courts of Justice Act, the Officers of Justice Salary Act and the Registry Office Act to give security.

Sec. 3. *Section 15 of the act presently reads as follows:*

"15. The Minister of Finance may also require any other public officer or employee or any other class of public officers or employees to give security."

Bill 101

An Act to amend the Public Officers Act

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

R.S., c. 12,
s. 1, am.

1. Section 1 of the Public Officers Act (Revised Statutes, 1964, chapter 12) is amended by replacing the second paragraph by the following paragraph:

Joint-
officers.

“Whenever two persons have been appointed jointly by commission to hold the office of clerk of appeals, prothonotary of the Superior Court, clerk of the Magistrate’s Court, clerk of the Crown, clerk of the Peace, sheriff or registrar, and one of the joint-officers ceases to perform his duties through death or for any other reason, the commission shall not lapse as to the other joint-officer, but the latter shall remain alone in office and shall continue, alone and in his own name, to perform the duties of the office without the necessity of appointing him anew or of granting him a new commission, until the person or persons appointed by a new commission have fulfilled the duties imposed by section 9 of this act.”

R.S., c. 12,
s. 12, 13,
14, re-
pealed.

2. Sections 12, 13 and 14 of the said act are repealed.

R.S., c. 12,
s. 15, re-
placed.

3. Section 15 of the said act is replaced by the following section:

Security
given by
public
officers.

“15. The Ministre des finances may require any public

Sec. 4. *The amendment submitted provides concordance.*

Section 37 of the act presently reads as follows:

“37. Except in the case of registrars, the moneys or debentures may be returned, or the certificate of cancellation given, during the year after the death, resignation or dismissal of the public officer or employee, and, in the case of the withdrawal of the security, during the year following the three months after the notice of withdrawal, if the Minister of Finance be of opinion that there has been no breach of the security.”

Sec. 5. *The amendment submitted provides concordance.*

Section 38 of the act presently reads as follows:

“38. If, within three years after the death, resignation or dismissal of any registrar, or if, within the three years which follow the three months after the notice of withdrawal by his surety, of his security, it does not appear that such registrar has been guilty of negligence, misconduct or malversation, the security given shall be extinguished.

If, within the year after the death, resignation or removal of any public officer or employee other than a registrar, or if, within the year which follows the three months after the notice of the withdrawal by his surety, of the security of such officer or employee, it does not appear that he has been guilty of negligence, misconduct or malversation, the security given shall be also extinguished.

In both cases the moneys or debentures pledged as security shall afterwards be returned or the hypothec cancelled, as the case may be.

Such public officers and employees, however, and their legal representatives, shall remain personally liable, in accordance with the provisions of the Civil Code, for the damages arising from their negligence, misconduct or malversation.”

Sec. 6. *The amendment submitted provides concordance.*

Sections 39, 40 and 41 presently read as follows:

“39. Every prothonotary of the Superior Court, clerk of the Magistrate’s Court, sheriff, coroner and bailiff of the Superior Court, must give security within three months after the date of his appointment and before entering upon the discharge of the duties of his office.

“40. Every registrar must give security within one month from the date of his appointment, if then in the Province; or, if absent, within three months, unless he arrives before the end of the first two months, and in that case, within one month after his arrival.

officer or employee or any class of public officers or employees or any other person appointed to any office or place of trust, in which he receives or pays out public moneys, to give security."

R.S., c. 12,
s. 37, re-
placed. **4.** Section 37 of the said act is replaced by the following section:

Return of
moneys. **"37.** The moneys or debentures may be returned, or the certificate of cancellation given, during the year after the death, resignation or dismissal of the public officer or employee, and, in the case of the withdrawal of the security, during the year following the three months after the notice of withdrawal, if the Ministre des finances be of opinion that there has been no breach of the security."

R.S., c. 12,
s. 38, am. **5.** Section 38 of the said act is amended by replacing the first three paragraphs by the following paragraph:

Extinction
of security. **"38.** If, within the year after the death, resignation or removal of any public officer or employee, or if, within the year which follows the three months after the notice of the withdrawal by his surety, of the security of such officer or employee, it does not appear that he has been guilty of negligence, misconduct or malversation, the security given shall be also extinguished. The moneys or debentures pledged as security shall afterwards be returned or the hypothec cancelled, as the case may be."

R.S., c. 12,
s. 39, 40,
41, re-
pealed. **6.** Sections 39, 40 and 41 of the said act are repealed.

“41. Every sheriff or coroner who acts as such in civil matters, without having first given security, or without having renewed the same when necessary, shall incur a fine of not more than two thousand dollars, of which one-half shall belong to Her Majesty for the public uses of the Province, and the other half to any person who, within six months after the commission of the offence, sues therefor.”

Sec. 7. The amendment submitted provides concordance and uses the text of subsection 2 of section 15 of the act.

Sec. 8. The amendment submitted provides concordance.

Section 211 of the act presently reads as follows:

“211. The Lieutenant-Governor in Council may, whenever the importance of the matters justifies it, require that a clerk of the justices of the peace furnish security in accordance with the Public Officers Act (Chap. 12).”

Sec. 9. The amendment submitted provides concordance and uses the text of the first paragraph of section 22 of the act.

Sec. 10. The amendment submitted provides concordance and uses the text of section 9 of the act.

.S., c. 20,
15, am. **7.** Section 15 of the Courts of Justice Act (Revised Statutes, 1964, chapter 20) is amended by replacing the second paragraph of subsection 2 by the following paragraph:

clerk
placed. “In case of any death, dismissal, suspension, resignation or vacancy in the office of the clerk, the deputy-clerk designated as the first deputy, in Québec, and the deputy-clerk designated in the same manner, in Montreal, shall, at each of such places respectively, discharge the duties assigned to the clerk, until the newly appointed clerk has received his commission and has discharged the duties imposed by section 9 of the Public Officers Act (Revised Statutes, 1964, chapter 12).”

.S., c. 20,
211, re-
pealed. **8.** Section 211 of the said act is repealed.

.S., c. 31,
22, am. **9.** Section 22 of the Officers of Justice Salary Act (Revised Statutes, 1964, chapter 31) is amended by replacing the first paragraph by the following paragraph:

uties of
deputy. “**22.** The deputy whose appointment contains no restriction may perform the duties of his chief, and, if he is the only deputy so appointed, shall continue to perform the said duties in the event of the decease, dismissal, suspension, or resignation of his said chief, or vacancy in the office of the latter, until the successor appointed has received his commission, if any, and has discharged the duties imposed by section 9 of the Public Officers Act (Revised Statutes, 1964, chapter 12).”

.S.,
319, s. 9,
placed. **10.** Section 9 of the Registry Office Act (Revised Statutes, 1964, chapter 319) is replaced by the following section:

death,
c., of
registrar. “**9.** In the case of the death, resignation or dismissal of the registrar, the deputy-registrar to whom the title of chief deputy-registrar has been given at the time of his appointment, or, failing any appointment as chief deputy-registrar, the deputy-registrar designated by the Procureur général, shall discharge the duties of such registrar until another has been appointed in

Sec. 11. *The amendment submitted provides concordance and uses the text of section 26 of the act.*

Sec. 12. *The amendment submitted provides concordance.*

Section 32 of the act presently reads as follows:

“32. The security to be furnished by registrars shall be given in conformity with the provisions of Division IV of the Public Officers Act (Chap. 12).”

his place and has taken charge of the office after having received his commission and after having discharged the duties imposed under section 9 of the Public Officers Act (Revised Statutes, 1964, chapter 12)."

R.S.,
c. 319,
s. 26, am.

11. Section 26 of the said act is amended by replacing the first paragraph by the following paragraph:

Deputy-
registrar.

"26. Each registrar, saving any one to whom a salary is accorded under this act, shall, within twenty days after he has taken the oath of office, appoint a deputy, and, upon the death, resignation or removal of any registrar, his deputy shall execute the office of registrar until another person is appointed and takes upon himself the said office, after having received his commission and having discharged the duties imposed by section 9 of the Public Officers Act (Revised Statutes, 1964, chapter 12)."

R.S.,
c. 319,
s. 32, re-
pealed

12. Section 32 of the said act is repealed.

Coming
into force.

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