

NATIONAL ASSEMBLY

SECOND SESSION

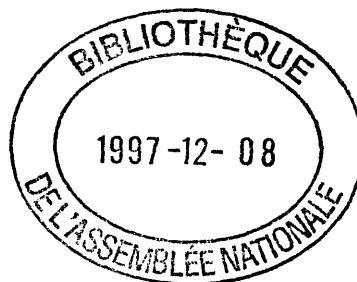
THIRTY-FIFTH LEGISLATURE

Bill 184

An Act respecting the remuneration of judges

Introduction

**Introduced by
Mr Serge Ménard
Minister of Justice**



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EXPLANATORY NOTES

This bill amends the Courts of Justice Act and the Act respecting municipal courts to establish a mandatory process that is to precede the fixing of the remuneration of the judges of the Court of Québec and the municipal courts.

To that end, the bill establishes a committee responsible for ascertaining, every three years, whether the salaries, pension plans and other social benefits of judges are adequate.

The committee will have four members, appointed by the Government in accordance with the procedure set out in the bill. After receiving the observations of the judges, the Government and the municipal authorities concerned, the committee will make its recommendations to the Government. The committee's recommendations will be laid before the National Assembly, which will then approve, amend or reject the committee's report by means of a resolution stating the reasons on which it is based. The Government will be required to implement the resolution. In the event that the National Assembly fails to adopt the resolution within the time provided, the Government will be required to implement the committee's recommendations. The bill also establishes the financial rules applicable to the committee.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Courts of Justice Act (R.S.Q., chapter T-16).

Bill 184

AN ACT RESPECTING THE REMUNERATION OF JUDGES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 115 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by striking out the second sentence of the first paragraph and the second paragraph.

2. The said Act is amended by inserting, after section 122.3, the following section:

“122.4. No order referred to in any of sections 115 to 122.2 may be made by the Government unless the prescriptions of Part VI.4 have been complied with.”

3. Sections 124 to 126 of the said Act are repealed.

4. Part VI.3 of the said Act is amended by inserting, before section 246.23, the following section:

“246.22.1. This Part and Parts VI, VI.1 and VI.2 apply subject to the provisions of Part VI.4.”

5. The said Act is amended by inserting, before Part VII, the following:

“PART VI.4

“COMMITTEE ON THE REMUNERATION OF THE JUDGES OF THE COURT OF QUÉBEC AND THE MUNICIPAL COURTS

“246.29. A committee on the remuneration of the judges of the Court of Québec and the municipal courts is hereby established.

The function of the committee is to ascertain, every three years, whether the salary, pension plan and other social benefits of the judges of the Court of Québec and the municipal courts of Laval, Montréal and Québec are adequate. A further function of the committee is to ascertain, every three years, whether the salary and other social benefits of the judges of the municipal courts to which the Act respecting municipal courts (chapter C-72.01) applies are adequate. The committee shall submit a report to the Government together with its recommendations.

An additional function of the committee is to examine any change proposed by the chief judge of the Court of Québec, the Conférence des juges du Québec or the Government to the pension plan of the judges of the Court of Québec and the municipal courts of Laval, Montréal and Québec and to the social benefits related to that plan or to the judges' group insurance plans. The committee shall ascertain whether the proposed change is adequate, and report and make recommendations to the Government in that respect.

"246.30. The committee shall exercise its functions in three-member panels.

One panel shall exercise the committee's functions with regard to the judges of the Court of Québec and the municipal courts of Laval, Montréal and Québec and the other panel with regard to the judges of the municipal courts to which the Act respecting municipal courts applies.

The report of each panel shall constitute the report of the committee.

"246.31. The committee shall have four members, appointed by the Government for a three-year term.

The chief judge of the Court of Québec, the Conférence des juges du Québec, the Conférence des juges municipaux du Québec and the Government shall designate, by mutual agreement, the members of the committee including the chair, as well as the members of each panel.

Failing agreement on or before 15 February 1998, and every three years thereafter, the members shall be designated as follows:

(1) one member shall be designated, by mutual agreement, by the chief judge of the Court of Québec and the Conférence des juges du Québec;

(2) one member shall be designated by the Conférence des juges municipaux du Québec;

(3) one member shall be designated by the Government;

(4) one member, who shall act as the committee chair, shall be designated, by mutual agreement, by the chief judge of the Court of Québec, the Conférence des juges du Québec, the Conférence des juges municipaux du Québec and the Government. Failing agreement, the Government shall designate the committee chair after consultation with the chief judge of the Court of Québec, the Conférence des juges du Québec and the Conférence des juges municipaux du Québec.

Where the members of the committee are designated in accordance with the third paragraph, the panel that exercises the functions of the committee with regard to the judges of the Court of Québec and the municipal courts of Laval, Montréal and Québec shall be composed of the members designated in accordance with subparagraphs 1, 3 and 4 of that paragraph, and the panel that

exercises the functions of the committee with regard to the judges of the municipal courts to which the Act respecting municipal courts applies shall be composed of the members designated in accordance with subparagraphs 2, 3 and 4 of that paragraph.

No judge, public servant within the meaning of the Public Service Act (chapter F-3.1.1) or municipal employee may be a member of the committee.

“246.32. The Government shall proceed with the appointment of the members of the committee on or before 1 April 1998, and every three years thereafter. The committee shall begin to exercise the functions conferred on it by this Part without delay.

“246.33. Upon the expiry of their term, the members of the committee shall remain in office until replaced or reappointed.

“246.34. When a member dies, resigns or is otherwise unable to act, the Government shall appoint a substitute member in the manner set out in section 246.31. The term of the substitute member shall correspond to the unexpired portion of the term of the original member.

“246.35. The Government shall determine, by order, the fees to be paid to the members of the committee, and the case and conditions in which and extent to which the expenses incurred by the members in the exercise of their functions are to be reimbursed.

“246.36. The chair of the committee shall manage the financial resources of the committee within the scope of the applicable legislation, regulations and rules.

Within such scope, the committee chair may call upon the support services and professional services considered necessary by the chair to ensure the successful discharge of the committee's functions. To that end the chair may, in particular, enter into an agreement concerning the temporary assignment of members of the public service to the committee.

Subject to the provisions of the first paragraph, the committee may, on its own initiative or at the request of the chief judge of the Court of Québec, the Conférence des juges du Québec, the Conférence des juges municipaux du Québec or the Government, give experts the mandate to examine any matter submitted by the committee.

“246.37. The chair of the committee shall have the powers vested in a chief executive officer by the Financial Administration Act (chapter A-6) with regard to applications to charge a commitment and applications for payment.

Sections 46 and 56 of that Act, respecting suspension of the right to commit appropriations and suspension of payment, do not apply to the committee.

“246.38. Each fiscal year of the committee shall end on 31 March.

“246.39. Each year, the chair of the committee shall submit the committee’s budget estimates for the ensuing fiscal year to the Minister of Justice.

The chair of the committee must also submit supplementary budget estimates to the Minister when, in the course of a fiscal year, the committee’s disbursements exceed the budget estimates.

The Minister shall table the budget estimates or, as the case may be, the supplementary budget estimates in the National Assembly within 10 days of receiving them if the Assembly is sitting or, if it is not sitting, within 10 days of resumption.

“246.40. The books and accounts of the committee shall be audited each year by the Auditor General and whenever so ordered by the Government.

“246.41. The committee shall, within the scope of its functions, receive observations from the chief judge of the Court of Québec and the Conférence des juges du Québec or from the Conférence des juges municipaux du Québec, according to the jurisdiction of each panel, from the Government, and according to the jurisdiction of each panel from the cities of Laval, Montréal and Québec, and from the associations representing municipalities, more particularly, the Union des municipalités du Québec and the Union des municipalités régionales de comté et des municipalités locales du Québec inc.

Where it considers it relevant, the committee may invite any person or body to present observations.

Where it considers it appropriate, the committee may decide to receive such observations at a public meeting.

“246.42. The committee shall consider the following factors :

- (1) the particularities of judges’ functions ;
- (2) the need to offer judges adequate remuneration ;
- (3) the need to attract outstanding candidates for the office of judge ;
- (4) the cost of living index ;
- (5) the economic situation prevailing in Québec and the general state of the Québec economy ;
- (6) trends in real per capita income in Québec ;
- (7) the state of public finances and of public municipal finances, according to the jurisdiction of each panel ;

(8) the level and prevailing trend of the remuneration received by the judges concerned, as compared to that received by other persons receiving remuneration out of public funds;

(9) the remuneration paid to other judges exercising a similar jurisdiction in Canada;

(10) any other factor considered relevant by the committee.

The panel having jurisdiction with regard to the judges of the municipal courts to which the Act respecting municipal courts applies shall also take into consideration the fact that municipal judges exercise their functions mainly on a part-time basis.

“246.43. The committee shall make a report to the Government containing the recommendations it considers appropriate. The report must be filed within six months from the date on which the committee members were appointed or, where the committee exercises its functions under the third paragraph of section 246.29, within six months from the date on which the proposed change was submitted to the committee.

The Minister of Justice shall table the report in the National Assembly within 30 days of receiving it if the Assembly is sitting or, if it is not sitting, within 30 days of resumption.

“246.44. The National Assembly may approve, amend or reject some or all of the committee’s recommendations, by way of a resolution stating the reasons on which it is based. The Government shall take, with diligence, the necessary steps to implement the resolution in accordance with this Act or the Act respecting municipal courts.

If the National Assembly fails to adopt a resolution on or before the thirtieth day of sitting following the day on which the committee’s report is tabled, the Government must take, with diligence, the necessary steps to implement the recommendations in accordance with this Act or the Act respecting municipal courts.

[[“246.45. The sums required for the application of this Part shall be taken out of the consolidated revenue fund.”]]

6. The heading of subdivision 5 of Division II of Chapter III of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is replaced by the following heading:

“§5. — *Remuneration and social benefits*”.

7. Section 49 of the said Act is amended by replacing the second sentence by the following sentence: “It may, in the same manner, establish their social benefits.”

8. Section 50 of the said Act is replaced by the following section :

“50. No order may be made by the Government under section 49 unless the prescriptions of Part VI.4 of the Courts of Justice Act (chapter T-16) have been complied with.”

9. The provisions of this Act come into force on *(insert here the date of assent to this Act)*.