

NATIONAL ASSEMBLY
Thirty-third Legislature, second session

1989, chapter 33
AN ACT TO AMEND THE NOTARIAL ACT

Bill 87

Introduced by Mr Pierre Fortier, Minister responsible for the administration of legislation respecting the professions

Introduced 15 November 1988

Passage in principle 9 May 1989

Passage 21 June 1989

Assented to 22 June 1989

Coming into force: 22 June 1989, except sections 74 and 75 of the Notarial Act, enacted by section 1 of this Act, which will come into force on 1 January 1990

Act amended:

Notarial Act (R.S.Q., chapter N-2)





CHAPTER 33

An Act to amend the Notarial Act

[Assented to 22 June 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. N-2,
ss. 74
to 77,
replaced
Bureau

1. Sections 74 to 77 of the Notarial Act (R.S.Q., chapter N-2) are replaced by the following sections:

“74. The Order shall be governed by a bureau called the “Bureau de l’Ordre des notaires du Québec”.

Composition

The Bureau shall be composed of

- (1) an elective president;
- (2) 24 elective members representing the electoral districts, from among whom the vice-president shall be elected;
- (3) 4 members appointed by the Office des professions du Québec;
- (4) one *de jure* member, as the case may be.

“*de jure*
member”

The expression “*de jure* member” designates the outgoing president of the Order who has not been re-elected to the presidency.

Restriction

However, any person in one of the situations provided for in subparagraphs i to v or vii of paragraph a of subsection 2 of section 78 ceases to be a *de jure* member.

Elections

“75. The president, vice-president and district representatives shall be elected on the date and according to the procedure prescribed by regulation made under subparagraph 4 of the second paragraph of section 93.

Terms of
office

Their terms of office and that of the *de jure* member is fixed by regulation made under subparagraphs 4 and 5 of the second paragraph of section 93.

Electoral
districts

For the purposes of the election of district representatives to the Bureau, Québec shall be divided into 17 electoral districts. Each of such electoral districts shall bear the name, comprise the territory and have the number of representatives following:

(1) district of Abitibi: the territory of the judicial districts of Abitibi, Rouyn-Noranda and Témiscamingue; one representative;

(2) district of Arthabaska: the territory of the judicial districts of Arthabaska, Drummond and Frontenac; one representative;

(3) district of Beauharnois-Iberville: the territory of the judicial districts of Beauharnois and Iberville; one representative;

(4) district of Bedford: the territory of the judicial district of Bedford; one representative;

(5) district of Chambly-Laprairie: the territory of the judicial district of Longueuil; one representative;

(6) district of Gaspé: the territory of the judicial districts of Bonaventure and Gaspé; one representative;

(7) district of Hull: the territory of the judicial districts of Hull and Pontiac; one representative;

(8) district of Joliette: the territory of the judicial district of Joliette; one representative;

(9) district of Laval: the territory of the judicial district of Laval; one representative;

(10) district of Montréal: the territory of the judicial district of Montréal; five representatives;

(11) district of Québec-Beauce: the territory of the judicial districts of Beauce, Charlevoix, Mégantic, Montmagny and Québec; four representatives;

(12) district of Rimouski: the territory of the judicial districts of Baie-Comeau, Kamouraska, Mingan and Rimouski; one representative;

(13) district of Saguenay-Lac-St-Jean: the territory of the judicial districts of Alma, Chicoutimi and Roberval; one representative;

(14) district of Saint-François: the territory of the judicial district of Saint-François; one representative;

(15) district of Saint-Hyacinthe-Richelieu: the territory of the judicial districts of Richelieu and Saint-Hyacinthe; one representative;

(16) district of Terrebonne: the territory of the judicial districts of Labelle and Terrebonne; one representative;

(17) district of Trois-Rivières: the territory of the judicial districts of Saint-Maurice and Trois-Rivières; one representative.

Territory
of districts

The name and territory of each of the judicial districts are those contemplated in section 9 of the Territorial Division Act (R.S.Q., chapter D-11) as it reads on 22 June 1989.

Representa-
tives

“76. The electoral district representatives shall be elected by the notaries who have elected domicile therein in accordance with section 17.

Eligibility

“77. Any notary shall be eligible for the position of electoral district representative if he

(1) has elected domicile in the electoral district in accordance with section 17;

(2) is neither disqualified nor in a situation of incompatibility within the meaning of the Code of ethics or Division VIII of this Act.”

c. N-2,
s. 78, am.

2. Section 78 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) There shall also be a vacancy on the Bureau whenever

(a) an electoral district representative

(i) dies;

(ii) resigns as a member of the Bureau in accordance with section 16;

(iii) resigns as a member of the Order in accordance with section 160;

(iv) is struck off the roll;

(v) is disqualified or is in a situation of incompatibility within the meaning of the Code of ethics or Division VIII of this Act;

(vi) elects domicile outside the electoral district for which he was elected;

(vii) fails, without a reason considered valid by the Bureau, to attend three consecutive meetings of the Bureau or to express himself through a means of communication and on the conditions prescribed by regulation made under subparagraph 3 of the first paragraph of section 93;

(b) the president is in one of the situations provided for in subparagraphs i to v or vii of paragraph a.”

c. N-2,
s. 79, re-
placed
Vacancy

3. Section 79 of the said Act is replaced by the following section:

“**79.** Where one of the positions of electoral district representative becomes vacant during the first half of a term, the Administrative Committee, upon the written requisition of at least 10% of the notaries of the electoral district concerned, transmitted to the secretary within a period of 45 days from the date on which the position became vacant, shall call an election to fill the vacancy and shall determine the date and procedure thereof. The closing of the poll shall take place within four months from the date on which the position became vacant.

Vacancy

If the election requisition is not made in accordance with the first paragraph, the Bureau shall fill the vacancy, following a vote by electoral district representatives, the president and, as the case may be, the *de jure* member, at its first meeting following the lapse of the said period of 45 days; if the vacancy occurs during the last half of a term, the Bureau shall fill such vacancy at its first meeting following the date on which the position became vacant by choosing, by a majority vote, one representative from among the eligible notaries of the district.”

c. N-2,
s. 81, am.

4. Section 81 of the said Act is amended by replacing subsection 1 by the following subsection:

Quorum

“**81.** (1) A majority of the members shall constitute a quorum at the meetings of the Bureau; every decision shall be taken by a majority vote of the members present or the members who express themselves on the decision through a means of communication and on the conditions prescribed by regulation made under subparagraph 3 of the first paragraph of section 93.”

c. N-2,
s. 82,
replaced

5. Section 82 of the said Act is replaced by the following sections:

Election of president	<p>“82. The president shall be elected by a general vote of the notaries who have deposited an election of domicile in accordance with section 17.</p>
Eligibility	<p>“82.1 Any notary who has been entered on the roll for at least 5 consecutive years immediately preceding the date of the election for the presidency and who is neither disqualified nor in a situation of incompatibility within the meaning of the Code of ethics or Division VIII of this Act shall be eligible for the office of president.</p>
General vote	<p>“82.2 Where the office of president becomes vacant in the first half of a term, the Administrative Committee shall call a general election to fill the vacancy and shall determine the date and procedure thereof. The closing of the poll shall take place within four months from the date on which the office became vacant.</p>
Secret ballot	<p>If the vacancy occurs during the second half of the term, the Bureau shall fill the vacancy at its first meeting following the date on which the office became vacant by choosing, by a majority of the votes cast by secret ballot and from among the electoral district representatives, a president for the unexpired portion of the term.</p>
Interim	<p>The vice-president shall perform the duties of the president for as long as the vacancy remains unfilled.</p>
Election of vice-president	<p>“82.3 The vice-president shall be elected from among the electoral district representatives by a majority of the votes of the elective members of the Bureau and, as the case may be, the <i>de jure</i> member, cast by secret ballot.</p>
Vacancy	<p>“82.4 Where the office of vice-president becomes vacant, the Bureau shall fill the vacancy at its first meeting following the date on which the position became vacant by choosing, by a majority of the votes cast by secret ballot and from among the electoral district representatives, a vice-president for the unexpired portion of the term.</p>
Vacancy	<p>However, the Administrative Committee may fill the vacancy by choosing, from among the electoral district representatives, a vice-president who remains in office until the first meeting of the Bureau following the date on which the office became vacant.”</p>
c. N-2, s. 85, re-placed Interim	<p>6. Section 85 of the said Act is replaced by the following section:</p> <p>“85. Where the president is absent or unable to act, the vice-president shall replace him and perform his duties during such absence or inability to act.</p>

Absence
of vice-
president

Where the vice-president is absent or unable to act, the Administrative Committee may choose a notary from among the other electoral district representatives to replace him and perform his duties during his absence or inability to act.”

c. N-2,
s. 88, re-
pealed
c. N-2,
s. 93, am.

7. Section 88 of the said Act is repealed.

8. Section 93 of the said Act is amended

(1) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) determine the means of communication through which members of the Bureau or the Administrative Committee may, when they are absent or not physically in attendance at the place where the sitting or meeting of the Bureau or Committee, as the case may be, is being held, express themselves in respect of a decision to be taken, prescribe the conditions under which they may avail themselves of such means and, for the application of subparagraph vii of paragraph *a* of subsection 2 of section 78 and the fourth paragraph of section 97, determine what constitutes the failure to express oneself;”;

(2) by adding, after subparagraph 3 of the second paragraph, the following subparagraphs:

“(4) fix the date and procedure of the election of the president, vice-president, district representatives and Administrative Committee members, as well as the date and time they take office and the length of their term;

“(5) fix the term of office of the *de jure* member.”

c. N-2,
s. 97, re-
placed
Composition

9. Section 97 of the said Act is replaced by the following section:

“97. The Administrative Committee shall be established at the first meeting of the Bureau and the quorum thereof shall be fixed at four members.

Members

The Administrative Committee shall consist of six members:

(1) the president of the Order;

(2) the vice-president of the Order;

(3) three notaries elected from among the electoral district representatives, by a majority of the votes of the elective members of the Bureau and, as the case may be, the *de jure* member, cast by secret ballot;

(4) one person elected from among the members of the Bureau appointed by the Office des professions du Québec, by a majority of the votes of the members of the Bureau, cast by secret ballot.

Election
procedure

The date and procedure for electing the members who are contemplated in subparagraphs 3 and 4, the length of the term and the date and time of the taking of office of the Committee members shall be fixed by regulation made under subparagraph 4 of the second paragraph of section 93.

Decision

Every decision shall be taken by a majority of members present or members who express themselves in respect of the decision through a means of communication and on the conditions prescribed by regulation made under subparagraph 3 of the first paragraph of section 93.

Casting
vote

In the case of a tie vote, the president shall have the casting vote.

Presumed
resignation

A member of the Administrative Committee who, without a reason considered valid by the Committee, fails to attend three consecutive sittings or fails to express himself through a means of communication and on the conditions prescribed by regulation made under subparagraph 3 of the first paragraph of section 93, shall be deemed to have resigned from his position and shall be replaced in the same manner as if his position were vacant.”

c. N-2,
s. 99, re-
placed

10. Section 99 of the said Act is replaced by the following section:

Vacancy
in the
Administra-
tive
Committee

“**99.** Every vacancy occurring in the Administrative Committee, except in the case of the presidency and the vice-presidency, shall be filled by the Bureau in accordance with the provisions of section 97.

Interim

However, the Administrative Committee may fill the vacancy by choosing any person from among the electoral district representatives or the members appointed by the Office, as the case may be, until the first meeting of the Bureau following the date on which the position became vacant.”

c. N-2,
s. 101, re-
pealed
Extension
of office

11. Section 101 of the said Act is repealed.

12. The members of the Bureau who are in office on 1 January 1990 shall remain in office until they are elected or reappointed or replaced.

Extension
of
office

The members of the Administrative Committee who are in office on 22 June 1989 shall remain in office until they are re-elected or replaced.

Coming
into
force

13. This Act comes into force on 22 June 1989, except sections 74 and 75 of the Notarial Act, enacted by section 1 of this Act, which will come into force on 1 January 1990.