

1989, chapter 49

**AN ACT TO AMEND THE ACT RESPECTING THE
SOCIÉTÉ D'HABITATION DU QUÉBEC AND THE CIVIL
CODE IN RESPECT OF THE LEASE OF DWELLINGS
IN LOW RENTAL HOUSING**

Bill 136

Introduced by Mr Pierre Paradis, Minister of Municipal Affairs

Introduced 11 May 1989

Passage in principle 25 May 1989

Passage 22 June 1989

Assented to 22 June 1989

Coming into force: 1 August 1989

Acts amended:

Act respecting the Société d'habitation du Québec (R.S.Q., chapter S-8)

Civil Code of Lower Canada





CHAPTER 49

An Act to amend the Act respecting the Société d'habitation du Québec and the Civil Code in respect of the lease of dwellings in low rental housing

[Assented to 22 June 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE SOCIÉTÉ D'HABITATION DU QUÉBEC

c. S-8,
s. 3.1, am. **1.** Section 3.1 of the Act respecting the Société d'habitation du Québec (R.S.Q., chapter S-8) is amended by adding, at the end, the following paragraph:

Low rental
housing “The Corporation shall determine to which category the low rental housing dwellings situated in any one immovable or in part thereof belong with a view to reserving the allocation thereof to persons meeting the requirements for inclusion in a given group, in accordance with the provisions of the regulations made under this Act.”

c. S-8,
s. 86, am. **2.** Section 86 of the said Act is amended

(1) by replacing paragraphs *n* and *o* by the following paragraphs:

“(n) establish categories and subcategories of dwellings in low rental housing according to physical characteristics or with a view to reserving, to such extent as may be prescribed, the allocation of dwellings situated in any one immovable or in part thereof to persons meeting the requirements prescribed by by-law for inclusion in a given group;

“(o) establish conditions or criteria governing acceptance of lease applications and determining eligibility for a dwelling belonging to a given category or subcategory of dwellings in low rental housing;

“(p) establish conditions or criteria governing the allocation of dwellings in low rental housing or of such dwellings of a given category or subcategory, including conditions or criteria to be used for the classification of eligible persons, and determine the weighting of those criteria;

“(q) exclude certain persons from eligibility for the leasing or allocation of dwellings in low rental housing or of such dwellings of a given category or subcategory, or exempt certain persons from the application of certain conditions or criteria established pursuant to subparagraph *n*, *o* or *p*;

“(r) confer on the lessor of a dwelling in low rental housing, in respect of such elements and to such extent as may be prescribed, the power to establish, by by-law, conditions, criteria or cases of exclusion or exemption other than, or in addition to, those established pursuant to subparagraph *n*, *o*, *p* or *q* and to determine, in the same manner, the weighting of his own criteria or those of the Corporation;

“(s) require that persons entered on the list of eligible persons communicate to the lessor of low rental housing information and documents which are necessary to him in the performance of his functions as lessor;

“(t) establish conditions according to which the lessor of low rental housing shall keep the register of applications and the list of eligible persons, as well as the period of validity of the list and the circumstances in which the lessor may remove a person’s name from the list or vary his classification;

“(u) confer on the lessor, to such extent as may be prescribed, the power to establish, by by-law, a smaller selection territory within the territory he serves and, if expedient, to keep more than one register of applications and more than one list of eligible persons;

“(v) establish a procedure for the selection of lessees of low rental housing and provide for the establishment, by the lessor, of a committee responsible for performing functions determined by by-law with respect to the examination of applications, regulate the composition and operation of the committee and determine the maximum term of office of its members.”;

(2) by adding, at the end, the following paragraphs:

Distinctions, exclusions and preferences
 “The by-laws relating to matters referred to in subparagraphs *n* to *r* and *t* of the first paragraph may, subject to the Charter of human rights and freedoms (R.S.Q., chapter C-12) and the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom), include distinctions, exclusions or preferences based on age, handicap or any element pertaining to the situation of a person.

Prescribed forms
 The by-laws of the Corporation may prescribe, as a condition for acceptance of an application for leasing, the use of the form established by the Corporation or the form established by the lessor and approved by the Corporation.

Approval of by-laws
 The by-laws made by the lessor pursuant to the by-laws of the Corporation shall be submitted to the Corporation for approval.”

CIVIL CODE

C.C.,
a. 1662.1,
am.
3. Article 1662.1 of the Civil Code of Lower Canada is amended by adding, at the end, the words “and with any by-law made by the lessor himself as authorized by and pursuant to the by-laws of the Société d’habitation du Québec”.

C.C.,
a. 1662.2,
am.
4. Article 1662.2 of the said Code is amended by replacing the words “in conformity with the criteria of allocation determined by by-law of the Société d’habitation du Québec” by the words “according to the conditions prescribed in the by-laws of the Société d’habitation du Québec and, in any by-law made by the lessor himself as authorized by and pursuant to the by-laws of the Société d’habitation du Québec.”

C.C.,
a. 1662.3,
am.
5. Article 1662.3 of the said Code is amended
 (1) by inserting, after the first paragraph, the following paragraph:

“Any person whose name is removed from the list or entered on the list for a dwelling of a category or subcategory other than the category or subcategory to which he is entitled may also, within one month from the decision, apply to the tribunal to have the decision of the lessor revised.”;

(2) by replacing the second paragraph by the following paragraph:

“In such cases, the lessor has the burden of establishing that he acted within the conditions prescribed in the by-laws. The tribunal

may, as the case may be, order the application registered or the name of the person entered, re-entered or reclassified on the eligible list.”

C.C.,
a. 1662.4,
am.

6. Article 1662.4 of the said Code is amended by replacing the second paragraph by the following paragraph:

“The lessor has the burden of establishing that he acted within the conditions prescribed in the by-laws.”

C.C.,
a. 1662.5,
am.

7. Article 1662.5 of the said Code is amended

(1) by replacing the first paragraph by the following paragraph:

“**1662.5** If the lessor fails to establish that he acted within the conditions prescribed in the by-laws, the tribunal orders the lodging of the person in a dwelling of the category and subcategory to which he is entitled or, if no such dwelling is vacant, the allocation to him of the next dwelling of that category and subcategory that becomes vacant.”;

(2) by replacing the words “his needs” in the second paragraph by the words “the category and subcategory to which he is entitled”.

C.C.,
a. 1662.6,
am.

8. Article 1662.6 of the said Code is amended

(1) by replacing the words “is in need of a dwelling other than the dwelling he occupies” in the first paragraph by the words “occupies a dwelling of a category or subcategory other than that to which he would be entitled”;

(2) by inserting the words “or subcategory” after the word “category” in the second paragraph.

C.C.,
a. 1662.7,
am.

9. Article 1662.7 of the said Code is amended by replacing the first paragraph by the following paragraph:

“**1662.7** The lessor may, at the end of the lease, relodge a lessee who occupies a dwelling of a category or subcategory other than that to which he would be entitled in a dwelling of the appropriate category or subcategory on giving him three months’ notice.”

TRANSITIONAL AND FINAL PROVISIONS

Coming into
force of
by-law

10. The first by-law made by the Corporation pursuant to the provisions enacted by section 2 of this Act shall come into force on the sixtieth day following the date of publication in the *Gazette officielle du Québec* of the text approved by the Government or on any later date it indicates.

Effect

Notwithstanding the foregoing, the by-law shall have effect upon its publication to allow the by-laws which the lessor is authorized to make pursuant to that by-law to be validly made and published before that date, and for the purposes of sections 11 and 13.

List of eligible persons

11. The lessor shall, in applying the new by-laws, prepare a new list of eligible persons to replace, upon the date of coming into force of the by-law of the Corporation, the list existing on that date.

Review

For that purpose, the lessor shall review the eligibility of the persons entered on the list to be replaced and their classification, if any.

Information and documents required

The persons entered on the list are not required to file a new application, but they must provide the lessor with such information or documents as he may require for the performance of his functions; until he receives the required information or documents, the lessor shall suspend the review procedure with respect to the persons who have not provided the information or documents.

Decision

The decision of the lessor must include the reasons on which it is based and be notified in writing to the interested persons.

Application for review

12. Every person affected by a decision of the lessor made under section 11 may, within one month, apply to the latter in writing for a review of the decision.

Obligation of lessor

The lessor shall dispose of the application not later than sixty days after receiving it, and after obtaining the advice of the selection committee.

Decision

The decision must include the reasons on which it is based and be notified in writing to the applicant.

New by-laws effective

13. Every application for the leasing of a dwelling in low rental housing received by the lessor within 60 days before the coming into force of the by-law of the Corporation shall be examined and decided with reference to the new by-laws.

Categories

14. The category to which low rental housing dwellings situated in any one immovable or in part thereof belong, as determined in a municipal housing program or by the Government, is deemed to have been determined by the Corporation.

Coming into force

15. This Act comes into force on 1 August 1989.