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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 792

**An Act respecting the procedure for  
selecting, appointing and reappointing  
independent administrative decision-  
makers**

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**Introduction**

**Introduced by  
Mr. Simon Jolin-Barrette  
Member for Borduas**

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## **EXPLANATORY NOTES**

*The purpose of this bill is to establish a formal, transparent, uniform procedure for selecting, appointing and reappointing administrative decision-makers so as to ensure their independence, impartiality and integrity.*

*The bill creates the office of Secretary for the Selection of Independent Administrative Decision-makers, who is mandated to administer, free from political intervention, the procedure for selecting, appointing and reappointing administrative decision-makers. The Secretary is appointed for a 10-year period by the National Assembly with the approval of two-thirds of the Members.*

*To be declared qualified to become decision-makers in a given body, candidates must pass a competition evaluating their aptitudes through a written test and an assessment by a selection committee. The Secretary keeps a register of the persons declared qualified for appointment for each body. The Minister of Justice appoints decision-makers from the list of candidates in the register for the body which has a position to be filled.*

*The Government makes regulations determining the mode, standards and scales of remuneration for administrative decision-makers, based on objective criteria.*

*All administrative decision-makers are governed by the same rules of ethics, report to the Conseil de la justice administrative and are subject to an annual performance review by the president or chair of their respective bodies.*

*Lastly, the bill introduces amending, transitional, miscellaneous and final provisions.*

## **LEGISLATION AMENDED BY THIS BILL:**

- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Act respecting the Autorité des marchés financiers (chapter A-33.2);

- Building Act (chapter B-1.1);
- Act respecting the Commission municipale (chapter C-35);
- Public Service Act (chapter F-3.1.1);
- Act respecting administrative justice (chapter J-3);
- Act respecting the marketing of agricultural, food and fish products (chapter M-35.1);
- Police Act (chapter P-13.1);
- Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1);
- Act respecting the Régie de l'énergie (chapter R-6.01);
- Act respecting the Régie des alcools, des courses et des jeux (chapter R-6.1);
- Act respecting the Régie du logement (chapter R-8.1);
- Act respecting the Québec correctional system (chapter S-40.1);
- Transport Act (chapter T-12);
- Act to establish the Administrative Labour Tribunal (chapter T-15.1).

**REGULATIONS REPEALED BY THIS BILL:**

- Regulation respecting the procedure for selecting persons qualified for appointment as members of the Commission d'accès à l'information (chapter A-2.1, r. 5);
- Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec (chapter J-3, r. 2);
- Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office (chapter R-8.1, r. 4);

– Regulation respecting the procedure for the recruiting and selection of persons qualified for appointment as members of the Administrative Labour Tribunal and for the renewal of their term of office (chapter T-15.1, r. 1).

## **Bill 792**

### **AN ACT RESPECTING THE PROCEDURE FOR SELECTING, APPOINTING AND REAPPOINTING INDEPENDENT ADMINISTRATIVE DECISION-MAKERS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **CHAPTER I**

##### **PURPOSE, INTERPRETATION AND SCOPE**

**1.** The purpose of this Act is to establish a formal, transparent, uniform procedure for selecting, appointing and reappointing administrative decision-makers so as to ensure their independence, impartiality and integrity. To that end, it ensures that administrative decision-makers have the skills and aptitudes required to serve in a decision-making capacity and the technical qualifications needed to carry out the mission of the body in which they perform their duties.

A further purpose of this Act is to create the office of Secretary for the Selection of Independent Administrative Decision-makers (Secretary), who is responsible for administering, free from political intervention, the procedure for selecting, appointing and reappointing administrative decision-makers.

**2.** For the purposes of this Act, “decision-maker” means any person designated a member or commissioner under the constituting Act of a public body listed in Schedule I in which the decision-maker performs adjudicative or administrative duties.

#### **CHAPTER II**

##### **SELECTION OF DECISION-MAKERS**

#### **DIVISION I**

##### **RECRUITMENT AND SELECTION**

**3.** Only a person with 10 years’ experience relevant to the exercise of the functions of the body in question can qualify to become a decision-maker within that body.

**4.** Candidates are declared qualified to become decision-makers in a given body in accordance with the selection procedure, referred to as a competition, established by this Act and by government regulation.

Among other things, such a regulation may

- (1) determine the type and content of publicity required for the purposes of a competition;
- (2) determine the application procedure candidates must follow;
- (3) determine the information that the selection committee responsible for candidate assessment may require from a candidate and the consultations it may hold;
- (4) determine the rules governing the selection committee members;
- (5) determine the procedure for keeping registers of the names of the candidates declared qualified; and
- (6) determine the procedure for the written test, the interview and any other assessment measure considered relevant.

**5.** In the context of a competition, a candidate's aptitudes must be evaluated through a written test and an assessment by a selection committee formed in accordance with section 6.

## **DIVISION II**

### **SELECTION COMMITTEE**

**6.** After a competition is opened, the Secretary forms a selection committee to evaluate candidates' qualifications for the office of decision-maker in the body for which the competition is held.

A selection committee is composed of

- (1) the president or chair or a vice-president or vice-chair of the body for which the competition is held;
- (2) two lawyers designated by the Barreau du Québec; and
- (3) two persons designated by the Office des professions du Québec who are neither lawyers nor notaries.

The Secretary designates the committee chair from among the selection committee members.

**7.** The Secretary, or a member of the Secretary's staff designated by the Secretary, acts as secretary of the selection committee.

**8.** Selection committee members are not remunerated except in the cases, on the conditions and to the extent that may be determined by the Government.

They are, however, entitled to reimbursement of expenses incurred in performing their duties, on the conditions and to the extent determined by the Government.

**9.** Selection committee members may not be prosecuted for an omission or an act performed in good faith in discharging their duties.

**10.** A selection committee member must recuse himself or herself with regard to a candidate, in particular

(1) if the member is or used to be the candidate's spouse;

(2) if the member is related, or connected by marriage or civil union, to the candidate up to and including the degree of first cousin;

(3) if the member is or, in the last five years, has been a partner, employer, immediate superior or employee of the candidate; or

(4) if there is reasonable cause to fear that the member may not be impartial for any other reason.

For the purposes of subparagraph 4 of the first paragraph, a member must immediately bring to the attention of the selection committee chair any fact providing reasonable cause to fear that the member will not be impartial.

A candidate may bring grounds for recusing a committee member to the attention of the selection committee assessing his or her application.

### **DIVISION III**

#### **SELECTION COMMITTEE OPERATION AND CANDIDATE SELECTION CRITERIA**

**11.** The Secretary analyzes the candidates' files and identifies those candidates who meet the eligibility requirements and who passed the written test.

**12.** The selection committee then interviews each candidate identified.

The interviews are held without posting, at a time and location that ensure discretion.

**13.** To determine whether a candidate is qualified, the selection committee must consider

(1) the candidate's skills, including his or her

(a) personal and intellectual qualities and integrity;

(b) level of knowledge and experience in the areas in which the duties will be performed; and

(c) judgment, listening skills, insight, level-headedness, ability to set priorities and make decisions within a reasonable amount of time, and ability to express himself or herself effectively;

(2) the candidate's perception of the office of decision-maker;

(3) the candidate's motivation for the office;

(4) the candidate's human, professional, social and community experience;

(5) the candidate's level of awareness with respect to social realities; and

(6) peer recognition of the candidate's qualities and skills.

#### **DIVISION IV**

#### **SELECTION COMMITTEE REPORT AND REGISTER OF CANDIDATES DECLARED QUALIFIED**

**14.** At the end of the competition process, the selection committee must promptly submit its report to the Secretary.

The report must state which candidates the selection committee declares qualified for the position of decision-maker in the body for which the competition is held. The report must also include an assessment of each candidate declared qualified, without ranking the candidates.

The number of candidates declared qualified may not exceed twice the number of decision-makers in the body for which the competition is held unless otherwise indicated by the Secretary if the latter considers that the characteristics of the body require more names to be entered in the register.

**15.** Selection committee decisions are made by a majority vote. In the case of a tie, the chair has a casting vote.

A selection committee member may register his or her dissent with respect to all or part of the report.

**16.** For each body, the Secretary keeps an updated register of names of candidates declared qualified.

The Secretary strikes out the name of a candidate declared qualified when the declaration of aptitude's period of validity expires, or if the person is appointed a decision-maker, dies or asks to be withdrawn from the register.



**17.** Registration of the name of a candidate declared qualified is valid for 18 months or any other period determined by government regulation.

### **CHAPTER III**

#### **APPOINTMENT OF DECISION-MAKERS**

**18.** On being informed of a position to be filled within a body, the Secretary sends a notice to the persons listed in the body's register. The notice must state the characteristics of the position, specific requirements, if any, and the deadline by which qualified candidates must indicate their interest in the position.

**19.** Once the deadline stated in the notice has expired, the Secretary verifies whether the persons interested meet the specific requirements.

The Secretary sends the list of interested candidates and the selection committee's assessment of each candidate to the Minister.

**20.** The Minister appoints the decision-maker from the list of candidates sent by the Secretary.

The appointment must be approved by the Government.

The instrument of appointment must state the body to which the decision-maker is appointed and the branch, division or region to which he or she is assigned.

### **CHAPTER IV**

#### **DESIGNATION, POWERS AND DUTIES OF PRESIDENTS OR CHAIRS AND VICE-PRESIDENTS OR VICE-CHAIRS**

**21.** For each body, the minister responsible designates, from among the decision-makers who are lawyers or notaries, a president or chair and the number of vice-presidents or vice-chairs set out in the body's constituting Act.

If the constituting Act does not specify the number of vice-presidents or vice-chairs, the number is determined by the Government.

In the case of the Administrative Labour Tribunal, the president and vice-presidents are designated after consulting the Comité consultatif du travail et de la main-d'œuvre referred to in section 12.1 of the Act respecting the Ministère du Travail (chapter M-32.2).

The "minister responsible", within the meaning of this Act, means the minister responsible for the administration of the body's constituting Act. In the case of the Régie du logement, the minister concerned is the minister responsible for the administration of Title I of the Act respecting the Régie du logement (chapter R-8.1).

**22.** The presidents or chairs and vice-presidents or vice-chairs must perform their duties on a full-time basis.

**23.** If the president or chair is absent or unable to act or if the office of president or chair is vacant, the president designates a vice-president or vice-chair to replace himself or herself.

If a body's constituting Act does not provide for designating a vice-president or vice-chair from among the decision-makers, the minister responsible designates a replacement from among the decision-makers if the president or chair is absent or unable to act or if the office of president or chair is vacant.

If the vice-president or vice-chair designated under the first paragraph or the decision-maker designated under the second paragraph is absent or unable to act, the minister responsible designates another vice-president, vice-chair or decision-maker to replace him or her.

**24.** The instrument appointing or reappointing the president or chair or vice-president or vice-chair states the term of the administrative mandate.

The instrument appointing the vice-president or vice-chair determines the branches he or she is responsible for, if any.

**25.** The administrative mandate of the president or chair or vice-president or vice-chair may end prematurely only if the decision-maker relinquishes the administrative office, if his or her appointment as a decision-maker expires, or if he or she is dismissed or otherwise removed from administrative office under the circumstances referred to in this Act.

**26.** The minister responsible may remove the president or chair or vice-president or vice-chair from administrative office if the Conseil de la justice administrative (Council) so recommends, after an inquiry concerning a breach pertaining only to administrative powers and duties.

**27.** The minister responsible must remove the president or chair or vice-president or vice-chair from administrative office for loss of a qualification required by law to hold the office.

**28.** In addition to the powers and duties that may otherwise be assigned to the president or chair, the president's or chair's duties include

(1) fostering decision-makers' participation in formulating guiding principles for their body so as to maintain a high level of quality and coherence in its decisions;

(2) coordinating the work of and assigning work to the decision-makers, who must comply with the president's or chair's orders and directives in that regard;

(3) seeing that the rules of ethical conduct are complied with; and

(4) promoting the training and professional development of decision-makers as regards performance of their duties.

**29.** The president or chair must produce an annual performance review for each of the body's decision-makers to evaluate his or her knowledge and skills in the performance of duties and his or her contribution to processing the cases before the body.

Among other things, the performance review states the decision-maker's obligation to maintain his or her skills and specifies his or her training needs.

The Government may, by regulation, determine the performance review's qualitative and quantitative criteria. However, the quantitative criteria must be weighted to reflect the level of difficulty of the matters handled.

**30.** The president or chair may delegate all or some of his or her powers and duties to the vice-president or vice-chair he or she designates or to a decision-maker responsible for the administration of a regional office in the case of the Administrative Labour Tribunal.

**31.** A vice-president or vice-chair assists and advises the president or chair in performing his or her duties and performs his or her own duties under the president's or chair's authority.

## **CHAPTER V**

### **TERM OF MANDATE AND REAPPOINTMENT**

**32.** Unless provided for by law, decision-makers are appointed for a term of five years.

The body's president or chair may allow a decision-maker to continue examining a matter and render a decision even though the term has expired.

**33.** The instrument of appointment may prescribe a shorter term, of fixed duration, if the candidate requests it for a valid reason, if special circumstances stated in the instrument of appointment require it or if the body's constituting Act allows it.

**34.** The body's president or chair or vice-president or vice-chair reviews the decision-maker's performance and sends the review to the Secretary at least nine months before the end of the decision-maker's term.

In the review, the president or chair or vice-president or vice-chair states whether he or she recommends reappointing the decision-maker.

On receiving the review, the Secretary informs the decision-maker that the examination procedure of his or her file has begun with a view to reappointment. The Secretary also informs the decision-maker of the recommendation indicated in his or her performance review.

**35.** If the president or chair sends an unfavourable recommendation or the Minister is not convinced of the merits of the president's or chair's favourable recommendation, the Secretary forms an examination committee to examine the decision-maker's file and make a recommendation to the Minister.

The examination committee studies the president's or chair's recommendation and determines whether it upholds the recommendation. The examination committee is composed of

- (1) one member of the Council;
- (2) two lawyers designated by the Barreau du Québec; and
- (3) two persons designated by the Office des professions du Québec who are neither lawyers nor notaries.

**36.** The examination committee may not make a recommendation against renewing the decision-maker's term without first informing the decision-maker of its intention and the reasons for its decision and without giving the decision-maker an opportunity to submit observations.

**37.** At least three months before expiry of the decision-maker's term and after taking the president's or chair's or examination committee's recommendation into account, the Minister informs the decision-maker whether he or she is reappointed.

If the Minister does not rule on the decision-maker's reappointment within this three-month period, unless the president or chair issues an unfavourable recommendation, the decision-maker is automatically reappointed.

**38.** The terms of replacements, supernumeraries and additional or supplementary decision-makers may not be renewed.

However, if they receive a favourable recommendation from the president or chair or examination committee at the end of their term, their names are entered for 18 months in the register of the body in which they were decision-makers. However, they may not be reappointed replacements, supernumeraries or additional or supplementary decision-makers.

## CHAPTER VI

### REMUNERATION AND OTHER CONDITIONS OF EMPLOYMENT

**39.** The Government determines the following by regulation:

(1) the decision-maker's salary as well as the additional remuneration attached to the office of president or chair or vice-president or vice-chair of a body; and

(2) the conditions under which and extent to which a decision-maker may be reimbursed for expenses incurred in performing the duties of office.

The Government may determine the decision-maker's other conditions of employment, including employee benefits other than a pension plan.

Regulatory provisions pertaining to the additional remuneration attached to the office of president or chair or vice-president or vice-chair of a body may vary according to the body in which the decision-maker performs his or her duties.

The regulations come into force on the 15th day following the date of their publication in the *Gazette officielle du Québec* or on a later date if specified therein.

**40.** Once a decision-maker's salary has been set, it may not be reduced.

However, additional remuneration attached to an administrative office within the body ceases on termination of the office.

**41.** The decision-makers' pension plan is determined under the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) or the Act respecting the Civil Service Superannuation Plan (chapter R-12), as applicable.

**42.** A public servant appointed a decision-maker ceases to be subject to the Public Service Act (chapter F-3.1.1). For the duration of the first term of office and for the purpose of discharging the duties of office, such a public servant is on full leave without pay.

After renewal of the first term of office, the public servant may not exercise his or her right to return to the public service.

## CHAPTER VII

### ETHICS AND IMPARTIALITY

**43.** Before entering office, decision-makers must take the oath set out in Schedule II before the body's president or chair. The president or chair must take the oath before a judge of the Court of Québec.

The writing evidencing the oath is sent to the Secretary.

**44.** The Council must, after consulting the Secretary, adopt a code of ethics governing decision-makers.

The Secretary must make the code public.

**45.** The code of ethics must set out the rules of conduct governing decision-makers and their duties toward the public, the parties, the parties' witnesses and the persons representing the parties. It must define, in particular, conduct that is derogatory to decision-makers' honour, dignity or integrity. In addition, it may determine activities or situations that are incompatible with their office, their obligations concerning disclosure of interests, and duties they may perform without remuneration.

The code of ethics must also set out rules governing the requirement that decision-makers in office maintain their skills.

**46.** A decision-maker may not, on pain of forfeiture of office, hold a direct or indirect interest in an enterprise that could cause his or her personal interest to conflict with the duties of office, unless the interest devolves to the decision-maker by succession or gift and he or she promptly renounces it or disposes of it.

**47.** In addition to complying with conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics established under this Act, decision-makers may not engage in activities or place themselves in situations that are incompatible, within the meaning of the code, with the performance of their duties.

**48.** Full-time decision-makers must devote themselves exclusively to their duties, but may, with the president's or chair's written consent, engage in teaching activities for which they may be remunerated. They may also carry out any mandate conferred on them by the Government after consultation with the president or chair.

**49.** A decision-maker who knows of a valid cause for his or her own recusal must declare the cause in writing, have the declaration included in his or her file and advise the parties of it.

## **CHAPTER VIII**

### **PREMATURE END OF TERM AND SUSPENSION**

**50.** A decision-maker's term may end prematurely only if the decision-maker retires, resigns, or is dismissed or otherwise removed from office under the circumstances referred to in this chapter.

**51.** To resign, a decision-maker must give the Secretary notice in writing within a reasonable amount of time.

**52.** The Minister may dismiss a decision-maker if the Council so recommends, following an inquiry into a complaint filed under section 182 of the Act respecting administrative justice (chapter J-3). The Minister may also suspend the decision-maker, with or without remuneration, or reprimand him or her.

**53.** The complaint must be in writing and briefly state the grounds on which it is based.

It must be sent to the seat of the Council.

**54.** When examining a complaint brought against a decision-maker, the Council must act in accordance with sections 184 to 192 of the Act respecting administrative justice.

**55.** The Minister may remove a decision-maker from office for loss of a qualification required by law to perform the duties of office or if, in the Minister's opinion, the decision-makers' permanent disability prevents him or her from satisfactorily performing the duties of office. Permanent disability is ascertained by the Council after an inquiry conducted at the request of the Minister or the body's president or chair.

The Council must act in accordance with sections 193 to 197 of the Act respecting administrative justice.

## **CHAPTER IX**

### **SECRETARY FOR THE SELECTION OF INDEPENDENT ADMINISTRATIVE DECISION-MAKERS**

#### **DIVISION I**

##### **APPOINTMENT, DUTIES AND ORGANIZATION**

**56.** The office of Secretary for the Selection of Independent Administrative Decision-makers is created.

The Secretary is appointed by the National Assembly, on the joint motion of the Premier, the Leader of the Official Opposition and the leaders of the other parliamentary groups, with the approval of two-thirds of the Members.

In the same manner, the National Assembly determines the Secretary's remuneration, employee benefits and other conditions of employment.

**57.** The Secretary is appointed for a non-renewable, fixed term not to exceed 10 years. On expiry of the term, the Secretary remains in office until replaced.

The Secretary can resign at any time by giving notice in writing to the President of the National Assembly. The Secretary can be removed only by a resolution of the Assembly approved by two-thirds of the Members.

**58.** If the Secretary leaves office or is unable to act, the National Assembly, within 60 days and after consulting the leaders of the authorized parties represented in the Assembly, appoints someone else to act as Secretary for a period not exceeding one year. The Assembly determines the person's remuneration and conditions of employment.

**59.** Before entering office, the Secretary must take the oath set out in Schedule II before the President of the National Assembly.

**60.** Subject to the appropriations voted by Parliament, the Secretary determines the maximum number of staff members needed to perform his or her duties, their assignments and the level of their positions. The Secretary may also call on external resources to carry out his or her mission.

The Secretary's staff members are appointed in accordance with the Public Service Act.

Where his or her staff is concerned, the Secretary exercises the powers conferred on a deputy minister by the Public Service Act.

**61.** Neither the Secretary nor a member of his or her staff may be prosecuted for an omission or an act performed in good faith in discharging the duties of office.

## **DIVISION II**

### **FINANCIAL PROVISIONS AND REPORT**

**62.** Every year, the Secretary prepares his or her budget estimates and submits them, before 1 April, to the Office of the National Assembly, which approves them with or without modification.

The Secretary may submit supplementary budget estimates to the Office of the National Assembly if, during the fiscal year, he or she foresees having to exceed the appropriations granted. The Office approves them with or without modification.



**63.** The Public Administration Act (chapter A-6.01), except section 8, subparagraph 6 of the first paragraph of section 9 and the second paragraph of that section, sections 10 to 23, subparagraphs 1.1 and 3 of the second paragraph of section 24 and the third paragraph of that section, sections 25 to 28, the second paragraph of section 32, section 44, the fourth paragraph of section 45, sections 46, 48 to 50, the third paragraph of section 57 and sections 64 to 66, 74, 75, 78 and 91.1 to 91.3, applies to the Secretary. The annual management report referred to in section 24 of that Act must be included in the Secretary's activity report.

**64.** The provisions of the Financial Administration Act (chapter A-6.001) that are applicable to budget-funded bodies, except sections 30 and 31, apply to management of the Secretary's financial resources.

**65.** The Act respecting contracting by public bodies (chapter C-65.1) applies to the Secretary.

**66.** On or before 30 September every year, the Secretary submits an activity report to the President of the National Assembly, together with financial statements for the preceding fiscal year. The President then tables the report and the financial statements before the Assembly within 30 days of receiving them or, if the Assembly is not sitting, within 30 days of resumption.

The Secretary may also present a special report on any matter relating to the procedure for selecting, appointing and reappointing decision-makers.

**67.** Each year, the competent parliamentary committee of the National Assembly examines the Secretary's activity report and, for that purpose, hears the Secretary.

## **CHAPTER X**

### **AMENDING PROVISIONS**

#### **ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION**

**68.** Section 104 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended

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

“The members are appointed by the Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*). At least two members must be assigned to the adjudication division.”;

(2) by striking out the third paragraph.

**69.** Sections 104.1 to 109 and subparagraphs 2, 3 and 4 of the second paragraph of section 110 of the Act are repealed.

**70.** Section 110.1 of the Act is amended

(1) by striking out “and rules of ethics” in the first paragraph;

(2) by striking out the second paragraph.

**71.** Section 112 of the Act is repealed.

**72.** Schedule B to the Act is repealed.

#### ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

**73.** Section 97 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) is amended

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

“The Tribunal shall be composed of members appointed by the Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*). The Government shall determine the number of members taking the Tribunal’s needs into account.”;

(2) by striking out the second, third and fourth paragraphs.

**74.** Sections 97.1 to 102 of the Act are repealed.

#### BUILDING ACT

**75.** Section 109.6 of the Building Act (chapter B-1.1) is amended by replacing “The Government shall appoint not more than five commissioners for the exclusive exercise of the following functions under the administrative authority of the president and chief executive officer” by “The Minister of Justice shall, in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*), appoint not more than five commissioners, from among whom a president shall be designated, for the exclusive exercise of the following functions”.

**76.** Sections 109.7 and 109.8 of the Act are repealed.

## ACT RESPECTING THE COMMISSION MUNICIPALE

**77.** Section 3 of the Act respecting the Commission municipale (chapter C-35) is amended

(1) by replacing “Government” in the first paragraph by “Minister of Justice, in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*)”;

(2) by striking out the second paragraph;

(3) by replacing “Government” in the third and fourth paragraphs by “Minister”.

**78.** Sections 4 and 5 of the Act are repealed.

**79.** Section 5.1 of the Act is replaced by the following section:

**“5.1.** Notwithstanding section 3, the president may ask the Minister of Justice to appoint an additional member for the period the president determines. The member must be appointed following the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”

## PUBLIC SERVICE ACT

**80.** Section 106 of the Public Service Act (chapter F-3.1.1) is amended by striking out the second and third paragraphs.

**81.** Sections 107 to 109 and 111 of the Act are repealed.

**82.** Section 121 of the Act is amended

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

“The chair may, to expedite business, ask the Minister of Justice to appoint a substitute member for a term of not over one year. The member shall be appointed in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”;

(2) by striking out the third paragraph;

(3) by striking out “111” in the fourth paragraph.

**83.** Section 122 of the Act is repealed.

## ACT RESPECTING ADMINISTRATIVE JUSTICE

**84.** Section 38 of the Act respecting administrative justice (chapter J-3) is amended by replacing “the Government, in a number determined according to the needs of the Tribunal, to hold office during good behaviour” by “the Minister, in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*). The Government shall determine the number of members taking the Tribunal’s needs into account”.

**85.** Section 39, Divisions II, IV, VI and VII of Chapter III of Title II and sections 68, 71 and 73 of the Act are repealed.

**86.** Section 75 of the Act is replaced by the following section:

**“75.** In addition to the powers and duties assigned to him under the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*), the president is charged with the administration and general management of the Tribunal.

The president’s duties include designating a member to coordinate the Tribunal’s activities in one or more regions and, if the volume of proceedings so requires, determining that the member’s place of residence is to be in one of those regions.”

**87.** Sections 76, 79 and 80 of the Act are repealed.

**88.** Section 167 of the Act is replaced by the following section:

**“167.** The council shall be composed of the following members:

- (1) the president of the Administrative Tribunal of Québec;
- (2) the president of the Administrative Labour Tribunal;
- (3) the chairman of the Régie du logement;
- (4) three presidents or chairs of bodies from among the presidents and chairs of the other bodies listed in Schedule I to the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*); and
- (5) nine other persons who are not members of any of the bodies referred to in paragraphs 1 to 4, only two of whom shall be advocates or notaries chosen after consultation with their professional order.”

**89.** Section 168 of the Act is amended by replacing the first paragraph by the following paragraphs:

“The members referred to in subparagraph 4 of section 167 shall be designated by the Government.

The members referred to in subparagraph 5 of section 167 shall be appointed by the Government, which shall designate the chairman of the council from among them. The term of office of the members is three years and may be renewed consecutively only once. The members shall remain in office until they are replaced or reappointed.

At the end of his term, each member may continue to perform his duties to conclude the cases he has begun to hear but has yet to determine.”

**90.** Section 177 of the Act is replaced by the following section:

**“177.** In addition to the functions assigned to it by law, the functions of the council in respect of the bodies listed in Schedule I to the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*) are

(1) to receive and examine any complaint lodged against a decision-maker under Chapter IV;

(2) to inquire, at the request of the Minister or of the president or chair of a body, into whether a member suffers from a permanent disability;

(3) to inquire, at the request of the minister responsible for the body, into any lapse raised as grounds for removing the president or chair or a vice-president or vice-chair of a body from his or her administrative office in the case provided for in section 26 of the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers.

The council may also report to the Minister on any matter the Minister submits to the council and make recommendations to the Minister concerning the administration of administrative justice by the bodies listed in Schedule I to the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers.

The “minister responsible”, within the meaning of this Act, is the minister responsible for the administration of the body’s constituting Act. In the case of the Régie du logement, the minister concerned is the minister responsible for the administration of Title I of the Act respecting the Régie du logement (chapter R-8.1).”

**91.** Chapter III of Title III of the Act is repealed.

**92.** Section 182 of the Act is amended by replacing “a member of the Tribunal” by “a decision-maker of a body listed in Schedule I to the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*)”.

**93.** Section 184.1 of the Act is amended by replacing “member” by “decision-maker”.

**94.** Section 184.2 of the Act is amended by replacing the second paragraph by the following paragraph:

“Two committee members shall be chosen from among the council members referred to in subparagraph 5 of section 167.”

**95.** Section 186 of the Act is amended

(1) by replacing “member” in the first paragraph by “decision-maker”;

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

“Two members of the inquiry committee shall be chosen from among the members of the council referred to in subparagraph 5 of section 167, at least one of whom does not practise a legal profession. The third member of the inquiry committee shall be a member of the council referred to in any of subparagraphs 1 to 4 of that section and designated by the chairman of the council.”;

(3) by striking out the fourth paragraph.

**96.** Sections 189 to 191 and the heading of Chapter V of the Act are amended by replacing “member” by “decision-maker”.

**97.** Section 193 of the Act is amended

(1) by inserting “or the minister responsible for the body” after “Minister” in the first paragraph;

(2) by replacing “member of the Tribunal” in the first paragraph by “decision-maker”;

(3) by replacing “of the Tribunal” in the second paragraph by “or chair of the body in which the decision-maker performs his duties”;

(4) by replacing all occurrences of “member” by “decision-maker”.

**98.** Sections 195 to 197 of the Act are amended by replacing “member” by “decision-maker”.

ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD  
AND FISH PRODUCTS

**99.** Section 7 of the Act respecting the marketing of agricultural, food and fish products (chapter M-35.1) is amended

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

“The Régie is composed of eight members, including a chairman and three vice-chairmen, appointed in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”;

(2) by striking out the second paragraph.

**100.** Section 7.1 of the Act is replaced by the following section:

**“7.1.** For the proper dispatch of the affairs of the Régie, the chairman may ask the Minister of Justice to appoint a supplementary member for a term not exceeding one year, in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”

**101.** Sections 8, 10 and 11 of the Act are repealed.

POLICE ACT

**102.** Section 198 of the Police Act (chapter P-13.1) is amended by striking out “in the case of full-time members, and for not less than five years in the case of part-time members”.

**103.** Section 199 of the Act is amended

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

“The members of the ethics committee shall be appointed as full-time members in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*). The Government shall determine the number of members taking the committee’s needs into account.”;

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

“The members shall exercise their functions on a full-time basis. However, part-time members who are members of a Native community shall be appointed to act where a complaint relates to a Native police officer.”;

(3) by striking out the third paragraph.

**104.** Section 200 of the Act is replaced by the following section:

“**200.** The chairman of the ethics committee shall be assisted by a vice-chairman.”

**105.** Sections 201 to 203 of the Act are repealed.

**106.** Section 205 of the Act is amended by striking out the following sentence: “His duties include coordinating and distributing the work of the committee members, who shall comply with his orders and directives in that regard.”

**107.** Section 206 of the Act is repealed.

#### ACT RESPECTING THE PRESERVATION OF AGRICULTURAL LAND AND AGRICULTURAL ACTIVITIES

**108.** Section 4 of the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1) is amended

(1) by replacing “Government for a term of not more than five years. Once determined, their terms of office shall not be reduced” in the first paragraph by “Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*)”;

(2) by striking out the second, third and fourth paragraphs.

**109.** The second paragraph of section 6 and section 8 of the Act are repealed.

#### ACT RESPECTING THE RÉGIE DE L'ÉNERGIE

**110.** Section 7 of the Act respecting the Régie de l'énergie (chapter R-6.01) is amended

(1) by replacing “Government” in the first paragraph by “Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*)”;



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

“The Minister of Justice may, where required for the proper dispatch of business, appoint full-time or part-time supernumerary commissioners. Their term of office shall either be determined in the instrument of appointment and not exceed two years, or be determined by reference to a special mandate specified in the instrument of appointment.”

**III.** Sections 8 to 10, 12, 15 and 148 of the Act are repealed.

#### ACT RESPECTING THE RÉGIE DES ALCOOLS, DES COURSES ET DES JEUX

**II2.** Section 3 of the Act respecting the Régie des alcools, des courses et des jeux (chapter R-6.1) is amended by replacing “Government for a term not exceeding five years” by “Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*)”.

**II3.** Section 4 of the Act is amended

(1) by replacing “Government” by “Minister of Justice”;

(2) by adding the following sentence at the end: “These commissioners shall be appointed in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”

**II4.** Sections 6 to 10 of the Act are repealed.

#### ACT RESPECTING THE RÉGIE DU LOGEMENT

**II5.** Section 6 of the Act respecting the Régie du logement (chapter R-8.1) is amended by replacing “Government in the number determined by the Government” in the first paragraph by “Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*). The Government determines the number of commissioners taking the board’s needs into account”.

**II6.** Sections 7 to 8.4 of the Act are repealed.

**II7.** Section 9.1 of the Act is replaced by the following section:

**“9.1.** The chairman of the board shall be assisted by two vice-chairmen.”

**118.** Sections 9.2 to 9.7, subparagraphs 2, 3 and 4 of the second paragraph and the third paragraph of section 10 and sections 10.1 and 12 of the Act are repealed.

#### ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM

**119.** Section 120 of the Act respecting the Québec correctional system (chapter S-40.1) is amended by inserting “, taking the parole board’s needs into account,” after “in a number determined by the Government”.

**120.** Section 121 of the Act is replaced by the following section:

“**121.** The members of the parole board shall be appointed by the Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”

**121.** Sections 122, 123, 125, 128 and 129 of the Act are repealed.

#### TRANSPORT ACT

**122.** Section 16 of the Transport Act (chapter T-12) is amended

(1) by replacing “for a term of not over five years by the Government, which shall fix their salaries and their other conditions of employment” in the first paragraph by “by the Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*)”;

(2) by striking out the second paragraph.

**123.** Section 16.0.1 of the Act is replaced by the following section:

“**16.0.1.** Notwithstanding section 16, the Minister of Justice may, in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*), appoint any additional member for the time the Minister determines.”

**124.** Sections 17.6, 17.7 and 21 of the Act are repealed.

## ACT TO ESTABLISH THE ADMINISTRATIVE LABOUR TRIBUNAL

**125.** Section 2 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1) is amended by replacing the first paragraph by the following paragraph:

“The Tribunal is composed of members, including a president and vice-presidents, appointed by the Minister of Justice in accordance with the procedure set out in the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”

**126.** Sections 52 to 81 of the Act are repealed.

**127.** Section 82 of the Act is replaced by the following section:

“**82.** In addition to the powers and duties assigned to the president by the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*), the president is responsible for the Tribunal’s administration and general management.”

**128.** Sections 90 and 91 of the Act are repealed.

**129.** Section 258 of the Act is amended by replacing the second paragraph by the following paragraph:

“The qualifications required by law for becoming a member of the Administrative Labour Tribunal, including 10 years’ experience relevant to the exercise of the Tribunal’s functions, are not required of persons who become Tribunal members under the first paragraph until the expiry of their term under section 134 of the Act respecting the procedure for selecting, appointing and reappointing independent administrative decision-makers (*insert the year and chapter number of this Act*).”

## REGULATION RESPECTING THE PROCEDURE FOR SELECTING PERSONS QUALIFIED FOR APPOINTMENT AS MEMBERS OF THE COMMISSION D’ACCÈS À L’INFORMATION

**130.** The Regulation respecting the procedure for selecting persons qualified for appointment as members of the Commission d’accès à l’information (chapter A-2.1, r. 5) is repealed.

REGULATION RESPECTING THE PROCEDURE FOR THE  
RECRUITMENT AND SELECTION OF PERSONS APT FOR  
APPOINTMENT AS MEMBERS OF THE ADMINISTRATIVE  
TRIBUNAL OF QUÉBEC

**131.** The Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec (chapter J-3, r. 2) is repealed.

REGULATION RESPECTING THE PROCEDURE FOR THE  
RECRUITMENT AND SELECTION OF PERSONS APT FOR  
APPOINTMENT AS COMMISSIONERS TO THE RÉGIE DU  
LOGEMENT AND FOR THE RENEWAL OF THEIR TERM OF OFFICE

**132.** The Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as commissioners to the Régie du logement and for the renewal of their term of office (chapter R-8.1, r. 4) is repealed.

REGULATION RESPECTING THE PROCEDURE FOR THE  
RECRUITING AND SELECTION OF PERSONS QUALIFIED FOR  
APPOINTMENT AS MEMBERS OF THE ADMINISTRATIVE LABOUR  
TRIBUNAL AND FOR THE RENEWAL OF THEIR TERM OF OFFICE

**133.** The Regulation respecting the procedure for the recruiting and selection of persons qualified for appointment as members of the Administrative Labour Tribunal and for the renewal of their term of office (chapter T-15.1, r. 1) is repealed.

## CHAPTER XI

### TRANSITIONAL PROVISIONS

**134.** The term of a person designated a member or commissioner of a body before this Act comes into force ends on the first of the following dates:

- (1) the date stipulated in the instrument of appointment; or
- (2) five years after the date this Act comes into force.

The 10 years' relevant experience required under this Act to become a decision-maker is not required of a person referred to in the first paragraph until the expiry of his or her term as provided for in that paragraph.

**135.** The term of a person designated a member or commissioner of a body before this Act comes into force may be renewed in accordance with the reappointment procedure set out in this Act.

However, to be reappointed a first time after the coming into force of this Act, a person must

- (1) have the qualities required by law to become a decision-maker;
- (2) pass the written test required under section 5; and
- (3) receive a favourable recommendation from an examination committee formed in accordance with the procedure set out in section 35.

**136.** The members or commissioners referred to in the first paragraph of section 134 continue to receive the same remuneration they were receiving on (*insert the date of coming into force of this Act*) despite the coming into force of the regulation provided for in section 39, if the remuneration they receive is greater than that prescribed by the regulation, until parity is reached.

Until the regulation stipulated in section 39 comes into force, the remuneration and other conditions of employment of persons who become decision-makers are determined by the Government.

**137.** The employee benefits and other conditions of employment of the decision-makers referred to in the first paragraph of section 134, as they existed on (*insert the date of coming into force of this Act*), continue to apply until the regulation respecting administrative decision-makers' remuneration and other conditions of employment comes into force.

**138.** The oath taken under section 106 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), repealed by section 69 of this Act, under section 97.1 of the Act respecting the Autorité des marchés financiers (chapter A-33.2), repealed by section 74 of this Act, under section 68 of the Act respecting administrative justice (chapter J-3), repealed by section 85 of this Act, under section 203 of the Police Act (chapter P-13.1), repealed by section 105 of this Act, under section 9.6 of the Act respecting the Régie du logement (chapter R-8.1), repealed by section 118 of this Act, or under section 66 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1), repealed by section 126 of this Act, is deemed to have been taken in accordance with section 43 of this Act and stands in place of the oath referred to in that section.

**139.** Until the code of ethics governing all decision-makers is adopted in accordance with sections 44 and 45, decision-makers must abide by the code of ethics governing them in the body in which they hold office.

**140.** The terms of the persons who were members of the Conseil de la justice administrative before the coming into force of this Act end on (*insert the date of coming into force of this Act*). However, members may continue to perform their duties in order to conclude matters they have begun to hear but have yet to rule on.

## CHAPTER XII

### MISCELLANEOUS AND FINAL PROVISIONS

**141.** The sums required for the purposes of this Act and to carry out any of the duties of office assigned to the Secretary by this Act are the sums voted annually for this purpose by Parliament.

**142.** Despite section 168 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), that Act does not apply to this Act.

**143.** The candidates' names, the selection committee's report, the register, the list of candidates declared qualified to be appointed decision-makers and any other information or document linked to a candidate, register of a body or decision of the selection committee or the Secretary are confidential.

**144.** The Minister must, no later than (*insert the date that is five years after the date of coming into force of this Act*) and subsequently every five years, report on the implementation of this Act and the advisability of amending it.

The Minister must table the report in the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption.

**145.** The Minister of Justice is responsible for the administration of this Act.

**146.** This Act comes into force on (*insert the date of assent to this Act*).

SCHEDULE I  
(Section 2)

The bodies in which administrative decision-makers designated members or commissioners perform administrative or adjudicative duties are the following:

- (1) Comité de déontologie policière;
- (2) Commission d'accès à l'information;
- (3) Commission de la fonction publique;
- (4) Commission de protection du territoire agricole du Québec;
- (5) Commission des transports du Québec;
- (6) Commission municipale du Québec;
- (7) Commission québécoise des libérations conditionnelles;
- (8) Régie de l'énergie;
- (9) Régie des alcools, des courses et des jeux;
- (10) Régie des marchés agricoles et alimentaires du Québec;
- (11) Régie du bâtiment du Québec;
- (12) Régie du logement;
- (13) Financial Markets Administrative Tribunal;
- (14) Administrative Tribunal of Québec;
- (15) Administrative Labour Tribunal.

SCHEDULE II  
*(Sections 43 and 59)*

OATH

I, (name), declare under oath that I will be loyal and bear true allegiance to constituted authority, that I will fulfil my duties honestly, objectively and impartially, and that I will not accept any sum of money or benefit of any kind for what I do or may do in the discharge of my duties of office, other than my salary or what is allowed me by law or by an order of the Government.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in connection with the discharge of my duties.