



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 1

**An Act to amend the rules governing
the appointment and dismissal of the
Anti-Corruption Commissioner, the
Director General of the Sûreté du
Québec and the Director of Criminal
and Penal Prosecutions**

Introduction

**Introduced by
Madam Geneviève Guilbault
Minister of Public Security**

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EXPLANATORY NOTES

This bill amends the modes of appointment and dismissal of the Anti-Corruption Commissioner, the Director General of the Sûreté du Québec and the Director of Criminal and Penal Prosecutions.

Under the bill, the abovementioned persons are appointed by the National Assembly on a motion of the Prime Minister and with the approval of two-thirds of the Members. Before being proposed by the Prime Minister, a person must meet with Members at a single in camera meeting, and, to that end, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise. The bill requires the Members to submit, within 15 days after the Prime Minister's request, a joint report to the Prime Minister containing each Member's recommendation regarding the candidacy of the person they met with, and specifies that the report is confidential.

The persons so appointed can be dismissed only by the National Assembly on a motion of the Prime Minister and with the approval of two-thirds of the Members, subject to certain causes for dismissal already provided for in the Police Act for the Commissioner and for the Director General of the Sûreté du Québec.

The bill also contains other special rules for certain appointments and dismissals. For the appointment of the Director General of the Sûreté du Québec, the bill establishes a selection process but specifies that the process does not apply in the case of a Director General whose term is renewed.

For the appointment or dismissal of the Director of Criminal and Penal Prosecutions, the Minister of Justice must make a recommendation to the Prime Minister before the National Assembly can begin the appointment or dismissal process.

Various other amendments are made in connection with the proposed changes to the modes of appointment and dismissal.

Lastly, the bill contains transitional and consequential provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1);
- Public Service Act (chapter F-3.1.1);
- Anti-Corruption Act (chapter L-6.1);
- Police Act (chapter P-13.1).

REGULATION AMENDED BY THIS BILL:

- Regulation respecting the ethics and professional conduct of public office holders (chapter M-30, r. 1).

Bill 1

AN ACT TO AMEND THE RULES GOVERNING THE APPOINTMENT AND DISMISSAL OF THE ANTI-CORRUPTION COMMISSIONER, THE DIRECTOR GENERAL OF THE SÛRETÉ DU QUÉBEC AND THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ANTI-CORRUPTION ACT

1. Section 5 of the Anti-Corruption Act (chapter L-6.1) is replaced by the following section:

“5. On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly appoints the Commissioner.

The person proposed by the Prime Minister is chosen from among the candidates declared qualified to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person must meet with Members at a single in camera meeting. To that end, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members must submit a joint report to the Prime Minister containing each Member’s recommendation regarding the candidacy of the person they met with. The report is confidential.”

2. Section 5.1 of the Act is amended by striking out the fourth paragraph.

3. Section 5.2 of the Act is amended by adding the following paragraph at the end:

“Subject to a dismissal under section 117, 119, 234 or 252 of the Police Act (chapter P-13.1), the Commissioner may be dismissed only by the National Assembly, on a motion of the Prime Minister and with the approval of two-thirds of its Members.”

4. Section 5.4 of the Act is amended by striking out the first paragraph.

5. Section 8.2 of the Act is amended by adding the following paragraph at the end:

“Associate Commissioners may not be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a report from the Commission de la fonction publique. The suspension may not exceed three months.”

POLICE ACT

6. Section 56 of the Police Act (chapter P-13.1) is replaced by the following sections:

“56. On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly shall appoint the Director General.

The person proposed by the Prime Minister shall be chosen from among the candidates declared fit to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person shall meet with Members at a single in camera meeting. To that end, the Prime Minister shall designate a Member from his or her party and request the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members shall submit a joint report to the Prime Minister containing each Member’s recommendation regarding the candidacy of the person they met with. The report shall be confidential.

“56.1. The Director General shall be appointed for a term not exceeding five years.

His or her term may be renewed provided the total duration of successive appointments does not exceed 10 years. In such a case, the first, third and fourth paragraphs of section 56 apply, with the necessary modifications.

“56.2. Where the Director General’s term is not renewed or as soon as the office becomes vacant, the Minister shall publish a notice inviting interested persons to apply for the office of Director General or to propose the name of a person they consider fit to hold that office, in accordance with the procedure the Minister determines.

The Minister shall also form a selection committee. The committee shall be made up of the Deputy Minister of Public Security, a former director of police recommended by the Association des directeurs de police du Québec, a person recommended by bodies representing the municipal sector, an administrator of state within the meaning of the Public Service Act (chapter F-3.1.1) designated by the Associate Secretary General responsible for senior positions at the Ministère du Conseil exécutif and the executive director of the École nationale de police du Québec.

The selection committee shall promptly evaluate the candidates on the basis of their knowledge, particularly of the law enforcement community and the applicable law, their experience and their qualifications, according to the criteria determined by government regulation. Without delay, the committee shall present to the Minister a report in which it lists the candidates it has met whom it considers fit to hold the office of Director General. All information and documents regarding the candidates and the proceedings of the committee are confidential.

The members of the selection committee shall receive no remuneration, 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 the expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

“56.3. At the expiry of his or her term, the Director General shall remain in office until reappointed or replaced.

The Director General may resign at any time by giving written notice to the Minister.

“56.4. In an urgent situation requiring prompt intervention, or in a presumed case of serious fault, the Minister may provisionally relieve the Director General from his or her duties, with remuneration.

“56.5. Subject to a dismissal under section 116.1, 117, 119, 234 or 252, the Director General may be dismissed only by the National Assembly, on a motion of the Prime Minister and with the approval of two-thirds of its Members.

“56.6. Deputy directors shall be appointed by the Government on the recommendation of the Director General.

“56.7. The Director General and deputy directors must meet the conditions set out in the first paragraph of section 115, except subparagraph 4.

“56.8. Where the Director General is absent or unable to act, or where the position of Director General is vacant, the deputy director designated by the Minister shall act as interim director general.

“56.9. Senior officers other than the Director General and deputy directors shall be appointed by the Minister on the recommendation of the Director General.

Junior officers, constables and auxiliary constables shall be appointed by the Director General.”

7. Section 57 of the Act is replaced by the following section:

“57. The Government shall determine the remuneration, employee benefits and other conditions of employment of the members and cadets of the Sûreté du Québec.”

8. Sections 58 and 59 of the Act are repealed.

ACT RESPECTING THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

9. Section 2 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) is replaced by the following section:

“2. On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly appoints a Director.

The person proposed by the Prime Minister must be recommended by the Minister of Justice, be an advocate with at least 10 years’ practice and be chosen from a list of persons who have been declared qualified to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person must meet with Members at a single in camera meeting. To that end, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members must submit a joint report to the Prime Minister containing each Member’s recommendation regarding the candidacy of the person they met with. The report is confidential.”

10. Section 6 of the Act is amended

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

“The Director may be dismissed only by the National Assembly, on a motion of the Prime Minister following a recommendation made by the Minister to that effect and with the approval of two-thirds of its Members.”;

(2) by replacing “or the Deputy Director from their duties” in the second paragraph by “from duties”.

11. The Act is amended by inserting the following section after section 6:

“6.1. The Deputy Director may not be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a report from the Commission de la fonction publique. The suspension may not exceed three months.

In an urgent situation requiring prompt intervention, or in a presumed case of serious fault, the Minister may provisionally relieve the Deputy Director from duties, with remuneration.”

PUBLIC SERVICE ACT

12. Section 115 of the Public Service Act (chapter F-3.1.1) is amended

(1) by replacing “the Director of Criminal and Penal Prosecutions or the Deputy Director of Criminal and Penal Prosecutions or suspend the Director or Deputy Director without remuneration as provided for in section 6” in subparagraph 3 of the first paragraph by “or suspend the Deputy Director of Criminal and Penal Prosecutions without remuneration as provided for in section 6.1”;

(2) by replacing “the Anti-Corruption Commissioner or an Associate Commissioner as provided for in sections 5.4 and 8.3” in subparagraph 4 of the first paragraph by “an Associate Commissioner as provided for in section 8.2”.

REGULATION RESPECTING THE ETHICS AND PROFESSIONAL CONDUCT OF PUBLIC OFFICE HOLDERS

13. Section 37 of the Regulation respecting the ethics and professional conduct of public office holders (chapter M-30, r. 1) is amended by inserting “appointed by the National Assembly or” after “holder” in the first paragraph.

TRANSITIONAL AND FINAL PROVISIONS

14. The Director General of the Sûreté du Québec in office on (*insert the date of assent to this Act*) continues his or her term for the time and on the conditions set out in his or her deed of appointment, as if the Director General had been appointed in accordance with section 56 of the Police Act (chapter P-13.1), enacted by section 6. Consequently, section 56.5 of the Police Act, as enacted by section 6, applies to the Director General.

15. The Director of Criminal and Penal Prosecutions in office on *(insert the date of assent to this Act)* continues his or her term for the time and on the conditions set out in his or her deed of appointment, except the conditions regarding dismissal or suspension by the Government, as if the Director had been appointed in accordance with section 2 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1), enacted by section 9. Consequently, section 6 of the Act respecting the Director of Criminal and Penal Prosecutions, as amended by section 10, applies to the Director.

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

