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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 39

**An Act to amend various legislative provisions concerning the immunity of the Persons designated by the National Assembly as regards compellability as witnesses**

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**Introduction**

**Introduced by  
Mr Jacques Brassard  
Minister responsible for Parliamentary Reform and  
Government House Leader**

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## **EXPLANATORY NOTES**

*This bill amends the Election Act, the Public Protector Act and the Auditor General Act, as well as the Act respecting elections and referendums in municipalities and the Act respecting school elections, as regards the immunity of Persons designated by the National Assembly. The circumstances in which the immunity applies are specified.*

*The new provisions introduced by the bill do not apply to any proceeding in which such a designated Person was assigned to appear before the coming into force of the legislation.*

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

- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Election Act (R.S.Q., chapter E-3.3);
- Public Protector Act (R.S.Q., chapter P-32);
- Auditor General Act (R.S.Q., chapter V-5.01).

## **Bill 39**

### **AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING THE IMMUNITY OF THE PERSONS DESIGNATED BY THE NATIONAL ASSEMBLY AS REGARDS COMPELLABILITY AS WITNESSES**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by inserting the following section after section 657 :

“657.1. Sections 572.1, 572.2 and 572.3 of the Election Act (chapter E-3.3) apply, with the necessary modifications, to the chief electoral officer and the members of his personnel in the exercise of the functions assigned to them by this Act.”

2. The Act respecting school elections (R.S.Q., chapter E-2.3) is amended by inserting the following section after section 280 :

“280.1. Sections 572.1, 572.2 and 572.3 of the Election Act (chapter E-3.3) apply, with the necessary modifications, to the chief electoral officer and the members of his personnel in the exercise of the functions assigned to them by this Act.”

3. Section 572.1 of the Election Act (R.S.Q., chapter E-3.3) is amended

(1) by replacing “his employees” by “the members of his personnel”;

(2) by adding the following paragraphs :

“Furthermore, neither the chief electoral officer nor the members of his personnel may be compelled to give testimony or produce a document that otherwise relates to the performance of their verification or inquiry functions, including an opinion, recommendation or report, except

(1) before the National Assembly or a committee of the National Assembly ;

(2) in a proceeding, where a judge of the Superior Court, on a motion and after hearing the representations of the chief electoral officer, determines that such testimony or the production of such a document is necessary to prevent irreparable harm to a party to the proceeding. The decision of the Superior Court may be appealed as of right before the Court of Appeal and the appeal suspends the order to give testimony or produce a document.

A judge of the Superior Court or, if the order is an order of the Superior Court, a judge of the Court of Appeal, may, on a motion, summarily annul any order issued contrary to this section. The filing by the chief electoral officer at the office of the Superior Court or the Court of Appeal, as the case may be, of a written proceeding seeking the annulment of the order suspends the order to give testimony or produce a document.”

4. Section 572.2 of the said Act is amended by replacing “his employees” by “the members of his personnel”.

5. Section 34 of the Public Protector Act (R.S.Q., chapter P-32) is amended by inserting the following paragraphs after the first paragraph :

“Furthermore, neither the Public Protector nor his assistant, public servants or employees may be compelled to give testimony or produce a document that otherwise relates to the performance of the Public Protector’s investigation or intervention functions, including an opinion, recommendation or report, except

(1) before the National Assembly or a committee of the National Assembly ;

(2) in a proceeding, where a judge of the Superior Court, on a motion and after hearing the representations of the Public Protector, determines that such testimony or the production of such a document is necessary to prevent irreparable harm to a party to the proceeding. The decision of the Superior Court may be appealed as of right before the Court of Appeal and the appeal suspends the order to give testimony or produce a document.

A judge of the Superior Court or, if the order is an order of the Superior Court, a judge of the Court of Appeal, may, on a motion, summarily annul any order issued contrary to this section. The filing by the Public Protector at the office of the Superior Court or the Court of Appeal, as the case may be, of a written proceeding seeking the annulment of the order suspends the order to give testimony or produce a document.”

6. Section 50 of the Auditor General Act (R.S.Q., chapter V-5.01) is amended by adding the following paragraphs :

“Furthermore, neither the Auditor General nor his employees or professionals under contract may be compelled to give testimony or produce a document that otherwise relates to the performance of their audit or investigation functions, including an opinion, recommendation or report, except

(1) before the National Assembly or a committee of the National Assembly ;

(2) in a proceeding, where a judge of the Superior Court, on a motion and after hearing the representations of the Auditor General, determines that such testimony or the production of such a document is necessary to prevent irreparable harm to a party to the proceeding. The decision of the Superior Court may be appealed as of right before the Court of Appeal and the appeal suspends the order to give testimony or produce a document.

A judge of the Superior Court or, if the order is an order of the Superior Court, a judge of the Court of Appeal, may, on a motion, summarily annul any order issued contrary to this section. The filing by the Auditor General at the office of the Superior Court or the Court of Appeal, as the case may be, of a written proceeding seeking the annulment of the order suspends the order to give testimony or produce a document.”

7. This Act does not apply to a proceeding in which the chief electoral officer, the Public Protector or his assistant, the Auditor General or any of their public servants, employees, personnel members or professionals under contract, was summoned to appear before (*insert here the date of coming into force of this Act*).

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