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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 70

**An Act to amend the Act respecting  
administrative justice and other  
legislative provisions**

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**Introduction**

**Introduced by  
Mr Paul Bégin  
Minister of Justice**

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## **EXPLANATORY NOTES**

*This bill amends the Act respecting administrative justice as regards the renewal of the terms of office and the remuneration of the members of the Administrative Tribunal of Québec. It introduces similar provisions with respect to the members of the Commission des lésions professionnelles, the Régie du logement and the Commission des relations du travail.*

*Various procedural measures also included in the bill are designed to improve the conduct of proceedings before the Administrative Tribunal of Québec and to shorten processing times.*

*Finally, the bill contains consequential amendments that were omitted in earlier legislation.*

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

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Labour Code (R.S.Q., chapter C-27);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Régie du logement (R.S.Q., chapter R-8.1).

## **Bill 70**

### **AN ACT TO AMEND THE ACT RESPECTING ADMINISTRATIVE JUSTICE AND OTHER LEGISLATIVE PROVISIONS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### **ACT RESPECTING ADMINISTRATIVE JUSTICE**

**1.** Section 24 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended

(1) by inserting “, education and road safety” after “social services” in the first line ;

(2) by inserting “, as regards health services and social services matters,” after “in particular” in the third line.

**2.** Section 25 of the said Act, amended by section 18 of chapter 29 of the statutes of 2001, is again amended by replacing the second and third paragraphs by the following paragraph :

“Proceedings referred to in paragraphs 1, 2.1.1, 2.3, 3, 4, 5, 6, 8, 9, 11, 13 and 14 of section 3 of Schedule I shall be heard and determined by a single member who shall be an advocate or notary.”

**3.** Section 27 of the said Act is amended

(1) by replacing “a panel of two members each of whom shall be an advocate or notary” in the first and second lines of the first paragraph by “a single member who shall be an advocate or notary” ;

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

“However, proceedings under section 188 of the Act respecting the Québec Pension Plan (chapter R-9) brought against a decision based on a person’s disability shall be heard and determined by a panel of two members one of whom shall be an advocate or notary and the other, a physician.”

**4.** Sections 48 and 49 of the said Act are replaced by the following sections :

**“48.** The term of office of a member shall be renewed for five years, according to the procedure established under section 49,

(1) unless the member is notified otherwise at least three months before the expiry of the term by the agent authorized therefor by the Government ; or

(2) unless the member requests otherwise and so notifies the Minister at least three months before the expiry of the term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the member for a valid reason, only where required by special circumstances stated in the instrument of renewal.

**“49.** The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation may, in particular,

(1) authorize the establishment of committees ;

(2) fix the composition of the committees and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (2000, chapter 8) ;

(3) determine the criteria to be taken into account by the committees ;

(4) determine the information a committee may require from a member and the consultations it may hold.

An examination committee may not make a recommendation against the renewal of a member’s term of office without first having informed the member of its intention to make such a recommendation and of the reasons therefor and without having given the member the opportunity to present observations.

No judicial proceedings may be brought against members of an examination committee for any act done in good faith in the performance of their duties.”

**5.** Section 56 of the said Act is amended by adding “, and the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of members whose salary has reached the maximum rate” at the end of subparagraph 1 of the first paragraph.

**6.** Section 78 of the said Act is amended by replacing subparagraph 3 of the second paragraph by the following subparagraph :

“(3) the nature of the cases in which a conciliation session or a settlement conference was held, the number of such cases, as well as the number of such cases where an agreement or a settlement was reached between the parties ;”.

**7.** Section 102 of the said Act is amended by adding “, a proceeding under section 65 of the Workmen’s Compensation Act (chapter A-3) or a proceeding under section 12 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (chapter I-7)” at the end of the first paragraph.

**8.** Section 114 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Within 45 days of receipt of a copy of the motion, the municipal body responsible for the assessment shall send a copy of the documents relevant to the contestation, in particular the document prescribed under the Act respecting municipal taxation by regulation of the Minister of Municipal Affairs and Greater Montréal for the description and the cost approach appraisal of the value of the unit of assessment.”

**9.** The said Act is amended by inserting the following section after section 118:

**“118.1.** A case before the Tribunal must be ready for hearing within 180 days of the filing of the motion to institute proceedings or, in the case of an expropriation matter, within 180 days of the filing of the offer of the expropriating party or the detailed claim of the expropriated party.

At the expiry of the 180-day period, the Tribunal may convene the parties to a case management conference or to a settlement conference.”

**10.** Section 119 of the said Act, amended by section 19 of chapter 29 of the statutes of 2001, is again amended by replacing “21.0.4” in the first line of paragraph 5 by “21.1”.

**11.** The said Act is amended by inserting the following division after section 119:

### **“DIVISION III.1**

#### **“CASE MANAGEMENT CONFERENCE**

**“119.1.** Where warranted by the circumstances of a case, in particular where one of the parties fails to act within the time prescribed by law, the president of the Tribunal, the vice-president responsible for the division concerned or the member designated by either may, on his or her own initiative or at the request of one of the parties, convene the parties to a case management conference in order to

(1) come to an agreement with the parties as to the conduct of the proceeding, specifying the undertakings of the parties and determining the timetable to be complied with within the prescribed time;

(2) if the parties fail to agree, determine a timetable for the proceeding, which is binding on the parties ;

(3) determine how the conduct of the proceeding may be simplified or accelerated and the hearing shortened, among other things by better defining the questions at issue or admitting any fact or document ;

(4) invite the parties to a settlement conference.

**“119.2.** The minutes of the conference shall be drawn up and signed by the member having conducted the conference.

**“119.3.** If one of the parties fails to attend the conference, the Tribunal shall record the failure and make the decisions it considers appropriate.

**“119.4.** In a municipal taxation matter pertaining to a unit of assessment or a place of business in respect of which the property or rental value that is entered on the roll is equal to or greater than the value fixed by government regulation, and in an expropriation matter, the parties must file a proceeding timetable.

In a municipal taxation matter, the proceeding timetable must be filed within three months of the institution of proceedings, and in an expropriation matter, within three months of the filing of the offer of the expropriating party or the detailed claim of the expropriated party.

**“119.5.** If the parties fail to comply with the timetable, the member may make the appropriate determinations, including foreclosure. The member may, on request, relieve a foreclosed party from default if the party establishes that he or she was unable, for serious and valid reasons, to act sooner and if the Tribunal considers that no other party suffers serious harm therefrom.”

**12.** Section 120 of the said Act is amended

(1) by striking out “suspend the proceedings for a period not exceeding 30 days in order to” in the fifth and sixth lines of the first paragraph ;

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

“In the case of a proceeding pertaining to a decision claiming the repayment of social security benefits wrongly received, a proceeding pertaining to a decision based on a person’s disability in a pension plan matter or a proceeding regarding compensation under the Automobile Insurance Act (chapter A-25), the president of the Tribunal or the vice-president responsible for the division concerned may convene the parties to an initial conciliation session and designate the conciliator. The parties are bound to attend.”

**13.** The said Act is amended by inserting the following division after section 124 :

## **“DIVISION IV.1**

### **“SETTLEMENT CONFERENCE**

**“124.1.** If he or she considers it expedient and if the subject-matter and circumstances of the case permit it, the president of the Tribunal, the vice-president responsible for the division concerned, the member designated by either of them or any member called on to hear the case may, with the consent of the parties, at any time before the case is taken under advisement, conduct a settlement conference.

In the case of a proceeding referred to in the second paragraph of section 120, the president of the Tribunal or the vice-president responsible for the division concerned may convene parties to an initial settlement conference session and designate the member who is to conduct the conference. The parties are bound to attend.

**“124.2.** The purpose of a settlement conference is to facilitate dialogue between the parties and help them to identify their interests, assess their positions and explore mutually satisfactory solutions.

**“124.3.** A settlement conference is held in private without formality and requires no prior written documents.

It is held in the presence of the parties or, at the option of the parties, in the presence of their representatives. With the consent of the parties, the member conducting the conference may meet with the parties separately. Other persons may also attend the conference if the member or the parties consider that their presence would be helpful in resolving the dispute.

After consulting with the parties, the member shall define the rules of the settlement conference and any measure to facilitate its conduct, and determine the schedule of meetings.

**“124.4.** The settlement conference does not suspend the proceeding. However, the member conducting the conference may, if necessary, modify the proceeding timetable.

If warranted by the circumstances, the member may convert the settlement conference into a case management conference.

**“124.5.** The provisions of sections 122 and 123, with the necessary modifications, apply to a settlement conference.

**“124.6.** If no settlement is reached, the member having conducted the settlement conference may not preside at any subsequent hearing relating to the dispute except with the consent of the parties.

**“124.7.** Any settlement that is reached shall be recorded in writing. It shall be signed by the member having conducted the settlement conference and the parties or, where applicable, by their representatives, and is binding on the parties.

The settlement shall terminate the proceeding and is enforceable as a decision of the Tribunal.”

**14.** Section 128 of the said Act is amended by striking out the second paragraph.

**15.** Section 132 of the said Act is replaced by the following section :

**“132.** Any party wishing to summon a witness shall do so by means of a subpoena issued by a member or by the advocate representing the party and served in accordance with the rules of procedure of the Tribunal.

Any party may examine and cross-examine witnesses to the extent necessary to ensure a fair process.”

**16.** Schedule I to the said Act, amended by section 130 of chapter 9 of the statutes of 2001, section 107 of chapter 24 of the statutes of 2001 and section 20 of chapter 29 of the statutes of 2001, is again amended by replacing “section 59” in the third line of paragraph 11 of section 3 by “section 48 or 59”.

**17.** Schedule II to the said Act, amended by section 164 of chapter 56 of the statutes of 2000, is again amended

(1) by striking out paragraph 8 ;

(2) by adding the following paragraph at the end :

“(12) proceedings under section 13 of the Act respecting the reconstruction and redevelopment of areas affected by the torrential rains of 19 and 20 July 1996 in the Saguenay—Lac-Saint-Jean region (1997, chapter 60).”

**18.** Schedule III to the said Act, amended by section 48 of chapter 9 of the statutes of 2000, section 165 of chapter 56 of the statutes of 2000 and section 24 of chapter 14 of the statutes of 2001, is again amended by replacing “21.0.4” in the second line of paragraph 2 by “21.1”.

**19.** Schedule IV to the said Act, amended by section 22 of chapter 10 of the statutes of 2000, section 64 of chapter 26 of the statutes of 2000, section 28 of chapter 49 of the statutes of 2000 and section 65 of chapter 53 of the statutes of 2000, is again amended

(1) by striking out paragraph 4.1 ;



(2) by replacing “section 36.16” in the first line of paragraph 13 by “sections 36.14 and 36.16”;

(3) by striking out paragraph 20;

(4) by inserting the following paragraphs after paragraph 22:

“(22.1) section 5.7 of the Act respecting farmers’ and dairymen’s associations (chapter S-23);

“(22.2) section 18 of the Horticultural Societies Act (chapter S-27);”;

(5) by replacing “252” in paragraph 23 by “251”;

(6) by replacing paragraph 24.1 by the following paragraph:

“(24.1) section 85 of the Act respecting transportation services by taxi (2001, chapter 15);”.

## ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

**20.** Sections 394 and 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) are replaced by the following sections:

**“394.** The term of office of a commissioner shall be renewed for five years, according to the procedure established under section 395,

(1) unless the commissioner is notified otherwise at least three months before the expiry of the term by the agent authorized therefor by the Government; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of the term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where required by special circumstances stated in the instrument of renewal.

**“395.** The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation may, in particular,

(1) authorize the establishment of committees;

(2) fix the composition of the committees and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (2000, chapter 8);

- (3) determine the criteria to be taken into account by the committees ;
- (4) determine the information a committee may require from a commissioner and the consultations it may hold.

An examination committee may not make a recommendation against the renewal of a commissioner's term of office without first having informed the commissioner of its intention to make such a recommendation and of the reasons therefor and without having given the commissioner the opportunity to present observations.

No judicial proceedings may be brought against members of an examination committee for any act done in good faith in the performance of their duties."

**21.** Section 402 of the said Act is amended by adding “, and the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of members whose salary has reached the maximum rate” at the end of subparagraph 1 of the first paragraph.

#### LABOUR CODE

**22.** Sections 137.19 and 137.20 of the Labour Code (R.S.Q., chapter C-27), enacted by section 63 of chapter 26 of the statutes of 2001, are replaced by the following sections :

**“137.19.** The term of office of a commissioner shall be renewed for five years, according to the procedure established under section 137.20,

(1) unless the commissioner is notified otherwise at least three months before the expiry of the term by the agent authorized therefor by the Government ; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of the term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where required by special circumstances stated in the instrument of renewal.

**“137.20.** The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation may, in particular,

- (1) authorize the establishment of committees ;
- (2) fix the composition of the committees and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (2000, chapter 8) ;

- (3) determine the criteria to be taken into account by the committees ;
- (4) determine the information a committee may require from a commissioner and the consultations it may hold.

An examination committee may not make a recommendation against the renewal of a commissioner's term of office without first having informed the commissioner of its intention to make such a recommendation and of the reasons therefor and without having given the commissioner the opportunity to present observations.

No judicial proceedings may be brought against members of an examination committee for any act done in good faith in the performance of their duties."

**23.** Section 137.27 of the said Code, enacted by section 63 of chapter 26 of the statutes of 2001, is amended by adding “, and the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate” at the end of subparagraph 1 of the first paragraph.

#### ACT RESPECTING MUNICIPAL TAXATION

**24.** Section 262 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 31 of chapter 19 of the statutes of 2000, section 10 of chapter 27 of the statutes of 2000, section 88 of chapter 54 of the statutes of 2000 and section 134 of chapter 25 of the statutes of 2001, is again amended by inserting “, 119.4” after “85” in the fifth line of paragraph 8.3.

#### ACT RESPECTING THE RÉGIE DU LOGEMENT

**25.** Sections 7.6 and 7.7 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) are replaced by the following sections :

**“7.6.** The term of office of a commissioner shall be renewed for five years, according to the procedure established under section 7.7,

(1) unless the commissioner is notified otherwise at least three months before the expiry of the term by the agent authorized therefor by the Government; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of the term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where required by special circumstances stated in the instrument of renewal.

**“7.7.** The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation may, in particular,

- (1) authorize the establishment of committees;
- (2) fix the composition of the committees and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (2000, chapter 8);
- (3) determine the criteria to be taken into account by the committees;
- (4) determine the information a committee may require from a commissioner and the consultations it may hold.

An examination committee may not make a recommendation against the renewal of a commissioner’s term of office without first having informed the commissioner of its intention to make such a recommendation and of the reasons therefor and without having given the commissioner the opportunity to present observations.

No judicial proceedings may be brought against members of an examination committee for any act done in good faith in the performance of their duties.”

**26.** Section 7.14 of the said Act is amended by adding “, and the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate” at the end of subparagraph 1 of the first paragraph.

**27.** A time limit introduced by this Act shall begin to run on the date of coming into force of this Act.

**28.** The provisions of this Act come into force on (*insert here the date of assent to this Act*), except sections 6, 8, 9, section 119.4 of the Act respecting administrative justice introduced by section 11, and section 24, which come into force on the date or dates to be fixed by the Government.