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# NATIONAL ASSEMBLY OF QUÉBEC

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FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 8

**An Act to improve justice efficiency  
and accessibility, in particular by  
promoting mediation and arbitration  
and by simplifying civil procedure in  
the Court of Québec**

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**Introduction**

**Introduced by  
Mr. Simon Jolin-Barrette  
Minister of Justice**

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## **EXPLANATORY NOTES**

*This bill makes various amendments to the Code of Civil Procedure.*

*The purpose of the bill is, first, to promote mediation and arbitration in small claims cases by empowering the Government to make a regulation governing such mediation and arbitration, thus making it possible, among other things, to prescribe the cases in which disputes must be submitted to mediation and those in which arbitration is to be offered to the parties.*

*The Code of Civil Procedure is then amended in order to*

*(1) provide that a case that was the object of a mediation or pre-court protocol is to be tried by preference;*

*(2) grant the court the power to compell parties to comply with a contractual obligation to undertake mediation; and*

*(3) raise to \$50,000 the limit below which holding an oral pre-trial examination is not permitted.*

*In addition, the bill gives the Court of Québec exclusive jurisdiction to hear applications in which the amount claimed or the value of the subject matter of the dispute is less than \$75,000. It also gives that Court concurrent jurisdiction with that of the Superior Court where that amount or that value is equal to or exceeds \$75,000 but is less than \$100,000. The bill provides for the adjustment of each of those monetary limits for the Court of Québec's jurisdiction.*

*The bill also introduces a special procedure for applications in civil matters brought before the Court of Québec. To that end, it establishes simplified rules applicable to such applications in order to, among other things,*

*(1) provide that a case protocol is not required and set time limits for accomplishing certain procedural steps;*

*(2) introduce special rules of evidence, such as making expert opinions that are not joint subject to the authorization of the court in some cases;*

*(3) provide that cases are to be set down for trial and judgment by the court clerk; and*

*(4) when an oral examination is permitted by the Code of Civil Procedure, limit the number of such pre-trial examinations to only one per party, unless otherwise authorized by the court.*

*The Code of Civil Procedure is also amended in order to*

*(1) provide that, in small claims cases, certain decisions may be rendered on the face of the record;*

*(2) allow the revendication of property in the Small Claims Division where the application is ancillary to an application under the jurisdiction of that Division; and*

*(3) provide for the adjustment of the monetary limit for small claims.*

*Furthermore, the bill makes various amendments to the Courts of Justice Act in order to diversify the makeup of the Conseil de la magistrature, to set out certain obligations that apply to the council concerning, among other things, the publication of an annual report on the training and professional development activities for judges, judicial ethics and the processing of complaints, and to provide for the books and accounts of the council to be audited at least once every five years by the Auditor General. The Act is also amended to add two judges to the Court of Appeal and to provide that administrative justices of the peace and officers of justice of the Superior Court and of the Court of Québec, as well as the personnel of those courts, have jurisdiction throughout Québec. The bill amends Schedule I to that Act in order to expand the territory over which concurrent jurisdiction of the districts of Gatineau and of Labelle is exercised, as well as to provide that the Government may, by regulation, amend the Schedule to modify the description of the territory over which concurrent jurisdiction is exercised.*

*In addition, the bill provides that the judges of the courts of justice who are appointed by the Government may be appointed from among notaries having at least ten years' practice.*

*Lastly, the bill contains transitional provisions and one final provision.*

**LEGISLATION AMENDED BY THIS BILL:**

- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Code of Civil Procedure (chapter C-25.01);
- Act respecting municipal courts (chapter C-72.01);
- Act respecting the protection of personal information in the private sector (chapter P-39.1);
- Act respecting the Administrative Housing Tribunal (chapter T-15.01);
- Courts of Justice Act (chapter T-16);
- Act to establish the new Code of Civil Procedure (2014, chapter 1).

## Bill 8

### **AN ACT TO IMPROVE JUSTICE EFFICIENCY AND ACCESSIBILITY, IN PARTICULAR BY PROMOTING MEDIATION AND ARBITRATION AND BY SIMPLIFYING CIVIL PROCEDURE IN THE COURT OF QUÉBEC**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### CODE OF CIVIL PROCEDURE

**1.** Article 4 of the Code of Civil Procedure (chapter C-25.01) is amended by adding the following paragraph at the end:

“In that regard, the parties may agree to file in the court record the content of a pre-court protocol and the evidence exchanged between the parties to prepare and implement the protocol.”

**2.** Article 7 of the Code is amended by adding the following paragraph at the end:

“If the parties exercise their right to act before the courts, the application then instituted is tried by preference provided it is accompanied by a certificate issued by a certified mediator, or by a body offering mediation in civil matters that meets the conditions prescribed by regulation of the Minister of Justice, and confirming that the parties resorted to a private dispute prevention and resolution process, or by evidence that the parties agreed to a pre-court protocol.”

**3.** Article 35 of the Code is amended

(1) in the first paragraph,

(a) by replacing “\$85,000” by “\$75,000 and concurrent jurisdiction with the Superior Court, at the plaintiff’s option, where that value or amount is equal to or exceeds \$75,000 but is less than \$100,000”;

(b) by replacing “such jurisdiction” by “either one of those jurisdictions”;

(c) by adding the following sentence at the end: “The plaintiff’s option continues to prevail if the chosen court retains jurisdiction under the second paragraph.”;

(2) by replacing, in the second paragraph, both occurrences of “\$85,000” by “\$100,000” and “that amount. In either case, the” by “\$75,000. The”;

(3) in the fourth paragraph,

(a) by replacing “The monetary jurisdiction limit of the Court of Québec” in the fourth paragraph by “The monetary limit for the Court of Québec’s exclusive jurisdiction”;

(b) by adding the following sentence at the end: “The same applies to the increase in the upper monetary limit for the Court of Québec’s concurrent jurisdiction and to the annual adjustment of the upper limit amount.”

**4.** Article 175 of the Code is amended by inserting “or prescribed by this Code” after “protocol” in the first paragraph.

**5.** Article 180 of the Code is amended by inserting “or prescribed by this Code” after “protocol” in the second paragraph.

**6.** Article 229 of the Code is amended by replacing “\$30,000” in the first paragraph by “\$50,000”.

**7.** The Code is amended by inserting the following title after article 535:

**“TITLE I.1**

**“SPECIAL SIMPLIFIED RULES FOR THE RECOVERY OF CERTAIN CLAIMS**

**“CHAPTER I**

**“GENERAL PROVISIONS**

**“535.1.** Applications in which the value of the subject matter of the dispute or the amount claimed, including in lease resiliation matters, is less than \$100,000, exclusive of interest, and those ancillary to such an application, including those for the specific performance of a contractual obligation, brought under the rules of Book II before the Court of Québec in the exercise of its jurisdiction under article 35, are also conducted according to the following special rules.

**“CHAPTER II**

**“APPLICATION, DEFENCE AND CASE MANAGEMENT**

**“535.2.** The preparation of a case protocol is not required.

**“535.3.** The statements set out in an originating application shall not exceed five pages in length. The court may, by way of exception and if warranted on serious grounds, authorize the subsequent addition of supplementary pages.

**“535.4.** The plaintiff must, within 30 days after service of the summons, complete the application by disclosing to the defendant the exhibits in support of the application and by filing with the court office a notice stating the nature and number of testimonies by affidavit that the plaintiff intends to file as well as the nature and number of pre-trial examinations that the plaintiff intends to conduct and of expert opinions that the plaintiff intends to seek so that the court may authorize them, if applicable.

**“535.5.** The preliminary exceptions and incidental applications that a party intends to raise must be disclosed in writing to the other party; the written disclosure must be filed with the court office within 45 days after service of the summons and the other party may make representations in writing within 10 days after the disclosure. The preliminary exceptions and incidental applications are subsequently presented before the court, if applicable.

Any preliminary exceptions and incidental applications that could not be disclosed before the expiry of the time limit are presented before the court as soon as possible.

On the expiry of the time limit for making written representations, an application for dismissal of the proceeding based on a declinatory exception or on an exception to dismiss may be denied on the face of the record and an application for the stay of the proceeding arising from a preliminary exception or an incidental application may be decided on the face of the record.

**“535.6.** The defendant must, within 85 days after service of the summons, file with the court office a brief outline of the defendant’s arguments and a notice stating the nature and number of testimonies by affidavit that the defendant intends to file as well as the nature and number of pre-trial examinations that the defendant intends to conduct and of expert opinions that the defendant intends to seek so that the court may authorize them, if applicable. The defendant must, within the same time, disclose to the plaintiff the exhibits in support of the defence.

The statements contained in the brief outline of the arguments shall not exceed two pages in length, or seven pages if the defendant makes a cross-application. The court may, by way of exception and if warranted on serious grounds, authorize the subsequent addition of supplementary pages.

**“535.7.** The intervenor or the impleaded party must, within 45 days after notification of the originating application or of the declaration of intervention, file with the court office either their declaration of intervention or a brief outline of their arguments, which must obey the same rules as those applying to the originating application or the brief outline, respectively.

**“535.8.** A case management conference is held after the complete record of the defence is filed but within 100 days after service of the summons, if one of the parties is not represented or if the court has to decide the preliminary

exceptions or incidental applications that have not already been presented before it or has to authorize the pre-trial examinations that a party intends to conduct, the expert opinions that a party intends to seek or the number of pages of the application, of the defence or of a witness's affidavit.

The conference is held at a distance, unless the court requires that it be held in person; the parties are bound to attend if the court requires them to do so.

**“535.9.** A pre-trial written examination shall not exceed three pages in length.

Each of the parties is entitled to only a single oral pre-trial examination where the amount claimed or the value of the property claimed in the judicial application is equal to or greater than \$50,000, unless the court decides otherwise.

**“535.10.** The origin of evidence filed with the court office or the integrity of the information it contains is presumed to be admitted unless one of the parties objects.

**“535.11.** The court may, only by way of exception and if warranted on serious grounds, order a party, including at the case management conference, to provide particulars as to allegations made or to strike immaterial allegations.

### **“CHAPTER III**

#### **“JUDICIAL CONCILIATION, SETTING DOWN AND TRIAL**

**“535.12.** A settlement conference is held after the complete record of the defence is filed, not earlier than 120 days, nor later than 150 days, from service of the summons. If no settlement is reached, the conference is converted into a pre-trial conference.

The settlement conference may, with the parties' consent, be replaced by a pre-trial conference if the parties have already participated in another settlement conference in the course of the proceeding or if the plaintiff has filed with the court office, while completing the application, a certificate issued by a certified mediator, or by a body offering mediation in civil matters, and confirming that the parties resorted to a private dispute prevention and resolution process, or evidence that the parties agreed to a pre-court protocol.

The settlement conference may also be replaced by a pre-trial conference if the court considers that it must be in the circumstances.

At the pre-trial conference, the parties also ready the case for trial.

**“535.13.** The court clerk sets the case down for trial and judgment on an order of the court, including at the case management conference or at the pre-trial conference, or not later than six months after service of the summons.



**“535.14.** In lieu of the testimony of one of their witnesses on the facts of the dispute, a party may produce an affidavit from the witness, provided the affidavit has been notified to the other parties beforehand. An affidavit shall not exceed five pages in length, but the court may, by way of exception and if warranted on serious grounds, authorize the subsequent addition of supplementary pages.

**“535.15.** The parties must seek a joint expert opinion in cases where the amount claimed or the value of the property claimed in the judicial application is less than \$50,000, unless the court authorizes that the expert opinion not be joint.”

**8.** Article 536 of the Code is amended by adding the following sentence at the end of the first paragraph: “The same applies to an application ancillary to such an application and pertaining to the revendication of property.”

**9.** The Code is amended by inserting the following articles after article 539:

**“539.1.** The monetary limit for the recovery of small claims provided for in articles 536, 538, 539, 550, 565 and 660 is increased by \$1,000 on 1 September of the calendar year following the calendar year in which the total amount resulting from annual adjustment of the indexed limit amount on the basis of the Consumer Price Index for Québec, determined by Statistics Canada, since the last increase is equal to or exceeds \$1,000. A notice stating the monetary limit for the recovery of small claims resulting from that calculation is published in the *Gazette officielle du Québec* by the Minister of Justice not later than 1 August of the year in which the new limit comes into force. Judicial applications introduced before 1 September of that year continue in accordance with the rules under which they were brought.

**“539.2.** Any application in the course of a proceeding must be in writing. The court clerk informs the other party of the application, specifying that they may make representations in writing within 10 days after being so informed. On the expiry of that time, the court clerk submits the application and any representations to the court, which decides the matter on the face of the record, unless the court considers it necessary to hear the parties.”

**10.** Article 541 of the Code is amended by replacing “Book II” by “Title I.1 of this Book”.

**11.** Article 547 of the Code is amended by replacing “Book II” in subparagraph 2 of the second paragraph by “Title I.1 of this Book”.

**12.** The heading of Division III of Chapter III of Title II of Book VI of the Code is amended by adding “AND ARBITRATION” at the end.

**13.** Article 556 of the Code is replaced by the following article:

**“556.** The parties must favour mediation and arbitration to settle their dispute.

To that end, the court clerk informs them at the earliest opportunity that they may, at no additional cost, submit their dispute to a certified mediator. However, in the cases and according to the terms and conditions prescribed by a government regulation made under article 570, the court clerk submits the dispute to such mediation before the matter can be heard by the court. The mediator files a report with the court office on the mediation conducted.

If the parties reach a settlement, they file with the court office either a notice that the case has been settled or the signed settlement agreement. A settlement agreement confirmed by the special clerk or the court is equivalent to a judgment.

If the parties do not reach a settlement, the court clerk, in the cases and according to the terms and conditions prescribed by a government regulation made under article 570, offers them arbitration, at no additional cost, by a certified arbitrator.”

**14.** The Code is amended by inserting the following article before article 562:

**“561.1.** At any stage of a proceeding pertaining to the recovery of a claim not exceeding \$3,000, the court may, with the parties’ consent, render judgment on the face of the record.”

**15.** Article 570 of the Code is amended

(1) by inserting the following paragraphs after paragraph 1:

“(1.1) rules specifying any matters and districts in which mediation is, notwithstanding the principles of Title I of Book I and of Book VII, mandatory and in which arbitration is offered to the parties as well as the other terms and conditions applicable to mediation or arbitration including, in the latter case, those relating to the parties’ consent to resort to it;

“(1.2) which bodies, persons or associations may certify mediators or arbitrators, the conditions with which they must comply in order to do so, as well as the conditions mediators or arbitrators must satisfy to be certified;”;

(2) in paragraph 2,

(a) by striking out “by the mediation service”;

(b) by inserting “or arbitrators” and “or an arbitrator” after “mediators” and “a mediator”, respectively;

(3) by inserting “or arbitrators” after “mediators” in paragraph 3.

**16.** The Code is amended by inserting the following article after article 607:

**“607.1.** A court seized of a dispute on an issue on which the parties have entered into a mediation agreement may, on a party’s application, refer the parties back to mediation, unless the court finds the agreement to be null. The application for referral to mediation must be made within 45 days after service of the originating application.

If mediation fails, the evidence exchanged between the parties may be filed in the court record by mutual agreement.”

**17.** Article 622 of the Code is amended by inserting “service of” in the second paragraph after “45 days after”.

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

**18.** Section 4 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended by inserting the following paragraph after the first paragraph:

“The Conseil de la magistrature falls within the scope of the first paragraph, except when it exercises its judicial functions in matters of ethics.”

**19.** Section 152 of the Act is amended by replacing “the Code of Civil Procedure that are applicable in first instance” in the second paragraph by “Book II of the Code of Civil Procedure”.

#### ACT RESPECTING MUNICIPAL COURTS

**20.** Section 33 of the Act respecting municipal courts (chapter C-72.01) is amended by inserting “or notaries” before “having” in the first paragraph.

#### ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

**21.** Section 67 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) is amended by replacing “the Code of Civil Procedure that are applicable in first instance” in the second paragraph by “Book II of the Code of Civil Procedure”.

#### ACT RESPECTING THE ADMINISTRATIVE HOUSING TRIBUNAL

**22.** Section 28 of the Act respecting the Administrative Housing Tribunal (chapter T-15.01) is amended by replacing “jurisdiction” in subparagraph 1 of the first paragraph by “upper monetary limit for the concurrent jurisdiction”.

## COURTS OF JUSTICE ACT

**23.** Section 4 of the Courts of Justice Act (chapter T-16) is amended by replacing “who may assign them jurisdiction in more than one district” in the second paragraph by “. They have jurisdiction, like court personnel, throughout Québec”.

**24.** Section 4.1 is amended by replacing “may, in accordance with that article, be given jurisdiction in more than one judicial district, even if he has not been appointed clerk of each of those districts” by “has jurisdiction throughout Québec”.

**25.** Section 5.5 of the Act is amended

- (1) by striking out the second paragraph;
- (2) by adding the following paragraph at the end:

“The Government may, by regulation, amend Schedule I as regards the description of the territory over which concurrent jurisdiction is exercised.”

**26.** Section 6 of the Act is amended by replacing “22” and “21” in the first paragraph by “24” and “23”, respectively.

**27.** Section 7 of the Act is amended

- (1) by replacing “22”, “seven” and “15” in the first paragraph by “24”, “eight” and “16”, respectively;
- (2) by replacing “22” in the third paragraph by “24”.

**28.** Section 54 of the Act is amended by replacing the first paragraph by the following paragraph:

“Sheriffs and clerks shall not only be officers of the judges of the Superior Court but shall also, generally, be officers of the court; they must obey the lawful orders of the Court and of the judges thereof.”

**29.** Section 83.1 of the Act is amended by replacing “of that Code that are applicable to a court of original jurisdiction” in the third paragraph by “of Book II of that Code”.

**30.** Section 87 of the Act is amended by inserting “or notaries” before “having” in the first paragraph.

**31.** Section 158 of the Act is amended by replacing the second and third paragraphs by the following paragraph:

“The ministerial order specifies whether such justices of the peace shall exercise their functions within the Superior Court and the Court of Québec, in which case they have jurisdiction throughout Québec, or whether they exercise them within a municipal court, in which case the order also specifies the territory over which they have jurisdiction.”

**32.** Section 162 of the Act is amended by inserting “or notaries” before “having” in the first paragraph.

**33.** Section 219 of the Act is amended by replacing “in the territory of the judicial district for which they are appointed” in subparagraph *b* of the first paragraph by “throughout Québec”.

**34.** Section 248 of the Act is amended

(1) by replacing “four” in paragraph *c* by “two”;

(2) by inserting the following paragraph after paragraph *g*:

“(g.1) one notary appointed upon the recommendation of the Chambre des notaires du Québec;”;

(3) in paragraph *h*:

(a) by inserting “,” in the French text after “juges”;

(b) by inserting “nor notaries” at the end;

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

“(i) one person who is neither a judge nor an advocate nor a notary and who works in an organization whose purpose is to help persons who are victims of criminal offences, appointed after consultation with such organizations.”

**35.** Section 249 of the Act is amended, in the first paragraph,

(1) by inserting “c,” after “paragraphs”;

(2) by replacing “*h*” by “*i*”.

**36.** The Act is amended by inserting the following sections before section 282:

**“281.1.** Each fiscal year of the council shall end on 31 March.

**“281.2.** Each year, the chairman of the council shall submit the council’s budget estimates for the ensuing fiscal year to the council and send a copy to the Minister of Justice.

The chairman of the council shall also submit supplementary budget estimates to the council when, in the course of the fiscal year, the council’s expenditures exceed the budget estimates. The chairman sends a copy of the supplementary budget estimates to the Minister.

**“281.3.** The books and accounts of the council are audited by the Auditor General.

The audit must be conducted at least every five years.

**“281.4.** Each year, the council shall publish on its website a report on the training and professional development activities for judges, including a list of the training activities offered, on judicial ethics, and on the processing of complaints, including the number of complaints received, not justified, under examination or retained for inquiry, as well as the number of judges who were the subject of complaints.

The report details the use of the amounts required in the performance of its functions under each of their components, in particular the amounts required for entering into service contracts or supply contracts or for paying other expenses.”

**37.** Schedule I to the Act is amended by replacing, in the column pertaining to the description of the territory over which concurrent jurisdiction is exercised between the districts of Gatineau and of Labelle,

(1) “Duhamel” by “Denholm, Duhamel, Kazabazua, Lac-Sainte-Marie”; and

(2) “Municipalité du canton d’Amherst” by “the township municipalities of Amherst and Low”.

#### ACT TO ESTABLISH THE NEW CODE OF CIVIL PROCEDURE

**38.** Section 836 of the Act to establish the new Code of Civil Procedure (2014, chapter 1) is amended by adding the following paragraph at the end:

“(3) the fourth paragraph of article 35, which comes into force on 30 June 2023.”

#### TRANSITIONAL AND FINAL PROVISIONS

**39.** The applications provided for in article 35 of the Code of Civil Procedure (chapter C-25.01) in which the value of the subject matter of the dispute or the amount claimed, including in lease resiliation matters, is less than \$85,000,

exclusive of interest, are continued before the Court of Québec and remain governed by the provisions of that Code, as they read before 30 June 2023, if they were introduced before that date.

**40.** For the purpose of the first appointment of members under paragraph *c* of section 248 of the Courts of Justice Act (chapter T-16), as amended by section 34 of this Act, the chief judge chooses the two judges who will be appointed by the Government to sit on the council.

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

(1) sections 1 to 11, 14, 16, 17, 19, 21, 22, 29, 38 and 39, which come into force on 30 June 2023;

(2) sections 12, 13 and 15, which come into force on the date of coming into force of the first regulation made under paragraphs 1.1 and 1.2 of article 570 of the Code of Civil Procedure, enacted by section 15 of this Act; and

(3) sections 34 and 35, which come into force two months after that date.

