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# NATIONAL ASSEMBLY OF QUÉBEC

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THIRD SESSION

FORTY-THIRD LEGISLATURE

Bill 698

**An Act respecting the co-construction  
of legislative and regulatory  
measures affecting the First Nations  
and the Inuit**

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**Introduction**

**Introduced by  
Madam Manon Massé  
Member for Sainte-Marie–Saint-Jacques**

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## **EXPLANATORY NOTES**

*This bill proposes the putting in place of a reference framework for the co-construction of legislative and regulatory measures that concern or affect the First Nations and the Inuit in Québec, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. It aims to guarantee respect for their rights and promote obtaining their free, prior and informed consent.*

*The bill determines the principles that are to guide the co-construction process, in particular transparency and good faith, active and ongoing collaboration, and respect for the rights, traditions and cultures of Indigenous peoples.*

*The bill provides that any legislative or regulatory measure must be preceded by a summary analysis to determine whether the measure concerns or affects the First Nations or the Inuit. If applicable, a co-construction process is initiated. To facilitate reaching a consensus, the bill sets out a dispute resolution mechanism.*

*Lastly, the bill, which is part of a broader effort toward legislative reconciliation, puts in place a process for reviewing existing statutes and regulations in order to ensure their consistency with the United Nations Declaration on the Rights of Indigenous Peoples.*

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

- Act respecting the Ministère du Conseil exécutif (chapter M-30).

## **Bill 698**

### **AN ACT RESPECTING THE CO-CONSTRUCTION OF LEGISLATIVE AND REGULATORY MEASURES AFFECTING THE FIRST NATIONS AND THE INUIT**

AS Québec recognizes the importance of the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly of the United Nations on 13 September 2007, and is committed to upholding its principles;

AS the First Nations and the Inuit have suffered historic injustices as a result of, among other things, colonization, which has contributed to their marginalization and exclusion, for many decades, from the decision-making processes concerning them;

AS the Commission d'enquête sur les relations entre les Autochtones et certains services publics brought to light the existence of systemic discriminatory practices and called for a profound transformation of relations between the Québec State and the First Nations and the Inuit;

AS reconciliation requires, among other things, a legislative reconciliation process that includes a review of the statutes and regulations in force as well as the participation of the First Nations and the Inuit in developing measures that concern or affect them;

AS article 19 of the United Nations Declaration on the Rights of Indigenous Peoples provides that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”;

AS Indigenous peoples, in exercising their right to self-determination, have the right to autonomy and self-government in all matters relating to their internal and local affairs, in accordance with article 4 of the Declaration;

AS Québec is committed to respecting and promoting the rights of Indigenous peoples, including their right to self-determination and to active participation in making decisions that concern them;

AS a collaborative and mutually respectful approach is important for developing legislative and regulatory measures affecting the First Nations and the Inuit;

AS Québec wishes to create a reference framework for the co-construction of legislative and regulatory measures with the First Nations and the Inuit;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

## **CHAPTER I**

### **GENERAL PROVISIONS**

**1.** The purpose of this Act is to implement a reference framework for the co-construction of legislative and regulatory measures that concern or affect the First Nations and the Inuit in Québec in order to guarantee respect for their rights and to obtain their free, prior and informed consent.

A further purpose of this Act is to provide a framework for the review of the statutes and regulations in force in order to ensure their consistency with the United Nations Declaration on the Rights of Indigenous Peoples.

For the purposes of this Act, “co-construction” means a collaborative and participatory process that actively involves the First Nations and the Inuit in all phases of development of measures that concern or affect them, from conception to implementation.

**2.** Co-construction is carried out with the First Nations and the Inuit through their representative organizations, including the Assembly of First Nations Quebec-Labrador, the Makivik Corporation, the Grand Council of the Crees and the council of the Naskapi Nation of Kawawachikamach.

A protocol, developed in collaboration with those representative organizations, specifies the terms governing the co-construction process. It sets out, among other things, the resources and support provided by the Gouvernement du Québec to enable the the organizations’ full and effective participation in the process.

**3.** Co-construction applies

(1) to government draft bills and bills;

(2) to proposed regulations that are subject to the Regulations Act (chapter R-18.1); and

(3) to proposed policy directions, strategies, policies and action plans as well as other documents of the same nature that could give rise to bills or proposed regulations.

However, co-construction does not apply to appropriations bills or tax bills or regulations.

**4.** The co-construction process must be carried out with the free, prior and informed consent of the First Nations and the Inuit, in accordance with article 19 of the United Nations Declaration on the Rights of Indigenous Peoples, and be guided by the following principles:

- (1) transparency and good faith;
- (2) respect for the rights of Indigenous peoples, including treaty rights and Aboriginal title rights, as well as for their traditions and cultures;
- (3) recognition of the inherent right of Indigenous peoples to self-determination;
- (4) inclusion and representation of Indigenous peoples;
- (5) active and ongoing collaboration between the Gouvernement du Québec and the organizations representing the First Nations and the Inuit, with adequate support from the Gouvernement du Québec throughout the co-construction process;
- (6) respect for the level of involvement chosen by each Indigenous people, recognizing their right to determine the extent and nature of their participation in the co-construction process; and
- (7) recognition of the right of the organizations representing the First Nations and the Inuit to consult their communities in the manner they consider appropriate.

**5.** Within the Ministère du Conseil exécutif, a secretariat dedicated to legislative reconciliation with the First Nations and the Inuit, hereinafter called “secretariat”, is responsible for supporting and coordinating the implementation of the co-construction process provided for by this Act.

**6.** The Gouvernement du Québec provides the First Nations and the Inuit with the resources and support necessary to enable their full and effective participation in the co-construction process and the process for reviewing existing statutes and regulations that are provided for by this Act.

The resources and support must be sufficient, suitable, and provided in a foreseeable and continuous manner.

**7.** Unless otherwise agreed, the information and documents shared by the parties within the scope of the co-construction process are confidential.

However, the first paragraph does not prevent the organizations representing the First Nations and the Inuit from consulting their communities on proposed measures.

The co-construction process cannot, in any case, be considered a contempt of Parliament.

## **CHAPTER II**

### **ANALYSIS PRIOR TO INITIATION OF THE CO-CONSTRUCTION PROCESS**

**8.** A summary analysis of the impacts on the First Nations and the Inuit must be carried out as soon as a measure referred to in section 3 is proposed. The analysis must assess whether the measure directly or indirectly concerns or affects the First Nations and the Inuit.

To that end, an analysis grid is developed jointly by the secretariat and the organizations representing the First Nations and the Inuit.

**9.** If the summary analysis reveals that the measure could concern or affect the First Nations and the Inuit, the government department or body concerned so informs the secretariat and a co-construction process is initiated, in accordance with this Act.

As needed or in case of doubt with respect to the potential impacts of a measure, the secretariat consults the organizations representing the First Nations and the Inuit to determine whether co-construction is necessary.

## **CHAPTER III**

### **CO-CONSTRUCTION PROCESS**

#### **DIVISION I**

##### **INITIATION OF THE PROCESS**

**10.** For each measure requiring a co-construction process, the secretariat, in collaboration with the government departments and bodies concerned, establishes a co-construction plan with the organizations representing the First Nations and the Inuit.

The plan indicates the representative organizations that will be involved and specifies the co-construction objectives and timeline.

**11.** The secretariat contacts the organizations representing the First Nations and the Inuit at an appropriate moment in the development of the measure, according to the measure's nature and scope.

That contact is established from the early development phases of the measure where the measure directly concerns the First Nations and the Inuit.

**12.** Barring exceptional circumstances, the contact is established at least six months before, as applicable,

- (1) the introduction of the draft bill or the bill in the National Assembly;

(2) the publication of the proposed regulation in the *Gazette officielle du Québec*; or

(3) the dissemination of the proposed policy direction, strategy, policy or action plan or other document of the same nature that could give rise to one or more bills or proposed regulations.

## **DIVISION II**

### **SEARCH FOR CONSENSUS**

**13.** Preliminary discussions take place between the parties concerning the objective sought and the means to achieve it.

The measure is developed taking into account those discussions and the prerogative of the First Nations and the Inuit with respect to matters within their purview.

**14.** The organizations representing the First Nations and the Inuit are proactively kept informed as a measure is being developed, in order to allow them to submit their opinions and comments.

Throughout the co-construction process, the secretariat and the government departments and bodies concerned see to it that the concerns of the First Nations and the Inuit are adequately taken into account, in accordance with the principle of prior, free and informed consent, with a view to reaching a consensus.

“Consensus” means an agreement obtained between parties acting on an equal footing and raising no fundamental objection.

## **DIVISION III**

### **ABSENCE OF CONSENSUS**

**15.** In a case of significant disagreement between the parties during the co-construction process, mediation may be arranged. A neutral and qualified mediator is then designated jointly by the parties to facilitate discussions and help the parties reach a compromise.

The secretariat keeps the Minister informed of any situation giving rise to mediation.

**16.** The parties may agree to use another dispute resolution mechanism to address a situation where a consensus cannot be reached.

## **DIVISION IV**

### **MONITORING MECHANISM**

**17.** A monitoring mechanism is determined by the parties for the purpose of assessing the implementation of the legislative or regulatory measure and its impacts on the First Nations and the Inuit.

## **CHAPTER IV**

### **REVIEW OF EXISTING STATUTES AND REGULATIONS**

**18.** The Gouvernement du Québec takes all necessary measures to see to it that the statutes and regulations in force are consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

To that end, the secretariat develops and implements a review strategy in consultation and collaboration with the organizations representing the First Nations and the Inuit.

Each year, the Minister tables in the National Assembly a progress report on the implementation of the strategy.

## **CHAPTER V**

### **AMENDING PROVISION**

#### **ACT RESPECTING THE MINISTÈRE DU CONSEIL EXÉCUTIF**

**19.** Section 3.47 of the Act respecting the Ministère du Conseil exécutif (chapter M-30) is amended by inserting the following paragraph after paragraph 1:

“(1.1) supervising and coordinating the co-construction process for legislative and regulatory measures concerning or affecting the First Nations and the Inuit; and”.

## **CHAPTER VI**

### **MISCELLANEOUS AND FINAL PROVISIONS**

**20.** The Minister must, not later than *(insert the date that is three years after the date of coming into force of this Act)* and subsequently every five years, report to the Government on the implementation of this Act.

The report is tabled in the National Assembly within 30 days after it is submitted to the Government or, if the Assembly is not sitting, within 30 days of resumption.

**21.** The minister designated by the Government is responsible for the administration of this Act.

**22.** This Act comes into force on *(insert the date that is one year after the date of assent to this Act)*.





