



NATIONAL ASSEMBLY OF QUÉBEC

THIRD SESSION

FORTY-THIRD LEGISLATURE

Bill 13

**An Act to establish the office
of special clerk**

Introduction

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

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EXPLANATORY NOTES

This bill establishes the new office of special clerk and sets out rules concerning the appointment of special clerks, their jurisdiction and their conditions of employment.

The bill provides for the rules concerning the recruitment and selection procedure for special clerks whereby persons may be declared apt to exercise the office of special clerk, in particular by enacting a regulation to that effect. The bill also establishes rules concerning a special clerk's term of office, in particular as regards its duration and renewal.

In addition, the bill provides for the rules applicable to the manner in which special clerks' remuneration and other conditions of employment, including their employment benefits, are determined, in particular by enacting a regulation to that effect.

The bill determines rules regarding the ethics of special clerks and provides for a complaints process. The bill prescribes special clerks' duties and powers.

The bill provides for the designation of a coordinating special clerk and determines their role in relation to the special clerks.

Lastly, the bill provides for the special clerks' functions and powers as well as their jurisdiction throughout Québec.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the civil aspects of international and interprovincial child abduction (chapter A-23.01);
- Cities and Towns Act (chapter C-19);
- Code of Civil Procedure (chapter C-25.01);
- Municipal Code of Québec (chapter C-27.1);
- Forestry Credit Act (chapter C-78);

- The Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14);
- Act respecting the Ministère de la Justice (chapter M-19);
- Act respecting the Ministère du Conseil exécutif (chapter M-30);
- Act respecting the mode of payment for electric and gas service in certain buildings (chapter M-37);
- Youth Protection Act (chapter P-34.1);
- Courts of Justice Act (chapter T-16).

REGULATIONS ENACTED BY THIS BILL:

- Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as special clerks and the procedure for the renewal of their term of office (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as special clerks and the procedure for the renewal of their term of office*);
- Regulation respecting the remuneration and other conditions of employment of special clerks (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Regulation respecting the remuneration and other conditions of employment of special clerks*).

REGULATIONS AMENDED BY THIS BILL:

- Code of Professional Conduct of Lawyers (chapter B-1, r. 3.1);
- Regulation respecting the recruitment and selection procedure for disciplinary council chairs of professional orders (chapter C-26, r. 7.1);
- Code of ethics of notaries (chapter N-3, r. 2);
- Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal judge and presiding justice of the peace (chapter T-16, r. 4.1).

Bill 13

AN ACT TO ESTABLISH THE OFFICE OF SPECIAL CLERK

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

AMENDMENTS TO THE COURTS OF JUSTICE ACT RELATING TO SPECIAL CLERKS

COURTS OF JUSTICE ACT

- 1.** Section 3 of the Courts of Justice Act (chapter T-16) is amended by replacing “or the municipal judges” by “, the municipal judges or the special clerks when”.
- 2.** Section 4.1 of the Act is repealed.
- 3.** Section 87 of the Act is amended by replacing “diploma of admission to the Barreau du Québec or a certificate of competence to practice the profession of advocate in Québec” in the second paragraph by “permit issued by the Barreau du Québec or the Chambre des notaires du Québec”.
- 4.** The Act is amended by inserting the following Part after section 147:

“PART III.0.1

“SPECIAL CLERKS

“DIVISION I

“APPOINTMENT AND JURISDICTION OF SPECIAL CLERKS

“**148.** The Minister of Justice shall appoint, by order, special clerks to support the courts in the exercise of their adjudicative functions.

“**149.** Special clerks are officers of justice and shall exercise their functions within the Superior Court and the Court of Québec.

“**150.** The notice of appointment of a special clerk shall determine, in particular, the special clerk’s place of residence and the place where the special clerk is mainly assigned.

The Minister of Justice may, after consultation with the coordinating special clerk, modify the notice of appointment with respect to the special clerk's place of residence. However, the Minister may make such a decision only if the special clerk concerned consents to such modification to the notice of appointment.

The Minister may also, after consultation with the coordinating special clerk, modify the place where the special clerk is mainly assigned if the new place of assignment is located less than 50 km from the special clerk's place of residence. The Minister shall then modify the notice of appointment.

The special clerk shall change place of residence within one year after the notice of appointment is modified.

“151. Only a person who is an advocate or notary having at least five years' practice may be appointed as a special clerk.

The years during which a person acquired pertinent legal experience after obtaining a permit issued by the Barreau du Québec or by the Chambre des notaires du Québec may be considered.

A special clerk must be a practising advocate entered on the Roll of the Ordre des avocats du Québec or a practising notary entered on the Roll of the Ordre des notaires du Québec throughout their term of office.

“152. Special clerks shall be domiciled and reside in the territory of Québec.

“152.1. Special clerks shall exercise their functions on a full-time and exclusive basis.

They may, however, with the written consent of the coordinating special clerk, engage in teaching activities for which they may or may not be remunerated.

“152.2. Special clerks shall exercise only the jurisdiction expressly assigned to them by law and they have all the powers necessary for the exercise of that jurisdiction.

“152.3. Special clerks have jurisdiction throughout Québec.

“DIVISION II

“PROCEDURE FOR THE RECRUITMENT AND SELECTION OF SPECIAL CLERKS

“152.4. Special clerks shall be selected among persons declared apt according to the recruitment and selection procedure established by government regulation. The regulation may, in particular,

(1) determine the publicity that must be given to the recruiting procedure and the content of such publicity;

(2) determine the procedure by which a person may become a candidate;

(3) authorize the establishment of selection committees responsible for assessing the aptitude of candidates and providing an opinion on them to the Minister of Justice;

(4) fix the composition of the committees and mode of appointment of committee members, ensuring adequate representation of the population and the legal community or either of them;

(5) determine the selection criteria to be taken into account by the committees; and

(6) determine the information committees may require from a candidate and the consultations they may hold.

“152.5. The names of the persons declared apt shall be recorded in a register kept at the Ministère de la Justice.

A declaration of aptitude shall be valid for a period of three years or for any other period determined by government regulation.

“152.6. The members of a selection committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, subject to the conditions and to the extent determined by the Government.

“DIVISION III

“DURATION AND RENEWAL OF THE TERM OF OFFICE

“152.7. The term of office of a special clerk is five years, subject to the exceptions provided for in this Division.

“152.8. The Minister of Justice may determine a shorter term of office of a fixed duration in the notice of appointment, where the candidate so requests for serious reasons or where required by special circumstances stated in the notice of appointment.

“152.9. The term of office of a special clerk shall be renewed for five years, according to the procedure established under section 152.10,

(1) unless the special clerk is notified otherwise at least one month before the expiry of the term by the Minister of Justice; or

(2) unless the special clerk 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 notice of renewal and, except where requested by the special clerk for serious reasons, only where required by special circumstances stated in the notice of renewal.

“152.10. 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 (chapter A-6.01);

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

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

An examination committee may not make a recommendation against the renewal of a special clerk’s term of office without first informing the special clerk of its intention to do so and of the reasons therefor and without giving the special clerk the opportunity to present observations.

No judicial proceedings may be brought against members of an examination committee for any act performed in good faith in the exercise of their functions.

“152.11. Members of an examination committee are not entitled to remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“DIVISION IV

“PREMATURE TERMINATION OF THE TERM OF OFFICE AND SUSPENSION

“152.12. The term of office of a special clerk may terminate prematurely only on retirement or resignation, or, where the special clerk is dismissed or otherwise removed from office, on the conditions referred to in this division.

“153. To resign, a special clerk shall give the Minister of Justice reasonable notice in writing.

“154. The Minister of Justice may dismiss a special clerk after an inquiry conducted following the lodging of a complaint under section 157.9.

The Minister may similarly, where the coordinating special clerk sends the Minister the inquiry committee’s recommendation for a suspension under the first paragraph of section 157.25, suspend the special clerk with or without remuneration for the period recommended by the inquiry committee.

“155. The Minister of Justice may also remove a special clerk from office because of permanent physical or mental disability which, in the Minister’s opinion, prevents the special clerk from performing the duties of office satisfactorily; permanent disability is ascertained by an inquiry committee established under section 157.17, after an inquiry conducted at the request of the Minister, the coordinating special clerk, the Chief Justice of the Superior Court or the chief judge of the Court of Québec.

“156. The provisions of sections 157.19 and 157.21 to 157.23 apply in such cases, with the necessary modifications.

“DIVISION V

“OTHER PROVISION REGARDING CESSATION OF FUNCTIONS

“157. Any special clerk may, at the end of the term of office, with the authorization of the coordinating special clerk, after consultation with the Chief Justice of the Superior Court or the chief judge of the Court of Québec, and for the time determined by the coordinating special clerk, which may not exceed three months, continue to exercise the functions of office in order to conclude the matters the special clerk has begun to hear but has yet to determine.

The first paragraph does not apply to a special clerk who has been dismissed or otherwise removed from office.

“DIVISION VI

“REMUNERATION AND OTHER CONDITIONS OF EMPLOYMENT

“157.1. The Government shall determine, by regulation,

(1) the mode and the standards and scales of special clerks’ remuneration as well as the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of special clerks whose salary has reached the maximum rate; and

(2) the conditions subject to which and the extent to which a special clerk may be reimbursed for the expenses incurred in the exercise of the functions of office.

The Government may similarly determine other conditions of employment applicable to all or certain special clerks, including employment benefits other than the pension plan.

The regulatory provisions may vary according to whether they apply to special clerks or to coordinating special clerks.

The regulations come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec* or on any later date indicated therein.

“157.2. The Government shall fix, in accordance with the regulation, the remuneration, employment benefits and other conditions of employment of the special clerks.

“157.3. Once fixed, a special clerk’s remuneration may not be reduced.

However, additional remuneration attached to the office of coordinating special clerk shall cease upon termination of such office.

“157.4. The pension plan of special clerks shall be established under the Act respecting the Pension Plan of Management Personnel (chapter R-12.1).

“157.5. A public servant appointed as a special clerk ceases to be subject to the Public Service Act (chapter F-3.1.1) for all matters concerning such office; for the duration of the term of office, the special clerk is on full leave without pay for the purpose of performing the duties of the office.

“DIVISION VII

“ETHICS

“157.6. Special clerks shall exercise their functions purposefully, maintain their competence and act diligently. They shall avoid placing themselves in a position that undermines such exercise of their functions and conduct themselves in a manner fully compatible with the honour, dignity, integrity and impartiality required by adjudicative functions.

“157.7. The Government, after consultation with the coordinating special clerk, shall establish, by regulation, a code of ethics applicable to special clerks.

“157.8. The code of ethics shall set out the rules of conduct and the duties of the special clerks towards the public, the parties, their witnesses and the persons who represent them. It shall indicate, in particular, conduct that is derogatory to the honour, dignity, integrity or impartiality of special clerks. In

addition, the code of ethics may determine the activities or the situations that are incompatible with their office, their obligations concerning disclosure of interest and the functions they may exercise gratuitously.

The code of ethics shall also set out rules concerning the maintenance of competence of special clerks in the exercise of their functions.

“157.9. Any person may lodge a complaint against a special clerk for breach of the code of ethics, of a duty under this Act or of the prescriptions governing conflicts of interest or incompatible functions.

“157.10. A complaint shall be in writing and briefly state the reasons on which it is based.

It shall be transmitted to the secretary of the Conseil de la magistrature.

“157.11. Unless the complaint is lodged by the Minister of Justice, the secretary of the Conseil de la magistrature shall designate one of its members who is a judge of the Court of Québec referred to in paragraph *b, c, d.1* or *e* of section 248 to be responsible for determining whether a complaint is admissible.

“157.12. The designated member shall send a copy of the complaint to the special clerk concerned and may ask the special clerk for explanations.

“157.13. The member may require from any person the information the member considers necessary and examine the relevant record even if it is confidential under an Act.

“157.14. The member may dismiss any complaint that is clearly unjustified or that, owing to its nature or importance, does not justify an inquiry.

The member shall send the decision, with reasons, to the secretary of the Conseil de la magistrature, who shall send a copy to the complainant and to the special clerk.

“157.15. The decision, with reasons, on the admissibility of a complaint shall be posted on the Conseil de la magistrature’s website.

Before the decision is posted, all necessary measures must be taken to preserve the anonymity of the complainant and the special clerk concerned.

“157.16. Where the complaint has been determined admissible or where it is lodged by the Minister of Justice, the secretary of the Conseil de la magistrature shall send a copy of it to the special clerk, to the coordinating special clerk and, where appropriate, to the Minister. The secretary notifies the Chief Justice of the Superior Court and the chief judge of the Court of Québec.

“157.17. The secretary of the Conseil de la magistrature shall form an inquiry committee composed of three members responsible for conducting an inquiry into the complaint and deciding it.

The committee shall be formed, after consultation with the Chief Justice of the Superior Court and the chief judge of the Court of Québec, of a judge of the Superior Court or a judge of the Court of Québec, who acts as chair of the committee, and, after consultation with the coordinating special clerk, of a special clerk. The committee shall also include one person, who is neither a judge nor an advocate nor a notary, referred to in paragraph *h* or *i* of section 248.

The members of the committee shall make the oath set out in Schedule III before a judge of the Court of Québec.

The chair shall call committee sittings.

The hearing shall be held within 30 days of the formation of the committee.

“157.18. Where the member judge is absent or unable to act, the secretary of the Conseil de la magistrature shall, after consultation with the Chief Justice of the Superior Court and the chief judge of the Court of Québec, designate another member judge.

The quorum of the committee is two members, including the member judge.

With the parties' consent, the member judge assigned to continue an inquiry may decide to rely solely, as regards evidence, on the recording of the hearing or the transcript of stenographic notes. If that proves insufficient, the member judge may recall a witness or require other evidence from the parties.

“157.19. For the purposes of an inquiry, the inquiry committee and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“157.20. The inquiry committee may make rules of procedure for the conduct of an inquiry.

The committee or one of its members may issue the orders, based on the Code of Civil Procedure (chapter C-25.01), that are necessary for the exercise of its functions.

“157.21. The coordinating special clerk may, for a compelling reason and after consultation with the inquiry committee, suspend the special clerk, with remuneration, for the duration of the inquiry.

“157.22. After giving the special clerk who is the subject of the complaint, the Minister of Justice and the complainant an opportunity to be heard, the committee shall decide the complaint.

If the committee finds the complaint to be justified, it may recommend that the special clerk be reprimanded, suspended with or without remuneration for the period it determines, or dismissed.

The committee shall send its inquiry report and conclusions, with reasons, to the secretary of the Conseil de la magistrature together with its recommendations, if any, concerning the penalty.

“157.23. The secretary of the Conseil de la magistrature shall then send a copy of the inquiry report and of the committee’s conclusions to the special clerk who is the subject of the complaint, to the complainant, to the Minister of Justice and to the coordinating special clerk. The secretary notifies the Chief Justice of the Superior Court and the chief judge of the Court of Québec.

“157.24. If the inquiry report establishes that the complaint is not justified, the secretary of the Conseil de la magistrature notifies the special clerk concerned, the Minister of Justice and the complainant.

“157.25. If the committee finds the complaint to be justified, the coordinating special clerk shall, according to the committee’s recommendation, either administer a reprimand to the special clerk and notify the Chief Justice of the Superior Court, the chief judge of the Court of Québec, the Minister of Justice and the complainant, or send the recommendation for a suspension or dismissal to the Minister and notify the Chief Justice of the Superior Court, the chief judge of the Court of Québec, the special clerk and the complainant.

Where the recommended penalty is the special clerk’s dismissal, the coordinating special clerk may immediately suspend the special clerk, with remuneration, for a period of 30 days.

“157.26. The inquiry report shall be posted on the Conseil de la magistrature’s website.

Before the inquiry report is posted, all necessary measures must be taken to preserve the anonymity of the complainant and the special clerk concerned, where applicable.

“157.27. Where the coordinating special clerk is the subject of a complaint for a default in the exercise of functions of special clerk or coordinating special clerk, the chief judge of the Court of Québec shall exercise, in the coordinating special clerk’s place and stead, the functions assigned to the latter under this division.

“DIVISION VIII

“COORDINATING SPECIAL CLERK

“157.28. The Minister of Justice shall designate a coordinating special clerk from among the special clerks.

“157.29. Where a coordinating special clerk is absent or unable to act, the Minister of Justice shall designate a special clerk to replace the coordinating special clerk.

“157.30. The term of office of a coordinating special clerk shall not exceed three years and may be renewed.

A coordinating special clerk shall remain in office, despite the expiry of the term of office, until the coordinating special clerk is replaced or designated for another term.

“157.31. The term of office of a coordinating special clerk may terminate prematurely only if they relinquish such office, if their term of office as special clerk is terminated prematurely or not renewed, or, where they are removed or otherwise dismissed from office, on the conditions referred to in this division.

“157.32. The Minister of Justice may remove a coordinating special clerk from office, for a default pertaining only to the exercise of that office, after an inquiry conducted at the request of the Minister or at the request of the Chief Justice of the Superior Court or the chief judge of the Court of Québec, where the chief judge of the Court of Québec sends the Minister the inquiry committee’s recommendation to that effect.

The provisions of sections 155, 157.16 to 157.24 and 157.27 apply in such case, with the necessary modifications.

“DIVISION IX

“SPECIAL CLERKS’ DUTIES AND POWERS

“157.33. Before taking office, every special clerk shall take an oath, solemnly affirming the following: “I, (...), swear that I will exercise the powers and fulfill the duties of my office impartially and honestly and to the best of my knowledge and abilities.”

The oath shall be taken before a judge of the Court of Québec.

The writing evidencing the oath shall be sent to the Minister of Justice.

“157.34. A special clerk may not, on pain of forfeiture of office, have a direct or indirect interest in any enterprise that could cause a conflict between their personal interest and their duties of office, unless the interest devolves to them by succession or gift and they renounce or dispose of it with all possible dispatch.

In addition to observing conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics adopted under this Act, no special clerk may pursue an activity or place themselves in a situation incompatible, within the meaning of the code of ethics, with the exercise of their functions.

“157.35. Special clerks are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“DIVISION X

“OPERATION AND MANAGEMENT

“157.36. In addition to the functions and powers that may otherwise be assigned to the coordinating special clerk, the coordinating special clerk, in collaboration with the Chief Justice of the Superior Court and the chief judge of the Court of Québec, is responsible for, in respect of special clerks, in particular,

- (1) seeing to the observance of standards of ethical conduct;
- (2) promoting the professional development of special clerks as regards the exercise of their functions and, consequently, prescribing the legal, social or other professional development activities they must take part in;
- (3) establishing a professional development program on the realities relating to sexual violence and domestic violence and a program on the realities relating to vulnerable persons; and
- (4) evaluating the performance of special clerks.

The Chief Justice of the Superior Court and the chief judge of the Court of Québec are responsible for evaluating the performance of the coordinating special clerk.

“157.37. The coordinating special clerk, in collaboration with the Chief Justice of the Superior Court and the chief judge of the Court of Québec, is responsible, in the exercise of those courts’ respective jurisdictions, for coordinating the activities of and assigning work to the special clerks, who must comply with the coordinating special clerk’s orders and directives in that regard.

“157.38. The amounts required for the purposes of this Part are taken out of the appropriations voted annually for that purpose by the National Assembly, [[except those required for the purposes of Division VI respecting remuneration and other conditions of employment and those required for the purposes of sections 157.9 to 157.27 of Division VII respecting ethics, which are taken out of the Consolidated Revenue Fund]].”

5. Section 162 of the Act is amended by replacing “diploma of admission to the Barreau du Québec or a certificate of aptitude to practise the profession of advocate in Québec” in the second paragraph by “permit issued by the Barreau du Québec or the Chambre des notaires du Québec”.

6. Section 219 of the Act is amended by replacing “du Barreau” in subparagraph *e* of the first paragraph by “des avocats du Québec”.

7. Section 275 of the Act is amended, in the second paragraph,

(1) by replacing “If necessary, the” by “The”;

(2) by replacing “makes” by “may issue”;

(3) by inserting “rendre” after “Code de procédure civile (chapitre C-25.01),” in the French text;

(4) by replacing “orders of procedure” by “orders”.

CHAPTER II

AMENDMENTS RELATED TO SPECIAL CLERKS’ FUNCTIONS AND POWERS

ACT RESPECTING THE CIVIL ASPECTS OF INTERNATIONAL AND INTERPROVINCIAL CHILD ABDUCTION

8. Section 9 of the Act respecting the civil aspects of international and interprovincial child abduction (chapter A-23.01) is amended by inserting “special” before both occurrences of “clerk” in the first paragraph.

CITIES AND TOWNS ACT

9. Section 507 of the Cities and Towns Act (chapter C-19) is amended by replacing “of the clerk of the Court of Québec, of the clerk of the Superior Court” by “of the judge”.

CODE OF CIVIL PROCEDURE

10. Article 67 of the Code of Civil Procedure (chapter C-25.01) is amended by striking out the second paragraph.

11. Article 70 of the Code is amended by replacing “. In matters within their jurisdiction, they have the powers of the judges or the court” in the first paragraph by “and they have all the powers necessary for the exercise of that jurisdiction”.

12. Article 71 of the Code is repealed.

13. Article 72 of the Code is amended by inserting the following paragraph after the first paragraph:

“The special clerk may not rule on an application whose subject matter is the operability, the constitutionality or the validity of a provision of an Act of

the Parliament of Québec or the Parliament of Canada, of any regulation made under such an Act, of a government or ministerial order or of any other rule of law, or the reparation for an infringement or denial of fundamental rights and freedoms under the Charter of human rights and freedoms (chapter C-12) or the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom). Nor may the special clerk rule on an application to which the Attorney General of Québec or the Attorney General of Canada is party, where the judgment could put an end to the dispute.”

14. Article 548 of the Code is amended by replacing “requests, the court clerk” in the first paragraph by “requests, the special clerk”.

15. Article 686 of the Code is amended by replacing “special clerk” in the first paragraph by “judge”.

16. Article 722 of the Code is amended by replacing “court” in the first paragraph by “judge”.

MUNICIPAL CODE OF QUÉBEC

17. Article 1016 of the Municipal Code of Québec (chapter C-27.1) is amended by replacing “of the clerk of the Court of Québec, of the clerk of the Superior Court” by “of the judge”.

18. Article 1019 of the Code is amended by inserting “special” before all occurrences of “clerk of” in the second paragraph.

FORESTRY CREDIT ACT

19. Section 37 of the Forestry Credit Act (chapter C-78) is amended by inserting “special” before “clerk”.

20. Section 40 of the Act is amended by inserting “special” before “clerk” in the first paragraph.

THE EDUCATION ACT FOR CREE, INUIT AND NASKAPI NATIVE PERSONS

21. Section 375 of the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) is amended by replacing “of the clerk of the Court of Québec or of the Superior Court or any” by “of a judge or a”.

22. Section 567.14 of the Act is amended by inserting “special” before both occurrences of “clerk” in the fourth paragraph.

ACT RESPECTING THE MODE OF PAYMENT FOR ELECTRIC AND GAS SERVICE IN CERTAIN BUILDINGS

- 23.** Section 2 of the Act respecting the mode of payment for electric and gas service in certain buildings (chapter M-37) is amended by replacing “clerk of the Superior Court” in the first paragraph by “special clerk of the Superior Court”.
- 24.** Section 4 of the Act is amended by inserting “special” before “clerk”.
- 25.** Section 6 of the Act is amended by inserting “special” before “clerk”.
- 26.** Section 10 of the Act is amended by inserting “special” before “clerk” in the first paragraph.

YOUTH PROTECTION ACT

- 27.** Section 1 of the Youth Protection Act (chapter P-34.1) is amended by inserting “, except where the special clerk is concerned” at the end of the fourth paragraph.
- 28.** Section 47 of the Act is amended by inserting “special” before “clerk” in the second and third paragraphs.
- 29.** Section 74.0.1 of the Act is amended by inserting “, special clerks” after “to clerks” in the fourth paragraph.
- 30.** Section 96 of the Act is amended

(1) by inserting “or the special clerk” at the end of subparagraph *d* of the first paragraph;

(2) by replacing “clerk of the court” in the second paragraph by “special clerk”.

CHAPTER III

ENACTMENT OF THE REGULATION RESPECTING THE PROCEDURE FOR THE RECRUITMENT AND SELECTION OF PERSONS APT FOR APPOINTMENT AS SPECIAL CLERKS AND THE PROCEDURE FOR THE RENEWAL OF THEIR TERM OF OFFICE

- 31.** The Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as special clerks and the procedure for the renewal of their term of office, the text of which appears in this Chapter, is enacted.

“REGULATION RESPECTING THE PROCEDURE
FOR THE RECRUITMENT AND SELECTION OF PERSONS APT
FOR APPOINTMENT AS SPECIAL CLERKS
AND THE PROCEDURE FOR THE RENEWAL OF THEIR TERM
OF OFFICE

“CHAPTER I

“SCOPE

“**1.** This Regulation establishes the conditions and terms of the procedure for the recruitment and selection of persons apt for appointment as special clerks. It also establishes the procedure for the renewal of their term of office.

It establishes a secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office responsible for the administration of those procedures.

“CHAPTER II

“SECRETARIAT FOR THE RECRUITMENT AND SELECTION
OF PERSONS APT FOR APPOINTMENT AS SPECIAL CLERKS
AND THE RENEWAL OF THEIR TERM OF OFFICE

“**2.** The secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office, directed by a secretary, is hereby established within the Ministère de la Justice.

The secretary is designated by the Government and acts under the authority of the Deputy Minister of Justice.

The secretary and employees of the secretariat take the following oath of discretion before a person authorized to administer the oath:

“I, (given name and surname), declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in the discharge of my duties.”

“**3.** The function of the secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office is to administer the procedure for the recruitment and selection of persons apt for appointment as special clerks and the procedure for the renewal of their term of office. For each notice of recruitment, the secretariat publishes the information concerning the steps of the recruitment and selection procedure on the website of the Ministère de la Justice. The secretariat takes the measures required to ensure the confidentiality of the information referred to in the first paragraph of section 37.

“4. The secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office ensures that the members of selection committees receive the training required for the exercise of their functions. The training is given by any means by the secretary or, where applicable, by the person designated by the secretary, in which case the secretary must approve the form and content of the training.

The training covers, in particular, the structure of the court system, the judicial function in general and the qualities required for the office of special clerk, in relation to the criteria set out in section 23 for the positions to be filled. In addition, the members of selection committees are made aware of the objective of promoting gender parity and the representation of cultural communities among special clerks.

“5. The secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office files on the website of the Ministère de la Justice an annual report on the work of the selection committees. The report contains an analysis of the appointments for the office of special clerk considering the representation of men and women and that of cultural communities.

The secretary sends a copy of the report to the Minister of Justice.

“CHAPTER III

“PLANNING FOR POSITIONS TO BE FILLED

“6. At least once a year, the Minister invites the coordinating special clerk, the chief judge of the Court of Québec and the Chief Justice of the Superior Court to submit to the Minister, for information purposes, a plan for positions to be filled, taking into account the number of special clerks in office and the foreseeable vacancies, as well as the offices of special clerks according to the territorial distribution.

“CHAPTER IV

“SELECTION PROCEDURE

“DIVISION I

“NOTICE OF RECRUITMENT

“7. Where it is expedient to draw up a list of persons apt for appointment as special clerks, the Minister of Justice requests the secretary to publish on the websites of the Ministère de la Justice, the Barreau du Québec and the Chambre des notaires du Québec a notice of recruitment inviting interested persons to submit their application.

“8. The notice of recruitment sets out

- (1) the legal conditions of eligibility for the office of special clerk;
- (2) the judicial district or districts with needs;
- (3) the requirement that interested persons submit their application to the secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office using the form provided for in Schedule A, and provide the documents required in support of their application;
- (4) the selection criteria provided for in section 23 used to assess the application of every candidate met by a selection committee;
- (5) the address of the secretariat; and
- (6) the final date for submitting one’s application.

“9. The secretary sends the notice to the coordinating special clerk, to the chief judge of the Court of Québec and the Chief Justice of the Superior Court, to the Bâtonnier of the Province of Québec, to the president of the Chambre des notaires du Québec, and to the Office des professions du Québec.

“DIVISION II

“CANDIDACY

“10. Persons who wish to submit their application must, not later than the date indicated in the notice, send to the secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office a photograph, proof of their entry on the Roll of the Ordre des avocats du Québec or the Roll of the Ordre des notaires du Québec, the form provided for in Schedule A, duly completed, and the following information:

- (1) where applicable, the names of their employers or partners over the past 5 years; and
- (2) where applicable, whether they have applied for the position of special clerk in the past 3 years.

Paper documents sent by mail are presumed received by the secretariat on the date of mailing. Technology-based documents are presumed received by the secretariat when they become accessible at the address of the secretary, in accordance with section 31 of the Act to establish a legal framework for information technology (chapter C-1.1).

“DIVISION III

“SELECTION COMMITTEE

“**11.** Following publication of the notice of recruitment, the Minister of Justice establishes a selection committee and appoints to it

(1) an advocate or a professor in a law faculty in Québec, after consultation with the Bâtonnier of the Province of Québec;

(2) a notary or a professor in a law faculty in Québec, after consultation with the president of the Chambre des notaires du Québec; and

(3) a person who is not a judge, a special clerk, a member of the Barreau du Québec or a member of the Chambre des notaires du Québec, after consultation with the chair of the Office des professions du Québec.

The chair of the committee is designated in alternation from among the persons appointed under subparagraphs 1 and 2 of the first paragraph.

The functions of the committee are to assess the applications for the office of special clerk and make a report.

“**12.** Members must undergo the training proposed by the secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office.

“**13.** A committee member whose impartiality could be questioned must withdraw with respect to a candidate in the following situations, among others:

(1) if the member is or was the candidate’s spouse;

(2) if the member is a relative of the candidate, up to the degree of first cousin inclusively, or connected to the candidate by marriage or civil union;

(3) if the member is or was an employer, employee or partner of the candidate in the past 5 years; despite the foregoing, a member who is in the public service must withdraw with respect to a candidate only if the member is or was under the direct supervision of the candidate or is or was the candidate’s immediate superior; or

(4) if there is reasonable cause to fear that the member will not be impartial for any other reason.

For the purposes of subparagraph 4 of the first paragraph, a member must immediately bring to the attention of the chair of the committee any fact that may justify reasonable apprehension of bias.

A candidate whose application is assessed by the committee may bring to the attention of the committee a ground for disqualification of one of its members.

Where a member of the committee has withdrawn, is absent or is unable to act, the decision is made by the other members.

“14. Before taking office, the members of the committee must take the following oath: “I, (given name and surname), declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in the discharge of my duties.”

The oath may be taken before a member of the staff of the secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office empowered to administer the oath.

The writing evidencing the oath is sent to the secretary.

Committee members must take the measures required to ensure the confidentiality of the information or documents referred to in the first paragraph of section 37.

“15. A person may be appointed to more than one committee at the same time.

“16. Travel and accommodation expenses of the committee members are reimbursed in accordance with the Directive sur le remboursement des frais de déplacement des cadres de la fonction publique (C.T. 198207 of 30 April 2002, French only) and its amendments, with the necessary modifications.

In addition to the reimbursement of their expenses, the chair and the committee members who are not employees of a government department or body are entitled, respectively, to fees of \$250 or \$200 per half-day of sitting they attend.

“DIVISION IV

“OPERATION OF THE SELECTION COMMITTEE

“17. The chair of the committee decides every question relating to the operation, work and report of the committee, including those relating to the application of section 13.

“18. The list of candidates and their records are sent to the chair of the selection committee by the secretary.

“19. The committee analyzes the candidates’ records and retains those who, in its opinion, meet the eligibility requirements and any additional evaluative measures it applies, taking into account, in particular, the large number of candidates.

“20. The chair of the committee informs the short-listed candidates of the date and place of their meeting with the committee and informs the other candidates that they were turned down and, as a result, will not be called to a meeting.

The committee must meet the candidates privately.

The chair may authorize, instead of a meeting, the holding of an interview using means that allow the participants to see and hear each other.

“21. The committee’s report lists the candidates that were turned down, giving the reasons why.

“DIVISION V

“CONSULTATIONS AND SELECTION CRITERIA

“22. The committee may, on any matter in a candidate’s record or any other aspect of a candidacy or of the candidacies as a whole, consult with, among others,

(1) any person who is or has been, in the last 5 years, an employer, partner, immediate superior or first-line supervisor of the candidate; or

(2) any legal person, partnership or professional association of which the candidate is or was a member.

“23. The selection criteria that the committee takes into account in determining a candidate’s aptitude are the following:

(1) the candidate’s personal and intellectual qualities;

(2) the candidate’s experience and the relevancy of that experience in relation to the functions of a special clerk;

(3) the extent of the candidate’s knowledge and skills in view of the particular professional, training or experience requirements stated in the notice of recruitment;

(4) the candidate’s ability to exercise adjudicative functions;

(5) the candidate’s judgment, open-mindedness, perceptiveness, level-headedness, decision-making and expressive abilities; and

(6) the candidate’s conception of the functions of a special clerk.

“DIVISION VI

“REPORT OF THE SELECTION COMMITTEE

“**24.** The committee’s decisions are made by a majority vote of its members. In the case of a tie-vote, the chair of the committee has a casting vote.

“**25.** Not later than 30 days after a request by the secretary, the committee promptly submits a report including

(1) the names of the candidates with whom the committee met and whom it declares apt to be appointed as special clerks, the districts where each candidate accepts to hold office, their profession and the contact information concerning their workplace; and

(2) any comments that the committee considers expedient, especially with respect to the particular characteristics or qualifications of the candidates considered apt.

That report is submitted to the secretary and the Minister of Justice.

“**26.** A committee member may register dissent with respect to all or part of the report.

“DIVISION VII

“REGISTER OF DECLARATIONS OF APTITUDE

“**27.** The secretary writes to the candidates to inform them whether or not they have been declared apt for appointment as special clerks.

“**28.** The secretary keeps the register of declarations of aptitude up-to-date and enters in it the list of the persons declared apt for appointment as special clerks and the district or districts where those persons accept to exercise their functions.

The declaration of aptitude is valid for a period of three years from the date it is entered in the register.

The secretary strikes out an entry on the expiry of the period of validity of the declaration of aptitude or when the person is appointed special clerk, dies or asks to be withdrawn from the register.

“DIVISION VIII

“APPOINTMENT

“**29.** Upon being notified by the Minister of Justice of needs to be filled, the secretary forwards to the Minister an updated list of persons declared apt to be appointed as special clerks.

“**30.** If the Minister of Justice is of the opinion that, in the best interest of the proper carrying out of the functions of special clerk, no person may be appointed, considering the list of persons declared apt to be appointed as special clerks, the Minister then requests the secretary to have a notice of recruitment published, in accordance with Division I.

The committee responsible for evaluating the aptitude of the candidates who submitted their application after the publication of another notice of recruitment and for reporting to the secretary and to the Minister may be composed of persons previously designated to sit on a preceding committee.

“**31.** The Minister of Justice appoints a person who has been declared apt to be appointed as a special clerk.

“**32.** The persons set out in Schedule A, through whom the necessary verifications concerning candidates are made, must take the following oath: “I, (given name and surname), declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge during verifications concerning a candidate.”

The oath may be taken before a member of the staff of the secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office empowered to administer the oath.

The writing evidencing the oath is sent to the secretary.

The persons referred to in the first paragraph must take the measures required to ensure the confidentiality of the information received concerning the candidate.

“DIVISION IX

“RENEWAL OF TERMS OF OFFICE

“**33.** In the 12 months before the expiry of a special clerk’s term of office, the secretary requests the special clerk to provide them with certain information, including whether the special clerk has been found guilty of an indictable offence or a criminal or penal offence or whether the special clerk has been the subject of a disciplinary decision. The secretary also requests a written statement in which the special clerk accepts that their record be verified with, in particular,

a disciplinary body, a professional order of which the special clerk is or was a member, police authorities and credit agencies and that, where applicable, the persons or partnerships mentioned in section 22 be consulted.

“34. The secretary establishes a committee to examine the renewal of the special clerks’ terms of office and designates its chair.

The committee is composed of an advocate or a notary, a retired person having exercised the functions of special clerk, a judge of the Court of Québec or a judge of the Superior Court, except a judge authorized by the Government to exercise judicial functions under section 93 of the Courts of Justice Act (chapter T-16), and a representative of a law faculty in a Québec university who is a member of a professional order, who neither belong to nor represent the Administration within the meaning of the Public Administration Act (chapter A-6.01).

Sections 12 to 16 then apply.

“35. The committee determines whether the special clerk still fulfils the criteria set out in section 23, considers the special clerk’s annual performance evaluations and takes into account the needs of the courts. The committee may hold the consultations provided for in section 22 on any matter in the record.

The committee forwards its recommendation to the secretary, to the Minister of Justice and to the coordinating special clerk.

“36. The secretary notifies the notice of non-renewal to the special clerk, where applicable.

“DIVISION X

“CONFIDENTIALITY

“37. The names of candidates, the reports of selection committees, the register, the list of candidates declared apt for appointment as special clerks, as well as any information or document related to a consultation or decision by a committee, are confidential.

Despite the foregoing, a special clerk whose term of office is not renewed may consult the recommendation of the renewal committee concerning them.

“38. This Regulation comes into force on 15 July 2026.

“SCHEDULE A
(Sections 8 and 10)

APPLICATION FOR THE OFFICE OF SPECIAL CLERK

* The candidate must fill out the form and provide all the documents required.

Surname		
Given name		
Male <input type="checkbox"/>	Female <input type="checkbox"/>	Member of a cultural community (optional) <input type="checkbox"/>
Residential address		
Business address		
Email		
Residence telephone number	Business telephone number	Cellphone number
Where do you want correspondence to be sent? Office <input type="checkbox"/> Residence <input type="checkbox"/>		

	Notice of recruitment
Recruitment notice number	
Districts where the candidate accepts to hold office	

Condition of admission: 5 years of experience as an advocate or a notary	
Year of admission to the Barreau du Québec or to the Chambre des notaires du Québec	
Number of years in the practice of law	
Proof of entry on the Roll of the Ordre des avocats du Québec or on the Roll of the Ordre des notaires du Québec	BQ <input type="checkbox"/> or CNQ <input type="checkbox"/> membership card BQ <input type="checkbox"/> or CNQ <input type="checkbox"/> attestation

Professional experience

(Employers, main sectors of activities, time periods)

If you have not practised law for at least 5 years since obtaining a permit issued by the Barreau du Québec or the Chambre des notaires du Québec

(Indicate the nature of the professional activities that allowed you to acquire relevant legal experience and the number of years during which you performed the activities.)

Human, professional, social or community experience and publications you wish to mention to the committee

(Brief description)

Reasons for your interest in being a special clerk

(Reasons and personal or professional qualities you have that, in your opinion, make you qualified to hold the position of special clerk)

Post-college training (university and professional training)

(Name of the university or professional institution, years of attendance, diploma or permit to practise and date the diploma or permit was obtained)

Have you been the subject of a complaint, including before a competent body of the Barreau du Québec or the Chambre des notaires du Québec or before the Professions Tribunal?

Yes No

(If so, describe the object of every complaint / attach any relevant document.)

Have you been the subject of a disciplinary decision rendered by, among others, a competent body of the Barreau du Québec or the Chambre des notaires du Québec or by the Professions Tribunal?

Yes No

(If so, describe the object and reasons of every decision / attach any relevant document.)

Have you been the subject of a complaint outside Québec that, if it had been made in Québec, would have been brought before, among others, a competent body of the Barreau du Québec or the Chambre des notaires du Québec or before the Professions Tribunal?

Yes No

(If so, describe the object of every complaint/attach any relevant document.)

Have you been the subject of a disciplinary decision rendered outside Québec that, if it had been rendered in Québec, would have had the effect, in particular, of a decision rendered by a competent body of the Barreau du Québec or the Chambre des notaires du Québec or by the Professions Tribunal?

Yes No

(If so, describe the object and reasons of every decision/attach any relevant documents.)

Have you been the subject of a complaint in the context of employment or have you had any disputes with an employer?

Yes No

(If so, explain.)

Have you ever been found guilty of an indictable offence or a criminal or penal offence?

Yes No

(If so, explain and indicate the offence and the sentence given. Where applicable, indicate if you were granted a pardon regarding the finding of guilt.)

Have you had other problems with the law, including bankruptcy or assignment of property?

Yes No

(If so, briefly explain.)

Are you in a precarious financial situation or have you been so in the past 5 years?

Yes No

(If so, briefly explain.)

Do you have any health problems that could prevent you from holding the position of special clerk?
Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>(If so, briefly explain.)</i>

Is there a current or past fact or situation that may have negative consequences for yourself, the Superior Court or the Court of Québec and that should be disclosed?
Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>(If so, describe the fact or situation.)</i>

Attach to this form a recent photograph and a photocopy of your Barreau du Québec or Chambre des notaires du Québec membership card, if applicable. All of those documents must be forwarded in **3 copies**.

I consent to the relevant verifications being made concerning me with any disciplinary body, any professional order of which I am or was a member, including the Barreau du Québec or the Chambre des notaires du Québec, my employers in the last 5 years, police authorities and credit agencies, and, where applicable, to the persons or partnerships mentioned in section 22 being consulted. To that end, I agree to provide my date of birth and my social insurance number at the appropriate moment.

I undertake to neither directly nor indirectly exert any pressure or influence with a view to my appointment as a special clerk. I also undertake to preserve the confidentiality of my being on the list of candidates declared apt to be appointed as special clerks.

I undertake to complete, if appointed, the professional development program on the realities relating to sexual violence and domestic violence and the program on the realities relating to vulnerable persons established by the coordinating special clerk in collaboration with the Chief Justice of the Superior Court and the chief judge of the Court of Québec.

I certify that all the information provided above is accurate to my knowledge.

Date

Signature

”

CHAPTER IV

ENACTMENT OF THE REGULATION RESPECTING THE REMUNERATION AND OTHER CONDITIONS OF EMPLOYMENT OF SPECIAL CLERKS

32. The Regulation respecting the remuneration and other conditions of employment of special clerks, the text of which appears in this Chapter, is enacted.

“REGULATION RESPECTING THE REMUNERATION AND OTHER CONDITIONS OF EMPLOYMENT OF SPECIAL CLERKS

“DIVISION I

“SALARY

“1. The salary scale applicable to special clerks is that appearing in Schedule I. The salary scale is increased by a percentage equal to the percentage provided for in the general salary increase parameters for the salary scales for public service management personnel, on the same dates.

“2. When a special clerk takes office, their starting salary is determined by taking into account their employment income, in accordance with the standards prescribed in Schedule II. An amount representing 10% of the maximum of the salary scale applicable is added to that starting salary, subject to having reached the maximum of that salary scale.

“3. A person who has retired from the public sector as defined in Schedule III and is appointed special clerk receives a salary corresponding to the salary determined in accordance with the standards established in this Regulation, from which is deducted half the amount of the retirement pension the person receives from the public sector. The deduction is made at the time of the appointment or at the time the person begins receiving the pension. The salary thus fixed may, where applicable, be lower than the regular minimum of the salary scale applicable to the position.

The deduction of an amount corresponding to half the amount of the retirement pension, provided for in the first paragraph, is applicable for the 2 years following the retirement date.

“4. Any person who has received or receives a severance pay or allowance from the public sector as defined in Schedule III and receives a salary as a special clerk during the period covered by such pay or allowance must reimburse the portion of the severance pay or allowance that covers the period for which they receive a salary, or cease to receive the severance pay or allowance during that period.

However, if the salary the person receives as a special clerk is lower than the salary previously received, the person must reimburse the severance pay or allowance only up to the amount of the new salary, or may continue to receive the portion of the severance pay or allowance that exceeds the new salary.

The period covered by the severance pay or allowance corresponds to that which would have been covered by the same amount if the person had received it as salary for their previous office, employment or position.

“5. Upon renewal of the term of office, the salary remains the same as the salary paid before the renewal, subject to section 3.

“6. Where a special clerk already in office is designated coordinating special clerk, they receive an additional remuneration equivalent to 5% of their annual salary.

“7. The salary of a special clerk increases by 6.5% on 2 April of each year, up to the maximum of the applicable salary scale.

In the case of a special clerk who has retired from the public sector as defined in Schedule III, the regular maximum of the applicable salary scale is determined by taking into account the deduction made at the time of the special clerk's appointment or term renewal in accordance with section 3.

A special clerk who has exercised their functions for less than 4 months during the period used as reference for salary advancement and remuneration adjustment does not benefit from the provisions of this section.

“8. The criteria and ratings for evaluating a special clerk's performance, in keeping with the principle of independence in the exercise of adjudicative functions, are those shown in Schedule IV.

The annual performance evaluation of a coordinating special clerk is carried out by the Chief Justice of the Superior Court and the chief judge of the Court of Québec and addresses, with respect to the exercise of the coordinating special clerk's functions of office, the efficiency and effectiveness of the management of resources at the clerk's disposal to carry out the Court's mission. If applicable, it also addresses the coordinating special clerk's performance as a special clerk, and the criteria and ratings for the evaluation, in keeping with the principle of

the independence of the exercise of adjudicative functions, are those shown in Schedule IV.

“9. A special clerk who, at the end of their term of office, is concluding the matters they have begun to hear but have yet to determine in accordance with section 157 of the Courts of Justice Act (chapter T-16) continues to be remunerated, during the period to be determined by the coordinating special clerk, after consultation with the Chief Justice of the Superior Court or the chief judge of the Court of Québec, according to an hourly rate calculated on the basis of the annual salary the special clerk was receiving at the time the term of office came to an end. For the purposes of this section, a special clerk is deemed to work 35 hours a week.

“10. A special clerk designated by the Minister of Justice to replace a coordinating special clerk receives, while carrying out that responsibility, an additional remuneration equivalent to 5% of the special clerk’s annual salary.

The additional remuneration is paid only if the responsibility is carried out for at least 45 consecutive days.

“DIVISION II

“OTHER CONDITIONS OF EMPLOYMENT

“§1.—*Insurance plan*

“11. Special clerks participate in the group insurance plan for management personnel of the public and parapublic sectors of Québec.

If a disability giving entitlement to salary insurance occurs during the term of office of a special clerk, the benefits provided by the short- and long-term salary insurance plans are payable and the exemption from paying contributions to the insurance and pension plans applies as long as the disability lasts, even if the special clerk’s term expires during that period.

“§2.—*Pension plan*

“12. In accordance with section 157.4 of the Courts of Justice Act (chapter T-16), special clerks participate in the Pension Plan of Management Personnel.

“§3.—*Annual vacation*

“13. Special clerks are entitled to paid annual vacation of 20 to 25 working days, allocated in accordance with the rules applicable to public service management personnel.

Where it is impossible for a special clerk to take all or part of their annual vacation during the fiscal year for which the vacation days were granted, the special clerk must make a request for a carry-over to the coordinating special clerk, before the end of that fiscal year.

The number of vacation days that may be so carried over may not, however, exceed the annual number of vacation days to which the special clerk is entitled.

The vacation days accumulated by a special clerk in the context of their functions and that are unused upon their departure will be reimbursed to the special clerk at that time.

“§4. — *Statutory holidays*

“**14.** Special clerks have, each year, the same statutory holidays as those of public service management personnel.

“§5. — *Other leave*

“**15.** Special clerks are entitled to paid days of absence, the duration of which must be agreed upon in advance with the coordinating special clerk, for the purpose of a marriage or civil union, a birth, the adoption of a child, a death, moving or for any reason considered serious, in accordance with the Directive concernant l’ensemble des conditions de travail des cadres de la fonction publique (C.T. 208914 of 20 April 2010, French only) and its amendments, with the necessary modifications.

“**16.** The provisions concerning parental rights that are provided under Chapter 13 of the Directive concernant l’ensemble des conditions de travail des cadres de la fonction publique (C.T. 208914 of 20 April 2010, French only) are applicable to special clerks, to the extent that they are compatible with the provisions of this Regulation.

“§6. — *Travel and living expenses*

“**17.** Special clerks are entitled to the reimbursement of travel expenses incurred in the exercise of their functions in accordance with the Directive sur le remboursement des frais de déplacement des cadres de la fonction publique (C.T. 198207 of 30 April 2002, French only) and its amendments, with the necessary modifications.

“§7. — *Moving expenses*

“**18.** Special clerks are entitled to the reimbursement of moving expenses in accordance with the Directive concernant l’ensemble des conditions de travail des cadres de la fonction publique (C.T. 208914 of 20 April 2010, French only) and its amendments, with the necessary modifications.

“§8. — *Notice of resignation*

“**19.** For the purposes of section 153 of the Courts of Justice Act (chapter T-16), a notice of resignation given to the Minister of Justice is sent to the coordinating special clerk, who forwards a copy of it to the secretary of the Ministère de la Justice’s secretariat for the recruitment and selection of persons apt for appointment as special clerks and the renewal of their term of office, to the Chief Justice of the Superior Court and to the chief judge of the Court of Québec.

“§9. — *Full leave without pay from the public service*

“**20.** For the purposes of section 157.5 of the Courts of Justice Act (chapter T-16), public servants appointed special clerks are, for the duration of their term of office and for the purpose of carrying out the duties of office, on full leave without pay from the government department or body with which they were employed before their appointment.

“**21.** Special clerks on full leave without pay from the public service who resign their office as special clerks or whose term is not renewed are reinstated into the personnel of the government department or body with which they were employed before their appointment, with the salary they received as special clerk if that salary is lower than or equal to the maximum of the salary scale applicable to them in the public service. If their salary as special clerk is higher, they are reinstated at a salary corresponding to the maximum of the applicable salary scale according to their classification in the public service.

“§10. — *Transition allowance and other similar measures*

“**22.** Special clerks, other than a special clerk on full leave without pay from the public service, whose term of office is not renewed or who do not request their term to be renewed receive a transition allowance.

Such allowance corresponds to one month of salary at the time of leaving per year of continuous service since taking office as special clerk appointed by the Minister of Justice, without exceeding 12 months.

For any period of service shorter than one year, the allowance is calculated in proportion to the days of service completed.

The allowance is paid in a lump-sum payment and is not part of the pensionable salary for the purposes of pension and insurance plans.

“**23.** Special clerks may not receive a transition allowance in case of dismissal or removal from office under sections 154 and 155 of the Courts of Justice Act (chapter T-16).

“24. A special clerk who has left office, who has received or receives the transition allowance provided for in section 22 and who holds an office, employment or any other remunerated position in the public sector as defined in Schedule III, or is bound to it by a service contract during the period corresponding to that allowance, must reimburse the portion of the allowance that covers the period for which they receive a salary or cease to receive the allowance during that period.

However, if the salary the special clerk receives is less than the salary previously received, the special clerk must reimburse the allowance only up to the amount of the new salary or may continue to receive the portion of the allowance that exceeds the new salary.

The period covered by the transition allowance corresponds to that which would have been covered by the same amount if the person had received it as salary for their previous office, employment or position.

“25. A special clerk who has left office, who has benefited from assisted departure measures or the equivalent and who, within 2 years of that departure, accepts an office, employment or any other remunerated position in the public sector as defined in Schedule III must reimburse the amount corresponding to the value of the measures they benefited from, up to the amount of the remuneration received as a result of their return to the public sector, during that 2-year period.

“26. Engaging in part-time teaching activities is not covered by sections 24 and 25.

“DIVISION III

“FINAL PROVISION

“27. This Regulation comes into force on 15 July 2026.

“SCHEDULE I

(Section 1)

SALARY SCALE APPLICABLE TO SPECIAL CLERKS

The scale applicable to special clerks is the following:

Rate from 2026-07-15 to 2027-03-31

Minimum	Maximum
\$114,928	\$154,151

“SCHEDULE II
(Section 2)

DETERMINATION OF THE STARTING SALARY OF A SPECIAL
CLERK TAKING OFFICE

For the purposes of determining the salary to be used as a basis for the calculation of the starting salary of a special clerk taking office, the following rules apply:

1. Take into account the regular salary with the previous employer, by requiring an attestation of salary from that employer.
2. Determine self-employment income by taking the following into consideration:
 - a financial statement prepared by an accounting firm;
 - a copy of the T4 or Relevé 1 slips showing the earnings for the last year or years of reference required;
 - a sworn statement by which the candidate attests to the amount of the earnings; or
 - any other acceptable and representative proof of the candidate’s income.
3. Exclude from the salaries, earnings or income provided any amount that is not of a regular nature such as premiums, overtime or other bonuses of that nature.
4. Take into account, for the purposes of determining the salary, only the income from the principal employment, excluding income from casual employment.
5. Subtract, in the case of candidates who are contract or casual employees of the Gouvernement du Québec, the percentage of their salary compensating for the absence of employment benefits, where such a percentage is provided for.
6. If more advantageous, calculate the average of the income that was received in the 3 previous years and that varied significantly from one year to the next because it was in the form of profit sharing or any other form. The same applies to the regular salary received, in the event of variations in salary or changes in employment during the 3 previous years.

“SCHEDULE III
(Sections 3, 4, 8, 24 and 25)

PUBLIC SECTOR

1. The Government and its departments, the Conseil exécutif and the Conseil du trésor.
2. The Lieutenant-Governor’s staff, the National Assembly, the Public Protector, any person designated by the National Assembly to an office under its authority where the law provides that the person’s personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1), and any body to which the National Assembly or one of its committees appoints the majority of the members.
3. Any body that is established by an Act, or under an Act, or by a decision of the Government, the Conseil du trésor or a minister and that meets one of the following conditions:
 - (1) all or part of its appropriations for operating purposes appear under that heading in the budgetary estimates tabled in the National Assembly;
 - (2) its employees are required by law to be appointed in accordance with the Public Service Act (chapter F-3.1.1); or
 - (3) the Government or a minister appoints at least half of its members or directors and at least half of its operating costs are borne directly or indirectly by the Consolidated Revenue Fund or by another fund administered by a body referred to in section 1 or 2 of this Schedule or by both at the same time.
4. The Public Curator.
5. Any body, other than those mentioned in sections 1, 2 or 3 of this Schedule, instituted by an Act, or under an Act, or by a decision of the Government, the Conseil du Trésor or a minister and at least half of whose members or directors are appointed by the Government or a minister.
6. Any joint-stock company, other than a body mentioned in section 3 of this Schedule, of which more than 50% of the voting shares are part of the public domain or are owned by a body referred to in sections 1 to 3 and 5 of this Schedule or by an enterprise referred to in this section.
7. Any educational institution at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).
8. Any general and vocational college instituted under the General and Vocational Colleges Act (chapter C-29).

9. Any school service centre referred to in the Education Act (chapter I-13.3), any school board referred to in the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) and the Comité de gestion de la taxe scolaire de l'Île de Montréal.

10. Any private institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1).

11. Any other educational institution of which more than half of the operating expenses are paid out of the appropriations entered in the budgetary estimates tabled in the National Assembly.

12. Any public institution or private institution under agreement and any agency referred to in the Act respecting the governance of the health and social services system (chapter G-1.021) or the Act respecting health services and social services for the Inuit and Naskapi (chapter S-4.2).

13. Any regional council established under the Act respecting health services and social services for Cree Native persons (chapter S-5).

14. Any municipality, any body declared by law to be the mandatary or agent of a municipality and any body the majority of whose board of directors is composed of members of a municipal council, as well as any body otherwise under municipal authority.

15. Any metropolitan community, any intermunicipal board, any intermunicipal transit corporation, any intermunicipal board of transport, the Kativik Regional Government and any other body the majority of whose board of directors is composed of elected municipal officers, except a private body.

16. The federal public sector referred to in paragraphs 11 to 14 of Schedule I to the Règles concernant la rémunération et les autres conditions de travail des titulaires d'un emploi supérieur à temps plein (Order in Council 450-2007 dated 20 June 2007, French only).

“SCHEDULE IV
(Section 8)

PERFORMANCE EVALUATION CRITERIA AND RATINGS

The annual performance evaluation is carried out according to the following criteria:

(1) qualitative evaluation criteria, which comprise factors and standards intended to assess the knowledge, skills, attitudes and behaviours of the special clerk in the exercise of their functions and powers, particularly with regard to

(a) the knowledge and use of statutes, regulations, evidence and procedure rules and jurisprudence using the means made available to the special clerk to master them;

(b) the quality of the drafting of decisions, particularly with regard to clarity, precision and concision;

(c) behaviour with the parties and their witnesses and representatives, particularly at hearings;

(d) compliance with the code of ethics applicable to special clerks;

(e) availability and interest in work;

(f) communications and relations with the management and staff of the Superior Court and the Court of Québec;

(g) participation in the committees and activities related to the office of special clerk; and

(h) development and maintenance of knowledge, including participation in training and the professional development programs or activities established by the coordinating special clerk in collaboration with the Chief Justice of the Superior Court or the chief judge of the Court of Québec;

(2) quantitative evaluation criteria, which are intended to assess the quantitative contribution of a special clerk in the handling of cases, in particular with regard to

(a) the number of decisions rendered; and

(b) the number of decisions rendered beyond the advisement period.

The annual performance evaluation is carried out using the following evaluation ratings:

A: performance that far exceeds the required standards

B: performance that exceeds the required standards

C: performance that meets the required standards

D: performance that falls below the required standards

E: performance that falls considerably below the required standards.”

CHAPTER V

OTHER AMENDMENTS

ACT RESPECTING THE MINISTÈRE DE LA JUSTICE

33. Section 3 of the Act respecting the Ministère de la Justice (chapter M-19) is amended by inserting “, except special clerks,” after “officers” in subparagraph *f* of the second paragraph.

ACT RESPECTING THE MINISTÈRE DU CONSEIL EXÉCUTIF

34. Section 3.0.1 of the Act respecting the Ministère du Conseil exécutif (chapter M-30) is amended by inserting “to special clerks,” after “judges of a court within the meaning of the Courts of Justice Act (chapter T-16),” in the fourth paragraph.

CODE OF PROFESSIONAL CONDUCT OF LAWYERS

35. Section 2 of the Code of Professional Conduct of Lawyers (chapter B-1, r. 3.1) is amended by adding the following sentence at the end of the third paragraph: “The same applies to acts performed by a special clerk while exercising such a function.”

REGULATION RESPECTING THE RECRUITMENT AND SELECTION PROCEDURE FOR DISCIPLINARY COUNCIL CHAIRS OF PROFESSIONAL ORDERS

36. Schedule II to the Regulation respecting the recruitment and selection procedure for disciplinary council chairs of professional orders (chapter C-26, r. 7.1) is amended by replacing “certificate of competence to practise the profession of advocate” in Section B Other relevant experience by “permit issued by the Barreau du Québec or the Chambre des notaires du Québec”.

CODE OF ETHICS OF NOTARIES

37. The Code of ethics of notaries (chapter N-3, r. 2) is amended by inserting the following section after section 12:

“**12.1.** This Code does not apply to acts performed by a notary while exercising an adjudicative function conferred by statute.”

REGULATION RESPECTING THE SELECTION PROCEDURE
OF CANDIDATES FOR THE OFFICE OF JUDGE OF THE COURT
OF QUÉBEC, MUNICIPAL JUDGE AND PRESIDING JUSTICE
OF THE PEACE

38. Schedule A to the Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal judge and presiding justice of the peace (chapter T-16, r. 4.1) is amended by replacing “certificate of competence to practice the profession of advocate” in the eighth boxed text by “permit issued by the Barreau du Québec or the Chambre des notaires du Québec”.

CHAPTER VI

TRANSITIONAL AND FINAL PROVISIONS

39. Until the coming into force of the first code of ethics applicable to special clerks, established under section 157.7 of the Courts of Justice Act (chapter T-16), enacted by section 4 of this Act, special clerks are required to exercise their function purposefully and avoid placing themselves in a position that undermines such exercise; they must conduct themselves in a manner fully compatible with the honour, dignity, integrity and impartiality required by adjudicative functions.

A failure by a special clerk to comply with the provisions of the first paragraph may be raised as grounds to lodge a complaint against them.

40. The persons employed by the Ministère de la Justice who exercise the functions of special clerk for the Superior Court or the Court of Québec and who, on 15 July 2026, have five years of experience as special clerk or have been advocates or notaries for at least five years take on the new position of special clerk.

To resign, a special clerk must notify the Minister of Justice not later than 30 July 2026 and give the Minister written prior notice of not more than 30 days.

41. The place of residence of the persons referred to in the first paragraph of section 40 of this Act is established in the territory or in the immediate vicinity of the city of the courthouse where they mainly exercise their functions, at the moment they take on the new position on 15 July 2026. The place where those persons mainly exercise their functions is established at the place where they mainly exercise their functions at the time they take on the new position.

For the purposes of the first paragraph, if the place of residence of those persons is not located in the immediate vicinity when they take on the new position, it is presumed to be so.

42. The salary rate of the persons referred to in the first paragraph of section 40 of this Act on 15 July 2026 is increased by 10% of the maximum of the salary scale applicable to special clerks under the Regulation respecting the remuneration and other conditions of employment of special clerks (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Regulation respecting the remuneration and other conditions of employment of special clerks*), enacted by section 32 of this Act.

However, the increased salary rate must not be lower than the minimum of the salary scale applicable to special clerks under the Regulation.

Public servants appointed as special clerks on 15 July 2026 are not to receive a salary lower than the regular salary to which they were entitled before their appointment in accordance with their classification in the public service.

43. The requirement that a person be an advocate or notary to be appointed special clerk, provided for in the first paragraph of section 151 of the Courts of Justice Act (chapter T-16), enacted by section 4 of this Act, does not apply to persons referred to in the first paragraph of section 40 of this Act who exercise the functions of special clerk and who, when they take on the new position, are not advocates or notaries.

Nor does this requirement apply to those persons upon the renewal of their term of office by the Minister of Justice.

44. Persons referred to in the first paragraph of section 40 of this Act who take on the new position of special clerk and who, under paragraph 1 of section 31 of the Act respecting the laicity of the State (chapter L-0.3), were not subject to the prohibition on wearing religious symbols under section 6 of that Act continue to not be subject to that prohibition, so long as they continue to hold that position.

45. Persons referred to in the first paragraph of section 40 of this Act must take the oath set out in section 157.33 of the Courts of Justice Act (chapter T-16), enacted by section 4 of this Act.

46. Persons referred to in the first paragraph of section 40 of this Act continue and conclude the matters pending before them on 15 July 2026.

The coordinating special clerk designates a special clerk to continue and conclude the matters pending before the persons who do not take on the new position of special clerk under that section. If need be, the Chief Justice of the Superior Court or the chief judge of the Court of Québec designates a judge.

47. A notice stating the names of the persons referred to in the first paragraph of section 40 of this Act, their place of residence, the place to which they are mainly assigned and their remuneration is published in the *Gazette officielle du Québec* within 30 days after 15 July 2026.

48. The term of office of the first coordinating special clerk appointed under section 157.28 of the Courts of Justice Act (chapter T-16), enacted by section 4 of this Act, is one year.

49. The provisions of this Act come into force on 15 July 2026.

