



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 43

**An Act to amend the Courts of Justice
Act and other legislative provisions**

Introduction

**Introduced by
Mr. Jean-Marc Fournier
Minister of Justice**

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EXPLANATORY NOTES

This bill amends the Courts of Justice Act. The Superior Court will from now on be composed of 152 judges, including 96 judges appointed for the district of Montréal. There will henceforth be 290 judges appointed to the Court of Québec, and the maximum number of associate coordinating judges within that court is increased to 12.

The Government may, at the request of the chief judge of the Court of Québec, authorize a retired presiding justice of the peace to exercise judicial functions.

The chief judge of the Court of Québec may, with the approval of the Government, designate from among the presiding justices of the peace a judge responsible for presiding justices of the peace and determine that person's functions. The bill determines the term of office of the judge responsible for presiding justices of the peace and the procedure to be followed to replace the judge if he or she is unable to act.

Provisions relating to study leaves and salary protection are introduced, in respect of the president of the Human Rights Tribunal and the chair of the Professions Tribunal, that are similar to those applicable to judges who have held the office of associate chief judge for at least seven years.

The personnel members designated by the clerk of a court of justice are given authorization to administer the same oath as a commissioner for oaths.

Lastly, the Act respecting municipal courts is amended to allow the Government to determine by order the additional remuneration of the judge responsible for professional development activities intended for municipal court judges.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Courts of Justice Act (R.S.Q., chapter T-16).

Bill 43

AN ACT TO AMEND THE COURTS OF JUSTICE ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

COURTS OF JUSTICE ACT

1. Section 21 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by replacing “145” in the first paragraph by “152”.

2. Section 32 of the Act is amended by replacing “89” in subparagraph 1 of the first paragraph by “96”.

3. Section 85 of the Act is amended by replacing “270” by “290”.

4. Section 92 of the Act is amended by adding the following paragraph after the second paragraph:

“The second paragraph also applies to the president of the Human Rights Tribunal and to the chair of the Professions Tribunal. In their case, the leave of absence is six months and may be taken at the expiry of a term of office that is not renewed.”

5. Section 105.2 of the Act is amended by replacing “eight” in the first paragraph by “12”.

6. Section 116 of the Act is amended by replacing the first paragraph by the following paragraph:

“**116.** A judge who has held the office of chief judge, senior associate chief judge, associate chief judge, president of the Human Rights Tribunal or chair of the Professions Tribunal for at least seven years is entitled to receive, until his salary as a judge is equal to the amount of salary and additional remuneration he was receiving when he ceased to hold such office, the difference between the latter amount and his salary.”

7. The Act is amended by inserting the following section after section 165:

“**165.1.** At the request of the chief judge of the Court of Québec, the Government may, where it considers it serves the interests of justice, authorize,

for the time it determines, a retired presiding justice of the peace to exercise the judicial functions that the chief judge assigns to him.”

8. The Act is amended by inserting the following sections after section 169:

“**169.1.** The chief judge may, with the approval of the Government, designate from among the presiding justices of the peace a judge responsible for presiding justices of the peace for a term of office of not more than three years. The term of office may be renewed.

The duties of the judge responsible for presiding justices of the peace are determined by the chief judge.

“**169.2.** The judge responsible for presiding justices of the peace shall remain in office notwithstanding the expiry of his term of office until he is replaced or designated for another term.

If the judge responsible for presiding justices of the peace is absent or unable to act, the chief judge may designate another presiding justice of the peace to perform his duties until he resumes his duties or is replaced.”

9. Section 175 of the Act is amended

(1) by inserting “, and the additional remuneration attached to the office of judge responsible for presiding justices of the peace” at the end of the first sentence of the first paragraph;

(2) by adding the following sentence at the end of the second paragraph: “The conditions for reimbursement and the extent to which expenses are reimbursed may vary as concerns the judge responsible for presiding justices of the peace.”

10. The Act is amended by inserting the following sections after section 178:

“**178.1.** The judge designated to replace the judge responsible for presiding justices of the peace while he is absent or unable to act, is entitled, for the period during which he holds that office, to the additional remuneration attached to it.

“**178.2.** A retired presiding justice of the peace authorized by the Government to exercise judicial functions assigned by the chief judge is entitled to receive for each working day the annual salary of a presiding justice of the peace, determined under section 175, divided by the number of working days in a year.”

11. Section 179 of the Act is amended by replacing “section 175” by “sections 175, 178.1 and 178.2”.

12. Section 219 of the Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) the clerk and the deputy clerk of a court of justice, in the territory of the judicial district for which they are appointed, and any other personnel member designated by the clerk under section 140 or under the third paragraph of article 44 of the Code of Civil Procedure (chapter C-25);”.

ACT RESPECTING MUNICIPAL COURTS

13. Section 49 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by adding “, and the additional remuneration of the judge referred to in section 86.0.1” at the end of the third paragraph.

14. Section 86.0.1 of the Act is amended by replacing “the costs of reimbursing the judge responsible for professional development activities intended for municipal court judges for” by “the additional remuneration of the judge responsible for professional development activities intended for municipal court judges and the cost of reimbursing the”.

TRANSITIONAL AND FINAL PROVISIONS

15. The Government determines, by order, the additional remuneration attached to the office of judge responsible for presiding justices of the peace and the conditions under which and the extent to which the judge is reimbursed for expenses in the performance of duties.

The order remains applicable until the coming into force of the first order made under section 175 of the Courts of Justice Act (R.S.Q., chapter T-16), amended by section 9.

[[**16.** The sums required for the purposes of section 15 are taken out of the Consolidated Revenue Fund.]]

17. Sections 4, 6, 13 and 14 have effect from 1 July 2010.

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

