



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 88

An Act to amend the Act respecting Attorney General's prosecutors

Introduction

**Introduced by
Mr Gil Rémillard
Minister of Justice**

**Québec Official Publisher
1993**

EXPLANATORY NOTES

This bill amends the Act respecting Attorney General's prosecutors.

First, new provisions are introduced to simplify the method of appointment of casual prosecutors and the Government is granted the power to regulate their appointment, remuneration, social benefits and other conditions of employment.

Secondly, the clause prohibiting permanent prosecutors from carrying on duties other than those of their office is extended to casual prosecutors.

In the French text, the titles of "procureur-chef" and "procureur-chef adjoint" are changed to those of "substitut en chef" and "substitut en chef adjoint", respectively.

Finally, provisions relating to the participation in certain political activities by the Attorney General's permanent prosecutors are introduced.

Bill 88

An Act to amend the Act respecting Attorney General's prosecutors

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting Attorney General's prosecutors (R.S.Q., chapter S-35) is amended by inserting, before section 1, the following headings:

"DIVISION I

"GENERAL PROVISIONS".

2. Section 1 of the said Act is replaced by the following section:

"1. The Attorney General's prosecutors shall be appointed, in accordance with this Act, from among advocates authorized by law to practise their profession in Québec."

3. Section 5 of the said Act is amended

(1) by replacing the words "and to the other conditions" in the fourth line of the second paragraph of subsection 1 by the words "and to the social benefits and other conditions of employment";

(2) by replacing subsection 2 by the following subsection:

"(2) Casual prosecutors shall be appointed by the Attorney General. The deed of appointment shall fix their remuneration in accordance with such rules, standards and scales as the Government may determine by regulation, on the recommendation of the Attorney General.

The regulation may also prescribe rules, standards and scales applicable to the appointment, social benefits and other conditions of employment of casual prosecutors.”

4. The French text of section 6 of the said Act is amended by replacing the words “procureurs-chefs ainsi que des procureurs-chefs adjoints” in the second and third lines by the words “substituts en chef ainsi que des substituts en chef adjoints”.

5. Section 7 of the said Act is amended by replacing the words “permanent prosecutor” in the first line by the words “prosecutor other than a prosecutor designated in accordance with section 9”.

6. Section 8 of the said Act is repealed.

7. The said Act is amended by inserting, after section 9, the following division:

“DIVISION II

“PROVISIONS RESPECTING THE CARRYING ON OF CERTAIN POLITICAL ACTIVITIES

“9.1 No permanent prosecutor may, while he has the status of prosecutor, be a candidate in a federal, provincial, municipal or school election.

In addition, no permanent prosecutor may be a member of a political party, pay a contribution to a political party, to a political party authority or to a candidate in such an election or engage in other partisan activity in favour of or against a political party or a candidate in such an election.

“9.2 A permanent prosecutor who exercises his right to vote in an election, is a candidate for elective public office other than an office referred to in section 9.1 or attends a public meeting of a political nature is not engaging in a partisan activity.

“9.3 Any permanent prosecutor who intends to engage in a political activity referred to in section 9.1 shall, without delay, inform the Deputy Attorney General.

“9.4 The Deputy Attorney General shall reclassify the permanent prosecutor, according to his qualifications, to a class of positions in the public service for which the minimum conditions of eligibility are equivalent to those of the class to which he belongs and for which the salary level is substantially equivalent.

Reclassification shall take place after consultation with the prosecutor concerned.

“9.5 Reclassification shall be granted as soon as possible, in time to enable the person reclassified to engage in any political activity referred to in section 9.1.

“9.6 Upon reclassification, the person may, in accordance with the provisions of the Public Service Act, engage in any political activity referred to in section 9.1.

“9.7 Upon becoming aware that a permanent prosecutor has engaged in political activities referred to in section 9.1 without informing him, the Deputy Attorney General shall reclassify that prosecutor in accordance with the provisions of section 9.4.

“9.8 Reclassification may be effected by a person authorized in writing by the Deputy Attorney General.

“9.9 No reclassification under this division may entail a reduction in the regular salary or social benefits to which the permanent prosecutor was entitled prior to reclassification.

“9.10 Nothing in this division shall preclude the application of the provisions of the Public Service Act relating to the standards of ethics and discipline applicable under that Act.”

8. Every permanent prosecutor who, on (*insert here the date of assent to this Act*), is engaged in political activities referred to in section 9.1 of the Act respecting Attorney General's prosecutors, enacted by section 7 of this Act, must, without delay, either cease such activities and inform the Deputy Attorney General accordingly or, if he intends to pursue them, comply with the provisions of Division II of the said Act.

9. The provisions of this Act come into force on (*insert here the date of assent to this Act*), except the provisions of section 3 which will come into force on the date to be fixed by the Government.