



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 109
(2005, chapter 34)

An Act respecting the Director of Criminal and Penal Prosecutions

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EXPLANATORY NOTES

This bill creates the office of Director of Criminal and Penal Prosecutions and provides that the Director is to direct all criminal and penal prosecutions in Québec on behalf of the State under the general authority of the Minister of Justice and Attorney General. The Director is to exercise the functions conferred on the office by this bill, with the independence provided for in this bill. The Director is by virtue of office Deputy Attorney General.

The bill provides rules on the appointment and term of the Director and the Deputy Director. It also provides that the Director is the chief executive officer of an agency.

The bill specifies the functions and powers of the Director and defines the Director's relationship with the Attorney General and the Minister of Justice. The Director acts as prosecutor in criminal and penal proceedings and exercises the functions appropriate to the mission of the office, while the Minister of Justice is responsible for establishing the public policy of the State in justice matters, including with regard to criminal and penal matters. The Attorney General may take charge of or intervene in a matter that comes under the Director's responsibility, but is in that case required to notify the Director and publish a notice of intent to take charge of the matter, or instructions on the conduct of the matter.

In addition, the bill provides that the instructions concerning the conduct of prosecutions issued and published by the Director for the benefit of the prosecutors under the Director's authority can also be made applicable, with the necessary modifications determined after taking into account the opinion of designated prosecutors, to any attorney acting for the prosecution in criminal or penal proceedings, including before municipal courts.

Finally, the bill broadens the scope of article 95 of the Code of Civil Procedure in order that the Attorney General be notified when the State is sued for compensation for a violation or negation of fundamental rights and freedoms.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001);
- Charter of the French language (R.S.Q., chapter C-11);
- Charter of human rights and freedoms (R.S.Q., chapter C-12);
- Highway Safety Code (R.S.Q., chapter C-24.2);
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Labour Code (R.S.Q., chapter C-27);
- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Public Service Act (R.S.Q., chapter F-3.1.1);
- Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act to ensure that essential services are maintained in the health and social services sector (R.S.Q., chapter M-1.1);
- Master Electricians Act (R.S.Q., chapter M-3);
- Master Pipe-Mechanics Act (R.S.Q., chapter M-4);
- Act respecting the Ministère de la Justice (R.S.Q., chapter M-19);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Police Act (R.S.Q., chapter P-13.1);

- Youth Protection Act (R.S.Q., chapter P-34.1);
- Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1);
- Consumer Protection Act (R.S.Q., chapter P-40.1);
- Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);
- Act respecting the collection of certain debts (R.S.Q., chapter R-2.2);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1);
- Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1);
- Fire Safety Act (R.S.Q., chapter S-3.4);
- Act respecting transportation services by taxi (R.S.Q., chapter S-6.01);
- Act respecting Attorney General’s prosecutors (R.S.Q., chapter S-35);
- Lobbying Transparency and Ethics Act (R.S.Q., chapter T-11.011).

Bill 109

AN ACT RESPECTING THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

CREATION OF OFFICE OF DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS AND APPOINTMENT OF DIRECTOR

1. This Act creates the office of Director of Criminal and Penal Prosecutions.

Under the general authority of the Minister of Justice and Attorney General, the Director directs all criminal and penal prosecutions in Québec on behalf of the State. The Director exercises the functions conferred on the Director of Criminal and Penal Prosecutions by this Act, with the independence provided for in this Act.

The Director is by virtue of office “Deputy Attorney General” for criminal and penal prosecutions. The Director is also the lawful deputy of the Attorney General of Québec within the meaning of the Criminal Code, as are the prosecutors under the Director’s authority.

2. On the recommendation of the Minister of Justice, the Government appoints the Director from among advocates with at least ten years’ practice. The person recommended must be chosen from a list of persons declared qualified to hold the office by the selection committee formed for that purpose.

3. During the year that precedes the end of the Director’s term or as soon as the office becomes vacant, the Minister publishes a notice inviting the members of Québec’s legal community to apply for the office of Director or to propose the name of a person they consider qualified to hold that office, in accordance with the procedure the Minister determines.

The Minister also forms a selection committee. The committee is made up of the Deputy Minister of Justice and four other members including an advocate recommended by the Bâtonnier of the Province of Québec, a professor of law recommended by the deans of Québec’s law faculties, a person recommended by bodies representing the municipal sector and a person chosen by the Minister from among persons active in crime victims support organizations.

The committee promptly evaluates the candidates' aptitude on the basis of their knowledge, particularly in criminal and penal law, their experience and their qualifications, according to the criteria determined by government regulation. Without delay, the committee presents to the Minister a report in which it lists the candidates it has met whom it considers qualified to hold the office of Director. All information and documents regarding the candidates and the proceedings of the committee are confidential.

The members of the committee receive no remuneration except in the cases and on the conditions that may be determined by the Government. They are, however, entitled to the reimbursement of expenses to the extent determined by the Government.

4. The Director is appointed for a non-renewable seven-year term. At the expiry of the term, the Director remains in office until replaced. The Director may resign at any time by giving written notice to the Minister of Justice.

5. On the recommendation of the Minister of Justice, the Government appoints a Deputy Director from among criminal and penal prosecuting attorneys with at least ten years' practice as advocates. The Government also determines the length of the Deputy Director's term, which may not be shorter than five years nor longer than seven.

The person recommended must be chosen from a list of persons declared qualified to hold the office by a selection committee formed for that purpose and made up of the Deputy Minister of Justice, a person recommended by the Bâtonnier of the Province of Québec and the Director, following the issue of a notice inviting criminal and penal prosecuting attorneys to apply.

The Deputy Director may resign at any time by giving written notice to the Director. At the expiry of the term, the Deputy Director remains in office until replaced.

6. The Director and the Deputy Director cannot be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after receiving a report from the Commission de la fonction publique. The suspension may not exceed three months.

In an urgent situation requiring prompt intervention, or in a presumed case of serious fault, the Minister may provisionally relieve the Director or the Deputy Director from their duties with remuneration.

7. The Government determines the remuneration, employment benefits and other conditions of employment of the Director and the Deputy Director on the recommendation of the Minister of Justice; their remuneration, once set, cannot be reduced.

8. Before entering office, the Director and the Deputy Director take the oath provided in Schedule 1 before the chief judge of the Court of Québec.

9. The Director defines the duties of the Deputy Director. If the Director is absent or unable to act or if the position of Director is vacant, the Deputy Director replaces the Director.

If the Deputy Director is absent or unable to act, the Government appoints a person to replace the Deputy Director for as long as the latter is absent or unable to act, and determines the person's remuneration. The replacement may not exceed six months.

10. The Director and the Deputy Director must exercise their functions on a full-time basis.

They may not engage in any partisan political activity.

11. An act, document or writing is binding on or may be attributed to the Director only if it is signed by the Director or by the Deputy Director or, to the extent provided in the delegation of signature instrument, by a member of the Director's personnel. The delegation instrument must be published in the *Gazette officielle du Québec* but takes effect upon its signing by the Director.

In any civil or penal proceedings, any document purporting to be signed by the Director or Deputy Director is evidence of its contents and of the capacity of the signatory, in the absence of proof to the contrary.

12. The Director is the chief executive officer of an agency.

The head office of the Director is in the territory of Ville de Québec. A notice of the location of the head office is published in the *Gazette officielle du Québec*.

CHAPTER II

FUNCTIONS AND POWERS OF DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

13. The Director has the following functions:

(1) to act as prosecutor in proceedings under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1) or any other federal Act or rule of law in respect of which the Attorney General of Québec has the authority to act as prosecutor;

(2) to act as prosecutor in proceedings under the Code of Penal Procedure (R.S.Q., chapter C-25.1).

The Director also exercises any other function appropriate to the Director's mission, including authorizing a prosecution, instituting an appeal and intervening in proceedings to which the Director is not a party if, in the

Director's opinion, it is required in the interests of justice. Finally, the Director exercises any other function conferred on the Director by the Attorney General or the Minister of Justice.

14. When seized of a case, the Director carries out on behalf of the Attorney General the responsibilities conferred on the latter by the Act respecting the Ministère de la Justice (R.S.Q., chapter M-19) regarding the custody and management of property seized, restrained or forfeited pursuant to federal legislation. The Director also carries out the responsibilities conferred on the Attorney General by that Act regarding the disposition of such property, to the extent specified by the Attorney General.

Subject to the rules set out in an order of seizure or restraint, the Director, in carrying out these responsibilities, acts as administrator of the property of others entrusted with full administration; however, the Director must comply with any directions given by the Minister of Justice or the Attorney General as beneficiary of the administration, regarding such matters as the intervals at which remittance of the sums administered by the Director must be made to the Minister of Justice or Attorney General, and rendering of account by the Director.

15. The Director must

(1) inform the Attorney General, as soon as possible, of any appeal brought before the Supreme Court of Canada and of any appeal brought before the Court of Appeal when the appeal raises questions of general interest beyond the scope of those usually raised in criminal and penal prosecutions;

(2) inform the Attorney General, as soon as possible, of any case that could raise questions of general interest or require the intervention of the Minister of Justice or Attorney General; and

(3) when constitutional questions are raised before the courts, see to it that the provisions of articles 95 and 95.1 of the Code of Civil Procedure (R.S.Q., chapter C-25) are respected.

The Director must also, in criminal and penal proceedings, take the measures needed to ensure that the legitimate interests of crime victims are taken into account and that witnesses are respected and protected.

16. The Director may delegate to one or more persons under the Director's authority a function essential to the carrying out of the Director's responsibilities; these persons act under the Director's supervision.

However, the Director may not delegate the powers of the Deputy Attorney General under the Criminal Code, which powers may be exercised by the Deputy Director when replacing the Director.

17. The Director may participate in the inquiries held by a coroner or fire investigation commissioner and by a person vested with the powers of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37) at their request. The Director may also intervene on the Director's own initiative.

18. The Director issues instructions with respect to criminal and penal prosecutions for the benefit of the prosecutors under the Director's authority. The instructions must incorporate the policies and measures established by the Minister of Justice, and the Director ensures that they are accessible to the public.

These instructions apply, with the necessary modifications determined after taking into account the opinion of designated prosecutors, including municipalities, to any attorney acting for the prosecution in criminal or penal proceedings, including before municipal courts. The Director publishes a notice in the *Gazette officielle du Québec* indicating the date as of which an instruction applies to one or more designated prosecutors. Subsequently, if the Director must intervene in criminal or penal proceedings because the instructions were not complied with, the prosecutor concerned must assume the costs.

The Director supervises proceedings instituted by private prosecutors and, if the interests of justice so require, acts as advisor, intervenes, conducts the proceedings or terminates them.

19. At the request of the Attorney General, the Director provides expertise on the administration of the Acts within the Director's jurisdiction, in particular by issuing advisory opinions.

The Director may submit recommendations to the Attorney General regarding the administration of those Acts.

20. The Director may advise peace officers and persons entrusted with law enforcement on all aspects of an investigation or criminal or penal proceedings. The Director may require such peace officers or persons to conduct further investigation into cases referred to the Director.

The Director may also bring to the attention of the Deputy Minister of Public Security any situation which, in the Director's opinion, requires a police investigation.

21. The Director may, in accordance with the applicable legislative provisions, enter into an agreement with holders of similar positions with the federal government or with a provincial or territorial government, particularly to provide that a party to the agreement may act as prosecutor in certain prosecutions.

The Director may also enter into an agreement with government departments, or, with the Minister's authorization, with municipalities, bodies or persons having the power to institute criminal or penal proceedings, to provide that the Director will act in their name as prosecutor. The Director may also enter into a service agreement in any area to facilitate the exercise of the Director's functions or to provide them with a product or service related to the Director's expertise, provided this does not interfere with the Director's functions.

22. The policies developed and the measures implemented by the Minister of Justice concerning the general conduct of criminal and penal proceedings must be aimed particularly at ensuring that the legitimate interests of the victims of crime are taken into account, that witnesses are respected and protected, that criminal and penal prosecuting attorneys are present and assigned throughout the territory of Québec, that certain types of proceedings are processed and that non-judicial approaches or alternatives to prosecution are applied.

The policies and measures are published by the Minister of Justice in the *Gazette officielle du Québec* and are brought to the Director's attention.

The Minister of Justice may ask the Director for any information needed to carry out this responsibility.

23. When a matter comes under the Director's responsibility, the Attorney General may only take charge of the matter or give instructions on its conduct after consulting the Director.

In such a case, the Attorney General is required to give the Director a notice of intent to take charge of the matter or instructions on the conduct of the matter, and publish the notice of intent or instructions in the *Gazette officielle du Québec* without delay. Publication may be delayed, however, if the Director considers that it may undermine the interests of justice or public policy.

The Director is required to turn the matter over to the Attorney General or act on the Attorney General's instructions and to provide any information the Attorney General requires within the time specified.

24. When, in the Attorney General's opinion, proceedings raise questions of public interest beyond the scope of those usually raised in criminal and penal prosecutions, the Attorney General may, after notifying the Director, intervene in first instance or in appeal without further formality.

CHAPTER III

DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS PERSONNEL

DIVISION I

CRIMINAL AND PENAL PROSECUTING ATTORNEYS

§1. — Appointment and functions

25. The Director appoints criminal and penal prosecuting attorneys in accordance with this Act from among advocates authorized by law to practise in Québec, who are empowered to represent the Director in the exercise of the functions of office.

Criminal and penal prosecuting attorneys perform, under the Director's authority, the duties and functions determined by the Director. When acting as prosecutors, they are deemed to be authorized to act in the Director's name and are not required to prove such authorization.

Before entering office, criminal and penal prosecuting attorneys must take the oath provided in Schedule 2 before the Director or the Deputy Director.

Except where inconsistent with the provisions of this Act, the Public Service Act (R.S.Q., chapter F-3.1.1) applies to criminal and penal prosecuting attorneys. The provisions of that Act concerning standards of ethics and discipline also apply to casual attorneys.

26. The Director may appoint, from among criminal and penal prosecuting attorneys, one or more chief attorneys and assistant chief attorneys. The Director determines their duties and functions in addition to those which they must perform as attorneys.

The Government may, by an order made on the recommendation of the Director, determine the rules, standards and scales applicable to the appointment, remuneration, employment benefits and other conditions of employment of chief attorneys and assistant chief attorneys.

27. A criminal and penal prosecuting attorney must attend exclusively to the duties of office and may not hold any other function, office or employment unless so authorized by the Director. A criminal and penal prosecuting attorney thus authorized to work for the Ministère de la Justice or another department, a body or a third party retains the status of criminal and penal prosecuting attorney, regardless of the nature of the function, office or employment held or, if applicable, of the conditions and term of the service agreement.

28. The Director may specially appoint any advocate authorized by law to practise in Québec to represent the Director before the courts of criminal or penal jurisdiction.

Persons appointed under the first paragraph are deemed to be criminal and penal prosecuting attorneys, but only for the purposes of the mandate given to them.

§2. — *Exercise of certain political activities*

29. No criminal and penal prosecuting attorney may, while holding that status, be a candidate in a federal, provincial, municipal or school election.

Nor may a criminal and penal prosecuting attorney 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 political partisan activity in favour of or against a political party or a candidate in such an election. A criminal and penal prosecuting attorney may, however, attend a political rally.

30. A criminal and penal prosecuting attorney who intends to engage in a political activity must inform the Director without delay. After consultation with the attorney concerned, the Director or a person so authorized in writing by the Director reclassifies the attorney 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 the attorney belongs and for which the salary level is substantially equivalent. Reclassification must be effected as soon as possible, in time to enable the person reclassified to engage in the political activity. Upon reclassification, the person may engage in the political activity.

If the attorney fails to inform the Director, the Director reclassifies the attorney as soon as the Director becomes aware that the attorney has engaged in a political activity.

A reclassification may not entail a reduction in the regular salary or employment benefits to which the attorney was entitled prior to reclassification.

31. Nothing prevents a person who has been reclassified and who no longer engages in political activities from applying for a position as criminal and penal prosecuting attorney.

DIVISION II

OTHER DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS PERSONNEL

32. The personnel of the Director of Criminal and Penal Prosecutions, other than the criminal and penal prosecuting attorneys, are appointed in accordance with the Public Service Act.

CHAPTER IV

FINANCIAL PROVISIONS, ACCOUNTS AND REPORTS

33. At least once a year, the Director submits budgetary estimates for the next fiscal year to the Minister of Justice; the form and content of the estimates and the submission schedule are determined by the Minister.

34. The fiscal year of the Director ends on 31 March.

35. Sections 30 and 31 of the Financial Administration Act (R.S.Q., chapter A-6.001) do not apply to the appropriations granted for the administration of this Act.

36. Not later than 31 July each year, the Director submits the Director's annual management report to the Minister of Justice, who lays it before the National Assembly.

The report must contain all information required by the Minister and give an account of the policies and measures established by the Attorney General and the notices of intent and instructions received from the Attorney General under sections 22 and 23.

CHAPTER V

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

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

37. Section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by replacing "Attorney General" in the third line of subparagraph 1 of the second paragraph by "Director of Criminal and Penal Prosecutions".

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

38. Section 429.24 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is replaced by the following section:

"429.24. The rules pertaining to the notices provided for in article 95 of the Code of Civil Procedure (chapter C-25) apply, with the necessary modifications, to applications submitted to the Commission des lésions professionnelles."

FINANCIAL ADMINISTRATION ACT

39. Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting “Director of Criminal and Penal Prosecutions” in alphabetical order.

ACT RESPECTING PREARRANGED FUNERAL SERVICES AND SEPULTURES

40. Section 80 of the Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001) is amended by replacing “instituting” in the third line of the first paragraph by “the Director of Criminal and Penal Prosecutions has instituted”.

CHARTER OF THE FRENCH LANGUAGE

41. Section 207 of the Charter of the French language (R.S.Q., chapter C-11) is replaced by the following section:

“**207.** The Attorney General, the Director of Criminal and Penal Prosecutions or a person either of them has authorized shall institute penal prosecutions under this Act. The Attorney General shall bring all other proceedings necessary for the enforcement of this Act.”

CHARTER OF HUMAN RIGHTS AND FREEDOMS

42. Section 71 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by adding “and to the Director of Criminal and Penal Prosecutions” at the end of subparagraph 9 of the second paragraph.

CODE OF CIVIL PROCEDURE

43. Article 95 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended

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

“Such notice is also required when a person sues the State or the Public Administration for compensation for a violation or negation of the person’s fundamental rights and freedoms under the Charter of human rights and freedoms or the Canadian charter of rights and freedoms.”;

(2) by replacing the second paragraph by the following paragraph:

“The notice shall set forth, in a precise manner, the nature of the pretensions and the grounds relied upon. It is to be accompanied with a copy of the proceedings and served by the person who intends to raise the question not later than 30 days before the date of the hearing. Only the Attorney General may waive such notice.”;

(3) by replacing the last paragraph by the following paragraphs:

“No application may be determined by the court unless the notice has been validly given, and the court shall adjudicate only upon the grounds set forth in the notice.

The notices referred to in this article are also served on the Attorney General of Canada when the provision concerned comes under federal jurisdiction. They are also served on the Director of Criminal and Penal Prosecutions when the provision relates to a criminal or penal matter.”

44. The Code is amended by inserting the following article after article 95:

“95.1. In criminal or penal matters, the notice referred to in the second paragraph of article 95 is not required when the compensation sought relates to the disclosure or exclusion of evidence or the period of time elapsed since the accusation, or in the cases determined by order of the Minister of Justice published in the *Gazette officielle du Québec*.

In all other cases, the notice must be served at least 10 days before the date the application for compensation is heard. Otherwise, the court orders the notice to be served and postpones the hearing, unless the Attorney General waives such notice or shortens the period of notice because the court judges it necessary to prevent irreparable harm to the person applying for compensation or a third party.”

CODE OF PENAL PROCEDURE

45. Article 9 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended by inserting the following paragraph after paragraph 1:

“(1.1) the Director of Criminal and Penal Prosecutions;”.

46. Article 11 of the Code is amended

(1) by replacing the first line of the first paragraph by the following:

“11. The Attorney General or the Director of Criminal and Penal Prosecutions may”;

(2) by inserting “or of the Director of Criminal and Penal Prosecutions” after “Attorney General” in the second line of the second paragraph.

47. Article 34 of the Code is replaced by the following article:

“34. When a question referred to in articles 95 and 95.1 of the Code of Civil Procedure (chapter C-25) arises, the notice periods prescribed in those articles may not operate to delay the release of the defendant or a witness.”

48. Article 70 of the Code is amended

(1) by replacing “Attorney General’s prosecutor” in the first line of the first paragraph by “criminal and penal prosecuting attorney”;

(2) by replacing “his name” in the second line of the first paragraph by “the name of the Director of Criminal and Penal Prosecutions”;

(3) by inserting “or by the Director of Criminal and Penal Prosecutions” after “Attorney General” in the first line of the second paragraph.

49. Article 70.1 of the Code is amended by replacing “Attorney General’s prosecutor” in the first line by “Director of Criminal and Penal Prosecutions or a criminal and penal prosecuting attorney”.

50. Article 291 of the Code is amended by replacing the words that precede “sufficient interest” by “The appellant or respondent in Superior Court and, even if they were not parties to the proceedings, the Attorney General and the Director of Criminal and Penal Prosecutions may, if they show”.

LABOUR CODE

51. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by replacing subparagraph 4 of paragraph 1 by the following subparagraph:

“(4) a criminal and penal prosecuting attorney;”.

52. Schedule I to the Code is amended by replacing “Act respecting Attorney General’s prosecutors” in paragraph 26 by “Act respecting the collective bargaining plan of criminal and penal prosecuting attorneys”.

ACT RESPECTING ELECTIONS AND REFERENDUMS
IN MUNICIPALITIES

53. Section 62 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended

(1) by replacing paragraph 6 by the following paragraph:

“(6) criminal and penal prosecuting attorneys”;

(2) by adding the following paragraph after paragraph 7:

“(8) the Director of Criminal and Penal Prosecutions.”

PUBLIC SERVICE ACT

54. Section 115 of the Public Service Act (R.S.Q., chapter F-3.1.1) is amended by adding the following subparagraph after subparagraph 2 of the first paragraph:

“(3) report to the Minister of Justice, after conducting an inquiry, on whether there is sufficient cause to dismiss the Director of Criminal and Penal Prosecutions or the Deputy Director of Criminal and Penal Prosecutions or suspend the Director or Deputy Director without remuneration as provided for in section 6 of the Act respecting the Director of Criminal and Penal Prosecutions (2005, chapter 34).”

ACT RESPECTING ADMINISTRATIVE JUSTICE

55. Section 112 of the Act respecting administrative justice (R.S.Q., chapter J-3) is replaced by the following section:

“**112.** The rules pertaining to the notices provided for in article 95 of the Code of Civil Procedure (chapter C-25) apply, with the necessary modifications, to motions presented before the Tribunal.”

ACT TO ENSURE THAT ESSENTIAL SERVICES ARE MAINTAINED IN THE HEALTH AND SOCIAL SERVICES SECTOR

56. Section 17 of the Act to ensure that essential services are maintained in the health and social services sector (R.S.Q., chapter M-1.1) is amended by replacing “or by a person generally or specially authorized by him” by “, the Director of Criminal and Penal Prosecutions or a person either of them has generally or specially authorized”.

ACT RESPECTING THE MINISTÈRE DE LA JUSTICE

57. Section 3 of the Act respecting the Ministère de la Justice (R.S.Q., chapter M-19), amended by section 42 of chapter 24 of the statutes of 2005, is again amended

(1) by replacing the first line and paragraph *a* by the following:

“**3.** The Minister of Justice is the legal adviser of the Lieutenant-Governor and the legal member of the Conseil exécutif du Québec.

The Minister:

(*a*) is responsible for establishing the public policy of the State in justice matters;”;

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

“(c.1) develops policies and implements measures with regard to criminal and penal matters;”.

58. Section 4 of the Act is amended

(1) by replacing paragraph *b.1* by the following paragraph:

“(b.1) may, in accordance with the law, act in penal matters to see to the enforcement of the laws and regulations of Québec; the Attorney General may also, in that respect, authorize a person in writing to act on behalf of the Attorney General;”;

(2) by striking out “, in particular, by his action before the courts,” in paragraph *c*.

59. Section 6 of the Act is amended by adding “, except where criminal and penal prosecutions are concerned” at the end of subsection 2.

ACT RESPECTING THE MINISTÈRE DU REVENU

60. Section 69.0.0.13 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing “or to the Attorney General” in the third line of the first paragraph by “, to the Attorney General or to the Director of Criminal and Penal Prosecutions”.

61. Section 69.0.2 of the Act is amended by replacing “Attorney General’s prosecutor” in the second line of the third paragraph by “Director of Criminal and Penal Prosecutions”.

YOUTH PROTECTION ACT

62. Section 81 of the Youth Protection Act (R.S.Q., chapter P-34.1) is amended by replacing “or the Attorney General” in the first line of the second paragraph by “, the Attorney General or the Director of Criminal and Penal Prosecutions”.

63. Section 96 of the Act is amended by replacing subparagraph *c* of the first paragraph by the following subparagraphs:

“(c) the advocates of the parties;

“(c.1) the Attorney General, the Director of Criminal and Penal Prosecutions or a person either of them has authorized;”.

64. Section 101 of the Act is amended by inserting “, the Director of Criminal and Penal Prosecutions” after “Attorney General” in the second line.

CONSUMER PROTECTION ACT

65. Section 290 of the Consumer Protection Act (R.S.Q., chapter P-40.1) is amended by replacing “instituting” in the second line of the first paragraph by “the Director of Criminal and Penal Prosecutions has instituted”.

ACT RESPECTING THE DETERMINATION OF THE CAUSES AND CIRCUMSTANCES OF DEATH

66. Section 99 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is amended by replacing “Attorney General’s prosecutor for the judicial district where the dead body was found” by “Director of Criminal and Penal Prosecutions”.

67. Section 131 of the Act is amended by replacing “an Attorney General’s prosecutor” by “the Director of Criminal and Penal Prosecutions”.

68. Section 135 of the Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) to the Director of Criminal and Penal Prosecutions or to the advocate designated by the Attorney General to represent the Attorney General;”.

69. Section 150 of the Act is amended by replacing “Attorney General’s prosecutor” by “Director of Criminal and Penal Prosecutions”.

70. Section 151 of the Act is amended by replacing “Attorney General’s prosecutor” by “Director of Criminal and Penal Prosecutions”.

71. Section 152 of the Act is amended by replacing “Attorney General’s prosecutor” by “Director of Criminal and Penal Prosecutions”.

72. Section 153 of the Act is amended by replacing “Attorney General’s Prosecutor” by “Director of Criminal and Penal Prosecutions”.

ACT RESPECTING THE COLLECTION OF CERTAIN DEBTS

73. Section 63 of the Act respecting the collection of certain debts (R.S.Q., chapter R-2.2) is amended by replacing “instituting” in the second line of the first paragraph by “the Director of Criminal and Penal Prosecutions has instituted”.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

74. Section 19.2 of the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by replacing “An Attorney General’s prosecutor” by “A criminal and penal prosecuting attorney”.

75. Division I of Schedule I to the Act is amended by replacing “Attorney General’s Prosecutor” in paragraph 2 of section 2 by “criminal and penal prosecuting attorney”.

ACT RESPECTING ATTORNEY GENERAL’S PROSECUTORS

76. The title of the Act respecting Attorney General’s prosecutors (R.S.Q., chapter S-35) is replaced by the following title:

“ACT RESPECTING THE COLLECTIVE BARGAINING PLAN OF CRIMINAL AND PENAL PROSECUTING ATTORNEYS”.

77. Divisions I and II of the Act, which comprise sections 1 to 9 and 9.1 to 9.11, are repealed.

78. The heading of Division III of the Act is replaced by the following heading:

“PROVISIONS RESPECTING THE COLLECTIVE BARGAINING PLAN”.

79. Section 10 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**10.** The Director of Criminal and Penal Prosecutions shall recognize as the exclusive representative of all criminal and penal prosecuting attorneys appointed under section 25 of the Act respecting the Director of Criminal and Penal Prosecutions (2005, chapter 34) for labour relations purposes, an association comprising more than half of those attorneys, except chief attorneys, assistant chief attorneys and attorneys the Director of Criminal and Penal Prosecutions considers appropriate to exclude owing to their confidential functions related to labour relations.”;

(2) by replacing “Attorney General or an association of prosecutors” in the first line of the second paragraph by “Director or an association of attorneys”;

(3) by replacing “Attorney General” in the first line of the third paragraph by “Director”.

80. Section 12 of the Act is amended

(1) by replacing “Attorney General” in the first line of the first paragraph by “Director”;

(2) by replacing “prosecutors” in the last line of the first paragraph by “attorneys”;

(3) by replacing “Minister of Justice, the Deputy Minister of Justice or the latter’s” in the second line of the second paragraph by “Director or the Director’s”;

(4) by replacing “a prosecutor” in subparagraph 1 of the second paragraph by “an attorney”.

81. Section 18 of the Act is amended

(1) by replacing “Attorney General” in the second line by “Director”;

(2) by replacing “prosecutors” in the fourth line by “attorneys”.

82. The Schedule to the Act is repealed.

83. In all other sections of the Act, the words “prosecutor”, “prosecutors”, “chief prosecutors” and “assistant chief prosecutors” are replaced by the words “attorney”, “attorneys”, “chief attorneys” and “assistant chief attorneys”.

LOBBYING TRANSPARENCY AND ETHICS ACT

84. Section 43 of the Lobbying Transparency and Ethics Act (R.S.Q., chapter T-11.011) is amended by replacing “Attorney General” at the end by “Director of Criminal and Penal Prosecutions”.

85. The term “Attorney General” is replaced by the term “Director of Criminal and Penal Prosecutions” everywhere it appears in the following provisions:

(1) sections 177 and 208.2 of the Charter of the French language (R.S.Q., chapter C-11);

(2) sections 112, 587.1 and 594 of the Highway Safety Code (R.S.Q., chapter C-24.2);

(3) articles 10, 301 and 311 of the Code of Penal Procedure (R.S.Q., chapter C-25.1);

(4) section 22.1 of the Master Electricians Act (R.S.Q., chapter M-3);

(5) section 21.1 of the Master Pipe-Mechanics Act (R.S.Q., chapter M-4);

(6) sections 178 and 288 of the Police Act (R.S.Q., chapter P-13.1);

(7) sections 72.6 and 72.7 of the Youth Protection Act (R.S.Q., chapter P-34.1);

(8) section 18 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1);

(9) section 123.4.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);

(10) sections 108, 113, 119, 120 and 130 of the Fire Safety Act (R.S.Q., chapter S-3.4); and

(11) section 125 of the Act respecting transportation services by taxi (R.S.Q., chapter S-6.01).

86. Depending on the context, the expressions “or the Director of Criminal and Penal Prosecutions”, “or by the Director of Criminal and Penal Prosecutions”, “or of the Director of Criminal and Penal Prosecutions”, or “or to the Director of Criminal and Penal Prosecutions” are inserted after “Attorney General” in the following provisions:

(1) section 474 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);

(2) articles 69, 268, 278, 299 and 366 of the Code of Penal Procedure (R.S.Q., chapter C-25.1);

(3) sections 280 and 460 of the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);

(4) sections 72.1, 72.2 and 72.3 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31); and

(5) section 246 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

87. Unless the context requires otherwise and with the necessary modifications, in any other Act or in any document,

(1) a reference to any of sections 1 to 9.11 of the Act respecting Attorney General’s prosecutors (R.S.Q., chapter S-35) is a reference to the corresponding provision of this Act;

(2) a reference to any provision of the Act respecting Attorney General’s prosecutors, other than those referred to in paragraph 1, is a reference to the corresponding provision of the Act respecting the collective bargaining plan of criminal and penal prosecuting attorneys;

(3) a reference to the Act respecting Attorney General’s prosecutors is, according to the subject matter, a reference to this Act or to the Act respecting the collective bargaining plan of criminal and penal prosecuting attorneys; and

(4) the terms “Attorney General’s prosecutor”, “chief prosecutor” and “assistant chief prosecutor” and the word “prosecutor”, when it means “Attorney General’s prosecutor”, become, respectively, “criminal and penal prosecuting attorney”, “chief attorney”, “assistant chief attorney” and “attorney”.

88. The orders determining the rules, standards and scales applicable to the appointment, remuneration, employment benefits and other conditions of employment applicable to chief Attorney General’s prosecutors and assistant chief Attorney General’s prosecutors that are in force when this Act comes into force remain in force as regards chief attorneys and assistant chief attorneys.

89. Despite sections 2 and 4, the associate deputy minister for public prosecutions at the Ministère de la Justice in office on (*insert the date preceding the date of coming into force of this section*) becomes the Director of Criminal and Penal Prosecutions and acts as such until 1 January 2008 or, after that date, until a Director is appointed in accordance with this Act.

90. An Attorney General’s prosecutor appointed under section 1 of the Act respecting Attorney General’s prosecutors (R.S.Q., chapter S-35) in office on (*insert the date preceding the date of coming into force of this section*) is deemed to have been appointed a criminal and penal prosecuting attorney under section 25 of this Act.

A person authorized under paragraph *b.1* of section 4 of the Act respecting the Ministère de la Justice (R.S.Q., chapter M-19) is deemed authorized under section 16 of this Act.

A person designated under section 9 of the Act respecting Attorney General’s prosecutors is deemed designated under section 28 of this Act.

91. Employees of the Ministère de la Justice who, on (*insert the date preceding the date of coming into force of this section*), are assigned to the functions devolved upon the Director of Criminal and Penal Prosecutions under this Act become, without further formality, employees of the Director.

92. The Director of Criminal and Penal Prosecutions, when replacing the Attorney General, the Deputy Attorney General or the Deputy Minister of Justice in criminal and penal matters or in matters related to the administration of this Act, acquires the rights and assumes the obligations of the Attorney General.

93. Any criminal or penal proceedings to which the Attorney General is a party are continued by the Director of Criminal and Penal Prosecutions without further formality.

94. The Minister of Justice is responsible for the administration of this Act.

95. The provisions of this Act come into force on the date or dates to be set by the Government.

SCHEDULE 1
(Section 8)

I declare under oath that I will fulfill the duties of the office of Director of Criminal and Penal Prosecutions (or Deputy Director of Criminal and Penal Prosecutions) honestly, objectively, impartially and justly and that I will not accept any money or benefit for what I have done or may do in the discharge of my duties of office other than what is allowed me according to law.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in or in connection with the discharge of my duties.

(Signature)

SCHEDULE 2
(Section 25)

I declare under oath that I will fulfill the duties of the office of criminal and penal prosecuting attorney honestly, objectively, impartially and justly and that I will not accept any money or benefit for what I have done or may do in the discharge of my duties of office other than what is allowed me according to law.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in or in connection with the discharge of my duties.

(Signature)

