



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 111
(2002, chapter 60)

**An Act to amend the Act respecting the
Ministère du Conseil exécutif as regards
Canadian intergovernmental affairs**

**Introduced 13 June 2002
Passage in principle 30 October 2002
Passage 17 December 2002
Assented to 18 December 2002**

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EXPLANATORY NOTE

This bill amends the provisions of the Act respecting the Ministère du Conseil exécutif which concern Canadian intergovernmental affairs. The bill clarifies the rules that must be followed for the conservation of agreements and confers on the Minister the responsibility of ensuring that the integrity of Québec institutions is respected in conducting Canadian intergovernmental affairs. In addition, the bill extends the application of the Act to agreements with federal public agencies, revises certain definitions concerning municipal bodies, school bodies and Québec public agencies that are subject to the Act, and replaces the present ban on agreements involving municipal or school bodies by a prior government authorization mechanism.

Bill 111

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DU CONSEIL EXÉCUTIF AS REGARDS CANADIAN INTERGOVERNMENTAL AFFAIRS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 3.2 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30) is amended

(1) by replacing “; he is the depositary of the original copy of every Canadian intergovernmental agreement and of a true copy of every other agreement and, as such, he” in the second, third and fourth lines of the second paragraph by “. The Minister is the depositary of Canadian intergovernmental agreements and, as such, the Minister”;

(2) by adding the following sentences at the end of the second paragraph :
“The original or, failing that, a true copy of each Canadian intergovernmental agreement must be deposited in the bureau des ententes. In addition, the Minister may at any time require a copy of any agreement referred to in section 3.11, 3.12, 3.12.1 or the first paragraph of section 3.13.”

2. Section 3.5 of the said Act is amended

(1) by replacing “is respected” at the end of the first paragraph by “are respected”;

(2) by adding “and the integrity of its institutions” after “Québec” in the second line of the first paragraph.

3. The said Act is amended by inserting the following section after the heading of subdivision 2 of Division II :

“3.6.2. In this subdivision,

“Canadian intergovernmental agreement” means an agreement between the Government or one of its departments or government agencies and another government in Canada, one of its departments or government agencies, or a federal public agency ;

“federal public agency” means

(1) a legal person or agency that, although not a federal government agency, has one of the following characteristics :

(a) a majority of its members come from the federal public sector, that is, are appointed by the federal government, a federal minister, a federal government agency or another federal public agency ;

(b) its personnel is appointed in accordance with the Public Service Employment Act (Revised Statutes of Canada, 1985, chapter P-33) ;

(c) more than half of its financing is derived from federal public funds, that is, from the federal Consolidated Revenue Fund, a federal government agency or another federal public agency ;

(d) a periodic financial or other report concerning its activities is required by law to be tabled in the Federal Parliament ;

(2) a group of federal public agencies ;

“government agency” means a legal person or agency that, under its constituting Act, is empowered to make inquiries, issue permits or licences or make regulations for purposes other than its internal management and, if it is a legal person, has one of the following characteristics :

(1) it is the mandatary or agent of the State or of another government in Canada ;

(2) it enjoys the rights and privileges of a mandatary or agent referred to in paragraph 1 ;

“municipal body” means

(1) a municipality ;

(2) a metropolitan community ;

(3) a legal person or body that has one of the following characteristics :

(a) a majority of its members are appointed by one or more municipal bodies ;

(b) more than half of its financing is provided by one or more municipal bodies ;

(4) a group of municipal bodies ;

“public agency” means

(1) a legal person or agency that, although not a government agency, a municipal body or a school body, has one of the following characteristics :

(a) a majority of its members come from the Québec public sector, that is, are appointed by the Government, a minister, a government agency, a municipal body, a school body or another public agency ;

(b) its personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);

(c) more than half of its financing is derived from Québec public funds, that is from the consolidated revenue fund, a government agency, a municipal body, a school body or another public agency ;

(2) a group of public agencies ;

“school body” means

(1) a school board ;

(2) the Conseil scolaire de l’île de Montréal ;

(3) a legal person or body that has one of the following characteristics :

(a) a majority of its members are appointed by one or more school bodies ;

(b) more than half of its financing is provided by one or more school bodies ;

(4) a group of school bodies.”

4. Section 3.7 of the said Act is amended by striking out the third paragraph.

5. Section 3.8 of the said Act is amended by adding the following paragraph at the end :

“The Minister may authorize, in writing, any person to sign a Canadian intergovernmental agreement on behalf of the Minister ; that person’s signature shall have the same effect as the Minister’s signature. The authorization may pertain to a specific agreement or a class of agreements.”

6. Section 3.11 of the said Act is replaced by the following section :

“3.11. Except to the extent expressly provided for by law, no municipal body or school body may, without the prior authorization of the Government, enter into any agreement with another government in Canada or one of its departments or government agencies, or with a federal public agency.

The Government may attach such conditions as it determines to the authorization.

Any contravention of the provisions of the first paragraph or any failure to comply with the conditions referred to in the second paragraph entails the nullity of the agreement.

The Minister, concurrently with the minister responsible for or the minister who subsidizes the municipal or school body, shall see to the negotiation of the agreement.”

7. Section 3.12 of the said Act is replaced by the following section :

“3.12. No public agency may, without the prior written authorization of the Minister, enter into any agreement with another government in Canada or one of its departments or government agencies, or with a federal public agency.

The minister responsible for or the minister who subsidizes the public agency shall give an advisory opinion on the draft agreement to the Minister before the decision on the application for authorization is made.

The Minister may attach such conditions as he or she determines to the authorization. The Minister may, in particular, fix as a condition that the financing obtained under the agreement referred to in the first paragraph will not be subsequently taken into consideration to determine whether or not the agency is subject to this section.

Any contravention of the provisions of the first paragraph or any failure to comply with the conditions referred to in the third paragraph entails the nullity of the agreement.

The Minister, concurrently with the minister responsible for or the minister who subsidizes the public agency, shall see to the negotiation of the agreement.”

8. The said Act is amended by inserting the following section after section 3.12 :

“3.12.1. No government agency, municipal body or school body may, without the prior authorization of the Government, permit or tolerate being affected by any agreement entered into between a third person and another government in Canada or one of its departments or government agencies, or a federal public agency.

The Government may attach such conditions as it determines to the authorization.

The first paragraph also applies to a public agency which, in that case, must obtain prior authorization in writing from the Minister, who may attach such conditions as he or she determines to the authorization. The minister responsible

for or the minister who subsidizes the public agency shall give an advisory opinion to the Minister before the decision on the application for authorization is made.

For the purposes of the first paragraph, an agency or body is permitting or tolerating being affected by an agreement when, for instance, it enters into an agreement that is related to an agreement referred to in that paragraph.

Any contravention of the first or third paragraph or any failure to comply with the conditions referred to in the second or third paragraph entails, for the agency or body, the nullity of any stipulation or agreement having any effect whatever in its respect.”

9. Section 3.13 of the said Act is amended by replacing “Act” in the third line of the first and second paragraphs by “division”.

10. This Act comes into force on 18 December 2002.