



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 60

(2008, chapter 10)

An Act to amend the Police Act

Introduced 7 December 2007

Passed in principle 14 December 2007

Passed 3 June 2008

Assented to 5 June 2008

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EXPLANATORY NOTES

This Act enables municipalities to conclude agreements among themselves, with the approval of the Minister of Public Security, on the provision of detention or transportation services for accused persons and on the joint use of equipment, premises or space by their respective police forces. It also stipulates that the municipalities may conclude such agreements with the Minister, to be applicable to the Sûreté du Québec.

The Act authorizes the Minister to determine the manner in which a municipality that is part of a metropolitan community or a metropolitan census area will be served by a municipal police force if the municipality fails to do so. It also provides that municipalities must update their police service organization plan whenever necessary or at the Minister's request. In addition, it completes the list of provisions that must be included in the agreement under which the Sûreté du Québec provides its services to a municipality.

The Act stipulates that the function of police officer is incompatible with the exercise of an activity related to the administration of justice but is no longer incompatible with the exercise of an activity requiring that a restaurant sales or service permit be issued by the Régie des alcools, des courses et des jeux.

The Act also makes wildlife protection officers and any person having authority over them subject to the rules of ethics governing police officers. It removes the obligation for a police officer to report the conduct of another police officer that may constitute a breach of discipline. In addition, the Act states that a police officer interviewed as a witness in connection with a complaint against another officer may, if that first police officer wishes, be assisted by an advocate.

The Act stipulates that any allegation against a police officer concerning a criminal offence must first be submitted to the director of police and the Director of Criminal and Penal Prosecutions, who will determine whether the allegation is frivolous or unfounded. If the allegation is founded, the director of police must inform the Minister immediately.

Lastly, the Act confirms the creation of the Québec Police Services Council, made up, among others, of municipal representatives. The Council's mission is to give its opinion to the Minister on any matter relating to police services provided in Québec.

LEGISLATION AMENDED BY THIS ACT:

- Police Act (R.S.Q., chapter P-13.1);
- Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14).

Bill 60

AN ACT TO AMEND THE POLICE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

POLICE ACT

1. Section 15 of the Police Act (R.S.Q., chapter P-13.1) is amended by adding the following paragraph:

“The school may also, in pursuit of its mission, develop training programs and activities and offer them to any person or group that so requests.”

2. Section 16 of the Act is amended

(1) by replacing “élèves” in the first paragraph in the French text by “étudiants”;

(2) by striking out the last sentence of the first paragraph;

(3) by replacing “élèves” in the second paragraph in the French text by “étudiants”.

3. Section 17 of the Act is amended by replacing “élèves” in the French text by “étudiants”.

4. Section 29 of the Act is amended by replacing “élèves” in paragraph 1 in the French text by “étudiants”.

5. Section 37 of the Act is replaced by the following section:

“**37.** The school shall make a by-law for the internal management of the Commission de formation et de recherche.”

6. Section 51 of the Act is amended by adding “or the person designated by the Minister” at the end of the second paragraph.

7. Section 56 of the Act is amended by striking out “with the approval of the Minister” in the fourth paragraph.

8. Section 70 of the Act is amended by adding the following paragraphs after the fifth paragraph:

“Without prejudice to that obligation, the municipalities may conclude agreements among themselves on the provision of detention or transportation services for accused persons and on the joint use of equipment, premises or space. The agreements and their termination before their expiry date must be approved by the Minister.

The municipalities may also conclude such agreements with the Minister of Public Security, to be applicable to the Sûreté du Québec.”

9. The Act is amended by inserting the following section after section 72:

“72.1. If a municipality that is to be served by a municipal police force fails to comply with the first paragraph of section 71, the Minister may determine which procedure set out in that paragraph will be followed by the municipality.”

10. Section 76 of the Act is amended

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

“(2) the nature and scope of the police services that will be provided and the other conditions applicable to those services;”;

(2) by adding the following paragraphs after paragraph 8:

“(9) the territory to be served;

“(10) the responsibilities of the public security committee, other than those set out in section 78;

“(11) the procedure for issuing statements of offence under the legislation on road safety or under municipal by-laws; and

“(12) the measures to be implemented in emergency situations.”

11. Section 78 of the Act is amended by replacing “more particularly” in the portion before subparagraph 1 of the fifth paragraph by “in addition to the responsibilities entrusted to it under the agreement”.

12. The Act is amended by inserting the following section after section 81:

“81.1. Whenever necessary or at the Minister’s request, municipalities must update their police service organization plan stating, in particular, that the municipal police force serving them provides the services of the required level. At the Minister’s request, the plan is submitted to the Minister for approval.”

13. Section 117 of the Act is replaced by the following section:

117. The function of police officer is incompatible with the functions of bailiff, investigation agent, security guard, collection agent or representative of a collection agent, and private detective.

The function of police officer is also incompatible with the holding of a direct or indirect interest in any business that pursues an activity mentioned in the first paragraph, an activity related to the administration of justice or an activity for which a permit issued by the Régie des alcools, des courses et des jeux for the consumption of alcohol on the premises is required, with the exception of a restaurant sales permit or a restaurant service permit described in section 28 or 28.1 of the Act respecting liquor permits (chapter P-9.1).

Any contravention of the first paragraph of this section shall entail the immediate suspension without pay of the police officer concerned. If the second paragraph of this section is contravened, and the situation is such that the impartiality or integrity of the police officer concerned may be compromised, the director of police must immediately take whatever steps are necessary with respect to that officer.

In all cases, the police officer's situation must be regularized within six months, on pain of dismissal. If the interest devolves by succession or gift, the officer must renounce or dispose of it with dispatch."

14. Section 126 of the Act is replaced by the following section:

126. This chapter applies to police officers, to peace officers within the meaning of section 6 of the Act respecting the conservation and development of wildlife (chapter C-61.1), to special constables and to highway controllers, as well as to any person having authority over highway controllers, with the necessary modifications.

The provisions concerning the director of a police force apply in the same manner to the immediate superior of a wildlife protection officer, to the employer of a special constable or a highway controller and to any person having authority over a highway controller, with the necessary modifications."

15. Section 143 of the Act is amended

(1) by replacing subparagraph 2 of the second paragraph by the following subparagraph:

"(2) the municipal council, when the complaint is lodged against the director of the police force.";

(2) by striking out the third paragraph.

16. Section 230 of the Act is amended by adding the following at the end of the first paragraph: " , except if a sanction of dismissal under the first paragraph of section 119 is imposed on the police officer".

17. Section 260 of the Act is amended by replacing the first paragraph by the following paragraph:

“260. Every police officer is required to inform the director of police of conduct by another police officer that may constitute a criminal offence. The police officer is also required to inform the director of police of conduct by another police officer that may constitute a breach of professional ethics affecting the enforcement of rights or the safety of the public, if the police officer has a personal knowledge of that conduct. The requirements do not apply to a police officer who is informed of such conduct when acting in the capacity of a union representative.”

18. Section 261 of the Act is amended

(1) by replacing “du comportement” in subparagraph 1 of the first paragraph in the French text by “d’un comportement”;

(2) by replacing “au comportement” in subparagraph 2 of the first paragraph in the French text by “à un comportement”.

19. Section 262 of the Act is amended by adding the following sentence at the end of the first paragraph: “The police officer may be assisted by an advocate if the officer wishes.”

20. Section 286 of the Act is amended by adding the following at the end of the first paragraph: “, unless the director considers, after consulting the Director of Criminal and Penal Prosecutions, that the allegation is frivolous or unfounded”.

21. The Act is amended by inserting the following Title before Title VI:

“TITLE V.1

“QUÉBEC POLICE SERVICES COUNCIL

“CHAPTER I

“ESTABLISHMENT

“303.1. A Québec Police Services Council is established under the Minister’s authority.

“CHAPTER II

“RESPONSIBILITIES

“303.2. The Council shall give its opinion on any matter relating to police services provided in Québec, and more particularly on

- (1) the needs of the general public;
- (2) the policy directions of police services given the priorities of each area of police work and the development, organization, distribution and harmonization of those services;
- (3) the costs of police services; and
- (4) the adaptation of police services to emerging needs, new realities and standards of quality.

The Council shall also give its opinion on any matter submitted to it by the Minister, within the time specified by the Minister.

“303.3. The Council may also make recommendations within the framework of the responsibilities entrusted to it.

“303.4. The Council shall send its opinions and recommendations to the Minister.

“CHAPTER III

“COMPOSITION AND OPERATION

“303.5. The Council is composed of 21 members, including a chair and vice-chair.

On the recommendation of the organizations that are representative of the sector, the Minister appoints

- (1) two representatives of the Fédération québécoise des municipalités (FQM);
- (2) two representatives of the Union des municipalités du Québec;
- (3) one representative of Ville de Montréal;
- (4) one representative of the aboriginal nations of Québec;
- (5) one representative of the management of the Sûreté du Québec;
- (6) one representative of the management of the service de police de la Ville de Montréal;
- (7) one representative of the management of the police department of Ville de Québec;
- (8) two representatives of the management of municipal police forces offering level 1, 2 or 3 services;

(9) one representative of the First Nations Chiefs of Police Association of Quebec;

(10) one representative of the Association des directeurs de police du Québec;

(11) one representative of the École nationale de police du Québec;

(12) one representative of the Association des policières et policiers provinciaux du Québec;

(13) one representative of the Fraternité des policiers et policières de Montréal (F.P.P.M.);

(14) one representative of the Fédération des policiers et policières municipaux du Québec (FPMQ); and

(15) one representative of the International Centre for the Prevention of Crime.

Three other members are chosen from among the personnel of the Ministère de la Sécurité publique. Those members do not have the right to vote.

“303.6. The Minister shall designate the chair, alternating every two years between a member of the Fédération québécoise des municipalités (FQM) and a member of the Union des municipalités du Québec.

The Minister shall also designate the vice-chair, alternating every two years among the members of the management of the various police forces.

“303.7. The chair shall preside at Council meetings and see to their smooth operation. The chair shall act as liaison between the Council and the Minister.

If the chair is absent or unable to act, the vice-chair shall assume the functions of the chair.

The secretariat of the Council is the responsibility of the Ministère de la Sécurité publique.

“303.8. The term of office of Council members must not exceed two years. Their term may be renewed.

At the end of their term, the members shall remain in office until they are replaced or reappointed.

“303.9. Any vacancy occurring during a term of office must be filled for the remainder of the term in keeping with section 303.6.

A member's absence from three consecutive meetings of the Council entails a vacancy in the office of that member.

“303.10. The Council shall hold its meetings anywhere in Québec, at least three times a year.

“303.11. The quorum for the entire duration of a Council meeting is a majority of the Council members, including the chair or vice-chair.

Decisions of the Council are made by a majority of the voting members present. In the event of a tie, the chair has a casting vote. Dissent is recorded.

“303.12. The Council may make internal by-laws.

“303.13. Council members receive no remuneration. Each organization represented on the Council shall defray the costs related to the participation of its representative in Council meetings.”

22. Section 304 of the Act is amended by adding the following paragraph at the end:

“The Minister shall produce a guide to police practices and make it available to police organizations.”

23. Section 353.12 of the Act is amended by adding the following paragraph:

“Within one year from the coming into force of the regulation, the municipalities shall submit to the Minister for approval a police service organization plan stating, in particular, that the services of the required level are provided.”

ACT RESPECTING THE SYNDICAL PLAN OF THE SÛRETÉ DU QUÉBEC

24. Section 1 of the Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14) is amended by inserting “subparagraph 2 of” after “and in” in paragraph *b*.

FINAL PROVISION

25. This Act comes into force on 5 June 2008, except section 14 which comes into force on 1 January 2009. However, section 24 has effect from 16 June 2000.