



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 17

(2014, chapter 13)

An Act to amend the Act respecting the Barreau du Québec, the Notaries Act and the Professional Code

**Introduced 4 November 2014
Passed in principle 11 November 2014
Passed 2 December 2014
Assented to 3 December 2014**

**Québec Official Publisher
2014**

EXPLANATORY NOTES

This Act amends the Act respecting the Barreau du Québec to redefine the governance of the Order by reducing the number of seats on the board of directors, providing for the Bâtonnier and other directors to be elected for two-year terms, adding a second vice-president and creating a sections council with the power to make recommendations to the board of directors. It also determines the composition of the board of directors and of the new sections council, and specifies the applicable eligibility criteria.

The Notaries Act is amended to reconfigure the pathway for entry into the profession.

The Professional Code is also amended to allow the election of a professional order's president and other directors by a technological means.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Barreau du Québec (chapter B-1);
- Professional Code (chapter C-26);
- Notaries Act (chapter N-3).

Bill 17

AN ACT TO AMEND THE ACT RESPECTING THE BARREAU DU QUÉBEC, THE NOTARIES ACT AND THE PROFESSIONAL CODE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE BARREAU DU QUÉBEC

1. Section 1 of the Act respecting the Barreau du Québec (chapter B-1) is amended by replacing paragraph *b* by the following paragraph:

“(b) “sections council”: the sections council of the Bar, constituted by section 26.1;”.

2. Section 10 of the Act is replaced by the following sections:

“**10.** The Bar is governed by a board of directors composed of

(a) the Bâtonnier of the Province of Québec;

(b) four directors who are members of The Bar of Montréal, elected by the members of that section;

(c) three directors who are members of The Bar of Québec, elected by the members of that section;

(d) four directors who are members of other sections of the Bar, as follows:

(1) in alternation, a director who is a member of The Bar of the Outaouais, The Bar of Laval or The Bar of Laurentides-Lanaudière, elected by the members of those sections;

(2) in alternation, a director who is a member of The Bar of Richelieu, The Bar of Longueuil or The Bar of Arthabaska, elected by the members of those sections;

(3) in alternation, a director who is a member of The Bar of Saint-François, The Bar of the Mauricie or The Bar of Bedford, elected by the members of those sections; and

(4) in alternation, a director who is a member of The Bar of the Bas-Saint-Laurent–Gaspésie–Îles-de-la-Madeleine, The Bar of Abitibi-Témiscamingue,

The Bar of the Côte-Nord or The Bar of Saguenay–Lac-Saint-Jean, elected by the members of those sections; and

(e) four directors appointed by the Office des professions du Québec.

If none of the elected directors are members who have been on the Roll for 10 years or less, the board of directors shall appoint an additional director from among those members, following an invitation for applications within 30 days of the election.

“10.1. All members of the Bar except solicitors and retired advocates are eligible for the offices of Bâtonnier of the Province of Québec and of vice-president of the Bar.

A candidate for the office of Bâtonnier of the Province of Québec must have been a member of the board of directors of the Bar for at least one year. In addition, the candidate must not have held employment with the Bar during the three years preceding nomination for the office nor be the Bâtonnier of a section of the Bar or a director on the council of a section of the Bar.

A candidate for the office of director cannot be a member of the board of directors of a lawyers' organization, a professional association in the legal field or an organization affiliated with the Bar.

“10.2. The Bâtonnier of the Province of Québec is the president of the Bar. The Bâtonnier is elected by a general vote of the members of the Bar.

The board of directors shall elect two vice-presidents of the Bar from among the elected directors. The two vice-presidents must each be from a different section than that of the Bâtonnier, whether The Bar of Montréal, The Bar of Québec or any other section of the Bar. The board may also designate other officers whose duties it determines.

The term of office of a vice-president is one year and may be renewed three times only.”

3. Section 11 of the Act is amended

(1) by replacing the first two sentences of subsection 1 by the following sentence: “The Bâtonnier of the Province of Québec shall exercise a right of general supervision over the affairs of the Bar and shall preside at meetings of the board of directors, meetings of the sections council and general meetings.”;

(2) by inserting “designated for that purpose by the board of directors” after “vice-president” in subsection 3;

(3) by striking out subsections 4 and 5.

4. Section 12 of the Act is replaced by the following section:

“12. The term of office of an elected director is two years for a maximum of two terms in the same office. Despite the foregoing, an elected director other than the Bâtonnier who has been in office for two terms may, two years after the expiry of the second term, again hold office as a director.

The term of office of a director appointed in accordance with the second paragraph of section 10 is one year. Such a director cannot be reappointed in that capacity.”

5. Subdivision 2 of Division III of the Act, comprising sections 13 and 14, is repealed.

6. Section 15 of the Act is amended

(1) by replacing “General Council” wherever it appears, except in paragraph *n* of subsection 1, by “board of directors”;

(2) by replacing “executive committee” in paragraph *k* of subsection 1 by “board of directors”;

(3) by replacing “General Council” in paragraph *n* of subsection 1 by “sections council”;

(4) by inserting the following subsections after subsection 1:

“(1.1) The board of directors cannot authorize the substitution of a director.

“(1.2) The board of directors shall take the recommendations of the sections council into consideration. The board of directors must consult the council before making a decision on the following subjects:

(a) strategic planning;

(b) by-laws concerning mandatory continuing education, in particular with regard to mandatory training activities;

(c) professional liability insurance with respect to premiums and insurance coverage; and

(d) any other subject that the board decides to submit to the council by a vote of two thirds of the directors, except for the determination of assessments under section 85.1 of the Professional Code (chapter C-26).”

7. Section 17 of the Act is amended by replacing subsection 1 by the following subsection:

17. (1) Any communication of a notice or call or of information under this Act or a by-law adopted thereunder or under the Professional Code (chapter C-26) is given by mailing a letter, review or newspaper published by the Bar and containing the notice, call or information to the last address known at the head office of the Bar or by electronic means.”

8. The heading of subdivision 4 of Division III as well as sections 19 to 22 of the Act are repealed.

9. Section 22.1 of the Act is amended

(1) by replacing “executive committee” and “exercise of the powers of the General Council” in the first paragraph by “board of directors” and “exercise of its powers”, respectively;

(2) by replacing “General Council” and both occurrences of “executive committee” in the second paragraph by “board of directors”;

(3) by replacing “executive committee” wherever it appears in the third and fourth paragraphs by “board of directors”.

10. Section 23 of the Act is amended

(1) by replacing “General Council” and “who shall act as” in subsection 1 by “board of directors” and “and a”, respectively;

(2) by replacing “He” and “General Council” in subsection 2 by “The executive director” and “board of directors”, respectively;

(3) by replacing subsection 3 by the following subsection:

“(3) The secretary of the Order or the person designated by the board of directors shall act as secretary of the board of directors.”

11. Section 24 of the Act is amended, in subsection 1,

(1) by replacing “General Council and the executive committee. He shall act under the authority of the executive committee” in the portion before paragraph *a* by “board of directors. The executive director shall act under the authority of the board”;

(2) by replacing “of the General Council and of the executive committee” in paragraph *a* by “of the board of directors”;

(3) by replacing “executive committee” in paragraphs *b*, *c* and *e* by “board of directors”.

12. Section 26 of the Act is amended

- (1) by inserting “, the secretary of the Order” after “assistant”;
- (2) by replacing “General Council” by “board of directors”.

13. The Act is amended by inserting the following division after section 26:

“DIVISION III.1

“SECTIONS COUNCIL

“26.1. The sections council is composed of the following members:

- (a) the Bâtonnier of each section of the Bar;
- (b) a representative of each of the 15 sections of the Bar, designated by each section;
- (c) the Bâtonnier of the Province of Québec;
- (d) both vice-presidents of the Bar;
- (e) three members who have been on the Roll for 10 years or less, including a member of The Bar of Montréal, a member of The Bar of Québec and a member from another section of the Bar, designated by the group of members within the respective sections who have been on the Roll for 10 years or less; and
- (f) two directors appointed by the Office des professions du Québec from among those it appoints to the board of directors of the Bar, designated by the board.

The Bâtonniers and the three members who have been on the Roll for 10 years or less have the right to vote. The other members have the right to speak but not to vote.

“26.2. The sections council shall make recommendations to the board of directors when consulted on the subjects referred to in subsection 1.2 of section 15.

The sections council may make recommendations to the board of directors on any other subject.

The sections council shall meet at least twice yearly.”

14. Section 33 of the Act is amended by inserting “, disbarment” after “resignation” in subsection 3.

15. Section 41 of the Act is amended

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

“(2) The executive director shall make a recommendation to the board of directors and shall inform the section of it, with a notice that the recommendation is to be submitted to the board of directors at its next meeting.”;

(2) by replacing “General Council” in subsection 3 by “board of directors”.

16. Section 48 of the Act is amended

(1) by replacing “appeal from it to the executive committee, and may appeal from the committee’s decision to the Tribunal” in the first paragraph by “appeal from it to the board of directors, and may appeal from the board’s decision to the Professions Tribunal”;

(2) by replacing “executive committee” in the second paragraph by “board of directors”.

17. The Act is amended

(1) by replacing “executive committee” wherever it appears in sections 25, 49, 55, 56, 58, 70, 71, 72, 78, 79, 122 and 140.2 by “board of directors”;

(2) by replacing “General Council” wherever it appears by “board of directors”.

NOTARIES ACT

18. Section 6 of the Notaries Act (chapter N-3) is amended by striking out subparagraph 4 of the first paragraph.

19. Section 8 of the Act is amended

(1) by striking out paragraph 4;

(2) by adding the following paragraph at the end:

“(6) delegate to a committee it creates for that purpose the powers conferred on the executive committee under section 12; the members of such a committee shall take the oath set out in Schedule II to the Professional Code (chapter C-26); however, the oath is not to be construed as prohibiting the sharing of information or documents within the Order for the protection of the public.”

20. Section 12 of the Act is amended

(1) by replacing “for admission to professional training, the outcome, whether passage or failure, of such training, and every application” in the first paragraph by “for admission to the professional training program,”;

(2) by replacing “subparagraph 4 of the first paragraph of section 6” in the third and fourth paragraphs by “paragraph 6 of section 8”.

PROFESSIONAL CODE

21. Section 62.1 of the Professional Code (chapter C-26) is amended by adding the following paragraph at the end:

“(4) choose to hold an election to elect the president and other directors by a technological means, which must ensure the security, secrecy and integrity of the ballot.”

22. The Code is amended by inserting the following section after section 63:

“**63.1.** The board of directors must, to hold an election to elect the president and other directors by a technological means, determine the particulars of the election process in a regulation made under paragraph *b* of section 93. The regulation may adapt the provisions of this Code to allow the implementation of the election.”

23. Section 96 of the Code is replaced by the following section:

“**96.** An executive committee may be established within a professional order.”

24. Section 182.1 of the Code is amended by replacing “executive committee” in subparagraph 2 of the first paragraph by “board of directors”.

25. Section 182.2 of the Code is amended by replacing “executive committee” after “committee, the record and decision of the” in the fifth paragraph by “board of directors”.

TRANSITIONAL AND FINAL PROVISIONS

26. In any regulation, unless the context indicates otherwise, “General Council” is replaced by “board of directors”.

27. In any other document, unless the context indicates otherwise, a reference to the General Council of the Bar is a reference to the board of directors of the Bar.

28. The election of the directors of the first board of directors of the Barreau du Québec constituted after 3 December 2014 is to be held by a technological means in accordance with the particulars set out in a regulation made under paragraph *b* of section 93 of the Professional Code (chapter C-26).

29. Despite section 12 of the Act respecting the Barreau du Québec (chapter B-1), as replaced by section 4, the term of office of the following

directors on the first board of directors of the Barreau du Québec constituted after 3 December 2014 is one year:

(1) two directors from among those who are members of The Bar of Montréal;

(2) one director from among those who are members of The Bar of Québec;

(3) the director who is a member of The Bar of Richelieu, The Bar of Longueuil or The Bar of Arthabaska; and

(4) the director who is a member of The Bar of Saint-François, The Bar of the Mauricie or The Bar of Bedford.

30. This Act comes into force on 3 December 2014, except sections 1 to 17, which come into force on 19 May 2015, and paragraph 1 of section 19 and paragraph 1 of section 20, which come into force on the date to be set by the Government.