



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 1
(2019, chapter 6)

**An Act to amend the rules governing
the appointment and dismissal of the
Anti-Corruption Commissioner, the
Director General of the Sûreté du
Québec and the Director of Criminal
and Penal Prosecutions**

**Introduced 29 November 2018
Passed in principle 28 February 2019
Passed 15 May 2019
Assented to 15 May 2019**

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EXPLANATORY NOTES

This Act makes changes to the modes of appointment and dismissal of the Anti-Corruption Commissioner, the Director General of the Sûreté du Québec and the Director of Criminal and Penal Prosecutions.

Under the Act, the above-mentioned persons are appointed by the National Assembly on a motion of the Prime Minister and with the approval of two-thirds of the Members. Before being proposed by the Prime Minister, a person must meet with Members at a single in camera meeting, and, to that end, the Prime Minister must designate a Member from his or her party and request the leader of each other authorized party represented in the National Assembly to do likewise. The Act requires the Members to submit, within 15 days after the Prime Minister's request, a joint report to the Prime Minister containing each Member's recommendation regarding the candidacy of the person they met with, and specifies that the report is confidential.

The Act provides that, subject to certain causes for dismissal already provided for in the Police Act in the case of the Commissioner and that of the Director General of the Sûreté du Québec, the persons so appointed may be dismissed only by the National Assembly, for cause, on a motion of the Prime Minister and with the approval of two-thirds of the Members, after the minister concerned receives a written report from the Commission de la fonction publique. Before presenting a motion for dismissal, the Prime Minister must designate a Member from his or her party and request the leader of each other authorized party represented in the National Assembly to do likewise. A summary of the report of the Commission de la fonction publique is to be made available to the designated Members for consultation at a single in camera meeting.

Furthermore, the Act provides that the persons so appointed may not be suspended without remuneration by the Government except for cause, on the recommendation of the minister concerned after the latter receives a written report from the Commission de la fonction publique, and specifies that the suspension may not exceed three months.

The Act also contains other special rules for certain appointments and dismissals. A selection process is thus established for the appointment of the Director General of the Sûreté du Québec, who is to be appointed for a non-renewable seven-year term.

In the case of the Director of Criminal and Penal Prosecutions, the Minister of Justice must make a recommendation to the Prime Minister before the National Assembly can begin the appointment or dismissal process.

Various other amendments are made in connection with the proposed changes to the modes of appointment and dismissal.

Lastly, the Act contains transitional and consequential provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1);
- Public Service Act (chapter F-3.1.1);
- Anti-Corruption Act (chapter L-6.1);
- Police Act (chapter P-13.1).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the ethics and professional conduct of public office holders (chapter M-30, r. 1).

Bill 1

AN ACT TO AMEND THE RULES GOVERNING THE APPOINTMENT AND DISMISSAL OF THE ANTI-CORRUPTION COMMISSIONER, THE DIRECTOR GENERAL OF THE SÛRETÉ DU QUÉBEC AND THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ANTI-CORRUPTION ACT

1. Section 2 of the Anti-Corruption Act (chapter L-6.1) is amended by replacing paragraph 1.1 by the following paragraph:

“(1.1) a contravention of any of sections 27.5 to 27.11 and 27.13 of the Act respecting contracting by public bodies (chapter C-65.1);”.

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

“**5.** On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly appoints the Commissioner.

The person proposed by the Prime Minister is chosen from among the candidates declared qualified to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person must meet with Members at a single in camera meeting. To that end, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members must submit a joint report to the Prime Minister containing each Member’s recommendation regarding the candidacy of the person they met with. The report is confidential.”

3. Section 5.1 of the Act is amended by replacing “three” in the fourth paragraph by “two”.

4. Section 5.2 of the Act is amended by adding the following sentence at the end of the second paragraph: “The Minister informs the President of the National Assembly without delay, in writing, of such a resignation.”

5. The Act is amended by inserting the following section after section 5.2:

“5.2.1. Subject to a dismissal under a provision of the Police Act (chapter P-13.1), the Commissioner may be dismissed only by the National Assembly, for cause, on a motion of the Prime Minister and with the approval of two-thirds of its Members, after the Minister receives a written report from the Commission de la fonction publique.

Before presenting a motion for the dismissal of the Commissioner, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise. A summary of the report of the Commission de la fonction publique is made available to the designated Members for consultation at a single in camera meeting.”

6. The Act is amended by inserting the following section before section 5.3:

“5.2.2. The Commissioner may not be suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written report from the Commission de la fonction publique. The suspension may not exceed three months.”

7. Section 5.4 of the Act is amended by striking out the first paragraph.

8. Section 8.2 of the Act is amended by adding the following paragraph at the end:

“Associate Commissioners may not be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written report from the Commission de la fonction publique. The suspension may not exceed three months.”

POLICE ACT

9. Section 56 of the Police Act (chapter P-13.1) is replaced by the following sections:

“56. On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly shall appoint the Director General.

The person proposed by the Prime Minister shall be chosen from among the candidates declared fit to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person shall meet with Members at a single in camera meeting. To that end, the Prime Minister shall designate a Member from his or her party and request the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members shall submit a joint report to the Prime Minister containing each Member's recommendation regarding the candidacy of the person they met with. The report shall be confidential.

“56.1. The Director General shall be appointed for a non-renewable seven-year term.

“56.2. In the year preceding the expiry of the Director General's term or as soon as the office becomes vacant, the Minister shall publish a notice inviting interested persons to apply for the office of Director General or to propose the name of a person they consider fit to hold that office, in accordance with the procedure the Minister determines.

The Minister shall also form a selection committee. The committee shall be made up of the Deputy Minister of Public Security, a former director of police recommended by the Association des directeurs de police du Québec, a person recommended by bodies representing the municipal sector, a person chosen by the Minister from among persons who work in a community sector organization and the executive director of the École nationale de police du Québec.

The selection committee shall promptly evaluate the candidates on the basis of their knowledge, particularly of the law enforcement community and the applicable law, their experience and their qualifications, according to the criteria determined by government regulation. Without delay, the committee shall present to the Minister a report in which it lists the candidates it has met whom it considers fit to hold the office of Director General. All information and documents regarding the candidates and the proceedings of the committee are confidential.

If, once the evaluation is concluded, fewer than two candidates are considered fit to hold the office of Director General, the Minister must publish a new invitation for applications.

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

“56.3. At the expiry of his or her term, the Director General shall remain in office until replaced.

The Director General may resign at any time by giving written notice to the Minister. The Minister shall inform the President of the National Assembly without delay, in writing, of such a resignation.

“56.4. In an urgent situation requiring prompt intervention, or in a presumed case of serious fault, the Minister may provisionally relieve the Director General from his or her duties, with remuneration.

“56.5. Subject to a dismissal under a provision of this Act, the Director General may be dismissed only by the National Assembly, for cause, on a motion of the Prime Minister and with the approval of two-thirds of its Members, after the Minister receives a written report from the Commission de la fonction publique.

Before presenting a motion for the dismissal of the Director General, the Prime Minister shall designate a Member from his or her party and request the leader of each other authorized party represented in the National Assembly to do likewise. A summary of the report of the Commission de la fonction publique shall be made available to the designated Members for consultation at a single in camera meeting.

“56.5.1. The Director General may not be suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written report from the Commission de la fonction publique. The suspension may not exceed three months.

“56.6. Deputy directors shall be appointed by the Government on the recommendation of the Director General.

“56.7. The Director General and deputy directors must meet the conditions set out in the first paragraph of section 115, except subparagraph 4.

The Government shall determine their remuneration, employee benefits and other conditions of employment; the Director General’s remuneration, once set, may not be reduced.

“56.8. Where the Director General is absent or unable to act, the Minister may designate a deputy director to act in that capacity for the duration of the absence or inability.

Where the position of Director General is vacant following a resignation or otherwise, the Minister may designate a deputy director to act as interim director general for a period not exceeding 18 months.

“56.9. Senior officers other than the Director General and deputy directors shall be appointed by the Minister on the recommendation of the Director General.

Junior officers, constables and auxiliary constables shall be appointed by the Director General.”

10. Section 57 of the Act is replaced by the following section:

“57. Except with regard to the Director General and deputy directors, the salary of the members and cadets of the Sûreté du Québec shall be determined by the Government. Their pay scales and classifications and the other conditions for the exercise of their functions shall be established by the Government.”

11. Sections 58 and 59 of the Act are repealed.

ACT RESPECTING THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

12. Section 2 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1) is replaced by the following section:

“2. On a motion of the Prime Minister and with the approval of two-thirds of its Members, the National Assembly appoints a Director.

The person proposed by the Prime Minister must be the one recommended by the Minister of Justice, be an advocate with at least 10 years' practice and be chosen from a list of persons who have been declared qualified to hold the office by the selection committee formed for that purpose.

Before being proposed by the Prime Minister, the person must meet with Members at a single in camera meeting. To that end, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise.

Within 15 days after the request, the Members must submit a joint report to the Prime Minister containing each Member's recommendation regarding the candidacy of the person they met with. The report is confidential.”

13. Section 3 of the Act is amended by inserting the following paragraph after the third paragraph:

“If, once the evaluation is concluded, fewer than two candidates are considered qualified to hold the office of Director, the Minister must publish a new invitation for applications.”

14. Section 4 of the Act is amended by adding the following sentence at the end: “The Minister informs the President of the National Assembly without delay, in writing, of such a resignation.”

15. Section 6 of the Act is amended

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

“The Director may be dismissed only by the National Assembly, for cause, on a motion of the Prime Minister following a recommendation made by the Minister to that effect and with the approval of two-thirds of its Members, after the Minister receives a written report from the Commission de la fonction publique.

Before presenting a motion for the dismissal of the Director, the Prime Minister designates a Member from his or her party and requests the leader of each other authorized party represented in the National Assembly to do likewise. A summary of the report of the Commission de la fonction publique is made available to the designated Members for consultation at a single in camera meeting.

The Director may not be suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written report from the Commission de la fonction publique. The suspension may not exceed three months.”;

(2) by replacing “or the Deputy Director from their duties” in the second paragraph by “from duties”.

16. The Act is amended by inserting the following section after section 6:

“**6.1.** The Deputy Director may not be dismissed or suspended without remuneration by the Government except for cause, on the recommendation of the Minister after the latter receives a written 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 Deputy Director from duties, with remuneration.”

17. Section 9 of the Act is amended

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

“The Director defines the duties of the Deputy Director. If the Director is absent or unable to act, the Deputy Director replaces the Director. The Deputy Director also replaces the Director, for a period not exceeding 18 months, if the latter’s position is vacant following a resignation or otherwise.”;

(2) by replacing “six” in the second paragraph by “12”.

PUBLIC SERVICE ACT

18. Section 115 of the Public Service Act (chapter F-3.1.1) is amended by replacing subparagraphs 3 and 4 of the first paragraph by the following subparagraphs:

“(3) report in writing to the Minister of Justice, after conducting an inquiry, on whether there is sufficient cause to dismiss or to suspend without remuneration the Director of Criminal and Penal Prosecutions or the Deputy Director of Criminal and Penal Prosecutions as provided for in section 6 or 6.1 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1);

“(4) report in writing to the Minister of Public Security, after conducting an inquiry, on whether there is sufficient cause to dismiss or to suspend without remuneration the Anti-Corruption Commissioner or an Associate Commissioner as provided for in section 5.2.1, 5.2.2 or 8.2 of the Anti-Corruption Act (chapter L-6.1);

“(5) report in writing to the Minister of Public Security, after conducting an inquiry, on whether there is sufficient cause to dismiss or to suspend without remuneration the Director General of the Sûreté du Québec as provided for in section 56.5 or 56.5.1 of the Police Act (chapter P-13.1).”

REGULATION RESPECTING THE ETHICS AND PROFESSIONAL CONDUCT OF PUBLIC OFFICE HOLDERS

19. Section 37 of the Regulation respecting the ethics and professional conduct of public office holders (chapter M-30, r. 1) is amended by inserting “appointed by the National Assembly or” after “holder” in the first paragraph.

TRANSITIONAL AND FINAL PROVISIONS

20. The Director General of the Sûreté du Québec in office on 15 May 2019 continues his or her term for the time and on the conditions set out in his or her deed of appointment, as if the Director General had been appointed in accordance with section 56 of the Police Act (chapter P-13.1), enacted by section 9. Consequently, section 56.5 of the Police Act, as enacted by section 9, applies to the Director General.

21. The Director of Criminal and Penal Prosecutions in office on 15 May 2019 continues his or her term for the time and on the conditions set out in his or her deed of appointment, except the conditions regarding dismissal or suspension by the Government, as if the Director had been appointed in accordance with section 2 of the Act respecting the Director of Criminal and Penal Prosecutions (chapter D-9.1.1), enacted by section 12. Consequently, section 6 of the Act respecting the Director of Criminal and Penal Prosecutions, as amended by section 15, applies to the Director.

22. This Act comes into force on 15 May 2019.