



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 130
(1996, chapter 54)

An Act respecting administrative justice

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EXPLANATORY NOTES

The purpose of this bill is to affirm the specific character of administrative justice, and to ensure the quality and promptness of administrative justice and its accessibility to citizens.

This bill establishes that the procedural rules leading to the making of an individual decision by a government department or body differ depending on whether the decision is made within the exercise of an administrative function or an adjudicative function, and sets out the rules that must be followed in each case.

The Administrative Tribunal of Québec is instituted by the bill, which determines its powers and defines the proceedings within its jurisdiction.

The provisions in the bill applicable to the members of the Administrative Tribunal of Québec pertain to their selection and appointment, term of office and renewal of term, remuneration and other conditions of office and premature termination of office.

The general duties and powers of the members of the Tribunal, particularly those concerning conflict of interest, incompatible activities and exclusivity of office are also dealt with in the bill.

The bill provides the rules applicable to the president and vice-presidents of the Tribunal as concerns their designation, renewal and premature termination of office.

The management and administration of the Tribunal is also provided for, particularly the administrative duties of the president and vice-presidents, the sittings of the Tribunal, its personnel and resources.

As for the Tribunal's adjudicative functions, the bill sets out basic rules of evidence and procedure that pertain to the exercise of the adjudicative function of the Tribunal and that govern introductive

proceedings, the hearing, evidence, recusation of a member and the decision and provides that, in certain cases and subject to certain conditions, an appeal will lie to the Court of Québec from a decision of the Administrative Tribunal.

Lastly, the bill provides for the institution of the Conseil de la justice administrative and determines its composition, functions and powers, in particular as pertains to the ethical conduct of the members of the Tribunal, complaints lodged against members and inquiries the council may conduct in their regard.

Bill 130

An Act respecting administrative justice

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PRELIMINARY PROVISION

1. The purpose of this Act is to affirm the specific character of administrative justice, to ensure its quality, promptness and accessibility and to safeguard the fundamental rights of citizens.

This Act establishes the general rules of procedure applicable to individual decisions made in respect of a citizen. Such rules of procedure differ according to whether a decision is made in the exercise of an administrative or adjudicative function, and are, if necessary, supplemented by special rules established by law or under its authority.

This Act also institutes the Administrative Tribunal of Québec and the Conseil de la justice administrative.

TITLE I

GENERAL RULES GOVERNING INDIVIDUAL DECISIONS MADE IN RESPECT OF A CITIZEN

CHAPTER I

RULES SPECIFIC TO DECISIONS MADE IN THE EXERCISE OF AN ADMINISTRATIVE FUNCTION

2. The procedures leading to an individual decision to be made by the Administration, pursuant to norms or standards prescribed by law, in respect of a citizen shall be conducted in keeping with the duty to act fairly.

3. The Administration consists of the government departments and bodies whose members are in the majority appointed by the Government or by a minister and whose personnel is appointed and remunerated in accordance with the Public Service Act (chapter F-3.1.1).

4. The Administration shall take appropriate measures to ensure

(1) that procedures are conducted in accordance with legislative and administrative norms or standards and with other applicable rules of law, according to simple and flexible rules devoid of formalism, with respect, prudence and promptness, in accordance with the norms and standards of ethics and discipline governing its agents and with the requirements of good faith;

(2) that the citizen is given the opportunity to provide any information useful for the making of the decision and, where necessary, to complete his file;

(3) that decisions are made with diligence, are communicated to the person concerned in clear and concise terms and contain the information required to enable the person to communicate with the Administration;

(4) that the directives governing agents charged with making a decision are in keeping with the principles and obligations under this chapter and are available for consultation by the citizen.

5. An administrative authority may not issue an order to do or not do something or make an unfavourable decision concerning a permit or licence or other authorization of like nature without first having

(1) informed the citizen of its intention and the reasons therefor;

(2) informed the citizen of the substance of any complaints or objections that concern him;

(3) given the citizen the opportunity to present observations and, where necessary, to produce documents to complete his file.

An exception shall be made to such prior obligations if the order or the decision is issued or made in urgent circumstances or to

prevent irreparable harm to persons, their property or the environment and the authority is authorized by law to reexamine the situation or review the decision.

6. An administrative authority that is about to make a decision in relation to an indemnity or a benefit which is unfavourable to a citizen must ensure that the citizen has received the information enabling him to communicate with the authority and that the citizen's file contains all information useful for the making of the decision. If the authority ascertains that such is not the case or that the file is incomplete, it shall postpone its decision for as long as is required to communicate with the citizen and to give the citizen the opportunity to provide the pertinent information or documents to complete his file.

In communicating the decision, the administrative authority must inform the citizen that he has the right to apply, within the time indicated, to have the decision reviewed by the administrative authority.

7. Where, upon the request of a citizen, a situation is reexamined or a decision is reviewed, the administrative authority shall give the citizen the opportunity to present observations and, where necessary, to produce documents to complete his file.

8. An administrative authority shall give reasons for all unfavourable decisions it makes, and shall indicate any non-judicial proceeding available under the law and the time limits applicable.

CHAPTER II

RULES SPECIFIC TO DECISIONS IN THE EXERCISE OF AN ADJUDICATIVE FUNCTION

9. The procedures leading to a decision to be made by the Administrative Tribunal of Québec or by another body of the administrative branch charged with settling disputes between a citizen and an administrative authority or a decentralized authority must, so as to ensure a fair process, be conducted in keeping with the duty to act impartially.

10. The body is required to give the parties the opportunity to be heard.

The hearings shall be held in public. The body may, however, even of its own initiative, order hearings to be held *in camera* where necessary to maintain public order.

11. The body has, within the scope of the law, full authority over the conduct of the hearing. It shall, in conducting the proceedings, be flexible and ensure that the substantive law is rendered effective and is carried out.

It shall rule on the admissibility of evidence and means of proof and may, for that purpose, follow the ordinary rules of evidence applicable in civil matters. It shall, however, even of its own initiative, reject any evidence which was obtained under such circumstances that fundamental rights and freedoms are breached and the use of which could bring the administration of justice into disrepute. The use of evidence obtained in violation of the right to professional secrecy is deemed to bring the administration of justice into disrepute.

12. The body is required to

(1) take measures to circumscribe the issue and, where expedient, to promote reconciliation between the parties;

(2) give the parties the opportunity to prove the facts in support of their allegations and to present arguments;

(3) provide, if necessary, fair and impartial assistance to each party during the hearing;

(4) allow each party to be assisted or represented by persons empowered by law to do so.

13. Every decision rendered by the body must be communicated in clear and concise terms to the parties and to every other person that the law indicates.

Every decision terminating a matter, even a decision communicated orally to the parties, must be in writing together with the reasons on which it is based.

TITLE II

ADMINISTRATIVE TRIBUNAL OF QUÉBEC

CHAPTER I

INSTITUTION

14. The Administrative Tribunal of Québec is hereby instituted.

The function of the Tribunal, in the cases provided for by law, is to make determinations in respect of proceedings brought against an administrative authority or a decentralized authority.

Except where otherwise provided by law, the Tribunal shall exercise its jurisdiction to the exclusion of any other tribunal or adjudicative body.

15. The Tribunal has the power to decide any question of law or fact necessary for the exercise of its jurisdiction.

In the case of the contestation of a decision, the Tribunal may confirm, vary or quash the contested decision and, if appropriate, make the decision which, in its opinion, should have been made initially.

16. The seat of the Tribunal shall be situated in the territory of the Communauté urbaine de Québec, at the place determined by the Government; a notice of the address of the seat of the Tribunal shall be published in the *Gazette officielle du Québec*.

17. The Tribunal shall consist of four divisions:

- the social affairs division;
- the immovable property division;
- the territory and environment division; and
- the economic affairs division.

CHAPTER II

COMPETENCE OF DIVISIONS AS TO SUBJECT-MATTER

DIVISION I

SOCIAL AFFAIRS DIVISION

18. The social affairs division is charged with making determinations in respect of the proceedings pertaining to matters of income security and social aid and allowances, of protection of persons suffering from a mental illness, of health services and social services, of pension plans, of compensation and of immigration, which proceedings are listed in Schedule I.

19. Moreover, the social affairs division is designated as a Review Board within the meaning of sections 672.38 and following of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) to make or review dispositions concerning any accused in respect of whom a verdict of not criminally responsible by reason of mental disorder has been rendered or who has been found unfit to stand trial.

In exercising this function, the social affairs division shall act in accordance with the provisions of the Criminal Code.

The powers and duties conferred on the chairperson of a Review Board shall be exercised by the vice-president responsible for the division or by another member of the division designated by the Government.

20. In matters of income security and social aid and allowances, the social affairs division is charged with making determinations in respect of the proceedings referred to in section 1 of Schedule I which pertain in particular to decisions concerning financial aid.

21. Proceedings shall be heard and determined by a panel of two members, only one of whom shall be an advocate or notary.

The other member must be a physician in the case of proceedings

(1) under section 20 of the Act respecting family assistance allowances (chapter A-17), to contest a decision determining, pursuant to section 5 of that Act, whether or not a child is a handicapped child;

(2) under section 81 of the Act respecting income security (chapter S-3.1.1), to contest a decision concerning the assessment of a person's limitations in his capacity for employment or concerning a person's inability to avail himself of a measure pursuant to paragraph 1 of section 16 of the said Act.

22. In matters of protection of the mentally ill, the social affairs division is charged with making determinations in respect of proceedings referred to in section 2 of Schedule I pertaining to decisions made by a health services or social services institution concerning a person in its custody or to measures concerning an accused in respect of whom a verdict of not criminally responsible by reason of mental disorder has been rendered or who has been found unfit to stand trial.

23. Proceedings, other than those concerning an accused, shall be heard and determined by a panel of three members composed of an advocate or notary, a psychiatrist and a social worker.

24. In matters of health services and social services, the social affairs division is charged with making determinations in respect of the proceedings referred to in section 3 of Schedule I pertaining in particular to decisions relating to access to documents or information concerning a beneficiary, a person's eligibility for a health insurance program, the identification of a handicapped person, the evacuation and relocation of certain persons, a permit issued to a health services or social services institution, to an organ and tissue bank, to a laboratory or to other services or an adapted work centre certificate, or decisions concerning a health professional or the members of the board of directors of an institution.

25. Proceedings referred to in paragraphs 2, 7, 10 and 12 of section 3 of Schedule I shall be heard and determined by a panel of two members, one of whom shall be an advocate or notary and the other, a physician.

Proceedings referred to in paragraphs 1, 4 to 6, 13 and 14 of section 3 of Schedule I shall be heard and determined by a panel of two members each of whom shall be an advocate or notary.

Proceedings referred to in paragraphs 3, 8, 9 and 11 of section 3 of Schedule I shall be heard and determined by a single member who shall be an advocate or notary.

26. In pension plan matters, the social affairs division is charged with making determinations in respect of proceedings referred to in section 4 of Schedule I pertaining to decisions made by the Régie des rentes du Québec in particular concerning an application for a benefit or the partition of earnings or decisions made by the Commission administrative des régimes de retraite et d'assurances in particular concerning eligibility for the Pension Plan of Elected Municipal Officers, the number of years of service, pensionable salary or the amount of contributions or of a pension.

27. Proceedings shall be heard and determined by a panel of two members each of whom shall be an advocate or notary.

However, one of the members must be a physician in the case of a proceeding under section 188 of the Act respecting the Québec Pension Plan (chapter R-9), brought against a decision based on a person's disability.

28. In compensation matters, the social affairs division is charged with making determinations in respect of proceedings referred to in section 5 of Schedule I pertaining in particular to decisions concerning the right to or amount of compensation.

29. Proceedings shall be heard and determined by a panel of two members, one of whom shall be an advocate or notary and the other, a physician.

30. In immigration matters, the social affairs division is charged with making determinations in respect of proceedings referred to in section 6 of Schedule I pertaining to decisions made by the minister responsible for the administration of the Act respecting immigration to Québec (chapter I-0.2) concerning an undertaking, a selection certificate or a certificate of acceptance.

31. Proceedings shall be heard and determined by a single member who shall be an advocate or notary.

DIVISION II

IMMOVABLE PROPERTY DIVISION

32. The immovable property division is charged with making determinations in respect of proceedings pertaining in particular to the accuracy, presence or absence of an entry on the real estate assessment roll or on the roll of rental values, exemptions from or refunds of real estate taxes or the business tax, the fixing of the

indemnities arising from the establishment of reserves for public purposes or from the expropriation of immovables or immovable real rights or from damage caused by public works or the value or acquisition price of certain property, which proceedings are listed in Schedule II.

33. Proceedings shall be heard and determined by a panel of two members, one of whom shall be an advocate or notary and the other a chartered appraiser.

However, proceedings under the Act respecting municipal taxation (chapter F-2.1) relating to a unit of assessment or a place of business whose real estate value or rental value entered on the roll is lower than the value fixed by regulation of the Government shall be heard and determined by a single member who shall be an advocate, a notary or a chartered appraiser.

DIVISION III

TERRITORY AND ENVIRONMENT DIVISION

34. The territory and environment division is charged with making determinations in respect of proceedings pertaining in particular to decisions made or orders issued concerning the use, subdivision or alienation of a lot, the inclusion or exclusion of a lot in or from an agricultural zone, the removal of topsoil, the emission, deposit, issuance or discharge of contaminants in the environment or the carrying on of an activity likely to affect the quality of the environment, or the erection of certain roadside advertising signs, which are listed in Schedule III.

35. Proceedings shall be heard and determined by a panel of two members, only one of whom shall be an advocate or notary.

DIVISION IV

ECONOMIC AFFAIRS DIVISION

36. The economic affairs division is charged with making determinations in respect of proceedings pertaining in particular to decisions concerning permits, licences, certificates or authorizations to carry on a trade or a professional, economic, industrial or commercial activity, which are listed in Schedule IV.

37. Proceedings shall be heard and determined by a panel of two members, only one of whom shall be an advocate or notary.

CHAPTER III

COMPOSITION

DIVISION I

APPOINTMENT OF MEMBERS

38. The Tribunal shall be composed of members who are independent and impartial, appointed by the Government in the number determined by the Government.

39. The division to which a member is assigned shall be determined in the instrument of appointment.

40. In the social affairs division, at least ten members shall be physicians, including at least four psychiatrists, and at least two other members shall be social workers.

DIVISION II

RECRUITING AND SELECTION OF MEMBERS

41. Only a person who has the qualifications required by law and at least ten years' experience pertinent to the exercise of the functions of the Tribunal may be a member of the Tribunal.

42. Members shall be selected among persons declared apt according to the recruiting and selection procedure established by government regulation. The regulation may, in particular,

(1) determine the publicity that must be given to the recruiting procedure and the content of such publicity;

(2) determine the procedure by which a person may become a candidate;

(3) authorize the establishment of selection committees to assess the aptitude of candidates and formulate an opinion concerning them;

(4) fix the composition of the committees and mode of appointment of committee members, ensuring, where appropriate, adequate representation of the sectors concerned;

(5) determine the selection criteria to be taken into account by the committees;

(6) determine the information a committee may require from a candidate and the consultations it may hold.

43. The names of the persons declared apt shall be recorded in a register kept at the Ministère du Conseil exécutif.

44. A declaration of aptitude shall be valid for a period of 18 months or for any other period fixed by regulation of the Government.

45. Members of a selection committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

DIVISION III

TERM OF OFFICE AND RENEWAL

46. The term of office of a member is five years, subject to the exceptions that follow.

47. The Government may determine a shorter term of office of a fixed duration in the instrument of appointment where the candidate so requests for a valid reason or where required by special circumstances stated in the instrument of appointment.

48. The term of office of a member shall be renewed for five years

(1) unless the member is notified otherwise at least three months before the expiry of his term by the agent authorized therefor by the Government; or

(2) unless the member requests otherwise and so notifies the Minister at least three months before the expiry of his term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the member for a valid reason, only where required by special circumstances stated in the instrument of renewal.

49. The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation may, in particular,

- (1) authorize the establishment of committees;
- (2) fix the composition of the committees and the mode of appointment of committee members;
- (3) determine the criteria to be taken into account by the committees;
- (4) determine the information a committee may require from the member and the consultations it may hold.

50. Members of an examination committee shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

DIVISION IV

PREMATURE TERMINATION OF TERM OF OFFICE AND SUSPENSION

51. The term of office of a member may terminate prematurely only on his retirement or resignation, or on his being dismissed or otherwise removed from office in the circumstances referred to in this division.

52. To resign, a member must give the Minister reasonable notice in writing, sending a copy to the president of the Tribunal.

53. The Government may dismiss a member if the Conseil de la justice administrative so recommends, after an inquiry conducted following the lodging of a complaint pursuant to section 182.

The Government may also suspend the member with or without remuneration for the period recommended by the Conseil de la justice administrative.

54. The Government may also remove a member from office for either of the following reasons:

(1) loss of a qualification required by law for holding the office of member;

(2) permanent disability which, in the opinion of the Government, prevents the member from performing the duties of his office satisfactorily; permanent disability is ascertained by the Conseil de la justice administrative, after an inquiry conducted at the request of the Minister or of the president of the Tribunal.

DIVISION V

OTHER PROVISIONS REGARDING TERMINATION OF DUTIES

55. Any member may, with the authorization of and for the time determined by the president of the Tribunal, continue to perform his duties after the expiry of his term of office in order to conclude the cases he has begun to hear but has yet to determine; he shall be a supernumerary member for the time required.

The first paragraph does not apply to a member who has been dismissed or otherwise removed from office.

DIVISION VI

REMUNERATION AND OTHER CONDITIONS OF OFFICE

56. The Government shall make regulations determining

(1) the mode of remuneration of the members and the applicable standards and scales;

(2) the conditions subject to which and the extent to which a member may be reimbursed the expenses incurred in the performance of his duties.

The Government may make regulations determining other conditions of office applicable to all or certain members, including social benefits other than the pension plan.

The regulatory provisions may vary according to whether they apply to full-time or part-time members or to a member charged with an administrative office within the Tribunal.

The regulations come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec* or on any later date indicated therein.

57. The Government shall fix, in accordance with the regulations, the remuneration, social benefits and other conditions of office of the members.

58. Once fixed, a member's remuneration may not be reduced.

However, additional remuneration attaching to an administrative office within the Tribunal shall cease upon termination of such office.

59. The pension plan of full-time members shall be determined pursuant to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) or the Act respecting the Civil Service Superannuation Plan (chapter R-12), as the case may be.

60. A public servant appointed as a member of the Tribunal ceases to be subject to the Public Service Act for all matters concerning such office; for the duration of his term of office, he is on full leave without pay for the purpose of performing his duties of office.

DIVISION VII

ADMINISTRATIVE OFFICE

61. The Government shall designate, among the members of the Tribunal who are advocates or notaries, a president and vice-presidents in the number it determines.

The instrument of appointment of a vice-president shall determine the divisions under his responsibility.

62. The president and the vice-presidents shall exercise their duties on a full-time basis.

63. The Minister shall designate a vice-president to replace the president or another vice-president temporarily when required.

If the vice-president so designated is himself absent or unable to act, the Minister shall designate another vice-president as a replacement.

64. The administrative office of the president or a vice-president is of a fixed duration determined in the instrument of appointment or renewal.

65. The administrative office of the president or a vice-president may terminate prematurely only on his relinquishing such office, on the premature termination or non-renewal of his term of office as a member of the Tribunal, or on his removal or dismissal from his administrative office in the circumstances referred to in this division.

66. The Government may remove the president or a vice-president from his administrative office if the Conseil de la justice administrative so recommends, after an inquiry conducted at the Minister's request concerning a lapse pertaining only to his administrative duties.

67. The Government may also dismiss the president or a vice-president from his administrative office for loss of a qualification required by law for holding such office.

CHAPTER IV

DUTIES AND POWERS OF MEMBERS

68. Before taking office, every member shall take an oath, solemnly affirming the following: " I (...) swear that I will exercise the powers and fulfill the duties of my office impartially and honestly and to the best of my knowledge and abilities."

The oath shall be taken before the president of the Tribunal. The president of the Tribunal shall take the oath before a judge of the Court of Québec.

The writing evidencing the oath shall be sent to the Minister.

69. A member may not, on pain of forfeiture of office, have a direct or indirect interest in any enterprise that could cause a conflict between his personal interest and his duties of office, unless the interest devolves to him by succession or gift and he renounces it or disposes of it with dispatch.

70. In addition to observing conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics adopted under this Act, a member may not pursue an activity or place himself in a situation incompatible, within the meaning of the code of ethics, with the exercise of his office.

71. Full-time members shall devote themselves exclusively to their office, save the exceptions that follow.

72. A member may carry out any mandate entrusted to him by order of the Government after consultation with the president of the Tribunal.

73. A member may, with the written consent of the president of the Tribunal, engage in teaching activities and receive remuneration therefor.

74. The Tribunal and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

They are also vested with all the powers necessary for the performance of their duties; they may, in particular, make any order they consider appropriate to safeguard the rights of the parties.

No judicial proceedings may be brought against them by reason of an act done in good faith in the performance of their duties.

CHAPTER V

OPERATION

DIVISION I

MANAGEMENT AND ADMINISTRATION OF THE TRIBUNAL

75. In addition to the powers and duties that may otherwise be assigned to him, the president is charged with the administration and general management of the Tribunal.

The duties of the president include

(1) fostering the participation of members in the formulation of guiding principles for the Tribunal so as to maintain a high level of quality and coherence of decisions;

(2) coordinating the activities of and assigning work to the members of the Tribunal who shall comply with his orders and directives in that regard; and

(3) seeing to the observance of standards of ethical conduct;

(4) promoting professional development of the members as regards the exercise of their functions.

76. The president shall establish a code of ethics applicable to the conciliators and see that it is observed.

The code of ethics comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

77. To expedite the business of the Tribunal, the president may, after consultation with the vice-presidents responsible for the divisions concerned, assign a member temporarily to another division.

78. Each year, the president shall present a plan to the Minister in which he shall state his management objectives aimed at ensuring the accessibility of the Tribunal and the quality and promptness of its decision-making process and give an account of the results achieved in the preceding year.

The president shall include in the plan, in addition to the information requested by the Minister, the following information, compiled by the Tribunal on a monthly basis in respect of each division:

(1) the number of days on which hearings were held and the average number of hours devoted to them;

(2) the number of postponements granted;

(3) the nature and number of cases in which conciliation was held, and the number of such cases where the parties reached an agreement;

(4) the number of cases heard, the nature thereof and the places and dates of the hearings;

(5) the number of cases taken under advisement, the nature thereof and the time devoted to advisement;

(6) the number of decisions made;

(7) the time devoted to the proceedings, from the date of the introductory motion until the beginning of the hearing or the making of the decision.

79. The president may delegate all or part of his powers and duties to the vice-presidents.

80. The vice-presidents shall assist and advise the president in the performance of his duties and perform their administrative duties under the president's authority.

81. In addition to the powers and duties that may otherwise be assigned to him or delegated to him by the president, the duties of a vice-president include

(1) assigning cases and scheduling sittings in the division under his responsibility; the members shall comply with his orders and directives in that regard;

(2) participating in the temporary assignment of a member to another division.

DIVISION II

SITTINGS

82. The president, the vice-president responsible for the division or any member designated by either shall determine which members are to take part in each sitting.

The president may, where he considers it expedient in view of the complexity of a case or importance of a matter, form a panel comprising a greater number of members than that provided for in Chapter II, but not exceeding five.

83. The sittings shall be presided by the president, the vice-president responsible for the division or a member designated by either of them among the members.

84. The Tribunal may sit at any place in Québec. If the Tribunal holds a hearing in a locality where a court sits, the clerk of the court shall allow the Tribunal to use premises used by the court unless they are being used for sittings of the court.

85. In real estate assessment matters, the Tribunal may sit in the territory of the local municipality whose roll is involved if the dispute concerns a unit of assessment or a place of business whose real estate value or rental value entered on the roll is equal to or lower than the value fixed by regulation of the Government.

However, the president of the Tribunal, in cooperation with the vice-president responsible for the immovable property division, may group the territories of several local municipalities within a radius of 100 kilometres, and designate the municipal territory in which the Tribunal shall sit.

With the consent of the applicant, the Tribunal may sit outside the territory of the local municipality or the limits determined.

DIVISION III

PERSONNEL AND PHYSICAL AND FINANCIAL RESOURCES

86. The secretary of the Tribunal and the other members of the personnel of the Tribunal shall be appointed and remunerated in accordance with the Public Service Act.

No judicial proceedings may be brought against them for any act done in good faith in the performance of their duties.

87. The secretary shall have custody of the records of the Tribunal.

88. The documents emanating from the Tribunal are authentic if they are signed, as are copies of such documents if they are certified true, by a member of the Tribunal or by the secretary.

89. Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), only a person authorized by the Tribunal may have access, for good reason, to any record of the social affairs division that contains information on the physical or mental health of a person or information the Tribunal considers to be confidential which, if disclosed, would be prejudicial to a person.

Any person authorized to examine such a record is required to maintain its confidentiality. If a copy or extract is given to him, he must destroy it as soon as it is no longer of use to him.

90. The Tribunal shall establish a bank of jurisprudence and shall, in cooperation with the Société québécoise d'information juridique, ensure public access to all or part of the decisions made by the Tribunal.

The Tribunal shall omit the names of the persons concerned by decisions of the social affairs division.

91. Once proceedings have been completed, the parties shall take back the exhibits they produced and the documents they filed.

Failing that, such exhibits and documents may be destroyed after the expiry of one year from the date of the final decision of the

Tribunal or of the proceeding terminating the proceedings, unless the president decides otherwise.

92. The Government may, by regulation, determine a tariff of the administrative fees, professional fees and other charges attached to proceedings before the Tribunal as well as the classes of persons which may be exempted therefrom.

93. The financial year of the Tribunal shall end on 31 March.

94. Each year, the president of the Tribunal shall submit the budgetary estimates of the Tribunal for the following financial year to the Minister according to the form, tenor and schedule determined by the Minister. The estimates shall be submitted to the Government for approval.

95. The books and accounts of the Tribunal shall be audited by the Auditor General once a year and whenever ordered by the Government.

96. Not later than 30 June each year, the Tribunal shall present a report to the Minister on its operations for the preceding financial year.

The Minister shall lay the report before the National Assembly within 30 days of receiving it if the Assembly is in session or, if it is not, within 30 days of the opening of the next session.

The report shall not designate by name any person concerned by the matters brought before the Tribunal.

97. The sums required for the purposes of this Title shall be taken out of the fund of the Administrative Tribunal of Québec.

The fund shall be made up of the following sums:

(1) the sums paid into it by the Minister out of the appropriations granted each year for that purpose by the National Assembly;

(2) the sums paid into it by the Commission de la santé et de la sécurité du travail, the Minister responsible for the application of the Act respecting income security (chapter S-3.1.1), the Régie des rentes du Québec and the Société de l'assurance automobile du Québec, the amount and manner of payment of which shall be determined, for each, by the Government;

(3) the sums collected in accordance with the tariff of administrative fees, professional fees and other charges for proceedings before the Tribunal.

98. The Government may, on the conditions it determines, authorize the Minister of Finance to advance to the fund of the Tribunal sums taken out of the consolidated revenue fund. Any advance paid shall be repayable out of the fund of the Tribunal.

CHAPTER VI

RULES OF EVIDENCE AND OF PROCEDURE

DIVISION I

PURPOSE

99. This chapter prescribes basic rules to supplement the general rules of Chapter II of Title I which pertain to decisions made in the exercise of an adjudicative function.

DIVISION II

GENERAL PROVISIONS

100. The Tribunal may not decide a matter if the parties have not been heard or summoned.

It is exempted from that requirement in regard to a party to grant an uncontested application. The Tribunal is also exempted therefrom if all of the parties consent to its proceeding on the basis of the record, subject to the power of the Tribunal to summon the parties in order to hear them.

In addition, if a party who has been summoned does not appear at the time fixed for the hearing without having provided a valid excuse for his absence, or appears at the hearing but refuses to be heard, the Tribunal may nonetheless proceed and make a decision.

101. The parties to a proceeding are, in addition to the person and administrative authority or decentralized authority directly interested therein, any person so designated by law.

102. The parties may be represented by the person of their choice before the social affairs division, in the case of a proceeding pertaining to compensation for rescuers and victims of crime.

The Minister of Income Security or a body which is his delegatee for the purposes of the Act respecting income security may be represented by the person of his or its choice before the social affairs division in the case of a proceeding in a matter of income security or social aid and allowances.

The applicant may, before the social affairs division in the case of a proceeding in a matter of immigration, be represented by a relative or by a non-profit organization devoted to the defense or interests of immigrants, if he is unable to be present himself by reason of absence from Québec. In the latter case, the mandatary must provide the Tribunal with a mandate in writing, signed by the person represented, indicating the gratuitous nature of the mandate.

103. Where the Tribunal is seized of a proceeding under section 30 of the Mental Patients Protection Act (chapter P-41), it shall ascertain that the applicant has been given an opportunity to retain the services of an advocate.

104. The members of the personnel of the Tribunal shall assist any person who so requests in drafting a motion, an intervention or any other written proceeding directed to the Tribunal.

105. The Tribunal may accept a written proceeding despite a defect of form or an irregularity.

106. The Tribunal may relieve a party from failure to act within the time prescribed by law if the party establishes that he was unable, for serious and valid reasons, to act sooner and if the Tribunal considers that no other party suffers serious harm therefrom.

The Tribunal may not, however, grant an extension to such time in excess of 90 days.

107. A proceeding before the Tribunal does not suspend the execution of the contested decision, unless a provision of law provides otherwise or, upon a motion heard and judged by preference, a member of the Tribunal orders otherwise by reason of urgency or of the risk of serious and irreparable harm.

If the law provides that the proceeding suspends the execution of the decision, or if the Tribunal issues such an order, the proceeding shall be heard and judged by preference.

108. In the absence of provisions applicable to a particular case, the Tribunal may remedy the inadequacy by any procedure consistent with law or with its rules of procedure.

109. The Tribunal may, by a regulation adopted by a majority vote of its members, make rules of procedure specifying the manner in which the rules established in this chapter or in the special Acts under which proceedings are brought are to be applied.

Such rules of procedure may differ according to the divisions or, in the case of the social affairs division, according to the matters to which they apply.

The regulation is made after consultation with the Conseil de la justice administrative and upon approval by the Government.

DIVISION III

INTRODUCTORY AND PRELIMINARY PROCEDURE

110. A proceeding is brought before the Tribunal by a motion filed at the secretariat of the Tribunal within 30 days after notification to the applicant of the contested decision or after the occurrence of the facts giving rise to the proceeding; a proceeding must, however, be brought within 60 days if it pertains to a matter within the purview of the social affairs division.

The motion may also be filed in any office of the Court of Québec, in which case the clerk shall transmit the motion forthwith to the secretary of the Tribunal.

111. The motion shall state the decision in respect of which the proceeding is brought or the facts giving rise thereto, and shall contain a short statement of the grounds invoked in support of the proceeding and set out the conclusions sought.

It shall contain any other information required by the rules of procedure of the Tribunal, and shall, where applicable, state the name, address, phone number and fax number of the representative of the applicant.

112. The rules pertaining to the notice provided for in article 95 of the Code of Civil Procedure (chapter C-25), adapted as required, apply in every case in which a party alleges that a provision referred to in the said article is inapplicable constitutionally or is invalid or inoperative, including in respect of the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11

of the 1982 volume of the Acts of the Parliament of the United Kingdom) or of the Charter of human rights and freedoms (chapter C-12).

113. Upon receipt of the motion, the secretary of the Tribunal shall send a copy of it to the party against whom the proceeding is brought and to the persons indicated by law.

114. The administrative authority whose decision is contested must, within 30 days of receipt of a copy of the motion, send a copy of the record relating to the matter and the name, address, phone number and fax number of its representative to the secretary of the Tribunal and to the applicant.

The municipal body responsible for assessment shall send a copy of the documents relevant to the contestation within 10 days after receipt of the notice of hearing.

Access to any record sent pursuant to this section shall continue to be governed by the Act applicable to the administrative authority having sent it.

115. The Tribunal may, upon a motion, dismiss a proceeding it deems improper or dilatory or subject it to certain conditions.

116. Where, on examining the motion and the contested decision, the Tribunal ascertains that the authority concerned failed to rule upon certain questions although it was required to do so by law, the Tribunal may, if the date of the hearing has not been fixed, suspend the case for the time it fixes so that the administrative authority or decentralized authority may act.

If, at the expiry of the allotted time, the proceeding before the Tribunal is maintained, the Tribunal shall hear the proceeding as though it were a proceeding in respect of the original decision.

117. Where, during a proceeding before the social affairs division, a question is raised respecting Title III of the Act respecting the Québec Pension Plan (chapter R-9), the Tribunal must, subject to the exceptions contemplated in section 76 of the said Act, order the referral of the matter to the Court of Québec for a ruling on the question raised. In such case, the secretary of the Tribunal shall give notice thereof to the Minister of Revenue without delay.

Where the ruling of the court does not put an end to the dispute, the matter is referred back to the Tribunal.

118. Cases in which the questions in dispute are substantially the same or whose subject-matters could suitably be combined, whether or not the same parties are involved, may be joined by order of the president of the Tribunal or of the vice-president responsible for the division concerned, on the conditions he fixes.

An order made under the first paragraph may be revoked by the Tribunal upon hearing the matter if it is of the opinion that the interests of justice will be better served by doing so.

119. The following proceedings shall be heard and decided by preference :

(1) a proceeding under section 68 of the Act respecting prescription drug insurance and amending various legislative provisions (1996, chapter 32) which pertains to the withdrawal of recognition by the Minister from a manufacturer or from a wholesaler of medications ;

(2) a proceeding under section 53.13 of the Expropriation Act (R.S.Q., chapter E-24) which pertains to a provisional indemnity ;

(3) a proceeding under section 41 of the Public Health Protection Act (chapter P-35) which pertains to the suspension, revocation or non-renewal of an ambulance service permit ;

(4) a proceeding under section 30 of the Mental Patients Protection Act (chapter P-41) which pertains to a person under confinement in a health or social services institution ;

(5) a proceeding under section 21.0.4 of the Act to preserve agricultural land (chapter P-41.1) which pertains to an order of the Commission de protection du territoire agricole du Québec ;

(6) a proceeding under section 453 of the Act respecting health services and social services (chapter S-4.2) or under section 182.1 of the Act respecting health services and social services for Cree Native persons (chapter S-5) which pertains to the decision to evacuate and relocate any persons lodged in a facility where activities are carried on without a permit.

DIVISION IV

CONCILIATION

120. If he considers it expedient and if the subject-matter and circumstances of the case permit it, the president of the Tribunal, the vice-president responsible for the division concerned, the member designated by either of them or any member called on to hear the case may, with the consent of the parties, at any time before the case is taken under advisement, suspend the proceedings for a period not exceeding 30 days in order to allow conciliation to take place.

The president may also, with the consent of the parties, grant an extension if he is of the opinion that this would enable the parties to come to an agreement within reasonable time.

121. The conciliator shall be chosen by the secretary of the Tribunal from among the members of the personnel designated by the president.

122. Unless the parties consent thereto, nothing that is said or written in the course of conciliation may be admitted as evidence before a court of justice or before a person or body of the administrative branch exercising adjudicative functions. The parties must be so informed by the member who pronounces the suspension of the proceedings.

123. A conciliator may not be compelled to disclose anything made revealed to or learned by him in the exercise of his functions or produce a document prepared or obtained in the course of such exercise before a court of justice or before a person or body of the administrative branch exercising adjudicative functions.

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information, no person may have access to a document contained in the conciliation record.

124. Each agreement shall be recorded in writing. The agreement shall be signed by the conciliator and by the parties and shall bind the latter.

The agreement, confirmed by the Tribunal, shall terminate the proceedings, and become executory as if it were a decision of the Tribunal.

DIVISION V

PRE-HEARING CONFERENCE

125. The president of the Tribunal, the vice-president responsible for the division concerned or the member designated by either of them may call the parties to a pre-hearing conference if he considers it useful and the circumstances of the case allow it.

126. The purpose of the pre-hearing conference is

- (1) to define the questions to be dealt with at the hearing;
- (2) to assess the advisability of clarifying and specifying the pretensions of the parties and the conclusions sought;
- (3) to ensure that all documentary evidence is exchanged by the parties;
- (4) to plan the conduct of the proceedings and proof at the hearing;
- (5) to examine the possibility for the parties of admitting certain facts or of proving them by means of sworn statements;
- (6) to examine any other question likely to simplify or accelerate the conduct of the hearing.

127. Minutes of the pre-hearing conference shall be drawn up and signed by the parties and by the member who called the parties to the conference.

Agreements and decisions recorded in the minutes shall, as far as they may apply, govern the conduct of the proceeding, unless the Tribunal, when hearing the matter, permits a derogation therefrom to prevent an injustice.

DIVISION VI

HEARING

128. The Tribunal shall, so far as is possible, facilitate the holding of a hearing at a date and time when the parties and their witnesses, if any, are able to attend without unduly disrupting their usual occupations.

The Tribunal shall facilitate the holding of the hearing within six months after the filing of the motion instituting the proceedings.

129. Notice shall be sent to the parties within reasonable time before the hearing or within the time fixed by law, stating

(1) the purpose, date, time and place of the hearing;

(2) that the parties have the right to be assisted or represented, and listing the classes of persons authorized by law to assist or represent a party before the Tribunal;

(3) that the Tribunal has the authority to proceed, without further delay or notice, despite the failure of a party to appear at the time and place fixed if no valid excuse is provided.

130. A journalist who proves his status shall be admitted, without further formality, to any hearing held *in camera*, unless the Tribunal considers that the presence of the journalist can be prejudicial to a person whose interests may be affected by the proceeding.

No such journalist shall publish or broadcast information that would allow the identification of a person concerned, unless the journalist is authorized to do so by the law or by the Tribunal.

131. The Tribunal may, of its own initiative or on an application by a party, ban or restrict the disclosure, publication or dissemination of any information or documents it indicates, where necessary to maintain public order or where the confidential nature of the information or documents requires the prohibition or restriction to ensure the proper administration of justice.

132. Any party may examine and cross-examine witnesses to the extent necessary to ensure fair proceedings.

133. A witness may not refuse, without valid reason, to answer a question legally put to him by the Tribunal or by the parties.

However, no witness may be compelled to answer in the cases and conditions described in articles 307 and 308 of the Code of Civil Procedure.

134. The Tribunal may adjourn the hearing, on the conditions it determines, if it is of the opinion that the adjournment will not cause unreasonable delay in the proceeding or a denial of justice, in particular, for the purpose of fostering an amicable settlement.

135. In matters of expropriation, and in matters of municipal taxation where a proceeding pertains to a unit of assessment or place of business whose real estate value or rental value entered on the roll is equal to or greater than the value fixed by the Government, all depositions shall be conserved by stenography or by a recording, according to the method authorized by the Tribunal, unless the parties waive their right to appeal from the decision. Any such waiver shall be in writing or be recorded in the minutes of the proceedings.

In the case of other proceedings heard by the immovable property division and of proceedings heard in matters concerning the preservation of agricultural land, depositions shall be conserved only if the applicant so requests in writing.

136. Where a member is unable to continue a hearing, another member designated by the president of the Tribunal or by the vice-president responsible for the division concerned may, with the consent of the parties, continue the hearing and, in the case of oral evidence already produced, rely on the notes and minutes of the hearing or on the stenographer's notes or the recording of the hearing, if any.

The same rule also applies in the case of a hearing continued after a member who began to hear the matter ceases to hold office.

DIVISION VII

EVIDENCE

137. Each party may plead any ground of law or fact relevant to the determination of his rights and obligations.

138. The Tribunal may make the admission of evidence subject to rules on prior communication.

139. The Tribunal may refuse to admit any evidence that is not relevant or that is not of a nature likely to further the interests of justice.

140. In addition to facts so well-known as to not reasonably be questionable, the Tribunal must take judicial notice of the law in force in Québec in the fields within its jurisdiction. Unless the law provides otherwise, statutory instruments not published in the

Gazette officielle du Québec or in any other manner provided for by law must be pleaded.

141. A member shall take judicial notice of facts that are generally recognized and of opinions and information which fall within his area of specialization or that of the division to which he is assigned.

142. No evidence may be relied on by the Tribunal in making its decision unless the parties have been given an opportunity to comment on the substance of the evidence or to refute it.

Other than in the case of facts of which judicial notice must be taken pursuant to section 140, the Tribunal may not base its decision on grounds of law or fact judicially noticed by a member if it has not first given the parties, other than parties who have waived their right to state their allegations, an opportunity to present their observations.

DIVISION VIII

RECUSATION OF A MEMBER

143. A member who has knowledge of a valid cause for his recusation must declare that cause in a writing filed in the record and must advise the parties of it.

144. A party may, at any time before the decision and provided he acts with dispatch, apply for the recusation of a member seized of the case if he has good reason to believe that a cause for recusation exists.

The application for recusation shall be addressed to the president of the Tribunal. Unless the member removes himself from the case, the application shall be decided by the president, by the vice-president responsible for the division concerned or by a member designated by either of them.

DIVISION IX

DECISIONS

145. Where a matter is heard by more than one member, it shall be decided by the majority of the members having heard it. If any member dissents, the grounds for his dissent must be recorded in the decision.

When opinions are equally divided on a question, it shall be referred to the president, the vice-president responsible for the division concerned or a member designated by either of them among the members who shall decide according to law.

146. In any matter of whatever nature, the decision must be given within three months after being taken under advisement, unless, for a valid reason, the president of the Tribunal has granted an extension.

Where a member seized of a matter fails to give a decision within three months or, as the case may be, within such additional time as has been granted, the president may, of his own initiative or on an application by a party, withdraw the matter from the member.

Before granting an extension or withdrawing a matter from a member who has failed to give his decision within the required time, the president shall take account of the circumstances and of the interests of the parties.

147. A matter that has been withdrawn from a member shall be decided by the other members having heard the matter if their number is sufficient to constitute a quorum. Failing a quorum, the matter shall be heard again.

148. A matter heard by a member and which has not been decided at the time the member ceases to hold office is governed by the rules set forth in section 147.

149. The president, a vice-president or any member called upon to hear a matter pursuant to the second paragraph of section 145 or to section 147 or 148 may, as regards oral testimony, and with the consent of the parties, rely on the notes and minutes of the hearing or on the stenographer's notes or the recording of the hearing, if any. If the vice-president or member finds them insufficient, he may recall a witness or require any other evidence.

150. Where a member is unable to act or has ceased to hold office and cannot sign the minute of a decision given at the hearing, another member designated by the president of the Tribunal or by the vice-president responsible for the division concerned may sign the minute of the decision.

151. Any order made by the Tribunal in the course of a proceeding for a hearing to be held *in camera* or banning disclosure, publication or dissemination of documents or information shall be stated expressly in the decision.

152. A copy of the decision shall be sent to each of the parties and to any other person specified by law.

153. A decision containing an error in writing or in calculation or any other clerical error may be corrected, in the record and without further formality, by the member who made the decision.

Where the member is unable to act or has ceased to hold office, another member designated by the president of the Tribunal or by the vice-president responsible for the division concerned may, on an application by a party, correct the decision.

154. The Tribunal, on an application, may review or revoke any decision it has made

(1) where a new fact is discovered which, had it been known in time, could have warranted a different decision;

(2) where a party, owing to reasons considered sufficient, could not be heard;

(3) where a substantive or procedural defect is of a nature likely to invalidate the decision.

In the case described in subparagraph 3, the decision may not be reviewed or revoked by the members having made the decision.

155. Proceedings for review or revocation are brought before the Tribunal by a motion filed at the secretariat of the Tribunal within reasonable time following the decision concerned or following the discovery of a new fact susceptible of warranting a different decision. The motion shall refer to the decision concerned and state the grounds invoked in support of the motion. It shall contain any other information required by the rules of procedure of the Tribunal, and shall indicate, where applicable, the name, address, telephone number and fax number of the representative of the applicant.

The secretary of the Tribunal shall send a copy of the motion to the other parties, who may respond to it in writing within 30 days after receiving it.

The Tribunal shall proceed on the basis of the record; it may, however, if it considers it appropriate or if a party requests it, hear the parties.

156. Decisions of the Tribunal are executory according to the terms and conditions stated therein provided the parties have received a copy of the decision or have otherwise been advised of it.

Compulsory execution of decisions is effected, by deposit at the office of the competent court, in accordance with the prescriptions of the Code of Civil Procedure.

However, execution of a decision that contains a determination in respect of a proceeding under the provisions of the Expropriation Act (chapter E-24) is effected according to the rules prescribed in the said Act.

157. Any person who contravenes a decision or an order which is executory is guilty of contempt.

158. Except on a question of jurisdiction, none of the recourses provided in articles 33 and 834 to 846 of the Code of Civil Procedure may be exercised and no injunction may be granted against the Tribunal or against any of its members acting in their official capacity.

A judge of the Court of Appeal may, upon a motion, annul by a summary proceeding any judgment rendered or order or injunction pronounced contrary to this section.

DIVISION X

APPEALS

159. An appeal lies to the Court of Québec, irrespective of the amount involved, from decisions rendered by the Tribunal in matters heard by the immovable property division, and from decisions rendered in matters concerning the preservation of agricultural land, with leave of a judge, where the matter at issue is one which ought to be submitted to the Court of Québec.

160. An application for leave to appeal shall be made in the office of the Court of Québec of the place where the property is situated, and shall be presented by motion accompanied by a copy of the decision and of the documents of the contestation, if they are not reproduced in the decision.

The application shall be made within 30 days of the decision. The time limit is peremptory; it may be extended only if a party establishes that he was unable to act.

161. An application for leave to appeal, accompanied by a notice of presentation, shall be served on the adverse party and filed in the office of the Court of Québec. The application shall state the conclusions sought, and shall summarize the grounds the applicant intends to set up.

162. An application for leave to appeal does not suspend execution of the decision. However, a judge of the Court of Québec may, on a motion, suspend such execution if the application establishes that such execution would cause serious harm and that he has filed an application for leave to appeal.

163. If an application for leave to appeal is granted, the judgment authorizing the appeal shall stand for the inscription in appeal. The clerk of the Court of Québec shall transmit a copy of the decision without delay to the Tribunal and to the parties and their attorneys.

In the same manner and within the same time limits, the respondent may bring an appeal or an incidental appeal.

Except where provisional execution is ordered, an appeal suspends the execution of the decision.

164. The Court of Québec hears the appeal according to the evidence presented before the Tribunal, without further proof. No appeal lies from the decision of the Court of Québec.

TITLE III

CONSEIL DE LA JUSTICE ADMINISTRATIVE

CHAPTER I

INSTITUTION AND ORGANIZATION

165. A council bearing the name “Conseil de la justice administrative” is hereby instituted.

166. The council shall have its seat in the territory of the Communauté urbaine de Québec. Notice of the address of the seat shall be published in the *Gazette officielle du Québec*.

167. The council shall be composed of the following members:

- (1) the president of the Tribunal;

(2) a member chosen from among the vice-presidents of the Tribunal;

(3) two members chosen from among the members of the Tribunal, other than the vice-presidents, after consultation with all the members;

(4) seven other members who are not members of the Tribunal, not more than two of whom shall be advocates or notaries chosen after consultation with their professional order.

168. The members referred to in paragraphs 2, 3 and 4 of section 167 shall be appointed by the Government, which shall designate the chairman of the council from among the members who are not members of the Tribunal.

The term of office of the members is three years and may be renewed only once.

At the end of his term, each member may continue to perform his duties to conclude the cases he has begun to hear but has yet to determine.

169. Any vacancy which occurs during a term of office shall be filled according to the rules of composition and for the term set out in sections 167 and 168.

170. Before they may sit on the council, each member shall have taken an oath, solemnly affirming the following: "I (...) swear that I will neither reveal nor disclose, without being authorized to do so by law, anything of which I may gain knowledge in the performance of the duties of my office and that I will perform those duties impartially and honestly to the best of my knowledge and abilities."

The oath shall be taken before the chairman of the council. The chairman shall take the oath before a judge of the Court of Québec.

171. The members of the council receive no remuneration, except in the cases, on the conditions and to the extent that may be determined by the Government.

The members are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

172. The secretary of the Tribunal shall act as secretary of the council.

173. The council shall meet as often as necessary, at the request of the chairman, of a majority of the members or of the Minister.

The council may hold its sittings at any place in Québec. The sittings shall be held in public, unless the council orders them to be held *in camera* where necessary to preserve public order.

174. The minutes of the sittings of the council or of any of its committees are authentic if they are approved by the members and are signed by the chairman of the sitting or by the secretary.

Similarly, documents emanating from the council or forming part of its records are authentic if they are signed, as are copies of such documents if they are certified true, by the chairman of the council or by the secretary.

175. The council may make rules for its internal management, form committees and determine their powers and duties.

176. The council shall provide the Minister with any report or information he requires on its activities.

CHAPTER II

FUNCTIONS AND POWERS

177. The functions of the council in respect of the Administrative Tribunal of Québec and its members are

(1) to give its advice to the president of the Tribunal on the effectiveness of the procedural rules adopted by the Tribunal, on the harmonization of the rules applicable before each division, and on draft regulations submitted to it;

(2) to establish a code of ethics applicable to the members of the Tribunal;

(3) to receive and examine any complaint lodged against a member pursuant to Chapter IV;

(4) to inquire, at the request of the Minister or of the president of the Tribunal, into whether a member is suffering from a permanent disability;

(5) to inquire, at the request of the Minister, into any lapse raised as grounds for removal of the president or a vice-president of the Tribunal from his administrative office in the case provided for in section 66;

(6) to report to the Minister on any matter he may submit to the council and to make recommendations to the Minister on the administration of administrative justice and on the effective use of human, physical and financial resources of the Tribunal.

178. The council shall publish annually in the *Gazette officielle du Québec* a list of the departments and bodies that make up the Administration within the meaning of section 3 and of the bodies and decentralized authorities referred to in section 9.

179. The council may, by by-law, make rules of evidence and procedure applicable to the conduct of its inquiries. The by-law shall be submitted to the Government for approval.

CHAPTER III

ETHICS

180. The council, after consultation with the president, vice-presidents and members of the Tribunal, shall, by regulation, establish a code of ethics which shall be applicable to them.

The code of ethics shall be submitted to the Government for approval.

181. The code of ethics shall set out the rules of conduct and the duties of the members of the Tribunal towards the public, the parties, their witnesses and the persons who represent them. It shall indicate, in particular, conduct that is derogatory to the honour, dignity or integrity of the members. In addition, the code of ethics may determine activities or situations that are incompatible with their office, their obligations concerning disclosure of interest, and the duties they may perform gratuitously.

The code of ethics may provide special rules applicable to part-time members.

CHAPTER IV

COMPLAINTS

182. Any person may lodge a complaint with the council against a member of the Tribunal for breach of the code of ethics, of a duty under this Act or of the prescriptions governing conflicts of interest and incompatible functions.

183. A complaint must be in writing and must briefly state the reasons on which it is based.

It shall be transmitted to the seat of the council.

184. If the complaint is lodged by a member of the council, that member cannot take part in the examination of the complaint.

185. The council may dismiss any clearly unfounded complaint. It shall advise the complainant of the dismissal and the reasons therefor.

186. Where the council considers that the complaint is admissible, or where the complaint is lodged by the Minister, the council shall transmit a copy of it to the member and, where necessary, to the Minister.

The council shall form an inquiry committee composed of three of its members, which shall be entrusted with conducting an inquiry into the complaint and deciding the complaint on behalf of the council. One member of the committee shall be a member of the Tribunal; another member shall neither practise a legal profession nor be a member of the Tribunal.

187. The council shall designate a chairman from among the members of the committee who are advocates or notaries; the chairman shall call committee sittings.

188. For the purposes of an inquiry, the inquiry committee and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions, except the power to order imprisonment.

189. The council may, for a compelling reason and after consultation with the inquiry committee, suspend the member for the duration of the inquiry.

190. After giving the member who is the subject of the complaint, the Minister and the complainant an opportunity to be heard, the committee shall decide the complaint.

If the committee finds the complaint to be justified, it may recommend that the member be reprimanded, suspended with or without remuneration for the period it determines or dismissed.

The committee shall send its inquiry report and conclusions, with reasons therefor, to the council together with its recommendations, if any, concerning the penalty.

191. The council shall then send a copy of the inquiry report and of the committee's conclusions to the member who is the subject of the complaint, to the complainant and to the Minister.

192. If the committee finds the complaint to be justified, the council, depending on the committee's recommendation, shall administer a reprimand to the member and advise the Minister and the complainant thereof, or shall send the recommendation for a suspension or for dismissal to the Minister and advise the member and the complainant.

Where the recommended penalty is the member's dismissal, the council may immediately suspend the member for a period of 30 days.

CHAPTER V

PERMANENT DISABILITY OF A MEMBER AND LAPSE IN THE EXERCISE OF AN ADMINISTRATIVE OFFICE

193. At the request of the Minister, who shall send a copy of his request to the member of the Tribunal concerned, the council shall form an inquiry committee entrusted with

(1) determining on its behalf whether the member is suffering from a permanent disability which prevents him from discharging the duties of his office; or

(2) examining a lapse raised as grounds for removal of the president or a vice-president from his administrative office.

In cases pertaining to a member's disability, the council shall act also on a request made by the president of the Tribunal.

194. The committee shall be formed and chaired according to the rules provided for in the second paragraph of section 186 and in section 187. The committee and its members are vested with the powers and immunity referred to in section 188.

195. The council may, for a compelling reason and after consultation with the inquiry committee, suspend the member, the president or the vice-president concerned for the duration of the inquiry.

196. After giving the member, the president or the vice-president concerned and the person having requested an inquiry an opportunity to be heard, the committee shall send its conclusions, with the reasons therefor, to the council.

Where the committee finds there was a lapse in the exercise of an administrative office, the committee may recommend removal from that office. In such case, the committee shall transmit its recommendation and inquiry report to the council.

197. The council shall transmit a copy of the committee's conclusions to the member, the president or the vice-president concerned and to the person having requested the inquiry.

Where applicable, it shall also transmit to them the committee's recommendation and inquiry report.

198. The sums required for the purposes of this Title shall be taken out of the sums voted annually by the National Assembly.

CHAPTER VI

FINAL PROVISIONS

199. The Minister of Justice is responsible for the carrying out of this Act.

200. The Minister shall, not later than 1 April 2003, make a report to the Government on the implementation of this Act and on the advisability of amending it.

The report shall be tabled in the National Assembly, within 15 days of that date if the Assembly is sitting or, if it is not sitting, within 15 days of resumption.

Within one year of the tabling of the report, the competent committee of the National Assembly shall examine the report and hear submissions by interested persons and bodies.

201. This Act comes into force on the date to be fixed by the Government in accordance with what is to be provided for in the Act that will ensure the implementation of this Act by providing transitional rules and consequential amendments to other legislation.

SCHEDULE I

SOCIAL AFFAIRS DIVISION

1. In matters of income security and social aid and allowances, the social affairs division hears and determines

(1) proceedings against decisions pertaining to entitlement to a benefit, brought under section 20 of the Act respecting family assistance allowances (chapter A-17);

(2) proceedings under section 48 or 59 of the Act to secure the handicapped in the exercise of their rights (chapter E-20.1);

(3) proceedings under section 78 or 81 of the Act respecting income security (chapter S-3.1.1) or under section 31.18 or 40 of the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (chapter S-3.2);

(4) proceedings under section 45 of the Act respecting child day care (chapter S-4.1);

(5) proceedings against decisions pertaining to exemptions from payment, brought under section 517 of the Act respecting health services and social services (chapter S-4.2) and against decisions pertaining to exemptions from payment or payment of an expense allowance, brought under section 162 of the Act respecting health services and social services for Cree Native persons (chapter S-5).

2. In matters of protection of mentally ill persons, the social affairs division hears and determines

(1) proceedings under section 30 of the Mental Patients Protection Act (chapter P-41);

(2) proceedings before a Review Board under sections 672.38 and following of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46).

3. In matters of health services and social services, the social affairs division hears and determines

(1) proceedings by manufacturers or wholesalers of medications under section 68 of the Act respecting prescription drug insurance and amending various legislative provisions (1996, chapter 32);

(2) proceedings against decisions of the Régie de l'assurance-maladie du Québec under section 18.4 or 50 of the Health Insurance Act;

(3) proceedings under section 20 of the Act to secure the handicapped in the exercise of their rights;

(4) proceedings under section 30 of the Act to secure the handicapped in the exercise of their rights;

(5) proceedings under section 44 of the Act to secure the handicapped in the exercise of their rights;

(6) proceedings against decisions pertaining to permits, brought under section 41 of the Public Health Protection Act (chapter P-35);

(7) proceedings under section 120 of the Act respecting occupational health and safety (chapter S-2.1);

(8) proceedings under section 42 or 44 of the Act respecting child day care;

(9) proceedings under section 27 of the Act respecting health services and social services or under the sixth paragraph of section 7 of the Act respecting health services and social services for Cree Native persons;

(10) proceedings by physicians, dentists or pharmacists under section 132 of the Act respecting health services and social services for Cree Native persons;

(11) proceedings to contest or annul an election or appointment brought under section 148 or 530.16 of the Act respecting health services and social services or under section 59 of the Act respecting health services and social services for Cree Native persons;

(12) proceedings by physicians or dentists under section 205 or 252 of the Act respecting health services and social services or by pharmacists under section 253 of that Act;

(13) proceedings against decisions pertaining to permits, brought under section 450 of the Act respecting health services and social services or under section 148 of the Act respecting health services and social services for Cree Native persons;

(14) proceedings under section 453 of the Act respecting health services and social services or under section 182.1 of the Act respecting health services and social services for Cree Native persons.

4. In pension plan matters, the social affairs division hears and determines

(1) proceedings against decisions made on a reconsideration by the Régie des rentes, brought under section 188 of the Act respecting the Québec Pension Plan (chapter R-9);

(2) proceedings under section 74 of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3).

5. In compensation matters, the social affairs division hears and determines

(1) proceedings against decisions pertaining to the degree of impairment of earning capacity, brought under section 65 of the Workmen's Compensation Act (chapter A-3) for the purposes of the Act to promote good citizenship (chapter C-20) and the Crime Victims Compensation Act (chapter I-6);

(2) proceedings against decisions pertaining to the right to an indemnity and the quantum of an indemnity, brought under section 65 of the Workmen's Compensation Act for the purposes of the Act to promote good citizenship and the Crime Victims Compensation Act;

(3) proceedings under section 65 of the Workmen's Compensation Act or section 12 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (chapter I-7) pursuant to section 579 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001);

(4) proceedings under section 83.49 of the Automobile Insurance Act (chapter A-25);

(5) proceedings against decisions pertaining to indemnities for victims of immunization, brought under section 16.7 of the Public Health Protection Act;

(6) proceedings against decisions in review pertaining to a claimant's entitlement to a benefit or the amount of that benefit, brought under section 138 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54) for the purposes

of that Act and the Act to promote good citizenship, in respect of a review application brought on or after (*insert here the date of the coming into force of chapter 54 of the statutes of 1993*).

6. In immigration matters, the social affairs division hears and determines proceedings against decisions of the Minister responsible for the administration of the Act respecting immigration to Québec (chapter I-0.2), brought under section 26 of the said Act.

SCHEDULE II

IMMOVABLE PROPERTY DIVISION

The immovable property division hears and determines

(1) proceedings under section 117.7 of the Act respecting land use planning and development (chapter A-19.1);

(2) proceedings under section 68 of the Act respecting the National Assembly (chapter A-23.1) to determine the price or indemnity arising from the acquisition of an immovable belonging to a Member;

(3) proceedings under section 43 of the Cultural Property Act (chapter B-4) to determine the indemnity arising from damages suffered;

(4) proceedings under the Expropriation Act (chapter E-24) to determine the amount of indemnities arising from the establishment of reserves for public purposes and from the expropriation of immovables or immovable real rights;

(5) proceedings under Chapter X or XI of the Act respecting municipal taxation (chapter F-2.1);

(6) proceedings under section 36.14 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (chapter M-14);

(7) proceedings under section 64 of the Environment Quality Act (chapter Q-2) to determine the amount of the compensation arising from the refusal of the Minister to renew an operating permit for a waste management system;

(8) proceedings under section 29 of the Act respecting the Régie des télécommunications (chapter R-8.01);

(9) proceedings under section 13 of the Watercourses Act (chapter R-13) to assess and fix damages sustained;

(10) proceedings under section 45, 137 or 191.29 of the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1) to determine the compensation arising from an expropriation;

(11) proceedings under section 27 of the Act respecting roads (chapter V-9).

SCHEDULE III

TERRITORY AND ENVIRONMENT DIVISION

The territory and environment division hears and determines

(1) proceedings against decisions or orders of the Communauté urbaine de Montréal or, in the case of delegation, the executive committee or the head of a department, brought under section 151.2.8 of the Act respecting the Communauté urbaine de Montréal (chapter C-37.2);

(2) proceedings against decisions or orders of the Commission de protection du territoire agricole du Québec, brought under section 21.0.4 of the Act to preserve agricultural land (chapter P-41.1);

(3) proceedings against decisions or orders made by the Minister of the Environment and Wildlife, brought under section 96 of the Environment Quality Act (chapter Q-2) or section 68 of the Pesticides Act (chapter P-9.3).

SCHEDULE IV

ECONOMIC AFFAIRS DIVISION

The economic affairs division hears and determines proceedings under

- (1) section 17 of the Travel Agents Act (chapter A-10);
- (2) section 45 of the Act respecting prearranged funeral services and sepultures (chapter A-23.001);
- (3) section 65 of the Crop Insurance Act (chapter A-30);
- (4) section 366 of the Act respecting insurance (chapter A-32);
- (5) section 154 of the Cinema Act (chapter C-18.1);
- (6) section 560 of the Highway Safety Code (chapter C-24.2);
- (7) section 123.145 of the Companies Act (chapter C-38);
- (8) section 26 of the Act respecting the development of Québec firms in the book industry (chapter D-8.1);
- (9) section 15 of the Tourist Establishments Act (chapter E-15.1);
- (10) section 37 of the Act respecting market intermediaries (chapter I-15.1);
- (11) section 26 of the Act respecting stuffing and upholstered and stuffed articles (chapter M-5);
- (12) section 22 of the Cullers Act (chapter M-12.1);
- (13) section 36.16 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (chapter M-14);
- (14) section 21 of the Act respecting commercial fisheries and aquaculture (chapter P-9.01);
- (15) section 17 of the Agricultural Products, Marine Products and Food Act (chapter P-29);

- (16) section 339 of the Consumer Protection Act (chapter P-40.1);
- (17) section 55.35 of the Animal Health Protection Act (chapter P-42);
- (18) section 35 of the Act respecting the class action (chapter R-2.1);
- (19) section 36 of the Act respecting the collection of certain debts (chapter R-2.2);
- (20) section 55 of the Act respecting the Régie des télécommunications (chapter R-8.01);
- (21) section 53.1 of the Act respecting safety in sports (chapter S-3.1);
- (22) section 36 of the Act respecting the Société des alcools du Québec (chapter S-13);
- (23) section 252 of the Act respecting trust companies and savings companies (chapter S-29.01);
- (24) section 22 of the Marine Products Processing Act (chapter T-11.01);
- (25) section 51 of the Transport Act (chapter T-12);
- (26) section 19 of the Act respecting the use of petroleum products (chapter U-1.1);
- (27) section 324 of the Securities Act (chapter V-1.1).