



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 119
(2002, chapter 73)

An Act to amend the Act respecting Attorney General's prosecutors

**Introduced 16 October 2002
Passage in principle 22 October 2002
Passage 19 December 2002
Assented to 19 December 2002**

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EXPLANATORY NOTES

This bill amending the Act respecting Attorney General's prosecutors provides for the recognition by the Attorney General of an association representing exclusively the Attorney General's prosecutors for labour relations purposes and authorizes the deduction at source of a mandatory assessment to be remitted to the association. The bill also provides for the establishment of a collective bargaining system for the negotiation of agreements between the association and the Attorney General, acting in the name of the Government and with the authorization of the Conseil du trésor.

Additional amendments provide for a dispute resolution process in the event of a disagreement as to the application or interpretation of an agreement.

Bill 119

AN ACT TO AMEND THE ACT RESPECTING ATTORNEY GENERAL'S PROSECUTORS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Act respecting Attorney General's prosecutors (R.S.Q., chapter S-35) is replaced by the following section :

1. The Attorney General's prosecutors shall be appointed by the Attorney General in accordance with this Act, from among advocates authorized by law to practise in Québec.

Except where inconsistent with the provisions of this Act, the Public Service Act (chapter F-3.1.1) applies to prosecutors with permanent tenure."

2. Section 5 of the said Act is repealed.

3. Section 6 of the said Act is amended

(1) by striking out “, in accordance with section 5,” in the first line ;

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

“The Government may, by an order made on the recommendation of the Attorney General, determine the rules, standards and scales applicable to the appointment, remuneration, employment benefits and other conditions of employment of chief prosecutors and assistant chief prosecutors.”

4. Section 10 of the said Act is replaced by the following :

“DIVISION III

“PROVISIONS RESPECTING THE CONDITIONS OF EMPLOYMENT OF PROSECUTORS APPOINTED UNDER SECTION 1

10. The Attorney General shall recognize, as the exclusive representative of all prosecutors appointed under section 1, for labour relations purposes, an association comprising more than half of those prosecutors, except the chief prosecutors, the assistant chief prosecutors and the prosecutors the Attorney General considers appropriate to exclude owing to the confidential functions assigned to them and that are related to labour relations.

The Attorney General or an association of prosecutors may apply to the Commission des relations du travail for a verification of the representativeness of an association. The Commission may, for that purpose, require any information and the production of any document it considers necessary.

On report of the Commission, the Attorney General may revoke the recognition of an association that is no longer representative.

“11. The association shall not act in bad faith or in an arbitrary or discriminatory manner or show serious negligence in respect of a prosecutor it represents, whether or not the prosecutor is a member of the association.

“12. The Attorney General, in the name of the Government and with the authorization of the Conseil du trésor, shall negotiate for the purpose of entering into an agreement with the association regarding the rules, standards and scales applicable to the appointment, remuneration, employment benefits and other conditions of employment of the prosecutors represented by the association.

However, no provision of the agreement may limit the powers of the Minister of Justice, the Deputy Minister of Justice or the latter’s representative, or the powers of the Government or the Conseil du trésor with regard to any of the following matters :

- (1) the granting of permanent tenure to a prosecutor and the determination of the duration of the probationary period upon recruitment ;
- (2) the establishment of standards of ethics and discipline ;
- (3) the establishment of organization plans and staffing procedures.

“13. The agreement may contain any provision respecting conditions of employment which is not contrary to public policy or prohibited by law and which is not inconsistent with any provision of this Act.

“14. The agreement is binding on all the prosecutors represented by the association.

“15. The employer shall, according to the terms of the agreement, withhold from the salary of every prosecutor represented by the association, and remit to the association, an assessment in the amount specified by the association.

“16. Any disagreement as to the interpretation or application of the agreement shall be submitted by the employer or the association to the Commission de la fonction publique in accordance with the provisions of the agreement.

Sections 116 to 119 and 123 of the Public Service Act apply to the matters submitted to the Commission under this section.

The Commission may, in disciplinary matters, confirm, amend or set aside the decision of the employer and, if appropriate, substitute therefor the decision it deems fair and reasonable, in view of all circumstances.

“17. All prosecutors must perform their duties and functions without resorting to a strike, a concerted slowdown or a reduction of normal work activities.

“18. The Government may, by an order made on the recommendation of the Attorney General, determine the rules, standards and scales applicable to the appointment, remuneration, employment benefits and other conditions of employment of prosecutors excluded under section 10 from representation by the association.”

5. The Association des substituts du procureur général du Québec is recognized as a representative association within the meaning of section 10, as of 19 December 2002, and shall remain subject to the provisions of that section.

6. The Règlement sur les substituts du procureur général, made by Order in Council 1178-2002 (2002, G.O. 2, 7111), remains applicable

(1) to prosecutors represented by the association until the date of the first agreement entered into under section 12 of the Act respecting Attorney General’s prosecutors;

(2) to prosecutors excluded under section 10 from representation by the association, until the date of coming into force of the first order made after 19 December 2002, pursuant to section 18 of the Act respecting Attorney General’s prosecutors.

7. The Règlement sur les substituts en chef du procureur général, made by Order in Council 818-91 (1991, G.O. 2, 2987), remains applicable to chief prosecutors and assistant chief prosecutors until the date of coming into force of the first order made after 19 December 2002, pursuant to section 6 of the Act respecting Attorney General’s prosecutors as amended by section 3 of this Act.

8. This Act comes into force on 19 December 2002.