



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 69

(2008, chapter 22)

An Act to amend the Election Act and other legislative provisions

Introduced 14 December 2007
Passed in principle 2 April 2008
Passed 17 June 2008
Assented to 20 June 2008

Québec Official Publisher
2008

EXPLANATORY NOTES

This Act amends the Election Act as regards information sharing for the purposes of entering names on and updating the permanent list of electors and as regards voting and certain rules governing the financing of political parties and the control of election expenses.

To that end, the Act provides that the Chief Electoral Officer will obtain from the Régie de l'assurance maladie du Québec and from the Chief Electoral Officer of Canada the information needed to update the permanent list of electors. It also provides that the Chief Electoral Officer will obtain information from the Régie in order to enter names on the list.

The Act requires persons in charge of a lodging facility to give and facilitate access to a mobile board of revisors in the facility.

As for voting procedures, the Act provides for the implementation of provisions relating to electors who are inmates or are detained or held in a youth custody facility under the Youth Criminal Justice Act. It adds three extra days for voting at a mobile advance poll. In addition, it enables the returning officer to issue an authorization to vote, on polling day, to election officers who have not yet voted and whose name does not appear on the list of electors of any of the polling stations at the place where they are working. It leaves it up to the Chief Electoral Officer to decide to extend voting hours if there has been a delay or an interruption in the voting.

On the subject of election financing and the control of election expenses, the Act relaxes certain provisions relating to mandatory publications in the newspapers, the payment of allowances to political parties, the reimbursement of election expenses, the identification of advertisements, the minimum amount for which a detailed invoice is required and sworn declarations. It also provides that a contribution made contrary to the law will be paid over to the Minister of Finance if the contributor is found guilty of an offence in connection with that contribution.

Moreover, the Act authorizes the Chief Electoral Officer to adapt the provisions of the Election Act relating to voting procedures and the counting of the votes when circumstances so require because of the area covered by the electoral division or because some electors live a great distance away.

LEGISLATION AMENDED BY THIS ACT:

- Health Insurance Act (R.S.Q., chapter A-29);
- Election Act (R.S.Q., chapter E-3.3);
- Act to amend the Election Act to encourage and facilitate voting (2006, chapter 17).

Bill 69

AN ACT TO AMEND THE ELECTION ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** Section 37 of the Election Act (R.S.Q., chapter E-3.3) is amended by inserting “authorized” before “independent” in the fifth line.
- 2.** Section 40.4 of the Act is amended by inserting “, the Chief Electoral Officer of Canada” after “Curator” in the fourth line of the first paragraph.
- 3.** Section 40.6 of the Act is amended by replacing “Two” in the first line of the second paragraph by “Unless the request concerns a change of address of an elector whose name is already entered on the list or the entry on the list by the Public Curator of the name of an elector in respect of whom the Public Curator exercises tutorship, two”.
- 4.** Section 40.7 of the Act is replaced by the following section:

“40.7. The Chief Electoral Officer shall obtain from the Régie de l’assurance maladie du Québec notice of any change in the name, address, date of birth or sex of a person whose name is entered on the permanent list of electors, and, where applicable, of the date of the person’s death and the corresponding address expiry codes. The Chief Electoral Officer shall also obtain from the Régie the name, address, date of birth and sex of any person of full age who has informed the Régie that he has acquired Canadian citizenship or has stated, on registering for the first time with the Régie, that he holds Canadian citizenship. The Chief Electoral Officer shall obtain the same information from the Régie concerning any person who is about to reach 18 years of age, at least six months before the person’s eighteenth birthday, and concerning any person who meets the criteria set out in subparagraphs 1 to 3 of the first paragraph of section 1 and whose name is not yet entered on the permanent list of electors.

If the Régie has been unable to identify an elector whose name is entered on the list of electors in its own file of insured persons, the Chief Electoral Officer may communicate with the elector concerned to verify the accuracy of the information held concerning the elector and may request that the elector correct or complete the information where necessary.

After receiving an advisory opinion from the Commission d'accès à l'information, the Chief Electoral Officer shall, on request, obtain from the Régie any other personal information needed to compile and update the permanent list of electors.

As well, the Chief Electoral Officer shall, on request, obtain from the Régie a list of all the residential addresses in Québec.”

5. Section 40.7.1 of the Act is amended by inserting “address,” after “name,” in the second line.

6. The Act is amended by adding the following section after section 40.7.1:

“40.7.2. The Chief Electoral Officer shall obtain from the Chief Electoral Officer of Canada the information contained in the Register of Electors that is required for the updating of the information entered on the permanent list of electors.”

7. Section 40.37 of the Act is amended by adding “authorized” before “independent” in the last line of the first paragraph.

8. Section 41 of the Act is amended by inserting “, independent Member” after “party authority” in the first line of the first paragraph.

9. Section 42 of the Act is amended

(1) by inserting “, an independent Member” after “a party authority” in the first line;

(2) by inserting “by the independent Member” after “leader,” in the third line.

10. Section 57 of the Act is amended by replacing “and in at least one newspaper published in Québec and circulated in all parts of Québec” at the end of the first paragraph by “and post the notice on the Chief Electoral Officer’s website”.

11. Section 59 of the Act is amended by replacing the second paragraph by the following paragraph:

“During the period for filing nomination papers, an application for authorization may be made on the form prescribed for the nomination paper, and the candidate’s official representative is the official agent designated by the candidate on the nomination paper.”

12. Section 62.1 of the Act is replaced by the following section:

62.1. An application for authorization made by a Member of the National Assembly who becomes an independent without having been elected as such must be in writing and contain the information referred to in section 59, with the necessary modifications.”

13. Section 64 of the Act is amended by replacing “and in at least one newspaper published in Québec and circulated, in the case of a party, in all parts of Québec or, in the case of a party authority, an independent Member or a candidate, in the electoral division for which the authorization was granted” at the end of the first paragraph by “and post the notice on the Chief Electoral Officer’s website”.

14. Section 65 of the Act is amended by replacing “and 59” in the second line of the first paragraph by “, 59 and 62.1”.

15. Section 66 of the Act is amended by inserting “be signed by an officer of the party and” after “must” in the first line of the second paragraph.

16. Section 67 of the Act is amended

(1) by replacing the second sentence of the first paragraph by the following sentence: “The Chief Electoral Officer may, upon the written application of an authorized independent Member or of an authorized independent candidate, withdraw the authorization of the Member or candidate unless the debts arising from that person’s election expenses have not been fully paid.”;

(2) by inserting “, by the independent Member” after “leader of the party” in the second line of the fourth paragraph.

17. Section 72 of the Act is amended by replacing “and in at least one newspaper published in Québec and circulated, in the case of a party, in all parts of Québec or, in the case of a party authority, an independent Member or a candidate, in the electoral division or part of Québec for which the authorization was granted” at the end of the first paragraph by “and post the notice on the Chief Electoral Officer’s website”.

18. Section 74.1 of the Act is amended by inserting “either following an application filed under section 67,” after “authorized” in the first line of the first paragraph.

19. Section 84 of the Act is amended by adding the following sentence at the end of the first paragraph: “The allowance may also be paid by means of a transfer of funds to an account held by the official representative.”

20. Section 86 of the Act is amended by replacing “Within thirty days of the payment of the allowance” in the first line of the second paragraph by “Not later than 1 April each year”.

21. Section 88 of the Act is amended by replacing “and the goods or services produced by such work” at the end of subparagraph 1 of the second paragraph by “, the goods or services produced by such work and the use of a personal vehicle supplied for no consideration for that purpose”.

22. Section 100 of the Act is replaced by the following section:

“**100.** Any contribution or part of a contribution made contrary to this division must, as soon as the fact is known, be remitted to the Chief Electoral Officer and returned to the contributor.

Despite the first paragraph, the funds must be paid over to the Minister of Finance if

- (1) the contributor’s identity is not known; or
- (2) the contributor has been found to have contravened section 87, 90, 91 or 95.”

23. Section 101 of the Act is amended by inserting “authorized” before “independent” in paragraph 1.1.

24. Section 103 of the Act is amended by replacing “of a party, of a party authority or of an independent Member” in the first and second lines by “of an authorized entity or any person designated in writing by the official representative”.

25. Section 108 of the Act is amended by striking out subparagraph 1 of the first paragraph.

26. Section 117 of the Act is amended

(1) by inserting “authorized” before “independent” in the second line of the first paragraph;

(2) by inserting “be prepared in the form prescribed by the Chief Electoral Officer and” after “shall” in the first line of the second paragraph;

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

“The official representative of an authorized independent candidate must file such a report if no election was held in the fiscal year during which the independent candidate was authorized.”

27. Section 118 of the Act is amended by inserting “authorized” before “independent” in the second line.

28. Section 121 of the Act is amended by inserting “authorized” before “independent” in the fourth line.

29. Section 122 of the Act is amended by inserting “in the form prescribed by the Chief Electoral Officer and” after “filed” in the first line of the third paragraph.

30. Section 146 of the Act is amended by inserting “authorized” before “independent” in the third line of the third paragraph.

31. Section 180 of the Act is amended

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

“**180.** A board of revisors must sit at the returning officer’s main office and the additional boards of revisors, at the returning officer’s branch offices or at any other place determined by the returning officer after being authorized by the Chief Electoral Officer. Those offices and places must be accessible to handicapped persons.

If the Chief Electoral Officer considers it expedient given the time of the year, a board of revisors may sit at any place where a university or a general and vocational college maintains a student residence. The institution must permit the use of those premises free of charge for that purpose.”;

(2) by inserting “authorized” before “independent” in the third line of the fifth paragraph.

32. Section 185 of the Act is amended by replacing “under section 184” in the third and fourth lines of the first paragraph by “for that purpose by each authorized party represented in the National Assembly”.

33. Section 187 of the Act is amended by inserting “authorized” before “independent” in the fourth line.

34. The Act is amended by inserting the following section after section 196:

“**196.1.** The owner, manager, operator, superintendent, caretaker or person in charge of a place described in section 135.1 must facilitate access by the electors domiciled or lodged in such a place to the mobile board of revisors assigned to that place, and cooperate with the revisors to facilitate the exercise of their functions.”

35. Section 212 of the Act is amended by replacing “or where” in the fourth line of the first paragraph by “, in a case described in the second paragraph of section 192 or where”.

36. Section 239 of the Act is amended by adding the following paragraph:

“The nomination paper filed by an independent candidate who wishes to be authorized must include the candidate’s telephone number and the information required under subparagraphs 3, 4 and 5 of the first paragraph of section 59.”

37. Section 262 of the Act is amended by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) by mail, in the case of electors outside Québec and of electors who are inmates or are detained in a place of temporary detention or held in a youth custody facility under the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1); or”.

38. Section 263 of the Act is amended by replacing “from the eleventh day to the ninth day before polling day and from the sixth day to the fourth day before” in the third and fourth lines by “on the tenth, ninth, sixth, fifth and fourth days before”.

39. Section 269 of the Act is amended by replacing “eleventh” in the third line of the first paragraph by “tenth”.

40. Section 271 of the Act is amended by replacing “eleventh” in the third line of the second paragraph by “tenth”.

41. Section 274 of the Act is amended by replacing “from the eleventh day to the ninth day before polling day and from the sixth day to the fourth day before” in the first and second lines by “on the tenth, ninth, sixth, fifth and fourth days before”.

42. The Act is amended by inserting the following section after section 299:

“**299.1.** Sections 294 to 299 apply, with the necessary modifications, to electors detained in a place of temporary detention or held in a youth custody facility under the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1).”

43. Section 301.7 of the Act is amended by replacing “during the hours determined by the returning officer” in the second line by “. The returning officer shall determine the day and hours”.

44. Section 301.16 of the Act is amended by replacing the second paragraph by the following paragraph:

“The mobile advance poll is held on the tenth, ninth, sixth, fifth and fourth days before polling day. The returning officer shall determine the day and hours each polling station is to visit electors. On the last day, voting ends at 2:00 p.m.”

45. Section 302 of the Act is amended by inserting “, is established for the purpose of setting up a polling station in a residential facility in accordance with section 301.6” after “territory” in the first line of the fourth paragraph.

46. Section 312.1 of the Act is amended by inserting the following paragraph after the second paragraph:

“If there is only one polling station on the premises, the returning officer may allow the deputy returning officer and the poll clerk to act as panel members.”

47. Section 340 of the Act is amended

(1) by adding the following subparagraph at the end of the first paragraph:

“(6) who is an election officer in the electoral division of his or her domicile and whose name is entered on the list of electors of that electoral division but does not appear on the list of electors of any of the polling stations at the place where he or she is working on polling day.”;

(2) by replacing “3” in the second line of the third paragraph by “5”.

48. Section 353 of the Act is amended by replacing “it shall be continued until it has lasted eleven hours” at the end by “the Chief Electoral Officer may extend polling hours at the polling station concerned for as long as the Chief Electoral Officer determines”.

49. Section 361 of the Act is amended by replacing the second paragraph by the following paragraph:

“Before counting the votes cast during the advance poll, the deputy returning officer and the poll clerk take the oath provided in Schedule II. The deputy returning officer and the poll clerk may be persons other than those appointed to act at the advance polling station. In that case, sections 312 and 313 do not apply.”

50. Section 370.8 of the Act is amended by replacing the second paragraph by the following paragraphs:

“The Chief Electoral Officer appoints as deputy returning officer the person recommended by the party that received the greatest number of votes in the last general election.

The Chief Electoral Officer appoints as poll clerk the person recommended by the party that received the second greatest number of votes in the last general election.”

51. Section 370.10 of the Act is amended by replacing “, the rejected ballot papers, the spoiled or cancelled ballot papers and the unused ballot papers” in the second and third lines of the second paragraph by “and the rejected ballot papers”.

52. Section 409 of the Act is amended by replacing “returning officer” in the fourth line of the first paragraph by “Chief Electoral Officer”.

53. Section 410 of the Act is amended by replacing “returning officer” in the third line of the first paragraph by “Chief Electoral Officer”.

54. Section 411 of the Act is amended by replacing “The returning officer shall, without delay, inform the chief electoral officer” in the first and second lines of the first paragraph by “The Chief Electoral Officer shall inform the returning officer without delay”.

55. Section 417 of the Act is amended by replacing the second paragraph by the following paragraph:

“A person may, however, contribute his personal services and the use of his personal vehicle without remuneration and for no consideration, provided that he does so freely and not as part of his work in the service of an employer.”

56. Section 419 of the Act is amended by striking out “and address” in the fourth line of the third paragraph.

57. Section 420 of the Act is amended by striking out “and address” in the third line of the last paragraph.

58. Section 421 of the Act is replaced by the following section:

“421. Any writing, object or advertising material relating to an election must bear the name of the printer or manufacturer and the name and title of the official agent or deputy official agent who had it produced.

Any election advertisement published in a newspaper or other publication must mention the name and title of the official agent or deputy official agent who had it published.

In any election advertisement broadcast on radio or television or circulated by means of any other information medium or technology, the name and title of the official agent or deputy official agent must be mentioned at the beginning or at the end of the advertisement.”

59. Section 421.1 of the Act is replaced by the following section:

“421.1. If, under section 401, a writing, an object, an advertising material or an advertisement must mention the name and title of a private intervenor within the meaning of Division V of this chapter or the name and title of the representative of such an intervenor, it must also mention the authorization number issued under section 457.6.

If the cost of a writing, object, advertising material or advertisement covered by section 421 exceeds \$300, only the name and title of the official agent or deputy official agent of a candidate or authorized party may be mentioned as the person who had the writing, object, material or advertisement produced, published or broadcast.”

60. Section 422 of the Act is amended by striking out “and address” in the fourth and fifth lines.

61. Section 424 of the Act is amended by replacing “\$60” in the first line of the first paragraph by “\$200”.

62. Section 426 of the Act is amended

(1) by inserting “equal to or” after “is” in the fifth line of the fourth paragraph;

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

“If the amounts set out in this section are adjusted during an election period, the adjusted amount applies for the entire election period.”

63. Section 431 of the Act is amended by inserting “within the meaning of Division II.2 of the Executive Power Act (chapter E-18) nor to services rendered by a member of an office staff” after “office staff” in the second line.

64. Section 432 of the Act is amended by striking out “sworn” in the second line of the second paragraph.

65. Section 434 of the Act is amended by striking out “sworn” in the second line of the second paragraph.

66. Section 436 of the Act is amended

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

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

“Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person has a right of access to those documents before the expiry of the filing period. If they are filed after that period, they are accessible as soon as they are filed.

Any person may examine and copy the documents at the information centre of the Chief Electoral Officer during regular office hours.”

67. Section 442 of the Act is amended

(1) by replacing “or party leader” in the second line of the first paragraph by “, the party leader or, if the party leader is not a Member of the National Assembly, the leader of the party in the House”;

(2) by replacing “or party leader” in the first and second lines of the second paragraph by “, the party leader or the leader of the party in the House, as the case may be,”.

68. Section 454 of the Act is amended by adding the following paragraph:

“The reimbursement may also be paid by means of a transfer of funds to an account held by the official representative.”

69. Section 456 of the Act is repealed.

70. Section 457 of the Act is amended

(1) by replacing “the amount of the debts resulting from his election expenses” in the second paragraph by “the sum of the amount of the debts resulting from the candidate’s election expenses and the amount of the candidate’s personal contribution”;

(2) by adding “and, where applicable, under the third paragraph of that section” at the end of the third paragraph.

71. The heading of Division V of Chapter VI of Title IV of the Act is replaced by the following heading:

“AUTHORIZATION AND EXPENSES OF PRIVATE INTERVENORS”.

72. Section 457.2 of the Act is amended by inserting the following paragraph before the first paragraph:

“**457.2.** No person may incur expenses described in paragraph 13 of section 404 unless the person has been issued an authorization in accordance with this division.”

73. Section 457.18 of the Act is amended by striking out “sworn” in the second line of the second paragraph.

74. Section 489.1 of the Act is replaced by the following section:

“**489.1.** The Chief Electoral Officer, with the consent of the authorized parties represented in the National Assembly, may, if circumstances so require, in particular because of the area covered by the electoral division or because some electors live a great distance away, adapt the provisions concerning the enumeration of electors, the revision process, the filing of nomination papers, the advance poll, the establishment of an identity verification panel, the polling procedure or the counting of the votes.”

75. Section 510 of the Act is amended by adding the following sentence at the end of the first paragraph: “If circumstances so require, in particular because of the area covered by the electoral division or because some electors live a great distance away, the Chief Electoral Officer may authorize the appointment of a second assistant returning officer.”

76. Section 527 of the Act is amended by replacing “an administrator, Class V” at the end of the first paragraph by “a Class 05 manager”.

77. Section 553 of the Act is amended by replacing paragraph 1 by the following paragraph:

“(1) every executive director, manager, superintendent, caretaker, operator, owner or person in charge of a place described in section 135.1 who hinders access to a mobile board of revisors, to a polling station set up in that place or to a mobile polling station;”.

78. The Act is amended by inserting the following section after section 559.1:

“559.2. The following persons are liable to a fine of \$500 to \$10,000:

(1) the printer, manufacturer or owner of the newspaper or other publication, the radio or television broadcaster or the person using another information medium or technology, if a writing, object, advertising material or advertisement relating to an election is printed, made, published, broadcast or circulated without the particulars required under section 421 or 421.1;

(2) the official agent or deputy official agent, or the private intervenor or the representative of a private intervenor, who allows a writing, object, advertising material or advertisement relating to an election to be printed, made, published, broadcast or circulated without the particulars required under section 421 or 421.1.”

79. Section 564 of the Act is amended by replacing the first paragraph by the following paragraph:

“564. A person who contravenes any of sections 62, 64, 66, 74, 76, 87 to 93, 95 to 97, 99, 100, 102 to 106, 408, 410, 413 to 420, 422 to 424, 429, 429.1, 457.2, 457.9 and 457.11 to 457.17 is liable to a fine of \$500 to \$10,000.”

80. Schedule I to the Act is amended by replacing the second paragraph by the following paragraph:

“This electoral division comprises the territories of the municipalities of Grosse-Île and Les Îles-de-la-Madeleine.”

81. Schedule II to the Act is amended by replacing “272” by “361”.

82. Schedule III to the Act is amended by replacing “277” by “298”.

83. Schedule IV to the Act is amended by replacing “293” by “275 and 287”.

AMENDING AND TRANSITIONAL PROVISIONS

84. Section 65.0.1 of the Health Insurance Act (R.S.Q., chapter A-29) is replaced by the following section:

“65.0.1. The Board shall send the Chief Electoral Officer notice of any change in the name, address, date of birth or sex of an insured person whose name is entered on the permanent list of electors established under section 40.1 of the Election Act (chapter E-3.3), and, where applicable, of the date of the person’s death and the corresponding address expiry codes. The Board shall also send the Chief Electoral Officer the name, address, date of birth and sex of any insured person of full age who has informed the Board that he has acquired Canadian citizenship or has stated, on registering for the first time with the Board, that he holds Canadian citizenship. The Board shall send the Chief Electoral Officer the same information concerning any insured person who is about to reach 18 years of age, at least six months before the person’s eighteenth birthday, and concerning any insured person who meets the criteria set out in subparagraphs 1 to 3 of the first paragraph of section 1 of the Election Act and whose name is not yet entered on the permanent list of electors.

After receiving an advisory opinion from the Commission d’accès à l’information, the Board shall send the Chief Electoral Officer, on request, any other personal information needed to compile and update the permanent list of electors.

The Board shall also send the Chief Electoral Officer, on request, a list of all the residential addresses in Québec.”

85. Section 13 of the Act to amend the Election Act to encourage and facilitate voting (2006, chapter 17) is amended by inserting “in a case described in the second paragraph of section 192 or” after “present” in the fifth line of the first paragraph of section 210 of the Election Act which it replaces.

86. For the fiscal year 2006-2007, the fees payable for the communication of information contained in the permanent list of electors to the Chief Electoral Officer of Canada under and for the purposes of section 40.42 of the Election Act are set at \$378,265.

87. Until the Nomination Regulation (1989, G.O. 2, 1569) is amended in accordance with section 550 of the Election Act, the Chief Electoral Officer may adjust the form prescribed in that regulation for cases where an application for authorization by an independent candidate is filed with the nomination paper, or prescribe a new form for that purpose.

88. Until the Voting Regulation (1989, G.O. 2, 1580) is amended in accordance with section 550 of the Election Act, the Chief Electoral Officer may adjust the forms prescribed in that regulation to reflect the provisions of this Act.

89. This Act does not apply to an election ordered on or before 20 June 2008 or within 60 days after that date.

FINAL PROVISION

90. This Act comes into force on 20 June 2008.

