

chapter E-6

**PUBLIC OFFICERS ACT**

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## DIVISION I

### APPOINTMENT, SUSPENSION AND REMOVAL

**1.** Unless otherwise specially provided, every public officer or employee shall be appointed by the Government, by commission or otherwise, and remain in office during pleasure.

Whenever two persons have been appointed jointly by order of the Minister of Justice to hold the office of clerk of appeals, clerk of the Superior Court, clerk of the Court of Québec, sheriff or registrar, and one of the two persons ceases to perform his duties, the other shall remain alone in office and shall continue, in his own name, to perform the duties of the office.

R. S. 1964, c. 12, s. 1; 1965 (1st sess.), c. 17, s. 2; 1979, c. 43, s. 1; 1983, c. 54, s. 38; 1988, c. 21, s. 66; 1992, c. 61, s. 286; 1999, c. 40, s. 117.

**2.** The Government may appoint the officers and employees necessary for the proper functioning of any commission created under a general or special Act, whenever the Act creating the same has not provided therefor.

It may also provide for the remuneration of such officers and employees and such remuneration shall be payable out of the Consolidated Revenue Fund.

R. S. 1964, c. 12, s. 2.

**3.** A public officer or employee, who is appointed under permanent commission, but who is removable from office, may be dismissed by order of the Government only.

R. S. 1964, c. 12, s. 3.

**4.** The incumbent minister of any department may suspend any public officer or employee belonging to his department or attached thereto; he may also cause the suspension to cease, and may reinstate him.

If such suspension affects one of the joint officers holding one or more of the offices mentioned in the second paragraph of section 1, the Minister of Justice may, by letter, authorize the other joint officer to remain alone in office and to continue, alone and in his own name, to perform the duties of the office without the necessity of appointing him anew or of granting him a new commission, and he shall so act until the authorization conferred by the said letter be revoked.

R. S. 1964, c. 12, s. 4; 1965 (1st sess.), c. 16, s. 21; 1978, c. 15, s. 140.

## DIVISION II

### COMMISSIONS

**5.** The Government may make regulations declaring and determining what officers or classes of officers in the civil service, appointed under orders in council or government orders, shall receive commissions under the Great Seal or under the Privy Seal, respectively, and what fee shall be paid thereon.

Such commissions may be issued to the officers who have not received and are entitled to receive them.

R. S. 1964, c. 12, s. 5.

**6.** Every commission issued under section 5 shall be recorded in the office of the Provincial Registrar, and notice of the appointments shall be inserted in the *Gazette officielle du Québec* by the Minister of Justice.

A list of such commissions issued during the year shall be laid before the National Assembly within the first 15 days of its next session.

R. S. 1964, c. 12, s. 6; 1969, c. 26, s. 115.

**7.** *(Repealed).*

R. S. 1964, c. 12, s. 7; 2021, c. 17, s. 3.

**8.** *(Repealed).*

R. S. 1964, c. 12, s. 8; 2021, c. 17, s. 3.

**DIVISION III**

**OATHS OF ALLEGIANCE AND OFFICE**

1999, c. 40, s. 117.

**9.** Every person appointed to any office, function or employment, every member or officer of any legal person established in the public interest, and every person admitted to practise as a land surveyor, advocate or notary shall make and subscribe the oath of allegiance and office.

Such an oath shall be made and subscribed according to Form 1 of this Act unless otherwise provided for by law.

The first two paragraphs do not apply in the case of a municipality or legal person established in the public interest the council or board of which is composed of a majority of elected municipal officers.

R. S. 1964, c. 12, s. 9; 1969, c. 14, s. 14; 1987, c. 57, s. 797; 1999, c. 40, s. 117.

**10.** The above-mentioned Form 1 shall be that of the oath of allegiance and office to be made and subscribed by every person who, either of his own accord or in compliance with a lawful requirement, or in obedience to the directions of any statute, desires or is required to make and subscribe such an oath.

R. S. 1964, c. 12, s. 10; 1969, c. 14, s. 14; 1999, c. 40, s. 117.

**11.** Judges and all other persons authorized by virtue of their office or by special commission for that purpose may administer the oath of allegiance and office.

A duplicate of the certificate of such oath shall be immediately sent by the person administering it to the clerk of the Conseil exécutif.

R. S. 1964, c. 12, s. 11; 1969, c. 14, s. 14; 1969, c. 26, s. 8; 1977, c. 5, s. 14; 1999, c. 40, s. 117.

**DIVISION IV**

**SECURITY TO BE GIVEN BY PUBLIC OFFICERS AND EMPLOYEES**

**12.** *(Repealed).*

R. S. 1964, c. 12, s. 12; 1977, c. 5, s. 14; 1979, c. 43, s. 2.

**13.** *(Repealed).*

R. S. 1964, c. 12, s. 13; 1965 (1st sess.), c. 17, s. 2; 1974, c. 13, s. 36; 1979, c. 43, s. 2.

**14.** *(Repealed).*

R. S. 1964, c. 12, s. 14; 1965 (1st sess.), c. 16, s. 21; 1979, c. 43, s. 2.

**15.** The Minister of Finance may require any public officer or employee or any class of public officers or employees or any other person appointed to any office or place of trust, in which he receives or pays out public moneys, to give security.

R. S. 1964, c. 12, s. 15; 1979, c. 43, s. 3.

**16.** The Minister of Finance shall determine the amount of the security and the time within which it is to be given, if not already determined by law.

He may also declare any security already given to be insufficient, and require another to be given in its place.

R. S. 1964, c. 12, s. 16; 1999, c. 40, s. 117.

**17.** The security given by any public officer or employee shall be a guarantee of the faithful performance of his duties; of his accounting for and paying over all public or other moneys, entrusted to him or under his control, to the persons authorized or entitled to receive the same; of his faithful performance of the obligations imposed upon him; and of the payment of damages for any injury occasioned to the Province or to any person through his negligence, misconduct or malversation.

R. S. 1964, c. 12, s. 17; 1999, c. 40, s. 117.

**18.** The security given by a public officer shall be a guarantee also of the acts and omissions of the deputy appointed by him before or after he has furnished such security.

R. S. 1964, c. 12, s. 18.

**19.** Such security shall be a guarantee also of the actions and omissions of the deputy in the performance of his duties during 30 days after the date of the order-in-council accepting the resignation of the officer who appointed him or cancelling the commission of such officer, or the date on which such commission lapses by death or otherwise; nevertheless, the Government may require, within such period of 30 days or after, that the deputy, replacing the officer of justice who appointed him, furnish new security.

R. S. 1964, c. 12, s. 19; 1999, c. 40, s. 117.

**20.** Such security shall be in the form of a pledge of money or bonds, an insurance policy, or, at the option of the Government, a hypothec.

R. S. 1964, c. 12, s. 20; 1999, c. 40, s. 117.

**21.** Security by pledge consists in the deposit in money to the amount of the security, by the public officer or employee, or by any surety for him, in the hands of the Minister of Finance or to his credit in any bank approved by him; or in the deposit by the public officer or employee, or by any surety for him, in the hands of the Minister of Finance, of bonds approved by the latter to the amount required, at the rate fixed.

Security by insurance policy consists in an insurance policy in favour of the Minister of Finance, issued by the European Assurance Society mentioned in the Imperial Act 22 Victoria, chapter 25, or by any legal person and empowered for like purposes, approved by the Government.

Hypothecary security consists in a duly registered hypothecation of immovable property of sufficient value, by the public officer or employee, or by a surety for him, to the amount required in favour of the Minister of Finance.

R. S. 1964, c. 12, s. 21; 1999, c. 40, s. 117; 2009, c. 52, s. 592.

**22.** Any person may examine the document constituting the security, in the Ministère des Finances.

R. S. 1964, c. 12, s. 22; 1977, c. 5, s. 14; 1987, c. 68, s. 75.

**23.** In the case of security by pledge, all interest arising from the moneys or bonds deposited as security shall belong and be paid to the person who has given such security, so long as the public officer or employee has not done or neglected to do anything the doing or neglecting of which would be a breach of the security.

R. S. 1964, c. 12, s. 23; 1999, c. 40, s. 117.

**24.** The moneys and bonds given as security shall not, while such security lasts, be liable to seizure in the hands of a third person either before or after judgment.

R. S. 1964, c. 12, s. 24; 1999, c. 40, s. 117; I.N. 2016-01-01 (NCCP).

**25.** The surety of a public officer or employee may free the moneys or bonds given as security, or the immovable property hypothecated by him, from future liability under his suretyship, by giving at least three months' previous notice to that effect to the Minister of Finance.

R. S. 1964, c. 12, s. 25; 1999, c. 40, s. 117.

**26.** The premium upon insurance policies, in the case of public officers or employees receiving salaries from the Government, shall be paid by the Minister of Finance, who shall obtain the receipts therefor and deposit them among the records of the Ministère des Finances.

The sum so to be paid by the Ministère des Finances for each officer or employee shall be deducted from his salary.

The Government may authorize the Minister of Finance to take out, in order to be substituted for the security of public officers or employees, a group insurance policy, and to pay the premium upon such policy out of the Consolidated Revenue Fund.

R. S. 1964, c. 12, s. 26; 1977, c. 5, s. 14; 1999, c. 40, s. 117.

**27.** Every public officer or employee not receiving a salary from the Government shall, during the month before the expiry of the insurance policy, send to the Ministère des Finances a renewal receipt or a new insurance policy.

R. S. 1964, c. 12, s. 27; 1977, c. 5, s. 14; 1999, c. 40, s. 117.

**28.** The hypothecary security shall have the effect of a principal obligation for the stated amount thereof, although the amount recoverable for the breach thereof be uncertain and undetermined.

Such hypothec shall rank from the date when the bond was registered.

R. S. 1964, c. 12, s. 28.

**29.** In the case of hypothecary security, registration of the hypothec is cancelled in accordance with article 3068 of the Civil Code.

R. S. 1964, c. 12, s. 29; 1965 (1st sess.), c. 16, s. 21; 1999, c. 40, s. 117.

**30.** The Minister of Finance shall, from time to time, inquire into the sufficiency of the securities; and, if any security has ceased to be sufficient, he shall communicate such fact to the Government.

R. S. 1964, c. 12, s. 30.

**31.** Every public officer or employee failing to give, continue or renew any security, when he is obliged to do so, shall *ipso facto* forfeit his office or employment; but such forfeiture shall not void any act done by him while he held such office.

The Government may extend the time for giving security, if it appears that it is insufficient owing to special circumstances.

It may also, in any case in which the failure to give security has not arisen from wilful neglect, release the forfeiture and reinstate the officer or employee who has so forfeited his office.

R. S. 1964, c. 12, s. 31; 1999, c. 40, s. 117.

**32.** In any document made or suit brought under this Act, the personal name of the Minister of Finance need not be used.

R. S. 1964, c. 12, s. 32.

**33.** In any action brought for the recovery of any sum due in virtue of any security, in consequence of any breach thereof, the certificate of the Minister of Finance shall be proof of such breach and of such amount being due.

R. S. 1964, c. 12, s. 33.

**34.** The security shall inure in the first place and preferentially to the Minister of Finance to cover any loss to the Province arising from any breach thereof, and, in the second place, to any person who has suffered loss by reason of any such breach.

Any such person, having first obtained the authorization of the Minister of Justice, may, for his own benefit, but at his own risk as regards costs, bring suit in the name of the Minister of Finance for the recovery of his loss out of such security.

R. S. 1964, c. 12, s. 34; 1965 (1st sess.), c. 16, s. 21.

**35.** The authorization mentioned in section 34 shall not be granted unless the person applying for the same gives security, to the satisfaction of the Minister of Justice, for the payment of all costs that may be incurred by reason of his failure in any such suit or in any proceeding therein.

R. S. 1964, c. 12, s. 35; 1965 (1st sess.), c. 16, s. 21.

**36.** Any person having such authorization may, upon payment of the sum which is determined by order in council, obtain from the Deputy Minister of Finance a certified copy of the document constituting the security upon which he intends to bring suit.

Such copy, which shall be certified by the Deputy Minister of Finance, shall be authentic evidence of the security.

R. S. 1964, c. 12, s. 36; 1987, c. 68, s. 76.

**37.** The moneys or debentures may be returned, or the certificate of cancellation given, during the year after the death, resignation or dismissal of the public officer or employee, and, in the case of the withdrawal of the security, during the year following the three months after the notice of withdrawal, if the Minister of Finance be of opinion that there has been no breach of the security.

R. S. 1964, c. 12, s. 37; 1979, c. 43, s. 4.

**38.** If, within the year after the death, resignation or removal of any public officer or employee, or if, within the year which follows the three months after the notice of the withdrawal by his surety, of the security of such officer or employee, it does not appear that he has been guilty of negligence, misconduct or

malversation, the security given shall be also extinguished. The moneys or bonds pledged as security shall afterwards be returned or the registration of the hypothec cancelled, as the case may be.

Such public officers and employees, however, and their legal representatives, shall remain personally liable, in accordance with the provisions of the Civil Code, for the damage that may arise from their negligence, misconduct or malversation.

R. S. 1964, c. 12, s. 38; 1979, c. 43, s. 5; 1999, c. 40, s. 117.

**39.** *(Repealed).*

R. S. 1964, c. 12, s. 39; 1965 (1st sess.), c. 17, s. 2; 1974, c. 13, s. 36; 1979, c. 43, s. 6.

**40.** *(Repealed).*

R. S. 1964, c. 12, s. 40; 1979, c. 43, s. 6.

**41.** *(Repealed).*

R. S. 1964, c. 12, s. 41; 1979, c. 43, s. 6.

**42.** The Minister of Finance shall, within the first 15 days of the opening of each session, produce, for the information of the National Assembly, a detailed statement of all securities given under the authority of this Act, and of any changes that may have been made thereto, since the period of the previous return submitted to the National Assembly.

R. S. 1964, c. 12, s. 42.

## DIVISION V

### SEIZURE OF SALARIES

**43.** In case of the seizure of the salary of any public officer or employee, a copy of the notice of execution providing for the seizure in the hands of a third person shall be served on and left with the incumbent minister or deputy minister of the department or chief executive officer of the agency in which the public officer or employee is employed and paid.

R. S. 1964, c. 12, s. 43; 1978, c. 15, s. 140; I.N. 2016-01-01 (NCCP).

**44.** The incumbent minister or deputy minister of the department or chief executive officer of the agency in which the salary so seized is paid, instead of making a declaration under oath, shall report to the bailiff, under his signature, stating the amount of the salary due at the time of the service of the notice of execution providing for the seizure in the hands of a third person and the amount of the salary to become due every month, if such public officer or employee continues his services under the same conditions.

R. S. 1964, c. 12, s. 44; 1978, c. 15, s. 140; I.N. 2016-01-01 (NCCP).

**45.** Any creditor of a public officer or employee may, however, before taking a suit or causing a notice of execution providing for the seizure in the hands of a third person to be filed, produce an affidavit of his claim or a copy of judgment at the department or agency in which such public officer or employee receives his salary.

If the public officer or employee acknowledges himself to be indebted in the sum demanded, and, in writing, authorizes the payment thereof out of the portion of his salary liable to seizure, the incumbent minister or deputy minister of such department or chief executive officer of such agency shall pay the creditor, according to the authorization, on each pay day.

If several creditors present themselves at the same time, they shall be paid concurrently in proportion to their respective claims.

R. S. 1964, c. 12, s. 45; 1978, c. 15, s. 140; I.N. 2016-01-01 (NCCP).

**46.** Nothing in section 45 shall prevent the seizure of the part of the salary liable to seizure under articles 694 and following of the Code of Civil Procedure (chapter C-25.01); and, in the event of such seizure, the authorization given under section 45 shall become of no effect.

R. S. 1964, c. 12, s. 46; 1965 (1st sess.), c. 80, a. 1; 1999, c. 40, s. 117; I.N. 2016-01-01 (NCCP).

## DIVISION VI

*Repealed, 2000, c. 8, s. 123.*

2000, c. 8, s. 123.

**47.** *(Repealed).*

R. S. 1964, c. 12, s. 47; 1977, c. 5, s. 14; 2000, c. 8, s. 123.

**48.** *(Repealed).*

R. S. 1964, c. 12, s. 48; 2000, c. 8, s. 123.

**49.** *(Repealed).*

R. S. 1964, c. 12, s. 49; 2000, c. 8, s. 123.

**50.** *(Repealed).*

R. S. 1964, c. 12, s. 50; 1977, c. 5, s. 14; 2000, c. 8, s. 123.

## DIVISION VII



*This Division ceased to have effect on 17 April 1987.*

**51.** *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.



**FORM 1**

*(Sections 9 and 10)*

*Oath of allegiance and office*

I, A. B., declare under oath that I will be loyal and bear true allegiance to constituted authority and that I will fulfill the duties of my office (*or of my function or of my employment, as the case may be,*) of .. honestly and justly.

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R. S. 1964, c. 12, forms 1, 2; 1969, c. 14, s. 15; 1999, c. 40, s. 117.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 12 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter E-6 of the Revised Statutes.