



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 998

**An Act mainly to facilitate labour market
access for persons who are part of a visible
minority due to their ethnic origin or skin
colour and to fight discrimination and racism**

Introduction

**Introduced by
Madam Carole Poirier
Member for Hochelaga-Maisonneuve**

**Québec Official Publisher
2017**

EXPLANATORY NOTES

The purpose of this bill is mainly to facilitate labour market access for persons who are part of a visible minority due to their ethnic origin or skin colour and to fight discrimination and racism.

The bill provides that the Government must adopt three government action plans within six months after the bill comes into force.

First, an action plan is to be adopted to raise public awareness regarding discrimination against persons who are part of a visible minority due to their ethnic origin or skin colour, among other things by identifying the actions the Government must take to bolster existing initiatives to raise public awareness regarding discrimination against such persons, and to fight speech inciting discriminatory treatment.

Second, the bill provides for adopting an action plan to improve immigrant integration and francization. This plan must include measures to implement to ensure an acceptable standard of living for immigrants during the time they have access to reception, francization and integration services.

Third, an action plan to fight illiteracy is to be adopted, after an estates general on fighting illiteracy has been held.

The Comité de suivi permanent sur l'intégration des personnes immigrantes et la lutte contre la discrimination et le racisme (Monitoring Committee) is established to submit recommendations and advice to the Government on integrating immigrants and fighting discrimination and racism.

The bill amends the Charter of human rights and freedoms, establishing a new right providing that anyone who settles in Québec has the right to learn French and to access reasonable reception measures and measures designed to facilitate his or her integration into Québec society. The bill also prohibits requiring that a person have previous Canadian work experience to access employment, unless warranted by the nature of the job.

The Act respecting equal access to employment in public bodies is amended to extend the obligation to adopt an equal access

employment program to all public bodies subject to the Act respecting Access to documents held by public bodies and the Protection of personal information.

The Act respecting the governance of state-owned enterprises is amended so that, in all such enterprises, at least one-sixth of the members of the boards of directors belong to groups reflecting Québec society's cultural diversity, that is, aboriginal peoples, persons who are members of visible minorities due to their ethnic origin or skin colour and people whose mother tongue is neither French nor English.

The bill allows the Chair of the Conseil du trésor or the Minister responsible for a state-owned enterprise to enter into agreements to develop a pilot project designed to test name-blind recruitment to fill positions in a public body or state-owned enterprise. The Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail is amended to offer a support service, through local employment centres, for enterprises wishing to implement a name-blind recruitment project to recruit personnel.

The Québec Immigration Act is amended. The bill specifies that the Minister's decision to select a foreign national on a permanent basis must be accompanied by a comparative assessment of education obtained outside Canada. In addition, to be selected, a foreign national belonging to the economic class, and the married or de facto spouse accompanying the foreign national, must have intermediate-level or higher knowledge of French.

Certain provisions of the Charter of the French language are modernized to specify the circumstances under which an employer may make knowledge or a specific level of knowledge of a language other than the official language a requirement for access to employment or a position. In addition, the bill obliges enterprises employing at least 25 persons to register with the Office de la langue française and extends application of the provisions regarding francization of enterprises to federal enterprises doing business in Québec.

The bill makes passing the uniform French examination a condition for obtaining a Diploma of College Studies, regardless of the language of instruction.

The bill amends the Act respecting the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie to broaden the role of the Minister of Higher Education, Research, Science and Technology to have the Minister's duties include standardizing, in cooperation with university-level educational institutions, equivalencies of qualifications earned outside Canada.

Lastly, the Basic school regulation for preschool, elementary and secondary education is amended to replace the course entitled Ethics and religious culture by a course entitled Québec citizenship.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting equal access to employment in public bodies (chapter A-2.01);
- Charter of the French language (chapter C-11);
- Charter of human rights and freedoms (chapter C-12);
- Public Service Act (chapter F-3.1.1);
- Act respecting the governance of state-owned enterprises (chapter G-1.02);
- Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail (chapter M-15.001);
- Act respecting the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie (chapter M-15.1.0.1);
- Québec Immigration Act (2016, chapter 3).

REGULATIONS AMENDED BY THIS BILL:

- College Education Regulations (chapter C-29, r. 4);
- Basic school regulation for preschool, elementary and secondary education (chapter I-13.3, r. 8).

Bill 998

AN ACT MAINLY TO FACILITATE LABOUR MARKET ACCESS FOR PERSONS WHO ARE PART OF A VISIBLE MINORITY DUE TO THEIR ETHNIC ORIGIN OR SKIN COLOUR AND TO FIGHT DISCRIMINATION AND RACISM

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE

1. The main purpose of this Act is to facilitate labour market access for persons who are part of a visible minority due to their ethnic origin or skin colour and to fight discrimination and racism.

CHAPTER II

GOVERNMENT ACTION PLANS

2. No later than (*insert the date that is six months after the date of coming into force of this Act*), the Government must adopt an action plan to raise public awareness regarding discrimination against persons who are part of a visible minority due to their ethnic origin or skin colour. In particular, the plan is to identify the actions the Government must take to bolster existing initiatives to raise public awareness regarding discrimination against these persons and to fight speech inciting discriminatory treatment.

The action plan must be developed and proposed to the Government by the Minister.

3. No later than (*insert the date that is six months after the date of coming into force of this Act*), the Government must adopt an action plan to improve immigrant integration and francization.

The action plan must include measures to be implemented to

(1) ensure an acceptable standard of living for persons settling in Québec during the time they have access to reception, francization and integration services;

(2) promote immigrants' full participation, in French, in various spheres of community life, in particular the labour market and cultural events;

(3) develop an “introduction to French” program for foreign nationals in the foreign students category; and

(4) strengthen mediation initiatives between owners of residential dwellings and tenants who are members of a visible minority.

The action plan must be developed and proposed to the Government by the Minister.

4. No later than (*insert the date that is six months after the date of coming into force of this Act*), the Government must adopt an action plan to fight illiteracy. The action plan must be developed and proposed to the Government by the Minister of Education, Recreation and Sports.

Adoption of the action plan must be preceded by an estates general on fighting illiteracy.

CHAPTER III

COMITÉ DE SUIVI PERMANENT SUR L'INTÉGRATION DES PERSONNES IMMIGRANTES ET LA LUTTE CONTRE LA DISCRIMINATION ET LE RACISME

5. The Comité de suivi permanent sur l'intégration des personnes immigrantes et la lutte contre la discrimination et le racisme (Monitoring Committee) is established.

The Monitoring Committee may hold its meetings anywhere in Québec.

6. The Monitoring Committee is composed of 11 members appointed by the Minister for a term of up to three years.

The Monitoring Committee's composition must reflect Québec society's cultural diversity, and the majority of its members must be from civil society.

At the end of their term, Monitoring Committee members remain in office until replaced or reappointed.

7. The Deputy Minister of the Ministère de l'Immigration et des Communautés culturelles is, by virtue of office, a member of the Monitoring Committee, but is not entitled to vote. The Deputy Minister may designate a substitute.

The Deputy Minister must send the Monitoring Committee any available information it requires.

8. The Monitoring Committee may adopt by-laws.

9. Monitoring Committee members receive no remuneration except in the cases, on the conditions and to the extent the Government may determine. They are, however, entitled to reimbursement of any reasonable expenses they incur in the performance of their duties, on the conditions and to the extent determined by the Government.

10. The duties of the Monitoring Committee are

(1) to submit recommendations and advice to the Government on integrating immigrants and fighting discrimination and racism;

(2) to monitor, report on and assess implementation of the action plan to raise public awareness regarding discrimination against persons who are part of a visible minority due to their ethnic origin or skin colour and the action plan to improve immigrant integration and francization;

(3) to propose measures to integrate into the action plan to raise public awareness regarding discrimination against persons who are part of a visible minority due to their ethnic origin or skin colour and the action plan to improve immigrant integration and francization;

(4) to propose programs to be developed for immigrant reception, francization and integration to the Minister;

(5) to promote political participation of persons belonging to groups reflecting Québec society's cultural diversity and recommend measures to political parties to integrate more such persons into their organizations;

(6) to conduct, lead or encourage studies and research on immigrant integration and the fight against discrimination and racism; and

(7) to solicit or receive opinions and suggestions from interested bodies or groups and from civil society.

CHAPTER IV

PROGRAM TO PROMOTE EDUCATIONAL EXCHANGES BETWEEN ADMINISTRATIVE REGIONS

11. No later than (*insert the date that is three years after the date of coming into force of this Act*), the Minister of Education, Recreation and Sports and the Minister of Higher Education, Research, Science and Technology must implement an educational exchange program under which students of various origins attending a secondary- or college-level educational institution may study in an establishment located in another administrative region of Québec for a given period of time.

The educational exchange program's terms are determined by government regulation.

CHAPTER V

AMENDING PROVISIONS

ACT RESPECTING EQUAL ACCESS TO EMPLOYMENT IN PUBLIC BODIES

12. Section 2 of the Act respecting equal access to employment in public bodies (chapter A-2.01) is replaced by the following section:

“2. This Act applies to all public bodies subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) if they employ 100 or more persons for a continuous period of six months in each of two consecutive years.

The National Assembly, any person appointed or designated by the National Assembly to exercise a function under its authority, the personnel directed by that person and the Commission de la représentation are not subject to this Act except to the extent provided for by law.”

13. The Act is amended by inserting the following section after section 10:

“10.1. Within six months after (*insert the date of coming into force of this Act*), the public body is required to develop an equal access employment program to remedy the situation experienced by aboriginal peoples and persons who are part of a visible minority due to their ethnic origin or the colour of their skin.

The equal access employment program’s timetable must provide for the measures proposed to be applied within three years after the program is developed.”

14. Section 22 of the Act is amended, in the first paragraph,

(1) by replacing “may make regulations” in the portion before paragraph 1 by “shall make regulations determining”;

(2) by striking out “determining” in paragraphs 1 and 2 and “prescribing” in paragraph 3.

CHARTER OF THE FRENCH LANGUAGE

15. Section 46 of the Charter of the French language (chapter C-11) is replaced by the following sections:

“46. An employer is prohibited from making knowledge or a specific level of knowledge of a language other than the official language a requirement for access to employment or a position, unless

(1) participating in the regular activities related to the employment or position requires such knowledge or such a level of knowledge; and

(2) performing the related duties requires such knowledge or such a level of knowledge.

Subparagraphs 1 and 2 of the first paragraph must not be interpreted as allowing an employer to require knowledge or a specific level of knowledge of a language other than the official language when it is useful but not necessary for participating in the regular activities related to the employment or position and performing the related duties.

The burden of proof is on the employer to show that participating in the regular activities related to the employment or position and performing the related duties require knowledge or a specific level of knowledge of a language other than the official language.

Moreover, if an employer claims that knowledge or a specific level of knowledge of a language other than the official language is required to perform the related duties because exchanges with clients and suppliers generally take place in that language, the employer must show that he has organized his services so as to restrict, as much as possible, the number of positions to which the requirement applies.

“46.1. A person, whether employed by the employer or not, not subject to a collective agreement who believes he has been aggrieved by a contravention under the first paragraph of section 46 may exercise a remedy before the Administrative Labour Tribunal. The provisions applicable to a remedy relating to the exercise by an employee of a right arising out of the Labour Code (chapter C-27) apply, with the necessary modifications.

A person subject to a collective agreement who believes he has been so aggrieved may submit the grievance for arbitration if the association representing the person fails to do so.

The remedy must be brought before the Tribunal within 30 days of the date on which the employer informed the complainant of the language requirements of the employment or position or, failing that, from the employer’s last act invoked in support of contravention of section 46.

If the Tribunal or the arbitrator considers the complaint justified, the Tribunal or the arbitrator may issue any order they consider fair and reasonable under the circumstances, in particular an order to cease the alleged act, to perform an act, such as resuming the staffing process for the employment or position, or to pay compensation or punitive damages to the complainant.”

16. Section 135 of the Charter is amended by inserting “and federal enterprises doing business in Québec” at the end.

17. Section 139 of the Charter is amended by replacing “50” in the first paragraph by “25”.

CHARTER OF HUMAN RIGHTS AND FREEDOMS

18. The Charter of human rights and freedoms (chapter C-12) is amended by inserting the following section after section 3:

“**3.1.** Every person who settles in Québec has a right to learn French and to access reasonable reception measures and measures to facilitate his or her integration into Québec society.”

19. The Charter is amended by inserting the following section after section 18.2:

“**18.3.** No one may require a person to have previous Canadian work experience to access employment, unless warranted by the nature of the employment.”

PUBLIC SERVICE ACT

20. The Public Service Act (chapter F-3.1.1) is amended by inserting the following subdivision after section 54:

“§3. — *Pilot project*

“**54.1.** The Chair of the Conseil du trésor may enter into agreements with bodies whose staff is appointed under this Act to develop a pilot project designed to test name-blind recruitment to fill positions in the bodies.

The Chair of the Conseil du trésor shall determine the rules applicable to the pilot project. The Chair may modify a pilot project at any time.”

ACT RESPECTING THE GOVERNANCE OF STATE-OWNED ENTERPRISES

21. The Act respecting the governance of state-owned enterprises (chapter G-1.02) is amended by inserting the following section after section 40:

“**40.1.** The Minister may enter into an agreement with an enterprise to develop a pilot project designed to test name-blind recruitment to recruit the enterprise’s personnel members.

The Minister determines the rules applicable to the pilot project. The Minister may modify the pilot project at any time.”

22. Section 43 of the Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) that at least one-sixth of the members of the boards of directors of the enterprises as a group belong to groups reflecting Québec society’s cultural diversity, that is, aboriginal peoples, persons who are part of a visible minority due to their ethnic origin or skin colour or persons whose mother tongue is neither French nor English, as of (*insert the date that is four years after the date of coming into force of this Act*);”.

ACT RESPECTING THE MINISTÈRE DE L’EMPLOI ET DE LA
SOLIDARITÉ SOCIALE AND THE COMMISSION DES PARTENAIRES
DU MARCHÉ DU TRAVAIL

23. Section 2 of the Act respecting the Ministère de l’Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail (chapter M-15.001) is amended by adding the following subparagraph at the end of the third paragraph:

“(8) offer a support service, through local employment centres, for enterprises wishing to implement a name-blind recruitment project to recruit members of their personnel.”

ACT RESPECTING THE MINISTÈRE DE L’ENSEIGNEMENT
SUPÉRIEUR, DE LA RECHERCHE, DE LA SCIENCE ET DE LA
TECHNOLOGIE

24. Section 4 of the Act respecting the Ministère de l’Enseignement supérieur, de la Recherche, de la Science et de la Technologie (chapter M-15.1.0.1) is amended by adding the following subparagraph at the end of the first paragraph:

“(10) standardize, in cooperation with university-level educational institutions, equivalencies of qualifications earned outside Canada.”

QUÉBEC IMMIGRATION ACT

25. The Québec Immigration Act (2016, chapter 3) is amended by inserting the following section after section 20:

“**20.1.** The Minister’s selection decision must be accompanied by a comparative assessment of education obtained outside Canada issued by the Ministère de l’Immigration et des Communautés culturelles.”

26. Section 27 of the Act is amended by adding the following paragraph at the end:

“Despite any contrary provision, to be selected, a foreign national who belongs to the economic class, and the married or de facto spouse accompanying

the foreign national, must have intermediate-level or higher knowledge of French. The evaluation criteria used to assess the level of knowledge of French are determined by government regulation.”

COLLEGE EDUCATION REGULATIONS

27. Section 26 of the College Education Regulations (chapter C-29, r. 4) is replaced by the following section:

“**26.** Passing a uniform French examination is a condition for obtaining a Diploma of College Studies, regardless of the language of instruction.

Furthermore, in any other subject area of the component of general education provided for in section 7, the Minister may impose a uniform examination and require that passing it be a condition for obtaining a Diploma of College Studies.

The college shall ensure the administration of any examination referred to in the first and second paragraphs.”

BASIC SCHOOL REGULATION FOR PRESCHOOL, ELEMENTARY AND SECONDARY EDUCATION

28. The Basic school regulation for preschool, elementary and secondary education (chapter I-13.3, r. 8) is amended by replacing all occurrences of “Ethics and religious culture” by “Québec citizenship”.

29. Section 32 of the Regulation is amended by replacing “ethics and religious culture” in subparagraph 7 of the second paragraph by “Québec citizenship”.

CHAPTER VI

TRANSITIONAL AND FINAL PROVISIONS

30. The Minister’s selection decision regarding a foreign national who belongs to the economic class made before the coming into force of this Act is deemed valid.

31. The Minister of Immigration and Cultural Communities is responsible for the administration of this Act.

32. This Act comes into force on *(insert the date of assent to this Act)*.