



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 103

**An Act to amend the Charter of the
French language and other legislative
provisions**

Introduction

**Introduced by
Madam Christine St-Pierre
Minister of Culture, Communications and the Status of
Women and Minister responsible for the application
of the Charter of the French language**

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EXPLANATORY NOTES

This bill makes various changes in the Charter of the French language.

With regard to the language of instruction, the Government is empowered to determine by regulation the analytical framework and the rules to be used in assessing a request for eligibility for State-funded instruction in English.

College and university-level institutions are required to publicize their language policy and make it accessible. They must also review the policy periodically and report to the Minister on its application. The Minister of Education, Recreation and Sports is empowered to require corrective action.

The Minister responsible for the application of the Charter of the French language is empowered to require that municipal bodies adopt a policy on the use and quality of French in their activities, and that they periodically report on this policy to the Office québécois de la langue française.

The Office may also request that agencies of the civil administration submit a report to it and may prescribe the corrective measures it considers appropriate for them.

Certain penal provisions are revised, particularly to increase fines. Moreover, in view of the “bridging” school problem, setting up or operating an establishment with a view to circumventing the principle of instruction in French provided for in section 72 of the Charter of the French language is considered an offence.

The Charter of human rights and freedoms is amended to emphasize the importance of French, Québec’s official language.

Lastly, amending and consequential provisions are introduced.

LEGISLATION AMENDED BY THIS BILL:

- Charter of the French language (R.S.Q., chapter C-11);
- Charter of human rights and freedoms (R.S.Q., chapter C-12);
- Act respecting private education (R.S.Q., chapter E-9.1).

Bill 103

AN ACT TO AMEND THE CHARTER OF THE FRENCH LANGUAGE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHARTER OF THE FRENCH LANGUAGE

1. Section 73 of the Charter of the French language (R.S.Q., chapter C-11) is amended by striking out subparagraphs 3, 4 and 5 of the first paragraph, and the second and third paragraphs.

2. The Charter is amended by inserting the following section after section 73:

“73.1. The Government may determine by regulation the analytical framework that a person designated under section 75 must use in assessing the major part of the instruction received, invoked in support of an eligibility request under section 73. The analytical framework may, among other things, establish rules, assessment criteria, a weighting system, a cutoff or a passing score and interpretive principles.

The regulation may specify in which cases and under which conditions a child is presumed or deemed to have satisfied the requirement of having received the major part of his instruction in English within the meaning of section 73.

The regulation is adopted by the Government on the joint recommendation of the Minister of Education, Recreation and Sports and the Minister responsible for the administration of this Act.”

3. Section 74 of the Charter is amended by adding the following paragraph:

“A person designated by the Minister may temporarily suspend consideration of a request submitted by one parent if the other parent objects in writing to the request’s being considered.”

4. Section 75 of the Charter is amended by adding the following paragraph:

“In addition to those required by regulation, a person designated by the Minister may require a person to send the designated person, within a set time, any document or information relevant to the verification of a request

made under this chapter. The designated person may also require that the documents or information be accompanied by a sworn statement of their veracity.”

5. The Charter is amended by inserting the following sections after section 78.1:

“**78.2.** No person may set up or operate a private educational institution or change how instructional services are organized, priced or dispensed in order to circumvent section 72 or other provisions of this chapter governing eligibility to receive instruction in English.

It is prohibited, in particular, to operate a private educational institution principally for the purpose of making children eligible for instruction in English who would otherwise not be admitted to a school of an English school board or to a private English language educational institution accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1).

“**78.3.** No person may make a false or misleading statement to the Minister or a designated person, or refuse to provide them with the information or documents they are entitled to obtain.”

6. Section 80 of the Charter is replaced by the following section:

“**80.** The Government may determine by regulation the procedure for submitting requests for eligibility under section 73 or 86.1.

The regulation may include measures concerning

- (1) the role of a school body in submitting requests;
- (2) the fees that may be charged by a school body to create a file and by the Minister to examine the request;
- (3) the time granted for submitting a request; and
- (4) the information and documents that must accompany a request.

Regulatory provisions may vary according to, among other things, the nature of the request and the characteristics of the educational institution attended.”

7. Section 83.4 of the Charter is amended

- (1) by striking out “by a designated person”;
- (2) by adding the following sentence at the end: “The same is true of any decision made under section 77 or 78.”

8. Section 88.3 of the Charter is amended by striking out the second paragraph.

9. The Charter is amended by inserting the following sections after section 88.3:

“**88.4.** An educational institution must publicize its language policy and ensure that it is easily accessed by students and personnel alike.

“**88.5.** An educational institution must periodically review the measures contained in its policy to verify their pertinence and adapt them to technological developments.

“**88.6.** An educational institution must send the Minister of Education, Recreation and Sports a report on the application of the various aspects of its policy before (*insert the date that is two years after the date of coming into force of this section*) and subsequently every three years. The educational institution must send the Minister any additional information the Minister requires concerning the application of the policy.

After consultation with the Office québécois de la langue française, the Minister may require that an educational institution take the corrective action requested by the Minister within the time determined by the Minister. The institution must inform the Minister of the corrective measures taken.

“**88.7.** The Minister must promptly send the Office a copy of the policies received, the adjustments made to them and any report submitted by an educational institution.”

10. The Charter is amended by inserting the following section after section 133:

“**133.1.** In order to ensure that the use of French remains generalized at all levels, the Office may request that an agency of the civil administration submit a report to it within the time it determines.

The Office may prescribe corrective measures to be taken within the time it determines.”

11. The Charter is amended by inserting the following before Title III:

“CHAPTER VI

“LANGUAGE POLICIES OF MUNICIPAL BODIES

“**156.1.** On the request of the Minister after consultation with the Office, a municipal body within the meaning of the Schedule must adopt a policy on the use and quality of French in its activities and must periodically report to the Office on this policy on the date and on the conditions determined by the Minister.

“156.2. In addition to setting out the measures taken to give the French language a predominant place in its activities, the municipal body shall clearly indicate through its policy the fact that French is the official language of Québec, the normal and everyday language of public communications, and an essential instrument for Québec’s social cohesion.

“156.3. The Office shall provide support for municipal bodies in developing and reviewing their language policy.”

12. Section 177 of the Charter is amended by inserting “, 78.2, 78.3” after “78.1” in the second paragraph.

13. Section 205 of the Charter is amended by replacing paragraphs *a* and *b* by the following:

“(a) to a fine of \$600 to \$6,000 in the case of a natural person;

(b) to a fine of \$1,500 to \$20,000 in the case of a legal person.

The fines are doubled for a second or subsequent offence.

In determining the amount of a fine, the judge takes into account, among other things, the revenues and other benefits the offender derived from the offence and any damages and socio-economic consequences that resulted from the offence.

Moreover, if a person is convicted of an offence under this Act, a judge may, on an application made by the prosecutor and submitted with the statement of offence, impose on the offender, in addition to any other penalty, a further fine equal to the financial gain the offender realized or derived from the offence, even if the maximum fine has also been imposed.”

14. Sections 208.1 and 208.2 of the Charter are amended by inserting “or 78.2” after “78.1”.

15. The Charter is amended by inserting the following sections after section 208.2:

“208.3. Whoever does or omits to do something in order to assist a person to commit an offence under this Act or the regulations, or advises, encourages or incites a person to commit such an offence, is also guilty of the offence.

“208.4. In any penal proceeding relating to an offence under this Act or the regulations, proof that the offence was committed by an agent, mandatary or employee of any party is sufficient to establish that it was committed by that party, unless the party establishes that it exercised due diligence and took all the necessary precautions to ensure compliance with this Act and the regulations.

“203.5. Penal proceedings for an offence under this Act or the regulations are prescribed two years from the date on which the offence was committed.

Despite the first paragraph, penal proceedings for an offence under section 78.1 or 78.2 are prescribed one year from the date on which the prosecutor became aware of the commission of the offence. However, no proceedings may be instituted if more than five years have elapsed from the date on which the offence was committed.”

16. Section 212 of the Charter is amended by striking out the last sentence.

CHARTER OF HUMAN RIGHTS AND FREEDOMS

17. The preamble to the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by inserting the following paragraph after the third paragraph:

“Whereas French is the official language of Québec and constitutes a fundamental aspect of its cultural patrimony and social cohesion;”.

18. Section 40 of the Charter is amended by adding the following paragraph:

“Every person has a right to receive that education in French.”

19. The Charter is amended by inserting the following section after section 40:

“40.1. Every person residing in Québec has a right, to the extent and according to the standards provided for by law, to learn French and to benefit from reception measures and measures to facilitate integration into life in Québec.”

20. The Charter is amended by inserting the following section after section 42:

“42.1. Every person has a right to contribute to the preservation and influence of Québec culture, of which the French language is an indissociable aspect.”

21. The Charter is amended by inserting the following section after section 50.1:

“50.2. Any interpretation of the rights and freedoms set out in this Charter must take into account both the fact that French is the official language of Québec and the importance of ensuring its perpetuity.”

OTHER AMENDMENTS

ACT RESPECTING PRIVATE EDUCATION

22. Section 12 of the Act respecting private education (R.S.Q., chapter E-9.1) is amended

(1) by inserting “or section 78.1 or 78.2 of the Charter of the French language (chapter C-11)” after “under this Act” in subparagraph 3 of the first paragraph;

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

“Moreover, the Minister may refuse to issue a permit if the Minister believes that doing so could permit the circumvention of section 72 of the Charter of the French language or of other provisions of that Act governing eligibility for instruction in English.

The Minister may also, with a view to preventing such a result, attach to a permit any condition the Minister judges necessary.”

23. Section 18 of the Act is amended by inserting “and with sections 78.1 and 78.2 of the Charter of the French language (chapter C-11)” after “and its regulations” in subparagraph 3 of the second paragraph.

24. Section 119 of the Act is amended by adding the following paragraph at the end:

“(7) contravenes section 78.1 or 78.2 of the Charter of the French language (chapter C-11).”

TRANSITIONAL AND FINAL PROVISIONS

25. The first regulation made under section 73.1 of the Charter of the French language (R.S.Q., chapter C-11), enacted under section 2 of this Act, is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1) and comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. The regulation applies to requests for eligibility pending on the date the regulation comes into force.

26. This Act comes into force on (*insert the date of assent to this Act*), except section 1, which comes into force on 22 October 2010.

