



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 155

**An Act to amend the Act to secure the
handicapped in the exercise of their
rights and other legislative provisions**

Introduction

**Introduced by
Mr Roger Bertrand
Minister for Health, Social Services, Youth Protection and
Prevention**

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EXPLANATORY NOTES

This bill amends the Act to secure the handicapped in the exercise of their rights primarily to better define the functions of the Office des personnes handicapées du Québec.

The bill provides that the Office is to promote individual service planning, the use of a uniform classification of deficiencies, disabilities and handicap situations, and the inclusion in training programs of elements relating to the adaptation of interventions and services for handicapped persons. The Office will also be responsible for promoting the creation of training and information programs with a view to facilitating the school, workplace and social integration of handicapped persons, and for evaluating the advances made as regards integration. As well, the Office is authorized to test or commission the testing of goods and services that are needed for the integration of handicapped persons. The Office's role as an advisor on any matter affecting handicapped persons is defined and the Office is granted more power to intervene on behalf of and assist handicapped persons.

Other amendments are introduced which concern the notion of handicapped person, alter the composition of the Office and broaden the sectors of activity in which advocacy organizations subsidized by the Office may operate. Work centres will henceforth have to employ handicapped persons in a proportion of at least 60% in order to be recognized as adapted work centres.

The bill introduces provisions concerning the labour market integration of handicapped persons, the development of adapted transportation services in municipalities and improved accessibility to certain buildings. Lastly, the bill proposes that handicapped persons be included in equal access employment programs rather than in hiring plans.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting equal access to employment in public bodies (R.S.Q., chapter A-2.01);
- Public Administration Act (R.S.Q., chapter A-6.01);
- Charter of human rights and freedoms (R.S.Q., chapter C-12);

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1);
- Public Service Act (R.S.Q., chapter F-3.1.1).

Bill 155

AN ACT TO AMEND THE ACT TO SECURE THE HANDICAPPED IN THE EXERCISE OF THEIR RIGHTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT TO SECURE THE HANDICAPPED IN THE EXERCISE OF THEIR
RIGHTS

1. The heading of Chapter I of the Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1) is amended by inserting “AND OBJECTS” after “DEFINITIONS”.

2. Section 1 of the said Act is amended

(1) by inserting “non-profit” before “organization” in the first line of paragraph *f*;

(2) by replacing “promotional” in the first line of the English text of paragraph *f* by “advocacy”;

(3) by replacing paragraph *g* by the following paragraph :

“(g) “handicapped person” means a person having a deficiency causing a significant and persistent disability who is liable to encounter barriers in performing everyday activities.”

3. The said Act is amended by inserting the following section after section 1 :

“**1.1.** The object of this Act is to secure handicapped persons in the exercise of their rights and to facilitate their integration into society on the same basis as all other citizens, by providing for various measures to apply specifically to handicapped persons and their families and living environments, and to encourage the development and organization of resources for handicapped persons.”

4. Section 6 of the said Act is amended

(1) by replacing “fourteen” in the first line of the first paragraph by “16”;

(2) by replacing subparagraph *a* of the second paragraph by the following subparagraph :

“(a) 11 persons, after consultation with the associations of handicapped persons that are the most representative of the various regions of Québec and the various types of disabilities, among whom nine persons, including the vice-chairman, are handicapped or are relatives or spouses of handicapped persons;”;

(3) by replacing “promotional” in the first line of the English text of subparagraph *b* of the second paragraph by “advocacy”;

(4) by inserting the following subparagraphs after subparagraph *c* of the second paragraph:

“(d) one member after consultation with the professional orders directly involved in services provided to handicapped persons;

“(e) one member representing advocacy organizations, after consultation with the most representative advocacy organizations.”

5. The said Act is amended by inserting the following section after section 6:

“6.1. The Deputy Minister of Municipal Affairs and Greater Montréal, the Deputy Minister of Education, the Deputy Minister of Employment and Social Solidarity, the Deputy Minister of Child and Family Welfare, the Deputy Minister of Relations with the Citizens and Immigration, the Deputy Minister of Health and Social Services and the Deputy Minister of Transport or their delegates are also, *ex officio*, members of the Office but do not vote.”

6. Section 7 of the said Act is replaced by the following section:

“7. A government department whose deputy minister or delegate is not a member of the Office, or a public body must, at the request of the Office, designate the deputy minister of the department or the senior person exercising the highest authority within the body as a respondent to deal with any matter relating to handicapped persons, or designate a delegate of that person.

The Office may, where it considers it useful for the purposes of this Act, invite one or more respondents to attend its sittings.

Where the respondent of a department or public body is absent or unable to act, the department or public body must designate another respondent and inform the Office of the designation as soon as possible.”

7. Section 8 of the said Act is amended by striking out the second paragraph.

8. Section 12 of the said Act is amended by replacing the first sentence by the following sentence: “A majority of the members of the Office referred to in section 6, including the chairman or the vice-chairman, constitute a quorum at sittings of the Office.”

9. Section 13 of the said Act is repealed.

10. Section 23 of the said Act is amended by replacing “May” in the first line of the first paragraph by “October”.

11. Section 24 of the French text of the said Act is amended by replacing “tenue” in the second line of the second paragraph by “tenu”.

12. Section 25 of the said Act is amended

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

“25. The functions of the Office are to see to the coordination of actions relating to the development and provision of services for handicapped persons and their families, to facilitate and assess, on a collective basis, the school, workplace and social integration of handicapped persons, to promote their interests, and to inform and advise them.”;

(2) by replacing “, municipalities, school boards and other public or private agencies” in the first and second lines of subparagraph *a* of the second paragraph by “and their sectors, municipalities and other public or private bodies”;

(3) by inserting the following subparagraphs after subparagraph *a* of the second paragraph :

“(a.1) carry out work to assess the degree of school, workplace and social integration of handicapped persons, identify the elements that facilitate or hinder integration, and make recommendations to the minister responsible for the administration of this Act concerning the elimination of barriers to integration ;

“(a.2) promote, in cooperation with the Government, government departments and public bodies, advocacy organizations and research organizations, the identification and implementation of solutions to eliminate barriers to the school, workplace and social integration of handicapped persons ;

“(a.3) advise the Government, its departments and their sectors, municipalities and any other public or private body on any matter affecting handicapped persons ;”;

(4) by inserting the following subparagraph after subparagraph *b* of the second paragraph :

“(b.1) promote individual service planning, in particular through the establishment of service programmes and intervention plans, by government departments and their sectors, municipalities and any other public or private body ;”;

(5) by inserting the following subparagraph after subparagraph *d* of the second paragraph :

“(d.1) promote the use of a uniform classification of deficiencies, disabilities and handicap situations by government departments and their sectors, municipalities, labour and employers’ organizations and other public and private bodies;”;

(6) by inserting the following subparagraph after subparagraph *e* of the second paragraph :

“(e.1) promote the inclusion, in the training programs of university, college and secondary level educational institutions and organizations in charge of vocational training, of elements relating to the adaptation of interventions and services for handicapped persons and, at the request of such institutions or organizations, advise them in that regard;”;

(7) by replacing subparagraph *f* of the second paragraph by the following subparagraphs :

“(f) see that means are implemented to help handicapped persons find handicapped-accessible dwellings;

“(f.1) promote the establishment of measures to identify in a secure manner dwellings occupied by handicapped persons requiring assistance in the event of a fire or other emergency;”;

(8) by inserting the following subparagraphs after subparagraph *g* of the second paragraph :

“(g.1) promote the creation of information and training programs designed to foster a better understanding of handicapped persons, their needs and the conditions conducive to their school, workplace and social integration, or develop such programs in cooperation with advocacy and service organizations;

“(g.2) provide handicapped persons and their families, advocacy organizations and the environments into which handicapped persons are integrating, particularly childcare facilities, schools and work environments, with disability supports and information to achieve school, workplace and social integration of handicapped persons;”.

13. Section 26 of the said Act is amended

(1) by inserting the following paragraphs after paragraph *a* :

“(a.1) make representations on behalf of a handicapped person and, in conjunction with advocacy and service organizations, provide assistance if the person’s security is threatened, if the person is exploited in any manner or his or her basic needs are not met, and, if necessary, request that the authorities concerned conduct an inquiry;

“(a.2) ensure, at the local, regional and national levels, the implementation of intersectoral actions necessary for the integration of one or more handicapped persons, and participate on request in the coordination of those actions, in particular with respect to the development and implementation of service programmes, according to available resources;”;

(2) by replacing “vocational” in the second line of the English text of paragraph *d* by “workplace”.

14. The said Act is amended by inserting the following sections after section 26:

“**26.1.** Government departments, municipalities, school boards, educational institutions, institutions and other public bodies and, in the case referred to in paragraph *a* of section 26, insurance companies, shall cooperate with the Office in the exercise of its functions under paragraphs *a*, *a.1* and *a.2* of that section.

“**26.2.** The Government shall, after consultation with the Office, establish a policy directing government departments and bodies to provide reasonable accommodation measures, having regard to their particularities and available resources, so that handicapped persons may have access to the documents and services available to the public.”

15. Section 31 of the said Act is repealed.

16. Section 33 of the French text of the said Act is amended by replacing “adaptés” in the second line of subparagraph *d* of the first paragraph by “adapté”.

17. The English text of the heading of subdivision 2 of Division II of Chapter II of the said Act is amended by replacing “*Promotional*” by “*Advocacy*”.

18. Section 34 of the said Act is amended

(1) by replacing “promotional” in the first line of the English text by “advocacy”;

(2) by inserting “, advancement of the rights, and improvement of the living conditions” after “interests” in the second line.

19. The English text of section 35 of the said Act is amended by replacing “promotional” in the first line by “advocacy”.

20. Section 37 of the said Act is amended

(1) by replacing “in majority” in the first line of paragraph *b* by “in a proportion of at least 60%”;

(2) by inserting “and to facilitate their integration into the mainstream labour market” after “conditions” in the last line of paragraph *b*.

21. The said Act is amended by inserting the following after section 44 :

“§4. — *Testing*

“**44.1.** The Office may test or commission the testing of goods and services which, in its opinion, could provide innovative solutions to facilitate the school, workplace and social integration of handicapped persons and, to that end, enter into agreements, grant subsidies and provide technical or professional assistance.”

22. The English text of the heading of Chapter III of the said Act is amended by replacing “EDUCATIONAL, VOCATIONAL” by “SCHOOL, WORKPLACE”.

23. The English text of section 45 of the said Act is amended by replacing “educational, vocational” in the third line by “school, workplace”.

24. Divisions II and III of Chapter III of the said Act, comprising sections 52 to 61, are repealed.

25. Section 63 of the said Act is replaced by the following section :

“**63.** The minister responsible for Chapter III of the Act respecting the Ministère de l’Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (chapter M-15.001) must facilitate the integration of handicapped persons into the labour market by formulating, coordinating, monitoring and assessing a strategy for the integration and continued employment of handicapped persons.

The Ministère des Affaires municipales et de la Métropole, the Ministère de l’Éducation, the Ministère des Régions, the Ministère des Relations avec les citoyens et de l’Immigration, the Ministère de la Santé et des Services sociaux, the Ministère des Transports, the Ministère du Travail and the secretariat of the Conseil du trésor, in particular, shall be partners in that work.

Not later than (*insert here the date that is five years after the date of assent to this Act*), the minister referred to in the first paragraph shall, in cooperation with the other ministers concerned, report to the Government on the actions taken within the scope of the strategy and the effects thereof, and shall make recommendations on the integration and continued employment of handicapped persons.

The report shall be tabled within the next 30 days in the National Assembly by that minister or, where the Assembly is not sitting, within 30 days of resumption.”

26. Sections 63.1 to 64 and section 66 of the said Act are repealed.

27. Section 69 of the said Act is replaced by the following section :

“69. Not later than (*insert here the date that is two years after the date of assent to this Act*), the Minister of Labour shall report to the Government on the accessibility for handicapped persons to buildings subject to the Public Buildings Safety Act (chapter S-3) or the Act respecting occupational health and safety (chapter S-2.1) and that are not subject to the Building Code (Order in Council 3326 dated 29 September 1976).

The report, prepared in cooperation with the Office des personnes handicapées du Québec and the other government departments and public bodies concerned, must deal in particular with the problem posed by the non-accessibility of such buildings, the categories of buildings that could be made subject to or be exempted from standards, the cost of applying standards by category of building and according to a pre-determined schedule, and the advisability of regulation specific to that matter.

The report shall be tabled in the National Assembly by the Minister of Labour within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

The Minister of Labour may make regulations determining the categories of buildings that must be made handicapped-accessible and the accessibility standards to be complied with by owners.”

28. Sections 70 to 72.1 of the said Act are repealed.

29. Section 73 of the said Act is amended

(1) by replacing “an employer who has entered into a contract of vocational integration or who” in the third and fourth lines by “an employer or an advocacy organization that” ;

(2) by replacing “, to oversee the execution of the contract and to assure himself” in the fourth and fifth lines by “to ensure” ;

(3) by inserting the following sentence after “copies thereof.” in the eighth line : “He may also require any person on the premises to provide any reasonable assistance.”

30. The said Act is amended by inserting the following section after section 73 :

”73.1. The Office may, by regulation, determine the provisions of a by-law or regulation the contravention of which constitutes an offence.”

31. Section 74 of the said Act is amended

(1) by replacing “31, 32, 37, 38, 45, 47, 52, 53, 57, 62 and 64” in the second line of the first paragraph by “32, 37, 38, 45, 47, 62 and 73.1”;

(2) by striking out the second and third paragraphs.

32. Section 75 of the said Act is replaced by the following section :

“75. The following are guilty of an offence and are liable to a fine of \$500 to \$1,500 in the case of a natural person and to a fine of \$1,500 to \$7,000 in the case of a legal person :

(a) any person who contravenes the first paragraph of section 20, section 36 or a provision of a by-law or regulation the contravention of which constitutes an offence ;

(b) a municipality, school board, educational institution, institution or insurance company that contravenes section 26.1 ;

(c) an advocacy organization or adapted work centre that contravenes section 35 or 39, as the case may be ;

(d) any person who hinders a member, functionary or employee of the Office in the performance of that person’s duties under section 73, misleads that person by concealment or false declarations or refuses or omits to provide reasonable assistance.

In the case of a second or subsequent offence, the fines under the first paragraph are doubled.”

ACT RESPECTING EQUAL ACCESS TO EMPLOYMENT IN PUBLIC BODIES

33. Section 1 of the Act respecting equal access to employment in public bodies (R.S.Q., chapter A-2.01) is amended by inserting “handicapped persons within the meaning of the Act to secure the handicapped in the exercise of their rights (chapter E-20.1),” after “women,” in the third line.

34. The said Act is amended by inserting the following section after section 33 :

“33.1. The fact that section 33 of the Act to amend the Act to secure the handicapped in the exercise of their rights and other legislative provisions (*insert here the year and chapter number of this bill*) adds the handicapped persons group to this Act does not change the obligations provided for in this Act with regard to the other groups to which it applies.

A public body to which this Act applies on (*insert here the date of coming into force of section 33 of this bill*) must send its workforce analysis report concerning the handicapped persons group to the Commission des droits de la

personne et des droits de la jeunesse within one year after that date, or by the date fixed by the Commission for analyzing its workforce with regard to other groups, if that date is later.”

PUBLIC ADMINISTRATION ACT

35. Section 29 of the Public Administration Act (R.S.Q., chapter A-6.01) is amended by striking out “or hiring plan for handicapped persons” in the second line of subparagraph 2 of the third paragraph.

CHARTER OF HUMAN RIGHTS AND FREEDOMS

36. Section 86 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by adding the following paragraph after the third paragraph :

“An equal access employment program established for a handicapped person within the meaning of the Act to secure the handicapped in the exercise of their rights (chapter E-20.1) is deemed to be non-discriminatory if it is established in conformity with the Act respecting equal access to employment in public bodies (chapter A-2.01).”

CITIES AND TOWNS ACT

37. Section 467.11 of the Cities and Towns Act (R.S.Q., chapter C-19) is replaced by the following section :

“**467.11.** Every municipality whose territory is not served by a public transit authority or other public body providing public transport that offers an adapted transportation service for handicapped persons must, by resolution a copy of which must be sent to the Minister of Transport, enter into a contract with a person to make means of transportation adapted to the needs of handicapped persons available within its territory to such persons. The nature of the measures to be implemented to comply with this section must be described in the resolution.

Similarly, a municipality may, by resolution a copy of which must be sent to the Minister of Transport, enter into a contract with any person to provide links to points outside the territory. The nature of the measures to be implemented must be described in the resolution.”

MUNICIPAL CODE OF QUÉBEC

38. Article 536 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is replaced by the following article :

“**536.** Every local municipality whose territory is not served by a public transit authority or other public body providing public transport that offers an adapted transportation service for handicapped persons must, by resolution a

copy of which must be sent to the Minister of Transport, enter into a contract with a person to make means of transportation adapted to the needs of handicapped persons available within its territory to such persons. The nature of the measures to be implemented to comply with this article must be described in the resolution.

Similarly, a local municipality may, by resolution a copy of which must be sent to the Minister of Transport, enter into a contract with any person to provide links to points outside the territory. The nature of the measures to be implemented must be described in the resolution.”

PUBLIC SERVICE ACT

39. Section 53 of the Public Service Act (R.S.Q., chapter F-3.1.1) is amended

(1) by striking out “or a program designed to ensure the hiring of handicapped persons” in the second and third lines of the second paragraph;

(2) by striking out “ou ce plan” in the fourth line of the French text of the second paragraph.

40. Section 53.1 of the said Act is amended by striking out “or program designed to ensure the hiring of handicapped persons” in the third and fourth lines.

FINAL PROVISIONS

41. The Office des personnes handicapées du Québec must, before (*insert here the date that is three years after the date of assent to this Act*), in cooperation with all the partners concerned by the school, workplace and social integration of handicapped persons, review the comprehensive policy entitled “À part ... égale”.

42. This Act comes into force on (*insert here the date of assent to this Act*), except sections 37 and 38, which come into force on (*insert here the date that is one year after the date of assent to this Act*), and sections 33 to 36, 39 and 40, which come into force on the date to be fixed by the Government.