



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 171

An Act to amend the Charter of the French language

Introduction

**Introduced by
Madam Louise Beaudoin
Minister responsible for the Charter of the French language**

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EXPLANATORY NOTES

This bill clarifies the criteria of recognition prescribed by section 29.1 of the Charter of the French language for municipal bodies and establishes a presumption of recognition for English language school boards, the Cree School Board, the Kativik School Board and the Commission scolaire du Littoral.

The bill also entrusts to the Office de la langue française the role of mediator and specifies the powers of the labour commissioner and arbitrator on grievances as regards all their rulings on the requirements for the knowledge of a language other than French for the obtaining of an employment.

Bill 171

AN ACT TO AMEND THE CHARTER OF THE FRENCH LANGUAGE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 20 of the Charter of the French language (R.S.Q., chapter C-11) is amended by replacing “, services and departments recognized under the first paragraph of” in the first and second lines of the third paragraph by “or institutions recognized under”.

2. Section 23 of the said Charter is amended by replacing “, services and departments recognized under the first paragraph of” in the first and second lines of the first paragraph by “and institutions recognized under”.

3. Section 24 of the said Charter is amended by replacing “The municipal and school bodies, the health services and social services and the other services recognized under the first paragraph” in the first and second lines by “The bodies and institutions recognized under”.

4. Section 26 of the said Charter is amended

(1) by replacing “, services and departments recognized under the first paragraph of” in the first and second lines of the first paragraph by “and institutions recognized under”;

(2) by replacing “, services and departments” in the first line of the second paragraph by “and institutions”;

(3) by replacing “, service or department” in the third line of the second paragraph by “or institution”.

5. Section 28 of the said Charter is amended by replacing “the first paragraph of section 29.1, as well as departments recognized under the same provision which, in the school bodies, are entrusted with giving instruction in a language other than French” in the first, second, third and fourth lines by “section 29.1”.

6. Section 29.1 of the said Charter is amended

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

“29.1. English language school boards, the Cree School Board, the Kativik School Board and the Commission scolaire du Littoral are recognized school bodies.

The Office shall recognize, at the request of the municipality, body or institution,

(1) a municipality of which more than half the residents have English as their mother tongue ;

(2) a body under the authority of one or more municipalities that participates in the administration of their territory, where each such municipality is a recognized municipality ; or

(3) a health and social services institution listed in the Schedule, where it provides services to persons who, in the majority, speak a language other than French.”;

(2) by replacing “recognition under the first paragraph” in the second and third lines of the second paragraph by “the recognition of the Office”.

7. Section 45 of the said Charter is amended by adding the following paragraphs at the end :

“A staff member not subject to a collective agreement who believes he has been aggrieved by an action that is prohibited by the first paragraph may exercise a remedy before a labour commissioner as though it were a remedy relating to the exercise of a right under the Labour Code. Sections 15 to 20 of the Labour Code apply, with the necessary modifications.

A staff member subject to a collective agreement who believes he has been so aggrieved may submit the grievance for arbitration if the association representing the staff member fails to do so. Section 17 of the Labour Code applies to the arbitration of the grievance, with the necessary modifications.”

8. Section 46 of the said Charter is amended

(1) by inserting “or a specific level of knowledge” after “knowledge” in the second line of the first paragraph ;

(2) by replacing “the knowledge of that other language” in the third and fourth lines of the first paragraph by “such knowledge”;

(3) by replacing the second paragraph by the following paragraphs :

“A person, whether or not in an employment relationship with the employer, who believes he has been aggrieved by a contravention of the first paragraph and who is not subject to a collective agreement may exercise a remedy before a labour commissioner, as though it were a remedy relating to the exercise of a right under the Labour Code.

A person who is subject to a collective agreement and 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 is brought before a labour commissioner by filing a complaint as provided by section 16 of the Labour Code, within 30 days after the date on which the employer informed the complainant of the linguistic requirements of the employment or position or, failing that, from the last act of the employer which was invoked to support the allegation of contravention of the first paragraph of this section. Sections 19 to 20 of the Labour Code apply, with the necessary modifications.

It is incumbent upon the employer to prove to the labour commissioner or the arbitrator that the performance of the work requires knowledge or a specific level of knowledge of a language other than French.

If the labour commissioner or the arbitrator finds the complaint to be justified, the labour commissioner or the arbitrator may issue any order he considers fair and reasonable in the circumstances, in particular an order to cease the act complained of, to perform an act, such as the renewal of the staffing process for the employment or position, or to pay compensation or punitive damages to the complainant.”

9. Section 47 of the said Charter is replaced by the following sections :

“47. A person who believes he has been aggrieved by a contravention of the first paragraph of section 46 may, before exercising the remedy provided for in that section, apply in writing to the Office de la langue française for the matter to be submitted to a mediator to allow an exchange of views between the person and the employer and to foster a speedy resolution of the matter by way of a written agreement.

The parties are required to take part in all meetings to which they are called by the mediator; the mediator and the parties may use telephone or other communications equipment by which they may hear one another. The complainant may be represented by the complainant’s association of employees.

Mediation may not extend beyond 30 days after the date it was applied for. Mediation may be terminated before that time if, in the mediator’s opinion, his intervention is not expedient or desirable in view of the circumstances. The mediator shall notify the parties in writing.

The time for bringing the matter before a labour commissioner or an arbitrator is suspended during mediation. The time begins to run again on receipt by the complainant of a notice terminating the mediation or not later than 30 days after mediation is applied for.

“47.1. Unless the parties consent thereto, nothing that is said or written in the course of mediation may be admitted as evidence before a court of justice or before a person or body of the administrative branch exercising adjudicative functions.

“47.2. A mediator may not be compelled to disclose anything revealed to or learned by him in the exercise of his functions or produce a document prepared or obtained in the course of such exercise before a court of justice or before a person or body of the administrative branch exercising adjudicative functions.

Notwithstanding 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 may have access to a document contained in the mediation record.”

10. Section 114 of the said Charter, amended by section 45 of chapter 40 of the statutes of 1999, is again amended by adding the following paragraph after paragraph *h*:

“(i) authorize, generally, a member or personnel member of the Office to act as a mediator for the purpose of fostering the resolution of matters under section 47.”

11. The Schedule to the said Charter, amended by section 45 of chapter 40 of the statutes of 1999, is again amended by replacing subparagraph *b* of paragraph 3 of Division A by the following subparagraphs:

“(b) the municipalities, municipal boroughs being regarded as municipalities;

“(b.1) the bodies under the authority of a municipality and taking part in the administration of its territory;”.

12. Municipalities and bodies which are under the authority of municipalities and which participate in the administration of their territory, that were recognized under the former provisions of section 29.1 of the Charter of the French language, are deemed recognized under the new provisions of that section. They shall retain such recognition for so long as it is not withdrawn by the Government, at their request, pursuant to the third paragraph of that section and to the new provisions governing their recognition, respectively.

The new conditions governing recognition shall apply to applications pending before the Office de la langue française on (*insert here the date of the coming into force of section 6 of this Act*).

13. Proceedings before the Office de la langue française brought under the former provisions of the second paragraph of section 46 of the Charter of the French language and pending on (*insert here the date of coming into force of section 8 of this Act*) are terminated. However, if such a proceeding was

brought by an interested person or by an association of employees on behalf of an interested person, the person may exercise the remedy provided for by the new provisions of section 46 before a labour commissioner or an arbitrator within 30 days of that date.

The parties to pending proceedings shall be advised by the Office without delay and in writing of the provisions of the first paragraph.

If a hearing before the Office has already been held, the labour commissioner or the arbitrator may, as regards oral testimony and with the consent of the parties, rely on the notes and minutes of the hearing. If the labour commissioner or the arbitrator finds them insufficient, he may recall a witness or require any other evidence.

14. Proceedings brought before a labour commissioner or an arbitrator under the former provisions of section 47 of the Charter of the French language with respect to a contravention of the first paragraph of section 46 of the Charter the hearing of which has not begun shall be continued according to the new provisions of section 46 of the Charter.

15. The time for filing a complaint with the labour commissioner or an arbitrator as provided by the new provisions of section 46 of the Charter of the French language applies to existing situations and account is taken of the time already elapsed.

16. The provisions of this Act come into force on the date or dates fixed by the Government.