



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 40
(1997, chapter 24)

An Act to amend the Charter of the French language

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Assented to 12 June 1997

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EXPLANATORY NOTES

This bill amends the Charter of the French language, firstly to establish a Commission to be known as the Commission de protection de la langue française.

The Commission will consist of three members, including a chairman, and will be responsible for ensuring compliance with the Charter. The Commission will be empowered to carry out inspections and inquiries and, where necessary, to refer matters to the Attorney General so that he may institute appropriate penal proceedings where required.

The bill also makes changes to better define the penal aspects of the Charter as regards product labelling, the presentation of menus, the distribution of certain publications, the marketing of games and toys and the amount of the fines.

The bill introduces a provision requiring that all computer software be available in French except if no French version exists.

Lastly, the bill amends the provision of the Charter requiring members of professional orders to provide documents in French, and the provisions governing, among other things, the concurrent holding of positions by the president of the Office de la langue française and by the chairman and secretary of the Conseil de la langue française.

Bill 40

An Act to amend the Charter of the French language

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 30.1 of the Charter of the French language (R.S.Q., chapter C-11) is amended

(1) by replacing the words “When, before a member of a professional corporation draws up a notice, opinion, report, expertise or other document concerning a person who calls upon his services, the person asks to have it in French, the member shall furnish it in French” in the first, second, third and fourth lines by the words “The members of the professional orders must, where a person who calls upon their services so requests, provide a French copy of any notice, opinion, report, expertise or other document they draw up concerning that person,”;

(2) by adding, at the end, the following sentence : “The request may be made at any time.”

2. Section 45 of the said Charter is amended by adding, at the end, the words “, or because he has demanded that a right arising from the provisions of this chapter be respected”.

3. The said Charter is amended by inserting, after section 52, the following section :

“52.1 All computer software, including game software and operating systems, whether installed or uninstalled, must be available in French unless no French version exists.

Software can also be available in languages other than French, provided that the French version can be obtained on terms, except price where it reflects higher production or distribution costs, that

are no less favourable and that it has technical characteristics that are at least equivalent.”

4. Section 53 of the said Charter is repealed.

5. Section 54 of the said Charter is amended

(1) by replacing the words “Except as provided by regulation of the Government, it is forbidden to offer toys or games to the public which require the use of a non-French vocabulary for their operation” in the first, second and third lines by the words “Toys and games, except those referred to in section 52.1, which require the use of a non-French vocabulary for their operation are prohibited on the Québec market” ;

(2) by replacing the words “on no less favourable terms on the Québec market” in the fourth line by the words “on the Québec market on no less favourable terms”.

6. The said Charter is amended by inserting, after section 54, the following section :

“54.1 The Government may, by regulation and on the conditions it fixes, provide for exceptions to the application of sections 51 to 54.”

7. Section 83 of the said Charter is amended by adding, after the first paragraph, the following paragraph:

“The Government shall appoint a substitute member to act whenever a member is absent or unable to act.”

8. Section 100 of the said Charter is amended by striking out the second paragraph.

9. Section 101 of the said Charter is amended

(1) by replacing the word “five” in the first line by the word “seven” ;

(2) by adding, after the first paragraph, the following paragraph:

“The president shall exercise his functions on a full-time basis.”

10. Section 105 of the said Charter is repealed.

11. The said Charter is amended by inserting, after section 106, the following section :

“106.1 The president of the Office may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places his personal interest and that of the Office in conflict. However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided it is renounced or disposed of with diligence.”

12. Section 112 of the said Charter is amended by striking out the words “and persons designated under section 118.1” in the first and second lines.

13. Section 114 of the said Charter is amended

(1) by replacing the word “terminology” in the first line of paragraph *b* by the word “linguistic”;

(2) by replacing the period at the end of paragraph *g* by a semi-colon;

(3) by adding, after paragraph *g*, the following paragraph :

“(h) make recommendations concerning the terms and expressions it recommends, and publish its recommendations in the *Gazette officielle du Québec*.”

14. Sections 116 and 117 of the said Charter are replaced by the following section:

“116. The departments and agencies of the civil administration may establish linguistic committees and determine their composition and operation.

The mission of a linguistic committee established by the Office or by departments or agencies shall be to

(a) assist departments and agencies in improving the quality of the French language;

(b) identify terminological deficiencies and problematical terms and expressions in its designated field, and indicate the terms and expressions it recommends. Such terms and expressions shall be submitted to the Office for standardization or recommendation.”

15. Sections 118.1 to 118.5 of the said Charter are repealed.

16. The said Charter is amended by inserting, after section 151, the following section:

“151.1 Every business firm that fails to comply with the obligations imposed by sections 136 to 146 and 151 with regard to the francization process applicable to it commits an offence and is liable to the penalties provided for in section 205.”

17. The said Charter is amended by inserting, after Title II, the following title :

“TITLE III

“THE COMMISSION DE PROTECTION DE LA LANGUE FRANÇAISE

“CHAPTER I

“ESTABLISHMENT AND MISSION

“157. A commission is hereby established, under the name of Commission de protection de la langue française, and is charged with ensuring compliance with this Charter.

“CHAPTER II

“ORGANIZATION

“158. The Commission shall consist of three members, appointed by the Government, including a chairman who shall have the direction of the Commission.

“159. The members of the Commission shall be appointed for a term of not more than five years.

On the expiry of their term, the members of the Commission shall remain in office until replaced or reappointed.

“160. Only the chairman shall exercise his functions on a full-time basis. The remuneration, employee benefits and other conditions of employment of the chairman shall be fixed by the Government.

The Government shall fix the fees and allowances of the other members of the Commission.

“161. The chairman may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places his

personal interest and that of the Commission in conflict. However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided it is renounced or disposed of with diligence.

Where a member of the Commission other than the chairman is in the situation referred to in the first paragraph, the member must, on pain of forfeiture of office, disclose his interest in writing to the chairman and refrain from taking part in any discussion or decision involving the enterprise in which the interest is held.

“162. Two members of the Commission, including the chairman, constitute a quorum. In the case of a tie-vote, the chairman has a casting vote.

“163. If the chairman is absent or unable to act, the Government shall designate a person to replace the chairman, on the conditions it fixes.

“164. The members of the staff of the Commission shall be appointed in accordance with the Public Service Act (chapter F-3.1.1).

“165. The Commission shall have its head office at the place determined by the Government.

“CHAPTER III

“INSPECTIONS AND INQUIRIES

“166. The Commission may, for the purposes of this Charter, make inspections and inquiries.

“167. The Commission shall act on its own initiative or following the filing of a complaint.

Where a complaint has been filed, the chairman may exercise, alone, the powers of the Commission.

“168. Every complaint must be filed in writing ; it must set out the grounds on which it is based and state the identity of the complainant. The Commission shall provide assistance to complainants in drawing up their complaints.

“169. The Commission shall refuse to act if the complaint is manifestly unfounded or in bad faith.

The Commission may refuse to act if an appropriate recourse is available to the complainant or if it considers that the circumstances do not justify its intervention.

Where it refuses to act, the Commission shall inform the complainant of its decision, giving the reasons on which it is based. The Commission shall inform the complainant of the recourses available, if any.

“170. The Commission shall forward records concerning a firm to which section 136, 139 or 151 applies to the Office de la langue française to enable the Office to propose corrective measures, where necessary, to be taken by the firm within the time limit fixed by the Commission after consultation with the Office.

If the corrective measures are not taken within the time fixed, the Commission shall undertake an inquiry.

The Commission may, in the same manner and for the same purposes, forward the record of a firm not referred to in the first paragraph to the Office.

“171. The Commission may designate, generally or specially, any person to make an inquiry or an inspection.

“172. The Commission has the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

Where necessary, the Commission may confer such powers and immunity on any person it designates.

“173. No proceedings may be instituted against a person making an inspection or an inquiry by reason of any act or omission done in good faith in the exercise of his functions.

“174. A person making an inspection for the purposes of this Act may, during business hours, provided it is at a reasonable time, enter any place open to the public. In the course of the inspection, the person may, in particular, examine any product or document, make copies, and require any relevant information.

The person must, at the request of any interested person, identify himself and produce the certificate attesting his capacity.

“175. The Commission may, for the purposes of this chapter, require a person to forward any relevant document or information within the time it fixes.

“176. No person may hinder, in any way, the actions of the Commission or of a person designated by the Commission when acting in the exercise of their functions, mislead the Commission or the person by withholding information or making false statements, or refuse to provide any information or document the Commission or the person is entitled to obtain.

“177. Where the Commission is of the opinion that this Charter or a regulation thereunder has been contravened, it shall give the alleged offender formal notice to comply therewith within the time indicated. If the alleged offender fails to comply, the Commission shall refer the matter to the Attorney General so that he may, where required, institute appropriate penal proceedings.

In the case of a contravention of section 78.1 or 176, the Commission shall refer the matter directly to the Attorney General, without giving prior formal notice.

“CHAPTER IV

“MISCELLANEOUS PROVISIONS

“178. The Commission may, as regards certain administrative services, enter into pooling agreements with the Office.

“179. The Commission must file with the Minister, not later than 31 October every year, a report of its activities for the preceding fiscal year.

The Minister shall table the report in the National Assembly within 30 days following its receipt or, if the Assembly is not sitting, within 30 days of resumption.”

18. Section 190 of the said Charter is amended by adding, after the third paragraph, the following paragraph :

“The chairman and the secretary shall exercise their functions on a full-time basis.”

19. Section 194 of the said Charter is repealed.

20. The said Charter is amended by inserting, after section 197, the following section :

“197.1 The chairman and the secretary of the Conseil may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places their personal interest and that of the Conseil in conflict. However, forfeiture is not incurred if the interest devolves to them by succession or gift, provided it is renounced or disposed of with diligence.”

21. Section 205 of the said Charter is amended

(1) by replacing the figure “\$50” in the first line of paragraph *a* by the figure “\$250”;

(2) by replacing the figure “\$75” in the second line of paragraph *a* by the figure “\$500”;

(3) by replacing the figure “\$75” in the first line of paragraph *b* by the figure “\$500”;

(4) by replacing the figure “\$700” in the second line of paragraph *b* by the figure “\$1,000”.

22. The said Charter is amended by inserting, after section 205, the following section :

“205.1 Every person who contravenes any of the provisions of sections 51 to 54 by distributing, selling by retail sale, renting, offering for sale or rental or otherwise marketing, for consideration or free of charge, or by possessing for such purposes,

(1) a product, if the inscriptions on the product, on its container or wrapping, or on a document or object supplied with it, including the directions for use and the warranty certificates, are not in conformity with the provisions of this Charter,

(2) computer software, including game software and operating systems, or a game or toy that is not in conformity with the provisions of this Charter, or

(3) a publication that is not in conformity with the provisions of this Charter,

commits an offence and is liable to the fines provided for in section 205.

The operator of an establishment where menus or wine lists that are not in conformity with the provisions of section 51 are presented to the public also commits an offence and is liable to the fines provided for in section 205.

The burden of proof concerning the exceptions provided for in sections 52.1 and 54, or pursuant to section 54.1, lies with the person who invokes the exceptions.”

23. Section 212 of the said Charter is amended by inserting the words “, that of the Commission de protection de la langue française” after the words “Office de la langue française” in the second and third lines.

24. The English text of section 51 of the said Charter is amended by replacing the words “leaflet, brochure or card” in the second line of the first paragraph by the words “document or object”.

TRANSITIONAL AND FINAL PROVISIONS

25. Every regulatory provision made under section 53 of the Charter of the French language remains in force.

26. The records of verifications being made by the Office de la langue française on the date of coming into force of section 166 shall be transferred to the Commission de protection de la langue française.

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