



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 115

(2010, chapter 23)

An Act following upon the court decisions on the language of instruction

**Introduced 18 October 2010
Passed in principle 18 October 2010
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Assented to 19 October 2010**

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EXPLANATORY NOTES

This Act 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.

Certain penal provisions are revised, particularly to increase fines. Moreover, with regard to the problem of “bridging schools”, it is considered an offence to set up or operate 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.

Lastly, amending and consequential provisions are introduced.

LEGISLATION AMENDED BY THIS ACT:

- Charter of the French language (R.S.Q., chapter C-11);
- Act respecting private education (R.S.Q., chapter E-9.1);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1).

Bill 115

AN ACT FOLLOWING UPON THE COURT DECISIONS ON THE LANGUAGE OF INSTRUCTION

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 the cases and conditions in which 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 the documents and information 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 instruction is 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 or the Minister respectively to open a file or examine a 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 pursuant to section 77 or 78.”

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

9. 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 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.”

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

11. 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 proceedings 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.

“208.5. 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 that the offence had been committed. However, no proceedings may be instituted if more than five years have elapsed from the date the offence was committed.”

ACT RESPECTING PRIVATE EDUCATION

12. 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, in the Minister’s opinion, doing so could allow 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, subject a permit to any condition the Minister judges necessary.”

13. 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.

14. 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).”

15. Section 122 of the Act is amended by adding the following paragraph:

“Accreditation is also revoked by operation of law if the institution refuses or neglects to receive for a given school year the subsidy to which it would be entitled by virtue of an accreditation.”

16. The Act is amended by inserting the following section after section 122:

“**122.1.** The revocation provided for in the second paragraph of section 122 takes effect on 1 July of the school year following that for which it refuses or neglects to receive the subsidy.

However, for the purposes of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) and the Act respecting the Pension Plan of Management Personnel (chapter R-12.1), the revocation takes effect on 1 January following that date.”

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES
RETIREMENT PLAN

17. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the following in paragraph 1:

“the Association B.C.S. (Bishop’s College School), in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;

“Collège Standstead, in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;”.

18. Schedule II.2 to the Act is amended by inserting the following:

“the Association B.C.S. (Bishop’s College School), in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;

“Collège Standstead, in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;”.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT
PERSONNEL

19. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by inserting the following in paragraph 1:

“the Association B.C.S. (Bishop’s College School), in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;

“Collège Standstead, in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;”.

20. Schedule IV to the Act is amended by inserting the following:

“the Association B.C.S. (Bishop’s College School), in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;

“Collège Standstead, in respect of employees who held employment with that institution and were members of this plan on 19 October 2010;”.

TRANSITIONAL AND FINAL PROVISIONS

21. The first regulation made under section 73.1 of the Charter of the French language (R.S.Q., chapter C-11), enacted by 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.

22. Despite section 122.1 of the Act respecting private education (R.S.Q., chapter E-9.1), enacted by section 16 of this Act, a revocation of an accreditation that results when an institution refuses or neglects to receive, for the 2009-2010 school year, a subsidy to which it would be entitled by virtue of an accreditation takes effect on 20 October 2010.

23. This Act comes into force on 19 October 2010, except section 1, which comes into force on 22 October 2010, and sections 15 to 20 and 22 which come into force on 20 October 2010.