



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 78

(2012, chapter 12)

An Act to enable students to receive instruction from the postsecondary institutions they attend

Introduced 18 May 2012
Passed in principle 18 May 2012
Passed 18 May 2012
Assented to 18 May 2012

Québec Official Publisher
2012

EXPLANATORY NOTES

The purpose of this Act is to enable students to receive instruction from the postsecondary institutions they attend.

The Act suspends academic terms in progress as regards all classes interrupted and still interrupted on its coming into force. It provides for when and how classes are to resume and includes measures to ensure the validity of the 2012 winter and fall terms and the 2013 winter term. Other provisions in the Act are aimed at ensuring the continuity of instructional services as regards all other classes.

The Act contains further provisions to maintain peace, order and public security as well as various administrative, civil and penal measures to ensure enforcement of the law.

Bill 78

AN ACT TO ENABLE STUDENTS TO RECEIVE INSTRUCTION FROM THE POSTSECONDARY INSTITUTIONS THEY ATTEND

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

INTERPRETATION

1. In this Act, unless the context indicates otherwise,

“college” means a college governed by the General and Vocational Colleges Act (R.S.Q., chapter C-29) and its constituent parts within the meaning of subparagraph 6 of the first paragraph of section 2 of the Act respecting the accreditation and financing of students’ associations (R.S.Q., chapter A-3.01);

“employee” means an employee within the meaning of the Labour Code (R.S.Q., chapter C-27) who, on 18 May 2012, is a member of the personnel of an institution;

“federation of associations” means a body bringing together various student associations such as the Association pour une solidarité syndicale étudiante (ASSÉ), the Fédération étudiante collégiale du Québec (F.E.C.Q.), the Fédération étudiante universitaire du Québec (FEUQ) and the Table de concertation étudiante du Québec as well as any coalition to which any of those student associations belong, including the CLASSE (Coalition large de l’ASSÉ);

“institution” means a college or university or any other college- or university-level institution determined by government regulation for the purposes of subparagraph 7 of the first paragraph of section 2 of the Act respecting the accreditation and financing of students’ associations;

“instructional services” means instructional services delivered to a student, including research services;

“student association” means a postsecondary students’ association or students’ association alliance within the meaning of section 3 of the Act respecting the accreditation and financing of students’ associations;

“university” means a university-level educational institution referred to in section 1 of the Act respecting educational institutions at the university level

(R.S.Q., chapter E-14.1) and its constituent parts within the meaning of subparagraph 6 of the first paragraph of section 2 of the Act respecting the accreditation and financing of students' associations.

DIVISION II

CONTINUITY OF INSTRUCTIONAL SERVICES

2. The 2012 winter term and, in universities, the 2012 summer term, are suspended in institutions as regards all classes interrupted during such a term and still interrupted on 18 May 2012.

Classes at all colleges must resume not later than 7:00 a.m. on 17 August 2012, except at CÉGEP de Maisonneuve, where classes must resume not later than 7:00 a.m. on 22 August 2012, and at CÉGEP d'Ahuntsic, where classes must resume not later than 7:00 a.m. on 30 August 2012. As for all other institutions, the suspension under the first paragraph is effective until the resumption date set by each institution, unless it has cancelled the interrupted classes.

Nothing in this section prevents a college, the student association of a college and the associations representing the employees of such a college from agreeing, by 1 August 2012 and with the approval of the Minister of Education, Recreation and Sports, on a different resumption date than those provided for in the second paragraph.

Nothing in this section prevents an institution from organizing a 2012 summer term.

3. Every institution and its officers and representatives must employ appropriate means to ensure that instructional services are delivered or continue to be delivered to all students having a right to such services. The obligation imposed by this section applies

(1) as of the applicable resumption date, in the case of the classes referred to in the first paragraph of section 2; and

(2) as of 7:00 a.m. on 19 May 2012, in any other case.

4. Not later than 1 June 2012, a college must, as regards classes referred to in the first paragraph of section 2, submit a plan for the resumption of instructional services aimed at ensuring the validity of the 2012 winter and fall terms and, if applicable, that of the 2013 winter term, to the Minister of Education, Recreation and Sports for approval.

The director general of a college may take any measure to ensure that the obligation imposed by the first paragraph is complied with within the time limit specified, including drawing up the services resumption plan himself or herself in the place of any authority competent in that regard.

5. A college must ask the students who are enrolled for the classes referred to in the first paragraph of section 2 to confirm, on the date specified by the college and not later than 15 June 2012, whether or not they will continue taking them.

6. Despite the definition of “course” in section 1 of the College Education Regulations (R.R.Q., chapter C-29, r. 4) and section 18 of those regulations, a college may take special measures to ensure the validity of the 2012 winter and fall terms. A college may, for that purpose, take such special measures as

(1) ending the period in the 2012 winter term that is allotted to teaching and evaluation on or before 30 September 2012; and

(2) organizing a term having less than 82 days allotted to teaching and evaluation but comprising at least the equivalent of 12 weeks of learning, insofar as the course objectives are otherwise met and the number of course credits allocated are the same.

For the purposes of this section, a college may, among other things, ask its teachers to specify any special educational measures required to enable students to attain the course objectives.

7. Despite any provision to the contrary, a university must take any general measure within its jurisdiction to avoid penalizing, as regards their admission to university for the 2012 fall or 2013 winter term, students who attended an institution whose 2012 winter term was interrupted or suspended.

8. Nothing in the framework established by this division operates to restrict an institution’s capacity to arrange the services required, without prejudice to the quality of instruction, so as to take into account the particular circumstances resulting from the interruption of the 2012 winter or summer term.

9. The Government, on the recommendation of the Minister of Education, Recreation and Sports, may take all necessary measures to carry out sections 2 and 4 to 8, including specifying certain legislative and regulatory provisions as not applicable and prescribing any other necessary modification to this Act and to any other Act and its regulatory instruments.

The Minister may, for those purposes, issue directives to institutions, which directives the institutions must comply with. Furthermore, any agreement entered into by institutions and associations of employees to comply with such directives must be approved by the Minister.

Divisions III and IV of the Regulations Act (R.S.Q., chapter R-18.1), except its sections 15 and 20, do not apply to any measure taken by the Government under this section.

10. All employees must, as of 7:00 a.m. on 19 May 2012, report for work according to their normal work schedule and other applicable conditions of employment.

The first paragraph does not apply to an employee who has resigned and whose resignation has been accepted by the institution, or to an employee who has been dismissed or suspended or has retired.

11. All employees must, as of 7:00 a.m. on 19 May 2012, perform all duties attached to their respective functions, according to the applicable conditions of employment, without any stoppage, slowdown, reduction or degradation of their normal activities.

12. Sections 10 and 11 do not prevent an association of employees from declaring a strike in accordance with the Labour Code.

An association of employees, its senior officers, its representatives, including its spokespersons, and its members are prohibited, however, from participating in concerted action if the concerted action involves a contravention by employees of section 10 or section 11.

13. No one may, by an act or omission, deny students their right to receive instruction from the institution they attend or prevent or impede the resumption or maintenance of an institution's instructional services or the performance by employees of work related to such services, or directly or indirectly contribute to slowing down, degrading or delaying the resumption or maintenance of such services or the performance of such work.

14. No one may, by an act or omission, deny a person access to a place if the person has the right or a duty to be there in order to obtain services from or perform functions for an institution.

Without restricting the generality of the first paragraph, any form of gathering that could result in denying such access is prohibited inside any building where instructional services are delivered by an institution, on the grounds of such a building or within 50 metres from the outer limits of such grounds.

15. An association of employees must employ appropriate means to induce its members to comply with sections 10 and 11 and not to contravene sections 13 and 14.

A student association must employ appropriate means to induce the students it represents not to contravene sections 13 and 14. The same holds for a federation of associations with respect to its member student associations and the students represented by them.

DIVISION III

PROVISIONS TO MAINTAIN PEACE, ORDER AND PUBLIC SECURITY

16. A person, a body or a group that is the organizer of a demonstration involving 50 people or more to take place in a venue accessible to the public must, not less than eight hours before the beginning of the demonstration, provide the following information in writing to the police force serving the territory where the demonstration is to take place:

- (1) the date, time, duration and venue of the demonstration as well as its route, if applicable; and
- (2) the means of transportation to be used for those purposes.

When it considers that the planned venue or route poses serious risks for public security, the police force serving the territory where the demonstration is to take place may, before the demonstration, require a change of venue or route so as to maintain peace, order and public security. The organizer must then submit the new venue or route to the police force within the agreed time limit and inform the participants.

17. A person, a body or a group that is the organizer of a demonstration and a student association or a federation of associations taking part in the demonstration without being its organizer must employ appropriate means to ensure that the demonstration takes place in compliance with the information provided under subparagraph 1 of the first paragraph of section 16 and, if applicable, under the second paragraph of section 16.

DIVISION IV

ADMINISTRATIVE AND CIVIL MEASURES

§1. — Assessments, premises and furniture

18. On noting that it is unable to deliver instructional services to all or some of the students having a right to such services, an institution must, without delay, report the situation to the Minister of Education, Recreation and Sports, including the circumstances that caused the situation, the groups of students affected and, for each of those groups, the student association to which it belongs as well as any other information that may be useful for the purposes of this Act.

If the Minister notes that the institution is unable to deliver instructional services as a result of a failure by a student association to comply with an obligation imposed by this Act, the Minister may, despite any provision to the contrary, order the institution to cease collecting the assessment established by the student association or any successor student association and to cease

providing premises, furniture, notice boards and display stands to the student association or any successor student association free of charge.

The cessation is effective for a period equal to one term per day or part of a day during which the institution was unable to deliver instructional services as a result of the failure to comply.

19. Despite any provision to the contrary, students represented by a student association referred to in the second paragraph of section 18 are not required to pay any assessment, contribution or other similar amount to the student association, any successor student association or a third party for the benefit of either for the duration of the cessation ordered under section 18.

20. If the Minister of Education, Recreation and Sports notes that a federation of associations has failed to comply with an obligation imposed by this Act and that the failure to comply has resulted in hindering the delivery of instructional services to students having a right to such services, the Minister may, despite any provision to the contrary, order all student associations to cease paying any assessment, contribution or other similar amount to the federation of associations, any successor federation of associations or a third party for the benefit of either.

The cessation is effective for a period equal to one term per day or part of a day during which the delivery of instructional services was not possible as a result of the failure to comply.

21. Despite any provision to the contrary, a student association that belongs to a federation of associations referred to in the second paragraph of section 20 is not required to pay any assessment, contribution or other similar amount to the federation of associations, any successor federation of associations or a third party for the benefit of either for the duration of the cessation ordered under section 20.

§2. — *Civil liability*

22. A student association of an institution or a federation of associations to which such a student association belongs that helps or induces one or more of its members to contravene section 13 or 14 is solidarily liable for any damage caused to a third person by its members who contravene either of those sections with respect to the institution.

The same holds for an association of employees in the case of a contravention of section 13 or 14 by employees it represents.

23. An association of employees is solidarily liable for any damage caused to a third person through the fault of an employee it represents as a result of a contravention of section 10 or 11, unless it proves that the damage is not attributable to the contravention or that the contravention is not part of any concerted action.

24. For the purposes of section 22, damage includes any additional cost assumed or loss of earnings or revenue incurred by anyone, including a student, an institution or the State.

25. Despite article 1003 of the Code of Civil Procedure (R.S.Q., chapter C-25), if a person who suffered damage as a result of anything done in contravention of section 10, 11, 13 or 14 brings a class action under Book IX of the Code by way of a motion in accordance with the second paragraph of article 1002 of the Code, the court authorizes the bringing of the class action if it is of the opinion that the person to whom the court intends to ascribe the status of representative is in a position to adequately represent the members of the group described in the motion.

DIVISION V

PENAL PROVISIONS

26. Anyone who contravenes section 3, the first paragraph of section 10, section 11, the second paragraph of section 12 or section 13, 14, 15, 16 or 17 is guilty of an offence and is liable, for each day or part of a day during which the contravention continues, to a fine of \$1,000 to \$5,000.

However, the fine is

(1) \$7,000 to \$35,000 if the offence is committed by a senior officer, an employee or a representative, including a spokesperson, of a student association, a federation of associations or an association of employees, by a senior officer or a representative of an institution, or by a natural person who is the organizer of a demonstration; and

(2) \$25,000 to \$125,000 if the offence is committed by a student association, a federation of associations, an association of employees or an institution, or by a legal person, a body or a group that is the organizer of a demonstration.

The fines prescribed by this section are doubled for a second or subsequent offence.

27. An institution that contravenes the first paragraph of section 18 or fails to comply with an order made under that section is guilty of an offence and is liable to the fine prescribed by subparagraph 2 of the second paragraph of section 26.

28. A student association that fails to comply with an order made under section 20 is guilty of an offence and is liable to the fine prescribed by subparagraph 2 of the second paragraph of section 26.

29. An institution that fails to comply with a request made under section 34 is guilty of an offence and is liable to the fine prescribed by subparagraph 2 of the second paragraph of section 26.

30. Anyone who helps or induces a person to commit an offence under this Act is guilty of the same offence and is liable to the fine prescribed by the first paragraph of section 26 or by subparagraph 1 or 2 of the second paragraph of that section if either subparagraph applies.

31. The amounts of fines set out in this Act apply in all cases and despite article 233 of the Code of Penal Procedure (R.S.Q., chapter C-25.1).

DIVISION VI

FINAL PROVISIONS

32. Judicial proceedings, including applications for an injunction, instituted before 18 May 2012 seeking an order for the delivery of instructional services to students having a right to such services may not be continued as of that date. Moreover, any judgment rendered or order issued for that purpose on the basis of such proceedings ceases to have effect on that date.

This section does not prevent the institution or continuance of proceedings for contempt of court after 18 May 2012 in relation to contraventions of a judgment rendered or an order issued before that date.

33. An institution, the student association of the institution and the associations representing the employees of the institution may enter into an agreement so that students who, following a judgment or an order, including an injunction, received, before 18 May 2012, instructional services to which they had a right and are still receiving them on that date may continue receiving them.

34. An institution must provide any information the Minister of Education, Recreation and Sports requests for the purposes of this Act within the time limit the Minister specifies.

35. The Minister of Education, Recreation and Sports is responsible for the administration of this Act, except Division III, the administration of which is under the responsibility of the Minister of Public Security.

36. The provisions of this Act cease to have effect on 1 July 2013 or on any earlier date or dates set by the Government.

37. This Act comes into force on 18 May 2012.