

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1993, chapter 70

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DES COMMUNAUTÉS CULTURELLES ET DE L'IMMIGRATION

Bill 124

Introduced by Madam Monique Gagnon-Tremblay, Minister of Cultural Communities and Immigration

Introduced 9 November 1993

Passage in principle 6 December 1993

Passage 16 December 1993

Assented to 17 December 1993

Coming into force: 17 December 1993, except sections 2 to 6, 8 to 10, paragraphs 1, 2, 4, 6 and 8 to 10 of section 11 and section 12, which will come into force on the date or dates fixed by the Government

Act amended:

Act respecting the Ministère des Communautés culturelles et de l'Immigration (R.S.Q., chapter M-23.1)



CHAPTER 70

An Act to amend the Act respecting the Ministère des Communautés culturelles et de l'Immigration

[Assented to 17 December 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. M-23.1,
s. 3, am.

1. Section 3 of the Act respecting the Ministère des Communautés culturelles et de l'Immigration (R.S.Q., chapter M-23.1) is amended by striking out the words “, while respecting their right to mobility” in the third and fourth lines of subparagraph *c* of the fourth paragraph.

c. M-23.1,
s. 3.1, am.

2. Section 3.1 of the said Act, amended by section 1 of chapter 5 of the statutes of 1992, is again amended by replacing the words “in the manner determined by regulation” in the second and third lines of the first paragraph by the words “on the form prescribed by the Minister and in accordance with the procedure prescribed under paragraph *f* of section 3.3”.

c. M-23.1,
s. 3.1.1, am.

3. Section 3.1.1 of the said Act is amended

(1) by inserting, after the first paragraph, the following paragraph:

Selection
criteria

“Where determined by regulation, an undertaking to assist the foreign national in settling in Québec shall constitute one of the selection criteria prescribed under paragraph *b* of section 3.3.”;

(2) by adding, at the end of the second paragraph, the following sentence: “The application for an undertaking and the undertaking shall be made on the forms prescribed by the Minister.”

c. M-23.1,
s. 3.1.2, am.

4. Section 3.1.2 of the said Act, enacted by section 2 of chapter 5 of the statutes of 1992, is amended by replacing the words “in the

manner prescribed by regulation” in the third and fourth lines of the first paragraph by the words “on the form prescribed by the Minister and in accordance with the procedure prescribed under paragraph *f* of section 3.3”.

c. M-23.1,
s. 3.1.3,
added

5. The said Act is amended by inserting, after section 3.1.2, enacted by section 2 of chapter 5 of the statutes of 1992, the following section:

Conditions

“3.1.3 The Minister may impose conditions prescribed under paragraph *f.1.2* of section 3.3 which affect the granting of landing under the Immigration Act, to a foreign national who applies for a selection certificate.

Conditions

The Minister may, in the cases determined by regulation or at the request of a permanent resident, modify, lift or cancel the conditions imposed.”

c. M-23.1,
s. 3.2, am.

6. Section 3.2 of the said Act is amended by replacing the words “in the manner prescribed by regulation” in the fifth line of the first paragraph by the words “on the form prescribed by the Minister and in accordance with the procedure prescribed under paragraph *f* of section 3.3”.

c. M-23.1,
s. 3.2.1, am.

7. Section 3.2.1 of the said Act, amended by section 3 of chapter 5 of the statutes of 1992, is again amended by inserting the words “selection certificate, a” after the words “for a” in the second line.

c. M-23.1,
s. 3.2.5, am.

8. Section 3.2.5 of the said Act is amended by inserting the words “, who file an application for that purpose with the Minister on the form prescribed by the latter” after the word “society” in the fifth line of the first paragraph.

c. M-23.1,
s. 3.2.6, am.

9. Section 3.2.6 of the said Act is amended by adding, at the end, the following sentence: “The application for assistance must be filed with the Minister on the form prescribed by the latter.”

c. M-23.1,
s. 3.2.7, am.

10. Section 3.2.7 of the said Act is amended by adding, at the end, the following sentence: “An immigrant who is in a particularly distressful situation must file his application for a loan on the form prescribed by the Minister.”

c. M-23.1,
s. 3.3, am.

11. Section 3.3 of the said Act, amended by section 5 of chapter 5 of the statutes of 1992, is again amended

(1) by replacing paragraph *b* by the following paragraphs:

“(b) determining the conditions of selection applicable to each of such classes of foreign nationals, having regard, in particular, to criteria such as the vocational or professional training and experience of the foreign national, the needs of the labour market in Québec as regards his profession, the age and personal qualities, education, knowledge of languages, and financial capacity of the foreign national, the assistance he may receive from relatives or friends residing in Québec, his place of destination in Québec, and the place of establishment of his enterprise; such conditions and criteria may vary within the same class, in particular by reason of the foreign national’s contribution to enriching the socio-cultural or economic heritage of Québec;

“(b.1) determining the classes of foreign nationals which may be exempted from one or several of the conditions and criteria of selection prescribed under paragraph *b* and providing that such exemptions may vary within the same class;

“(b.2) determining the classes of foreign nationals in respect of which paragraph *b* applies to a foreign national’s dependants, as defined by regulation, and providing for cases of total or partial exemption of dependants from conditions or criteria of selection; such conditions and criteria may vary according to the family situation of the foreign national and also within the same class;

“(b.3) determining, from among the criteria prescribed under paragraph *b*, those which apply to a preliminary processing for selection intended to identify the applications which will be processed, prescribing the classes of foreign nationals to which the criteria will apply and determining the cases of total or partial exemption of foreign nationals; the criteria may vary according to the class and also within the same class;

“(b.4) prescribing the classes of foreign nationals in respect of which a selection interview must be held, determining the cases of total or partial exemption from this obligation and providing that the obligation may vary within the same class;”;

(2) by inserting, after paragraph *c.3*, the following paragraph:

“(c.4) determining the cases in which an undertaking to assist a foreign national in settling in Québec constitutes one of the conditions and one of the criteria of selection referred to in paragraph *b*;”;

(3) by replacing paragraph *d.1* by the following paragraph:

“(d.1) determining the cases in which the certificate of identity referred to in section 3.1.2 is issued, determining, according to the

status of the foreign national as established under the Immigration Act, the conditions which must be met by a foreign national applying for a certificate of identity and determining the types of certificates of identity;”;

(4) by replacing paragraphs *f* and *f.1* by the following paragraphs:

“(f) determining the procedure that must be followed in order to obtain a selection certificate under section 3.1, a certificate of identity under section 3.1.2 or a certificate of acceptance under section 3.2, or in order to subscribe an undertaking;

“(f.1) determining the conditions of validity of a selection certificate or a certificate of acceptance and their duration and providing that the duration of a certificate of acceptance may vary, in the case of a foreign national coming to Québec to study, according to whether he is a minor or of age or according to the program of study or the duration of his studies, in the case of a foreign national coming to Québec to work, according to the duration of his employment, his professional experience or the needs of the labour market in Québec in his profession or, in the case of a foreign national coming to Québec to receive medical treatment, according to the duration of the treatment;”;

(5) by inserting, after paragraph *f.1*, the following paragraph:

“(f.1.1) determining the duration of a certificate of identity and the cases in which it lapses and providing that the duration and cases in which it lapses may vary by reason, in particular, of the type of certificate of identity;”;

(6) by inserting, after paragraph *f.1.1*, the following paragraphs:

“(f.1.2) for the purposes of section 3.1.3, providing conditions affecting the granting of landing under the Immigration Act to a foreign national who applies for a selection certificate under section 3.1 so as to ensure, in particular, the protection of public health, the meeting of regional or sectorial needs for specialized labour, the regional or sectorial creation of enterprises or the financing of such enterprises, and the socio-economic integration of the foreign national, determining classes of foreign nationals according to which such conditions may vary and providing that such conditions may vary within the same class;

“(f.1.3) determining the classes of foreign nationals which may be exempted from one or several conditions prescribed under

paragraph *f.1.2* and providing that such exemptions may vary within the same class;

“(f.1.4) determining the duration of the conditions prescribed under section 3.1.3, determining the classes of foreign nationals according to which the duration may vary and providing that the duration may vary within the same class;

“(f.1.5) determining the cases in which the conditions prescribed under section 3.1.3 may be modified, lifted or cancelled;”;

(7) by replacing paragraph *f.2* by the following paragraph:

“(f.2) establishing the duties payable for processing an application for an undertaking, a certificate of identity, a selection certificate or a certificate of acceptance, for issuing a certificate of identity or other certificate or for subscribing an undertaking, and determining the cases of total or partial exemption from their payment; the duties may vary in the case of an undertaking according to the family situation of the foreign national, in the case of a certificate of identity according to the authorization granted the foreign national to be in Canada, in the case of a selection certificate according to the classes of foreign nationals or, in the case of a certificate of acceptance according to the reason for the temporary admission of the foreign national to Québec;”;

(8) by striking out the words “the form and tenor of an application,” in the third line of paragraph *h*;

(9) by striking out the words “the form and tenor of an application” in the third and fourth lines of paragraph *i*;

(10) by replacing the words “the application rate of interest and the form and tenor of a loan application” in the fourth and fifth lines of paragraph *j* by the words “and the applicable rate of interest”;

(11) by adding, at the end, the following paragraph:

“prescribed” “Unless the context indicates otherwise, “prescribed”, in the regulations, means prescribed by the Minister.”

c. M-23.1,
s. 3.4,
added

12. The said Act is amended by inserting, after section 3.3, the following section:

Regulations

“3.4 The Minister may, by regulation,

(a) establish the weighting of selection criteria and the passing score and, where expedient, the cutoff score determined in relation

to a selection criterion, applicable to the preliminary stage of selection established under paragraph *b.3* of section 3.3 and to the selection established under paragraph *b* of section 3.3, which weighting and which scores may vary according to the family situation of the foreign national, according to the classes of foreign nationals and within the same class of foreign nationals;

(*b*) determine that the regulation applies to applications that are being processed, or to applications filed after a particular date that are being processed, or to those that have not yet reached a particular stage on the date of coming into force of the regulation.

Regulations A regulation made under this section is not subject to the requirement to publish contained in section 8 of the Regulations Act (R.S.Q., chapter R-18.1) and, notwithstanding section 17 of that Act, comes into force on the date of its publication in the *Gazette officielle du Québec*, or at any later date fixed in the regulation."

c. M-23.1,
s. 6, am. **13.** Section 6 of the said Act is amended by replacing the word "and" in the fifth line of the second paragraph by the word "or".

c. M-23.1,
s. 12.1,
replaced **14.** Section 12.1 of the said Act, amended by section 6 of chapter 5 of the statutes of 1992, is replaced by the following section:

Inquiries **"12.1** The Minister or any person designated by him as an investigator or inspector may make inquiries in order to ensure that this Act and the regulations are being complied with and to prevent, detect or repress contraventions to this Act."

c. M-23.1,
ss. 12.1.1-
12.1.4,
added **15.** The said Act is amended by inserting, after section 12.1, the following sections:

Powers and
immunity **"12.1.1** In conducting an investigation, the Minister and investigators are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Information **"12.1.2** An inspector may, for the purposes of this Act and the regulations, require any information and any document and examine and make copies of such documents.

Immunity **"12.1.3** No inspector may be prosecuted for acts performed in good faith in the carrying out of his duties.

Identifica-
tion **"12.1.4** On request, an inspector or investigator shall identify himself and produce the certificate signed by the Minister and attesting his capacity."

c. M-23.1,
s. 12.3, am.

16. Section 12.3 of the said Act, amended by section 7 of chapter 5 of the statutes of 1992, is again amended by replacing the words “knowingly communicates false or misleading information to the Minister or investigator relating” in the first, second and third lines by the words “communicates information he knows or should have known to be false or misleading to the Minister or to an investigator or inspector in relation”.

c. M-23.1,
s. 12.4.1,
added

17. The said Act is amended by inserting, after section 12.4, the following section:

Offence and
penalty

“12.4.1 Every person who obstructs an inspector in the carrying out of his duties is guilty of an offence.”

c. M-23.1,
s. 12.5, am.

18. Section 12.5 of the said Act is amended by replacing the first paragraph by the following paragraph:

Offence and
penalty

“12.5 A natural person is liable to a fine of \$500 to \$1 000 in the case of an offence under section 12.3, to a fine of \$1 000 to \$10 000 in the case of an offence under section 12.4, and to a fine of \$250 to \$1 000 in the case of an offence under section 12.4.1.”

Coming into
force

19. This Act comes into force on 17 December 1993, except sections 2 to 6, 8 to 10, paragraphs 1, 2, 4, 6, and 8 to 10 of section 11 and section 12, which will come into force on the date or dates fixed by the Government.