

1983, chapter 55
PUBLIC SERVICE ACT

Bill 51

Introduced by Mrs Denise Le Blanc-Bantey, Minister of the Civil Service

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G.O., 1984, Part 2, p. 1088

Acts amended:

Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1)

Financial Administration Act (R.S.Q., chapter A-6)

Act respecting the National Assembly (R.S.Q., chapter A-23.1)

Labour Code (R.S.Q., chapter C-27)

Referendum Act (R.S.Q., chapter C-64.1)

Executive Power Act (R.S.Q., chapter E-18)

Act respecting the financing of political parties (R.S.Q., chapter F-2)

Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)

Government Departments Act (R.S.Q., chapter M-34)

Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)

Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11)

Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12)

Act replaced:

Civil Service Act (R.S.Q., chapter F-3.1)



CHAPTER 55

Public Service Act

[Assented to 22 December 1983]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND OBJECT OF THE ACT

DIVISION I

APPLICATION

- Application** **1.** This Act applies to persons appointed thereunder.
- Presumption** Persons admitted to the public service under a former Act are deemed to have been appointed under this Act.
- Public servant** Every person contemplated in this section is a public servant.

DIVISION II

OBJECT OF THE ACT

- Role of the public service** **2.** The role of the public service is to provide the public with the services of quality to which it is entitled, implement the policies formulated by constituted authority and ensure the attainment of the other objectives of the state.
- Object of the Act** **3.** The object of this Act is to enable the public service to fulfil its role. For that purpose, the Act establishes a mode of organization of human resources intended to promote

(1) efficient administration and optimum utilization and development of human resources,

(2) the exercise of the powers of human resources management at the least possible hierarchical remove from the persons concerned and the application of a system under which the public servant vested with such management powers is accountable for his acts, within the means put at his disposal,

(3) equal opportunity for employment in the public service for all citizens,

(4) impartiality and fairness in decisions affecting public servants, and

(5) optimum contribution of the various components of Québec society to the public service.

CHAPTER II

RIGHTS AND OBLIGATIONS OF PUBLIC SERVANTS

DIVISION I

CONDITIONS OF SERVICE

§ 1.—*Standards of ethics and discipline*

Duties and powers

4. A public servant has such primary and habitual duties and powers as are attached to his position.

Duties and powers

A public servant also has the powers and duties which may be assigned to him by any person duly authorized to define his duties and to supervise his work.

Ethics and discipline

A public servant shall exercise his powers and perform his duties in accordance with the standards of ethics and discipline prescribed in this Act or in the regulations under it.

Loyalty

5. Every public servant is bound *ex officio* to be loyal and to bear allegiance to constituted authority.

Impartiality

A public servant shall perform his duties in the public interest, to the best of his ability, with honesty and impartiality, and shall treat the public with consideration and diligence.

Confidentiality

6. Subject to the provisions relating to access to information and the protection of personal information, every public servant is bound

to confidentiality regarding any matter brought to his knowledge in the performance of his duties.

Conflict of
interest

7. In no case may a public servant have a direct or indirect interest in any undertaking that causes his personal interest to conflict with his duties of office.

Conflict of
interest

Where the interest devolves to him by succession or gift, he shall renounce or dispose of it with all possible dispatch.

Gifts

8. In no case may a public servant accept any sum of money or any other consideration for the performance of his duties over and above the amount allocated to him for that purpose under this Act.

Undue
benefit

9. In no case may a public servant, directly or indirectly,

(1) grant, solicit, or accept, as a public servant, any undue favour or benefit for himself or another person;

(2) use for his own benefit any state property or any information obtained by him as a public servant.

Political
neutrality

10. A public servant shall be politically neutral in performing his duties.

Political
opinion

11. A public servant shall act with reserve in any public display of his political opinions.

Membership
in political
party

12. Nothing in this Act prohibits a public servant from being a member of a political party, attending a political meeting or making, in accordance with the law, a contribution to a political party or a local association of a political party or to a candidate in an election.

§ 2.—Probation and permanent tenure

Probationary
period

13. Every person recruited as a public servant shall undergo a probationary period of not less than six months.

Probationary
period

The Conseil du trésor may determine the classes of positions for which a probationary period of over six months is required, and fix the length of such a period.

Permanent
tenure

14. A public servant obtains permanent tenure after being employed continuously in the public service for two years.

Continuous
employment

The Conseil du trésor shall define what constitutes the fact of being employed continuously in the public service, within the meaning of the first paragraph.

15. In the case of a promotion, the Conseil du trésor may determine the classes of positions for which a probationary period is required and fix the length of such a period.

§ 3.—*Disciplinary action*

16. A public servant who contravenes the standards of ethics and discipline is liable to disciplinary action, which may include dismissal, according to the nature and gravity of the fault.

17. The imposition of a disciplinary action on a public servant, in accordance with section 16 or for any other just and sufficient cause, is effected by the deputy minister or the chief executive officer to whom he is responsible.

§ 4.—*Administrative measures*

18. Any public servant who is incompetent in the performance of his duties or who is unable to perform them may be demoted or dismissed.

19. Every public servant undergoing a probationary period other than a probationary period required on promotion may be dismissed without other procedure or formality than fifteen days' prior notice in writing.

20. Every public servant who has not acquired permanent tenure may be dismissed for lack of work without other procedure or formality than fifteen days' prior notice in writing.

21. Without prejudice to any disciplinary action, if a public servant is absent from the service without permission, a deduction proportionate to the duration of his absence must be made from his remuneration.

22. A public servant may, in accordance with the requirements prescribed by regulation, be provisionnally relieved of his duties in order to enable the competent authority to make an appropriate decision in the case of an urgent situation requiring prompt intervention, or in a presumed case of serious fault, whether it be a breach of a standard of ethics or discipline or an indictable or penal offence.

23. The imposition of an administrative measure on a public servant is effected by the deputy minister or the chief executive officer to whom he is responsible.

DIVISION II

POLITICAL ACTIVITIES

24. A public servant wishing to be a candidate in a provincial election must apply for and is entitled to leave without pay from the date of the writ ordering the election.

Elective
public office

A public servant wishing to be a candidate for any other elective public office is entitled to leave without pay if he applies therefor. The deputy minister or the chief executive officer to whom he is responsible shall fix the date of the beginning and end of the leave. The duration of the leave must, however, allow the public servant to become a candidate in due time and to conduct his election campaign.

Position
resumed

A public servant who is granted leave without pay under this section is entitled to resume his position within 30 days of the date for the nomination of candidates if he is not nominated or, if he is a candidate, of the date on which another person is declared elected.

Official
agent of a
candidate

25. The provisions of section 24 apply, *mutatis mutandis*, to every public servant wishing to act as the official agent of a candidate in a provincial election.

Member of
the National
Assembly

26. A public servant elected in a provincial election ceases to be subject to this Act, except sections 29, 30 and 129 to 131. Throughout his tenure as a Member of the National Assembly, he retains his classification on the day he was elected.

Elected
public
official

27. A public servant elected to an elective public office other than to that of Member of the National Assembly, is entitled throughout his first term, to partial or full leave without pay, for the purpose of carrying on his duties of office.

Full leave
without pay

Where the public servant is granted full leave without pay, he ceases to be subject to this Act, except sections 29, 30 and 129 to 131. Throughout his tenure of the public office to which he was elected, he retains his classification on the day he was elected.

Member of
the office
staff of a
Minister

28. A public servant employed as a member of the office staff of a Minister or of any other person contemplated in the first paragraph of section 124.1 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) or as a member of the staff of a Member ceases to be subject to this Act, except sections 29, 30 and 129 to 131 and is governed by sections 11.5 and 11.6 of the Executive Power Act (R.S.Q., chapter E-18) or by sections 124.1 and 124.2 of the Act respecting the National Assembly, as the case may be.

Classification
maintained

While the public servant is employed on an office staff or as a member of the staff of a Member, he retains his classification at the time of his appointment to the staff.

Classification
in the public
service

29. A public servant contemplated in section 26, 27 or 28, during the period in which he holds on a full time basis the public office to which he was elected, or in which he carries on his duties on the office staff of a Minister or as a member of the staff of a Member, as the case may be, may apply to the Office des ressources humaines for an opinion on the classification that could be assigned to him in the public

service if he decided to exercise his right to return to the public service under section 30.

Basis of
classification

The opinion must take account of the classification of the public servant as provided under section 26, 27 or 28 and of the experience and formal training he has acquired since he left the public service.

Re-examina-
tion of
qualifications

30. A public servant is entitled to require the Office des ressources humaines to reexamine his qualifications and to place him by priority in a position commensurate with his qualifications,

(1) on ceasing to be a Member of the National Assembly;

(2) on ceasing to hold on a full time basis a public elective office other than that of Member of the National Assembly, in accordance with section 27;

(3) on ceasing to be employed on the office staff of a Minister or of a person contemplated in the first paragraph of section 124.1 of the Act respecting the National Assembly or as a member of the staff of a Member.

Written
requisition

The requisition must be made in writing and received not later than 60 days after the day the public servant ceases to hold an office contemplated in paragraph 1, 2 or 3 of the first paragraph.

Placing on
reserve

31. Where the Office des ressources humaines is unable to place a public servant contemplated in section 30, he is placed on reserve at the Office, and is under its responsibility until he is placed.

DIVISION III

PROTECTION

Defense by
Attorney
General

32. Where a public servant is sued by a third person for an act he has done or failed to do in the performance of his duties, the Attorney General shall take up his defense unless he is charged with a gross fault.

DIVISION IV

APPEAL

Appeal

33. Except where jurisdiction in the matters enumerated in this paragraph is assigned to another authority under a collective agreement, a public servant may appeal to the Commission de la fonction publique from a decision informing him of

(1) his classification following his appointment to a new or changed class of positions;

- (2) his demotion;
- (3) his dismissal;
- (4) disciplinary action;
- (5) his being provisionally relieved of his duties.

Appeal An appeal under this section must be made in writing and received by the Commission within 30 days of the date the contested decision was sent.

Exception This section, except subparagraph 1 of the first paragraph, does not apply to a public servant undergoing a probationary period under section 13.

Powers of the Commission **34.** The Commission de la fonction publique may uphold, amend or quash any decision appealed from under section 33.

Decision Where the Commission amends a decision under the first paragraph, it may substitute therefor any decision it considers just and reasonable, having regard to all the circumstances of the case.

Demotion Where the Commission upholds the demotion of a public servant or reduces a dismissal to a demotion, it may order that the appellant be demoted to a class of positions determined by the Office des ressources humaines, having regard to his qualifications.

Irregularity or illegality **35.** If a candidate considers that the procedure used in determining the eligibility of or evaluating candidates in a competition for promotion or a grade advancement examination was irregular or illegal, he may appeal to the Commission de la fonction publique by an application in writing, which must be received by the Commission within 30 days of the sending of a notice advising him that he is not eligible for the competition or the grade advancement examination, or informing him of the results of the competition or examination.

Frivolous application **36.** The Commission de la fonction publique may refuse to hear an appeal brought under section 35 relating to a competition for promotion where it considers the application frivolous or in bad faith.

CHAPTER III

MANAGEMENT OF HUMAN RESOURCES

DIVISION I

RESPONSIBILITIES OF DEPARTMENTS AND AGENCIES

Deputy minister **37.** A deputy minister is responsible, subject to the direction of his minister, for the management of the human resources of the department.

Chief executive officer **38.** The chief executive officer of an agency to which the staff is appointed under this Act is responsible for the management of the human resources of the agency.

Chief executive officer The chief executive officer is the person identified as such by law or, failing that, the person holding the highest authority in the agency.

Management policies **39.** Deputy ministers and chief executive officers shall manage the human resources under their authority in conformity with the general policies of the Government in that regard.

Management The management of human resources includes, in particular, the planning, organization, supervision, development and evaluation of such resources.

Delegation **40.** Deputy ministers and chief executive officers shall in exercising their responsibilities favour the delegation of responsibilities to their assistants and to the managerial staff.

Managerial staff Senior executives and managers form part of the managerial staff.

Delegation **41.** A deputy minister or a chief executive officer may, in writing and to the extent he indicates, delegate the exercise of the powers conferred on him under this Act to a public servant or the holder of a position.

Subdelegation He may, in the instrument of delegation, authorize the subdelegation of the powers he indicates, and in that case shall name the title of the holder of the position or the public servant to whom they may be subdelegated.

DIVISION II

STAFFING

§ 1.—*Recruitment and promotion*

Competitions **42.** Public servants are recruited and promoted by way of competition.

Upgrading of position Notwithstanding the first paragraph, a public servant whose position is upgraded may be promoted without a competition, according to the rules determined by the Office des ressources humaines by regulation, if he meets the conditions of eligibility to the class of positions so upgraded and if he is declared qualified by the Office.

Conditions of eligibility **43.** The Office des ressources humaines shall prescribe the conditions of eligibility for a competition held to fill a position or several positions.

Consistency
with
regulations

The conditions of eligibility must be consistent with the regulations under section 103 and with the minimum conditions of eligibility to the classes of positions or grades prescribed by the Conseil du trésor and allow the implementation of Government policies regarding, in particular,

(1) affirmative action programs intended, in particular, for women, members of cultural communities, handicapped persons or Native persons;

(2) recruitment, whether from educational institutions or from all or any category of the persons employed in the education or social affairs sector.

Additional
requirements

In addition, the conditions of eligibility for a competition, in particular, those relating to minimum conditions of eligibility to classes of positions or grades, may include additional requirements which take into account the nature and particularities of the position or positions for which the competition is held.

Invitation for
applications

44. The Office des ressources humaines shall invite applications for a competition. It may also invite applications in order to establish provincial, regional or local candidate inventories.

Invitations
for
applications

45. Invitations for applications must be made in such a manner that persons likely to meet the conditions of eligibility have a reasonable opportunity to apply.

Candidate
inventory

46. The conditions of entry on a candidate inventory are prescribed by the Office des ressources humaines according to the modalities prescribed in section 43.

Admission to
a competi-
tion

47. When the Office des ressources humaines holds a competition, it must admit the persons who have submitted their applications and meet the conditions of eligibility.

Reduction

Notwithstanding the first paragraph, where the Office considers that, in view of the large number of candidates, it would be unreasonable to evaluate all the candidates who meet the conditions of eligibility, it may reduce their number according to the norms it may determine by regulation. In no case may the norms have the effect of changing the conditions of eligibility to the competition.

Means of
reduction

The Office shall state when inviting applications what means it intends to use to reduce the number of applications.

Criteria of
evaluation

48. The evaluation of candidates eligible for a competition is based on the criteria of knowledge, experience or qualifications required for the position.

Evaluation
procedure

49. The Office des ressources humaines shall determine the evaluation procedure, which must be of such a nature as to allow impartial evaluation of the candidates.

Qualified
candidates

50. A competition leads to the preparation of a list of the candidates declared qualified, grouping them by levels in accordance with the regulations under section 103.

§ 2.—*Appointment and classification*

Appointment
by the
deputy
minister

51. A public servant comes into office, or changes position, by appointment by the deputy minister or the chief executive officer responsible for the position to be filled.

Change of
department

52. Where the appointment of a public servant involves a change of department or agency, the prior agreement of the deputy minister or chief executive officer to whom he is responsible is required. This requirement does not apply in the case of a promotion.

Appointment

53. Following a competition, the appointment of a public servant is made by selecting a person from among the persons of the same level according to the ranking order of the levels.

Selection

Persons at a given level are selected before those at a lower level.

Reasons for
selection

Where the level from which a person is appointed following a competition includes a candidate contemplated by the application of an affirmative action program and that candidate is not selected, the deputy minister or the chief executive officer shall forward to the Conseil du trésor the reasons for which he has not selected that candidate.

Assignment
of
classification

54. When a public servant comes into office or changes class of positions or grade, the deputy minister or the chief executive officer shall assign a classification to him in accordance with the regulation under section 126.

Assignment
of
classification

When placing a public servant in a new or changed class of positions, the deputy minister or the chief executive officer shall assign a classification to him in accordance with the conditions and modalities fixed by the Conseil du trésor under section 78.

DIVISION III

ADMINISTRATORS OF STATE

Administra-
tor of state

55. A public servant acquires the classification of administrator of state on his appointment to any of the following positions:

(1) Secretary-General and Associate Secretary-General of the Conseil exécutif;

(2) Secretary, Deputy Secretary or Associate Secretary of the Conseil du trésor;

(3) deputy minister or assistant or associate deputy minister;

(4) chairman or vice-chairman of the Office des ressources humaines.

Appointment **56.** The Government appoints an administrator of state to a position on a motion of the Prime Minister. The Government determines the classification of a public servant within the group of administrators of state.

Contract **57.** Where the Government engages a person by contract to hold any office listed in section 55, the person does not have the classification of administrator of state and is not a public servant, but Chapter VII applies to him as if he were a public servant.

Replacement **58.** In the case of the temporary absence or inability to act of a person holding any office listed in section 55, the minister or the deputy minister may designate a person to replace him during the interim.

Classification **59.** The Government, on the recommendation of the Prime Minister, may assign a classification in another group of positions to an administrator of state.

Appeal prohibited No appeal lies to the Commission de la fonction publique from a decision made under this section.

Classification and remuneration **60.** The Government shall determine the classification and fix the remuneration, social benefits and other conditions of employment of the administrators of state.

Disciplinary action **61.** Disciplinary action is imposed on an administrator of state by the minister or deputy minister, as the case may be, to whom he is responsible.

Dismissal **62.** The Government, on the recommendation of the Prime Minister, may dismiss an administrator of state for just and sufficient cause.

Provisions applicable **63.** The provisions of the other chapters, except sections 13 to 15, 17 to 20, 23 to 27, 42 to 54, 79 and 127, apply to the administrators of state, to the extent that they are consistent with this chapter.

CHAPTER IV

COLLECTIVE BARGAINING

DIVISION I

GENERAL PROVISIONS

Union
representa-
tive

64. The Syndicat des fonctionnaires provinciaux du Québec is recognized as the representative of all public servants who are employees within the meaning of the Labour Code (R.S.Q., chapter C-27), except

(1) employees who are teachers;

(2) employees who are members of the professional corporations of advocates, notaries, physicians, dentists, pharmacists, optometrists, veterinary surgeons, agronomists, architects, engineers, land-surveyors, forest engineers, chemists or chartered accountants, and persons admitted to the study of these professions;

(3) employees who are university graduates, economists, geographers, geologists, biologists, town-planners, accountants, auditors, psychologists, social workers, guidance counsellors and other professionals;

(4) employees who are peace officers belonging to any of the following groups:

(a) wildlife conservation officers;

(b) fisheries officers;

(c) Youth Court constables;

(d) security officers;

(e) transportation officers;

(f) instructors, guards and nursing attendants in houses of detention;

(g) any other group performing duties of a peace officer.

Certification

65. Section 64 has the same effect as a certification granted by a labour commissioner under the Labour Code for two separate employee groups, namely:

(1) public servants other than workmen;

(2) workmen.

Labour
disputes

The Labour Court established by the Labour Code decides all disputes respecting the effective exclusion or inclusion of a public servant or a class of public servants from or in either of such groups, and has the power to cancel the certification and grant another upon the conditions prescribed by the Labour Code.

Powers of
the
Government

66. The Government may grant certification to any association of employees to represent each of the groups contemplated in paragraphs 1, 3 and 4 of section 64 and the members of each of the professions contemplated in paragraph 2 of the same section together with the persons admitted to the study of such profession.

Joint
committee

Certification under this section is granted only upon the recommendation of a joint committee constituted for such purpose by the Government, one-half of the members of which are representatives of the group concerned.

Certification

Certification under this section has the same effect as certification granted by a labour commissioner under the Labour Code.

Labour
disputes

The Labour Court decides all disputes respecting the effective exclusion or inclusion of a public servant from or in any of the groups referred to in the first paragraph and may cancel the certification and grant another upon the conditions prescribed by the Labour Code.

Certification

67. With the consent of the majority of the employees who are members or admitted to the study of a profession contemplated in paragraph 2 of section 64, certification may be granted to an association representing more than one of such groups and, with the consent of the absolute majority of the group contemplated in paragraph 3 of the same section, certification may be granted to such an association for such group together with the others which it represents.

Certification

With the consent of the majority of the employees who are members of a group contemplated in paragraph 4 of section 64, certification may be granted to an association to represent more than one of such groups.

Applications

Notwithstanding the time limit provided in section 111.3 of the Labour Code, certification to represent more than one group, in accordance with the second paragraph, may be applied for to the Labour Court within 15 days of the decision of the Court rendered pursuant to section 66.

Right of
affiliation

68. Every association of employees contemplated in this Act has the right to affiliate, but an association of employees contemplated in paragraph 4 of section 64 shall only affiliate with an association exclusively grouping employees performing duties of a peace officer, except the members of the Sûreté du Québec.

Strike
prohibited

69. All employee groups contemplated in paragraph 4 of section 64 are forbidden to strike.

Essential
services

All other groups are forbidden to strike unless the essential services and the manner of maintaining them are determined by prior agreement between the parties or by decision of the Labour Court.

Collective
agreement
applicable to
public
servants

70. Public servants are governed by the provisions of the collective agreement applicable to them, or if there are no such provisions in the collective agreement, by the provisions of this Act. However, no provision of a collective agreement may limit the powers of the Commission de la fonction publique or the powers of the Office des ressources humaines relating to the holding of recruitment or advancement competitions or certificates of qualification, or examinations for grade advancement of public servants or their certificates of qualification. Moreover, no clause of any collective agreement may limit the powers of a deputy minister, a chief executive officer, the Government or the Conseil du trésor with regard to any of the following matters:

(1) the appointment of candidates to the public service or the promotion of public servants;

(2) the classification of positions, including the definition of conditions of eligibility and the determination of the level of positions relating to the classification;

(3) the granting of permanent tenure and the determination of the duration of the probationary period for recruitment or on promotion;

(4) the establishment of standards of ethics and discipline in the public service;

(5) the establishment of organization plans and staffing procedures.

Decree

A decree adopted under the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20) or under another Act, or a document in lieu thereof or a collective agreement made with a view to such a decree does not apply to the conditions of employment of public servants.

DIVISION II

SPECIAL PROVISIONS APPLICABLE TO PERSONS PERFORMING DUTIES OF A PEACE OFFICER

§ 1.—*Bargaining method*

Joint parity
committee

71. A joint parity committee is instituted for each certified association representing one or more groups of employees contemplated in paragraph 4 of section 64.

Composition Each committee shall consist of a chairman, who shall not have the right to vote, appointed by the Government after consultation with the association concerned, and eight other members of whom four shall be appointed by the Conseil du trésor and four by each certified association.

Duties of the committee **72.** The committee shall initiate and carry on negotiations in which its members shall take part as representatives of the Conseil du trésor or of the certified association with a view to the making or the renewal of a collective agreement.

Duties of the committee The committee shall perform any other duty the parties may agree to entrust to it.

Meetings **73.** The committee shall meet at the request of the chairman who shall convene it whenever requested by the Conseil du trésor or by the certified association.

Recommendations **74.** When it deems it expedient, the committee shall submit to the Government its recommendations concerning the making or the renewal of a collective agreement.

§ 2.—*Collective agreement*

Collective agreement **75.** On being approved by the Government, the recommendations of the committee submitted pursuant to section 74 have the effect of a collective agreement signed by the parties.

§ 3.—*Method for the settlement of disputes*

Settlement of disputes **76.** The committee shall negotiate a method for the settlement of disputes.

CHAPTER V

INSTITUTIONAL STRUCTURE OF THE PUBLIC SERVICE

DIVISION I

CONSEIL DU TRÉSOR

Duties of the Conseil, du Trésor **77.** The Conseil du trésor is responsible, on behalf of the Government, for establishing general policies on the management of human resources in the public service and assessing implementation of the policies.

Staffing of departments **78.** The Conseil du trésor shall determine the maximum number of employees required for the administration of each department or

agency and the classification of positions or of the holders of positions in the public service. The classification of positions includes the minimum conditions of eligibility for the classes of positions or grades.

Staffing modes The Conseil du trésor shall define the staffing modes which may be used to fill positions.

Placement and assignment The Conseil du trésor shall determine the conditions and modalities for the placing of public servants in a new class of positions and conditions and modalities for the identification, placing on reserve and assignment of public servants having permanent tenure who are surplus to the requirements of a department or agency.

Conditions of employment **79.** The Conseil du trésor shall fix the remuneration, social benefits and the other conditions of employment of public servants.

Remuneration No remuneration may be paid to public servants over and above the regular salary attached to their duties except in accordance with a decision of the Conseil du trésor.

Increased expenditures Where this section will result in an increase in expenditures, the conditions of employment fixed become operative only when the Parliament has voted the necessary appropriations.

Employment opportunity **80.** The Conseil du trésor is responsible for setting up affirmative action programs to remedy the situation of persons belonging to groups discriminated against in employment.

Report to the National Assembly The Government shall, once a year, make a report to the National Assembly on the extent to which the affirmative action programs have been implemented by the departments and agencies the employees of which are appointed and remunerated in accordance with this Act.

Implementation of the policies and programs **81.** The Conseil du trésor may, at any time, verify or mandate a person or an organization to verify the implementation of its policies and programs.

Negotiation of collective agreements **82.** The Conseil du trésor shall negotiate collective agreements with the certified associations of employees of the public service.

Signature The Conseil du trésor shall sign the collective agreements and supervise and coordinate their administration.

Exemptions **83.** For reasons of urgency or of public interest, or for practical reasons, the Conseil du trésor may, after consulting the Commission de la fonction publique, exempt any position or class of positions, owing to its special nature, from any provisions of this Act it may indicate.

Exception In no case may the Conseil du trésor exempt a position or class of positions from the application of sections 64 to 76.

Tabling of report	84. Where the Conseil du trésor exempts a position or class of positions from the provisions of this Act in accordance with section 83, it shall table a report within thirty days before the National Assembly if it is sitting, or before the President of the National Assembly if it is not sitting.
Content	The report shall contain the opinion of the Commission de la fonction publique and indicate the positions or classes of positions so exempted and the reasons for the measures.
Conditions of employment	85. The Conseil du trésor shall determine the remuneration, social benefits and other conditions of employment of persons whose position or class of positions is exempt from the provisions of this Act and the manner in which a position or class of positions so exempted is governed.
Agreements	86. The Conseil du trésor may, according to law, enter into an agreement with any government or organization in order to facilitate the carrying out of its functions under this Act.

DIVISION II

OFFICE DES RESSOURCES HUMAINES

§ 1.—*Organization of the Office*

Establishment	87. An Office des ressources humaines is hereby established.
Chairman	88. The Government shall appoint a chairman to the Office, who shall be the Chief Executive Officer of the Office, for a term of not over five years. He shall perform the duties assigned to the Office under this Act and be responsible for the administration of the Office.
Continuance in office	The chairman shall remain in office at the expiry of his term until he is reappointed or replaced.
Vice-chairmen	89. The Government shall appoint a maximum of three vice-chairmen for a term of not over five years.
Continuance in office	Every vice-chairman shall hold his office under the authority of the chairman; he shall remain in office at the expiry of his term until he is reappointed or replaced.
Full-time duties	90. The chairman and the vice-chairmen shall hold office on a full-time basis.
Replacement	91. Where the chairman is temporarily absent or unable to act or the office of chairman is vacant, the Minister responsible shall designate one of the vice-chairmen to act in place of the chairman in the interim.

Staff of the Office **92.** The staff of the Office is appointed and remunerated in accordance with this Act.

Documents **93.** Any document signed by the chairman or by a person authorized by him binds the Office.

Facsimile **94.** The Office may allow, in its internal management regulation, under the conditions and to the documents it may determine, that any required signature be affixed by means of an automatic device or that a facsimile of any signature be engraved, lithographed or printed on the documents. The facsimile has the same force as the signature itself only if the document is countersigned by the chairman or a person authorized by him.

Authenticity **95.** Any document emanating from the Office or its staff as well as any copy of the document is authentic if the document is signed or if the copy is certified by the chairman or person authorized by him.

Agreements **96.** The Office, with the approval of the Government and according to law, may enter with any government or organization into any agreement in order to facilitate the carrying out of its functions under this Act.

Report of activities **97.** Not later than 31 July each year, the Office shall make a report of its activities for the preceding fiscal year to the Minister responsible for the administration of this division.

Content The report shall contain all the information that the Minister responsible may prescribe.

Tabling The report of activities shall be tabled before the National Assembly within thirty days of its receipt if the Assembly is in session or, if it is not sitting, within thirty days after the opening of the next session or resumption.

Audit **98.** The books and accounts of the Office shall be audited each year by the Auditor General, and, in addition, as often as may be ordered by the Government.

Auditor General's report The reports of the Auditor General must accompany the annual report of the Office.

§ 2.—*Functions and powers of the Office*

Functions **99.** The Office shall

(1) hold competitions for the recruitment and promotion of candidates and certify their qualifications;

(2) prescribe conditions of eligibility for a competition or of establishment of a candidate inventory;

(3) invite applications in order to establish a candidate inventory;

(4) reduce the number of eligible candidates for a competition;

(5) assess and certify the qualifications of candidates for promotion without a competition;

(6) hold grade advancement examinations for public servants and certify their qualifications;

(7) give its opinion on the classification it deems most consistent with a person's qualifications, after examining the qualifications, in accordance with the law;

(8) propose measures to the Government, the Conseil du trésor, a department or an agency to improve staffing and the management and development of human resources within the public service, and as means of affirmative action for employment;

(9) advise any department or agency, the Conseil du trésor or the Government on management and administrative organization, particularly to improve the quality of service to the public and the efficiency of the organization and staff of the departments and agencies;

(10) make researches, studies and inquiries in the field of human resources management, coordinate them with those made by the departments or agencies, and see that the results are circulated;

(11) at the request of any department or agency, the Conseil du trésor or the Government, see to the implementation of policies or programs of human resources management;

(12) institute and maintain, in collaboration with the departments and agencies, and in accordance with policies established by the Conseil du trésor, a career planning and development system for the managerial staff;

(13) develop and maintain an integrated data system for the management of human resources.

Placement
on reserve

100. The Office shall place and, where applicable, retrain permanent public servants who have been placed on reserve or who exercise their right to reappointment according to law or to an agreement with the Government.

New
classification

101. Where the Office is unable to place a public servant having permanent tenure, who has been placed on reserve, in a position

consistent with his classification, the Office may assign a new classification to him in conformity with the conditions and modalities prescribed by the Conseil du trésor or provided in a collective agreement, after examining his qualifications.

Reduction of salary In no case may the new classification entail a decrease in the regular salary to which the public servant was entitled before being assigned that classification.

Delegation of powers **102.** The Office may, in writing and to the extent it may indicate,

(1) delegate the exercise of its functions to a member of its staff;

(2) delegate to a deputy minister or chief executive officer the exercise of its functions under this Act, except the functions assigned to it under sections 30 and 31, paragraphs 5, 6 and 7 of section 99 and sections 100, 101 and 103.

Instrument of delegation The instrument of delegation may authorize the deputy minister or the chief executive officer to subdelegate the functions it indicates, and, where it does so, must identify the titles of the holders of the positions or the public servants to whom they may be subdelegated.

Revocation The Office may verify or mandate a person or an organization to verify the carrying out of the delegation or subdelegation, or revoke the delegation at any time.

Regulations **103.** The Office shall, by regulation, determine

(1) the procedure for holding competitions for recruitment and promotion;

(2) geographical areas and criteria by which a person belongs to an area for eligibility to a competition or a candidate inventory for such an area;

(3) the administrative body to which a public servant must belong in order to be eligible for a competition;

(4) the norms for reducing the number of eligible candidates for a competition;

(5) the norms relating to the grouping into levels of candidates declared qualified in a competition and to the lists of certifications of qualifications;

(6) the procedure for the holding of grade advancement examinations;

(7) conditions, cases and categories of cases where the upgrading of the position of a public servant may allow him to be promoted without a competition;

(8) its internal management regulations.

Publication **104.** The Office shall publish every draft regulation in the *Gazette officielle du Québec* with a notice that it may be adopted with or without amendment at the expiry of 30 days from that publication.

Coming into force Regulations of the Office are subject to approval by the Government and come into force fifteen days after publication in the *Gazette officielle du Québec* or on any later date fixed therein.

DIVISION III

COMMISSION DE LA FONCTION PUBLIQUE

§ 1.—*Organization of the Commission*

Establishment **105.** A Commission de la fonction publique is hereby established.

Composition **106.** The Commission consists of not fewer than three nor over five members, including a chairman, who is its chief executive officer.

Appointment On the motion of the Prime Minister, the National Assembly shall appoint the members by a resolution approved by not less than two-thirds of its members.

Conditions of employment The Assembly shall, in the same manner, fix the remuneration, social benefits and other conditions of employment of the members of the Commission.

Full-time duties Members of the Commission shall perform their duties on a full-time basis.

Term **107.** The term of office of any member of the Commission is not over five years.

Continuance in office At the expiry of his term, a member remains in office until he is reappointed or replaced.

Resignation **108.** A member of the Commission may resign at any time by giving notice thereof in writing to the President of the National Assembly.

Dismissal He shall not be dismissed except by a resolution of the Assembly, approved by not less than two-thirds of its members.

Replacement **109.** Where the chairman of the Commission is temporarily absent or unable to act or where the office of chairman is vacant, the President of the National Assembly may, with the consent of the Prime Minister and of the Leader of the Official Opposition in the Assembly, appoint one of the other members of the Commission to act in place of the chairman in the interim.

Secretary and staff **110.** The secretary and the other members of the staff of the Commission are appointed and remunerated in accordance with this Act.

Conflict of interest **111.** No member of the Commission may, under pain of forfeiture of office, have a direct or indirect interest in any undertaking that puts his personal interest in conflict with that of the Commission.

Exception Forfeiture is not incurred if the interest devolves to a member by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

Minutes **112.** The minutes of a sitting, approved by the Commission and signed by the chairman or the secretary, are authentic. The same rule applies to a document or a copy emanating from the Commission or forming part of its records, if it is certified by the chairman or the secretary.

Immunity **113.** Neither the Commission nor any of its members may be sued for any official act performed in good faith in the exercise of their functions.

Immunity **114.** Except on a matter of competence, no extraordinary recourse contemplated in articles 834 to 850 of the Code of Civil Procedure may be exercised nor any injunction granted against the Commission or against any of its members acting in his official capacity.

Annulment of injunction Two judges of the Court of Appeal, upon motion, may summarily annul any writ, order or injunction issued or granted contrary to the first paragraph.

§ 2.—*Functions and powers of the Commission*

Functions **115.** In addition to hearing the appeals brought by public servants under this Act, the Commission shall

(1) ascertain the impartiality and fairness of the decisions made under this Act, which affect public servants;

(2) ascertain whether the system of recruitment and promotion of public servants is in compliance with the Act and the regulations thereunder.

Recommendations

For the purposes of the carrying out of the first paragraph, the Commission shall make any inquiry it deems necessary, formulate recommendations to the appropriate authorities or, where it deems it useful, make a report to the National Assembly.

Regulations

116. The Commission shall, by regulation,

(1) determine the number of members required to hear and decide appeals;

(2) determine the rules of proof and procedure;

(3) provide for its internal management.

Publication

The Commission shall publish every draft regulation in the *Gazette officielle du Québec*, with a notice that it may be adopted with or without amendment at the expiry of 30 days from that publication.

Coming into force

Regulations of the Commission come into force fifteen days after publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Powers and immunity

117. The Commission, its members and any person entrusted by it with making an inquiry have 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.

Recusation

118. A member of the Commission may be recused; articles 234 to 242 of the Code of Civil Procedure apply to the recusation, *mutatis mutandis*.

Powers

119. The Commission has all the necessary powers to exercise its jurisdiction; it may, in particular, make any order it considers proper to safeguard the rights of the parties, and decide any question of fact or of law.

Extensions

120. The Commission may extend any time limit fixed by law where it considers that a public servant was unable to act sooner or to appoint a person to act in his place within the prescribed time limit.

Substitute commissioners

121. The Commission may, where justified by workload, appoint substitute commissioners for a term of not over one year to hear any appeal brought before the Commission under section 33.

Remuneration

The Office of the National Assembly shall fix the fees, allowances or salaries of the substitute commissioners.

Provisions applicable

Sections 111, 113, 114 and 117 to 119 apply to substitute commissioners.

Selection of substitute commissioner **122.** Every substitute commissioner appointed by the Commission de la fonction publique is chosen from a list drawn up annually, on the recommendation of the Prime Minister, by a resolution of the National Assembly approved by not less than two-thirds of its members.

Written decision **123.** A decision of the Commission must be rendered in writing and be substantiated. It forms part of the records of the Commission.

Review or revocation The Commission may, for cause, review or revoke any decision it has rendered.

Report of activities **124.** Not later than 31 July each year, the Commission shall submit a report of its activities for the preceding fiscal year to the President of the National Assembly. The report shall be tabled before the National Assembly if it is in session or, if it is not sitting, it shall be tabled within 30 days after the opening of the next session or resumption.

Audit **125.** The books and accounts of the Commission shall be audited each year by the Auditor General and, in addition, as often as may be ordered by the Government.

Auditor General's reports The reports of the Auditor General must accompany the annual report of the Commission.

CHAPTER VI

REGULATIONS

Regulations **126.** The Government may, by regulation, on the advice of the Conseil du trésor,

(1) specify the standards of ethics and discipline prescribed in this Act and add to them;

(2) define disciplinary action applicable to public servants and determine the conditions under which it may be taken;

(3) determine on what conditions and according to what modalities a public servant may be provisionally relieved of his duties and the cases where the relief is with or without remuneration;

(4) fix the norms of classification of public servants;

(5) amend, replace or repeal a regulation made by the Minister of the Civil Service pursuant to the Civil Service Act (R.S.Q., chapter F-3.1).

Public servants not governed by collective agreement **127.** The Government, by regulation, shall make provision for an appeal in the matters it determines, for public servants who are not

governed by a collective agreement and for whom no appeal is provided in those matters under this Act.

Procedure The regulation shall also prescribe the rules of procedure to be followed.

Appeals committee An appeals committee consisting of at least one and not more than three members appointed by the Government shall hear and decide any appeal. Sections 117 to 120 and the second paragraph of section 123 apply, *mutatis mutandis*, to the committee and its members.

Publication **128.** The Government shall publish the text of every draft regulation in the *Gazette officielle du Québec* with a notice that it may be adopted with or without amendment on the expiry of thirty days from that publication.

Coming into force Regulations of the Government come into force fifteen days after publication in the *Gazette officielle du Québec* or on any later date fixed therein.

CHAPTER VII

SANCTIONS

Fraudulent act **129.** Every person who commits a fraudulent act, or incites a person to commit a fraudulent act, at a recruitment or promotion competition, a grade advancement examination or the establishment of a candidate inventory is guilty of an offence and liable, in addition to costs, to a fine of \$500 to \$2 000.

Sanctions Every person who is found guilty or confesses his guilt regarding such an offence ceases to be eligible for any competition or examination for a period of two years; if the person is a public servant, he is also liable to disciplinary action.

Intimidation **130.** Every person who uses intimidation or threats to induce a public servant to engage in partisan work or to punish him for refusing to do so is guilty of an offence and liable, in addition to costs, to a fine of \$500 to \$5 000.

Penal proceedings **131.** Penal proceedings taken under this chapter are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

c. A-2.1, s. 34, am. **132.** Section 34 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q.,

chapter A-2.1) is amended by replacing the second paragraph by the following paragraph:

Documents from the office of the President of the Assembly “The same applies to a document from the office of the President of the Assembly or of a member thereof contemplated in section 124.1 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1), and to a document from the office of a member of a municipal or school body.”

c. A-6, s. 20, replaced **133.** Section 20 of the Financial Administration Act (R.S.Q., chapter A-6) is replaced by the following section:

Secretaries and officers **“20.** The secretary, deputy secretaries, associate secretaries and other officers of the Conseil du trésor shall be appointed and remunerated in accordance with the Public Service Act (1983, chapter 55).

Powers of the secretary The secretary shall exercise as regards the public servants of the Conseil such powers as the said Act confers upon a deputy minister.

Functions and duties The Conseil du trésor shall define the functions and duties of the secretary, deputy secretaries and associate secretaries and those of its public servants.”

c. A-6, s. 22, am. **134.** Section 22 of the said Act is amended by replacing the first two paragraphs by the following paragraphs:

Approval of organization plan **“22.** The Conseil du trésor exercises the powers of the Government in all matters respecting the approval of organization plans for government agencies other than those whose staff is appointed and remunerated under the Public Service Act (1983, chapter 55), the conditions of employment of the staff of the agencies and the staff required for the management of such agencies.

General administrative policy The Conseil du trésor also exercises the powers conferred on the Government regarding the preparation and application of the general administrative policy to be followed in the public service and in the agencies contemplated in the first paragraph.”

c. A-6, ss. 46.1, 46.2, added **135.** The said Act is amended by inserting, after section 46, the following sections:

Appropriations **“46.1** The remuneration and expenses attached to the social benefits and other conditions of employment of public servants are paid out of the appropriations voted annually for that purpose by the Parliament or, where such is the case, in accordance with the constituting Act of an agency.

Transfer of appropriations **“46.2** Where the staff of an administrative unit or any part thereof is transferred from one department or agency to another, the Conseil

du trésor may order that the appropriations voted for the staff be transferred to the department or agency taking charge of the staff.”

c. A-23.1,
Div. III.1,
ss. 124.1,
124.2, added

136. The Act respecting the National Assembly (R.S.Q., chapter A-23.1) is amended by inserting, after section 124, the following division:

“DIVISION III.1

“OFFICE STAFF AND MEMBER'S STAFF

Executive
secretaries

“124.1 The Leader of the Official Opposition, a Member to whom paragraph 6 of section 7 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) applies, the President and the Vice-Presidents of the National Assembly, the Government House Leader, the Official Opposition House Leader and the House Leader of a party contemplated in paragraph 6 of section 7 of the said Act, and the Chief Government Whip and the Chief Official Opposition Whip in the National Assembly, may appoint their respective executive secretaries and the other persons required for the orderly administration of their respective offices.

Members'
staff

Members other than those contemplated in the first paragraph or in sections 11.5 and 11.6 of the Executive Power Act (R.S.Q., chapter E-18) may appoint such persons as are required to assist them in carrying out their duties.

Recruitment
and
remuneration

“124.2 The standards and scales according to which the executive secretary and the other members of the office staff are recruited, appointed and remunerated, as well as their other conditions of employment, are fixed by regulation of the Office of the National Assembly.

Member's
staff

This section applies to the members of the staff of a Member.”

c. A-23.1, s.
127, am.

137. Section 127 of the said Act is amended

(1) by replacing the word and figures “108 and 116” in paragraph 1 by the following: “108, 116 and 124.1”;

(2) by striking out paragraph 7.

c. C-27, s. 1,
am.

138. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by replacing subparagraph 3 of paragraph 1 by the following subparagraph:

“(3) a public servant of the Government whose position is of a confidential nature in the opinion of the Labour Court or under the terms of an agreement binding the Government and the associations certified in accordance with Chapter IV of the Public Service Act (1983, chapter 55) which are parties to a collective agreement that otherwise

would apply to the public servant; such is the position of a conciliation officer of the Ministère du Travail, a certification agent or labour commissioner contemplated by this Act, public servant of the Conseil exécutif, of the Conseil du trésor, of the Auditor General, of the Commission de la fonction publique, of the Office des ressources humaines, of the office staff of a minister or of a deputy minister, or a public servant who, in a department or agency of the Government, is a member of the personnel service or of a personnel management division;”.

c. C-64.1, s. 33, am. **139.** Section 33 of the Referendum Act (R.S.Q., chapter C-64.1) is amended by replacing the last paragraph by the following paragraph:

Services rendered by public servants “Subject to section 10 of the Public Service Act (1983, chapter 55), nothing in this section relates to the services rendered by a public servant attached to the public service.”

c. E-18, s. 4, am. **140.** Section 4 of the Executive Power Act (R.S.Q., chapter E-18) is amended by repealing subparagraph 21 of the first paragraph.

c. E-18, s. 10, replaced **141.** Section 10 of the said Act is replaced by the following section:

Secretary-General “**10.** The Secretary-General and the Associate Secretaries-General of the Conseil exécutif are appointed and remunerated in accordance with the Public Service Act (1983, chapter 55).

Functions The Secretary-General shall assist the Conseil in the performance of its duties; he shall have, with regard to the public servants of the Conseil, the powers assigned by the said Act to a deputy minister.

Delegation The Secretary-General may, in writing, on the conditions, to the extent and for the time he specifies, delegate or subdelegate all or part of the responsibilities vested in him under this section.

Rank and privileges The Government may confer on every Associate Secretary-General of the Conseil exécutif the rank and privileges of deputy minister, which shall not be cause for the conferee to cease to discharge his duties under the authority of the Secretary-General of the Conseil exécutif.”

c. E-18, s. 10.1, added **142.** The said Act is amended by inserting, after section 10, the following section:

Executive Secretary to the Prime Minister “**10.1** The Executive Secretary to the Prime Minister has the same rank and privileges as those of a deputy minister. This section does not grant him the classification of administrator of state within the meaning of the Public Service Act (1983, chapter 55).”

c. E-18, Div. II.2, ss. 11.5, 11.6, added **143.** The said Act is amended by inserting, after section 11.4, the following division:

“DIVISION II.2

“OFFICE STAFF OF MINISTERS

Executive
secretary

“11.5 Every minister may appoint an executive secretary and any other person required for the orderly administration of his office.

Recruitment
and
remuneration

“11.6 The standards and scales according to which an executive secretary and the other members of an office staff are recruited, appointed and remunerated, as well as their other conditions of employment, are determined by the Conseil du trésor.”

c. F-2, s.
105, am.

144. Section 105 of the Act to govern the financing of political parties (R.S.Q., chapter F-2) is amended by replacing subsection 6 by the following subsection:

Services rendered by
public
servants

“(6) Subject to section 10 of the Public Service Act (1983, chapter 55), nothing in this section relates to the services rendered by a public servant attached to the public service.”

c. M-31, s.
5, replaced

145. Section 5 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following section:

Appointment
and
remuneration

“5. The other public servants and employees necessary for the proper administration of the department shall be appointed and remunerated in accordance with the Public Service Act (1983, chapter 55).

Objection by
the Deputy
Minister

However, notwithstanding any inconsistent provision of any Act, regulation, by-law or any collective agreement within the meaning of the Labour Code (R.S.Q., chapter C-27) or an arbitration award in lieu thereof, the Deputy Minister may object to the filling of a position in his department by a person who, during the preceding five years, has been convicted of or has pleaded guilty to an offence under a fiscal law of Canada, the Criminal Code, the Narcotic Control Act or the Food and Drugs Act (Statutes of Canada), to the extent that the offence is incompatible with the position to be filled, unless the person has been pardoned.

Substantiated
decision

The Deputy Minister shall transmit his substantiated decision to the person concerned and to the Office des ressources humaines if a competition has been held.

Appeal

Except where the position to be filled is of a casual nature, the person concerned, if he believes himself wronged by the decision of the Deputy Minister, may appeal therefrom to the Commission de la fonction publique by application, which must be received by the Commission within 30 days of the sending of the decision. The Commission shall hear the appeal and decide it unless a collective

agreement or an arbitration award in lieu thereof has given jurisdiction over such matter to another person in accordance with section 70 of the Public Service Act.”

c. M-34, s. 1, am. **146.** Section 1 of the Government Departments Act (R.S.Q., chapter M-34) is amended by repealing paragraph 20.

c. R-10, s. 2, am. **147.** Section 2 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), replaced by section 1 of chapter 24 of the statutes of 1983, is amended by replacing paragraph 2 by the following paragraph:

“(2) to an administrator of state within the meaning of the Public Service Act (1983, chapter 55) or the chief executive officer of an agency who becomes an employee or full time member of a university institution or of an organization designated by the Government if he applies to continue his participation in the plan and if the Government makes an order to that effect;”.

c. R-10, s. 4, am. **148.** Section 4 of the said Act, replaced by section 1 of chapter 24 of the statutes of 1983, is amended by replacing paragraph 9 by the following paragraph:

“(9) is an administrator of state within the meaning of the Public Service Act or is a member of an agency to whom the plan would otherwise apply, if the person applies therefor and if the Government makes an order to that effect;”.

c. R-11, s. 9, replaced **149.** Section 9 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11), replaced by section 2 of chapter 24 of the statutes of chapter 37 of the statutes of 1983, is again amended

Teacher who joins minister's staff **“9.** A teacher who becomes the executive secretary or a member of the staff of a minister in accordance with section 11.5 of the Executive Power Act (R.S.Q., chapter E-18) or the executive secretary or a member of the office staff of a person contemplated in section 124.1 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) continues to participate in this plan if his contributions have not been reimbursed to him and if fewer than 180 days have elapsed between the date on which he ceased to be a teacher and that on which he becomes the executive secretary or a member of an office staff.”

c. R-12, s. 55, am. **150.** Section 55 of the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by section 113 of chapter 23 and section 192 of chapter 37 of the statutes of 1983 is again amended

(1) by replacing what precedes paragraph 3 by the following:

Public servants **“55.** For the purposes of this division, the following are considered to be public servants:

(1) persons appointed and remunerated under the Public Service Act (1983, chapter 55);

(2) the Secretary General of the National Assembly, the Executive Secretary to the Prime Minister, the Executive Secretary to the Lieutenant-Governor and the Auditor General;”;

(2) by replacing paragraph 15 by the following paragraph:

“(15) the executive secretary or a member of the office staff of a Minister appointed in accordance with section 11.5 of the Executive Power Act (R.S.Q., chapter E-18) and the executive secretary or a member of the office staff of a person contemplated in section 124.1 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1);”.

c. R-12, s.
63.6,
replaced

151. Section 63.6 of the said Act, enacted by section 28 of chapter 24 of the statutes of 1983, is replaced by the following section:

Additional
10 years of
service

“**63.6** In computing the pension, 10 years are added to the number of years of service of an officer who leaves the service and who held, during one or more periods totalling at least 5 years,

(1) an office contemplated by paragraph 4, 5 or 6 of section 55 or that was contemplated by one of these paragraphs when he held it;

(2) office as a special adviser to the Ministère du Conseil exécutif if the deed of appointment indicates that he is entitled to such 10 years;

(3) the office of Secretary-General of the Conseil exécutif, Secretary-General of the National Assembly, Executive Secretary to the Prime Minister, Executive Secretary to the Lieutenant-Governor, deputy minister of a department, associate deputy minister of the Ministère de l'Éducation, Secretary to the Conseil du trésor, Auditor General or Deputy Secretary General of the Conseil Exécutif, who according to his deed of appointment has the rank and privileges of a deputy minister, or a position that was contemplated by this paragraph when he held it.”

c. R-12, s.
99.1, am.

152. Section 99.1 of the said Act is amended by replacing the words “A person contemplated in paragraph *a* of section 72 of the Civil Service Act (chapter F-3.1)” in the first two lines by the words “An administrator of state within the meaning of the Public Service Act”.

c. F-3.1, pro-
visions
replaced

153. The provisions of the Civil Service Act (R.S.Q., chapter F-3.1) are replaced by the corresponding provisions of this Act to the extent indicated by the proclamations made under section 174.

Effect

Every other provision of the said Act ceases to have effect on the date fixed by proclamation of the Government.

Pending
matters

154. Matters pending before the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1) are continued in all respects in accordance with this Act by the Commission de la fonction publique established by this Act.

Party to
proceedings

The Commission de la fonction publique established by this Act becomes a party to any proceeding to which the former Commission was a party on (*insert here the date preceding the day of the coming into force of this section*), without continuance of suit.

Appeals

155. Appeals before the appeals committee under section 10 of the Civil Service Act (R.S.Q., chapter F-3.1) are continued in all respects in accordance with the said Act.

Regulations
in force

156. Regulations made by the Minister of the Civil Service under the Civil Service Act (R.S.Q., chapter F-3.1) remain in force until they are amended, replaced or repealed by regulation of the Government in accordance with paragraph 5 of section 126 of this Act.

Regulations
in force

157. Regulations made by the Office du recrutement et de la sélection du personnel de la fonction publique remain in force, until they are amended, replaced or repealed by regulation of the Office des ressources humaines.

Regulations
in force

158. Regulations made by the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1) remain in force until they are amended, replaced or repealed by regulation of the Commission de la fonction publique established by this Act.

Validity of
lists

159. The lists of certificates of qualifications now in force remain valid and are to be used in the application of this Act, as the Office des ressources humaines may determine.

Private
secretaries

160. Private secretaries and their assistants appointed under section 65 of the Civil Service Act (1965, 1st session, chapter 14) and in office on (*insert here the date of coming into force of this section*) continue to be governed by the legislative and regulatory provisions applicable to them until they cease to perform their duties as such.

Interpreta-
tion

161. Any reference in any Act, proclamation or commission, order in council, order or other document to the Civil Service Act (R.S.Q., chapter F-3.1) or to a provision of that Act is deemed a reference to this Act or the corresponding provision of this Act unless the context requires otherwise; and, in particular, any reference to section 87 or 97 of the Civil Service Act (R.S.Q., chapter F-3.1) is deemed a reference to section 33 of this Act.

Interpreta-
tion

In addition, any reference to the Minister of the Civil Service or to the Ministère de la Fonction publique, the Office du recrutement

et de la sélection du personnel de la fonction publique or the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1) is deemed a reference to the Government, the Conseil du trésor, the Office des ressources humaines or the Commission de la fonction publique established by this Act, according to their respective jurisdictions.

Public
servants

162. Public servants of the Ministère de la Fonction publique, of the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1) and of the Office du recrutement et de la sélection du personnel de la fonction publique in office on (*insert here the date preceding the day of the coming into force of this Act*), become, without other formality, public servants of the Conseil du trésor, of the Commission de la fonction publique established by this Act or of the Office des ressources humaines, as the Government may determine.

Records and
documents

163. The records and documents of the Ministère de la Fonction publique, the Office du recrutement et de la sélection du personnel de la fonction publique and the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1) become records and documents of the Conseil du trésor, the Office des ressources humaines or the Commission de la fonction publique established by this Act, respectively, as determined by the Government.

Permanent
tenure

164. The Government shall award permanent tenure to a casual public servant who meets all the following conditions:

(1) he holds a position the activities of which form part of the regular activities of his department or agency;

(2) he has worked on specific projects for a period of a least five years from 1 July 1977 to 30 December 1983 inclusive of both;

(3) he has been named by the Gouvernement du Québec and the Syndicat des professionnelles et professionnels du Gouvernement du Québec;

(4) his qualifications have been certified by the Office des ressources humaines.

Applicabil-
ity

This Act applies, where such is the case, without other formality, to the public servant, provided that he is still working for the same department or agency on 15 November 1983.

“workmen”
unit

165. Persons employed in the public service on (*insert here the date of coming into force of this Act*) and who have acquired permanent tenure under the collective agreement signed on 24 October 1972 between the Gouvernement du Québec and the Syndicat des

fonctionnaires provinciaux du Québec Inc., “workmen” unit, become permanent public servants within the meaning of this Act, without any other procedure or formality.

Administra-
tor of state

166. The holder of a position listed in section 55 on the day preceding the date of sanction of this Act becomes an administrator of state, except where he is engaged by contract.

Administra-
tor of state

A person who formerly held a position contemplated in section 55 or who is a Deputy Secretary at the Conseil exécutif on the day preceding sanction of this Act may become an administrator of state, as the Government may determine.

Members of
the Commis-
sion de la
fonction
publique

167. The members of the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1) in office on (*insert here the date of coming into force of this section*) remain in office for the unexpired portion of their term.

Applicability

168. Sections 43 and 80 apply notwithstanding the Charter of human rights and freedoms (R.S.Q., chapter C-12).

Effect

This section ceases to have effect on (*insert here the date of coming into force of sections 86.1 to 86.7 enacted by section 21 of chapter 61 of the statutes of 1982*).

Transfer of
appropria-
tions

169. The moneys appropriated for the purposes of the Commission de la fonction publique established by the Civil Service Act (R.S.Q., chapter F-3.1), the Office du recrutement et de la sélection du personnel de la fonction publique and the Ministère de la Fonction publique are transferred to the Commission de la fonction publique established by this Act, to the Office des ressources humaines or to the Conseil du trésor, as the Government may determine.

Sums
required

170. The moneys required for the application of this Act are taken, for the fiscal year 1984-85, out of the consolidated revenue fund to the extent determined by the Government, and for subsequent fiscal years, out of the appropriations granted each year for that purpose by Parliament.

Minister
responsible

171. The Government shall designate the Ministers responsible for the administration of this Act.

Report of
the Conseil
du trésor

172. The Conseil du trésor shall, not later than 22 December 1988, make a report to the Government on the implementation of this Act and the expediency of maintaining it in force and, as the case may be, of amending it.

Tabling The report shall be tabled before the National Assembly within the next fifteen days if the Assembly is sitting or, if it is not sitting, before the President of the National Assembly.

Parliamentary committee Within one year of the tabling of the report, the President shall convene a parliamentary committee to examine the expediency of maintaining this Act in force or, as the case may be, of amending it, and to hear representations on the matter from interested persons and agencies.

Exception **173.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Coming into force **174.** This Act comes into force on the date to be fixed by proclamation of the Government, except provisions excluded by the proclamation, which will come into force on any later dates fixed by proclamation of the Government.

Proclamation A proclamation must indicate which provisions of the Civil Service Act (R.S.Q., chapter F-3.1) are replaced by the sections of this Act brought into force by the proclamation.

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