



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 86

An Act to amend the Charter of the French language

Introduction

**Introduced by
Mr Claude Ryan
Minister responsible for the administration of
the Charter of the French language**

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EXPLANATORY NOTES

This bill amends the Charter of the French language in order to bring some of its provisions concerning the language of the legislature and the courts, the language of commerce and business and the language of instruction into harmony with the decisions rendered by various authorities. It also proposes solutions to certain difficulties concerning the application of the Charter.

The bill also proposes to combine the functions of the Commission de protection de la langue française with those of the Office de la langue française. In addition, it restructures the chapter concerning francization of firms and reallocates the regulatory powers provided in the Charter.

Finally, it introduces other changes of a more technical nature and for concordance.

ACTS AMENDED BY THIS BILL:

- Charter of the French language (R.S.Q., chapter C-11);
- Education Act (R.S.Q., chapter I-13.3);
- Interpretation Act (R.S.Q., chapter I-16).

Bill 86

An Act to amend the Charter of the French language

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHARTER OF THE FRENCH LANGUAGE

1. Sections 7 to 13 of the Charter of the French language (R.S.Q., chapter C-11) are replaced by the following sections:

“7. French is the language of the legislature and the courts in Québec, subject to the following:

(1) legislative bills shall be printed, published, passed and assented to in French and in English, and the statutes shall be printed and published in both languages;

(2) the regulations and other similar acts to which section 133 of the Constitution Act, 1867 applies shall be passed, printed and published in French and in English;

(3) the French and English versions of the texts referred to in paragraphs 1 and 2 are equally authoritative;

(4) either French or English may be used by any person in, or in any pleading in or process issuing from, any court of Québec.

“8. Where an English version exists of a regulation or other similar act to which section 133 of the Constitution Act, 1867 does not apply, the French text shall prevail in case of discrepancy.

“9. Every judgment rendered by a court of justice and every decision rendered by a body discharging quasi-judicial functions shall, at the request of the parties, be translated into French or English, as the case may be, by the civil administration bound to bear the cost of operating such court or body.”

2. Section 16 of the said Charter is amended by striking out the word “only” in the first line.

3. Section 20 of the said Charter is amended by replacing the words and figure “paragraph *f* of section 113” in the second line of the third paragraph by the words and figure “the first paragraph of section 29.1”.

4. Section 22 of the said Charter is amended

(1) by replacing the words “public health or safety” in the second line by the words “health or public safety”;

(2) by adding, at the end, the following paragraphs:

“In the case of traffic signs, the French inscription may be complemented or replaced by symbols or pictographs, and another language may be used where no symbol or pictograph exists that satisfies the requirements of health or public safety.

The Government may, however, determine by regulation the cases, conditions or circumstances in which the civil administration may use French and another language in signs and posters.”

5. Section 23 of the said Charter is amended by replacing the words and figure “paragraph *f* of section 113” in the second line of the first paragraph by the words and figure “the first paragraph of section 29.1”.

6. Section 24 of the said Charter is amended by replacing the words and figure “paragraph *f* of section 113” in the second and third lines by the words and figure “the first paragraph of section 29.1”.

7. Section 26 of the said Charter is amended by replacing the words and figure “paragraph *f* of section 113” in the second line of the first paragraph by the words and figure “the first paragraph of section 29.1”.

8. Section 28 of the said Charter is amended by replacing the words and figure “paragraph *f* of section 113” in the second line by the words and figure “the first paragraph of section 29.1”.

9. Section 29 of the said Charter is repealed.

10. The said Charter is amended by inserting, after section 29, the following section:

“29.1 The Office shall, for the purposes of the provisions of the third paragraph of section 20 and sections 23, 24, 26 and 28, recognize, at their request, the municipal or school bodies within the meaning of the Schedule, or the health and social services institutions referred to in the Schedule, that provide services to persons who, in the majority, speak a language other than French. It shall also recognize, for the purposes of those provisions and at the request of a school body, the departments of such a body that have charge of organizing or giving instruction in a language other than French.

The Government may, at the request of a body or institution that no longer satisfies the condition which enabled it to obtain recognition under the first paragraph, withdraw such recognition if it considers it appropriate in the circumstances and after having consulted the Office. Such a request shall be made to the Office, which shall transmit it to the Government with a copy of the record. The Government shall inform the Office and the body or institution of its decision.”

11. Section 35 of the said Charter is amended

(1) by replacing the words “defined as equivalent by regulation of the Office” in the second and third lines of the third paragraph by the words “hold a certificate defined as equivalent by regulation of the Government”;

(2) by replacing the word “Office” in the first line of the fourth paragraph by the word “Government”;

(3) by inserting the words “by the Office” after the word “certificates” in the second line of the fourth paragraph.

12. Section 38 of the said Charter is amended

(1) by striking out the words “, only twice,” in the first and second lines;

(2) by replacing the words “Office de la langue française” in the fifth line by the word “Government”.

13. Section 42 of the said Charter is amended by replacing the words “required under section 136, 146 or 151 to have a francization certificate, establish a francization committee or apply a francization programme” in the second, third and fourth lines by the words “required to establish a francization committee, have an attestation of implementation of a francization programme or hold a francization certificate”.

14. Section 44 of the said Charter is repealed.

15. Section 53 of the said Charter is amended by replacing the words “Office de la langue française” in the first line by the word “Government”.

16. Section 54 of the said Charter is amended by replacing the words “Office de la langue française” in the first and second lines by the word “Government”.

17. Sections 58 to 58.2 of the said Charter are replaced by the following section:

“58. Public signs and posters and commercial advertising must be in French.

They may also be both in French and in another language provided that French is markedly predominant.

However, the Government may determine, by regulation, the cases, conditions or circumstances where public signs and posters and commercial advertising must be in French only, where French need not be predominant or where such signs, posters and advertising may be in another language only.”

18. Section 59 of the said Charter is amended by replacing the words and figures “Sections 58 to 58.2 do” in the first line by the words and figure “Section 58 does”.

19. Sections 61 and 62 of the said Charter are repealed.

20. Section 67 of the said Charter is amended by replacing the words “Office de la langue française” in the fifth line by the word “Government”.

21. Section 68 of the said Charter is replaced by the following section:

“68. A firm name may be accompanied with a version in a language other than French provided that, when it is used, the French version of the firm name appears at least as prominently.

However, in public signs and posters and commercial advertising, the use of a version of a firm name in a language other than French is permitted to the extent that the other language is used in such signs and posters or in such advertising pursuant to section 58 and the regulations enacted under that section.

In addition, in texts or documents drafted only in a language other than French, a firm name may appear in the other language only.”

22. Section 72 of the said Charter, amended by section 138 of chapter 68 of the statutes of 1992, is again amended by adding, at the end, the following paragraph:

“Nothing in this section shall preclude instruction in a language other than French to foster the learning thereof, in accordance with the formalities and on the conditions prescribed in the basic school regulations established by the Government under section 447 of the Education Act (R.S.Q., chapter I-13.3).”

23. Section 73 of the said Charter is replaced by the following section:

73. The following children, at the request of one of their parents, may receive instruction in English:

(1) a child whose father or mother is a Canadian citizen and received elementary instruction in English in Canada, provided that that instruction constitutes the major part of the elementary instruction he or she received in Canada;

(2) a child whose father or mother is a Canadian citizen and who has received or is receiving elementary or secondary instruction in English in Canada, and the brothers and sisters of that child, provided that that instruction constitutes the major part of the instruction received by the child in Canada;

(3) a child whose father and mother are not Canadian citizens, but whose father or mother received elementary instruction in English in Québec, provided that that instruction constitutes the major part of the elementary instruction he or she received in Québec;

(4) a child who, in his last year in school in Québec before 26 August 1977, was receiving instruction in English in a public kindergarten class or in an elementary or secondary school, and the brothers and sisters of that child;

(5) a child whose father or mother was residing in Québec on 26 August 1977 and had received elementary instruction in English outside Québec, provided that that instruction constitutes the major part of the elementary instruction he or she received outside Québec.”

24. Section 74 of the said Charter is replaced by the following section:

74. The parent who may make the requests provided for in this chapter must be the holder of parental authority. However, the person who has *de facto* custody of the child and who is not the holder of parental authority may also make such a request provided the holder of parental authority does not object.”

25. Section 75 of the said Charter is amended by adding, at the end, the words and figures “under any of sections 73, 81, 85 and 86.1”.

26. Section 76 of the said Charter is amended

(1) by striking out the word “elementary” in the third line of the first paragraph;

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

“Such persons may also declare a child eligible to receive instruction in English where his father or mother attended school after 26 August 1977 and would have been eligible to receive such instruction under any of paragraphs 1 to 5 of section 73, even if he or she did not receive such instruction. However, where the father or mother attended school before 17 April 1982, his or her eligibility shall be determined in accordance with section 73 as it read before that date, by adding, at the end of paragraphs *a* and *b* of that section, the words “provided that that instruction constitutes the major part of the elementary instruction he or she received in Québec”.”

27. The said Charter is amended by inserting, after section 76, the following section:

76.1 The persons declared eligible to receive instruction in English under any of sections 73, 76, 81, 85.1 and 86.1 are deemed to have received or be receiving instruction in English for the purposes of section 73.”

28. Section 79 of the said Charter is amended by replacing the word and figure “section 73” in the fourth line of the third paragraph by the words “this chapter”.

29. Section 80 of the said Charter is amended by inserting the words and figure “or section 86.1” after the figure “73” in the second line.

30. Section 81 of the said Charter is amended by replacing the first paragraph by the following paragraph:

“81. Children having serious learning disabilities may, at the request of one of their parents, receive instruction in English. The brothers and sisters of children thus exempted from the application of the first paragraph of section 72 may also be exempted.”

31. Section 82 of the said Charter is amended by replacing the first paragraph by the following paragraph:

“82. An appeal lies from every decision rendered by the persons designated by the Minister of Education under section 75.”

32. Section 85 of the said Charter is replaced by the following section:

“85. Children staying in Québec temporarily may, at the request of one of their parents, receive instruction in English.

The Government shall prescribe, by regulation, the cases, conditions or circumstances in which such children may be exempted from the application of the first paragraph of section 72, the period for which an exemption may be granted and the procedure to be followed in order to obtain or renew such an exemption.”

33. Section 86 of the said Charter is amended by striking out the last paragraph.

34. Section 86.1 of the said Charter is amended

(1) by replacing the word “The” in the first line of the first paragraph by the words “In addition to the cases provided for in section 73, the”;

(2) by replacing the words “the father and mother” in the first and second lines of the first paragraph by the words “one of the parents”;

(3) by striking out the second paragraph;

(4) by replacing the word and figures “75 to 83” in the third paragraph by the word and figures “76 to 79”.

35. Section 90 of the said Charter is amended by replacing the figure “10” in the first line by the figure “7”.

36. Section 93 of the said Charter is amended by replacing the words “specifying the scope of the terms and expressions used in the act” in the third and fourth lines by the words “defining the terms and expressions used in the act or defining their scope”.

37. Section 94 of the said Charter is repealed.

38. Section 97 of the said Charter is amended by adding, at the end of the second paragraph, the words “, a settlement in which a native community lives or on Category I and Category I-N lands within the meaning of the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1)”.

39. Section 100 of the said Charter is amended by adding, at the end, the following paragraph:

“The Office shall also examine matters relating to cases of non-compliance with this act and the regulations thereunder.”

40. Section 112 of the said Charter is amended by inserting the words “and persons designated under section 118.1” after the word “Office” in the first line.

41. Section 113 of the said Charter is amended by striking out paragraphs *c*, *d* and *f*.

42. Section 114 of the said Charter is amended

(1) by striking out paragraph *a*;

(2) by inserting the words “subject to approval by the Government” after the word “by-law” in the first line of paragraph *d*.

43. The said Charter is amended by inserting, after section 118, the following sections:

118.1 The Office shall designate persons responsible for verifying compliance with this act and the regulations thereunder.

118.2 The Office may, on its own initiative or upon the application of a person or a group of persons, carry out a verification.

Such application shall be in writing and shall set out the grounds and the identity of the applicant or applicants. Where the Office refuses to carry out the verification applied for, it shall inform the applicants and give the reasons for its decision.

118.3 The inspector may, for the purposes of this act and the regulations thereunder, require any relevant information or document, examine such documents and make copies thereof.

“118.4 No person may hinder an inspector in the performance of his duties.

Where so requested, the inspector shall identify himself and produce the certificate signed by the president of the Office attesting his capacity.

“118.5 Except in the case of a contravention of section 78.1 or section 118.4, where, following a verification, the Office considers that this act or a regulation thereunder has been contravened, it shall give the alleged offender formal notice to comply therewith within the time specified.

Where the contravention continues after the expiry of the time specified pursuant to the first paragraph or is a contravention of section 78.1 or section 118.4, the Office shall transmit the record to the Attorney General for his consideration and, if necessary, institution by him of appropriate penal proceedings.”

44. Section 124 of the said Charter is amended

(1) by replacing the word “establish” in the first line by the words “propose to the Government”;

(2) by adding the following paragraph:

“The Government shall establish, by regulation, the criteria for the choice of place names, the rules of spelling to be followed in matters relating to toponymy and the method to be followed in choosing and obtaining approval for place names.”

45. Section 125 of the said Charter is amended by replacing the word “establish” in the first line of paragraph *a* by the words “propose to the Government”.

46. Section 126 of the said Charter is amended

(1) by striking out subparagraph *b* of the first paragraph;

(2) by striking out the last paragraph.

47. Sections 135 to 150 of the said Charter are replaced by the following sections:

“135. This chapter applies to all firms, including public utility firms.

“136. Firms employing one hundred or more persons must form a francization committee composed of six or more persons.

The francization committee shall analyse the language situation in the firm and make a report to the management of the firm for transmission to the Office. Where necessary, the committee shall devise a francization programme for the firm and supervise its implementation. Where a francization certificate is issued to the firm, the committee shall ensure that the use of French remains generalized at all levels of the firm according to the terms of section 141.

The francization committee may establish subcommittees to assist it in the carrying out of its tasks.

The francization committee shall meet not less than once every six months.

“137. At least one-third of the members of the francization committee and of every subcommittee shall be representatives of the workers of the firm.

Such representatives shall be designated by the association of employees representing the majority of the workers or, where several associations of employees together represent the majority of the workers, such associations shall designate the representatives by agreement. In the absence of an agreement, or in all other cases, such representatives shall be elected by the whole body of the workers of the firm in the manner and on the conditions determined by the management of the firm.

The workers' representatives are designated for a period of not more than two years. However, their term as representatives may be renewed.

“138. The firm shall provide the Office with a list of the members of the francization committee and every subcommittee, and any changes to such list.

“139. A firm which employs fifty persons or more for a period of six months must register with the Office within six months of the end of that period. For that purpose, the firm shall inform the Office of the number of persons it employs and provide it with general information on its legal status and its functional structure and on the nature of its activities.

The Office shall issue a certificate of registration to the firm.

Within twelve months of the date on which the certificate of registration is issued, the firm shall transmit an analysis of its linguistic situation to the Office.

“140. If the Office considers, after examining the analysis of the firm’s linguistic situation, that the use of French is generalized at all levels of the firm according to the terms of section 141, it shall issue a francization certificate.

If, however, the Office considers that the use of French is not generalized at all levels of the firm, it shall notify the firm that it must adopt a francization programme. The programme shall be submitted to the Office for approval within twelve months of the date on which the notice is received.

“141. The francization programme is intended to generalize the use of French at all levels of the firm through

(1) the knowledge of the official language on the part of management, the members of the professional corporations and the other members of the personnel;

(2) an increase at all levels of the firm, including the board of directors, in the number of persons having a good knowledge of the French language so as to generalize its use;

(3) the use of French as the language of work and as the language of internal communication;

(4) the use of French in the working documents of the firm, especially in manuals and catalogues;

(5) the use of French in communications with the civil administration, clients, suppliers, the public and shareholders except, in the latter case, if the firm is a closed company within the meaning of the Securities Act (R.S.Q., chapter V-1.1);

(6) the use of French terminology;

(7) the use of French in public signs and posters and commercial advertising;

(8) appropriate policies for hiring, promotion and transfer;

(9) the use of French in information technologies.

“142. A francization programme must take account of

(1) the situation of persons who are near retirement or of persons who have long records of service with the firm;

(2) the relations of the firm with the exterior;

(3) the particular case of head offices and research centres established in Québec by firms whose activities extend outside Québec;

(4) in firms producing cultural goods having a language content, the particular situation of production units whose work is directly related to such language content.

“143. After having approved the francization programme of a firm, the Office shall issue an attestation of implementation in respect of the programme.

The firm must comply with the elements and stages of its programme and keep its personnel informed of the implementation thereof.

In addition, the firm must submit reports on the implementation of its programme to the Office, every twenty-four months in the case of a firm employing fewer than one hundred persons and every twelve months in the case of a firm employing one hundred or more persons.

“144. The implementation of francization programmes in head offices and in research centres may be the subject of special agreements with the Office to allow the use of a language other than French as the language of operation.

The Government shall determine, by regulation, in what cases, on what conditions and according to what terms a head office or research centre may be a party to such an agreement. The regulation may prescribe matters which must be dealt with under certain provisions of such an agreement.

While such an agreement remains in force, the head office or research centre is deemed to be complying with the provisions of this chapter.

“145. Where a firm has completed the implementation of its francization programme and the Office considers that the use of French is generalized at all levels of the firm according to the terms of section 141, the Office shall issue a francization certificate.

“146. Every firm holding a francization certificate issued by the Office is required to ensure that the use of French remains generalized at all levels according to the terms of section 141.

The firm shall submit to the Office, every three years, a report on the progression of the use of French in the firm.

“147. The Office may refuse, suspend or cancel the attestation of implementation of a francization programme or the francization certificate of a firm which is not or is no longer complying with its obligations under this act or the regulations thereunder.

Before making a decision, the Office may hear the views of any interested person on the situation of the firm concerned.

“148. The Government shall determine, by regulation, the procedure relating to the issue, suspension or cancellation of an attestation of implementation of a francization programme or a francization certificate. Such procedure may vary according to the classes of firms established by the Government.

The Government shall also determine, by regulation, the procedure by which an interested person makes his views known under the second paragraph of section 147.”

48. Section 151 of the said Charter is amended by replacing the second paragraph by the following paragraphs:

“Where such a firm requires a period of time to comply with certain provisions of this act or of a regulation thereunder, it may request the assistance of the Office and enter into a special agreement with the latter. Within the scope of such an agreement, the Office may, for the period it determines, exempt the firm from the application of any provision of this act or of a regulation thereunder.

The Office shall, every year, make a report to the Minister of the measures taken by the firms and the exemptions granted.”

49. Section 152 of the said Charter is repealed.

50. Section 153 of the said Charter is amended by replacing the second paragraph by the following paragraph:

“The Office shall notify the Minister of any exemption thus granted.”

51. Sections 154 to 156 of the said Charter are replaced by the following section:

154. The general information, the analysis of the linguistic situation and the reports provided for in this chapter must be submitted on the forms and questionnaires furnished by the Office.”

52. Title III of the said Charter, comprised of sections 157 to 184, is repealed.

53. Section 188 of the said Charter is amended by striking out paragraph *d*.

54. Section 189 of the said Charter is amended

(1) by inserting, before paragraph *a*, the following paragraph:

“(0.*a*) advise the Minister on the draft regulations of the Government;”;

(2) by striking out the words “with the approval of the Minister,” in the first line of paragraph *b*.

55. Section 205 of the said Charter, amended by section 18 of chapter 33 of the statutes of 1991, is again amended by replacing the words “other than section 136 or of a regulation made under this Act by the Government or by the Office de la langue française is guilty of an offence and” in the first, second, third and fourth lines by the words “or the regulations adopted by the Government thereunder commits an offence and is”.

56. Section 206 of the said Charter, amended by section 19 of chapter 33 of the statutes of 1991, is repealed.

57. Section 212 of the said Charter is amended by striking out the words “, that of the Commission de protection” in the third line.

58. The Schedule to the said Charter, amended by section 119 of chapter 21 of the statutes of 1992, is again amended by striking out the words “the Bureau d’assainissement des eaux du Québec métropolitain” in subparagraph *a* of paragraph 3 of Division A.

EDUCATION ACT

59. Section 447 of the Education Act (R.S.Q., chapter I-13.3), amended by section 14 of chapter 23 of the statutes of 1992, is again amended by inserting, after subparagraph 3 of the third paragraph, the following subparagraph:

“(3.1) prescribe the formalities and conditions governing instruction in a language other than the language of instruction in order to foster the learning thereof;”.

INTERPRETATION ACT

60. Section 40.1 of the Interpretation Act (R.S.Q., chapter I-16) is repealed.

TRANSITIONAL AND FINAL PROVISIONS

61. The records of inquiry of the Commission de protection de la langue française in progress on (*insert here the date of the coming into force of this section*) shall become the verification records of the Office de la langue française.

62. The Office shall forward to the Government, for decision, every record concerning the withdrawal from a body or institution of the recognition granted under paragraph *f* of section 113 of the Charter of the French language, repealed by section 41 of this Act, which is pending on (*insert here the date of the coming into force of this section*). Before rendering a decision, the Government shall ensure that the conditions prescribed by section 29.1 of the said Charter, enacted by section 10 of this Act, are fulfilled.

63. The regulations of the Office de la langue française in force on (*insert here the date of the coming into force of this section*) are deemed to be regulations of the Government adopted under the Charter of the French language to the extent that they remain operative under the said Charter, as amended by this Act.

64. The title of the “Regulation facilitating the implementation of the second paragraph of Section 58.1 of the Charter of the French language” is replaced by the title “Regulation defining the scope of the expression “markedly predominant” for the purposes of Chapter VII of Title I of the Charter of the French language”, until the regulation is amended, replaced or repealed by the Government.

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