

NATIONAL ASSEMBLY

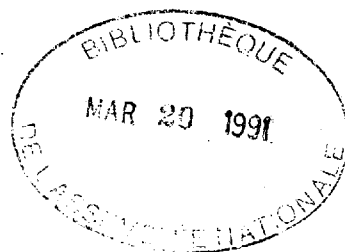
FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 123

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

Introduction



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

**Québec Official Publisher
1991**

EXPLANATORY NOTES

The object of this bill is to amend the Act respecting the Ministère des Communautés culturelles et de l'Immigration in order to grant the Minister greater powers, particularly with respect to selection certificates, certificates of acceptance, and undertakings.

The bill requires the Minister to establish and maintain an integration program to favour introduction into Québec life for persons who settle in Québec. In addition, it allows the Minister to grant financial assistance to persons receiving linguistic integration services and to grant loans to foreign nationals who find themselves in particularly distressful situations.

Furthermore, the bill establishes a Bureau de révision en immigration, whose function is to review certain decisions of the Minister regarding selection certificates, certificates of acceptance, or undertakings.

Lastly, the bill contains various administrative, penal and transitional provisions designed to facilitate the implementation of the new provisions and their smooth integration into the existing Act.

Bill 123

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Ministère des Communautés culturelles et de l'Immigration (R.S.Q., chapter M-23.1) is amended by inserting, after section 3.1, the following section:

“3.1.1 Where determined by regulation, an application for a selection certificate must be supported by an undertaking to assist the foreign national in settling in Québec.

The application for an undertaking shall be filed by a person or group of persons determined by regulation according to the conditions prescribed thereby. If, in the opinion of the Minister, the person or group of persons meets the conditions prescribed by regulation, the undertaking shall be subscribed to according to the terms determined by regulation.”

2. The said Act is amended by inserting after section 3.2, the following sections:

“3.2.1 Where the Minister so requires, any person must, under penalty of refusal of the application for a certificate or for an undertaking, demonstrate to the Minister the truthfulness of the declarations made by the person respecting the application and submit to him, in the manner and time determined by him, any document which the Minister deems to be pertinent.

“3.2.2 The Minister may cancel a selection certificate, a certificate of acceptance or an undertaking

(a) where the certificate was delivered or the undertaking accepted on the basis of false or misleading information or documents;

(b) where the certificate was delivered or the undertaking accepted by error;

(c) where the conditions required for the issue of the certificate or the acceptance of the undertaking cease to exist.

The decision of the Minister shall take effect immediately. It must give reasons and be submitted in writing to the person concerned.

“3.2.3 The Minister shall establish and maintain, for those persons who settle in Québec, an integration program for the purpose of favouring their introduction to Québec life.

“3.2.4 The Minister, under the integration program, shall provide and take charge of the implementation of linguistic integration services consisting of services of French language instruction and introduction to Québec life.

“3.2.5 Foreign nationals domiciled in Québec who are unable to demonstrate, according to the evaluation procedure prescribed by regulation, a knowledge of French adequate to assuring their harmonious integration with the francophone majority of Québec society and who meet the other conditions established by regulation are admissible for linguistic integration services.

The maintaining and extension of the services are conditional upon compliance by the student receiving them with the conditions prescribed by regulation.

“3.2.6 The Minister may, according to the conditions prescribed by regulation, allocate financial assistance determined by regulation to a student receiving linguistic integration services.

“3.2.7 The Minister may, according to the conditions prescribed by regulation, grant a loan to a foreign national in a particularly distressful situation with a view to enabling him to discharge the cost or a part of the cost of his immigration to Québec or to assisting him to discharge the costs of becoming established in Québec.

“3.2.8 The Minister may defer a loan repayment or reduce the obligations of repayment where the borrower shows that he is unable to repay his loan according to the terms and conditions prescribed by regulation.

Where it has been impossible to recover a debt resulting from a loan even though the appropriate recovery measures have been applied to it, the Minister may grant a release from the debt."

3. Section 3.3 of the said Act is amended

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

"(c) determining the cases where an application for a selection certificate must be supported by an undertaking to assist the foreign national in settling in Québec;

"(c.1) determining the persons or groups of persons who may file an application for an undertaking and the conditions of the filing;

"(c.2) determining the conditions which must be met by the person or group of persons who subscribe to such an undertaking;

"(c.3) determining the terms of the undertaking and its duration, which may vary according to the age or circumstances of the foreign national or of his family;"

(2) by replacing the words " , an offer on the part of a person residing in Québec to assist a foreign national who wishes to settle in Québec" in the fourth, fifth and sixth lines of subparagraph *f.2* of the first paragraph by the words "the application for an undertaking";

(3) by replacing paragraph *h* by the following paragraphs:

"(h) determining, with regard to linguistic integration services, the services offered, the teaching program, the conditions of admissibility to the services, the form and tenor of an application, the conditions of obtaining, maintaining and extending the said services, the appropriate training period and the procedure for evaluating the knowledge of French; these provisions may vary according to services and classes of students;

"(i) determining, with regard to financial assistance for the purposes of linguistic integration services, the classes of allocation, the conditions of admissibility, and the conditions of granting, the form and tenor of an application and the nature and schedule of financial assistance; these provisions may vary according to services and classes of students and, within the same class of students, according to the family and financial situation of the students;

"(j) determining, with a view to assisting the reception and settlement of foreign nationals in a particularly distressful situation,

the classes of loans, the conditions of granting and of repayment thereof, the applicable rate of interest and the form and tenor of a loan application;”;

(4) by striking out the second paragraph.

4. Section 6 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“He may make any agreement, in the same manner and with the same authorities or with any department or body of the Gouvernement du Québec, for the exchange of information obtained under an Act entrusted to the administration of that Government, department or body, in order to meet the immigration objectives and to discharge the obligations incumbent upon him under this Act.”

5. Sections 12.1 to 12.3 are replaced by the following sections:

“12.1 The Minister, or any person designated by him as investigator, may investigate any matters relating to the application of this Act, and in particular those concerning a selection certificate, a certificate of acceptance or an undertaking.

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

“12.2 Any copy of a book, register or document produced for an investigation and certified by the Minister or an investigator as being a true copy of the original, is admissible as proof and has the same probative force as the original.

“12.3 Every person is guilty of an offence who knowingly communicates false or misleading information to the Minister or investigator relating to an application

(a) for a selection certificate, a certificate of acceptance, or an undertaking;

(b) for access to linguistic integration services;

(c) for financial assistance to a student receiving linguistic integration services;

(d) for a loan to a foreign national.

"12.4 Every person who contributes to the issue to a foreign national of a selection certificate or a certificate of acceptance in contravention of this Act is guilty of an offence.

"12.5 Every natural person is liable to a fine of \$500 to \$1 000 in the case of an offence under section 12.3 and to a fine of \$1 000 to \$10 000 in the case of an offence under section 12.4.

Where the offence is committed by a legal person, the fine shall be doubled.

In the case of a second or subsequent offence, the fine prescribed for a first offence shall be doubled.

"12.6 Where a legal person is guilty of an offence described by law, the administrator, director, official or representative of the legal person who prescribed or authorized the performance of the act or the omission which constitutes the offence or who consented thereto is party to the offence and liable to the penalty prescribed by law.

"12.7 Prescription of penal proceedings commences, for an offence contemplated by section 12.3, on the date of examination of the information disclosed to the Minister or investigator and, for an offence contemplated by section 12.4, on the date of examination of the application of the selection certificate or the certificate of acceptance."

6. Section 17 of the said Act is replaced by the following sections:

"17. A body known as the Bureau de révision en immigration is hereby instituted. It shall hear and determine, to the exclusion of every other tribunal, any application for review made under section 26.

"18. Subject to the provisions of the second paragraph, the Bureau de révision shall be composed of one member appointed by the Government for a term not exceeding five years.

The Government may, if necessary, appoint not more than two additional members for a term not exceeding five years. In that case, it shall designate a chairman.

"19. The Government shall determine the salary and the other conditions of employment of the members of the Bureau de révision. The remuneration of members may in no case be reduced once it has been fixed.

"20. The members of the Bureau de révision are required to devote themselves exclusively to their functions.

"21. The members of the Bureau de révision shall be vested with the powers and the immunity of commissioners appointed under the Act respecting public inquiry commissions, except the power to impose imprisonment.

"22. The member or the chairman, if designated, shall be responsible for the general administration of the Bureau de révision.

The chairman shall coordinate, assign and supervise the work of the members who, in this respect, must comply with his instructions.

Where the chairman is absent or unable to act, a member designated by the Government shall take his place.

"23. The head office of the Bureau de révision shall be located in the territory of the Communauté urbaine de Montréal at such place as the Government may determine. Notice of that location and of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

"24. The Minister shall provide the Bureau de révision, to the extent and on the conditions determined by the Government, with the necessary human, financial and material resources.

"25. Any member, acting in the name of the Bureau de révision, may hear and determine alone an application for review. He may sit at any place in Québec.

"26. The following persons may apply for a review of the Minister's decision:

(a) any person or group of persons whose application for an undertaking is rejected or whose undertaking is cancelled;

(b) any foreign national whose selection certificate or certificate of acceptance is cancelled.

"27. An application for review must be made in writing within sixty days of the date of sending of the Minister's decision to the person concerned. It shall indicate the decision of which review is requested, contain a summary account of the grounds invoked and indicate, where necessary, the name and address of the person representing the applicant.

"28. The Bureau de révision may release the applicant from any failure to respect the prescribed time limit if he was in fact unable to act sooner.

"29. Upon receiving the application, the Bureau de révision shall give the Minister notice of it.

The Minister is required, upon receiving the notice or within the time limit granted by the Bureau de révision, to transmit to it the file relating to the decision.

"30. Deposit of an application for review shall not suspend the decision of the Minister.

"31. The applicant may be represented or aided by an advocate. He may also be represented by a relative or by a non-profit organization devoted to the defense or interests of immigrants, if unable to be present himself by reason of absence from Québec. In the latter case, his mandatary must provide the Bureau de révision with a mandate in writing, signed by the person represented, indicating the gratuitous nature of the mandate.

"32. Before rendering a decision, the Bureau de révision must allow each party to be heard orally or, at the wish of the party, in writing.

"33. The Bureau de révision may confirm, alter or quash any decision which is the object of an application for review. Its decision must be in writing and give the reasons on which it is based.

"34. Every decision of the Bureau de révision is final and without appeal.

"35. The Bureau de révision may, of its own initiative or at the request of an interested person, review or cancel any decision it has rendered

(a) where a new fact is discovered which, if it had been known in due time, might have justified a different decision;

(b) where one party was not able, for reasons deemed sufficient, to be heard;

(c) where a substantial or procedural defect is likely to invalidate the decision.

"36. Except on a question of jurisdiction, no recourse provided in articles 33 and 834 to 850 of the Code of Civil Procedure may be

exercised and no injunction may be granted against the Bureau de révision or against one of its members acting in his official capacity.

A judge of the Court of Appeal, upon motion, may annul summarily any judgment, order or injunction issued or granted contrary to this section.

“37. A copy of the decision of the Bureau de révision shall be transmitted to the parties by registered or certified mail or by any other means allowing proof of receipt.

“38. The Bureau de révision may, by by-law, lay down rules of proof, procedure and practice. By-laws made under this section are subject to Government approval.

“39. The Bureau de révision shall transmit to the Minister, no later than 31 March each year, a report of its activities, which the Minister shall table before the National Assembly within the time prescribed in section 9.”

7. Notwithstanding any contrary provision of the Public Service Act (R.S.Q., chapter F-3.1.1), the employees of the Government of Canada assigned to the implementation of reception services, linguistic and cultural integration services and specialized economic integration services offered in Québec, who accept the written offer of employment presented by the Minister of Cultural Communities and Immigration in relation to the administration of corresponding services provided by the Minister, shall become employees of the Gouvernement du Québec and public servants within the meaning of the Public Service Act from the date of their integration and for this end the Conseil du Trésor may determine rules, standards and policies relating to classification, the fixing of salary scales, permanent tenure or to any other condition of employment applicable to those public servants.

8. The Government may, at the time employees of the Government of Canada assigned to the implementation of services referred to in section 7 are integrated into the public service, enter into an agreement with the Government of Canada relating to pension plans.

9. The Minister may, until 1 January 1993, authorize generally or specifically any person to exercise the powers conferred on him by this Act which are related to the services referred to in section 7.

10. The Government may lay down the initial rules of proof, procedure and practice of the Bureau de révision.

11. Any initial regulations laid down by the Government between the present time and 1 January 1992 under the provisions enacted by sections 3 and 10 of this Act may be so laid down even though a draft regulation is not published in the *Gazette officielle du Québec*.

The same holds true of any initial regulation amending or repealing a regulation made under the Act respecting the Ministère des Communautés culturelles et de l'Immigration to ensure concordance of the regulatory provisions made under that Act with the new provisions enacted by this Act.

The provisions of such regulations may have effect, wholly or in part, from 1 April 1991 or from any later date.

12. The provisions of this Act shall come into force on 1 April 1991.