

THIRD SESSION

THIRTY-FIRST LEGISLATURE

# ASSEMBLÉE NATIONALE DU QUÉBEC

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## Bill 50

Civil Service Act

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First reading .....  
Second reading .....  
Third reading .....

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M. DENIS de BELLEVAL

Ministre de la fonction publique

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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### EXPLANATORY NOTES

*This bill proposes the thorough revision of the Civil Service Act and the Civil Service Department Act. Under this bill, the Ministre de la fonction publique will have general responsibility for personnel management in the civil service, with the pertinent regulatory powers.*

*The bill changes the status of the Commission de la fonction publique. Its main function will be to rule on appeals by members of the civil service staff, to inquire into the enforcement of the act and to advise on regulations submitted by the Ministre de la fonction publique to the treasury board, as to their adherence to the rule of selection on the basis of merit.*

*The bill establishes the Office du recrutement et de la sélection du personnel de la fonction publique, the main function of which will be to make regulations on recruitment and selection of candidates for employment and candidates for promotion in the civil service, and to implement them.*

*The bill also provides for the organization and management of the civil service, and, in particular, for selection of the civil service personnel according to merit, by way of competition on the basis of criteria of competence and aptitudes.*

*Furthermore, the bill sets out the labour relations system by which civil servants are to be governed.*

## Bill 50

### Civil Service Act

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

## CHAPTER I

### INTERPRETATION

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

(a) "Commission" means the Commission de la fonction publique established under section 19;

(b) "collective agreement" means a collective agreement within the meaning of the Labour Code (Revised Statutes, 1964, chapter 141);

(c) "chief executive officer of an agency" means the person entrusted by law, with regard to his staff or the staff of an agency, with the powers of the chief executive officer of an agency, or, if such is not the case, the person exercising the highest authority in the agency;

(d) "civil servant" means a member of the civil service staff other than a deputy minister;

(e) "incumbent minister" means a minister in charge of a department, a minister of state, a minister-delegate and the President of the Assemblée nationale;

(f) "Office" means the Office du recrutement et de la sélection du personnel de la fonction publique established under section 41;

(g) "agency" means an agency required by law to have its civil servants appointed and remunerated in accordance with this act;

(h) "deputy minister" means:

- i. the secretary general of the executive council;
- ii. the executive secretary of the prime minister;
- iii. the secretary of the treasury board;
- iv. the deputy minister of each department;
- v. the associate deputy-ministers of the Ministère de l'éducation;
- vi. the associate secretaries-general of the executive committee who under their deed of appointment have the rank and privileges of a deputy minister.

## CHAPTER II

### THE MINISTÈRE DE LA FONCTION PUBLIQUE

**2.** The Ministre de la fonction publique, in this chapter called the "Minister" has the direction and administration of the Ministère de la fonction publique.

**3.** The Minister has the general responsibility for the management of the civil service staff.

**4.** For the purposes of section 3 and subject to sections 50 and 116, the Minister is responsible for the making of regulations concerning the evaluation, classification, promotion, assignment, transfer or reclassification of the civil service staff, the demotion or removal of such staff for professional incompetence, and the other matters relating to personnel management, in particular, the matters contemplated in sections 10, 60, 61, 63, 66, 70, 75, 90, 91 and 93.

**5.** Any regulation of the Minister made pursuant to section 4 or to another provision of this act is submitted to the treasury board for approval.

Such by-law comes into force from the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein.

**6.** The Minister determines the level of positions in the civil service in relation to each classification, except the positions of senior civil servants.

**7.** The Minister may delegate the responsibility conferred on him by virtue of section 6 to a deputy-minister or to the chief executive officer of an agency, and indicate in the deed of delegation that they may subdelegate the exercise of that responsibility to a civil servant designated by the Minister.

The Minister may, at any time, revoke any delegation of responsibility.

**8.** The Minister shall also

(a) prepare and carry out a policy for the development of human resources and, in particular, establish and administer development programmes;

(b) prepare and propose to the Government measures designed to increase the efficiency of the civil service staff, co-ordinate the carrying out of such measures under the authority of the Government and supervise their application;

(c) advise the Government and the government departments and agencies in the matter of administrative organization;

(d) co-ordinate the research, studies, inquiries and inventories in the field of personnel management executed by other departments and agencies or on their behalf;

(e) execute or cause the execution of research, studies, inquiries and inventories respecting the efficiency of the civil service staff;

(f) develop and maintain an integrated personnel management information system;

(g) carry out the other duties assigned to him by this act or by the Government.

**9.** The Minister shall also, within the scope of the mandates received by him from the treasury board, negotiate the collective agreements with the certified associations of employees of the civil service.

He shall, with the authorization of the Government, sign these collective agreements; he shall supervise their application and co-ordinate their interpretation.

**10.** Where no appeal lies to the Commission in favour of civil servants not governed by a collective agreement, the Minister shall make regulations providing an appeal from decisions rendered in such matters as he may determine and enact the rules of procedure to be followed on such an appeal.

An appeals committee composed of one, two or at most three members appointed by the Minister shall hear and decide any appeal contemplated in the first paragraph.

Sections 34 to 37 apply, *mutatis mutandis*, to the committee and to a member of the committee.

**11.** The Government shall appoint a deputy minister of the civil service, designated in sections 12 and 15 as the "deputy minister".

**12.** Under the direction of the Minister, the deputy minister shall supervise the civil servants of the department; he shall administer the day to day business of the department and exercise such other powers as are assigned to him by the Government.

The orders of the deputy minister must be carried out in the same manner as those of the Minister; his authority is that of the Minister and his official signature gives force and authority to any document within the jurisdiction of the department.

**13.** The civil servants necessary for the proper administration of the department shall be appointed and remunerated in accordance with this act.

**14.** The respective duties of the civil servants of the department not expressly defined by law or by the Government shall be determined by the Minister.

**15.** No deed, document or writing is binding on the department or may be attributed to the Minister unless it is signed by him or by the deputy minister or by another civil servant, and only, in this last case, to the extent determined by regulation of the Government published in the *Gazette officielle du Québec*.

The Government may, however, upon the conditions it fixes, allow the required signature to be affixed by means of an automatic device to such documents as it determines.

The Government may also allow a facsimile of the required signature to be engraved, lithographed or printed on such documents as it determines; in such case, the facsimile has the same force as the signature itself if the document is countersigned by a person authorized by the Minister.

**16.** Every copy of a document from the records of the department, certified true by a person authorized to sign that document in conformity with the first paragraph of section 15, is authentic and has the same force as the original.

**17.** With the authorization of the Government and in accordance with the law, the Minister may enter with any government or body into any agreement concordant with the interests and rights of the province of Québec, to facilitate the carrying out of this act.

**18.** Within six months following the end of every fiscal year, the Minister shall table a report of the activities of his department

for that year before the Assemblée nationale if it is in session; if the Assemblée is not sitting, he shall table it within thirty days after the opening of the next session or after resumption.

## CHAPTER III

### THE COMMISSION DE LA FONCTION PUBLIQUE

#### DIVISION I

##### ESTABLISHMENT OF THE COMMISSION

**[[19.** A Commission de la fonction publique is established, consisting of not fewer than three nor over five members, including a chairman.

On the motion of the prime minister, the Assemblée nationale shall appoint the chairman and the other members of the Commission for a seven-year term and fix their salaries and allowances by a resolution approved by a two-thirds majority of its members.]]

**20.** A member of the Commission may resign by giving notice in writing to the President of the Assemblée nationale.

He shall not be dismissed except by resolution of the Assemblée nationale, approved by two-thirds of its members.

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

**22.** Membership on the Commission is incompatible with the exercise of any other function.

**[[23.** Where a member of the Commission is temporarily absent or unable to act, he may be replaced for the interim by a person appointed by the Government, which shall fix his salary and allowances.]]

**[[24.** The secretary and the other members of the staff of the Commission are appointed and remunerated in accordance with this act.

The chairman shall exercise in their regard the duties conferred on the chief executive officer of an agency by this act.]]

**25.** 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.

However, such forfeiture shall not be incurred if that interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

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

**27.** A member of the Commission cannot be sued for any official act performed in good faith in the exercise of his functions.

**28.** No extraordinary recourse contemplated in articles 834 to 850 of the Code of Civil Procedure may be exercised and no injunction may be granted against the Commission or a member acting in his official capacity.

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.

## DIVISION II

### FUNCTIONS AND POWERS OF THE COMMISSION

**29.** The Commission hears and decides every appeal brought by a civil servant in accordance with section 64, 78, 87 or 97, in the matter of classification, demotion or removal for professional incompetence, dismissal, suspension or discipline, as well as in the case where a civil servant is temporarily relieved of his duties, unless a collective agreement confers the jurisdiction in that matter on another person. The Commission hears and decides every appeal brought by a civil servant in the matter of promotion in accordance with section 81.

**30.** The Commission shall also

(a) make inquiries into the operation of and compliance with this act and the regulations hereunder, in particular, adherence to the rule of selection according to merit, and formulate recommendations to the competent authorities;

(b) give its opinion to the treasury board on the regulations submitted to it by the *Ministre de la fonction publique* or by the Office as to their conformity to the rule on selection according to merit.

The Commission shall address a copy, to the *Assemblée nationale*, of every opinion given to the treasury board.



**31.** The Commission shall make regulations providing, with respect to every appeal contemplated in section 64, 77, 78, 87 or 97, the number of members required to hear and decide such appeals and enacting the pertinent rules of practice and procedure.

The Commission may establish an appeals committee composed of one, two or at most three persons designated by the Commission to hear and decide appeals contemplated in section 64.

**32.** The regulations of the Commission are submitted to the Government for approval and come into force on the date of their publication in the *Gazette officielle du Québec* or on a later date fixed therein.

**33.** The Commission may sit in a number of divisions simultaneously.

**34.** The Commission, its members and any person entrusted by it with making an inquiry contemplated in section 30 have the powers and immunity of commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11).

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

**36.** The Commission has all the powers necessary 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.

**37.** A decision of the Commission terminating a matter is final and without appeal. Such a decision must be rendered in writing and be substantiated; it forms part of the records of the Commission.

**38.** Notwithstanding section 37, the Commission may, for cause, review or revoke a decision it has rendered.

**39.** Sections 28 and 34 to 38 apply to an appeals committee established in accordance with section 31.

**40.** Not later than 30 June each year, the Commission must submit a report of its activities for the preceding year to the President of the Assemblée nationale. Such report is tabled before the Assemblée nationale if it is in session; if it is not sitting, the report

is tabled within thirty days after the opening of the next session or after resumption.

Such report must deal particularly with the degree to which this act and the regulations hereunder are being observed.

## CHAPTER IV

### THE OFFICE DU RECRUTEMENT ET DE LA SÉLECTION DU PERSONNEL DE LA FONCTION PUBLIQUE

#### DIVISION I

##### CONSTITUTION OF THE OFFICE

**[[41.** An Office du recrutement et de la sélection du personnel de la fonction publique, composed of three members including a chairman, is established.

On the motion of the prime minister, the Assemblée nationale, by a resolution approved by a two-thirds majority of its members, shall appoint the chairman and the members of the Office to a seven year term and fix their salary and allowances.]]

**42.** A member of the Office may resign by giving notice in writing to the President of the Assemblée nationale.

He shall not be dismissed except by a resolution of the Assemblée nationale approved by two-thirds of its members.

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

**44.** The function of member of the Office is incompatible with the exercise of any other function.

**45.** If a member of the Office is temporarily absent or unable to act, the Government may appoint a person to replace him during the interim and it fixes his salary and allowances.

**[[46.** The secretary and the other staff of the Office are appointed and remunerated in accordance with this act.

The chairman exercises in their regard the powers conferred on the chief executive officer of an agency by this act.]]

**47.** On pain of forfeiture of office, no member of the Office may have any direct or indirect interest in any undertaking that puts his personal interest in conflict with that of the Office.

However, such forfeiture is not incurred if that interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

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

**49.** No member of the Office may be prosecuted by reason of official acts done in good faith in the exercise of his functions.

## DIVISION II

### FUNCTIONS AND POWERS OF THE OFFICE

**45.** The Office shall

(a) make regulations concerning the recruitment and selection of candidates for appointment to the civil service and the selection of candidates for reclassification and promotion in the civil service;

(b) in accordance with this act and the regulations hereunder,

i. recruit, select, and certify the qualifications of candidates for appointment to the civil service;

ii. select candidates for reclassification and promotion in the civil service, and certify their qualifications.

The Office also discharges the other functions conferred on it by this act.

A regulation of the Office is submitted to the treasury board for approval and comes into force on the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein.

**51.** The Office may delegate the exercise of a function contemplated in section 50 to one of its civil servants. It may also delegate the exercise of such a power to a deputy minister or to the chief executive officer of an agency and indicate, in the deed of delegation, the functions that the latter persons may subdelegate and the persons to whom such subdelegation may be made.

The Office may, at any time, revoke such delegation.

**52.** Not later than 30 June each year, the Office must remit to the President of the Assemblée nationale a report of its activities for the preceding year.

This report is tabled before the Assemblée nationale if it is in session, or if it is not sitting, it is tabled within thirty days after the opening of the next session or after resumption.

## CHAPTER V

### DEPUTY MINISTERS AND CHIEF EXECUTIVE OFFICERS OF AGENCIES

**53.** The deputy minister has charge, under the direction of the incumbent minister, of the general direction of the business of the department and he exercises the other powers and duties assigned to him by the Government and by the incumbent minister.

**54.** The deputy minister and the chief executive officer of an agency supervises and directs the civil servants of his department or agency.

**55.** Notwithstanding sections 53 and 54, an associate secretary-general of the executive council who, pursuant to his deed of appointment, has the rank and privileges of a deputy minister shall discharge his duties under the authority of the secretary general of the executive council who is the deputy minister of the Ministère du Conseil Exécutif; similarly, an associate deputy-minister of the Ministère de l'éducation shall discharge his duties under the authority of the deputy minister of that department, subject to section 8 of the Education Department Act (Revised Statutes, 1964, chapter 233).

**56.** No deputy minister may hold any function incompatible with the functions vested in him by the law or assigned to him by the Government.

**57.** In the case of the temporary absence or inability to act of a deputy minister, the incumbent minister may designate an associate deputy-minister, an assistant deputy-minister or another civil servant to replace him during the interim.

Subject to any inconsistent provision of law, in the temporary absence of the chief executive officer of an agency, the minister responsible for the agency shall appoint another person to carry on the duties vested in the chief executive officer of the agency.

## CHAPTER VI

## ORGANIZATION OF THE CIVIL SERVICE

## DIVISION I

## THE CIVIL SERVICE STAFF

**58.** The persons appointed in accordance with this act form part of the civil service staff.

The persons admitted under a former act respecting the civil service are deemed to have been appointed under this act.

## DIVISION II

## ORGANIZATION PLANS AND CLASSIFICATION

**59.** The treasury board approves the organization plan of each department or agency upon the recommendation of the incumbent minister or of the minister responsible for the agency.

It determines the staff required for the administration of the departments and agencies, the distribution of assignments among such staff, and the level of the positions of the senior civil servants within each classification.

**60.** If the number of permanent civil servants in any class becomes greater than the number allowed in an organization plan, those in excess become supernumeraries and are transferred, in accordance with a regulation of the *Ministre de la fonction publique*, to the *Ministère de la fonction publique* as unattached civil servants, together with the related positions and appropriations. Subparagraph 3 of paragraph *m* of section 1 of the Labour Code does not apply to these civil servants as long as they remain in that department as unattached civil servants.

The *Ministre de la fonction publique*, before assigning a new classification to an unattached civil servant, shall request the Office to examine his qualifications; this new classification cannot entail a decrease of the regular salary to which the civil servant was entitled before being assigned that classification.

**61.** The classification of positions in the civil service is as established by regulation of the *Ministre de la fonction publique*, which determines, *inter alia*, the conditions of admission to each class and the rules governing advancement from one class to another.

The classification also identifies the senior civil service positions. The persons appointed and the civil servants promoted to such positions constitute the senior staff of the civil service.

**62.** The description of the duties of a position does not restrict the powers of a civil servant under any statute, or the power of the Government, the incumbent minister, the deputy minister or the chief executive officer of an agency to define the duties and direct the work of that civil servant.

**63.** The Ministre de la fonction publique determines, by regulation, the rules of integration of civil servants into a new class of positions at the coming into force of a new classification or of an amendment to an existing classification.

He may, in that case, assign a new classification to each civil servant with a view to his integration and he may delegate that power to make such assignment, in accordance with section 7.

**64.** A civil servant who, upon the application of section 63, considers himself prejudiced by a decision respecting his classification may, within thirty days after the sending of a notice to that effect, appeal to the Commission from the decision.

**65.** The class title of a position established by such classification must be used in all the registers and documents of the Commission, the Office, the Ministère de la fonction publique, the treasury board and the comptroller of finance, and in reports to the Assemblée nationale.

### DIVISION III

#### EXCLUSIONS

**66.** Where the Ministre de la fonction publique considers that it is neither practicable nor in the public interest to apply this act to a position of a casual nature in the civil service, or to a position with an agent-general or delegate-general of Québec, he may, upon the recommendation of the Commission and with the approval of the treasury board, exempt that position from such provision of this act as he may indicate, except that he cannot exempt a position of a casual nature from the application of sections 110 to 116.

The Ministre de la fonction publique shall determine by regulation the manner in which a position he has so exempted and the incumbent member of the civil service staff are governed.

Within thirty days after the opening of each session, the Ministre de la fonction publique shall table before the Assemblée nationale an annual report indicating the positions so exempted, the reasons therefor, and the regulations made.

## CHAPTER VII

## MANAGEMENT OF THE CIVIL SERVICE

## DIVISION I

## MERIT SELECTION

**67.** The staff of the civil service is recruited and promoted by way of competition and every competition must be of such a nature as to evaluate the candidates impartially.

The selection is established on the basis of criteria of competence and qualifications, and following a competition a list is drawn up ranking the candidates by order of merit.

Appointments and promotions are made in that order from the candidates issued certificates of qualifications.

**68.** A person who, according to law or a statutory instrument, may be appointed or promoted to the class of positions for which the competition is held, must be admitted to the competition.

Notice of every competition must be given by the Office in the manner it deems appropriate, so that every person qualified for such competition may have a reasonable opportunity to apply.

Every application received within the delay fixed for its receipt must be examined.

**69.** As soon as a position becomes vacant in a department or agency, the deputy minister or the chief executive officer of the agency must give notice of it to the *Ministre de la fonction publique*.

**70.** A position in the civil service is filled by assignment, transfer, promotion, recruitment or by any other mode of staffing determined by regulation of the *Ministre de la fonction publique*.

**71.** Any person who, in a competition, commits a fraudulent act ceases to be eligible for any competition for a period of two years, but if he is appointed following that fraudulent act, he must be dismissed in the manner provided in this act.

Similarly, if a civil servant commits a fraudulent act in a competition, he must be dismissed whether he is a candidate or not.

## DIVISION II

## APPOINTMENT, PROMOTION AND PROBATION

**72.** The members of the civil service staff are appointed and promoted as follows:

(a) deputy ministers, associate secretaries-general of the executive council, assistant secretaries of the treasury board and associate or assistant deputy-ministers are appointed or promoted by the Government upon the recommendation of the prime minister;

(b) the other civil servants of the departments or agencies are appointed or promoted by the incumbent minister or by the minister responsible for the agency, and they may, in writing, delegate their power to the deputy minister or the chief executive officer of an agency, or any civil servant designated by them.

**73.** Sections 67 to 70 do not apply to a person contemplated in paragraph a of section 72.

**74.** A civil servant obtains permanent tenure in writing from the deputy minister or from the chief executive officer of the agency to whom he is responsible; the deputy minister or the chief executive officer of the agency may delegate such authority to any civil servant of his department or agency.

No civil servant may obtain permanent tenure, unless he has been employed continuously on a temporary basis in the civil service for a period of at least six months.

**75.** The Ministre de la fonction publique may, by regulation,

(a) fix the classes of positions for which a continuous temporary period of more than six months is required before permanent tenure is granted;

(b) indicate the classes of positions for which a probationary period is required before promotion and fix the duration of such a probationary period.

**76.** No temporary appointment may be made for more than six months or for a period exceeding that fixed by a regulation contemplated in section 75.

**77.** In a competition for promotion, the candidate who considers that the verification procedure of the eligibility of candidates or the selection procedure was irregular or illegal is entitled to appeal to the Commission within fifteen days of a notice notifying him that he is not eligible for the competition or informing him of the results of the competition.



**78.** A civil servant assigned otherwise than as a temporary substitute, to specific duties of a class of positions for which he has been declared qualified but to which he has not been promoted, has the right to appeal to the Commission for promotion to that class, if he performs such specific duties as his principal and usual duties.

**79.** Every appointment or promotion must immediately be communicated to the Commission, the Office, the Ministre de la fonction publique and the comptroller of finance.

### DIVISION III

#### ASSIGNMENT, TRANSFER, CLASSIFICATION AND RECLASSIFICATION

**80.** The assignment of a civil servant from one position of the class to which he belongs to another position in the same class within the same department or agency is made in writing by the deputy minister or by the chief executive officer of the agency to whom he is responsible.

**81.** The transfer of a civil servant from a position of the class to which he belongs to another position of the same class in a department or agency other than that to which he belongs is made in writing by the deputy minister of the department or the chief executive officer of the agency to which the civil servant is transferred, after an agreement with the deputy minister or the chief executive officer of the agency to whom the civil servant is responsible.

**82.** A deputy minister or the chief executive officer of an agency may, in writing, delegate a power provided for by section 80 or 81 to a civil servant of his department or agency.

**83.** The reclassification of a civil servant, at his request, to a class of positions having conditions of eligibility of the same level as that to which he belongs is made, after the Office has issued a certificate of qualification, in writing by the incumbent minister to whom he is responsible or the minister responsible for the agency with which he is employed.

The minister may delegate that power to the deputy minister or to the chief executive officer of the agency, who may subdelegate it to a civil servant of his department or agency.

**84.** Upon an appointment, promotion, reclassification or demotion, the civil servant concerned is assigned a classification cor-

responding to the class of positions to which he has, as the case may be, been appointed, promoted, reclassified or demoted.

The same rule applies to an assignment or transfer in the cases where a regulation of the Minister made under section 4 requires it to be preceded by a certificate of qualifications issued by the Office.

**85.** Notwithstanding sections 80, 81 and 83, the persons contemplated in subparagraph *a* of the first paragraph of section 72 are assigned, transferred and reclassified by the Government on the motion of the prime minister.

#### DIVISION IV

##### DEMOTION OR REMOVAL FOR PROFESSIONAL INCOMPETENCE

**86.** The deputy minister or the chief executive of an agency may, in writing, demote to a class with a lower maximum remuneration, or remove any civil servant who is incompetent in performing his duties or incapable of performing them.

He shall immediately communicate that writing to the Ministre de la fonction publique and the comptroller of finance.

**87.** A permanent civil servant who is demoted or removed may appeal to the Commission from the decision within thirty days after the sending of the writing contemplated in section 86.

The Commission may confirm or quash the decision rendered.

**88.** If the Commission confirms a demotion, it may, on the application of the appellant, request the Office to give it an opinion on the classification that the Office considers most nearly commensurate with the civil servant's qualifications, after having examined them.

Upon receipt of the opinion, the Commission may order that demotion to the class of positions indicated in the opinion of the Office be substituted for the demotion already carried out.

#### DIVISION V

##### REMUNERATION AND FRINGE BENEFITS

[[**89.** The Government fixes the remuneration, fringe benefits and the other terms of employment of deputy ministers.]]

[[**90.** The Ministre de la fonction publique shall, by regulation, fix the remuneration, fringe benefits and the other terms

of employment of the civil servants; where any increase in expenditure will result therefrom, the remuneration fixed only becomes operative when the Legislature has voted the necessary appropriations.]]

**[[91.** No additional remuneration over and above the regular salary attached to his office may be paid to a civil servant, except in accordance with a regulation of the *Ministre de la fonction publique*.]]

**[[92.** The remuneration and expenditures pertaining to the fringe benefits of the members of the civil service staff are paid out of the moneys voted each year for that purpose by the Legislature or, as the case may be, in conformity with the act establishing an agency.

Where the whole or a part of the staff of an administrative service is transferred from one department or agency to another, the treasury board may order a portion of the moneys voted for such administration transferred to the department or agency taking over that staff.]]

## DIVISION VI

### GENERAL CONDITIONS OF SERVICE AND DISCIPLINE

**93.** The *Ministre de la fonction publique* may, by regulation, establish standards of conduct and discipline and the disciplinary actions that may be taken in respect of the civil service staff. Such a regulation may also enact by whom and on what conditions a member of that staff may be provisionally relieved of his duties.

**94.** The dismissal of a deputy minister or civil servant contemplated in subparagraph *a* of the first paragraph of section 72 is carried out by the Government.

**95.** The authority to suspend a deputy minister or a civil servant contemplated in paragraph *a* of section 72 is vested in the incumbent minister, who may, in writing, delegate that authority to the deputy minister, in respect of civil servants.

**96.** The dismissal or suspension of or the imposition of a disciplinary action on a civil servant contemplated in paragraph *b* of section 72 is effected by the deputy minister or the chief executive officer of the agency to whom he is responsible; they may delegate their power in writing to a civil servant of their department or agency.

**97.** Every deputy minister or civil servant who is dismissed or suspended, in respect of whom other disciplinary action is taken,

or who is provisionally relieved of his duties, may appeal to the Commission within thirty days after the sending of a notice informing him of the measure imposed. However, in the case of the dismissal of a civil servant, only a permanent civil servant may exercise this recourse.

The Commission may confirm, quash or amend the disciplinary action.

**98.** Every dismissal or suspension must be immediately communicated to the Ministre de la fonction publique and the comptroller of finance; the same rule applies when a member of the civil service staff is provisionally relieved of his duties.

**99.** No member of the civil service staff may, under pain of dismissal, have a direct or indirect interest in an undertaking that causes his personal interest to conflict with his duties of office.

Such dismissal is not incurred, however, if that interest devolves to him by succession or gift, and he renounces or disposes of it with all possible dispatch; the same rule applies, if when assigned, promoted or transferred, he disposes of it with the same dispatch.

**100.** A civil servant who wishes to be a candidate in a federal or provincial election, must submit his resignation; however, he is entitled to resume his position on the day after the date for the nomination of candidates if he is not nominated, or on the eighth day after the date on which another candidate is declared elected at that election.

**101.** A person who resigns in conformity with section 100 and who, subsequently to his election, ceases to be a member of a legislative body before the expiry of a period of sixty consecutive months from his election, is entitled to apply to the Office to have his qualifications examined and to be appointed to a position of the class that the Office considers commensurate with his qualifications, if any is vacant.

That application must be made not later than thirty days after he ceases to be a member.

**102.** No member of the civil service staff or chief executive officer of an agency may engage in partisan work in connection with a federal or provincial election.

Every person who contravenes this section must be dismissed.

**103.** Notwithstanding section 102, nothing prevents a member of the civil service staff or the chief executive officer of

an agency from attending a political meeting or from making, in accordance with the law, a contribution to a political party, to a district association or to a candidate at a provincial or federal election or from being a member of a political party.

**104.** Every person who uses intimidation or threats to induce a member of the civil service staff or the chief executive officer of an agency to contravene the prohibition provided in section 102, or to punish him for refusing to contravene it is liable, on summary proceeding, to a fine of five hundred to two thousand dollars or to imprisonment for not over six months.

[[**105.** Without prejudice to any disciplinary action, in the event of a civil servant's absenting himself from the service without permission, a deduction proportionate to the duration of his absence must be made from his salary.]]

**106.** A member of the civil service staff, other than a workman, and the chief executive officer of every agency shall make the oath or solemn affirmation contained in Schedule A.

In addition, deputy ministers, chief executive officers of agencies, members of the senior civil service staff, and other civil servants, when so required by the incumbent minister, the minister responsible for the agency, the deputy minister or by the chief executive officer of the agency, shall make the oath or affirmation contained in Schedule B.

**107.** The oaths or affirmations contemplated in section 106 are made before any person authorized to administer them under a regulation made for that purpose by the Government and published in the *Gazette officielle du Québec*.

A certificate attesting that an oath or affirmation has been made is kept in every department or agency.

**108.** A member of the civil service staff who has made an oath or affirmation contemplated in section 106 and who violates it must be immediately dismissed in the manner prescribed in this act.

**109.** Where a member of the civil service staff is sued by a third party for an act done in good faith in the performance of his duties, the attorney-general shall undertake his defense, unless the member is charged with a gross fault or personal fault distinct from the performance of his duties.

## CHAPTER VIII

## COLLECTIVE BARGAINING

**110.** The Syndicat des fonctionnaires provinciaux du Québec is recognized as the representative of all employees in the civil service who are employees within the meaning of the Labour Code, except:

(a) teachers;

(b) the 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;

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

(d) employees who are peace officers, prison guards, game-wardens, transportation or autoroute inspectors and other persons performing duties of a peace officer.

**111.** Section 110 has the same effect as a certification granted by a labour commissioner under the labour Code for separate groups of employees, namely:

(a) civil servants other than workmen;

(b) workmen.

The Labour Court established by the Labour Code decides all conflicts respecting the effective exclusion or inclusion of a member of the civil service staff or a class of employees in either of such groups, and has the power to cancel the certification and grant another upon the conditions prescribed by the Labour Code.

**112.** The Government may grant certification to any association of employees to represent each of the groups contemplated in paragraph *a*, *c* and *d* of section 110 and the members of each of the professions contemplated in paragraph *b* of the same section together with the persons admitted to the study of such profession.

Such certification 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.

Such certification has the same effect as certification granted by a labour commissioner under the Labour Code.

The Labour Court established by the Labour Code decides all conflicts respecting the effective exclusion or inclusion of a member of the civil service staff in any of such groups and may cancel the certification and grant another upon the conditions prescribed by the Labour Code.

**113.** With the consent of the majority of the employees who are members or admitted to the study of a profession contemplated in paragraph *b* of section 110, 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 *c* of the same section, certification may be granted to such an association for such group together with the others which it represents.

**114.** Any association of employees contemplated in this act has the right to affiliate, but an association of employees contemplated in paragraph *d* of section 110 shall only affiliate with an association exclusively grouping employees performing duties of a peace officer.

**115.** The group of employees contemplated in paragraph *d* of section 110 is forbidden to strike.

Any other group is 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.

**116.** The civil servants are governed by the provisions of the collective agreement applicable to them, or if there are no such provisions in that collective agreement, by the provisions of this act. However, no provision of a collective agreement may limit the powers of the Office or of the Commission; nor may it limit the powers of the Ministre de la fonction publique or of the treasury board with regard to any of the following matters:

(a) the appointment of candidates to the civil service or the promotion of civil servants;

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

(c) the granting of permanent tenure and the determination of the duration of the temporary period of employment or of the probationary period in the case of promotion;

(d) the establishment of standards of ethics and discipline in the civil service;

(e) the establishment of organization plans and the determination and distribution of assignments.

A decree adopted under the Construction Industry Labour Relations Act (1968, chapter 45) 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 civil servants.

## CHAPTER IX

### OFFICE STAFF OF MINISTERS AND OF CERTAIN MEMBERS OF THE NATIONAL ASSEMBLY

**117.** A minister contemplated in section 4 of the Executive Power Act (Revised Statutes, 1964, chapter 9), the Leader of the Opposition, a member to whom subparagraph *b* of section 98*a* of the Legislature Act (Revised Statutes, 1964, chapter 6) applies, the President and the Vice-Presidents of the National Assembly, the Government House Leader, the Opposition House Leader and the House Leader of a party contemplated in subparagraph *b* of section 98*a* of the said act, and the Chief Government Whip and the Chief Opposition Whip in the Assemblée nationale, may appoint his executive assistant and the other persons required for the good administration of his executive staff.

[[**118.** The executive assistant and the other members of the executive staff are recruited, appointed and remunerated in accordance with the standards and scales fixed by the commissioners appointed under section 54 of the Legislature Act, who establish in particular the other conditions of service and employment.

**119.** Section 118 also applies to the executive assistant or to a member of the executive staff who belongs to the civil service staff at the time of his appointment under section 117. As long as such a person is employed on such a staff, he retains his classification on the day of his appointment to such staff and receives as additional remuneration, where such is the case, the difference between the remuneration attached to his classification and that granted to him as an executive assistant or member of the executive staff.]]

**120.** Where a person ceases to be employed on an executive staff, he is entitled, if he is a permanent civil servant, to require the Office

(a) to re-examine his qualifications, and,

(b) to assign him to the department where he was working, or to transfer him to a civil service position at his own class level in any other department or agency, with priority in both cases.



**121.** Excepting this chapter and section 104, this act does not apply to a member of an executive staff.

## CHAPTER X

### MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

**122.** The Legislature Act (Revised Statutes, 1964, chapter 6) is amended by inserting after section 54, the following section:

**"54a.** The staff of the Assemblée nationale is appointed and remunerated in accordance with the Civil Service Act (1978, chapter *insert here the chapter number of Bill 50* ).

The secretary of the Assemblée nationale exercises in respect of that staff the powers vested in the chief executive officer an agency by the Civil Service Act."

**123.** The Executive Power Act (Revised Statutes, 1964, chapter 9) is amended by inserting, after section 2, the following division and section:

#### "DIVISION IA

##### "STAFF OF THE LIEUTENANT-GOVERNOR

**"2a.** The executive assistant and the other members of the staff of the Lieutenant-Governor are appointed and remunerated in accordance with the Civil Service Act (1978, chapter *insert here the chapter number of Bill 50* )."

**124.** Section 1 of the Labour Code (Revised Statutes, 1964, chapter 141), amended by section 76 of chapter 14 of the statutes of 1965 (1st session), by section 10 of chapter 20, section 2 of chapter 47, section 1 of chapter 48 and section 18 of chapter 14 of the statutes of 1969, by section 29 of chapter 60 of the statutes of 1972 and by section 2 of chapter 41 of the statutes of 1977, is again amended by replacing subparagraph 3 of paragraph *m* by the following:

"(3) a civil 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 VIII of the Civil Service Act which are parties to a collective agreement that otherwise would apply to such civil servant; such is the position of a conciliation officer of the Ministère du travail et de la main-d'oeuvre, a certification agent or labour commissioner contemplated by this act, a member

of the staff of the executive council, of the treasury board, of the auditor general, of the Ministère de la fonction publique, of the Commission de la fonction publique, of the Office du recrutement et de la sélection du personnel de la fonction publique, or of the executive staff of a minister or of a deputy minister, or a staff member who, in a department or agency of the government, is a member of the personnel service or of a personnel management division;”.

**125.** Section 8 of the Education Department Act (Revised Statutes, 1964, chapter 233) is amended by replacing the second and third paragraphs by the following paragraphs:

“The authority of the deputy minister is that of the Minister, his orders must be carried out in the same manner as those of the Minister and his official signature gives force and authority to any document within the jurisdiction of the department.

Under the authority of the Minister and deputy minister, and having regard to the need for coordination in the department, each associate deputy minister is responsible for the guidance and general direction of the schools recognized as Catholic or Protestant, as the case may be.

In addition, the associate deputy minister exercises the powers of the deputy minister within the spheres determined by the Minister. In that case, the authority of the associate deputy minister is that of the Minister, his orders must be carried out in the same manner as those of the Minister and his official signature gives force and authority to any document within the jurisdiction of the department.”

**126.** Section 12 of the said act is replaced by the following section:

“**12.** A copy of any document forming part of the archives of the department, certified as a true copy by a person authorized to sign such document in accordance with the first paragraph of section 11, is authentic and has the same validity as the original.”

**127.** This act replaces the Civil Service Act (1965, 1st session, chapter 14). It also replaces the Civil Service Department Act (1969, chapter 14).

**128.** Section 22 of the Financial Administration Act (1970, chapter 17) is replaced by the following section:

“**22.** The treasury board approves the regulations made under the Civil Service Act (1978, chapter *insert here the chapter number*

of Bill 50) by the Ministre de la fonction publique and by the Office du recrutement et de sélection du personnel de la fonction publique, and it shall exercise the other powers conferred upon it by the said act.

The treasury board exercises the powers of the Lieutenant-Governor in Council in all matters respecting the approval of organization plans for government agencies other than those contemplated in the Civil Service Act, the staff required for the management of such agencies, and, subject to the Civil Service Act, the preparation and application of the general administrative policy to be followed in the civil service and the conditions of employment of the staff of the government departments and agencies.

It also exercises the powers conferred upon the Lieutenant-Governor in Council under the Civil Service Superannuation Plan (Revised Statutes, 1964, chapter 14) and the Teachers Pension Plan (1965, 1st session, chapter 68), except in the matter of approval or authorization of agreements or understandings, or the retirement of deputy ministers."

**129.** Section 3 of the Environment Quality Act (1972, chapter 49) is amended by inserting, after the second paragraph, the following paragraph:

"The director shall exercise, in respect of such functionaries and employees, the powers conferred upon the chief executive officer of an agency by the Civil Service Act (1978, chapter *insert here the chapter number of Bill 50*)." "

**130.** The chairman and members of the Québec Civil Service Commission established by chapter 14 of the statutes of 1965 (1st session), hereinafter called "the former Commission", in office on (*insert here the date of the day preceding that of the coming into force of this section*), become, respectively, the chairman and members of the Commission de la fonction publique established under this act.

**131.** Notwithstanding any inconsistent provision of this act, a member of the former Commission contemplated in section 130 continues to be governed by sections 6, 7, 8 and 9 of the Civil Service Act (1965, 1st session, chapter 14) as if it had not been replaced by this act.

**132.** Matters pending before the former Commission are continued and decided in accordance with this act by the treasury board, the Commission de la fonction publique established by this act, the Office or the Ministre de la fonction publique, in accordance

with their respective jurisdictions under this act, but if an inquiry provided for by section 61 of the Civil Service Act replaced by this act has begun before a delegate designated by the former commission, it continues before that same delegate.

The treasury board, the Commission de la fonction publique established by this act, the Office or the Ministre de la fonction publique, as the case may be, may exercise all the powers of the former Commission, including the power to revise or revoke decisions, orders or certificates as if it or he were the author thereof.

**133.** Where an act establishing an agency entrusts to the incumbent of a position, the powers of a deputy-head in respect of the staff of the agency, this incumbent is the chief executive officer of an agency within the meaning of this act.

**134.** Where the incumbents of certain positions are considered deputy-heads under the Civil Service Act replaced by this act, they retain their rank, authority and privileges to the extent that these were conferred on them under the said act, for as long as they hold the said positions, even if this act does not confer the said rank, authority and privileges upon them.

**135.** The private secretaries and their assistants appointed under section 65 of the Civil Service Act replaced by this act who are in office on (*insert here the date of coming into force of this section*) continue to be governed by the relevant provisions of the statutes and regulations applicable to them until they cease to hold such offices.

**136.** 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 of the day preceding that of the coming into force of this section*), without continuance of suit.

**137.** The civil servants of the former Commission become without any other formality civil servants of the Commission de la fonction publique established by this act, of the Office, of the Ministère de la fonction publique or of the treasury board, as the Government may determine.

**138.** The regulations and decisions made under the Civil Service Act (1965, 1st session, chapter 14) remain in force, to the extent that they are in conformity with this act, until they are repealed or until they are replaced or amended by regulations or decisions made in accordance with this act.

**139.** The eligible lists presently in force remain valid and shall be used in the application of this act, as the Office may determine.

**140.** Any reference in any act, proclamation or commission, order in council or other document to the Civil Service Act or to a provision of that act is deemed a reference to this act or the corresponding provision of this act; and, in particular, any reference to section 61 of the Civil Service Act is deemed a reference to section 87 or 97, as the case may be.

[[**141.** The moneys appropriated for the purposes of the former Commission are transferred to the Commission de la fonction publique established by this act, the Office, the Ministre de la fonction publique or the treasury board, as the Government may determine.]]

[[**142.** The moneys required for the application of this act are taken for the fiscal year 1978/1979 out of the consolidated revenue fund, and for subsequent fiscal years, out of the moneys granted each year for that purpose by the Legislature.]]

**143.** The Ministre de la fonction publique is responsible for the application of this act.

**144.** This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date that may be fixed by proclamation of the Government.

## SCHEDULE A

*Oath or affirmation of allegiance and office*

I, A. B., swear (or solemnly affirm) that I will be loyal and bear true allegiance to constituted authority and that I will fulfill the duties of my office of honestly and justly, and that I will not receive any sum of money or consideration for what I have done or may do in the discharge of the duties of my office, to procure the purchase or exchange of anything whatsoever by or with the Government, other than my salary or what may be allowed me by law or by an order of the Government. (*When an oath is taken, add: "So help me God."*)

## SCHEDULE B

*Oath or affirmation of discretion*

I, A. B., further swear (or solemnly affirm) that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in the discharge of my duties. (*When an oath is taken, add: "So help me God."*)