

1995, chapter 27

AN ACT RESPECTING THE COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE

Bill 79

Introduced by Mr Paul Bégin, Minister of Justice

Introduced 5 April 1995

Passage in principle 18 May 1995

Passage 21 June 1995

Assented to 21 June 1995

Coming into force: on the date or dates to be fixed by the Government, except the provisions of section 24 which come into force on 21 June 1995

- 29 November 1995: ss. 1-23, 25-41
G.O., 1995, Part 2, p. 3419

Legislation amended:

Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1)
Charter of human rights and freedoms (R.S.Q., chapter C-12)
Code of Civil Procedure (R.S.Q., chapter C-25)
Labour Code (R.S.Q., chapter C-27)
Youth Protection Act (R.S.Q., chapter P-34.1)
Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2)
Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)
Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12)





CHAPTER 27

An Act respecting the Commission des droits de la personne et des droits de la jeunesse

[Assented to 21 June 1995]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHARTER OF HUMAN RIGHTS AND FREEDOMS

c. C-12,
Part II,
heading,
replaced

1. The heading of Part II of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is replaced by the following heading:

“COMMISSION DES DROITS DE LA PERSONNE ET
DES DROITS DE LA JEUNESSE”.

c. C-12,
s. 57,
replaced

2. Section 57 of the said Charter is replaced by the following section:

Establish-
ment of
commission

“**57.** A body, hereinafter called “the commission”, is established under the name of “Commission des droits de la personne et des droits de la jeunesse”.

Mission

The mission of the commission is to ensure that the principles set forth in this Charter are upheld, that the interests of children are protected and that their rights recognized by the Youth Protection Act (chapter P-34.1) are respected; for such purposes, the commission shall exercise the functions and powers conferred on it by this Charter and the Youth Protection Act.”

c. C-12,
s. 58,
replaced

3. Section 58 of the said Charter is replaced by the following sections:

Composi-
tion

“**58.** The commission shall be composed of fifteen members, including the president and two vice-presidents.

Appoint- ment	The members of the commission shall be appointed by the National Assembly upon the motion of the Prime Minister. Such appointments must be approved by two-thirds of the Members of the National Assembly.
Members	“58.1 Seven members of the commission, including a vice-president, shall be chosen from among persons capable of making a notable contribution to the examination and resolution of problems relating to human rights and freedoms.
Members	Seven other members, including a vice-president, shall be chosen from among persons capable of making a notable contribution to the examination and resolution of problems relating to the protection of young persons’ rights.
Decisions	“58.2 Decisions of the commission under this Charter require the affirmative vote of a majority of the members appointed pursuant to the first paragraph of section 58.1.
Decisions	Decisions of the commission under the Youth Protection Act require the affirmative vote of a majority of the members appointed pursuant to the second paragraph of section 58.1.
Term of office	“58.3 The term of office of the members of the commission may not exceed ten years. Once determined, it shall not be reduced.”
c. C-12, s. 65, replaced	4. Section 65 of the said Charter is replaced by the following section:
Exclusive duties	“65. The president and the vice-presidents shall devote their time exclusively to the duties of their office.
Mandates	In particular, they shall see to it that the mandates conferred on the commission by this Charter or by the Youth Protection Act are fully carried out.”
c. C-12, s. 67, am.	5. Section 67 of the said Charter is amended
	(1) by inserting the words “designated by the Government” after the word “vice-president” in the first line;
	(2) by striking out the words “, while he is called upon to replace the president,” in the third line;
	(3) by replacing the words “, while he is called upon to replace the president, is himself absent or unable to act, or if the office of

vice-president is vacant, the Government shall designate another member of the commission to replace him temporarily” in the third, fourth, fifth and sixth lines by the words “called upon to replace the president is himself absent or unable to act, or if that office is vacant, the other vice-president shall replace the president. Otherwise, the Government shall designate another member of the commission”.

c. C-12,
s. 68, am.

6. Section 68 of the said Charter is amended

(1) by replacing the comma after the word “commission” in the second line of the first paragraph by the word “or”;

(2) by striking out the words “or a complaints committee established by the commission” in the second and third lines of the first paragraph.

c. C-12,
s. 73, am.

7. Section 73 of the said Charter is amended by replacing the first paragraph by the following paragraph:

Report and
recommen-
dations

“73. Not later than 31 March each year, the commission shall submit to the president of the National Assembly a report on its activities for the preceding calendar year together with its recommendations regarding the promotion and protection of human rights, the promotion and protection of children’s rights and the protection of the interests of children.”

YOUTH PROTECTION ACT

c. P-34.1,
s. 1, am.

8. Section 1 of the Youth Protection Act (R.S.Q., chapter P-34.1), amended by section 23 of chapter 23 of the statutes of 1994 and by section 1 of chapter 35 of the statutes of 1994, is again amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“Commis-
sion”

“(a) “Commission” means the Commission des droits de la personne et des droits de la jeunesse established by the Charter of human rights and freedoms (chapter C-12);”.

c. P-34.1,
Chap. III,
Div. I,
heading,
replaced

9. The heading of Division I of Chapter III of the said Act is replaced by the following:

“COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE”.

c. P-34.1,
Chap. III,
Div. I,
subdiv. 1,
ss. 12-22,
subdiv. 2,
heading,
repealed

10. Subdivision 1, comprising sections 12 to 22, and the heading of subdivision 2 of Division I of Chapter III of the said Act are repealed.

c. P-34.1,
s. 23, am.

11. Section 23 of the said Act, amended by section 45 of chapter 51 of the statutes of 1993 and by section 50 of chapter 16 of the statutes of 1994, is again amended

(1) by replacing the words “ensure the protection of the rights of the child which are recognized under” in the first and second lines of paragraph *a* by the words “ensure, by any appropriate measures, the promotion and protection of the rights of children which are recognized by”;

(2) by replacing paragraph *d* by the following paragraph:

“(d) it shall prepare and implement information and educational programs on the rights of children for the benefit of the public in general and of children in particular;”;

(3) by inserting the words “, in particular,” after the word “recommendations” in the first line of paragraph *e*.

c. P-34.1,
s. 23.1,
replaced

12. Section 23.1 of the said Act, amended by section 14 of chapter 35 of the statutes of 1994, is replaced by the following section:

Groups of
members

“23.1 The duty provided for in paragraph *b* of section 23 must be discharged by a group of not less than three members of the Commission. The group shall be composed of the president or the vice-president appointed pursuant to the second paragraph of section 58.1 of the Charter of human rights and freedoms and of members designated by the president, in the majority, from among persons appointed pursuant to the same paragraph.

Decisions

However, the decision to hold an investigation, to file an application for the disclosure of information under the second paragraph of section 72.5 or to disclose information under the second paragraph of section 72.6 or under section 72.7 shall be made by the president or by a person designated by him from among the members of the Commission, including the vice-president, appointed pursuant to the second paragraph of section 58.1 of the Charter or from among the members of the personnel of the Commission.

Acting
president

Should the president be absent or unable to act or should the office of president be vacant, the vice-president referred to in the first paragraph shall, *ex officio*, replace the president temporarily, for the purposes of this section.

Review

The members appointed pursuant to the second paragraph of section 58.1 of the Charter may review any decision made under the

second paragraph of this section, except decisions relating to the filing of an application for the disclosure of information made under the second paragraph of section 72.5 or decisions relating to the disclosure of information made under the second paragraph of section 72.6 or under section 72.7.”

c. P-34.1,
s. 24,
replaced

13. Section 24 of the said Act is replaced by the following section:

Duties

“24. The duties provided for in paragraph *c* of section 23 and in sections 25.2 and 25.3 may be discharged, on behalf of the Commission, by a group of members designated pursuant to the first paragraph of section 23.1.”

c. P-34.1,
s. 25.1,
repealed
c. P-34.1,
ss. 28-30,
repealed

14. Section 25.1 of the said Act is repealed.

15. Sections 28 to 30 of the said Act are repealed.

CONSEQUENTIAL AMENDMENTS

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

c. A-2.1,
s. 173, am.

16. Section 173 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by inserting the words “et des droits de la jeunesse” after the word “personne” in the first line.

CODE OF CIVIL PROCEDURE

c. C-25,
a. 823.3, am.

17. Article 823.3 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the first sentence by the following sentence: “The court must admit to its sittings any member of the Commission des droits de la personne et des droits de la jeunesse or any other person authorized by the Commission to be present thereat.”

LABOUR CODE

c. C-27,
s. 111.0.3,
am.

18. Section 111.0.3 of the Labour Code (R.S.Q., chapter C-27) is amended by replacing the words “ , the Office des personnes handicapées du Québec, the Commission de protection des droits de la jeunesse” in the second and third lines of subparagraph *c* of the second paragraph by the words “et des droits de la jeunesse, the Office des personnes handicapées du Québec”.

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

c. R-8.2,
Sched. C,
am.

19. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by replacing the words “Commission des droits de la personne” by the words “Commission des droits de la personne et des droits de la jeunesse”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

c. R-10,
Sched. I,
am.

20. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Orders in Council 1573-93 of 17 November 1993, 1728-93 of 8 December 1993, 555-94 of 20 April 1994, 1056-94 of 13 July 1994, 1321-94, 1322-94, 1323-94 and 1324-94 of 7 September 1994 and 1800-94 of 21 December 1994 and by sections 65 of chapter 40 of the statutes of 1993, 6 of chapter 50 of the statutes of 1993, 13 of chapter 74 of the statutes of 1993, 79 of chapter 2 of the statutes of 1994, 49 of chapter 21 of the statutes of 1994 and 42 of chapter 27 of the statutes of 1994, is again amended by replacing the words “Commission des droits de la personne” by the words “Commission des droits de la personne et des droits de la jeunesse”.

c. R-10,
Sched. III.1,
am.

21. Schedule III.1 to the said Act, amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the words “Commission de protection des droits de la jeunesse” by the words “Commission des droits de la personne et des droits de la jeunesse”.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

c. R-12,
Sched. IV.1,
am.

22. Schedule IV.1 to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the words “Commission de protection des droits de la jeunesse” by the words “Commission des droits de la personne et des droits de la jeunesse”.

TRANSITIONAL AND FINAL PROVISIONS

Members

23. The members of the Commission des droits de la personne in office on the day preceding the day of the coming into force of this section become members of the Commission des droits de la personne et des droits de la jeunesse until they are replaced.

President
and vice-
president

The president and the vice-president of the Commission des droits de la personne become the president and the vice-president of the Commission des droits de la personne et des droits de la jeunesse, respectively, until they are replaced.

Presump-
tion

Those persons, except the president, are deemed to be appointed pursuant to the first paragraph of section 58.1 of the Charter of human rights and freedoms.

Members

24. The remaining eight members of the Commission des droits de la personne et des droits de la jeunesse, including a vice-president, shall be appointed in accordance with the Charter of human rights and freedoms. However, their appointment shall not become effective before the coming into force of section 2.

Members

Seven of those members, including the vice-president, shall be chosen by preference from among the persons who were members of the Commission de protection des droits de la jeunesse on the day preceding the day of the coming into force of this section. Those members are deemed to be appointed pursuant to the second paragraph of section 58.1 of that Charter.

Member

The remaining member is deemed to be appointed pursuant to the first paragraph of section 58.1 of that Charter.

Employees

25. The employees, including the management personnel, of the Commission des droits de la personne, in office on the day preceding the day of the coming into force of this section, become employees of the Commission des droits de la personne et des droits de la jeunesse, without further formality.

Duties

They shall hold the positions and perform the duties assigned to them by the Commission des droits de la personne et des droits de la jeunesse, subject to the provisions of the collective agreement applicable to them.

Association
of
employees

26. Any association of employees representing employees of the Commission des droits de la personne on the date on which those employees are transferred in accordance with section 25 shall continue to represent those employees until the date of expiry of the collective agreement in force at the time of the transfer.

Collective
agreement

The provisions of the collective agreement shall continue to apply to the employees of the Commission des droits de la personne et des droits de la jeunesse, so far as they are applicable to them, until the date of expiry.

Mandataries **27.** Mandataries of the Commission des droits de la personne and arbitrators designated by the Commission are deemed to be mandataries and arbitrators of the Commission des droits de la personne et des droits de la jeunesse.

Employees **28.** The employees, including the management personnel, of the Commission de protection des droits de la jeunesse shall become employees of the Commission des droits de la personne et des droits de la jeunesse, subject to the provisions of the collective agreement applicable to them, to the extent set out in the order in council providing for their transfer and provided that such order in council is made in the year following the coming into force of this section.

Duties Such employees shall have the positions and perform the duties assigned to them by the Commission des droits de la personne et des droits de la jeunesse, subject to the provisions of the collective agreement applicable to them.

Transfer **29.** Every employee transferred to the Commission des droits de la personne et des droits de la jeunesse under section 28 who, on the date of his transfer, was a public servant with permanent tenure may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Provisions applicable Section 35 of the said Act applies to any employee referred to in the first paragraph who enters such a competition for promotion.

Assessment of classification **30.** Where an employee referred to in section 29 applies for a transfer or enters a competition for promotion, he may require the Office des ressources humaines to give him an assessment of the classification that would be assigned to him in the public service. The assessment must take account of the classification of the employee in the public service on the date of his transfer, as well as the years of experience and the formal training acquired in the course of his employment with the Commission des droits de la personne et des droits de la jeunesse.

Classification If the employee is transferred, the deputy-minister or the chief executive officer shall assign to him a classification compatible with the assessment referred to in the first paragraph.

Promotion If the employee is promoted, his new classification must take account of the criteria set out in the first paragraph.

Employee

31. If some or all the activities of the Commission des droits de la personne et des droits de la jeunesse are discontinued or if there is a shortage of work, an employee referred to in section 29 is entitled to be placed on reserve in the public service with the classification he had before he was transferred to the Commission des droits de la personne et des droits de la jeunesse.

Classification

In such a case, the Office des ressources humaines shall, where applicable, establish his classification taking account of the criteria set out in the first paragraph of section 30.

Continuous service

32. An employee's service with the Commission des droits de la personne et des droits de la jeunesse shall be added to the employee's continuous service in the public service upon his being transferred, promoted or placed on reserve in accordance with section 30 or 31.

Employee placed on reserve

33. An employee placed on reserve pursuant to section 31 shall remain at the Commission des droits de la personne et des droits de la jeunesse until placed by the Office des ressources humaines.

Appeal

34. Subject to the remedies available under a collective agreement, an employee referred to in section 29 who is dismissed may bring an appeal under section 33 of the Public Service Act.

Association of employees

35. The associations of employees certified in accordance with the provisions of Chapter IV of the Public Service Act that represented groups of employees on the date on which the employees were transferred pursuant to section 28 shall continue to represent those employees until the expiry of the collective agreements in force on the date of the transfer to the Commission des droits de la personne et des droits de la jeunesse.

Collective agreements

The provisions of the collective agreements shall continue to apply to those employees of the Commission des droits de la personne et des droits de la jeunesse, so far as they are applicable to them, until their date of expiry.

Labour commissioner

36. A labour commissioner may, in accordance with section 46 of the Labour Code (R.S.Q., chapter C-27), rule on any matter relating to the transfer of the rights and obligations of the Commission des droits de la personne and of the Commission de protection des droits de la jeunesse to the Commission des droits de la personne et des droits de la jeunesse.

Rights and
obligations

37. The Commission des droits de la personne et des droits de la jeunesse shall acquire the rights and assume the obligations of the Commission des droits de la personne and of the Commission de protection des droits de la jeunesse.

Proceedings

38. Proceedings to which the Commission des droits de la personne or the Commission de protection des droits de la jeunesse is a party shall be continued by the Commission des droits de la personne et des droits de la jeunesse without continuance of suit.

Property,
records,
documents

39. The property, records and documents of the Commission des droits de la personne and those of the Commission de protection des droits de la jeunesse shall become the property, records and documents of the Commission des droits de la personne et des droits de la jeunesse, except as otherwise determined by the Government.

Appropriations

40. The appropriations granted to the Commission des droits de la personne and to the Commission de protection des droits de la jeunesse shall be transferred to the Commission des droits de la personne et des droits de la jeunesse to the extent determined by the Government.

References

41. In any text, unless the context indicates otherwise,

(1) a reference to the Commission de protection des droits de la jeunesse is a reference to the Commission des droits de la personne et des droits de la jeunesse;

(2) a reference to the Commission des droits de la personne is a reference to the Commission des droits de la personne et des droits de la jeunesse.

Coming into
force

42. The provisions of this Act come into force on the date or dates to be fixed by the Government, except the provisions of section 24 which come into force on 21 June 1995.