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# NATIONAL ASSEMBLY

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THIRTY-SECOND LEGISLATURE

FOURTH SESSION

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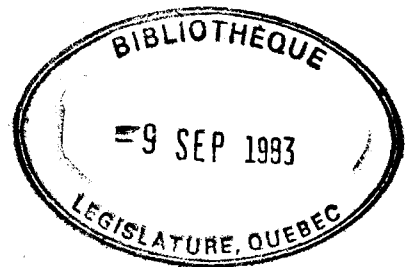
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**Draft Bill**

**Public Service Act**

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**Tabled 22 June 1983**



Introduced by  
Mrs Denise Leblanc-Bantey  
Minister of the Civil Service



# Draft Bill

## Public Service Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### APPLICATION AND INTERPRETATION

##### DIVISION I

##### APPLICATION

**1.** This Act applies to persons appointed thereunder and to persons admitted to the public service under another Act. Such persons are public servants.

This Act also binds the person responsible for the management of human resources in agencies whose employees are appointed in accordance with this Act.

##### DIVISION II

##### INTERPRETATION

**2.** The object of the public service is to provide the public with the services of quality to which it is entitled. The public service shall ensure the implementation of policies prescribed by constituted authority and the attainment of the objects of the State.

**3.** In order to carry out its appointed task, the public service must be organized and administered efficiently and in such a manner as to ensure the optimum development and use of its human resources.

Account-  
ability

**4.** Every public servant is answerable to his superiors for acts imputable to him in the discharge of his duties.

Impartiality

**5.** Every public servant shall be treated impartially and justly.

Recruitment  
and  
management

**6.** Recruitment and management of human resources must be carried out without favouritism or discrimination and in such a manner as to further the contribution of the various components of Quebec society.

Inter-  
pretation

**7.** In case of doubt as to the meaning of any provision of this Act or of a regulation, directive or policy statement, or of any decision made under this Act, it shall be so construed as to give effect to sections 2 to 6.

## CHAPTER II

### RIGHTS AND OBLIGATIONS OF PUBLIC SERVANTS

#### DIVISION I

##### REQUIREMENTS OF PUBLIC SERVICE

#### § 1.—*Standards of ethics and discipline*

Duties  
of public  
servants

**8.** A public servant has the powers and duties attached to his position as well as those which may be assigned to him by any person duly authorized to define his duties and to supervise his work.

A public servant shall exercise his powers and perform his duties in accordance with the standards of ethics and discipline prescribed in this division.

Loyalty  
and  
allegiance

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

Performance  
of duties

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

Confiden-  
tiality

**10.** Subject to the Acts relating to access to information and the protection of personal information, every public servant is bound to confidentiality regarding any matter whatsoever brought to his knowledge in the performance of his duties.

Conflict of  
interest

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

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

**Prohibition** **12.** In no case may a public servant accept any additional sum of money or any other consideration for the performance of his duties over and above the amount allocated to him for that purpose in accordance with this Act.

**Integrity** **13.** In no case may a public servant use directly or indirectly for his own benefit any property of the State or any information obtained by him as a public servant.

**Political neutrality** **14.** A public servant shall be politically neutral in performing his duties.

**Partisanship** **15.** No public servant may engage in partisan work during a provincial election from the date of the writ instituting the election.

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

## § 2.—*Disciplinary and administrative measures*

### 1. DISCIPLINARY MEASURES

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

**Dismissal** **17.** A public servant who engages in partisan activity in contravention of section 15 shall be dismissed.

**Imposition of disciplinary action** **18.** The imposition of a disciplinary action on a public servant is effected by the Deputy Minister or the Chief Executive Officer to whom he is responsible.

**Absence without permission** **19.** Without prejudice to any disciplinary action, in the event of a public servant's absentsing himself from the service without permission, a deduction proportionate to the duration of his absence must be made from his salary.

### 2. ADMINISTRATIVE MEASURES

**Provisional relief from duties** **20.** A public servant may be provisionally relieved of his duties in order to enable the appropriate authority to make a proper decision

in the case of an urgent situation requiring prompt intervention, or in a presumed case of serious fault, whether it be a breach of a standard of ethics or discipline or a criminal or penal offence.

**Demotion**      **21.** Every public servant may, by a notice in writing, be demoted for just and sufficient cause.

**Dismissal**      **22.** Every public servant may, by a notice in writing, be dismissed for just and sufficient cause.

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

Where a public servant has not acquired permanent tenure, his Deputy Minister or Chief Executive Officer may, by fifteen days' prior notice in writing, dismiss him for lack of work.

## DIVISION II

### POLITICAL RIGHTS

**Candidate in provincial election**      **23.** A public servant wishing to be a candidate in a provincial election must apply for and is entitled to leave without pay; 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 eight days after the date on which another person is declared elected.

**Right to reappointment**      **24.** A public servant elected in a provincial election ceases to be subject to this Act, except sections 27 and 127 to 130.

Throughout his tenure as a Member of the National Assembly, a public servant retains his classification on the day he was elected.

On ceasing to be a Member, a public servant is entitled to apply to the Office des ressources humaines to have his qualifications reexamined and to be appointed to a position commensurate with his qualifications.

The application must be made in writing and received not later than sixty days after the public servant ceases to be a Member, failing which he is deemed to have resigned.

**Office staff of Ministers**      **25.** A public servant employed as a member of the office staff of a Minister or of any other person contemplated in section 124.1 of the Act respecting the National Assembly (1982, chapter 62) ceases to be subject to this Act, except sections 26, 27 and 127 to 130, and is governed by the Executive Power Act (R.S.Q., chapter E-18) or the Act respecting the National Assembly, as the case may be.

Notwithstanding this section, as long as the person is employed on an office staff, he retains his classification at the time of his appointment to the staff.

Right to  
reappoint-  
ment

**26.** A public servant ceasing to be employed on the office staff of a Minister or of a person contemplated in section 124.1 of the Act respecting the National Assembly may exercise the right to reappointment described in section 24.

Placement  
on reserve.

**27.** Where the Office is unable to assign a position to a public servant contemplated in sections 24 and 26, he is placed on reserve at the Office, and is under its responsibility until he is assigned a position.

### DIVISION III

#### PROTECTION

Protection

**28.** Where a public servant is sued by a third party for an act he has done or failed to do in the performance of his duties, the Attorney General shall come to his defense unless he is charged with a gross fault or a personal fault distinct from the performance of his duties.

### DIVISION IV

#### APPEAL

Appeal to  
the Commis-  
sion de la  
fonction  
publique

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

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

Time limit

An appeal under this section must be made in writing within twenty-one days of the sending of the contested decision.

This section does not apply to a public servant undergoing a probationary period other than a probationary period required on promotion.

Appeal to  
the Commis-  
sion de la  
fonction  
publique

**30.** If a public servant considers that the procedure used in determining the eligibility of or evaluating candidates in a competition for promotion or a grade advancement examination was irregular or illegal, he may appeal to the Commission de la fonction publique in writing within twenty-one days of the sending of a notice advising him that

he is not eligible for the competition or the grade advancement examination, or informing him of the results of the competition or examination.

Decision

**31.** The Commission may confirm, amend or quash any decision appealed from.

Opinion of  
Office

**32.** If the Commission de la fonction publique confirms the demotion of a public servant, it may, on the application of the appellant, request the Office des ressources humaines to give it an opinion on the classification that the Office considers most nearly commensurate with the appellant's qualifications, after having examined them.

Change in  
demotion

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.

### CHAPTER III

#### MANAGEMENT OF HUMAN RESOURCES

##### DIVISION I

##### RESPONSIBILITIES OF DEPARTMENTS AND AGENCIES

Deputy  
Minister's  
responsibilities

**33.** A Deputy Minister, subject to the general direction of his Minister, is responsible for the management of the human resources assigned to the department.

Chief  
Executive  
Officer's  
responsibilities

**34.** The Chief Executive Officer of an agency to which the staff is appointed under this Act is responsible for the management of the human resources assigned to the agency.

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

Management  
of human  
resources

**35.** Deputy Ministers and Chief Executive Officers shall manage their human resources in conformity with the general policies of the Government in that regard.

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

Managerial  
staff

**36.** Deputy Ministers and Chief Executive Officers shall exercise their responsibilities with the support and cooperation of the managerial staff.

Senior executives and managers form part of the managerial staff.



delegation

**37.** A Deputy Minister or a Chief Executive Officer may, in writing and to the extent he indicates, delegate the exercise of the powers conferred on him under this Act to a public servant or to the holder of any position for which he is responsible.

subdelegation

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

## DIVISION II

### STAFFING

#### § 1.—*Recruitment and promotion*

competition

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

exception

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

applications

**39.** The Office des ressources humaines shall invite applications for a competition. It may also invite applications in order to establish a candidate inventory.

reasonable opportunity to apply

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

conditions of eligibility or competitions

**40.** The conditions of eligibility for a competition are prescribed by the Deputy Minister or the Chief Executive Officer having a position to fill.

conditions of eligibility

**41.** The conditions of eligibility for a competition must be consistent with the conditions of eligibility prescribed by the Conseil du Trésor and take into account the nature of the position or class of positions and the conditions under which it is held, and the regulations of the Office des ressources humaines regarding geographical criteria or criteria for belonging to any administrative body.

limits and restrictions

Furthermore, they must take into account any limits and restrictions resulting from the implementation of government policies regarding, in particular,

(1) equal opportunity programs for women, members of cultural communities, handicapped persons, Native persons or others;

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

**Conditions of entry on a candidate inventory** **42.** The conditions of entry on a candidate inventory are prescribed by the Office des ressources humaines according to the modalities prescribed in section 41.

**Admission of candidates** **43.** When the Office holds a competition, it must admit the persons who have submitted their applications and meet the conditions of eligibility.

**Reduction of the number of candidates** Notwithstanding this section, where the Office considers that, in view of the large number of candidates, it would be unreasonable to assess all the candidates who meet the conditions of eligibility, it may reduce their number according to the norms it may determine by regulation.

**Evaluation procedure** **44.** The Office shall determine the evaluation procedure, which must be of such a nature as to allow the candidates qualified for the position to be identified.

**Evaluation criteria** **45.** The evaluation of candidates eligible for a competition is based on the criteria of knowledge, experience or qualifications required for the position.

**Obligations of candidates** **46.** It is incumbent on each candidate to show, within the scope of the evaluation procedure, that he is qualified for the position he is applying for.

**Grouping by levels** **47.** A competition leads to the preparation of a list of the candidates declared qualified, grouping them by levels.

## § 2.—*Appointment*

**Appointment** **48.** A public servant comes into office, or changes position, by appointment in writing by the Deputy Minister or the Chief Executive Officer responsible for the position to be filled.

**Prior agreement** **49.** Where the appointment of a public servant involves a change of department or agency, the prior agreement of the Deputy Minister or the Chief Executive Officer to whom he is responsible is required. This requirement does not apply in the case of a promotion.

**Appointment by selection** **50.** Following a competition, the appointment of a public servant is made by selecting a person from among the persons of the same level according to the ranking order of the levels.

Classi-  
fication

**51.** On the appointment of a public servant, the Deputy Minister or the Chief Executive Officer shall assign a classification to him in accordance with the rules prescribed by the Government; the same applies on the appointment of a public servant to a new or changed classification.

### DIVISION III

#### PROBATION AND PERMANENT TENURE

Permanent  
tenure

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

Permanent tenure is attested in writing by the Deputy Minister or the Chief Executive Officer to whom the public servant is responsible.

Probationary  
period  
following  
recruitment

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

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

Probationary  
period  
following  
a promotion

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

### CHAPTER IV

#### ADMINISTRATORS OF STATE

Administra-  
tors of  
State

**55.** A public servant acquires the status of Administrator of State on his appointment to any of the following positions:

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

(2) Executive Secretary to the Prime Minister;

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

(4) Deputy Minister or Assistant or Associate Deputy Minister of each department;

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

Appointment  
of Administrator of  
State

**56.** The Government appoints an Administrator of State to a position on a motion of the Prime Minister. The Government determines the classification of a public servant within the group of Administrators of State.

Engagement  
by contract

**57.** Where the Government engages a person by contract to hold any office listed in section 55, the person does not have the status of a public servant, but Chapter VIII applies to him as if he were a public servant.

Absence or  
temporary  
incapacity

**58.** In the case of the temporary absence or inability to act of a person holding a position as Administrator of State, the Minister or the Deputy Minister, as the case may be, to whom he is responsible, may designate a person to replace him during the interim.

Appointment  
to another  
group of  
positions

**59.** An Administrator of State retains his status unless the Government assigns him to another group of positions in the public service.

Classification  
and conditions  
of employment

**60.** The Government shall determine the classification and fix the remuneration, social benefits and other conditions of employment of the Administrators of State.

Disciplinary  
action

**61.** Disciplinary action is imposed on an Administrator of State by the Minister or the Deputy Minister, as the case may be, to whom he is responsible.

Dismissal

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

Applicable  
provisions

**63.** The provisions of the other chapters, except sections 18, 21, 23 to 27, 38 to 54 and 80, apply to the Administrators of State, to the extent that they are consistent with this chapter.

## CHAPTER V

### COLLECTIVE BARGAINING

Collective  
bargaining

**64.** Chapter VIII of the Civil Service Act (R.S.Q., chapter F-3.1), entitled "Collective Bargaining", forms Chapter V of this Act.

Sections 110 to 116.6 of the said chapter are renumbered 64 to 76, respectively.

The Commission de refonte des lois et règlements is responsible for the concordance of references.

## CHAPTER VI

## INSTITUTIONAL SCOPE OF THE PUBLIC SERVICE

## DIVISION I

## CONSEIL DU TRÉSOR

general  
policies of  
management  
of human  
resources

**77.** The Conseil du trésor is responsible, on behalf of the Government, for establishing general policies on the management of human resources in the public service and assessing their implementation with reference to the principles set out in sections 2 to 7 of this Act.

staffing  
and  
classification

**78.** The Conseil du trésor shall determine the staff required for the administration of each department or agency and the classification of positions or of the holders of positions in the public service.

staffing

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

integration,  
placing on  
reserve and  
assignment

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

conditions  
of  
employment  
of public  
servants

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

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

additional  
remunera-  
tion

**80.** The Conseil du trésor may decide to give additional remuneration to a public servant over and above the amount allocated to him for the performance of his duties.

equal  
opportunity  
programs

**81.** The Conseil is responsible for setting up equal opportunity programs to remedy the situation of persons belonging to groups discriminated against in employment.

verification

**82.** The Conseil may, at any time, verify or appoint a person or an agency to verify the implementation of its policies and programs.

collective  
agreements

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

The Conseil du trésor shall sign the collective agreements, supervise their application and coordinate their interpretation.

Exceptions

**84.** For reasons of urgency or of public interest, or for practical reasons, the Conseil may, after consulting the Office des ressources humaines, exempt any position or class of positions, owing to its special nature, from any provisions of this Act it may indicate.

In no case may the Conseil exempt any position of a casual nature from the general provisions on collective bargaining prescribed by this Act.

Report to the National Assembly

**85.** Within thirty days after the opening of each session, the Conseil du trésor shall table before the National Assembly a report containing the opinion of the Office described in section 84 and indicating the positions or classes of positions so exempted, and the reasons of urgency or public interest or the practical reasons for the measures.

Exempted positions

**86.** The Conseil du trésor shall determine the conditions of employment of persons whose position or class of positions is exempt from the provisions of this Act and the manner in which a position or class of positions so exempted is governed.

Agreements

**87.** The Conseil du trésor may, in accordance with this Act, enter into an agreement with any government or agency, consistent with the interests and rights of Québec, in order to facilitate the carrying out of its functions under this Act.

Delegation

**88.** The Conseil may, in writing and to the extent it indicates, delegate the exercise of its functions under this Act to a Deputy Minister or a Chief Executive Officer.

Subdelegation

The Conseil, in the instrument of delegation, may authorize the Deputy Minister or the Chief Executive Officer to subdelegate the duties it indicates, and shall in that case identify the holder of the position or the public servant to whom they may be subdelegated.

Verification and revocation

The Conseil may verify or appoint a person or agency to verify the carrying out of the delegation or revoke it at any time.

## DIVISION II

### OFFICE DES RESSOURCES HUMAINES

#### § 1.—*Organization of the Office*

Office des ressources humaines

**89.** An Office des ressources humaines is hereby established.

Appointment and term of office of the chairman

**90.** The Government shall appoint a chairman to the Office for a fixed term of not over five years.

The chairman shall remain in office at the expiry of his term until he is reappointed or replaced.

Appointment  
and term of  
office of  
the vice-  
chairman

**91.** The Government, on the recommendation of the chairman, may appoint a vice-chairman for a fixed term of not over five years.

Full-time  
duties

**92.** The chairman, as well as the vice-chairman, where such is the case, holds office on a full-time basis.

Temporary  
absence or  
incapacity

**93.** While the chairman is temporarily absent or unable to act or the office of chairman is vacant, the chairman shall act in place of the chairman.

If there is no vice-chairman or if the vice-chairman is temporarily absent or unable to act, the Government shall appoint a person to act in place of the chairman in the interim, and determine his remuneration, social benefits and other conditions of employment.

Staff  
of the  
Office

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

Duties  
of the  
chairman

**95.** The chairman is responsible for the administration of the Office and shall supervise and direct its staff. He shall perform the duties assigned to the Office under this Act.

Official  
document

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

Authentic  
copy of  
documents

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

Agreements

**98.** With the approval of the Government and in accordance with the law, the Office may enter with any government or agency into any agreement consistent with the interests and rights of Québec, in order to facilitate the carrying out of its functions under this Act.

Annual  
report

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

Tabling

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

Auditing

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

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

## § 2.—*Functions of the Office*

### **101.** The Office shall

Competition  
and certi-  
fication of  
qualifications

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

Grade  
advancement  
examinations  
and certi-  
fication of  
qualifica-  
tions

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

Staffing,  
development  
of resources  
and access  
to equal  
opportunity

(3) propose measures to the Government or the Conseil du trésor and to the departments and agencies to improve staffing and the development of human resources within the public service and to ensure equal opportunity for employment;

Advice on  
manage-  
ment and  
administra-  
tive organi-  
zation

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

Research,  
studies,  
inquiries  
and invento-  
ries

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

Implemen-  
tation of  
policies or  
programs

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

Planning  
and develop-  
ment of  
managerial  
staff's  
career

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

Integrated  
data  
system

(8) develop and maintain an integrated data system for the management of human resources;

Other  
functions

(9) discharge any other functions assigned to it by the Government.

Assignment  
and  
retraining

**102.** The Office shall place and, where applicable, retrain permanent public servants who have been placed on reserve or who exercise their right to reappointment under this Act, another Act or an agreement with the Government.

Placement shall be in accordance with the rules of the Conseil du trésor or those which may be prescribed in a collective agreement.



Reclassification of public servants declared surplus

**103.** Where the Office is unable to place a public servant having permanent tenure who has been declared surplus to requirements in a position consistent with his classification, the Office may assign a new classification to him in conformity with the rules prescribed by the Conseil du trésor or the rules prescribed in a collective agreement, after examining his qualifications.

No decrease in salary

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

Delegation

**104.** The Office may, in writing and to the extent it may indicate,

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

(2) delegate to a Deputy Minister or Chief Executive Officer the exercise of its functions under this Act, except the function of holding grade advancement examinations and that of assessing and certifying the qualifications of candidates for promotion without a competition.

Subdelegation

The instrument of delegation shall authorize the Deputy Minister or the Chief Executive Officer to subdelegate the duties it indicates, and identify the holders of the positions or the public servants to whom they may be subdelegated.

Verification and revocation

The Office may verify or appoint a person or an agency to verify the carrying out of the delegation, or revoke the delegation at any time.

**105.** The Office may, by regulation, determine

Procedures for holding competitions

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

Geographical areas

(2) geographical areas and criteria for belonging to them in order that a person may be eligible for a competition or a candidate inventory;

Administrative body

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

Reduction of number of candidates

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

Grouping by levels

(5) the rules for grouping candidates declared qualified in a competition into levels;

Procedure for holding grade advancement examinations

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

Promotion  
without  
competition

(7) conditions, cases and categories of cases where the position of a public servant which is upgraded may allow for his promotion without a competition.

Publication

**106.** The Office shall publish every regulation in the *Gazette officielle du Québec* with a notice indicating that it will be submitted to the Government for approval at the expiry of thirty days from that publication. The Government may amend the regulation submitted to it for approval.

Coming  
into  
force

A regulation comes into force, after being approved by the Government, fifteen days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

### DIVISION III

#### COMMISSION DE LA FONCTION PUBLIQUE

#### § 1.—*Organization of the Commission*

Members

**107.** A Commission de la fonction publique is hereby established, consisting of not fewer than three nor over five members, including a chairman, who is its Chief Executive Officer.

Term  
of office

On the motion of the Prime Minister, the National Assembly shall appoint the chairman and the other members of the Commission for a five-year term by a resolution approved by two-thirds of its members.

Conditions  
of employ-  
ment

The Government shall fix their salary, social benefits and other conditions of employment.

Resignation  
and dis-  
missal

**108.** A member of the Commission may resign by giving notice in writing to the President of the National Assembly.

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

Term of  
office

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

Full-time  
duties

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

Temporary  
absence or  
incapacity

**111.** Where a member of the Commission is temporarily absent or unable to act or where the position of a member is vacant, the Government may appoint a person to perform the duties of the member in the interim and fix his remuneration, social benefits and other conditions of employment.

Secretary  
and staff

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

Conflict  
of interest

**113.** 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.

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

Authentic  
documents

**114.** 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 emanating from the Commission or forming part of its records, if it is certified by the chairman or the secretary.

Immunity

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

Prohibited  
recourses

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

Annulment  
of writ

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

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

Powers  
of the  
Commission

**117.** In addition to hearing the appeals brought by public servants under this Act, the Commission shall periodically evaluate the operation of the system of recruitment and promotion of public servants to ensure compliance with this Act and to formulate recommendations to the appropriate authorities.

Inquiries

The Commission may make any inquiry it deems necessary to enable it to make a report.

Regulations

**118.** The Commission shall, by regulation, determine the number of members required to hear and decide appeals.

Rules  
of proof  
and  
procedure

The Commission shall also, by regulation, determine the rules of proof and procedure.

Publication

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

Coming  
into force

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

Powers and  
immunity of  
commissioners

**119.** The Commission, its members and any person entrusted by it with making an inquiry have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Recusation

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

Powers

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

Decisions

**122.** A decision of the Commission terminating a matter is final and without appeal. It must be rendered in writing and be substantiated, and forms part of the records of the Commission.

Review or  
revocation

Notwithstanding this section, the Commission may, for cause, review or revoke any decision it has rendered.

Annual  
report

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

Auditing

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

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

Content

The annual report must deal particularly with the operation of the system of recruitment and promotion of public servants.

## CHAPTER VII

### REGULATIONS

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

Standards  
of ethics  
and  
discipline

(1) specify the standards of ethics and discipline prescribed in this Act, add to them, prescribe disciplinary actions and determine the conditions under which they may be taken;

Provisional  
relief  
from duties

(2) determine by whom, on what conditions and according to what modalities a public servant may be provisionally relieved of his duties;

Classifica-  
tion

(3) fix the rules of classification of public servants.

Appeal

**125.** The Government may, by regulation, prescribe an appeal in the matters it determines, for public servants who are not governed by a collective agreement and for whom no appeal is provided under this Act.

Rules of  
procedure  
and powers

The regulation shall prescribe the rules of procedure to be followed and the constitution and powers of the authority formed to hear the public servants and decide their appeals.

Publication

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

Coming  
into  
force

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

## CHAPTER VIII

### SANCTIONS

Fraudulent  
act

**127.** Every person who, at a competition for recruitment and promotion, a grade advancement examination or the establishment of a candidate inventory, commits a fraudulent act ceases to be eligible for any competition or examination for a period of two years.

Dismissal

The commission by a public servant of an act described in this section constitutes sufficient cause for dismissal.

Intimidation  
and threats

**128.** Every person who, at a provincial election, uses intimidation or threats to induce a public servant to engage in partisan work or to punish him for refusing to do so is guilty of an offence and liable to a fine of \$500 to \$2 000 or imprisonment for not over six months.

Corruption

**129.** Every person who gives a public servant a sum of money or any other consideration or incites him to accept a sum of money or other consideration in contravention of section 12 is guilty of an offence and liable to a fine of \$500 to \$2 000 or imprisonment for not over six months.

Penal  
proceedings

**130.** Penal proceedings taken under sections 128 and 129 are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

## CHAPTER IX

### TRANSITIONAL AND FINAL PROVISIONS

R.S.Q.,  
c. A-6,  
s. 20,  
replaced

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

**"20.** The secretary, deputy secretaries, associate secretaries and other officers of the Conseil du trésor shall be appointed and remunerated in accordance with the Public Service Act (1983, chapter *insert here the chapter number of this bill*).

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

A deputy secretary or associate secretary shall carry out his duties under the authority of the secretary.

The Conseil du trésor shall define the functions and duties of the secretary, deputy secretaries and associate secretaries and those of its officers."

R.S.Q.,  
c. A-6,  
s. 22,  
am.

**132.** Section 22 of the said Act is amended by replacing the first two paragraphs by the following paragraphs:

**"22.** The Conseil du trésor exercises the powers of the Government in all matters respecting the approval of organization plans for government agencies other than those whose staff is appointed and remunerated under the Public Service Act (1983, chapter *insert here the chapter number of this bill*), and the staff required for the management of such agencies.

The Conseil du trésor also exercises the powers conferred on the Government regarding the preparation and application of the general administrative policy to be followed in the public service."

R.S.Q.,  
c. A-6,  
ss. 46.1,  
46.2, added

**133.** The said Act is amended by inserting after section 46 the following sections:

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

**"46.2** Where the staff of an administrative unit or of any part thereof is transferred from one department or agency to another, the Conseil du trésor may order that the appropriations voted for the staff be transferred to the department or agency taking charge of the staff."

1982, c. 62,  
s. 121, am.

**134.** Section 121 of the Act respecting the National Assembly (1982, chapter 62) is amended by replacing the first paragraph by the following paragraph:

**"121.** The Assembly may vest in the associate secretaries-general, in their deeds of appointment, the rank and privileges of an assistant deputy minister. Where such is the case, those persons have the status of Administrator of State within the meaning of the Public Service Act (1983, chapter *insert here the chapter number of this bill*)."

1982, c. 62,  
ss. 124.1,  
124.2,  
added

**135.** The said Act is amended by inserting, after section 124, the following division:

#### "DIVISION III.1

##### "OFFICE STAFF

**"124.1** The Leader of the Opposition, a Member to whom paragraph 6 of section 7 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly, (1982, chapter 66) 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 paragraph 6 of section 7 of the said Act, and the Chief Government Whip and the Chief Opposition Whip in the National Assembly, may appoint his Executive Assistant and the other persons required for the orderly administration of his office.

**"124.2** The standards and scales according to which the Executive Assistant and the other members of the office staff are recruited, appointed and remunerated, as well as their other conditions of employment, are fixed by the Office of the National Assembly."

R.S.Q.,  
c. C-27,  
s. 1, am.

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

**"(3)** a public servant of the Government whose position is of a confidential nature in the opinion of the Labour Court or under the terms of an agreement binding the Government and the associations certified in accordance with Chapter V of the Public Service Act (1983, chapter *insert here the chapter number of this bill*) which are parties to a collective agreement that otherwise would apply to such public servant; such is the position of a conciliation officer of the Ministère du

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

R.S.Q.,  
c. E-3.1,  
s. 190,  
replaced

**137.** The Election Act (R.S.Q., chapter E-3.1), amended by chapter 54 of the statutes of 1982, is again amended by replacing section 190 by the following section:

“**190.** The personnel of the director general of elections shall be appointed and remunerated in accordance with the Public Service Act (1983, chapter *insert here the chapter number of this bill*).”

The director general shall exercise, in respect of the personnel, the powers conferred on a Chief Executive Officer under that Act.”

R.S.Q.,  
c. E-18,  
s. 4, am.

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

R.S.Q.,  
c. E-18,  
s. 10,  
replaced

**139.** Section 10 of the said Act is replaced by the following section:

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

The Secretary-General shall have, with regard to the officers of the Conseil, the powers assigned by the said Act to a Deputy Minister.

Associate Secretaries-General shall perform their duties under the authority of the Secretary-General.

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

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

R.S.Q.,  
c. E-18,  
ss. 11.5,  
11.6, added

**140.** The said Act is amended by inserting, after section 11.4, the following division:



## "DIVISION II.2

## "OFFICE STAFF OF MINISTERS

**"11.5** Every Minister may appoint an Executive Assistant and any other person required for the orderly administration of his office.

**"11.6** The standards and scales according to which an Executive Assistant and the other members of an office staff are recruited, appointed and remunerated, as well as their other conditions of employment, are determined by the Government."

R.S.Q.,  
c. F-3.1,  
s. 116,  
am.

**141.** Section 116 of the Civil Service Act (R.S.Q., chapter F-3.1), which is now section 70 of this Act, is amended

(1) by replacing the introductory lines by the following lines:

**"116.** The public 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 Commission or of the Office respecting the holding of a competition for recruitment and promotion and the certification of qualifications of candidates or the holding of grade advancement examinations for public servants and their certification of qualifications; nor may it limit the powers of a Deputy Minister, a Chief Executive Officer, the Government or the Conseil du trésor with regard to any of the following matters:";

(2) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

**"(c)** the granting of permanent tenure and the determination of the duration of any probationary period."

Interpreta-  
tion

**142.** Sections 116.1, 116.2 and 116.3 of the said Act, which are now sections 71, 72 and 73 of this Act, are amended by replacing the words "Minister of the Civil Service" by the words "Conseil du trésor".

R.S.Q.,  
c. M-31,  
s. 5,  
replaced

**143.** Section 5 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 19 of chapter 38 of the statutes of 1982, is replaced by the following section:

**"5.** The other public servants and employees necessary for the proper administration of the department shall be appointed and remunerated in accordance with the Public Service Act (1983, chapter *insert here the chapter number of this bill*).

However, notwithstanding any inconsistent provision of any Act, regulation, by-law or any collective agreement within the meaning of

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

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

Except where the position to be filled is of a casual nature, the person concerned, if he believes himself wronged by the decision of the Deputy Minister, may, within thirty days of the sending of the decision, appeal therefrom to the Commission de la fonction publique, which shall hear the appeal and decide it unless a collective agreement or an arbitration award in lieu thereof has given jurisdiction over such matter to another person."

R.S.Q.,  
c. M-34,  
s. 1, am.

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

R.S.Q.,  
c. F-3.1,  
replaced

**145.** This Act replaces the Civil Service Act (R.S.Q., chapter F-3.1).

Matters  
pending

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

Party to  
proceedings

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

Regulations  
remaining  
in force

**147.** The regulations made by the Minister of the Civil Service under the Civil Service Act (R.S.Q., chapter F-3.1) remain in force, to the extent that they are in conformity with this Act, until they are repealed in whole or in part by regulations of the Government.

Regulations  
remaining  
in force

**148.** Regulations made by the Office du recrutement et de la sélection du personnel remain in force, to the extent that they are consistent with this Act, until they are replaced or repealed in whole or in part by a regulation of the Office des ressources humaines.

Lists of  
certificates  
of qualifica-  
tions

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

interpretation

**150.** Any reference in any Act, proclamation or commission, order in council or other document to the Civil Service Act (R.S.Q., chapter F-3.1) or to a provision of that Act is deemed a reference to this Act or the corresponding provision of this Act; and, in particular, any reference to section 97 of the Civil Service Act (R.S.Q., chapter F-3.1) is deemed a reference to section 29 of this Act.

Any reference to the Minister of the Civil Service or to the Ministère de la Fonction publique, the Office du recrutement et de la sélection du personnel or the Commission de la fonction publique is deemed a reference to the Government, the Conseil du trésor, the Office des ressources humaines or the Commission de la fonction publique established by this Act, according to their respective jurisdictions.

transfer of public servants

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

permanent tenure for casual public servants

**152.** Permanent tenure is granted to every casual public servant who meets the following conditions:

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

(2) he has worked on specific projects for a period of at least five years from 1 July 1977;

(3) he has been named by the joint committee on casual employees established under the collective agreement signed on 8 October 1980 between the Gouvernement du Québec and the Syndicat des professionnels du gouvernement du Québec;

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

This Act applies, where such is the case, without other formality, to the public servant, provided that he is still working for the same department or agency on (*insert here the date of tabling of this bill in first reading*).

integration

**153.** The holder of an office listed in section 55 on the day preceding the date of sanction of this Act becomes an Administrator of State unless he was engaged by contract.

A person who formerly held an office contemplated in section 55 or who is a Deputy Secretary and Class I Administrator at the Conseil

exécutif on the day preceding sanction of this Act may become an Administrator of State, as the Government may determine.

Moneys  
transferred

**154.** The moneys appropriated for the purposes of the Commission de la fonction publique, the Office du recrutement et de la sélection du personnel and the Ministère de la Fonction publique are transferred to the Commission de la fonction publique established by this Act, or to the Office des ressources humaines or to the Conseil du trésor, as the Government may determine.

Moneys  
required

**155.** The moneys required for the application of this Act are taken, for the fiscal year 1983-84, out of the consolidated revenue fund, and for subsequent fiscal years, out of the appropriations granted each year for that purpose by the National Assembly.

Responsible  
Minister

**156.** The Government shall designate the Minister responsible for the administration of the provisions of this Act regarding the Office des ressources humaines.

Exception

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

Cessation  
of effect

**158.** Unless otherwise decided by resolution of the National Assembly, this Act ceases to have effect on 1 November 1990.

Extension

Where the Assembly does not sit within thirty days preceding that date, the Act is extended until the next 1 June unless it has been repealed or replaced by that time.

Coming  
into  
force

**159.** This Act comes into force on 2 April 1984, except sections..., which come into force on the date fixed by proclamation of the Government.

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