



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 53
(2004, chapter 18)

An Act to amend the Act respecting immigration to Québec

**Introduced 13 May 2004
Passage in principle 2 June 2004
Passage 17 June 2004
Assented to 17 June 2004**

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EXPLANATORY NOTES

This bill introduces various amendments to the Act respecting immigration to Québec to facilitate its administration.

The bill gives the Minister of Relations with the Citizens and Immigration the power to formulate guidelines respecting immigration and provides that the guidelines are to be tabled in the National Assembly. The bill adds a new objective to the annual immigration plan, that is, to promote the enrichment of the sociocultural fabric of Québec, in particular by enabling the selection of foreign nationals to be distributed by source area. The bill also authorizes the Minister to temporarily suspend the receipt of applications for selection certificates from prospective immigrants to Québec.

The bill abolishes the requirement for foreign nationals to obtain a certificate from the Minister to receive medical treatment in Québec. It reinforces the provisions relating to the use of false documents and introduces an administrative sanction where an application for a certificate or an undertaking may be rejected in such circumstances.

The bill specifies the scope of certain regulatory powers of the Government and introduces powers to enable recognition of immigration consultants and supervision of their activities.

Lastly, because of the proposed amendments, the bill adjusts the provisions regarding penal offences and proceedings before the Administrative Tribunal of Québec and introduces amendments for harmonization with the new federal legislation respecting immigration and refugee protection.

Bill 53

AN ACT TO AMEND THE ACT RESPECTING IMMIGRATION TO QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Act respecting immigration to Québec (R.S.Q., chapter I-0.2) is amended by replacing “Immigration Act (Revised Statutes of Canada, 1985, chapter I-2)” by “Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27)”.

2. Section 3 of the said Act is amended by replacing “, work temporarily or receive medical treatment” in paragraph *e* by “or work temporarily”.

3. The said Act is amended by inserting the following section after section 3:

“3.0.0.1. The Minister, having regard to government policy concerning immigrants and foreign nationals, shall formulate guidelines respecting immigration and table them in the National Assembly for examination by the appropriate committee of the Assembly. The National Assembly may, for that purpose, hear any person or organization.”

4. Section 3.0.1 of the said Act is amended

(1) by inserting “and to its guidelines on immigration” after “nationals” in the first paragraph;

(2) by replacing the second and third paragraphs by the following paragraphs:

“The purpose of the plan is to specify planned immigration levels to promote the enrichment of the sociocultural fabric of Québec within the framework of the objectives pursued in the selection of foreign nationals.

The plan shall set out the maximum or estimated number of foreign nationals who may settle in Québec or of selection certificates that may be issued, and their distribution by class or within the same class; the maximum or estimated number may also be determined by source area. The plan shall take into account, among other factors, the projected overall demand for selection certificates, the projected admission and selection levels and Québec’s capacity to welcome and integrate immigrants.

A source area may comprise a country, a group of countries, a continent or part of a continent.”

5. Section 3.1.3 of the said Act is amended by replacing “the granting of landing under the Immigration Act (Revised Statutes of Canada, 1985, chapter I-2),” in the first paragraph by “the granting of permanent residence under the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27)”.

6. Section 3.2 of the said Act is amended by replacing “, study or receive medical treatment” in the first paragraph by “or study”.

7. Section 3.2.1 of the said Act is amended by adding the following paragraph at the end:

“In particular, the Minister may refuse any application containing any false or misleading information or document.”

8. Section 3.2.2 of the said Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) where the application for a certificate or an undertaking contains any false or misleading information or document;”.

9. The said Act is amended by inserting the following section after section 3.2.2:

“3.2.2.1. The Minister may refuse to examine an application for a certificate made by a person who, in the past five years, has provided any false or misleading information or document relating to an application under this Act.

The Minister may also refuse to examine an application for an undertaking made by a person who, in the past two years, has provided such information or such a document.”

10. Section 3.3 of the said Act is amended

(1) by replacing “a foreign national’s dependants” in the second line of paragraph *b.2* by “a family member of a foreign national”;

(2) by replacing “dependants” in the third line of paragraph *b.2* by “a family member of a foreign national”;

(3) by inserting the following paragraph after paragraph *b.4*:

“(b.5) determining the conditions or criteria applicable to a person whose participation is required for the management of the financial investment of a foreign national;”;

(4) by replacing “fourth” in the second line of paragraph *d* by “fifth”;

(5) by striking out “or receive medical treatment” in the fifth line of paragraph *e*;

(6) by replacing paragraph *f.1* by the following paragraphs:

“(f.1) determining the conditions of validity and the duration of a selection certificate, which may vary according to the class of foreign nationals or within the same class and according to whether the application is made in Québec or abroad;

“(f.1.0.1) determining the conditions of validity of a certificate of acceptance, which may vary according to the class of employment or within the same class, and determining the duration of a certificate of acceptance, which may vary, in the case of a foreign national coming to Québec to study, according to whether the person is a minor or of age or according to the program of study or the duration of the studies, and in the case of a foreign national coming to Québec to work, according to the class of employment or within the same class, the duration of employment, the person’s professional experience or labour market needs in the person’s profession;

“(f.1.0.2) determining the cases in which a selection certificate or certificate of acceptance lapses, which may vary according to the class of foreign nationals or within the same class;”;

(7) by replacing “the granting of landing under the Immigration Act” in the first and second lines of paragraph *f.1.2* by “the granting of permanent residence under the Immigration and Refugee Protection Act”;

(8) by inserting the following paragraph after paragraph *f.2*:

“(f.3) establishing the fees payable for processing an application by an employer relating to a temporary or permanent job for a foreign national; the fees may vary according to whether the job is temporary or permanent or according to the class of employment;”;

(9) by adding the following at the end:

“(k) defining the expression “immigration consultant”, determining classes of consultants and establishing various standards according to such classes;

“(l) establishing standards of qualification for the recognition of immigration consultants and determining the conditions to be met and the information or documents to be provided to obtain recognition, the duration of the recognition, the conditions for its renewal and the fees payable for an application for recognition or for its renewal;

“(m) determining the functions and powers of the Minister with respect to the recognition of immigration consultants and the supervision of their activities, and the cases in which or conditions under which recognition is to be refused, suspended, revoked or not renewed;

“(n) determining conditions or obligations applicable to immigration consultants or activities they are prohibited from engaging in, in particular with respect to advertising their services;

“(o) prescribing the content and amount of the professional liability insurance policy that immigration consultants are required to hold;

“(p) exempting members or a class of members of a professional order from all or part of the rules applicable to immigration consultants; and

“(q) determining the provisions of a regulation whose violation constitutes an offence.

A regulation under any of subparagraphs *a* to *b.5*, *f.2* and *f.3* of the first paragraph is not subject to the publication requirement set out in section 8 of the Regulations Act (chapter R-18.1) and, despite section 17 of that Act, comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date mentioned in the regulation.”

11. The said Act is amended by inserting the following section after section 3.4:

3.5. The Minister may, with the approval of the Government, suspend the receipt of applications for selection certificates for a specified period particularly if the Minister considers that the number of applications for all countries or a source area, or for a class of foreign nationals or part of a class of foreign nationals, will be significantly greater than the estimate set out in the annual immigration plan, that the number of applications from a source area prevents a fair treatment of applications from other areas or that the number of applications in a class or within a class will be detrimental to other applications in view of Québec’s capacity to welcome and integrate immigrants.

The suspension may not exceed one year and may be renewed.

The suspension may apply to all countries or to a source area and to a class of foreign nationals or part of a class of foreign nationals.

A suspension takes effect on the date of the publication of the suspension notice in the *Gazette officielle du Québec* or on any later date mentioned in the notice. The reason for the suspension must be included in the notice. The same applies to the renewal of a suspension.

A suspension under this section may, if it so specifies, apply to applications for selection certificates received within three months before its effective date that have yet to be examined by the Minister. In such cases, the Minister shall notify the applicant and shall either return the fees sent or reimburse the fees already collected.”

12. The said Act is amended by inserting the following sections after section 12.4.1:

“**12.4.2.** Every person who acts as an immigration consultant without being duly recognized by the Minister or while the person’s recognition is suspended, non-renewed, revoked or cancelled is guilty of an offence.

“**12.4.3.** No person may use or evoke the expression “Immigration-Québec” or “Ministère de l’Immigration du Québec” in order to hold out or lead to the belief that the person’s conduct, operations or services are approved by the Minister or the Government.

No person may use or evoke the expression “Immigration-Québec” or “Ministère de l’Immigration du Québec” in order the hold out or lead to the belief that the person’s competence is recognized by the Minister or the Government, unless the person is recognized as an immigration consultant in accordance with this Act.

Every person who contravenes this section is guilty of an offence.

“**12.4.4.** Every person who contravenes a provision referred to in paragraph *q* of section 3.3 is guilty of an offence.”

13. Section 12.5 of the said Act is amended

(1) by replacing “, and” after “12.4” in the first paragraph by a comma;

(2) by adding “and to a fine of \$1,000 to \$50,000 in the case of an offence under section 12.4.2, 12.4.3 or 12.4.4” at the end of the first paragraph.

14. Section 12.7 of the said Act is amended by adding the following paragraphs at the end:

“Prescription of proceedings under section 12.4.2 or 12.4.3 begins to run on the date the Minister becomes aware of the offence.

However, no proceedings may be instituted if more than five years have elapsed from the date of the commission of the offence.”

15. Section 17 of the said Act is amended

(1) by replacing “person or group of persons” in paragraph *a* by “natural person”;

(2) by adding the following paragraph after paragraph *b*:

“(c) any person whose recognition as an immigration consultant is refused, suspended, revoked or cancelled.”

16. Section 3.5 of the Act respecting immigration to Québec, enacted by section 11 of this Act, applies only to applications for selection certificates received after 13 May 2004.

17. This Act comes into force on 17 June 2004, except sections 2 and 6 and paragraph 5 of section 10, which come into force on the date to be set by the Government.