



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 53

**An Act to create the office of
Commissioner for complaints concerning
mechanisms for the recognition of
professional competence**

Introduction

**Introduced by
Madam Kathleen Weil
Minister responsible for the administration of legislation
respecting the professions**

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EXPLANATORY NOTES

This bill provides for the creation of the office of Commissioner for complaints concerning mechanisms for the recognition of professional competence within the Office des professions du Québec. The Commissioner is to receive and examine complaints against professional orders concerning the mechanisms for the recognition of professional competence established within the professional orders. The Commissioner must also, among other functions, monitor the operation of such mechanisms.

Under the bill, the Office, in cooperation with the Ministère de l'Éducation, du Loisir et du Sport, is responsible for taking measures to ensure that educational institutions and professional orders collaborate so that if a professional order requires a person to acquire additional training, the training is in fact offered by an educational institution and the person is permitted by the institution to take the training. The Office is to report each year to the Government on the measures taken and make any recommendations it considers appropriate.

LEGISLATION AMENDED BY THIS BILL:

– Professional Code (R.S.Q., chapter C-26).

Bill 53

AN ACT TO CREATE THE OFFICE OF COMMISSIONER FOR COMPLAINTS CONCERNING MECHANISMS FOR THE RECOGNITION OF PROFESSIONAL COMPETENCE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Professional Code (R.S.Q., chapter C-26) is amended by inserting the following after the heading of Chapter II:

“DIVISION I

“GENERAL PROVISIONS”.

2. Section 5 of the Code is amended by inserting “, the Commissioner for complaints concerning mechanisms for the recognition of professional competence” after “secretary”.

3. Section 12 of the Code, amended by sections 1 and 2 of chapter 11 of the statutes of 2008, is again amended by inserting the following subparagraphs after subparagraph 7 of the third paragraph:

“(7.1) take measures, in cooperation with the Ministère de l’Éducation, du Loisir et du Sport, to ensure that educational institutions and professional orders collaborate so that if a professional order requires a person to acquire training under a regulation made under paragraph *c* or *c.2* of section 93, paragraph *i* of section 94 as regards standards of equivalence, or paragraph *q* or *r* of that section, the training is in fact offered by an educational institution and the person is permitted by the institution to take the training;

“(7.2) report each year to the Government on the measures taken under subparagraph 7.1, making any recommendations it considers appropriate;”.

4. Section 14 of the Code is amended

(1) by replacing “after obtaining the authorization of the Minister or at the Minister’s request” in the first paragraph by “on its own initiative or at the request of the Minister”;

(2) by replacing the second paragraph by the following paragraph:

“The Office shall inform the order of its decision to conduct an inquiry, sending its reasons for the decision to the order.”

5. Section 16.1 of the Code is amended by inserting “, which must include the information contained in the report referred to in section 16.17” at the end of the first paragraph.

6. The Code is amended by inserting the following division after section 16.8:

“DIVISION II

“COMMISSIONER FOR COMPLAINTS CONCERNING MECHANISMS FOR THE RECOGNITION OF PROFESSIONAL COMPETENCE

“**16.9.** The office of Commissioner for complaints concerning mechanisms for the recognition of professional competence is created within the Office.

“**16.10.** The functions of the Commissioner are

(1) to receive and examine complaints against professional orders concerning the operation of the mechanisms for the recognition of professional competence;

(2) to monitor the operation of the mechanisms referred to in subparagraph 1; and

(3) to monitor the measures provided for in subparagraph 7.1 of the third paragraph of section 12 and, if necessary, to request the Ministère de l'Éducation, du Loisir et du Sport to take the appropriate steps to see that the training required is in fact offered.

In this Code, “mechanisms for the recognition of professional competence” means the mechanisms established within the professional orders under section 41, paragraphs 2, 2.1 and 3 of section 42, sections 42.1, 42.2 and 42.4, paragraphs *c*, *c.1* and *c.2* of section 93, paragraph *i* of section 94 as regards standards of equivalence, paragraphs *q* and *r* of that section and any sections of the Acts constituting the professional orders that concern the issue of restrictive or temporary permits.

“**16.11.** The Commissioner shall establish a procedure for examining complaints.

“**16.12.** The Commissioner may, upon summary examination, dismiss a complaint if, in the Commissioner’s opinion, it is excessive, frivolous or clearly unfounded.

The Commissioner may also refuse or cease to examine a complaint

(1) if the Commissioner has reasonable grounds to believe the Commissioner's intervention would serve no purpose;

(2) if the plaintiff refuses or neglects to provide information or documents requested; or

(3) if the length of time having elapsed between the events that gave rise to the dissatisfaction of the plaintiff and the filing of the complaint makes it impossible to examine the complaint.

In such cases, the Commissioner must so inform the plaintiff and include the reasons for the decision.

“16.13. After examining a complaint, the Commissioner shall inform the plaintiff and, if necessary, the professional order concerned of the findings and send them any recommendations made.

“16.14. Answers given or statements made by a person during the examination of a complaint, including any information or document supplied in good faith in response to a request by the Commissioner, may not be used or admitted as evidence against the person in a judicial proceeding or a proceeding before a person or body exercising adjudicative functions.

“16.15. Nothing contained in a plaintiff's complaint record, including the conclusions and any related recommendations, may be construed as a declaration, recognition or extrajudicial admission of professional, administrative or other misconduct capable of establishing the civil liability of a party in a judicial proceeding.

“16.16. The Commissioner may require any professional order to furnish, within the time and in the manner the Commissioner specifies, any document, report or information the Commissioner needs to carry out the functions of office.

“16.17. The Commissioner shall submit an activity report annually to the chair of the Office.

“16.18. The Office shall take steps to preserve at all times the independence of the Commissioner in the exercise of the functions of office.

“16.19. Nothing in this division may be construed as conferring on the Commissioner jurisdiction over the decisions made by a professional order.”

7. This Act comes into force on *(insert the date of assent to this Act)*.

