

chapter C-11, r. 7

Regulation respecting the exemption from the application of the first paragraph of section 72 of the Charter of the French language that may be granted to children staying in Québec temporarily

Charter of the French language
(chapter C-11, s. 85).

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1. A child who comes to Québec for a temporary stay and who is in one of the following situations is exempted from the application of the first paragraph of section 72 of the Charter of the French language (chapter C-11):

(1) he holds a Québec certificate of acceptance issued under section 3 of the Québec Immigration Regulation (chapter I-0.2.1, r. 3);

(2) *(subparagraph revoked)*;

(3) he is exempted from the obligation to hold a Québec certificate of acceptance or a work permit or study permit referred to in the Immigration and Refugee Protection Act (S.C. 2001, c. 27), except in the cases referred to in subparagraph 3 of the first paragraph of section 84.1 of that Charter;

(4) he is a dependent child of a foreign national who holds a Québec certificate of acceptance;

(5) *(subparagraph revoked)*;

(6) he is a dependent child of a foreign national who is exempted from the obligation to hold a Québec certificate of acceptance, a work permit or a study permit under a statute applicable in Québec;

(7) he is a Canadian citizen or permanent resident domiciled in another Canadian province or a territory of Canada or is a dependent child of such a Canadian citizen or permanent resident, who comes to Québec to study or work.

In order to be granted an exemption, the following documents and information shall be filed:

(1) the certificate referred to in subparagraphs 1 and 4 of the first paragraph;

(2) where applicable, a document issued by a competent authority in immigration, certifying

(a) that the child or the foreign national who has charge of him is exempted under subparagraph 3 or 6 of the first paragraph and specifying the duration of the stay; or

(b) that a permanent resident referred to in subparagraph 7 of the first paragraph is a permanent resident within the meaning of the Immigration and Refugee Protection Act;

(3) a document demonstrating that the child is a dependent child of a foreign national referred to in subparagraphs 4 and 6 of the first paragraph or of a Canadian citizen or permanent resident referred to in subparagraph 7 of the first paragraph;

(4) where applicable, the following sworn declarations:

(a) one by the Canadian citizen or permanent resident referred to in subparagraph 7 of the first paragraph, certifying that the stay is temporary;

(b) one by the person in charge of the educational institution that will be attended or by the employer, confirming that the studies or employment are temporary.

Notwithstanding the foregoing, where refugee status within the meaning of the Immigration and Refugee Protection Act is sought for the child or the foreign national he is accompanying or if the child or foreign national he is accompanying obtains a selection certificate issued under section 22 of the Québec Immigration Regulation for the purposes of sections 18 to 20, 34 and 38 of the Québec Immigration Act, the exemption may not be granted or, as the case may be, ceases to have effect on 30 June of the school year during which refugee status is sought or during which the selection certificate is issued.

In this Regulation, “foreign national” has the meaning assigned to it by section 2 of the Québec Immigration Act and “dependent child” refers to the child of a foreign national or his spouse’s child, the child

of a member of the Canadian Armed Forces or his spouse's child, or the child of a Canadian citizen or permanent resident or his spouse's child.

O.C. 608-97, s. 1; S.Q. 2022, c. 14, s. 167.

2. A child who is not a Canadian citizen and who stays in Québec temporarily because he is a dependent child of a person who is not a Canadian citizen and who is assigned to Québec temporarily as a representative or officer of a country other than Canada or of an international organization shall be exempted from the application of the first paragraph of section 72 of the Charter if the following documents are filed:

- (1) proof that the person is registered with the competent government department;
- (2) an affidavit by that person attesting to the planned duration of his stay in Québec, from the date of his arrival; and
- (3) a document demonstrating that the child is a dependent child of that person or of his spouse.

O.C. 608-97, s. 2.

3. A child who stays in Québec temporarily because he is a dependent child of a member of the Canadian Armed Forces who is assigned to Québec temporarily shall be exempted from the application of the first paragraph of section 72 of the Charter if an affidavit by the employer certifying that the parent is a member of the Canadian Armed Forces and that he is assigned to Québec temporarily and a document demonstrating that the child is a dependent child of that Armed Forces member are filed.

O.C. 608-97, s. 3; S.Q. 2022, c. 14, s. 168.

4. Every application for exemption from the application of the first paragraph of section 72 of the Charter by reason of a temporary stay in Québec shall be submitted to a school body and shall be accompanied by

- (1) every document which must be filed under this Regulation; and
- (2) a birth certificate of the child, mentioning his parents' names or, failing that, any other official document issued by a competent authority and attesting to the child's date of birth, sex and filiation.

A school body that receives an application for exemption shall forward it within a reasonable time, with the required documents, to a person empowered by the Minister of Education, Recreation and Sports to verify and decide on children's eligibility for instruction in English under section 75 of the Charter.

O.C. 608-97, s. 4.

5. Where an application for exemption is incomplete because the required information or documents have not been provided, the designated person shall so notify in writing the person who made the application informing him of the missing information or documents and of the time allotted to rectify the omission. A copy of such notice shall be forwarded to the school body.

If the required information or documents have not been submitted within 90 days following the date of the mailing of the notice, the designated person shall decide on the application as forwarded to him.

O.C. 608-97, s. 5.

6. The designated person shall inform in writing the person who made the application of his decision on the child's eligibility for instruction in English. If the child is declared eligible, the designated person shall issue an authorization.

The designated person shall inform the school body of his decision in writing.

O.C. 608-97, s. 6.

7. Subject to the third paragraph of section 1, an exemption provided for by this Regulation is valid for a period of up to 3 years. However, it is extended until 30 June of the school year in which the period of validity ends if that period ends before that date.

An exemption may be renewed, provided that the conditions that applied to the original application are still met.

O.C. 608-97, s. 7; S.Q. 2022, c. 14, s. 169.

7.1. Where applicable, the second, third and fourth paragraphs of section 1 and sections 4 to 6 apply, with the necessary modifications, to a child referred to in section 84.1 of the Charter. The work permit or study permit issued under the Immigration and Refugee Protection Act (S.C. 2001, c. 27) replaces the Québec certificate of acceptance for the purposes of subparagraph 1 of the second paragraph of section 1 of this Regulation.

S.Q. 2022, c. 14, s. 170.

8. This Regulation replaces the Language of Instruction (Temporary Residents) Regulation (O.C. 2820-84, 84-12-19). Notwithstanding the foregoing, an exemption granted under the former Regulation shall remain effective for the period for which it was granted.

O.C. 608-97, s. 8.

9. *(Omitted).*

O.C. 608-97, s. 9.

UPDATES

O.C. 608-97, 1997 G.O. 2, 1970

S.Q. 2016, c. 3, s. 128

S.Q. 2022, c. 14, ss. 167 to 170