

# An act respecting collective agreement decrees

L.R.Q., c. D-2.

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## 1.00 Interpretation

### Definitions.

1. In this Act and in its application, unless the context requires otherwise, the following words and expressions have the meaning hereinafter given to them:

"agricultural exploitation";

(a) "agricultural exploitation" means a farm, developed by the farmer himself or through employees;

"certified association";

(b) "certified association" means the association recognized under the Labour Code (chapter C-27) by decision of the certification agent, the labour commissioner or the Labour Court as the representative of all or some of the employees of an employer;

"employers' association";

(b.1) "employers' association" means a group of employers having as its objects the study and safeguarding of the economic interests of its members and, particularly, assistance in the negotiation and application of collective agreements;

"association of employees";

(b.2) "association of employees" means a group of employees constituted as a professional syndicate, union, brotherhood or otherwise, having as its objects the study, safeguarding and development of the economic, social and educational interests of its members and, particularly, the negotiation and application of collective agreements;

"committee";

(c) "committee" means the parity committee, constituted as a result of a decree;

"collective agreement", "agreement";

(d) "collective agreement" or "agreement" means a collective agreement within the meaning of the Labour Code or an agreement in writing respecting conditions of employment, based on one or more collective agreements, and made between one or more certified associations or one or more groups of certified associations and one or more employers or one or more employers' associations;

"employer";

(f) "employer" includes any person, partnership or association who or which has work done by an employee;

"professional employer";

(g) "professional employer" means an employer who has in his employ one or more employees covered by the scope of application of a decree;

"Minister";

(h) "Minister" means the Minister of Labour;

"wage";

(i) "wage" means the remuneration in currency, and the compensation or benefits of a pecuniary value as determined in the decree for the labour governed by it;

"employee";

(j) "employee" means any apprentice, unskilled labourer or workman, skilled workman, journeyman, artisan, clerk or employee, working individually or in a crew or in partnership;

(k) *(paragraph repealed)*;

(l) *(paragraph repealed)*.

R. S. 1964, c. 143, s. 1; 1968, c. 43, s. 17; 1971, c. 48, s. 161; 1981, c. 9, s. 34; 1982, c. 53, s. 56; 1984, c. 45, s. 10; 1989, c. 4, s. 10; 1994, c. 12, s. 31; 1996, c. 29, s. 43; 1996, c. 71, s. 1.

## **Juridical extension**

### **Decree.**

**2.** The Government may order that a collective agreement respecting any trade, industry, commerce or occupation shall also bind all the employees and professional employers in Québec or in a stated region of Québec, within the scope determined in such decree.

R. S. 1964, c. 143, s. 2; 1996, c. 71, s. 2.

### **Application.**

**3.** Any party to an agreement may apply to the Government for the passing of the decree contemplated in section 2.

R. S. 1964, c. 143, s. 3.

### **True copy.**

**4.** The application must be addressed to the Minister, accompanied by a true copy of the agreement and, where applicable, by a true copy of the collective agreement on which the agreement in writing is based.

### **Single decree.**

A single decree may be passed upon the receipt of several agreements.

R. S. 1964, c. 143, s. 4; 1968, c. 43, s. 17; 1981, c. 9, s. 34; 1982, c. 53, s. 56; 1994, c. 12, s. 32; 1996, c. 71, s. 3.

## **Documents**

**4.1.** The Minister may require that the parties to the agreement or their members provide him with any document or information he considers necessary for his assessment of the application.

1996, c. 71, s. 4.

## **Admissibility.**

**4.2.** The application is admissible if the Minister considers that the provisions of sections 3, 4 and 4.1 are complied with and that the application, upon inspection, meets the criteria set out in sections 6, 9 and 9.1.

## **Observations.**

The Minister may not decide that an application is inadmissible without first informing the applicant of his intention and of the reasons therefor and giving him an opportunity to present observations and, where appropriate, to produce documents to complete the application.

1996, c. 71, s. 4.

## **Notice.**

**5.** The Minister shall publish in the Gazette officielle du Québec a notice of receipt of the application together with the text of the related draft decree. The notice shall also be published in a French language newspaper and in an English language newspaper.

## **Costs.**

The costs incurred for the publication of the notice in the newspapers and for the translation of the notice and draft decree shall be borne by the applicant.

## **Objections.**

The notice published in the newspapers shall specify that any objection must be filed within 45 days of publication or within a shorter time if the Minister considers that the urgency of the situation so requires. The notice must set out the reason for the shorter time limit.

R. S. 1964, c. 143, s. 5; 1996, c. 71, s. 5.

## **Decree.**

**6.** At the expiry of the time specified in the notice, the Minister may recommend that the Government issue a decree ordering the extension of the agreement, with such changes as are deemed expedient, if the considers:

1° that the proper field of activity is defined in the application;

2° that the provisions of the agreement:

- (a) have acquired a preponderant significance and importance for the establishment of conditions of employment;
- (b) may be extended without any serious inconvenience for enterprises competing with enterprises established outside Québec;
- (c) do not significantly impair the preservation and development of employment in the defined field of activity; and
- (d) do not result, where they provide for a classification of operations or for various classes of employees, in unduly burdening the management of the enterprises concerned.

### **Minister.**

For the purposes of subparagraph 1 of the first paragraph, the Minister shall have regard to the nature of the work, the products and services and the characteristics of the market to which the application applies as well as the fields of activity defined as the scope of other decrees.

### **Conditions.**

The Minister shall, where applicable, give proper consideration to the particular conditions prevailing in the various regions of Québec.

R. S. 1964, c. 143, s. 6; 1996, c. 71, s. 6.

### **Applicability.**

**6.1.** Sections 4 to 6 apply to an application for amendment. The publication and translation costs referred to in section 5 shall, however, be borne by the committee.

### **Exception.**

Sections 4 to 6, except sections 4.1 and 5, do not apply where the amendment applied for is the designation, addition or substitution of a contracting party or the correction of a provision of the decree containing an error in writing or calculation or any other clerical error.

1996, c. 71, s. 7.

### **Revision.**

**6.2.** Where the Minister considers it necessary upon receiving an application for amendment under the first paragraph of section 6.1, he may revise the provisions of the decree not covered by the application on the basis of the criteria provided for in section 6. He may, for such purpose, require any

information or document he considers necessary.

### **Recommendation.**

After consulting with the contracting parties or the committee, and after publication of a notice as provided for in section 5, the Minister may recommend that the Government issue a decree giving effect to the revised provisions.

1996, c. 71, s. 7.

### **Minister's decision.**

**6.3.** If the Minister does not recommend the granting of the application by the Government, he shall inform the applicant in writing and specify the reasons for his decision.

1996, c. 71, s. 7.

### **Coming into force.**

**7.** Notwithstanding section 17 of the Regulations Act (chapter R-18.1), a decree comes into force on the day of its publication in the Gazette officielle du Québec or on any later date fixed therein.

R. S. 1964, c. 143, s. 7; 1996, c. 71, s. 8.

### **Extension.**

**8.** The Government may, at any time, extend the term of a decree.

### **Repeal**

After consulting with the contracting parties or the committee, and after publication of a notice as provided for in section 5, the Government may repeal a decree or amend a decree in conformity with section 6.

### **Applicability.**

Divisions III and IV of the Regulations Act (chapter R-18.1) do not apply to a decree extending the term of a decree. Such a decree comes into force on the date of its issue and shall be published in the Gazette officielle du Québec.

R. S. 1964, c. 143, s. 8; 1996, c. 71, s. 9.

## Effect of decree

### Provisions of decree.

**9.** A decree may include any provision

(1) determining the participation of the committee in the development of industrial strategies in the field of activity defined as the scope of the decree; or

(2) relating to the participation of the committee in the development of manpower training in the field of activity defined as the scope of the decree.

R. S. 1964, c. 143, s. 9; 1969, c. 51, s. 59; 1969, c. 60, s. 12; 1990, c. 30, s. 32; 1996, c. 71, s. 10.

### Prohibition.

**9.1.** No decree may impose

(1) a provision of the agreement pertaining to the activities, administration or funding of an association of employees or an employers' association;

(2) a wage increase applicable to an effective wage rate that is higher than the wage rate established in the decree;

(3) the application of a wage rate that is higher than the wage rate established in the decree; or

(4) minimum prices to be charged to the public for certain services.

1996, c. 71, s. 10.

### Work.

**9.2.** Any work carried out in addition to the regular working hours of a day or week shall entail an increase in the hourly wages actually paid to an employee, except for premiums established on an hourly basis.

1996, c. 71, s. 10.

### Contracting parties.

**10.** The decree may order that certain persons or associations be treated as contracting parties.

### Union party.

The union party must in all cases be a certified association or a group of certified associations.

R. S. 1964, c. 143, s. 10; 1968, c. 45, s. 61; 1984, c. 45, s. 11; 1996, c. 71, s. 10.

### **Matter of public policy.**

**11.** The provisions of the decree are public policy.

R. S. 1964, c. 143, s. 11; 1996, c. 71, s. 11.

**11.1.** Where there is double coverage or an overlapping of fields of activity, an agreement may be made between the committees and the professional employer concerned.

### **Double coverage.**

There is double coverage where two or more decrees could be applicable alternately to the same employees of a professional employer, on a continual basis.

### **Overlapping.**

There is an overlapping of fields of activity where two or more decrees could be applicable simultaneously to the same employees of a professional employer.

1996, c. 71, s. 12.

### **Agreement.**

**11.2.** The agreement must determine which decree is applicable to the employees concerned of the professional employer and may include provisions designed to resolve any difficulty resulting from the application of that decree.

### **Copy.**

The committee responsible for the application of the decree determined to be applicable shall send a copy of the agreement to the Minister within the next 30 days.

1996, c. 71, s. 12.

### **Arbitrator.**

**11.3.** If no agreement can be reached concerning the double coverage or overlapping of fields of activity, the matter may be referred to an arbitrator by any of the parties concerned.

1996, c. 71, s. 12.

**11.4.** The arbitrator shall be chosen by the committees and the professional employer concerned or, if they cannot agree, appointed by the Minister.

**List.**

The arbitrator appointed by the Minister shall be chosen from the list drawn up under section 77 of the Labour Code (chapter C-27).

1996, c. 71, s. 12.

**Decree.**

**11.5.** The arbitrator shall determine which decree is applicable to the employees concerned.

**Award.**

In rendering his award, the arbitrator may, subject to the third paragraph, have regard to the agreements made and the awards rendered in similar circumstances.

**Main activity.**

In an instance of double coverage, the arbitrator must render his award on the basis of the main activity of the enterprise of the professional employer in the 12-month period preceding the application for arbitration. To determine the main activity, he may consider the total number of employees and the volume of products, services and business in each field of activity.

1996, c. 71, s. 12.

**Powers.**

**11.6.** In exercising his functions, the arbitrator may

(1) interpret and apply any Act, regulation or decree to the extent necessary to resolve a matter referred to him under section 11.3;

(2) order the payment of interest, at the rate fixed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31), on any amount owed to an employee pursuant to the arbitration award;

(3) correct at any time a decision containing an error in writing or calculation or any other clerical error;

(4) render any other decision intended to protect the rights of the parties; and

(5) resolve any difficulty resulting from the double coverage or overlapping of fields of activity.

1996, c. 71, s. 12.

### **Provisions applicable.**

**11.7.** Sections 100.0.2 to 101.10, except sections 100.1.1, 100.2.1, 100.10 and 100.12, and sections 139, 139.1 and 140 of the Labour Code (chapter C-27) apply to the arbitration provided for in section 11.3, with the necessary modifications.

1996, c. 71, s. 12.

### **Agreement binding.**

**11.8.** An agreement made under section 11.1 or an arbitration award binds the parties concerned until the date of expiry of the applicable decree, unless the employees concerned are, in the intervening time, excluded from the scope of the decree.

1996, c. 71, s. 12.

### **Provisions applicable.**

**11.9.** Subject to the second paragraph, the Regulation respecting the remuneration of arbitrators, made by Order in Council 975-90 dated 4 July 1990, including any subsequent amendment, applies to the arbitration provided for in section 11.3.

### **Fees.**

The committees and the professional employer concerned shall each pay half of the fees, expenses and allowances of the arbitrator.

1996, c. 71, s. 12.

### **Right to fixed wage.**

**12.** It is forbidden to stipulate a wage lower than that fixed by the decree. Notwithstanding any stipulation or agreement to the contrary and without it being necessary to demand the nullity thereof, the employee is entitled to recover the wage fixed by the decree.

R. S. 1964, c. 143, s. 12; 1984, c. 45, s. 12.

### **Presumption.**

**12.1.** For the purposes of this Act, a wage determined in accordance with a regulation under section 44.3 of the Act to foster the development of manpower training (chapter D-7.1) in respect of an employee taking part as an apprentice in an apprenticeship scheme established under that Act is deemed to be fixed by the decree.

1997, c. 20, s. 13.

## **More favourable agreement.**

**13.** Unless expressly forbidden by the provisions of the decree, the clauses of an employment contract shall be valid and lawful, notwithstanding the provisions of the above sections 9 and 11, in so far as they provide, in favour of the employee, a higher monetary remuneration in currency or more extended compensation or benefits than those fixed by the decree.

R. S. 1964, c. 143, s. 13; 1984, c. 45, s. 13; 1996, c. 71, s. 13.

## **Joint liability.**

**14.** Every professional employer and every contractor contracting with a sub-entrepreneur or a sub-contractor, directly or through an intermediary, shall be solidarily liable with such sub-entrepreneur or sub-contractor and any intermediary for the pecuniary obligations imposed by this Act, a regulation or a decree and for the levies payable to a committee.

## **Solidary liability**

Such solidary liability shall end six months after the completion of the work carried out by the sub-entrepreneur or sub-contractor unless, before the expiry of that time, an employee files a complaint relating to his wages with the committee, a civil action is brought or a notice is sent by the committee pursuant to section 28.1.

R. S. 1964, c. 143, s. 14; 1996, c. 71, s. 14.

## **Alienation of enterprise.**

**14.1.** The alienation or concession of the whole or part of an enterprise, otherwise than by judicial sale, or the modification of its juridical structure by amalgamation, division or otherwise does not extinguish any debt arising out of the application of this Act, a regulation or a decree incurred prior to the alienation, concession or modification.

## **Solidary liability.**

The former employer and his successor are solidarily liable for such a debt.

1984, c. 45, s. 14; 1996, c. 71, s. 15.

## **Conditions of employment.**

**14.2.** The alienation or concession of the whole or part of an enterprise or the modification of its juridical structure by amalgamation, division or otherwise is no way affects the continuity of the application of the conditions of employment established in the decree.

1996, c. 71, s. 15.

## **Presumption of legality.**

**15.** The publication of the decree in the Gazette officielle du Québec shall bar any contestation alleging the incapacity of the parties to the agreement, the invalidity thereof and the insufficiency of notices; and, in all other respects, it shall create generally an absolute presumption, establishing the legality of all proceedings relating to its adoption.

R. S. 1964, c. 143, s. 15; 1999, c. 40, s. 100.

Parity committee: rights, privileges and obligations

## **Committee.**

**16.** The parties to a collective agreement rendered obligatory must form a committee responsible for overseeing and ascertaining compliance with the decree. The committee shall also advise and inform the employees and professional employers of the conditions of employment determined in the decree.

## **Existing committee.**

The Government may, however, order that the observance of a decree be supervised and ensured by an already-existing committee, if the latter consents thereto, or by the Commission des normes du travail.

R. S. 1964, c. 143, s. 16; 1979, c. 45, s. 160; 1996, c. 71, s. 16.

## **Adding to committee.**

**17.** The Minister may, at any time, upon such conditions and for such term as he deems proper, add to the committee such members, not exceeding four, as are submitted to him in equal number by the employers and employees who are not parties to the agreement.

R. S. 1964, c. 143, s. 17.

## **Regulations.**

**18.** The committee shall adopt regulations for its formation, the number of its members, their admission, their replacing, the appointing of substitutes and the administration of funds; fix its head office; determine the name under which it shall be designated and, generally, draw up regulations for its internal management and the exercise of the rights conferred upon it by law.

## **Replacement of members.**

Notwithstanding any provision to the contrary relating to the replacing of members of the committee contained in the regulations, any party to the agreement may, after the lapse of one year, replace any member appointed by such party.

R. S. 1964, c. 143, s. 18; 1996, c. 71, s. 18.

## **Approval of regulations.**

**19.** The regulations contemplated in section 18 shall be transmitted to the Minister and are approved, with or without amendment by the Government; and notice of such approval shall be published in the Gazette officielle du Québec.

## **Notice.**

Such notice shall state the name under which the committee is to be designated and the place where its head office is situated.

## **Evidence.**

Such publication shall be sufficient evidence of the formation and existence of the committee and of the name under which it is to be designated.

## **Presumption of legality.**

The publication of the notice creates an absolute presumption establishing the legality of all the proceedings relating to the formation and existence of the committee.

## **Amendments.**

Every amendment to the committee's regulations must likewise be transmitted to the Minister and shall have effect only after approval by the Government, with or without any change.

R. S. 1964, c. 143, s. 19; 1996, c. 71, s. 19; 1999, c. 40, s. 100.

## **Regulations.**

**20.** The Government, after consultation with the Conseil consultatif du travail et de la main-d'oeuvre, may make general regulations respecting the regulations which a parity committee may make.

## **Coming into force.**

Such general regulations shall come into force upon the date of their publication in the Gazette officielle du Québec.

## **Provisions inoperative.**

From the date of such publication, every provision contained in a regulation of a parity committee and which is inconsistent with the provisions of such general regulation shall become inoperative.

1969, c. 49, s. 1; 1977, c. 5, s. 14.

## **Repeal of regulations.**

**21.** The Government, after consultation with the Conseil consultatif du travail et de la main-d'oeuvre, may repeal any regulation in force of a parity committee, or any provision contained in such a regulation; such regulation or, as the case may be, such provision shall cease to be in force from the publication of the notice of repeal in the Gazette officielle du Québec.

1969, c. 49, s. 1; 1977, c. 5, s. 14.

## **Corporate powers:**

**22.** From and after the publication of the notice contemplated in section 19, the committee is a legal person.

From the mere fact of its formation, it may, as of right:

### **Exercising employees' recourse;**

(a) Exercise all recourses arising out of the decree or this Act in favour of employees who have not caused a suit to be served within a period of 15 days from the due date, and may do so, notwithstanding any law to the contrary, any opposition, or any express or implied renunciation by the employee, and without being obliged to establish an assignment of claim by the interested party, to put him in default, to inform him of the suit, or to allege and prove the absence of suit within such delay of 15 days, or to produce the certificate of competency;

### **Exercising remedies;**

(a.1) Exercise against the directors of a legal person all remedies available to and exercisable by employees under this Act or a decree;

### **Continuing suit;**

b) On the same conditions, continue suit in the place and stead of any employee who, having caused such a suit to be served, has neglected to proceed for 15 days;

### **Percentage;**

(c) Recover from a professional employer who violates the provisions of any decree relating to wages a sum equal to 20% of the difference between the obligatory wage and that actually paid;

### **Settlement;**

(d) Effect any settlement, compromise or transaction deemed expedient in the cases contemplated in the foregoing paragraphs;

## **General manager, secretary, inspectors and other employees.**

(e) Appoint a general manager, a secretary, inspectors and other mandataries or employees, and determine their attributions and remuneration. Every person having the administration of the committee's funds must give security in the form of an insurance policy approved beforehand by the Minister.

### **Inspection;**

The general manager, the secretary and any inspector may, as of right and at any reasonable time, enter any worksite or establishment of any employer and examine the registration system, the compulsory register and the pay-list of any employer, take copies or extracts therefrom, verify as regards any employer and any employee the rate of wage, duration of work, apprenticeship system and observance of the other provisions of the decree; require, even under oath and privately, from any employer or employee, even at the place of work, all information deemed necessary, and, such information having been written down, exact the signature of the person concerned;

### **Identification.**

The general manager, the secretary or any inspector shall, on request, identify himself and produce a certificate of his capacity issued by the committee;

### **Documents;**

The general manager, the secretary or any inspector may also require the production of any document referred to in the second paragraph or any document relating to the application of this Act, a decree or a regulation, make a copy thereof and certify it as a true copy of the original. The copy is admissible as proof and has the same probative value as the original;

### **Posting up;**

(f) By demand in writing made to any professional employer or artisan, require that a copy sent to him of any provision of the decree, or of any decision or regulation, be posted up and kept posted up in a suitable place and in the manner prescribed in the demand;

### **Registration system;**

(g) By regulation, approved by the Government and published in the Gazette officielle du Québec, render obligatory for any professional employer a system of registration for any work which he controls or the keeping of a register in which are shown the name, address and social insurance number of each employee in his employ, his competency, the exact hour at which the work was begun, interrupted, resumed and ceased each day, the nature of the work and wage paid, with mention of the method and time of payment, and all other information deemed useful in the application of the decree;

## **Monthly report;**

(h) By a regulation approved by the Government and published in the Gazette officielle du Québec, oblige any professional employer to transmit to it a monthly report giving:

(1) the name, address and social insurance number of each employee in his employ, his competency, the nature of his work, the regular and extra hours of labour done each week by the employee, the total number of such hours, his hourly wage rate and his total earnings;

(2) the allowances paid to each employee for annual vacations with pay and paid holidays and any other allowance or benefit of a monetary value.

## **Compulsory form;**

The regulation may also render compulsory the use of a form;

## **Levy;**

(i) By a regulation approved by the Government and published in the Gazette officielle du Québec, levy upon the professional employer alone or upon both the professional employer and the employee, or upon the employee alone, the sums required for the carrying out of the decree; such levying to be subject to the following conditions:

(1) *(Subparagraph repealed);*

## **Limitation;**

(2) Such levy shall not exceed the 1/2% of the employee's remuneration, and the 1/2% of the professional employer's pay-list;

## **Artisan;**

(3) The regulation may determine the basis for the calculation of the levy in the case of a workman or artisan who is not serving a professional employer, and determine that the levy shall be collectable from such workman or artisan although demandable only from the professional employer;

## **Withholding;**

(4) The professional employer may be required to collect the levy imposed upon the employee by retaining same out of the wages of the latter;

## **Repeal, amendment;**

(5) The Government may, at any time, by an order published in the Gazette officielle du Québec, terminate or suspend the levy or reduce or increase the rate thereof;

(j) *(Subparagraph repealed);*

### **Certificate of classification;**

(k) Render obligatory the certificate of classification for the employees exempted from the certificate of vocational qualification issued under the Manpower Vocational Training and Qualification Act;

### **Attendance allowance;**

(l) By regulation approved with or without amendment by the Government, determine the amount of the attendance allowance to which its members are entitled in addition to their actual travelling expenses;

### **Social security benefits.**

(m) If the decree provides for social security benefits or the administration by the parity committee of a vacation pay fund:

- (1) collect the requisite contributions;
- (2) verify the conditions upon which the benefits are payable;
- (3) pay the benefits.

### **Administration of the fund;**

(n) Levy, up to the amount prescribed by the regulation approved with or without amendment by the Government and published in the Gazette officielle du Québec, out of the interest from the funds kept in trust for vacation pay, where such is the case, the sums necessary for the administration of the fund;

### **Use of unclaimed funds;**

(o) Use, for its general administration, up to the amount and subject to the other conditions prescribed by regulation approved with or without amendment by the Government and published in the Gazette officielle du Québec, the unclaimed funds kept in trust until the employee submits his claim. Unclaimed amounts shall, however, if not claimed by the employees within three years following the date as of which the funds are payable, be transferred, after deduction of the amount prescribed by the regulation, to the Public Curator together with a statement of the funds indicating the name and last known address of the employees and the date on which the funds were transferred to the Public Curator; the provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the funds so transferred to the Public Curator;

### **Industrial strategies;**

p) Support, subject to such conditions and to such extent as may be provided in the decree, the development of industrial strategies;

### **Manpower training;**

(q) Participate, subject to such conditions and to such extent as may be provided in the decree, in the development of manpower training by drawing up and implementing a

training plan subject to accreditation in accordance with section 8 of the Act to foster the development of manpower training (chapter D-7.1);

### **Subsidies.**

(r) Use, for the purpose of drawing up and implementing an accredited training plan, the subsidies paid to the committee for such purpose or, by regulation approved with or without amendment by the Government, apply the following modes of financing only:

(1) the levy upon the professional employer of an amount not exceeding 1/2% of the employer's total payroll calculated in accordance with section 4 of the Act to foster the development of manpower training; such a regulation does not apply to a professional employer who is exempted under that Act or under the committee regulation;

(2) the imposition of fees for the use of services offered within the framework of the training plan, and the determination of exemptions.

### **Government.**

The Government may, at any time, by order published in the Gazette officielle du Québec, terminate or suspend any levy or reduce or increase the rate thereof.

### **Insurance contract**

Any insurance contract to give effect to subparagraph m of the second paragraph must be entered into by the committee as the policyholder and as the beneficiary of any amount paid by the insurer as a dividend, return or premium refund. Any such amount shall be included in the audited financial statements referred to in section 23 and shall be applied to the improvement of the insurance plan.

R. S. 1964, c. 143, s. 20 (part); 1968, c. 45, s. 61; 1969, c. 51, s. 60; 1978, c. 7, s. 87; 1984, c. 45, s. 15; 1986, c. 95, s. 128; 1996, c. 71, s. 20; 1997, c. 80, s. 62.

### **Budgetary estimates.**

**23.** The committee shall transmit to the Minister its annual budgetary estimates and its audited financial statements, a copy of the statement of an independent auditor, a status report concerning each of the funds it administers, any document pertaining to a transfer of funds and an annual report.

### **Form.**

The form of the documents shall be determined by the Minister.

### **Group insurance contract.**

The committee shall also transmit a copy of any applicable group insurance contract and policy and pension plan.

## **Access.**

The committee shall keep copies of all such documents and give access to them on request during regular office hours.

R. S. 1964, c. 143, s. 21; 1984, c. 45, s. 16; 1996, c. 71, s. 21.

## **Information.**

**23.1.** The Minister may require any member, officer, mandatary or employee of the committee to provide him with any information or document pertaining to the carrying out of this Act.

## **Time limit.**

The person required to provide the information or documents shall comply within the specified time.

1996, c. 71, s. 21.

## **Complaints.**

**24.** The committee shall hear and consider any written complaint from a professional employer or from an employee respecting the carrying out of the decree.

## **Disclosure of identity.**

The committee shall not disclose the identity of the employee concerned, unless he consents to it.

R. S. 1964, c. 143, s. 22; 1996, c. 71, s. 22.

## **Continued committee.**

**25.** After a decree has ceased to be in force, the committee shall continue to exist and shall retain its powers for the accomplishing of the objects for which it was formed.

R. S. 1964, c. 143, s. 23.

## **Verification and inquiry**

1996, c. 71, a. 23.

## **Verification.**

**25.1.** The Minister may, generally or specially, designate a person to verify the documents transmitted under sections 23 and 23.1.

## **Verifier.**

The verifier may, at any reasonable time, enter any place where he has reasons to believe operations or activities are carried out by or on behalf of a committee, and require any information or document, and examine and make copies of any document.

## **Information.**

The person required to provide the information or documents must comply within the allotted time.

1996, c. 71, s. 23.

## **Immunity.**

**25.2.** No proceedings may be brought against the verifier for any act performed in good faith in the exercise of his functions.

1996, c. 71, s. 23.

## **Identification.**

**25.3.** The verifier shall, on request, identify himself and produce the document signed by the Minister attesting to his capacity.

1996, c. 71, s. 23.

## **Functions.**

**25.4.** No person may hinder the verifier in the exercise of his functions.

1996, c. 71, s. 23.

## **Investigation.**

**26.** The Minister may entrust the person he designates to inquire into any matter related to the administration or operation of a parity committee or to the conduct of its members. The investigator so designated has the powers and immunities of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

1969, c. 49, s. 2; 1979, c. 45, s. 161; 1982, c. 53, s. 30; 1984, c. 45, s. 17.

## **Corrective action**

### **Powers.**

**26.1.** The Minister may, even before the conclusion of a verification or inquiry under section 25.1 or 26,

(1) order a committee to take the necessary corrective action within a specified time;

(2) accept a voluntary undertaking by the committee to take the appropriate corrective action.

1984, c. 45, s. 17; 1992, c. 44, s. 81; 1994, c. 12, s. 33; 1996, c. 71, s. 24.

## **Provisional administration**

### **Provisional administrators.**

**26.2.** The Minister may, after being made aware of facts revealed upon ascertaining compliance with this Act and after giving the members of the committee concerned an opportunity to present observations in writing concerning such facts within 15 days of receipt of a notice of the Minister to that effect, suspend, as of the date determined by the Minister and for a period not exceeding 120 days, the powers of the committee members and appoint provisional administrators to exercise those powers during the period of suspension, if such facts give him reason to believe

(1) that the committee has failed to comply with the Minister's order under section 26.1 or to fulfil its voluntary undertaking thereunder;

(2) that the committee members are remiss in the performance of the obligations imposed by the Civil Code (Statutes of Québec, 1991, chapter 64) on administrators of legal persons or in the performance of their obligations under this Act, a regulation thereunder or a decree;

(3) that a serious fault, such as embezzlement or breach of trust, has been committed by one or more members or officers of the committee;

(4) that one or more members or officers of the committee have transgressed the rules of sound management applicable to the directors of a legal person; or

(5) that practices incompatible with the objects of the committee have been engaged in by the committee.

### **Decision.**

The Minister may make a decision even before the conclusion of a verification or inquiry under section 25.1 or 26.

The decision of the Minister, giving reasons, shall be forwarded with dispatch to the members of the committee. A notice of the decision shall also be published in the Gazette officielle du Québec.

1996, c. 71, s. 24.

## **Regulatory provision.**

**26.3.** During the provisional administration, any regulatory provision adopted by, or legal provision applicable to, the committee which makes the validity of an act of the committee subject to authorization or approval by the meeting of members shall have no effect.

1996, c. 71, s. 24.

## **Report.**

26.4. Not later than 30 days before the appointed date of expiry of their mandate, the provisional administrators shall report their findings to the Minister, and submit their recommendations. The report must contain any information required by the Minister.

1996, c. 71, s. 24.

## **Minister's powers.**

**26.5.** After examining the report of the provisional administrators, the Minister may, if he considers it warranted in order to remedy a situation described in subparagraphs 1 to 5 of the first paragraph of section 26.2 or avoid the re-occurrence thereof,

- (1) extend the provisional administration for a period not exceeding 90 days or terminate the provisional administration subject to specified conditions;
- (2) order a reorganization of the structure and activities of the committee subject to specified conditions;
- (3) remove from office one or more of the suspended committee members and provide for the appointment or election of new members.

## **Extension.**

Any extension of the provisional administration may be renewed for the same reasons by the Minister provided each renewal does not exceed 90 days.

## **Termination.**

If the report of the provisional administrators does not confirm the existence of a situation described in subparagraphs 1 to 5 of the first paragraph of section 26.2, the Minister shall terminate the provisional administration without delay.

## **Decision.**

Every decision of the Minister must state the reasons therefor and shall be forwarded with dispatch to the members of the committee.

1996, c. 71, s. 24.

## **Account.**

**26.6.** On the termination of the provisional administration, the provisional administrators shall render a final account of their administration to the Minister. The account must be sufficiently detailed to allow verification of its accuracy and shall be produced together with the related books and vouchers.

1996, c. 71, s. 24.

## **Expenses.**

**26.7.** The expenses, fees and disbursements of provisional administration shall be borne by the committee concerned, unless the Minister decides otherwise.

1996, c. 71, s. 24.

## **Immunity.**

**26.8.** No proceedings may be brought against provisional administrators exercising the powers and functions conferred on them for any act performed in good faith in the exercise of such powers and functions.

1996, c. 71, s. 24.

## **Recourse.**

**26.9.** No extraordinary recourse under articles 828 to 846 of the Code of Civil Procedure (chapter C-25) may be exercised, and no injunction may be granted against provisional administrators exercising their powers and functions under this division.

## **Judgment.**

A judge of the Court of Appeal may, on motion, summarily annul any judgment, writ, order or injunction issued or granted contrary to this section.

1996, c. 71, s. 24.

## **Report.**

**26.10.** The Minister shall include, in the report he tables in the National Assembly each year concerning the activities of his department, an account, under a separate heading, of the carrying out of this division.

1996, c. 71, s. 24.

## **Disposal of property.**

**27.** When the committee becomes extinct its property shall be delivered to the Minister. The latter may, however, as soon as a decree ceases to be in force, appoint a liquidator who shall thereupon have, alone, all the duties and powers of the parity committee. The

liquidator shall deliver the remaining property to the Minister, who may devote it to a similar work designated by the Government.

R. S. 1964, c. 143, s. 24; 1984, c. 45, s. 18.

## Claims of employees

### Prescription. Fraud.

**28.** Any civil action arising out of the decree or out of this act is prescribed by one year from the due date in each case. In the case of a false entry in the compulsory register, the system of registration or the pay-list, or of secret rebate, or of any other fraud, prescription shall run as against the committee's recourse, only from the date when the committee was aware of the fraud.

R. S. 1964, c. 143, s. 37; 1984, c. 45, s. 19.

### Interruption of prescription.

**28.1.** A notice sent by a committee by registered or certified mail to a professional employer to the effect that the committee is examining a complaint filed under section 24 interrupts prescription in respect of all his employees for six months from the mailing of the notice.

An application for arbitration also interrupts prescription in respect of the employees of a professional employer until the final decision of the arbitrator appointed under section 11.4.

1984, c. 45, s. 20; 1996, c. 71, s. 25.

## Expenses and fees

### Government regulations.

**28.2.** The Government may, by regulation, determine in what cases and by whom expenses or fees may be payable, and fix the amounts thereof.

1996, c. 71, s. 26.

## General and penal provisions

### Exceptions.

**29.** This Act shall not apply to:

- (a) Agricultural exploitation;
- (b) (Paragraph repealed);

(c) The operating of any railway company subject to the jurisdiction of the Parliament of Canada. This latter exemption does not extend to the construction or reconstruction of the railway or of the buildings which are dependencies thereof, or to the operating of the hotels which it may possess;

(d) A student undergoing a period of training without pay under the responsibility of a school board or an educational institution;

(e) A person undergoing a period of rehabilitative training without pay under the responsibility of an institution operating a rehabilitation centre within the meaning of the Act respecting health services and social services (chapter S-4.2), of a reception centre belonging to the class of rehabilitation centres within the meaning of the Act respecting health services and social services for Cree Native persons (chapter S-5) and the regulations made under that Act, or of a government body.

R. S. 1964, c. 143, s. 38; 1978, c. 7, s. 88; 1984, c. 45, s. 21; 1992, c. 21, s. 147; 1994, c. 23, s. 23.

### **Unlawful dismissal.**

**30.** Every employer who, without good and sufficient reason, proof of which shall lie upon him, dismisses, suspends or moves an employee,

(a) By reason of giving any information to the representatives of a committee and respecting an agreement, a decree, a regulation or a violation of the provisions of this act,

(b) By reason of a complaint, information or statement of offence respecting the same, or of testifying in a prosecution or investigation relating thereto,

(c) With intent to re-engage him in an inferior employment and so evade the provisions of the decree by paying a smaller wage,—  
is guilty of an offence and is liable to a fine of \$200 to \$500 and, in the case of a second or subsequent conviction, to a fine of \$500 to \$3 000.

R. S. 1964, c. 143, s. 39; 1984, c. 45, s. 22; 1990, c. 4, s. 371; 1992, c. 61, s. 256.

### **Employee's rights.**

**30.1.** An employee who believes that he has been dismissed, suspended or transferred for any of the reasons set forth in paragraph a, b or c of section 30 and who wishes to assert his rights shall do so before the labour commissioner appointed under the Labour Code (chapter C-27) as though he were an employee dismissed, suspended or transferred by reason of his having exercised a right under that Code. Sections 15 to 20, 118 to 137, 139, 139.1, 140, 146 and sections 150 to 152 of the Labour Code apply, adapted as required.

## **Time limit.**

Notwithstanding section 16 of the Labour Code, the time allowed for presenting a complaint to the labour commissioner-general shall be 45 days. If the complaint is presented within that time to the committee or the Minister, failure to present it to the labour commissioner-general cannot be invoked against the complainant. The labour commissioner-general shall send copy of the complaint to the committee concerned.

## **Complaint**

The committee may, with the consent of the parties, appoint a person who shall endeavour to resolve the complaint to the satisfaction of the parties.

1996, c. 71, s. 27.

## **Damages for unlawful dismissal.**

**31.** Every employee dismissed in violation of section 30, or with the object of obliging him to accept a classification calling for a wage less than that which he is receiving, has the right to claim, from the person who employed him, three months' wages as punitive damages. Proof that the employee does not come within the requisite conditions to claim such right shall devolve upon the person who employed him.

R. S. 1964, c. 143, s. 40; 1984, c. 45, s. 23; 1996, c. 71, s. 28.

## **Negligence of a member of committee.**

**32.** Any member of the committee who refuses or neglects to fulfil the duties of his office commits an offence and shall be liable to a fine not exceeding \$25.

R. S. 1964, c. 143, s. 41; 1990, c. 4, s. 376.

## **Obstruction to inspection.**

**33.** Every professional employer who does not keep the compulsory registration system, register or pay-list, every employer or employee who refuses or neglects to furnish the representatives of a committee with the information contemplated in subparagraph e of section 22, in the manner therein prescribed, or does not grant them on request, or delays to grant them, access to the place where the work is being done, to the register, to the system of registration or to pay-list or other documents, as provided in said paragraph, or molests or hinders or insults the said representatives in the performance of their duties, or otherwise obstructs such performance,— is guilty of an offence and is liable to a fine of \$200 to \$500 and, in the case of a second or subsequent conviction, to a fine of \$500 to \$3 000.

R. S. 1964, c. 143, s. 42; 1984, c. 45, s. 24; 1990, c. 4, s. 372.

## **Fraud.**

**34.** Whosoever, knowingly, destroys, alters or falsifies any register, pay-list, registration system or any document dealing with the carrying out of a decree, or knowingly forwards any false or inexact information or report, or gives a false designation to the attribution of any wage in order to pay a lower wage, commits an offence and shall be liable to a fine of not less than \$200 but not exceeding \$500 for the first offence, and to a fine of not less than \$500 but not exceeding \$3 000 in the case of a second or subsequent conviction.

R. S. 1964, c. 143, s. 43; 1984, c. 45, s. 25; 1990, c. 4, s. 377.

## **Certificate of competency.**

**35.** Every professional employer or employee who contravenes the regulation making the certificate of competency obligatory commits an offence and shall be liable to a fine of \$50 to \$200 and, in the case of a second or subsequent conviction, to a fine of \$200 to \$500.

R. S. 1964, c. 143, s. 44; 1984, c. 45, s. 26; 1990, c. 4, s. 373; 1996, c. 71, s. 29.

## **Unlawful rebate.**

**36.** Whosoever, by means of benefits having a pecuniary value, grants or accepts any rebate reducing the wage made obligatory, or participates in such a rebate, commits an offence and shall be liable to a fine of \$50 to \$200 and, in the case of a second or subsequent conviction, to a fine of \$200 to \$500.

R. S. 1964, c. 143, s. 45; 1984, c. 45, s. 27; 1990, c. 4, s. 374.

## **Offence and penalty.**

**37.** When the decree contains a prohibition of strikes, lock-outs, slackening of work and picketing, whosoever infringes such prohibition in any way commits an offence and shall be liable to a fine not exceeding \$100 for the first offence, and to a fine not exceeding \$1 000 for each subsequent offence within twelve months.

R. S. 1964, c. 143, s. 46; 1990, c. 4, s. 378.

## **Obstruction.**

**37.1.** Every person who, in any manner, obstructs or hinders a provisional administrator, an investigator or a verifier in the exercise of his powers and functions under this Act is guilty of an offence.

## **Fine.**

Every person convicted of an offence under this section is liable to a fine of \$500 to \$5,000 in the case of natural person or \$1,000 to \$10,000 in the case of a legal person. For any subsequent offence, the amounts are doubled.

1996, c. 71, s. 30.

### **Other offences.**

**38.** Any person violating any decree, any regulation made obligatory, or any provision of this Act, in a case not provided for in the preceding sections, commits an offence and shall be liable to a fine of \$50 to \$200 and, for any subsequent offence, to a fine of \$200 to \$500.

R. S. 1964, c. 143, s. 47; 1984, c. 45, s. 28; 1990, c. 4, s. 375; 1996, c. 71, s. 31.

### **Aiding and abetting.**

**39.** Every person who aids, abets, counsels, allows, authorizes or commands another person to commit an offence under this Act is guilty of an offence.

### **Penalty**

Every person convicted of an offence under this section is liable to the same penalty as that prescribed for the offence whose commission he aided or abetted.

R. S. 1964, c. 143, s. 48; 1996, c. 71, s. 32.

### **Disqualification.**

**39.1.** No person convicted of an offence under section 37.1, or of an offence under section 39 where it relates to an offence under section 37.1, may be elected or appointed a member, officer or mandatary of a committee or exercise any other function within a committee.

### **Duration.**

A disqualification under the first paragraph stands for five years, unless a pardon is obtained.

1996, c. 71, s. 32.

### **Proof**

#### **Authenticity.**

**40.** In any civil or penal action brought in virtue of this act, all decrees and all regulations and notices are authentic and shall be proof of their contents if they have been published in the Gazette officielle du Québec to which it shall be sufficient to refer, and whereof the court, of its own accord, shall be obliged to take cognizance.

R. S. 1964, c. 143, s. 49.

## **Prima facie proof.**

**41.** The minute-books of the deliberations of a committee or of a board of examiners, and the certificates competency and other documents issued by them, and copies certified by the secretary of the committee, shall be proof of their contents until the contrary be proved, without it being necessary to prove the signature or capacity of the signatories.

R. S. 1964, c. 143, s. 50.

## **Informer.**

**42.** No evidence shall be permitted with a view to establish that any action or suit contemplated by this act was brought following upon the complaint of an informer or to discover the identity of the latter.

R. S. 1964, c. 143, s. 51.

## **Procedure**

### **Preference matter.**

**43.** Every suit taken in virtue of this act before the civil courts shall be a matter which must be heard and decided by preference.

R. S. 1964, c. 143, s. 52; 1965 (1st sess.), c. 80, a. 1.

### **Cumulation.**

**44.** The recourses of several employees against the same professional employer may be cumulated in a single demand whether emanating from the employees or from the committee, and the total claimed shall determine the competency of the court of original jurisdiction as well as of appeal.

R. S. 1964, c. 143, s. 53; 1996, c. 71, s. 33.

### **Payment to committee.**

**45.** After receiving a claim from the committee, the professional employer cannot validly pay the sums which are the object of such claim, save by handing them over to the committee.

### **Interest.**

The amount owed to the employee bears interest, from the date of the claim, at the rate fixed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31).

R. S. 1964, c. 143, s. 54; 1996, c. 71, s. 34.

### **Amount remitted to employee.**

**46.** The committee shall remit to the employees the net amount realized in exercising their recourses, after deducting the percentage provided for in subparagraph c of section 22.

### **Deduction.**

At the request of the Minister of Employment and Solidarity, the committee shall also deduct from that amount the amount repayable under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001). The committee shall remit the amount thus deducted to the Minister of Employment and Solidarity.

R. S. 1964, c. 143, s. 55; 1988, c. 51, s. 114; 1992, c. 44, s. 81; 1994, c. 12, s. 34; 1997, c. 63, s. 128; 1998, c. 36, s. 179.

### **Percentage added.**

**47.** The percentage collectable from the professional employer may be added to the amount of the demand formulated by the committee, and must likewise be accorded to the committee when the latter continues suit in place of the employee.

R. S. 1964, c. 143, s. 56; 1996, c. 71, s. 35.

### **Cancellation of fraudulent contract.**

**48.** The committee may also, if need be, join to its suit a demand for the cancellation of any contract or arrangement, intended to infringe or evade the provisions of this Act or of a decree, effected between the employees whose recourses it is exercising and the professional employer or third persons, and this, before the court having jurisdiction by reason of the amount claimed by the committee and without being obliged to bring the employees into the suit.

R. S. 1964, c. 143, s. 57; 1996, c. 71, s. 36.

### **Leading questions.**

**49.** Where an employee produced as a witness by a committee is examined, the questions may be leading if such employee is in the employ of the opposite party.

R. S. 1964, c. 143, s. 58; 1965 (1st sess.), c. 80, a. 1.

### **Report by experts.**

**50.** In the event of contestation of the employee's competency, the classification of operations or the hours of labour in any civil suit involving a decree, the court must, if thereunto requested by the committee-plaintiff, order a report by experts.

R. S. 1964, c. 143, s. 59.

**51.** *[Repealed]*

1990, c. 4, s. 379.

### **Penal proceedings.**

**52.** The committee may, in accordance with article 10 of the Code of Penal Procedure (chapter C-25.1), institute penal proceedings for an offence under a provision of this Act.

### **Fine.**

The fine imposed for such an offence belongs to the committee, when it has taken charge of the proceedings.

R. S. 1964, c. 143, s. 61; 1992, c. 61, s. 257.

**53.** *[Repealed]*

1992, c. 61, s. 258.

**54.** *[This section ceased to have effect on 17 April 1987]*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.