

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1993, chapter 6

AN ACT TO AMEND THE LABOUR CODE AND THE ACT RESPECTING THE MINISTÈRE DU TRAVAIL

Bill 74

Introduced by Mr Normand Cherry, Minister of Labour

Introduced 18 December 1992

Passage in principle 18 December 1992

Passage 25 March 1993

Assented to 25 March 1993

Coming into force: 25 March 1993

Acts amended:

Labour Code (R.S.Q., chapter C-27)

Act respecting the Ministère du Travail (R.S.Q., chapter M-32.1)



CHAPTER 6

An Act to amend the Labour Code and the Act respecting the Ministère du Travail

[Assented to 25 March 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. C-27,
s. 1, am.

1. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by inserting, after the word “Travail” in the eighth line of subparagraph 3 of paragraph 1, the following words: “, a mediator of the Conseil des services essentiels”.

c. C-27,
s. 57.1,
repealed

2. Section 57.1 of the said Code is repealed.

c. C-27,
s. 91.1,
added

3. The said Code is amended by inserting, after section 91, the following section:

Clerical
error

“91.1 The arbitrator may at any time correct an award containing a mistake in writing or calculation or any other clerical error.”

c. C-27,
Chap. IV,
Div. II,
replaced

4. Division II of Chapter IV of the said Code is replaced by the following division:

“DIVISION II

“POLICEMEN AND FIREMEN

Mediator

“94. Upon application by one party, the Minister shall appoint a mediator to help a municipal corporation or an intermunicipal board and an association of employees certified to represent its policemen or firemen to settle their dispute.

Period of
mediation

The mediator has sixty days to bring the parties to an agreement. The Minister may, only once and at the request of the mediator, extend the period of mediation by not more than thirty days.

Meeting	"95. The parties are required to attend any meeting which the mediator notifies them to attend.
Report	"96. If there is no agreement at the expiry of the period of mediation, the mediator shall give to the parties a report mentioning the matters on which there has been agreement as well as each party's position with respect to matters which are still in dispute.
Copy of report	At the same time, the mediator shall send to the Minister a copy of the report together with his comments.
Arbitration	"97. A party may, after receiving a copy of the report, apply to the Minister for the referral of the dispute to arbitration.
Arbitration	The Minister shall refer the dispute to arbitration not later than thirty days after receiving such an application. He shall notify the parties of such a referral.
Appointment of arbitrator	"98. The Minister shall appoint the arbitrator from a list which the Minister draws up for the specific purposes of the arbitration of a dispute referred to in this division.
List of names	"99. The Minister may enter on the list referred to in section 98 the names of persons proposed jointly by all associations recognized by order of the Government as being the most representative associations of municipal corporations, intermunicipal boards, policemen and firemen.
Joint proposals	The associations referred to in the first paragraph shall send their joint proposals to the Minister not later than ninety days before the date of expiry of the list.
Joint proposals	If there is not a sufficient number of joint proposals approved of by the Minister, the latter shall enter on the list the names he selects from among those appearing on the list referred to in section 77.
Validity	The list referred to in section 98 shall be valid for a period of five years. During this period, the Minister may amend the list after consulting the associations referred to in the first paragraph.
Requirements	"99.1 A person, in order to be entered on the list referred to in section 98, must agree in writing not to act as arbitrator with respect to a grievance which relates to the interpretation or implementation of an arbitrator's award which he rendered in accordance with this division.
Written agreement	The written agreement shall be valid for the period the person's name is entered on the list or on any subsequent list.

Arbitration **"99.2** The arbitrator shall proceed by arbitration with assessors unless, within fifteen days of his appointment, there has been agreement to the contrary between the parties.

Assessor Each party shall designate, within fifteen days of the appointment of the arbitrator, an assessor to assist the arbitrator and represent the party during the hearing of the dispute and the deliberations. Where one of the parties does not designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

Absence of assessor He may proceed in the absence of an assessor who does not attend after having been duly convened.

Oath **"99.3** Every arbitrator must, before acting, make oath to render his award according to equity and good conscience.

Restriction **"99.4** Only matters not having been the subject of agreement between the parties may be referred to arbitration.

Exclusive jurisdiction The arbitrator has exclusive jurisdiction to determine, on the basis of the mediator's report, such matters.

Award **"99.5** In rendering his award, the arbitrator may take into account, among other things, the conditions of employment of the other employees of the municipal corporation concerned or of the municipal corporations which are party to the agreement creating the intermunicipal board concerned, as well as the conditions of employment prevailing in similar municipal corporations or intermunicipal boards or in similar circumstances.

Evidence **"99.6** The arbitrator shall render an award based on the evidence collected at the inquiry.

Stipulations **"99.7** The arbitrator shall record in his award stipulations relating to the matters which were the subject of an agreement evidenced in the mediator's report.

Agreement The parties may, at any time, come to an agreement on a matter which is the subject of the dispute and the corresponding stipulations shall also be recorded by the arbitrator in the award.

Amendment The arbitrator shall not amend such stipulations except for the purpose of making such adaptations as are necessary to make the stipulations consistent with a clause of the award.

Arbitrator's award **"99.8** The arbitrator's award shall bind the parties for a period of not less than one year nor more than three years. The parties may, however, agree to amend the content, wholly or in part.

Exceptions **"99.9** Sections 54 and 55 and Divisions I and 1.1 of this chapter shall not apply to a dispute concerning policemen or firemen in the employ of a municipal corporation or an intermunicipal board.

Applicable provisions However, section 76, the third paragraph of section 77, sections 80 to 91.1 and section 93 shall apply to the arbitration of a dispute referred to in this division.

Mediator **"99.10** Where there is a disagreement, other than a dispute or a grievance, between a municipal corporation or an intermunicipal board and an employee's association certified to represent its policemen or its firemen, the Minister may entrust a mediator with the responsibility of meeting the parties and attempting to bring them to an agreement.

Referral **"99.11** Upon receipt of the mediator's report, the Minister may, notwithstanding section 102, refer the disagreement to an arbitrator as if it were a dispute referred to in this division."

**c. C-27,
s. 111.0.10.1,
added** **5.** The said Code is amended by inserting, after section 111.0.10, the following section:

Disclosure or production of documents **"111.0.10.1** No person designated by the Conseil to attempt to bring the parties to an agreement may be compelled to disclose or produce, before a court or an arbitrator or before a body or a person exercising judicial or quasi-judicial functions anything made known to or learned by him, or any document prepared or obtained, in the performance of his duties.

Access to documents Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), no one shall have access to such a document."

**c. M-32.1,
s. 14, am.** **6.** Section 14 of the Act respecting the Ministère du Travail (R.S.Q., chapter M-32.1) is amended by adding, at the end of paragraph 1, the following words: "including those of the municipal sector".

**c. M-32.1,
s. 15.1,
added** **7.** The said Act is amended by inserting, after section 15, the following section:

Disclosure or production of documents **"15.1** No conciliator, mediator or mediator-arbitrator of the Ministère du Travail and no person designated by the Minister to help

the parties to settle a disagreement may be compelled to disclose or produce, before a court or an arbitrator or before a body or a person exercising judicial or quasi-judicial functions, anything made known to or learned by them, or any document prepared or obtained, in the performance of their duties.

Access to
documents

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), no one shall have access to such a document."

Joint
proposals

8. The representative associations referred to in section 99 of the Labour Code shall send their joint proposals to the Minister of Labour before 24 April 1993 for the preparation of the first list of arbitrators referred to in section 98 of the said Code as enacted by section 4 of this Act.

Provisions
applicable

9. The provisions of the Labour Code, as amended by this Act, shall apply to any dispute between a municipal corporation or an intermunicipal board and an employees' association, certified to represent its policemen or its firemen, whose collective agreement or arbitration award standing in lieu thereof expired after 30 December 1992.

Provisions
applicable

The provisions of the Labour Code, as they read before the coming into force of this Act, shall continue to apply to a dispute between a municipal corporation or an intermunicipal board and an employees' association, certified to represent its policemen or its firemen, whose collective agreement or arbitration award standing in lieu thereof expired either before 30 December 1992 or, notwithstanding the first paragraph, after 30 December 1992 where an application for arbitration was received by the Minister of Labour before 17 February 1993.

Report

10. The Minister shall present to the Government, at the latest on 1 March 1997, a report on the implementation of Division II of Chapter IV of the Labour Code, introduced by section 4 of this Act.

Tabling of
report

The report shall be tabled within the following fifteen days in the National Assembly if it is sitting or, if it is not sitting, with the President.

Report

Within six months of the date on which the report is tabled, the Parliamentary Committee on Labour and the Economy shall bring the report under consideration and examine the application of Division II of Chapter IV of the Labour Code. On this subject, the Committee shall hear the representative bodies it designates.

Coming into
force

11. This Act comes into force on 25 March 1993.