

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1993, chapter 60
AN ACT RESPECTING THE CONSTRUCTION INDUSTRY

Bill 158

Introduced by Mr Normand Cherry, Minister of Labour

Introduced 13 December 1993

Passage in principle 13 December 1993

Passage 13 December 1993

Assented to 13 December 1993

Coming into force: 13 December 1993

Act amended: None





CHAPTER 60

An Act respecting the construction industry

[Assented to 13 December 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

INTERPRETATION AND SCOPE

Interpreta-
tion

1. In this Act, unless the context indicates a different meaning,

“representa-
tive associa-
tion”

“**representative association**” has the same meaning as in the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) and “**association of employees**” has the same meaning as the term “association” in that Act;

“employee”

“**employee**” means a person who, on 13 December 1993, is authorized to perform construction work for an employer pursuant to that Act or subsequently becomes so authorized.

Applicability

2. This Act applies, until 31 December 1994, in respect of construction work to which the Act respecting labour relations, vocational training and manpower management in the construction industry applies on 13 December 1993 and in respect of construction work to which the latter Act is subsequently made applicable.

DIVISION II

PERFORMANCE OF CONSTRUCTION WORK

Regular
schedule

3. Every employee shall, from 7:00 a.m. on 14 December 1993, report for work according to his regular schedule and the other conditions of employment that are applicable to him.

- Duties** **4.** Every employee shall, from 7:00 a.m. on 14 December 1993, perform all the duties attached to his functions, according to the conditions of employment that are applicable to him, without any stoppage, slowdown, reduction or alteration of his normal activities.
- Prohibition** No employee may refuse, as a party to concerted action, to provide his services to an employer.
- Resumption of work** **5.** Every employer shall take the appropriate measures to ensure that all construction work interrupted by reason of concerted action is resumed from 7:00 a.m. on 14 December 1993.
- Normal operations** From the same time, every employer shall, in accordance with the law, carry on his normal operations in respect of construction work.
- Prohibition** **6.** No association of employees may call or continue a strike or participate in concerted action if the strike or concerted action involves a contravention of section 3 or section 4 by employees.
- Communications to employees** **7.** Every representative association shall, before 7:00 a.m. on 14 December 1993, communicate the content of this Act publicly to the employees whom it represents or who are members thereof and shall send an attestation of such communication to the Minister of Labour.
- Communications to employers** The Association of Building Contractors of Québec shall, within the same time limit, do likewise in respect of the employers who are members of that association.
- Compliance with s. 3 or s. 4** **8.** Every association of employees shall take the appropriate measures to induce the employees whom it represents or who are members thereof to comply with section 3 or section 4, as the case may be.
- Compliance with s. 5** Every employers' association and every contractors' association within the meaning of the Act respecting labour relations, vocational training and manpower management in the construction industry shall do likewise in order to induce the employers they represent to comply with section 5.
- Prohibition** **9.** No person may, by act, omission or otherwise, prevent or impede in any manner the resumption of construction work or the performance of construction work by employees or contribute directly or indirectly to slowing down or delaying the performance of construction work.

Prohibition **10.** No person may hinder a person's access to a job site to which he has a right of access to perform his duties.

DIVISION III

CONDITIONS OF EMPLOYMENT

Extension **11.** The Construction Decree, enacted by Order in Council 172-87 dated 4 February 1987, and the amendments thereto, in force on 13 December 1993, is hereby extended until 31 December 1994. However, the Construction Decree is amended so as to give effect to the provisions of the Schedule.

DIVISION IV

PENALTIES

§ 1.—*Administrative measures*

Suspension of union check off **12.** If the Government is of the opinion that, in a region within the meaning of the Regulation respecting placement of employees in the construction industry (Order in Council 1946-82 dated 25 August 1982) and the amendments thereto, the employees are not complying with section 3 or section 4 in sufficient number to ensure adequate performance of construction work, it may, by order, suspend the union checkoff in respect of the construction work performed in that region.

Prohibition From the date fixed in the order, no employer may deduct, in respect of the construction work performed in the region, any union assessment or dues, contribution or amount in lieu thereof from the wages paid to employees. The suspension and prohibition are effective for a period equal to twelve weeks per day or part of a day during which the Government is of the opinion that the employees are not complying with section 3 or section 4 in sufficient number to ensure adequate performance of construction work in the region.

Suspension of right **13.** During the period of suspension of the union checkoff in respect of a representative association, the exercise of the right of any association of employees which is a member of, belongs to or is affiliated with the representative association to be represented by a job-site steward on a job site in the region covered by the order is also suspended. The position of job-site steward is deemed vacant during the period of suspension.

Representative No employer may recognize or continue to recognize a job-site steward as the representative of an association of employees to which a suspension under the first paragraph applies.

§ 2.—*Civil liability*

Liability

14. An association of employees and any representative association which it is a member of, belongs to or is affiliated with are solidarily liable for any damage caused during a contravention of section 3 or section 4 by employees represented by the association of employees unless it is proved that the damage is not a result of the contravention or that the contravention is not part of any concerted action.

Compensation

Any person who sustains damage by reason of an act performed in contravention of section 3 or section 4 may apply to the competent court to obtain compensation.

§ 3.—*Penal provisions*

Offence and penalty

15. Every person who contravenes or incites or encourages a person to contravene a provision of section 3, 4 or 5 or of the second paragraph of section 12 or 13 is guilty of an offence and is liable to a fine

(1) of \$100 to \$500 in the case of a natural person not referred to in paragraph 2 or \$1 000 to \$5 000 in the case of a legal person not referred to in paragraph 2 or 3;

(2) of \$10 000 to \$50 000 in the case of an employer or a person who is an officer or representative of an employer, an employers' association or a contractors' association referred to in section 8 or who is an officer, job-site steward, business agent or representative of an association of employees or of any group which an association of employees is a member of, belongs to or is affiliated with;

(3) of \$25 000 to \$125 000 in the case of an employers' association or a contractors' association referred to in section 8, an association of employees or a group which an association of employees is a member of, belongs to or is affiliated with.

Offence and penalty

16. Every person who contravenes section 9 or section 10 is guilty of an offence and is liable to a fine of \$1 500 to \$15 000.

Fine

In the case of a person referred to in paragraph 2 of section 15, the fine prescribed in the first paragraph is \$15 000 to \$75 000.

Offence and penalty

17. Every association which does not comply with any provision of section 6, 7 or 8 that is applicable to it is guilty of an offence and is liable to the fine prescribed in paragraph 3 of section 15.

Offence **18.** Every person who, by act or omission, assists another person in committing an offence under a provision of this Act may be convicted of the offence as if he had committed it himself if he knew or should have known that his act or omission would probably result in aiding in the commission of the offence.

Offence **19.** Every person who abets, counsels or commands another person to commit an offence under a provision of this Act may be convicted of the offence and of any other offence committed by the other person as a result of the abetment, counsel or command if he knew or should have known that his action would probably result in the commission of the offence.

Prohibition **20.** No person convicted of an offence under a provision of this Act may hold a management position in an association of employees or be elected or appointed as a job-site steward, business agent or union representative of such an association or hold such a position. Nor may such a person hold a management position in an employers' association or a contractors' association referred to in section 8.

Disqualification The disqualification of a person pursuant to the first paragraph is effective for five years from the date of the conviction or until he obtains a pardon.

Suspension **21.** The competency certificate or licence held by a person under the Act respecting labour relations, vocational training and manpower management in the construction industry or the Building Act (R.S.Q., chapter B-1.1) is suspended if the person is convicted of an offence under a provision of this Act; one to three months of suspension shall be incurred for each offence that resulted in conviction. The same applies to the right of a person so convicted to obtain or renew such a certificate or licence.

Suspension and confiscation The judge, in imposing the sentence, shall determine the duration of the suspension and order the confiscation of the competency certificate or the licence so that it may be returned to the Commission de la construction du Québec or to the Régie du bâtiment du Québec, as the case may be. The judge may not suspend the passing of that part of the sentence.

Proof **22.** A judge having jurisdiction in respect of an offence against this Act may admit the proof made in another trial relating to an offence against this Act to serve as proof in a trial relating to an offence against this Act, without any requirement that a witness heard in support of the proof be heard again.

Witnesses A person against whom this mode of proof is used may, with leave of the judge, summon a witness whose testimony is adduced as proof in order to cross-examine him. The person may be required to pay the costs, as though he had summoned the author of an offence report, if, in the opinion of the judge, the presence of the witness served no purpose.

Statements of offence **23.** Every peace officer and every person authorized on 13 December 1993 to issue statements of offence under the Act respecting labour relations, vocational training and manpower management in the construction industry shall be authorized to issue statements of offence under this Act.

Signature **24.** The signature of an Attorney General's prosecutor on a statement of offence in respect of any offence under this Act may be affixed by means of an automatic device or in the form of an engraved, lithographed or printed facsimile. Any such signature has the same force and effect as an original signature.

DIVISION V

FINAL PROVISIONS

Construction Decree **25.** This Act shall not be construed as maintaining the applicability of the Construction Decree in respect of construction work which ceases to be subject to the Act respecting labour relations, vocational training and manpower management in the construction industry.

Strike or lock-out Nor shall this Act be construed as preventing, in respect of such work, the exercise of the right to strike or to impose a lock-out acquired in accordance with the law.

Presumption **26.** The provisions of this Act which extend or amend the Construction Decree are deemed to form part of the Decree.

Coming into force **27.** This Act comes into force on 13 December 1993.

SCHEDULE

AMENDMENTS TO THE CONSTRUCTION DECREE

1. Section 20.01 of the Construction Decree is amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) **Summer:** All construction job sites must be closed during the last 2 full calendar weeks in July and more specifically as follows:

from 0:01 a.m. on 17 July 1994 to 12:00 midnight on 30 July 1994;”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) **Winter:** All construction job sites must be closed for 2 full weeks during the Christmas and New Year Holidays and more specifically as follows:

(a) from 0:01 a.m. on 19 December 1993 to 12:00 midnight on 1 January 1994;

(b) from 0:01 a.m. on 25 December 1994 to 12:00 midnight on 7 January 1995;”;

(3) by replacing subparagraph *a* of paragraph 6 by the following subparagraph:

“(a) **Summer:** All construction job sites must be closed during the last 2 full calendar weeks in July and more specifically as follows:

from 0:01 a.m. on 17 July 1994 to 12:00 midnight on 30 July 1994.”

2. Section 20.05 of the said Decree is amended

(1) by replacing subparagraph *b* of paragraph 1 by the following subparagraph:

“(b) For the term of this Decree, the general holidays which do not correspond to the annual compulsory vacation periods are taken on the following dates:

i. Good Friday: 1 April 1994;

ii. Easter Monday: 4 April 1994;

iii. Queen’s Birthday (Fête de Dollard): 23 May 1994;

- iv. Canada Day: 1 July 1994;
- v. Labour Day: 5 September 1994;
- vi. Thanksgiving Day: 10 October 1994;
- vii. Remembrance Day: 11 November 1994.”;

(2) by replacing the second paragraph of paragraph 4 by the following paragraph:

“In accordance with the said Act, the National Holiday on 24 June 1994 is a paid general holiday for all employees.”