

1993, chapter 61

AN ACT TO AMEND THE ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING AND MANPOWER MANAGEMENT IN THE CONSTRUCTION INDUSTRY AND OTHER LEGISLATIVE PROVISIONS

Bill 142

Introduced by Mr Normand Cherry, Minister of Labour

Introduced 11 November 1993

Passage in principle 30 November 1993

Passage 14 December 1993

Assented to 14 December 1993

Coming into force: on the date or dates fixed by the Government, except

(1) paragraphs 1 and 10 of section 1, sections 2 and 3, paragraphs 3 and 5 of section 4, sections 7 to 10, sections 56, 70 and 71, sections 72 to 76, section 78 and sections 91 to 96 which come into force on 1 January 1994;

(2) section 5, paragraph 3 of section 57, sections 64 to 69, section 77 and sections 80 to 88 which come into force on 14 December 1993

– 1 January 1994: ss. 11 (par. 1), 89, 90
G.O., 1993, Part 2, p. 6964

Acts amended:

Building Act (R.S.Q., chapter B-1.1)

Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20)

Act to establish the Office de la construction du Québec and to again amend the Construction Industry Labour Relations Act (1975, chapter 51)

Act to incorporate the Association of Building Contractors of Québec (1976, chapter 72)



CHAPTER 61

An Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions

[Assented to 14 December 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. R-20,
s. 1, am.

1. Section 1 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20), amended by section 1 of chapter 42 of the statutes of 1992, is again amended

(1) by inserting, after paragraph c.1, the following paragraph:

“sector-
based
employers’
association”

“(c.2) “sector-based employers’ association”: for the residential sector, the Association provinciale des constructeurs d’habitations du Québec inc., for the institutional and commercial sector and the industrial sector, the Association de la construction du Québec, and for the civil engineering and roads sector, the Association des constructeurs de routes et grands travaux du Québec;”;

(2) by inserting the words “the installation, repair and maintenance of production machinery, as defined by regulation, except where such work is carried out by permanent employees of the user or of the manufacturer or by habitual employees of a person whose principal activity is the carrying out of such work and who is charged therewith on an exclusive basis by the manufacturer and includes” after the word “includes” in the first line of the second paragraph of paragraph f;

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

“collective
agreement”

“(g) “collective agreement”: an agreement in writing respecting the conditions of employment made for a sector between one or more

representative associations of employees and the employers' association mandated for that purpose by a sector-based employers' association;"

(4) by striking out paragraph *h*;

(5) by replacing paragraph *i* by the following paragraph:

"dispute" "(i) "dispute": a disagreement respecting the negotiation or renewal of a collective agreement or respecting the revision thereof by the parties pursuant to a clause providing expressly therefor;"

(6) by striking out the words "of a decree, or, failing a decree," in the third line of paragraph *k*;

(7) by striking out all of what follows the figure "62" in paragraph *n*;

(8) by replacing the word "decree" in the second line of paragraph *q* by the words "collective agreement";

(9) by replacing the words "decree or a regulation to carry out a decree" in the second line of paragraph *t* by the words "collective agreement or a regulation for the purpose of giving effect to a clause of a collective agreement";

(10) by adding, after paragraph *u*, the following paragraphs:

"civil engineering and roads sector" "(v) "civil engineering and roads sector": the sector of construction of public or private utility works in the general interest, including installations, equipment and buildings physically attached or not to such works, and in particular the construction of roads, waterworks, sewers, bridges, dams, power lines and gas pipelines;

"industrial sector" "(w) "industrial sector": the sector of construction of buildings, including installations and equipment physically attached or not to such buildings, reserved primarily for the carrying on of an economic activity involving the development of mineral resources, the processing of raw materials and the production of goods;

"institutional and commercial sector" "(x) "institutional and commercial sector": the sector of construction of buildings, including installations and equipment physically attached or not to such buildings, reserved primarily for institutional or commercial purposes as well as any construction that cannot be included in the residential, industrial and civil engineering and roads sectors;

"residential sector" "(y) "residential sector": the sector of construction of buildings, including installations and equipment physically attached or not to

such buildings, more than 75 % of the area of which, excluding parking space, is reserved for residential use.”

c. R-20,
s. 3.2, am.

2. Section 3.2 of the said Act is amended by striking out the words “the employers’ association and” in the first and second lines of subparagraph 1 of the second paragraph.

c. R-20,
s. 3.11, am.

3. Section 3.11 of the said Act is amended by replacing the words “employers’ association” in the first line of subparagraph 2 of the first paragraph by the words “sector-based employers’ associations”.

c. R-20,
s. 4, am.

4. Section 4 of the said Act, amended by section 3 of chapter 42 of the statutes of 1992, is again amended

(1) by striking out the words “or the decree adopted” in the first and second lines of paragraph 1;

(2) by replacing the words “placement, hiring and mobility” in the third line of paragraph 2 by the word “hiring”;

(3) by adding the words “or make an agreement with any person to entrust him with a mandate for that purpose” at the end of paragraph 4;

(4) by replacing the words “or a decree adopted” in the third and fourth lines of paragraph 7 by the word “made”;

(5) by adding, at the end, the following paragraph:

Functions

“In the performance of its functions, the Commission shall, at the request of the Minister of Revenue, cooperate in the application of the fiscal laws in the construction industry.”

c. R-20,
s. 11, am.

5. Section 11 of the said Act is amended by replacing the words “may administer” in the third line of the second paragraph by the words “administers or causes to be administered”.

c. R-20,
s. 16, am.

6. Section 16 of the said Act is amended by striking out the words “or of a decree” in the second line of the second paragraph.

c. R-20,
s. 17, am.

7. Section 17 of the said Act is amended

(1) by replacing the words “publication of the decree made by order under section 47” in the third and fourth lines of subsection 8 by the words “filing of the collective agreement as provided for in section 48”;

(2) by replacing the word “decree” in the first line of subsection 13 by the words “collective agreement”.

c. R-20,
s. 18.3, am. **8.** Section 18.3 of the said Act is amended by replacing the word “fifteen” in the first line by the word “eleven”.

c. R-20,
s. 18.4, am. **9.** Section 18.4 of the said Act, amended by section 4 of chapter 42 of the statutes of 1992, is again amended

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

Designated
member “Each of the contractors’ associations shall designate one member.”;

(2) by replacing the word “seven” wherever it appears in the third paragraph by the word “five”.

c. R-20,
s. 18.9, am. **10.** Section 18.9 of the said Act is amended

(1) by replacing the word “four” in the first and in the second lines by the word “three”;

(2) by striking out the words “the employers’ association and” in the first and second lines.

c. R-20,
s. 19, am. **11.** Section 19 of the said Act, amended by section 298 of chapter 21 and by section 5 of chapter 42 of the statutes of 1992, is again amended

(1) by adding, after subparagraph 9 of the first paragraph, the following subparagraph:

“(10) construction work on buildings reserved exclusively for residential use, including the installations and equipment physically attached or not to such buildings, where the buildings contain a total of 8 dwellings or less.”;

(2) by striking out the words “or a decree” in the fourth line of the sixth paragraph;

(3) by adding, at the end, the following paragraph:

Employers’
association “A person who carries out construction work as an independent contractor or as the designated representative of an independent contractor must have in his possession an attestation of the contractor’s membership in the employers’ association.”

c. R-20,
s. 20, am. **12.** Section 20 of the said Act is amended by inserting the words “define production machinery and” after the word “regulation” in the first line.

c. R-20,
s. 27, am. **13.** Section 27 of the said Act is amended by striking out the words “by decree, or, failing a decree,” in the second line and the words “or ordinance” in the third line of the first paragraph.

c. R-20,
ss. 28 and
29, am. **14.** Sections 28 and 29 of the said Act are amended by replacing the words “original expiry date of the decree made by order” by the words “expiry date of a collective agreement made”.

c. R-20,
s. 30, am. **15.** Section 30 of the said Act is amended

(1) by inserting the words “in Québec” after the word “hours” in the first line of subparagraph *b* of the first paragraph;

(2) by inserting the words “, according to the monthly reports sent by the employers” after the word “held” in the third line of subparagraph *b* of the first paragraph;

(3) by striking out subparagraph *c* of the first paragraph;

(4) by replacing the words “original expiry date of the decree made by order” in the second and third lines of the second paragraph and in the first and second lines of the fourth paragraph by the words “expiry date of the collective agreement made”.

c. R-20,
s. 31, am. **16.** Section 31 of the said Act, amended by section 530 of chapter 61 of the statutes of 1992, is again amended by replacing the words “original expiry date of the decree made by order” in the third and fourth lines of the first paragraph by the words “expiry date of the collective agreement made”.

c. R-20,
s. 32, am. **17.** Section 32 of the said Act is amended

(1) by replacing the words “original expiry date of the decree made by order” in the first and second lines of the first paragraph by the words “expiry date of a collective agreement made”;

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

Secret
ballot

“Such election shall be made by secret ballot held under the supervision of a representative of the Commission, in the manner prescribed by regulation of the Commission. However, the ballot must be held for a period of not less than three consecutive days which ends on the last Saturday of the month.”;

(3) by striking out the fifth paragraph.

c. R-20,
s. 34, am.

18. Section 34 of the said Act is amended

(1) by adding the words “and its degree of sectorial representativeness for negotiation purposes in accordance with section 35.1” at the end of the first paragraph;

(2) by inserting the words “its degree of sectorial representativeness as well as” after the word “and” in the third line of the second paragraph;

(3) by replacing the words “original expiry date of the decree made by order” in the second line of the third paragraph by the words “expiry date of a collective agreement made”.

c. R-20,
s. 35.1,
added

19. The said Act is amended by inserting, after section 35, the following section:

Sectorial
representa-
tiveness
of associa-
tion of
employees

“35.1 The sectorial representativeness of an association of employees for negotiation purposes corresponds to the percentage that the result determined in respect of that association under the second paragraph is of the total of the results so determined in that sector in respect of all the associations whose names were published pursuant to section 29.

Percentage

The degree of representativeness of each association as determined under section 35 is multiplied by the percentage that the number of hours of work declared for each sector in respect of the employees who made an election respecting that association in accordance with section 32 is of the total number of hours of work declared in the industry as a whole in respect of the employees who made an election in respect of that association.

Hours
worked

The number of hours of work is the number of hours declared as having been worked, according to the monthly reports sent to the Commission by employers, during the first twelve of the fifteen complete calendar months preceding the month during which the ballot provided for in section 32 is held.”

c. R-20,
ss. 36 and
37, am.

20. Sections 36 and 37 of the said Act are amended by replacing the words “original expiry date of the decree made by order” by the words “expiry date of the collective agreement made”.

c. R-20,
s. 41, am.

21. Section 41 of the said Act is amended

(1) by replacing the first two paragraphs by the following paragraphs:

Employers'
agent

“41. The employers’ association is in charge of coordinating negotiations in the construction industry and is the sole agent of the employers for the purposes of negotiating and making collective agreements under this Act.

Mandates

For those purposes, the employers’ association receives its mandates from the sector-based employers’ associations.”;

(2) by replacing the words “Similarly, a” in the first line of the third paragraph by the word “A”.

c. R-20,
s. 42, am.

22. Section 42 of the said Act is amended

(1) by adding the words “applicable in the sector” at the end of the first paragraph;

(2) by replacing the words “original expiry date of the decree made by order” in the second line of the second paragraph by the words “expiry date of the collective agreement made”;

(3) by inserting the words “in the sector” after the figure “50 %” in the third line of the fourth paragraph.

c. R-20,
s. 42.1, am.

23. Section 42.1 of the said Act is amended by striking out the words “to the degree of fifteen per cent or more” in the first and second lines.

c. R-20,
ss. 43.4-
43.7, added

24. The said Act is amended by inserting, after section 43.3, the following sections:

Appoint-
ment of
mediator

“43.4 Upon application by a party to the negotiations, the Minister shall appoint a mediator to help the parties settle their dispute.

Commence-
ment of
mediation

However, mediation may not begin prior to the sixtieth day preceding the expiry of the collective agreement.

Period of
mediation

“43.5 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.

Meetings

“43.6 The parties must attend any meeting to which the mediator convenes them.

Agreement
in principle

“43.7 As soon as an agreement in principle on what could become a collective agreement is reached between the employers’

association and one or more associations whose representativeness is 50 % or more in the sector, the mediator shall record the agreement in principle in a report which he shall give to each of the parties and to the Minister.

Report

If there is no such agreement in principle at the expiry of the mediation period, the mediator shall give to the parties a report in which he shall indicate the matters on which there has been agreement between the associations referred to in the first paragraph as well as each association's position with respect to matters which are still in dispute. The mediator shall send to the Minister a copy of the report together with his comments and, ten days later, shall make the report public."

c. R-20,
s. 44,
replaced

25. Section 44 of the said Act is replaced by the following section:

Representa-
tiveness

"44. In order to be considered as the collective agreement applicable in a sector, an agreement respecting the conditions of employment other than those pertaining to the matters listed in section 61.1 must be made by one or more associations whose representativeness is more than 50 % in that sector and by the employers' association entrusted with a mandate for that purpose by the sector-based employers' association.

Content of
agreement

As regards the matters listed in section 61.1, the clauses of an agreement made in accordance with the third paragraph or, failing such an agreement, the clauses respecting such matters contained in the last collective agreement applicable in the sector also form part of such a collective agreement. In the latter case, the clauses form part of the new collective agreement until they are renewed or revised in accordance with the law.

Representa-
tiveness

In order to form part of the collective agreement applicable in a sector and to have effect therein, an agreement respecting the conditions of employment pertaining to one or several matters listed in section 61.1 must be made by one or more associations whose representativeness is more than 50 % in the sector and by the employers' association entrusted with a mandate for that purpose by one or more sector-based employers' associations whose representativeness is more than 50 %.

Agreement

An agreement referred to in the second paragraph may be made even in the absence of an agreement as to the conditions of employment specific to a sector, in which case section 48 applies as though it were an amendment to the collective agreement. The filing

may be effected by the employers' association or by a representative association having made the agreement."

c. R-20,
ss. 44.1-
44.3, added

26. The said Act is amended by inserting, after section 44, the following sections:

Authoriza-
tion

"44.1 A representative association may make a sector-based agreement referred to in the first paragraph of section 44 if it is authorized thereto by the majority of its members exercising their right to vote in a secret ballot.

Authoriza-
tion

The sector-based employers' association may entrust the employers' association with a mandate to negotiate such an agreement if it is authorized thereto in a secret ballot that it must hold for the members of the employers' association who, in the monthly reports sent by them to the Commission in the first twelve of the fifteen complete calendar months preceding the month in which the ballot is held, declared hours as having been worked in the sector. It has received authorization if, in the ballot, the employers favourable to the agreement declared, in that twelve-month period, more than 50 % of the hours declared as having been worked in the sector by all employers having sent monthly reports to the Commission in that twelve-month period.

Authoriza-
tion

"44.2 A representative association may make an agreement referred to in the second paragraph of section 44 if it is authorized thereto by the majority of its members exercising their right to vote in a secret ballot.

Authoriza-
tion

The sector-based employers' association may entrust the employers' association with a mandate to negotiate such an agreement if it is authorized thereto in a secret ballot that it must hold for the members of the employers' association who, in the monthly reports sent by them to the Commission in the first twelve of the fifteen complete calendar months preceding the month in which the ballot is held, declared hours as having been worked in the sector. It has received authorization if, in the ballot, the employers favourable to the agreement declared, in that twelve-month period, more than 50 % of the hours declared as having been worked in the sector by all employers having sent monthly reports to the Commission in that twelve-month period.

Separate
votes

Where a representative association or a sector-based employers' association holds a single ballot in respect of an agreement made under this section and an agreement made under section 44.1, it must hold a separate vote for each of the two agreements.

Certificate
of represen-
tativeness

“44.3 During the ninth month preceding the expiry of the collective agreements, the Commission shall ascertain the representativeness of each sector-based employers’ association for the purposes of the making of an agreement or an application for arbitration respecting one or several matters listed in section 61.1 and shall issue to each association a certificate establishing its representativeness.

Taking of
effect

The certificate takes effect on the first day of the eighth month preceding the date of the expiry of the collective agreements.

Representa-
tiveness

The representativeness of a sector-based employers’ association is the percentage that the number of hours declared by the employers as having been worked in its sector is of the total number of hours declared by the employers as having been worked in the industry as a whole, according to the monthly reports sent by them to the Commission during the complete calendar year preceding the date of expiry of the collective agreements.”

c. R-20,
s. 45,
replaced

27. Section 45 of the said Act is replaced by the following section:

Application
for arbitra-
tion

“45. A dispute may be referred to an arbitrator on the joint application of the parties.

Representa-
tiveness

If the dispute concerns one or several matters listed in section 61.1, the application must be made by one or more associations whose representativeness is 50 % or more in the sector and by the employers’ association entrusted with a mandate for that purpose by one or more sector-based employers’ associations whose representativeness is 50 % or more. If the dispute concerns other matters, the application must be made by one or more associations whose representativeness is 50 % or more in the sector concerned and by the employers’ association entrusted with a mandate for that purpose by the sector-based employers’ association in that sector.

Applicable
provisions

Sections 74 to 91.1, the second sentence of section 92 and section 93 of the Labour Code apply to the arbitration of the dispute.”

c. R-20,
ss. 45.1-
45.4, added

28. The said Act is amended by inserting, after section 45, the following sections:

Matters
referred to
arbitration

“45.1 Only matters not having been the subject of an agreement between the parties may be referred to arbitration.

Exclusive
jurisdiction

The arbitrator has exclusive jurisdiction to determine such matters. Where there has been mediation, he shall decide on the basis of the mediator’s report.

Stipulations in award **“45.2** 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.

Stipulations in award 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 to stipulations 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.

“Best final offer” method For the purposes of the award, the arbitrator shall also, where the parties so request, proceed clause by clause using the “best final offer” method.

Retroactivity **“45.3** The arbitrator’s award may not have retroactive effect.

Strikes and lock-outs prohibited **“45.4** Strikes and lock-outs are prohibited in a sector unless there has been mediation and at least twenty-one days have elapsed since the expiry of the mediation.

Strikes A strike is permitted from the expiry of the twenty-one days referred to in the first paragraph, provided that it is called for all the employees working in the sector and that it has been authorized, by secret ballot, by a majority of the voting members of one or more associations whose representativeness is 50 % or more in that sector.

Lock-outs A lock-out is permitted from the same time provided that it is imposed by the employers’ association for all the employers performing or causing the performance of construction work in the sector. The employers’ association may impose a lock-out where it has been given a mandate for that purpose by the sector-based employers’ association authorized for such purpose by secret ballot and on the conditions and according to the procedure applicable to the making of an agreement referred to in the first paragraph of section 44.

Strikes and lock-outs prohibited However, strikes and lock-outs are prohibited in a sector from the appointment of an arbitrator in charge of the settlement of a dispute in that sector.

Strikes and lock-outs prohibited They are also prohibited at all times in respect of a matter referred to in section 61.1.”

c. R-20,
s. 46, am. **29.** Section 46 of the said Act is amended by replacing the words “construction industry; only one agreement may be made with respect

to such trades and employments” in the third and fourth lines of the first paragraph by the words “sector contemplated therein; only one agreement may be made in respect of a sector”.

c. R-20,
Chap. VI,
heading,
replaced

30. The heading of Chapter VI of the said Act is replaced by the following heading:

“COMING INTO FORCE AND SCOPE OF COLLECTIVE AGREEMENTS”.

c. R-20,
s. 47,
replaced

31. Section 47 of the said Act is replaced by the following section:

Scope of
collective
agreement

“47. A collective agreement shall be made for each sector of the construction industry by the negotiating parties of the sector, pursuant to this Act. The agreement shall apply to the whole sector concerned.

Expiry date

The expiry date of a collective agreement shall be 31 December every three years, from 31 December 1994.

Expiry date

For the purposes of Chapter IV and sections 42 and 44.3, a collective agreement is deemed to expire on each of those dates, whether or not a collective agreement has been made.”

c. R-20,
s. 48,
replaced

32. Section 48 of the said Act, amended by section 7 of chapter 42 of the statutes of 1992, is replaced by the following section:

Filing of
collective
agreement

“48. Within 10 days after the making of a collective agreement, the employers’ association shall file two true copies of the collective agreement and the schedules thereto at the office of the labour commissioner general and shall publish a notice of the filing in two daily newspapers having general circulation in Québec. If the employers’ association fails to do so, the filing and publication may be effected by a representative association.

Copy of
collective
agreement

The representative association and the employers’ association shall send a copy of the collective agreement to their members.

Effective
date

A collective agreement takes effect only on the date of filing.

Retroactive
effect

The filing has retroactive effect to the date of coming into force of the collective agreement determined in the agreement. However, in no case may such date be prior to the date of the signing of the collective agreement.

Amendment
to collective
agreement

This section applies also to any amendment to the collective agreement.”

c. R-20,
s. 49,
repealed

33. Section 49 of the said Act is repealed.

c. R-20,
s. 50,
replaced

34. Section 50 of the said Act is replaced by the following section:

Date when
clauses of
collective
agreement
become
executory

“50. From the date of coming into force of the collective agreement determined in the agreement or, failing such a date, from the date of signing of the agreement, the clauses of the collective agreement are executory in respect of all employers and all employees, present or future, where they carry out construction work or cause construction work to be carried out in the sector concerned.”

c. R-20,
s. 51,
repealed

35. Section 51 of the said Act is repealed.

c. R-20,
s. 52,
replaced

36. Section 52 of the said Act is replaced by the following section:

Collective
agreement
filed

“52. A collective agreement filed in accordance with section 48 is deemed to have been made in the manner prescribed in this Act.”

c. R-20,
s. 53, am.

37. Section 53 of the said Act is amended

(1) by replacing the words “adoption of the decree” in the first line by the words “filing in accordance with section 48”;

(2) by striking out the words “; its provisions entail a matter of public order” in the second and third lines.

c. R-20,
s. 54, am.

38. Section 54 of the said Act, amended by section 8 of chapter 42 of the statutes of 1992, is again amended by replacing the word “decree” at the end by the words “collective agreement”.

c. R-20,
s. 54.1, am.

39. Section 54.1 of the said Act, enacted by section 9 of chapter 42 of the statutes of 1992, is amended by replacing the word “decree” at the end by the words “collective agreement”.

c. R-20,
s. 55,
repealed

40. Section 55 of the said Act is repealed.

c. R-20,
s. 56, am.

41. Section 56 of the said Act is amended by inserting the words “in a sector” after the word “prohibited” in the first line and by replacing the word “decree” in the second line by the words “collective agreement”.

c. R-20,
ss. 57 and
58, am.

42. Sections 57 and 58 of the said Act are amended by replacing the word “decree” by the words “collective agreement”.

c. R-20,
s. 60.1,
added

43. The said Act is amended by inserting, after section 60, the following section:

Conditions
of employ-
ment main-
tained

“60.1 From the expiry date of a collective agreement, the conditions of employment contained therein shall be maintained until one of the parties exercises its right to strike or to impose a lock-out.

Conditions
of employ-
ment

However, the parties may provide in the collective agreement that the conditions of employment contained in the agreement will continue to apply until the coming into force of the new collective agreement.

Renewal or
revision of
conditions of
employment

The conditions of employment governing matters listed in section 61.1 shall continue to apply until they are renewed or revised in accordance with the law.”

c. R-20,
Chap. VII,
heading,
replaced

44. The heading of Chapter VII of the said Act is replaced by the following heading:

“CONTENTS OF COLLECTIVE AGREEMENTS”.

c. R-20,
s. 61, am.

45. Section 61 of the said Act, amended by section 10 of chapter 42 of the statutes of 1992, is again amended

(1) by replacing the words “decree must contain provisions” in the first line of the first paragraph by the words “collective agreement must contain clauses”;

(2) by striking out the words “, the term of the decree” in the fourth line of the first paragraph and by replacing the word “decree” in the fifth line of the same paragraph by the words “collective agreement”;

(3) by replacing the words “decree must also contain provisions” in the first line of the second paragraph by the words “collective agreement must also contain clauses”;

(4) by replacing the words “decree may also contain provisions” in the first line of the third paragraph by the words “collective agreement may also contain clauses”;

(5) by adding, at the end, the following paragraph:

Conditions
of employ-
ment

“The collective agreement may also contain any clause not contrary to public order or prohibited by law relating to conditions of employment in a sector.”

c. R-20,
ss. 61.1-
61.4, added

46. The said Act is amended by inserting, after section 61, the following sections:

Clauses
common to
all collective
agreements

“61.1 Clauses respecting the following matters must be common to the collective agreements of each of the sectors:

(1) union security, including the advance deduction of union assessments;

(2) union representation;

(3) the procedure for settling grievances;

(4) the exercise of recourses to counter disciplinary measures;

(5) arbitration;

(6) the basic supplemental fringe benefit plan;

(7) any compensation fund considered necessary by the parties to the negotiations in each sector.

Prohibited
clauses

“61.2 No clause of a collective agreement may

(1) give preference to a representative association or a sector-based employers' association;

(2) infringe on a right of an employee on the basis of discrimination related to his union allegiance;

(3) concern placement or a placement agency;

(4) limit the employer's freedom to request the services of an employee directly or through the Commission or a union reference;

(5) introduce discriminatory provisions towards any employer;

(6) contain any other provision contrary to the law.

Clause
deemed not
written

“61.3 Any clause of a collective agreement contrary to the provisions of this Act is deemed not to be written.

Application
to Labour
Court

“61.4 Upon application by the Attorney General or any interested party, the Labour Court may determine the extent to which a clause of a collective agreement is contrary to a provision of this Act.

Service of
application

The applicant shall serve the application on the other interested parties.”

c. R-20,
s. 62, am.

47. Section 62 of the said Act is amended by striking out the second paragraph.

c. R-20,
s. 67, am.

48. Section 67 of the said Act is amended by striking out the words “or in the decree” in the third line.

c. R-20,
s. 70, am.
and s. 71,
French text,
am.

49. Section 70 of the said Act is amended by striking out the words “or the decree” in the first line and, in the French text, by replacing the word “disposition” in the second line by the word “clause”, and section 71 is amended, in the French text, by replacing the word “disposition” in the second line by the word “clause”.

c. R-20,
s. 74, am.

50. Section 74 of the said Act is amended by striking out the words “or in the decree” in the first line of the first paragraph.

c. R-20,
s. 78, am.

51. Section 78 of the said Act is amended by striking out the words “a placement agency or to” in the second and third lines.

c. R-20,
s. 81, am.

52. Section 81 of the said Act is amended

(1) by replacing the words “the decree” in the first line of the first paragraph and in the first line of subparagraph *a* of the first paragraph by the words “a collective agreement”;

(2) by replacing the words “provisions of any decree” in the second line of subparagraph *c* of the first paragraph by the words “clauses of a collective agreement”;

(3) by replacing the words “provisions of the decree” in the fourth and fifth lines of subparagraph *e* of the first paragraph by the words “clauses of a collective agreement”;

(4) by replacing the words “the decree” at the end of subparagraph *h* of the first paragraph by the words “a collective agreement”.

c. R-20,
s. 82, am.

53. Section 82 of the said Act, amended by section 11 of chapter 42 of the statutes of 1992, is again amended

(1) by replacing the words “the decree” at the end of subparagraph *a* of the first paragraph and at the end of the second paragraph by the words “a collective agreement”;

(2) by replacing the word “decree” at the end of the first paragraph of subparagraph *f* of the first paragraph by the words “collective agreement”;

(3) by replacing the word “decree” in the first line of the second paragraph of subparagraph *f* of the first paragraph by the words “collective agreement”.

c. R-20,
s. 86, am.

54. Section 86 of the said Act is amended by replacing the word “decree” in the fourth line of subparagraph *b* of subparagraph 3 of the third paragraph by the words “collective agreement”.

c. R-20,
ss. 87-89,
am.

55. Sections 87 to 89 of the said Act are amended by striking out the words “or in a decree”, “or the decree”, “or in the decree”, and “or of a decree”, wherever they appear.

c. R-20,
s. 90.1,
added

56. The said Act is amended by inserting, after section 90, the following section:

Placement
of workers

“90.1 No person may place workers in the construction industry.”

c. R-20,
s. 92, am.

57. Section 92 of the said Act is amended

(1) by replacing the word “decree” by the words “collective agreement” and the word “provision” by the word “clause”, wherever they appear in subsection 1;

(2) by replacing the words “the construction decree” in the fifth and seventh lines of subsection 3 by the words “a collective agreement made under this Act”;

(3) by adding, at the end, the following subsection:

Agreement

“(5) Subject to section 11 and subsection 2 of this section, the Commission may make an agreement with any person to entrust him with a mandate for the administration of a supplemental fringe benefit plan.”

c. R-20,
Chap. X.1,
repealed

58. Chapter X.1 of the said Act is repealed.

c. R-20,
s. 110, am.

59. Section 110 of the said Act is amended by striking out the words “the decree or” in the third line.

c. R-20,
s. 120, am.

60. Section 120 of the said Act is amended by striking out the words “, of a decree” in the first and second lines.

c. R-20,
s. 122, am.

61. Section 122 of the said Act, amended by section 538 of chapter 61 of the statutes of 1992 and by section 19 of chapter 92 of the statutes of 1992, is again amended

(1) by replacing the words “the decree” in the first line of the first paragraph of subsection 1 by the words “a collective agreement”;

(2) by replacing the words “an agreement, a decree” in the second line of paragraph *a* of subsection 2 by the words “a collective agreement, an agreement”;

(3) by replacing the words “the provisions of the decree” in the second line of paragraph *c* of subsection 2 by the words “a clause of a collective agreement”;

(4) by replacing the words “of a decree” in the third line of subsection 4 by the words “of this Act, a collective agreement or a regulation”.

c. R-20,
s. 123, am.

62. Section 123 of the said Act, amended by section 20 of chapter 42 of the statutes of 1992, is again amended

(1) by striking out paragraphs 1 to 7;

(2) by striking out the words “, subsection 7 of this section” in the first and second lines of subsection 8.1.

c. R-20,
s. 123.1,
am.

63. Section 123.1 of the said Act is amended by replacing paragraph 13 by the following paragraph:

“(13) establish rules in matters of manpower hiring;”.

c. R-20,
s. 123.2,
am.

64. Section 123.2 of the said Act is amended by inserting the words “or amend” after the word “adopt” in the first lines of the fourth and fifth paragraphs.

c. R-20,
s. 123.4,
replaced

65. Section 123.4 of the said Act, enacted by section 21 of chapter 42 of the statutes of 1992, is replaced by the following sections:

Obtention of
information

“123.4 For the purposes of this Act and the regulations, the Commission may obtain from a body that is subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) any information or document in its possession relating to the carrying out of construction work and to the persons who carry out such work or cause such work to be carried out and the body shall furnish such information or document to the Commission in accordance with that Act.

Agreement

“123.4.1 The Commission may, according to law, enter into an agreement with a government in Canada or abroad or with a

department or body of such a government for the carrying out of this Act and the regulations or of an Act for the carrying out of which such a government, department or body is responsible.

Agreement Such an agreement may permit the exchange of nominative information for the prevention, detection or repression of offences under any such Act."

c. R-20,
s. 126,
repealed **66.** Section 126 of the said Act is repealed.

AMENDING PROVISIONS

c. B-1.1,
s. 60, am. **67.** Section 60 of the Building Act (R.S.Q., chapter B-1.1), amended by section 78 of chapter 61 of the statutes of 1992, is again amended by striking out paragraph 2.

c. B-1.1,
s. 64, am. **68.** Section 64 of the said Act is amended by striking out the second paragraph.

c. B-1.1,
s. 129.1,
replaced **69.** Section 129.1 of the said Act is replaced by the following sections:

Information **"129.1** For the purposes of this Act and the regulations, the Board may obtain from a body that is subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) any information or document in its possession relating to the carrying out of construction work and to the persons who carry out such work or cause such work to be carried out and the body shall furnish such information or document to the Board in accordance with that Act.

Agreements **"129.1.1** The Board may, according to law, enter into an agreement with a government in Canada or abroad or with a department or body of such government for the carrying out of this Act and the regulations or of an Act for the carrying out of which such government, department or body is responsible.

Nominative information Such an agreement may permit the exchange of nominative information for the prevention, detection or repression of offences under any such Act."

1975, c. 51,
ss. 32-34,
am. **70.** The Act to establish the Office de la construction du Québec and to again amend the Construction Industry Labour Relations Act (1975, chapter 51), amended by the Act to amend the Building Contractors Vocational Qualifications Act and other legislation (1979, chapter 2) is again amended

- (1) by striking out subsections 2 and 3 of section 32;
- (2) by striking out paragraph *a* of section 33;
- (3) by replacing paragraph *c* of section 33 by the following paragraphs:
 - “(c) for the mode of designation of the persons occupying management posts;
 - “(c.1) for the mode of determination of the amount of the assessment;
 - “(c.2) that the association provide for the financing of the costs incurred by the sector-based employers’ associations for the purpose of negotiating collective agreements pursuant to the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);”;
- (4) by adding, at the end of the first paragraph of section 34, the words “and to the coordination of the negotiation of collective agreements pursuant to the Act respecting labour relations, vocational training and manpower management in the construction industry”.

1976, c. 72,
s. 2, am.

71. The Act to incorporate the Association of Building Contractors of Québec (1976, chapter 72) is amended

- (1) by adding, at the end of section 2, the following paragraph:
 - “(d) to act as coordinator and mandatary for the purpose of negotiating collective agreements pursuant to the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);”;
- (2) by striking out paragraph *c* of section 2.

Amendment
to regulation

72. The Regulation respecting placement of employees in the construction industry (Order in Council 1946-82 dated 25 August 1982 and amendments), amended by section 42 of chapter 89 of the statutes of 1986, is again amended

- (1) by replacing its title by the following title:
 - “Regulation respecting the hiring and mobility of employees in the construction industry”;
- (2) by striking out the words ““placement agency or agency”: a placement agency duly licenced under this Regulation,” in section 1;

(3) by repealing Division IV;

(4) by striking out the words “AND PLACEMENT” in the title of Division V;

(5) by striking out the words “and placement” in the first line of the first paragraph of section 35 and by replacing, in the French text, the word “doivent” in the first paragraph of section 35 by the word “doit”;

(6) by inserting, after section 35, the following section:

“35.1 Where a person domiciled elsewhere in Canada applies for the issuance or renewal of a competency certificate under the Regulation respecting the issuance of competency certificates, he shall indicate to the Commission the region in which he wishes to be granted job priority. The competency certificate shall mention such designation, which is valid until the expiry of the competency certificate, unless its holder becomes domiciled in Québec.

The person referred to in the first paragraph is deemed to be domiciled in the region indicated by him under the first paragraph for the purposes of paragraph 1 of section 35.”;

(7) by striking out the words “and placement” in section 43;

(8) by striking out paragraph 2 of section 44;

(9) by striking out the words “without a placement agency” in section 45;

(10) by repealing section 52;

(11) by striking out the words “, notwithstanding the section 5 of this regulation” in section 56.3;

(12) by repealing Schedule 1;

(13) by repealing Schedule 2.

Effect of
regulation

73. The Regulation respecting the hiring and mobility of employees in the construction industry ceases to have effect in respect of a sector of the construction industry where a first collective agreement made under the new Act comes into force for that sector.

Amendment
to regulation

74. Section 5 of the Regulation respecting the vocational training of manpower in the construction industry (Order in Council 313-93 dated 10 March 1993) is amended by adding, at the end, the following paragraph:

“(3) anyone who demonstrates, by means of a document issued by a body having competence to do so elsewhere in Canada, that he has qualifications equivalent to those of a journeyman in a trade or specialty.”

Amendment
to regulation

75. The Regulation respecting the keeping of a register and the sending of a monthly report (Order in Council 875-93 dated 16 June 1993) is amended

(1) by adding, at the end of paragraph 4 of section 1, the words “, in respect of each sector of the construction industry”;

(2) by adding, at the end of section 5, the words “, in respect of each sector of the construction industry”.

TRANSITIONAL AND FINAL PROVISIONS

Amended
regulations

76. The regulations amended by sections 72 to 75 are deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

“former
Act”, “new
Act”

77. In this Act, the words “former Act” mean a provision of the Act respecting labour relations, vocational training and manpower management in the construction industry as it read before the coming into force of a provision of this Act which amends, repeals or replaces it, and the words “new Act” mean a provision of the said Act as amended or replaced by this Act, unless the context indicates otherwise.

Reference to
regulation

78. In any other Act, any regulation, order, proclamation, decree, order in council, contract, agreement or other document, a reference to the Regulation respecting placement of employees in the construction industry becomes a reference to the Regulation respecting the hiring and mobility of employees in the construction industry, adapted as required.

Reference
to Construc-
tion Decree

79. In any other Act, any regulation, order, proclamation, decree, order in council, contract, agreement or other document, a reference to the Construction Decree becomes a reference to the collective agreement applicable in the sector concerned, adapted as required, unless the context indicates otherwise.

Application
of former
Act

80. For the purposes of the application, extension, amendment or repeal of the Construction Decree, enacted by Order in Council 172-87 dated 4 February 1987 and the amendments thereto, in force when the new Act comes into force, the former Act continues to apply.

Substitution
of provision

81. For the purposes of section 80, the fourth paragraph of section 51 of the former Act shall read as follows:

Amendment
by the
Government

“However, the Government may amend the Construction Decree without the consent of the employers’ association or the associations of employees and without such associations being invited to a hearing before the Parliamentary Committee on Labour and the Economy.”

Conditions
of employ-
ment main-
tained

82. Until a collective agreement takes effect and notwithstanding the expiry of the Construction Decree, the conditions of employment contained therein shall be maintained in a sector until one of the parties exercises its right to strike or to impose a lock-out.

Applicable
provision

For the purposes of the first paragraph, section 45.4 of the new Act, adapted as required, shall apply.

Sectorial
representa-
tiveness

83. For the purpose of negotiating a first collective agreement under the new Act, the sectorial representativeness of a sector-based employers’ association and of a representative association is determined by the Commission de la construction du Québec according to the data at its disposal.

Presumption

84. The provisions of the Construction Decree respecting the matters referred to in section 61.1 of the new Act are deemed to be the clauses common to the collective agreements of each of the sectors until they are amended, renewed or replaced in accordance with the new Act.

First collec-
tive agree-
ment

85. For the purposes, in each sector, of negotiating and making a first collective agreement under the new Act, including the arbitration of a dispute as part of such negotiation, the following rules apply:

(1) the degree of representativeness of representative associations is the degree appearing in the certificate issued by the Commission de la construction du Québec following the ballot held in November 1992;

(2) the degree of sectorial representativeness of the representative associations and the degree of representativeness of the sector-based employers’ associations are based on the monthly reports relating to the months of March to August 1994;

(3) on or before 15 October 1994, the Commission de la construction du Québec shall issue certificates establishing the degrees of representativeness;

(4) notice of negotiation of the agreement is deemed to have been given on 15 October 1994;

(5) where a sector-based employers' association holds, before June 1995, a ballot for the purpose of obtaining an authorization referred to in section 44.1, 44.2 or 45.4 of the new Act, the monthly reports taken into account for the purposes of the holding of the ballot and of the granting of the authorization shall be those relating to the period between March 1994 and the third month preceding the month in which the ballot is held.

Reference to
decree

In addition, until the coming into force of a first agreement in the sector, the second paragraph of section 43.4 of the new Act must also read as referring to the decree.

Expiry of
Construction Decree

36. The expiry of the Construction Decree does not affect any offences committed, penalties incurred or proceedings instituted; proceedings may be instituted or continued and penalties may be imposed notwithstanding such expiry.

Exercise of
recourse

The exercise of a recourse resulting from the former Act remains governed by the former Act where the time limit for exercising the recourse has not expired at the time of the coming into force of the new Act.

Proceedings
in progress

37. Proceedings in progress at the time of the coming into force of the new Act remain governed by the former Act.

Objects and
powers

In such proceedings, the Association of Building Contractors of Québec retains the objects and powers it had under the former Act.

Regulation

38. A regulation made by the Commission de la construction du Québec under subsection 1 of section 92 of the former Act is deemed to be made to give effect to a clause of a collective agreement made in accordance with the new Act.

Reference to
collective
agreement

In addition, in subsection 3 of section 92 of the new Act, the reference to a collective agreement made under the new Act remains a reference to the Construction Decree, unless the context indicates otherwise.

Supple-
mental
fringe
benefit
plans

39. Until 31 December 1994, where the work carried out by an employee ceases to be subject to the Act respecting labour relations, vocational training and manpower management in the construction industry owing to the amendment made under paragraph 1 of section 11 of this Act, the employee shall continue to participate in the supplemental fringe benefit plans in force on 1 January 1994. For that

purpose, the Construction Decree, the Regulation respecting the keeping of a register and the sending of a monthly report and the Regulation respecting complementary social benefit plans in the construction industry, adapted as required, apply to employers, employees and the Commission de la construction du Québec as if such employees continued to carry out work subject to the said Act. For the purposes of this section, the Commission shall retain all its powers in respect of inspection, inquiry and prosecution.

Regulations **90.** The Commission de la construction du Québec may, by regulation, determine the terms and conditions necessary for maintaining, after 31 December 1994 and for the period it fixes, the supplemental fringe benefit plans in favour of the employees referred to in section 89 who were participating in such plans on 31 December 1994. The regulation shall determine the amount of their assessments and contributions to the plans. For the purposes of this section, the Commission shall retain all its powers in respect of inspection, inquiry and prosecution.

Applicable provisions Section 15 and the first and third paragraphs of section 123.3 of the new Act apply to that regulation.

Replacement of member **91.** Notwithstanding section 3.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry, the Government may replace a member of the board of directors of the Commission de la construction du Québec appointed under subparagraph 1 of the second paragraph of section 3.2 of the former Act, in accordance with the method prescribed in subparagraph 1 of the second paragraph of section 3.2 of the new Act. The term of a member of the board of directors thus replaced ends on the date fixed for the entry into office of the member replacing him.

Members and substitutes appointed **92.** The interested parties must, not later than 31 January 1994, send to the Minister of Labour the names of the members and substitutes appointed by them to the Committee on vocational training in the construction industry, notwithstanding section 18.6 of the Act respecting labour relations, vocational training and manpower management in the construction industry.

Expiry date deferred **93.** The expiry date of a competency certificate issued or renewed under the Regulation respecting the issuance of competency certificates (Order in Council 673-87 dated 29 April 1987 and amendments) occurring between 1 January and 30 April 1994 is deferred until 1 May 1994. For the purposes of the renewal of the competency certificate, the word “fourteen” in the first paragraph of section 7 is replaced by the word “sixteen”.

Composition
of board of
directors

94. The contractors' associations must, before 10 January 1994, designate members to form a new board of directors of the Association of Building Contractors of Québec to be composed of nine members and two observers, as follows:

(1) three members designated by the Association provinciale des constructeurs d'habitations du Québec (APCHQ);

(2) three members designated by the Association de la construction du Québec (ACQ);

(3) three members designated by the Association des constructeurs de routes et grands travaux du Québec (ACRGTQ);

(4) one observer designated by the Corporation des maîtres mécaniciens en tuyauterie du Québec (CMMTQ);

(5) one observer designated by the Corporation des maîtres électriciens du Québec (CMEQ).

Designation

Every contractors' association shall inform the Minister, before 12 January 1994, of the designation it has made under the first paragraph.

Designation

Where an association fails to effect such designation and to inform the Minister thereof before 12 January 1994, the Minister may, on behalf of the association, effect such designation for the purpose of forming the board of directors, until the new board is formed in accordance with the constitution referred to in section 96.

Notice

The Minister shall give notice, in the *Gazette officielle du Québec*, of any designation effected by him under the third paragraph.

Term of
office

95. The term of office of each member of the present board of directors of the Association of Building Contractors of Québec ends on 15 January 1994 or on any later date fixed at the time of the designation provided for in the third paragraph of section 94, without indemnity or notice, and the new members shall exercise on that date the functions of that board.

Existing
board of
directors

However, the members of the existing board of directors shall remain in office, notwithstanding the expiry of their terms, until all the designations provided for in section 94 are effected.

Amendment
to constitution
and
by-laws

96. Notwithstanding the Regulation respecting the Association of Building Contractors of Québec (Order in Council 2692-85 and amendment), the first board of directors provided for in section 94 must, before 1 April 1994, amend the constitution and by-laws of the

Association of Building Contractors of Québec and send them to the Government for approval.

Content of
constitution
and by-laws

The constitution and by-laws thus amended must provide, in particular, for the composition of a board of directors, the replacement of its members and the determination of the quorum at its sittings.

Amendment
by Govern-
ment

The Government may amend the constitution and by-laws referred to in the first paragraph. If the board of directors fails to amend and send such constitution to the Government before 1 April 1994, the Government may itself amend it.

Coming into
force

97. The provisions of this Act will come into force on the date or dates fixed by the Government, except

(1) paragraphs 1 and 10 of section 1, sections 2 and 3, paragraphs 3 and 5 of section 4, sections 7 to 10, sections 56, 70 and 71, sections 72 to 76, section 78 and sections 91 to 96 which come into force on 1 January 1994;

(2) section 5, paragraph 3 of section 57, sections 64 to 69, section 77 and sections 80 to 88 which come into force on 14 December 1993.