



CHAPTER 23

An Act to amend the Act respecting labour relations in the construction industry, and respecting the representativeness of certain representative associations

[Assented to 4 December 1980]

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

DIVISION I

GENERAL PROVISIONS

R.S.Q.,
c. R-20,
s. 12,
replaced.

1. Section 12 of the Act respecting labour relations in the construction industry (R.S.Q., c. R-20) is replaced by the following section:

Quarterly
report.

“12. The board must submit to the Committee a quarterly report, certified true by a chartered accountant resident in Québec, of its revenues and expenditures.”

R.S.Q.,
c. R-20,
s. 28,
replaced.

2. Section 28 of the said act, replaced by section 1 of chapter 58 of the statutes of 1978, is again replaced by the following section:

Represent-
ativeness
ascertained.

“28. Only the Centrale des syndicats démocratiques (CSD), the Confédération des syndicats nationaux (CSN), the Conseil provincial du Québec des métiers de la construction (INTERNATIONAL), the Fédération des travailleurs du Québec (FTQ — CONSTRUCTION) and the Syndicat de la construction Côte Nord de Sept-Îles Inc. may have their representativeness ascertained by presenting their application for such purpose to the board in the eighth month preceding the expiry date of the decree.”

R.S.Q.,
c. R-20,
s. 32, am.

3. Section 32 of the said act, replaced by section 4 of chapter 58 of the statutes of 1978, is amended by adding, at the end, the following paragraph:

Exception. "The third paragraph does not apply to the first ballot held after 4 December 1980 under the first paragraph."

R.S.Q., c. R-20, s. 109, replaced.
4. Section 109 of the said act is replaced by the following sections:

Applicability of R.S.Q., c. D-2, ss. 40-52, Prescription.
"109. Sections 40 to 52 of the Act respecting collective agreement decrees (R.S.Q., c. D-2) apply, *mutatis mutandis*.

"109.1 No proceedings may be instituted under this act, the regulations or a decree after twelve months from the date of the offence.

Notice to the offender.
"109.2 Except in the case of a second offence within two years, no penal proceedings may be instituted under this act, the regulations or a decree unless the Attorney General or, as the case may be, the board has mailed a preliminary notice to the contravener describing the offence and specifying the minimum fine, the amount of the costs and the place where payment must be made within ten days following the notice.

Payment. Payment of the required amount within the prescribed time precludes penal proceedings.

Presumption. After payment, the accused is to be considered as having been found guilty of the offence.

Civil liability. However, payment may in no case be invoked as an admission of civil liability.

Absence of notice. Failure to receive the preliminary notice required by this section may in no case be invoked against proceedings for an offence and it is not necessary to allege or to prove that it was sent. But if the accused, on appearance, pleads guilty and then proves that he did not receive the notice, he shall not be condemned to pay a higher amount than he would have had to pay pursuant to the notice.

Costs. The amount of the costs referred to in the first paragraph is fixed by regulation of the Government."

DIVISION II

FINAL AND TRANSITIONAL PROVISIONS

Interpretation: "association":
5. For the purposes of this act,
 "association" means a group of employees constituted as a professional syndicate, union, brotherhood or otherwise and which is affiliated to the Conseil provincial du Québec des métiers de la construction (INTERNATIONAL) on 26 September 1980, or

which is not affiliated on that date to that Conseil but was so affiliated on 1 January 1979;

“board”; “board” means the Office de la construction du Québec;

“employee”. “employee” means an employee within the meaning of the Act respecting labour relations in the construction industry who on 26 September 1980 is represented by an association and holds the card contemplated in section 36 of the said act and the classification certificate issued under the Regulation on the Placement of Employees in the Construction Industry.

Representa-
tiveness
established
by secret
ballot.

6. In order to establish, for the purposes of the Act respecting labour relations in the construction industry, the representativeness of the Conseil provincial du Québec des métiers de la construction (INTERNATIONAL), hereinafter called “the Conseil”, and that of the Fédération des travailleurs du Québec (FTQ—CONSTRUCTION), hereinafter called “the Fédération”, every association must, in accordance with its statutes and by-laws, hold a vote by secret ballot among the employees represented by it at one or several meetings called for that purpose in the period from 23 February 1981 to 8 March 1981.

Supervi-
sion.

The board shall supervise the conduct of the ballot.

Meeting.

Every association must, before 19 January 1981, notify the chairman of the board, in writing, of the time, date and place that a meeting will be held; the board shall then do what is necessary to inform the employees of the holding of the meeting.

Meeting.

If an association cannot hold a meeting in accordance with the notice transmitted to the chairman of the board, it may, not later than 8 March 1981, hold a meeting at the time, date and place authorized by the chairman of the board.

Names of
members.

7. Every association must, before 20 December 1980, transmit to the chairman of the board, the surname, given name and address of every employee whom it claims to represent.

List pre-
pared by
the board.

8. The board shall prepare, for each association, after consultation with it, a list of the employees it represents and may, for that purpose, take into account the information transmitted under section 7.

Single
entry.

In no case may an employee be entered on more than one list.

Official
lists.

Each list establishes irrefutably the names of the only employees qualified to vote in the ballot provided for in section 6 and, for the purposes of sections 14 and 15, the name of the association to which each belongs.

Transmission of lists and identifying cards.

9. The board must, before 31 January 1981, transmit

(1) to each association, the list contemplated in section 8;

(2) to each employee whose name appears on a list contemplated in section 8, a card identifying him as a voter for the purposes of the ballot provided for in section 6 and bearing his surname, given name and social insurance number and, for the purposes of sections 14 and 15, the name of the association representing him.

R.S.Q., c. R-20, s. 31, exception.

10. The prohibitions enacted by the first paragraph of section 31 of the Act respecting labour relations in the construction industry do not apply in the period from 9 to 22 February 1981 for the purposes of the ballot provided for in section 6.

Election.

11. Every employee may, at the ballot conducted under section 6, cast his vote for either the Conseil or the Fédération.

Board's representative.

A representative of the board shall be present at the ballot. He shall settle any difficulty relating to the conduct of the ballot and, in particular, to the qualification to vote of an employee and to the counting of the votes; his decision is final.

Results.

12. The representative of the board shall transmit the results of the ballot to the board.

Tie-vote.

13. In the case of a tie-vote among the employees of an association, the president of that association must advise the chairman of the board, within five days of the ballot, that he casts his vote for the Conseil, or for the Fédération; this vote decides the issue.

Representativeness of the Conseil.

14. The board shall ascertain the degree of representativeness of the Conseil, by multiplying the following percentages:

(1) the degree of representativeness established in the certificate issued to the Conseil provincial du Québec des métiers de la construction (FTQ) under section 34 of the Act respecting labour relations in the construction industry;

(2) the percentage that the number of employees entered on the list of each association, established under section 8, in which a majority of the voters cast their votes for the Conseil is of the total number of employees entered on the lists established by the board under section 8.

Representativeness of the Fédération.

15. The board shall ascertain the degree of representativeness of the Fédération, by multiplying the following percentages:

(1) the degree of representativeness established in the certificate issued to the Conseil provincial du Québec des métiers de la

construction (FTQ) under section 34 of the Act respecting labour relations in the construction industry;

(2) the percentage that the number of employees entered on the list of each association, established under section 8, in which a majority of the voters cast their votes for the Fédération is of the total number of employees entered on the lists established by the board under section 8.

Certificate
of representa-
tiveness.

16. The board shall issue to the Conseil and to the Fédération a certificate establishing its degree of representativeness and a list of all the employees in each association of which a majority of the voters cast their votes for the Conseil or the Fédération, as the case may be.

Effect.

The certificate is deemed to have been issued under section 34 of the Act respecting labour relations in the construction industry and is effective from 22 March 1981.

Cards.

17. The board shall cause a card to be sent to each employee entered on the list prepared by it under section 8, bearing

(1) his surname and given name,

(2) his social insurance number, and

(3) the name of the Conseil or of the Fédération, according to the votes cast by the majority of those voting in his association.

Effect.

The card is deemed to have been issued under section 36 of the Act respecting labour relations in the construction industry and is effective from 22 March 1981.

Ballot
held by
the board.

18. Where a ballot has not been held at the expiry of the time prescribed in section 6 for an association, the board shall

(1) issue, in accordance with section 17, a card to every employee represented by an association which has held a ballot;

(2) issue, in accordance with section 16, a provisional certificate to the Conseil and to the Fédération;

(3) hold, on the dates, in the manner and in the form prescribed by regulation of the board, before 4 April 1981, a secret ballot among the employees represented by an association for which no ballot has been held.

Regula-
tion.

A regulation contemplated in paragraph 3 comes into force on the day of its approval by the Government and must be published in the *Gazette officielle du Québec*.

Certifi-
cates and
cards.

19. Where a ballot has been held under paragraph 3 of section 18, the board shall issue to the Conseil and to the Fédération,

in accordance with section 16, a new certificate and, in accordance with section 17, a card to every employee represented by an association for which no ballot has been held.

Effect. A certificate or a card issued under the first paragraph is effective from 12 April 1981.

Interference. **20.** No person may in any manner seek to hinder the activities or administration of an association with a view to

(1) inducing it to declare or not to declare in favour of the Conseil or the Fédération, or

(2) preventing it from participating in the ballot in the manner determined by the association or by this act.

Offences. **21.** Every person who

(1) uses intimidation or threats to induce or attempt to induce an employee who is qualified to vote in a ballot provided for by this act, to cast his vote or not to cast his vote for the Conseil or for the Fédération,

(2) votes or attempts to vote, knowing he is unqualified, or induces or causes a person to vote, knowing he is unqualified,

(3) makes or uses a counterfeit card in view of a ballot provided for by this act, or

(4) contravenes this act or a regulation thereunder,
is guilty of an offence.

Penalties. **22.** Every person guilty of an offence contemplated in sections 20 and 21 is liable, on summary proceedings, in addition to costs, for each day or part of a day during which the offence continues,

(1) in the case of a union, federation, confederation or association, or of an officer, administrator, agent or adviser of any such body, to a fine of not less than five hundred dollars nor more than three thousand dollars;

(2) in the case of an employer or an employers' association or a person acting for that employer or association, to a fine of not less than five hundred dollars nor more than three thousand dollars;

(3) in other cases, to a fine of not less than one hundred dollars nor more than six hundred dollars.

Proceedings. **23.** Proceedings for contraventions to this act or a regulation thereunder are instituted by the Attorney General or by any person generally or specially authorized by him for that purpose.

Subsidies. **24.** The Minister of Labour and Manpower may pay subsidies to the board for the purposes of sections 6, 8, 9, 11, 12 and 14 to 19 of this act.

Coming into force. **25.** This act comes into force on the day of its sanction.