

NATIONAL ASSEMBLY

FIRST SESSION

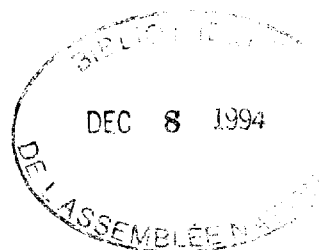
THIRTY-FIFTH LEGISLATURE

Bill 44

**An Act to amend the Act respecting
labour standards and the Act
respecting the Ministère du Revenu**

Introduction

**Introduced by
Mr Jean Campeau
Minister of Revenue**



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EXPLANATORY NOTES

The purpose of this bill is to transfer to the Ministère du Revenu the functions relating to the levying of the employers' contributions to the financing of the Commission des normes du travail.

A chapter is added to the Act respecting labour standards to replace the existing legislative and regulatory provisions concerning the levy of contributions, except the rate of the contribution which may continue to be determined by regulation of the Commission des normes du travail. Moreover, it provides that the provisions of the new chapter will constitute a law coming under the administration of the Minister of Revenue and so render the provisions of the Act respecting the Ministère du Revenu applicable and enforceable in respect of the collection of contributions.

The Act respecting the Ministère du Revenu is amended to make certain adjustments rendered necessary owing to the introduction in the Act respecting labour standards of a fiscal chapter and, at the same time, to provide that the most severe penalties which may be imposed in fiscal matters will not apply to the contributions.

ACTS AMENDED BY THIS BILL:

- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting labour standards (R.S.Q., chapter N-1.1).

Bill 44

An Act to amend the Act respecting labour standards and the Act respecting the Ministère du Revenu

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING LABOUR STANDARDS

1. The Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by inserting, after section 6, the following section:

“6.1 The Commission may enter into agreements, according to law, with a government department or body for the purposes of the Acts and regulations under its administration.”

2. Section 29 of the said Act is amended

(1) by striking out paragraph 5;

(2) by adding, after paragraph 6, the following paragraph:

“(7) fix the rate, not exceeding 1%, of the contribution provided for in section 39.0.2.”

3. Sections 29.1 to 30 of the said Act are repealed.

4. Section 32 of the said Act is amended by replacing the figure “6” in the first line by the figure “7”.

5. Section 39 of the said Act is amended by replacing paragraph 10 by the following paragraph:

“(10) intervene at any time in an action relating to the application of this Act, except Chapter III.1, or a regulation;”.

6. The said Act is amended by inserting, after section 39, the following chapter:

“CHAPTER III.1

“CONTRIBUTIONS

“DIVISION I

“INTERPRETATION

“39.0.1 In this chapter, unless the context indicates otherwise,

“employer subject to contribution” means any person who pays a remuneration subject to contribution, except the following entities:

(1) urban communities;

(2) municipal corporations;

(3) municipal and intermunicipal transit corporations within the meaning of section 1 of the Act respecting municipal and intermunicipal transit corporations (R.S.Q., chapter C-70);

(4) school boards;

(5) the Conseil scolaire de l’Île de Montréal;

(6) *fabriques*;

(7) corporations of trustees for the erection of churches;

(8) charitable institutions or bodies whose object is to assist, gratuitously and directly, natural persons in need;

(9) religious institutions;

(10) educational institutions;

(11) day care centres;

(12) the Commission de la construction du Québec;

(13) parity committees constituted under the Act respecting collective agreement decrees (R.S.Q., chapter D-2);

(14) the Government and its departments and the bodies and persons whose personnel must, by law, be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1) or the capital stock of which belongs entirely to the Government;

(15) any body established by an Act of the National Assembly or by a decision of the Government, the Conseil du trésor or a minister and whose operating appropriations are taken out of the consolidated revenue fund, appear in whole or in part in the budgetary estimates tabled before the National Assembly or are wholly financed by way of a transfer from one of the government departments;

(16) the Lieutenant-Governor, the National Assembly and any person appointed by the National Assembly to an office which is under the jurisdiction of the National Assembly;

“remuneration” means, where the employee is an employee within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3), the income computed according to the provisions of Chapters I and II of Title II of Book III of Part I of the Taxation Act, except sections 36.1 and 43.3 of the said Act and section 58.1 thereof where it refers to amounts required to be included in such computation under sections 979.9 to 979.11 of the said Act, and, where the employee is not such an employee, his wages. The expression also includes amounts paid as indemnity in lieu of notice and upon termination of a contract of employment;

“remuneration subject to contribution” means remuneration paid to an employee except

(1) remuneration paid to an employee under the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);

(2) remuneration paid to a domestic;

(3) remuneration paid by an employer governed by a decree in respect of remuneration subject to contribution by a parity committee;

(4) remuneration paid by an institution, a regional council or a foster family respectively referred to in subparagraphs *a*, *f* and *o* of the first paragraph of section 1 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), proportionately to the amounts of money they receive under that Act;

(5) remuneration paid by an institution, a regional board or a family-type resource referred to in the Act respecting health services and social services (R.S.Q., chapter S-4.2), proportionately to the amounts of money they receive under that Act;

(6) 50% of the remuneration earned by an employee with the help of a truck, tractor, loader, skidder or other heavy equipment of the same nature, furnished by the employee and at his own expense;

(7) the amount by which the total remuneration paid to an employee for the year or the amount determined under paragraph 6 where it applies in respect of the employee exceeds an amount equal to the Maximum Yearly Insurable Earnings determined for the year under section 66 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);

(8) remuneration paid to an employee wholly exempt from the application of this Act under section 3.

For the purposes of this chapter, the following rules apply:

(1) any reference in this chapter to wages, remuneration or remuneration subject to contribution that an employer pays or has paid is a reference to wages, remuneration or remuneration subject to contribution that the employer pays, allocates, grants or awards or has paid, allocated, granted or awarded;

(2) an employee is deemed to work in Québec when the establishment of the employer where the employee reports for work is situated in Québec or, if the employee is not required to report for work at an establishment of his employer, when the establishment of the employer from which he receives his remuneration is situated in Québec. The word "establishment" includes an establishment within the meaning of Chapter III of Title II of Book I of Part I of the Taxation Act.

"DIVISION II

"CONTRIBUTIONS AND PAYMENTS

"39.0.2 Every employer subject to contribution shall, in respect of a calendar year, pay to the Minister of Revenue a contribution equal to the product obtained by multiplying by the rate fixed by regulation made under paragraph 7 of section 29 the remuneration subject to contribution paid by the employer in the year and the remuneration the employer is deemed to pay in respect of the year under section 979.3 of the Taxation Act to his employee working in Québec and, except to the extent that it is otherwise referred to in this section, the portion referred to in section 43.2 of that Act of any contribution, together with the related tax, that the employer pays to the administrator of a multi-employer insurance plan, within the meaning of section 43.1 of the said Act in respect of such an employee.

“39.0.3 Payment of the contribution provided for in section 39.0.2 in respect of all remuneration subject to contribution paid or deemed paid in a calendar year shall be made on or before the day on which the employer subject to contribution must make the last payment required under section 1015 of the Taxation Act in respect of the wages paid by him in that year.

The employer shall forward his payment to the Minister of Revenue, together with the prescribed form.

“39.0.4 An employer subject to contribution shall file each year a statement in prescribed form in respect of all remuneration subject to contribution on which he is required to pay a contribution under section 39.0.2. Title XXVII of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), adapted as required, applies to the statement.

“DIVISION III

“MISCELLANEOUS PROVISIONS

“39.0.5 The Minister of Revenue shall remit, each year, to the Commission the sums he is required to collect as contribution under section 39.0.2, after deduction of the refunds and collection expenses agreed upon.

“39.0.6 This chapter constitutes a fiscal law within the meaning of the Act respecting the Ministère du Revenu.

The provisions applicable under this section take precedence over the provisions of sections 115 and 144 of this Act.”

7. The said Act is amended by inserting, after section 51, the following section:

“51.1 No employer may, directly or indirectly, be reimbursed by an employee for the contribution provided for in Chapter III.1.”

8. Section 95 of the said Act is amended by striking out the words “and for the deductions owed to the Commission” in the fourth line.

9. Section 117 of the said Act is repealed.

10. Section 170 of the said Act is replaced by the following section:

“170. The Minister is responsible for the administration of this Act, except Chapter III.1 which is under the administration of the Minister of Revenue.”

ACT RESPECTING THE MINISTÈRE DU REVENU

11. Section 24.0.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing the part preceding subparagraph *a* of the first paragraph by the following:

“24.0.1 Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay an amount it was required to pay as an employer under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or the Act respecting labour standards (R.S.Q., chapter N-1.1), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:”.

12. Section 62 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“This section does not apply in respect of Chapter III.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1).”

13. Section 69.1 of the said Act, amended by section 213 of chapter 64 of the statutes of 1993, by section 44 of chapter 79 of the statutes of 1993 and by section (*insert here the section and chapter numbers of section 213 of Bill 38 of 1994*), is again amended by adding, after subparagraph *f* of the second paragraph, the following subparagraph:

“(g) the Commission des normes du travail, in respect of the name and address of an employer referred to in the Act respecting labour standards (R.S.Q., chapter N-1.1) and, where such an employer is a legal person, its juridical status and the names and addresses of its directors.”

14. Section 93.2 of the said Act, amended by section 97 of chapter 15 of the statutes of 1993, is again amended by adding, after paragraph *i*, the following paragraph:

“(j) an assessment relating to contributions owed by a person under Chapter III.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1), not exceeding \$4 000.”

FINAL PROVISIONS

15. Paragraph 1 of section 2 and section 3 do not apply in respect of remuneration paid by an employer before 1 January 1994 or in respect of remuneration paid by an employer who, on 31 December 1994, has ceased to operate his enterprise.

16. The rate applicable to the contribution provided for in section 39.0.2 of the Act respecting labour standards, enacted by this Act, is fixed at 0.08% until a regulation under paragraph 7 of section 29 of the Act respecting labour standards, enacted by this Act, comes into force.

17. Section 6 applies in respect of remuneration paid or deemed paid by an employer after 31 December 1993, except if the employer, on 31 December 1994, has ceased to operate his enterprise. However, an employer subject to contribution who has not paid wages in December 1994 may, notwithstanding section 39.0.3 of the Act respecting labour standards, enacted by this Act, pay the contribution provided for in section 39.0.2 of the Act respecting labour standards, enacted by this Act, in respect of all remuneration subject to contribution paid or deemed paid in 1994, on or before 16 January 1995.

18. Notwithstanding section 9, section 117 of the Act respecting labour standards continues to apply in respect of a civil action for the recovery of a deduction that may be brought by the Commission des normes du travail.

19. Section 13 has effect from 1 January 1995.

20. This Act comes into force on *(insert here the date of assent to this Act)*.