



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 71

An Act to amend the Act respecting industrial accidents and occupational diseases

Introduction

**Introduced by
Mr Normand Cherry
Minister of Labour**

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EXPLANATORY NOTES

This bill amends the Act respecting industrial accidents and occupational diseases to allow the Commission de la santé et de la sécurité du travail to establish rules for determining the rate of interest applicable to the sums it pays or collects. The bill also provides that interest will be capitalized on a daily basis.

The bill defines, for the purposes of Chapter IX, the concept of the gross wages of a worker and provides that, for the purposes of the assessment on employers, gross wages be taken into consideration up to the Maximum Yearly Insurable Earnings.

The bill also provides that, under certain conditions, the Maximum Yearly Insurable Earnings for the purposes of the assessment on employers in the construction industry will be apportioned on a weekly basis.

In addition, the bill changes the period before the end of which an employer is required to pay his assessment to the Commission and provides that an employer who fails to pay his assessment within that period will be charged interest computed from the fifth day after the date of the mailing of the notice of assessment.

Finally, the bill proposes certain transitional provisions.

Bill 71

An Act to amend the Act respecting industrial accidents and occupational diseases

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 60 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by replacing the words “determined in accordance with section 323 from the first day it is late.” in the sixth and seventh lines of the third paragraph by the words “, the rate of which is determined according to the rules prescribed by regulation. Such interest shall run from the first day payment is overdue and shall be capitalized daily.”

2. Section 90 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The rate of such interest is determined according to the rules prescribed by regulation. Such interest shall be capitalized daily and shall form part of the compensation.”

3. Section 135 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The rate of such interest is determined according to the rules prescribed by regulation. Such interest shall be capitalized daily and shall form part of the compensation.”

4. Section 261 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The rate of such interest is determined according to the rules prescribed by regulation. Such interest shall be capitalized daily.”

5. Section 289 of the said Act is replaced by the following sections:

“289. For the purposes of this chapter, the gross wages of a worker shall be taken into consideration up to the Maximum Yearly Insurable Earnings established under section 66.

“Gross wages” mean all forms of remuneration from an employer which are part of employment income as computed according to the provisions of Chapters I and II of Title II of Book III of Part I of the Taxation Act (R.S.Q., chapter I-3), with the exception of gratuities and of employment income relating to that portion of sick leave which exceeds 105 consecutive days.

“289.1 Notwithstanding section 289, the gross wages of a worker who is in the service of an employer to whom the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) applies or who is carrying out for an employer work referred to in subparagraph 9 of the first paragraph of section 19 of that Act are taken into consideration, for one week of work, up to the Maximum Yearly Insurable Earnings established under section 66 and apportioned on a weekly basis.

For the purposes of the first paragraph, any fraction of a week is considered a whole week.

The week of annual vacation to which a worker, being an employee to whom that Act applies or carrying out work referred to in subparagraph 9 of the first paragraph of section 19 of that Act, is entitled either under the collective agreement entered into in accordance with that Act, under the decree adopted in accordance with that Act or under his employment contract is deemed not to be a week of work.

However, this section shall apply only if the employer pays at least forty percent of his gross wages for the year in respect of the unit in which he is classified either to employees to whom the Act respecting labour relations, vocational training and manpower management in the construction industry applies for work which is subject to that Act or to workers carrying out work referred to in subparagraph 9 of the first paragraph of section 19 of the said Act.”

6. Section 300 of the said Act is amended by inserting the words “the penalty and” after the word “pay” in the fourth line of the second paragraph.

7. Section 307 of the said Act is amended by inserting the words “the penalty and” after the word “pay” in the third line of the third paragraph.

8. Section 314.1 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“Such interest shall be capitalized daily.”

9. Section 315 of the said Act is amended by replacing the words “within thirty days after” in the second line of the first paragraph by the words “before the twenty-first day of the month following the month of”.

10. Section 317 of the said Act is amended by inserting the word “, penalty” after the word “assessment” in the second line of the first paragraph.

11. Section 319 of the said Act is amended

(1) by striking out the words “, as interest,” in that part which precedes paragraph 1;

(2) by striking out the words “for the first month of delay,” in paragraph 1;

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

“(2) for every day of delay, interest on the assessment he should have paid and on the penalty determined in accordance with paragraph 1.”

12. Section 320 of the said Act is replaced by the following section:

“320. If an employer fails to pay his assessment before the twenty-first day of the month following that of the mailing of the notice of assessment, he shall pay interest on that amount from the fifth day after the date of mailing of the notice.”

13. Section 322 of the said Act is amended by inserting the words “, a penalty” after the word “assessment” in the first line of the first paragraph.

14. Section 323 of the said Act, amended by section 30 of chapter 11 of the statutes of 1992, is replaced by the following section:

“323. For the purposes of sections 309, 315, 319, 320 and 322, the rate of interest is that determined according to the rules prescribed by regulation.

Such regulation may prescribe special rules for the purposes of the second paragraph of section 315.

Interest shall be capitalized daily.”

15. The said Act is amended by inserting, after section 323, the following section:

“323.1 For the purposes of this chapter, the date of mailing of a notice of assessment is presumed to be the date that such notice bears.”

16. Section 325 of the said Act is amended by inserting the words “the penalty and of the” before the word “interest” in the first line.

17. Section 364 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The rate of such interest is determined according to the rules prescribed by regulation. Such interest shall be capitalized daily and, in the case referred to in subparagraph 1 of the first paragraph, shall form part of the compensation.”

18. Section 454 of the said Act, amended by section 44 of chapter 11 of the statutes of 1992, is again amended by adding, after subparagraph 13 of the first paragraph, the following subparagraphs:

“(14) prescribing, for the purposes of sections 60, 90, 135, 261 and 364, the rules for determining the rate of interest;

“(15) prescribing, for the purposes of section 323, the rules for determining the rate of interest and prescribing the special rules for the purposes of the second paragraph of section 315.”

19. Section 455 of the said Act, amended by section 45 of chapter 11 of the statutes of 1992, is again amended by replacing the figure “13” in the fifth line by the figure “15”.

20. Section 7 shall not apply to the retrospective adjustment of an annual assessment prior to the year 1993.

21. Until the coming into force of a regulation made by the Commission de la santé et de la sécurité du travail under subparagraphs 14 and 15 of the first paragraph of section 454 of the Act respecting industrial accidents and occupational diseases as enacted by section 18 of this Act, the rate of interest fixed according to the first paragraph of section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) shall be the rate determined for the purposes of sections 60, 90, 135, 261 and 364 and the rate provided for in section 323.

For the purposes of the second paragraph of section 315 of the Act, the rate of interest shall remain the same for the entire period over which the payments are spread.

For the purpose of computing interest, the rate shall be apportioned on a daily basis and interest shall be capitalized daily.

22. The first regulations made by the Commission de la santé et de la sécurité du travail under subparagraphs 14 and 15 of the first paragraph of section 454 of the Act respecting industrial accidents and occupational diseases, as enacted by section 18 of this Act, are not subject to the requirements concerning dates of publication and coming into force prescribed in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1) and in section 455 of the Act respecting industrial accidents and occupational diseases, as amended by section 44 of chapter 11 of the statutes of 1992. Such regulations come into force the day of their publication in the *Gazette officielle du Québec* or at any later date fixed in the regulation.

23. The Commission may, by regulation made before 1 July 1993, amend or replace a regulation made under subparagraph 12 of the first paragraph of section 454 of the Act respecting industrial accidents and occupational diseases, as amended by section 44 of chapter 11 of the statutes of 1992, so as to take into account this Act. Such regulation is not subject to the requirements concerning dates of publication and coming into force prescribed in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1) and in section 455 of the Act respecting industrial accidents and occupational diseases, as amended by section 44 of chapter 11 of the statutes of 1992. Such a regulation comes into force the day of its publication in the *Gazette officielle du Québec* or at any later date fixed in the regulation and may have effect from 1 January 1993.

24. The Commission de la santé et de la sécurité du travail, to take into account this Act, may, by regulation made before 1 July 1993, amend or replace the rates of assessment of units of economic activity prescribed for the year 1993 under subparagraphs 5, 6 and

8.1 of the first paragraph of section 454 of the Act respecting industrial accidents and occupational diseases, amended by section 44 of chapter 11 of the statutes of 1992.

Such regulation is not subject to the requirements concerning dates of publication and coming into force prescribed in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1) and in section 455 of the Act respecting industrial accidents and occupational diseases, as amended by section 44 of chapter 11 of the statutes of 1992.

Such regulation comes into force the day of its publication in the *Gazette officielle du Québec* or at any later date fixed in the regulation and shall have effect for the assessment year 1993.

25. This Act comes into force on 1 January 1993.