



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 116

An Act to amend the Labour Code

Introduction

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

**Québec Official Publisher
1993**

EXPLANATORY NOTES

The main object of this bill amending the Labour Code is to allow collective agreements to be signed for a period of more than three years and to introduce, as regards agreements with longer terms, a new time frame for the exercise of the right to change union affiliation.

The bill also simplifies negotiation procedures by dispensing the parties from sending certain notices to the Minister. It also reduces the number of copies of a collective agreement that have to be filed in the office of the labour commissioner general and does away with the function of clerk in the arbitration of disputes.

Moreover, the bill authorizes the joinder of matters brought before the labour commissioner general and allows a labour commissioner to order the suspension of negotiations where an issue resulting from the sale or concession of an undertaking must be resolved.

With regard to the Labour Court, the bill removes the obligation to apply for leave to appeal to the Court, allows the Court to extend the deadline for acting before it and to dismiss an appeal it deems improper or dilatory, sets a time limit for the rendering of judgments and authorizes the chief judge to remove a matter from a judge who fails to render judgment within the prescribed time.

In another connection, the bill extends the definition of public service to include undertakings that engage in various operations involving putrescible waste and grants an employer, in a public service, a length of time within which to adapt his operations in view of the cancellation of a strike or the return to work of employees after a strike.

Lastly, this bill contains a number of concordance and transitional provisions.

Bill 116

An Act to amend the Labour Code

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 20.2 of the Labour Code (R.S.Q., chapter C-27) is amended by striking out the third paragraph.

2. Section 22 of the said Code is amended by replacing paragraph *d* by the following paragraphs:

“(d) from the ninetieth to the sixtieth day prior to the date of expiration of an arbitration award in lieu of a collective agreement or the date of expiration of a collective agreement or of its renewal where the term of the collective agreement is three years or less;

“(e) from the one hundred and eightieth to the one hundred and fiftieth day prior to the date of expiration of a collective agreement or of its renewal where the term of the collective agreement is more than three years and, where such term so allows, during the period extending from the one hundred and eightieth to the one hundred and fiftieth day prior to the sixth anniversary of the signing of the collective agreement or of its renewal and every other anniversary thereafter, except where such a period would end within twelve months or less of the one hundred and eightieth day prior to the date of expiration of the collective agreement or of its renewal.”

3. Section 41 of the said Code is amended by replacing the words “or *d*” in the second line of the first paragraph by the words “, *d* or *e*”.

4. Section 42 of the said Code is amended

(1) by inserting the words “or a petition concerning a matter relating to the application of section 45” after the word “certification” in the second line of the first paragraph;

(2) by replacing the words “petition for certification, reconsideration or cancellation of certification” in the third and fourth lines of the second paragraph by the word “matter”.

5. Section 47.3 of the said Code is amended

(1) by replacing the words “shall, if he wishes to invoke this section, submit a written complaint to the Minister within six months” in the third and fourth lines by the words “must within six months, if he wishes to avail himself of this section, either

(1) submit a written complaint to the Minister; or

(2) submit to the Court or mail to the address of the Court a written application for an order directing that his claim be referred to arbitration.”;

(2) by striking out the second sentence.

6. Section 47.4 of the said Code is amended

(1) by inserting, at the beginning, the following paragraph:

“**47.4** Where the Minister receives a complaint under section 47.3, he shall appoint an investigator who shall endeavour to settle the complaint to the satisfaction of the employee and the certified association.”;

(2) by replacing the words “shall, if he wishes to invoke section 47.2, apply to the Court within the fifteen ensuing days to request” in the third and fourth lines by the words “must within the following fifteen days if he still wishes to avail himself of section 47.2, submit to the Court or mail to the address of the Court a written application for an order directing”.

7. The said Code is amended by inserting, after section 50, the following heading and sections:

“DIVISION IV

“GENERAL PROVISIONS

“**50.1** Two or more matters submitted to the labour commissioner general under this Code or any other Act and in which the questions in dispute are substantially the same or could properly be combined may, whether or not they involve the same parties, be joined by order of the commissioner general, on the conditions he fixes.

The order made under the first paragraph may be revoked or amended by the labour commissioner hearing the matter if he believes that the purposes of justice will thus be better served.

“50.2 Every person summoned to testify before a labour commissioner in any matter governed by this Code or any other Act is entitled to the same taxation as witnesses before the Superior Court and to the reimbursement of his travelling and living expenses.

Such taxation is payable by the party who proposed the summons, but the person who receives his salary during such period is entitled only to the reimbursement of travelling and living expenses.”

8. Section 52.1 of the said Code is replaced by the following section:

“52.1 The party giving notice under section 52 shall transmit the notice to the addressee by fax, messenger services or registered or certified mail or cause it to be served on him by a bailiff.”

9. Section 52.2 of the said Code is amended

(1) by replacing the word “given” in the second line of the first paragraph and in the second line of the second paragraph by the word “received”;

(2) by striking out the third paragraph.

10. Section 53 of the said Code is amended by replacing the words “notice has been given in accordance with section 52 or is deemed to have been given” in the first and second lines of the first paragraph by the words “the notice referred to in section 52 has been received by the addressee or is deemed to have been received”.

11. Section 58 of the said Code is amended

(1) by replacing the words “by the Minister of a copy of the notice sent to him” in the second line by the words “, by the person to whom it is addressed, of the notice served on him or transmitted to him”;

(2) by replacing the word “reçue” in the third line of the French text by the word “reçu”.

12. Section 59 of the said Code is amended by replacing the words “is acquired” in the second line of the first paragraph and in the second line of the second paragraph by the words “or to strike is exercised”.

13. Section 65 of the said Code is replaced by the following section:

“65. A collective agreement shall have a specified term of not less than one year.”

14. Section 72 of the said Code is amended

(1) by replacing the word “five” in the second line of the first paragraph by the word “two”;

(2) by striking out the words “of a true copy” in the third line of the first paragraph.

15. Section 73 of the said Code is amended by replacing the words “during the ninety days preceding the date of expiration or renewal of the agreement or the date of expiration of the arbitration award” in the fifth, sixth and seventh lines by the words “, as the case may be,

(1) in the ninety days preceding the date of expiration of the arbitration award or the date of expiration or renewal of the collective agreement where its term is three years or less;

(2) in the one hundred and eighty days counting from the beginning of any period in which certification may be applied for where the term of the agreement is more than three years”.

16. Section 77 of the said Code is amended by striking out the third paragraph.

17. Section 79 of the said Code is amended by replacing the words “must, before acting, make oath to” in the first line of the first paragraph by the word “shall”.

18. Section 84 of the said Code is amended

(1) by inserting the words “on the initiative of” after the word “or” in the first line;

(2) by replacing the word “clerk” in the second line by the word “arbitrator”.

19. Section 86 of the said Code is replaced by the following section:

86. Every person summoned to testify before an arbitrator is entitled to the same taxation as witnesses before the Superior Court and to the reimbursement of his travelling and living expenses.

Such taxation is payable by the party who proposed the summons, but the person who receives his salary during such period is entitled only to the reimbursement of travelling and living expenses.”

20. Section 87 of the said Code is amended

(1) by replacing the word “clerk” in the first line by the word “arbitrator”;

(2) by replacing the words “the arbitrator” in the second line by the word “him”.

21. Section 99.3 of the said Code, enacted by section 4 of chapter 6 of the statutes of 1993, is amended by replacing the words “must, before acting, make oath to” in the first line by the word “shall”.

22. Section 99.9 of the said Code, enacted by section 4 of chapter 6 of the statutes of 1993, is amended by striking out the words “the third paragraph of section 77,” in the first line of the second paragraph.

23. Section 101.7 of the said Code is amended by replacing the words “of a party or the labour commissioner general” in the fourth line by the words “by a party”.

24. Section 111.0.16 of the said Code is amended by replacing paragraph 6 by the following paragraph:

“(6) an undertaking engaging in the incineration of waste or the removal, transportation, storage, treatment, processing or elimination of household garbage, bio-medical waste or dead animals unfit for human consumption or animal carcasses or residue;”.

25. The said Code is amended by inserting, after section 111.0.23, the following section:

111.0.23.1 A certified association in a public service contemplated in an order made under section 111.0.17 must give the Minister, the employer and the council a written notice indicating its intention not to resort to a strike at the time indicated in the notice given under section 111.0.23 or, as the case may be, the time at which a return to work is intended.

The notice must be given during the working hours of the public service.

An employer is not required to allow the work to be performed after the time indicated in the strike notice or, as the case may be, in the return-to-work notice, before the expiration of a four-hour period after receipt of the notice given in accordance with the second paragraph. However, the parties may agree upon a shorter period. In the case of a public service contemplated by an order made under section 111.0.17, essential services shall be maintained until the date of return to work.”

26. Section 111.1 of the said Code is amended by inserting the words “and the possibility of agreeing on a term of more than three years for a collective agreement” after the words “Chapter IV” in the first line.

27. Section 111.3 of the said Code is amended by replacing the words “paragraph *d*” in the first line of the first paragraph by the words “paragraphs *d* and *e*”.

28. Section 124 of the said Code is amended by adding, at the end, the following paragraph:

“In addition, the Court may, on a motion, allow a party to act after the expiration of the time limit for filing a motion or an appeal, if the party shows that it was in fact impossible for him to act sooner and if not more than three months have elapsed since the expiration of that time limit.”

29. Section 130 of the said Code is amended

(1) by replacing the words “party wishing to appeal from a decision of a labour commissioner must apply for leave therefor from a judge designated to preside over the hearing of the Court, by motion,” in the first, second and third lines of the first paragraph by the words “appeal is brought by means of a written declaration,”;

(2) by replacing the word “motion” in the seventh line of the first paragraph by the word “declaration”;

(3) by replacing the second, third, fourth and fifth paragraphs by the following paragraphs:

“The declaration of appeal must identify the decision appealed from, contain an account of the grounds invoked in support of the

appeal and, where applicable, indicate the surname and given name of the representative of the appellant.

An appeal regularly brought suspends the execution of the decision appealed from unless the Court, upon a motion by an interested party, orders the provisional execution of the decision in cases of exceptional urgency.”

30. The said Code is amended by inserting, after section 130, the following section:

“**130.1** The Court may, on a motion which has been served and filed at the clerk’s office, within ten days after service of the declaration of appeal, summarily dismiss an appeal it deems improper or dilatory, or subject it to the conditions it determines.

The matter may also be raised, on the initiative of the Court, at the hearing it holds on the appeal.”

31. Section 131 of the said Code is amended by replacing the first sentence by the following sentence:

“**131.** The Court shall hear the appeal within thirty days of the filing, at the clerk’s office, of the declaration of appeal, and shall render a final judgment as soon as possible within the time prescribed in section 135.1.”

32. Section 134 of the said Code is amended by adding, at the end, the following paragraphs:

“He is also entitled to the same taxation as witnesses before the Superior Court and to the reimbursement of his travelling and living expenses.

Such taxation is payable by the party who proposed the summons, but the person who receives his salary during that period is entitled only to the reimbursement of travelling and living expenses.”

33. The said Code is amended by inserting, after section 135, the following sections:

“**135.1** In any case, of whatever nature, including an appeal contemplated in section 129, the judgment must be rendered within ninety days after being taken under advisement. However, the chief judge may extend that period.

Where the judge seized of a matter fails to render a judgment within ninety days or, as the case may be, within such additional time

as is granted under the first paragraph, the chief judge may, on his own initiative or on a motion by one of the parties, remove the matter from the judge and order that the matter be continued by another judge or heard again.

Before granting an extension or removing a matter from the judge who failed to render a judgment within the time prescribed, the chief judge shall take account of the circumstances and of the interests of the parties.

“135.2 The judge called upon to continue or hear a matter assigned to him pursuant to section 135.1 may, as regards oral evidence and with the consent of the parties, limit the proof to the notes and minutes of the hearing, provided that, where he considers them to be insufficient, he recalls a witness or requires any other proof.”

34. Section 138 of the said Code is amended by replacing the words “the period of thirty days provided for in paragraph *d*” in the fourth line of subparagraph *b* of the first paragraph by the words “a thirty-day period referred to in subparagraph *d* or *e*”.

35. A collective agreement having term that exceeds three years, entered into before (*insert here the date of assent to this Act*) and filed in accordance with section 72 of the Labour Code, is valid as regards its term. It shall be governed for the future by the provisions of the Labour Code as amended by this Act.

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