NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FOURTH LEGISLATURE

Bill 142

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

Introduction

Introduced by
Mr Normand Cherry
Minister of Labour

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EXPLANATORY NOTES

The object of this bill is to establish a new process for negotiations in the construction industry.

To that end, the bill divides the industry into four sectors, provides for the making of sector-based collective agreements that will include a number of common provisions and provides for the expiry of those agreements on a set date every three years.

Moreover, the bill identifies the parties authorized to negotiate the collective agreements on behalf of the unions and on behalf of the employers and requires the employers to join together as members of the Association of Building Contractors of Québec, which is put in charge of coordinating and assisting in the negotiations.

Under the bill, a mechanism is established for the ratification of agreements and strike or lock-out votes based on the representativeness of union and employers' associations, which ratification will extend, by operation of law, the application of the clauses of the agreements to all the employees in one sector or to the employees of all the sectors, depending on the matters covered by the clauses. The bill also prescribes mandatory mediation before any strike may be called or any lock-out imposed in a sector.

In another connection, the bill modifies the scope of the Act by partially deregulating the residential sector and by making the installation, repair and maintenance of production machinery in the industrial sector subject to the Act, except where the work is carried out by permanent employees of the manufacturer, of his distributor or of the user.

Furthermore, the bill grants employees the freedom to choose the region in which they wish to exercise their hiring priority and does away with the obligation of having a place of business in Québec as a requirement for obtaining a contractor's licence.

Finally, the bill contains provisions of a technical nature or for concordance as well as transitional and final provisions.

ACTS AMENDED BY THIS BILL:

– 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 respecting occupational health and safety (R.S.Q., chapter S-2.1);

– 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 incorporte the Association of Building Contractors of Québec (1976, chapter 72).

Bill 142

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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 replacing paragraph *c* by the following paragraph:

"(*c*) "sector-based employers' association": for the residential sector, the Association provinciale des constructeurs d'habitations du Québec inc. (APCHQ), for the institutional and commercial sector and the industrial sector, the Association de la construction du Québec (ACQ), and for the civil engineering and roads sector, the Association des constructeurs de routes et grands travaux du Québec (ACRGTQ);";

(2) by inserting the words "the installation, repair and maintenance of production machinery, as defined by regulation, in the industrial sector, except where such work is carried out by permanent employees of the user, of the manufacturer or of his distributor and includes" after the word "includes" in the first line of the second paragraph of paragraph *f*;

(3) by replacing the words "made with a view to a decree" in the second line of paragraph *g* by the words "for a sector made" and the words "the employers' " in the third line of the same paragraph by the words "a sector-based employers' ";

(4) by striking out paragraph *h*;

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

"(*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:

"(*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 which ensure the utility thereof, and in particular the construction of roads, waterworks, sewers, bridges, dams, power lines and gas pipelines;

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

"(*x*) "institutional and commercial sector": the sector of construction of buildings, including installations and equipment physically attached or not to such buildings which ensure the utility thereof, 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;

"(*y*) "residential sector": the sector of construction of buildings reserved exclusively for residential use, including installations and equipment physically attached or not to such buildings which ensure the utility thereof."

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.

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".

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 striking out the words "placement" and "and mobility" in the third line of paragraph 2;

(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. 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".

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.

7. Section 17 of the said Act is amended

(1) by replacing the word "twelve" in the first line of subsection 1 by the word "ten", the word "six" in the first line of the same subsection by the word "five" and the words "six of whom represent the employers' " in the third line of the same subsection by the words "five of whom represent the contractors' ";

(2) by replacing the word "six" in the first line of the second paragraph of subsection 2 by the word "five";

(3) by replacing subsection 3 by the following subsection:

"(3) Each of the contractors' associations shall designate the member to which it is entitled.";

(4) by replacing the words "employers' association" in the first lines of subsections 4 and 7 by the words "contractors' associations";

(5) 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";

(6) by replacing the words "the employers' association" in the second line of subsection 9 by the words "an employers' majority";

(7) by replacing the word "decree" in the first line of subsection 13 by the words "collective agreement".

8. Section 18.3 of the said Act is amended by replacing the word "fifteen" in the first line by the word "eleven".

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:

"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".

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.

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 of 8 dwellings or less, including the installations and equipment physically attached or not to such buildings which ensure the utility thereof.";

(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:

"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 a sector-based employers' association, unless the contractor is a member of the Corporation des maîtres électriciens du Québec or the Corporation des maîtres mécaniciens en tuyauterie du Québec in which case the person must have in his possession an attestation of payment of the assessment provided for in the third paragraph of section 40."

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.

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.

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".

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".

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".

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:

"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 five consecutive days which comprises the last Saturday of the month.";

(3) by striking out the fifth paragraph.

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".

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

"**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.

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.

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."

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".

21. Section 40 of the said Act is amended

(1) by replacing the words "the employers' " in the second line of the first paragraph by the words "a sector-based employers' ";

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

"The Commission shall remit to each sector-based employers' association its share of the assessments so received, with a nominal roll which must state the number of hours worked in each sector by the employees. The basis for the assessment of a sector-based employers' association must be uniform.

Notwithstanding the first paragraph, the members of the Corporation des maîtres électriciens du Québec (CMEQ) or the Corporation des maîtres mécaniciens en tuyauterie du Québec (CMMTQ) are not required to join a sector-based employers' association but must pay to the sector-based employers' association of their choice an amount equal to the amount provided for in the second paragraph. They may thus take part in the negotiation process as though they were members of that association."

22. Section 41 of the said Act is amended

(1) by replacing the words "The employers' association shall be" in the first line of the first paragraph by the words "A sector-based employers' association shall be, for its sector,";

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

"However, a sector-based employers' association may give a full or partial mandate for such purpose to the Association of Building Contractors of Québec.";

(3) by replacing the words "Similarly, a" in the first line of the third paragraph by the word "A".

23. The said Act is amended by inserting, after section 41, the following sections:

"**41.1** The sector-based employers' associations shall join together as members of the Association of Building Contractors of Québec, which is in charge of coordinating the negotiation of collective agreements. The sector-based employers' associations shall provide financing to the Association by way of assessments.

"**41.2** Every sector-based employers' association shall send to the Commission a certified copy of its constitution and by-laws, as well as any amendment thereto.

The constitution of an association must, at the very least,

(1) set out the procedure for the calling of meetings;

(2) provide that the election of persons to management positions, a lock-out, the amount of the assessment and the approval or rejection of a draft collective agreement can only be decided by secret ballot by a majority of the employers that are members of the association or who have paid their assessments to the association pursuant to the third paragraph of section 40;

(3) provide that any member or any employer having paid his assessment has the right to express his dissent, without incurring any penalty, at any employers' meeting or at any time a vote is taken;

(4) provide that any officer entrusted with the financial management of the association must deposit security with the Commission in an amount determined by the Commission;

(5) provide that any member or any employer having paid his assessment has the right to obtain from the association, free of charge, at the end of each financial year, a detailed statement of the income and expenditures of the association;

(6) provide for mechanisms for the determination of the relative importance of each member or employer having paid his assessment

according to the number of hours worked by his employees in the sector in respect of which the association acts as a sector-based employers' association."

24. Section 42 of the said Act is amended

(1) by inserting the word "sector-based" before the word "employers' " appearing twice in the second line of the first paragraph;

(2) by adding the words "applicable in the sector" at the end of the first paragraph;

(3) 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";

(4) by inserting the word "sector-based" before the word "employers' " in the first line of the fourth paragraph;

(5) by inserting the words "in the sector" after the figure "50 %" in the third line of the fourth paragraph.

25. 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.

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

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

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

"**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.

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

"**43.7** As soon as an agreement in principle on what could become a collective agreement is reached between the sector-based

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.

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."

27. Section 44 of the said Act is amended

(1) by inserting, after the words "collective agreement" in the first line, the words "applicable in a sector";

(2) by inserting, after the words "per cent" in the third line, the words "in that sector";

(3) by inserting, before the word "employers' " in the third line, the word "sector-based".

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

"**44.1** A representative association may make such an agreement if it is authorized thereto by the majority of its members exercising their right to vote in a secret ballot.

The sector-based employers' association may also make such an agreement if it is authorized thereto in a secret ballot that it must hold for the employers who are members of the association or who have paid their assessments to it pursuant to the third paragraph of section 40. It has received authorization if, in the ballot, the employers favourable to the agreement represent, according to the monthly reports sent by them to the Commission during the first twelve of the fifteen complete calendar months preceding the month during which the ballot is held, more than 50 % of the hours declared as having been worked in the sector by all the employers having sent reports to the Commission during that twelve-month period.

"**44.2** An agreement relating to the common clauses referred to in section 61.1, reached between the sector-based employers' associations and one or more associations of employees whose representativeness is more than 50 %, may be ratified by the parties

even though there is no agreement respecting the clauses specific to a sector.

A separate vote shall be held, in accordance with section 44.1, in respect of the common clauses referred to in section 61.1. Those clauses may form part of the agreement if the parties to the negotiations in each sector are authorized to that effect when the ballot is held.

Notwithstanding the conditions set forth in section 44.1, the vote of each sector-based employers' association shall be weighted according to the number of hours declared as having been worked by the employers who are members of the association or who have paid their assessments to it, in relation to the total number of hours declared by all the employers in the industry, according to the monthly reports sent to the Commission during the period referred to in that section.

In the case of a dispute concerning the common clauses, the common clauses in force remain unchanged until an agreement is made in their respect."

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

"**45.** Failing an agreement between the parties, the dispute may be referred to an arbitrator on a joint application by the sector-based employers' association and one or several representative associations whose representativeness is more than 50 % in the sector.

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."

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

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

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.

"**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.

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.

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.

For the purposes of the award, the arbitrator shall also, where the parties so request, proceed clause by clause with the "last best offer" method.

"**45.3** The arbitrator's award may not have retroactive effect.

"**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.

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.

A lock-out is permitted from the same time provided that it is imposed by all the employers in the sector and that it has been authorized by the employers who are members of the sector-based employers' association or who have paid their assessments to the association pursuant to the third paragraph of section 40, by secret ballot and subject to the terms and conditions applicable to the making of an agreement referred to in section 44.

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.

They are also prohibited at all times in respect of a matter referred to in section 61.1."

31. 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".

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

"COMING INTO FORCE AND SCOPE OF COLLECTIVE AGREEMENTS".

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

"**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.

For the purposes of Chapter IV, the expiry date of a collective agreement shall be 31 December every three years, from 31 December 1993, whether or not a collective agreement has been made."

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

"**48.** The sector-based employers' association shall file two true copies of the collective agreement and of the schedules thereto at the office of the labour commissioner general. It shall have notice of the filing published in two daily newspapers having general circulation in Québec. The agreement may also be filed by a representative association.

The representative association and the sector-based employers' association shall send a copy of the collective agreement to their members and, where applicable, to all the persons who have paid their assessments to the association pursuant to the third paragraph of section 40.

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

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.

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

35. Section 49 of the said Act is repealed.

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

"**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 of future, where they carry out construction work or cause construction work to be carried out in the sector concerned."

37. Section 51 of the said Act is repealed.

38. Section 52 of the said Act is repealed.

39. 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 line.

40. 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".

41. 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".

42. Section 55 of the said Act is replaced by the following section:

"**55.** The expiry date of the collective agreement shall be, for each sector, 31 December every three years from 31 December 1993."

43. 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".

44. Sections 57 and 58 of the said Act are amended by replacing the word "decree" by the words "collective agreement".

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

"**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.

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."

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

"CONTENTS OF COLLECTIVE AGREEMENTS".

47. 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:

"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."

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

"**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.

"**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 employers who are not members of the signatory employers' association;

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

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

"**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 the provisions of this Act.

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

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

50. Section 67 of the said Act is amended by striking out the words "or in the decree" in the third line.

51. 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".

52. 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.

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

54. 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".

55. 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".

56. 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".

57. 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.

58. 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:

"(5) The Commission may make an agreement with any person to entrust him with a mandate for the administration of a supplemental fringe benefit plan."

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

60. Section 110 of the said Act is amended by striking out the words "the decree or" in the third line.

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

62. 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 striking out the words "and so evade the provisions of the decree by paying a lower wage" in the second line of paragraph *c* of subsection 2;

(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".

63. 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.

64. 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;".

65. 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.

66. 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:

"**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 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.

"**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 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.

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

67. Section 126 of the said Act is repealed.

AMENDING PROVISIONS

68. Section 60 of the Building Act (R.S.Q., chapter B-1.1) is amended by striking out paragraph 2.

69. Section 64 of the said Act is amended by striking out the second paragraph.

70. Section 129.1 of the said Act is replaced by the following sections:

"**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 and document to the Board in accordance with that Act.

"**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.

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

71. Section 99 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by inserting the words "and the sector-based employers' associations" after the word "associations" in the first line of the first paragraph, and by striking out the words "and the Association des entrepreneurs en construction du Québec" in the third and fourth lines of the same paragraph.

72. 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 the words ", lock-outs, the amount of assessment and the acceptance or rejection of a draft collective agreement" in paragraph *c* of section 33 by the words "and the amount and method of determination of the amount of the assessment";

(4) by striking out paragraph *d* of section 33;

(5) by replacing the words "employer may be gauged" in paragraph *g* of section 33 by the words "employers' sector-based association may be gauged according to the number of hours declared as having been worked per sector in relation to the total number of hours declared in the industry";

(6) 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".

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

(1) by replacing paragraph *a* of section 2 by the following paragraph:

"(*a*) to act as the mandatary of its members for the purpose of negotiating a collective agreement 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.

74. Section 1 of the Regulation respecting the application of the Act respecting labour relations in the construction industry (R.R.Q., 1981, chapter R-20, r. 1) is amended

(1) by striking out subparagraph i of paragraph *a*;

(2) by striking out the words "as well as the installation, erection, repair and maintenance of production machinery" in the sixth and seventh lines of the first paragraph of paragraph *b*;

(3) by striking out the third and fourth paragraphs of paragraph *b*;

(4) by striking out the sixth paragraph of paragraph *b*.

75. 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 replacing Division IV by the following division:

"DIVISION IV

"PLACEMENT

"**24.** No person may place workers in the construction industry.";

(4) 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";

(5) by replacing the words "domiciled in the region where the works are being carried out" in the first paragraph of paragraph 1 of section 35 by the words "who has identified for the Commission and who resides in the region where the works relating to the work offered are carried out";

(6) by replacing the words "domiciled outside the region where the works are being carried out, or to the person domiciled in the region where the works are being carried out and listed with the Board in accordance with section 49" in the second paragraph of paragraph 1 of section 35 by the words "who has identified for the Commission but does not reside in the region where the works relating to the work offered are carried out, or to the person who has identified the region where the works relating to the work offered are carried out";

(7) by replacing the words "domiciled in the region where the works are being carried out" in the first paragraph of paragraph 2 of section 35 by the words "who has identified for the Commission and resides in the region where the works relating to the work offered are carried out";

(8) by replacing the words "domiciled outside the region where the works are being carried out" in the second paragraph of paragraph 2 of section 35 by the words "who has identified for the Commission but does not reside in the region where the works relating to the work offered are carried out";

(9) by replacing the words "domiciled in the locality where the works are being carried out" in the first paragraph of paragraph 3 of section 35 by the words "who has identified for the Commission and resides in the region where the works relating to the work offered are carried out";

(10) by adding, after paragraph 3 of section 35, the following paragraph:

"4. Where no employee meeting the criteria fixed in this section is available, any employee meeting the recognized requirements for the work offered may be hired.";

(11) by inserting, after section 38, the following section:

"**38.1** An employer from outside Québec may hire an employee for work anywhere in Québec if that employee holds a qualification certificate issued under the provisions of an interprovincial agreement respecting reciprocal recognition of vocational qualification (Red Seal), provided he applies therefor to the Commission and proves that the employee

(1) during the first 24 of the 26 months preceding the application, worked 3/4 or more of his hours in the construction industry for such employer; and

(2) during the same reference period, worked 1 500 hours or more for such employer in the construction industry.

The name of the employer appears on the journeyman competency certificate issued to the employee under section 1.2 of the Regulation respecting the issuance of competency certificates.";

(12) by striking out the words "and placement" in section 43;

(13) by replacing the words "in the subregion where the work is being carried out" in the second paragraph of paragraph 1 of section 44 by the words "who has identified for the Commission and resides in the subregion where the works relating to the work offered are carried out";

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

(15) by striking out the words "without a placement agency" in section 45;

(16) by repealing section 52;

(17) by striking out the words ", notwithstanding the section 5 of this regulation" in section 56.3;

(18) by repealing Schedule 1;

(19) by repealing Schedule 2.

76. 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.

77. The Regulation respecting the issuance of competency certificates (Order in Council 673-87 dated 29 April 1987 and amendments) is again amended

(1) by replacing the words ", domiciled in the region contemplated by an application for a certificate" in the first paragraph of section 3 by the words "who have identified for the Commission and reside in the region contemplated by an application for a certificate", and by striking out the words "domiciled in this region" in the same paragraph;

(2) by replacing the words "domiciled in a region contemplated by an application for a certificate" in section 4.2 by the words "who have identified for the Commission and reside in the region contemplated by an application for a certificate", and by striking out the words "domiciled in this region" in the same section.

78. The Regulation respecting the keeping of a register and the sending of a monthly report, approved by 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

79. The regulations amended by sections 74 to 78 are deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

80. In this division, 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.

81. 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.

82. 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.

83. 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.

84. Paragraph 1 of section 4, the second paragraph of section 42 and the second and third paragraphs of section 51 of the former Act remain in force with respect to each sector until a first collective agreement for the sector, made under the new Act, comes into force.

85. 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.

86. 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.

87. The expression "expiry date of the collective agreement" within the meaning of the new Act refers to the expiry date of the Construction Decree for the purposes of section 17 of the new Act, Chapters IV, V and VI of the new Act and section 90 of this Act, until a first collective agreement is made under the new Act.

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 should also read as referring to that decree.

88. The expiry of the Construction Decree does not affect any offences committed, penalties incurred and proceedings instituted;

proceedings may be instituted or continued and penalties may be imposed notwithstanding such expiry.

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.

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

Similarly, in proceedings in progress at the time of the coming into force of the new Act, the Association of Building Contractors of Québec retains the objects and powers it had under the former Act.

90. During the eleventh month preceding the expiry date of a collective agreement, an employee must identify for the Commission the region, subregion and locality where he elects to exercise his right of preferential hiring.

He must also identify it when he obtains or renews his competency certificate.

The election provided for in the first and second paragraphs shall be expressed in the manner prescribed by the Commission.

For the purposes of the new Act, an employee in the construction industry is deemed to have identified for the Commission the region, subregion and locality of his domicile or residence as those where he elects to exercise his right of preferential hiring until such election is made by him in accordance with this section.

This section applies for the purposes of the Regulation respecting the issuance of competency certificates and the Regulation respecting the hiring and mobility of employees in the construction industry.

91. A regulation made by the Commission 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.

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.

92. 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.

93. The interested parties must, not later than (*insert here the date of the day occurring thirty days after the date on which sections 7 and 8 come into force*), 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.

94. The contractors' associations must, before 15 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).

Where the contractors' associations fail to form a new board of directors, the Minister may designate members to exercise the functions of the board until the new board is formed in accordance with the constitution referred to in section 96.

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, without indemnity or notice, and the new members shall exercise on that date the functions of that board.

96. Notwithstanding the Regulation respecting the Association of Building Contractors of Québec (R.R.Q., 1981, chapter R-20, r. 2.1), 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.

The constitution and by-laws thus amended must provide, in particular, for the composition of a board of directors, the replacement of its members, the determination of the quorum at its sittings and the method of establishing and collecting the assessments necessary for the financing of the activities of the Association of Building Contractors of Québec.

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.

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

(1) paragraph 10 of section 1, sections 2 and 3, paragraph 3 of section 4, section 5, sections 7 to 10, section 21, paragraph 3 of section 58, sections 72 and 73, sections 75 to 81, section 90, except the first paragraph thereof and sections 92 to 96 which come into force on 1 January 1994;

(2) section 5, paragraph 3 of section 58, sections 65 to 71, section 82, sections 87 to 89 and section 91 which come into force on (*insert here the date of assent to this Act*).