



NATIONAL ASSEMBLY

FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 37

**An Act respecting the process of
negotiation of the collective agreements
in the public and parapublic sectors**

Introduction



**Introduced by
Mr Michel Clair
Chairman of the Conseil du trésor and
Minister for Administration**

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EXPLANATORY NOTES

The main objects of this bill are

- (1) to create the Institut de recherche sur la rémunération;*
- (2) to define the framework of the negotiation of the collective agreements in the sectors of Education, Social Affairs and government agencies;*
- (3) to determine the matters that may be negotiated at the local or regional level and those that may be the subject of local arrangements;*
- (4) to establish a new mode for determining the salaries and salary scales for each of the two years following the first year of the collective agreements in the public and parapublic sectors;*
- (5) to alter the mechanism for the settlement of disputes at the national level and provide a mode of settlement of disagreements at the local or regional level;*
- (6) to confer on the Conseil des services essentiels certain remedial powers in the case of certain conflicts in the public and parapublic sectors.*

The Institut de recherche sur la rémunération will consist of not over nineteen members, including a president and two vice-presidents appointed by the Government. The other sixteen members will be chosen from the union and the management circles. The Institut will be responsible for informing the public on the comparative state and evolution of the remuneration of employees in the public sector and the private sector. The Institut will also carry out any other mandate defined by unanimous consent of its members. A report of its findings will be made public not later than 30 November, each year.

With regard to the framework of the negotiation in the Education and Social Affairs sectors, the bill proposes the decentralization of negotiations in respect of certain matters.

In respect of the organization of the parties, the provisions proposed are, for the most part, those that are now in force. However, in the Social

Affairs sector, the responsibility to discuss the division of the bargaining fields and to negotiate is entrusted to five negotiating subcommittees for the following classes of establishments: public hospital centres, local community service centres, public reception centres, social service centres and private establishments under agreement.

The bill also provides that, in the Education sector, in respect of the teaching staff, and in the colleges, in respect of the non-teaching professional staff, certain clauses of the collective agreements dealing with matters listed in the schedule may henceforth be the subject of local or regional negotiation at all times. Once approved, these clauses will continue to have effect, despite the expiry of the collective agreement, until they are amended by the parties at the local or regional level. In the event of a disagreement on the amendment, repeal or replacement of such a clause, the parties will be able, as proposed in the bill, to resort to a mediator-arbitrator who will be empowered to rule on the question at the request of the parties, if he considers a negotiated settlement to be unlikely. A disagreement will not, however, give rise to a strike or a lockout.

In the Social Affairs sector and in respect of the support staff of colleges and the non-teaching professional staff and support staff of school boards the bill authorizes the negotiation of arrangements at the local or regional level on certain matters that have been negotiated and agreed at the national level.

In the public and parapublic sectors, the clauses pertaining to salaries and salary scales that are applicable to the employees for the first year of the collective agreement will be negotiated and agreed in the same manner as other clauses that are subject to negotiation. For each of the subsequent years of the collective agreement, the determination will be made according to the process that follows.

After the Institut has published its annual report on remuneration, the parties will attempt to reach an agreement on the salaries and salary scales for the subsequent year. Following that negotiation, a draft regulation will be prepared, examined in Parliamentary Committee and submitted for approval to the Government during the month of April. Once fixed by regulation, the clauses pertaining to salaries and salary scales for the current year will form part of the collective agreement.

The bill proposes to set up a new mediation procedure for the settlement of disputes at the national level and to subject the exercise of the right to strike or lockout to a prior requirement of mediation and to an additional notice of twenty days from the date of the report of the mediator. In the Social Affairs sector, the bill fixes, by class of establishments, a minimum percentage of employees to be maintained at work in the event of a strike to ensure continued services to the users. Moreover, the approval of the

lists or agreements on essential services will henceforth be required for exercising the right to strike.

Finally, the bill confers on the Conseil des services essentiels the power to make orders in the event of a conflict in a public service or in the public and parapublic sectors.

Where a lockout, a strike, a slowdown or another concerted action contrary to law affects or is likely to affect the provision of a service to which the public is entitled or, where the essential services prescribed in a list or agreement are not provided during a strike, the Conseil will henceforth be empowered to intervene to make an inquiry, attempt to bring the parties to reach a settlement of the conflict and, if necessary, order the parties to implement the remedial measures required in the circumstances that prevail.

Every order made in that respect will have the same effect as a judgment of the Superior Court once a true copy of it is filed by the Conseil in the office of the prothonotary of that court.

Lastly, the bill proposes certain concordance amendments to the Labour Code.

Bill 37

An Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE

1. This Act applies to the negotiation and making of a collective agreement within the meaning of the Labour Code (R.S.Q., chapter C-27) between an association of employees within the meaning of the said Code and a school board, a college and an establishment. It also applies to the government agencies listed in Schedule C to the extent provided for in Chapter IV and to the public service to the extent provided for in Chapter V.

A school board includes a school board within the meaning of the Education Act (R.S.Q., chapter I-14) and every other similar body designated by the Government for the application of this Act.

A college means a college within the meaning of the General and Vocational Colleges Act (R.S.Q., chapter C-29).

An establishment includes a public establishment within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5), a private establishment under agreement within the meaning of the said Act, a private establishment which entered into a contract with the Minister of Social Affairs pursuant to section 176 of the said Act and every body which furnishes services to an

establishment in accordance with the said Act and declared by the Government to be classified, for the application of this Act, as an establishment defined in the Act respecting health services and social services.

CHAPTER II

INSTITUT DE RECHERCHE SUR LA RÉMUNÉRATION

DIVISION I

ESTABLISHMENT AND COMPOSITION

2. An agency is hereby established under the name of “Institut de recherche sur la rémunération”.

3. The Institut is a corporation.

4. The affairs of the Institut shall be administered by a board of directors consisting of not more than nineteen members, including a president and two vice-presidents.

5. The president and vice-presidents shall be appointed by resolution of the National Assembly passed by not less than two-thirds of its Members, on a motion of the Prime Minister, presented after consultation with the groups of associations of employees contemplated in section 26, the associations of employees contemplated in section 27, the groups of school boards, colleges and establishments contemplated in sections 31 and 37 and with the associations of employees recognized or certified under sections 64 to 67 of the Public Service Act (R.S.Q., chapter F-3.1.1).

The Government shall determine the remuneration, social benefits and other conditions of employment of these members.

6. The other members shall be appointed by the Government.

Six of the members shall be chosen from among the persons whose names appear on lists drawn up by the associations of employees and the groups of associations of employees contemplated in this Act and by the associations of employees recognized or certified under sections 64 to 67 of the Public Service Act.

Six other members shall be appointed after consultation with the groups of school boards, colleges and establishments.

The Government may, in addition, appoint not more than two other members after consultation with the organizations most representative

of the employees of the private sector and not more than two other members after consultation with the organizations most representative of the employers of the private sector.

7. The members of the Institut are appointed for not more than three years except the president and vice-presidents who are appointed for not more than five years. Their terms of office are renewable.

Each member of the Institut shall remain in office at the expiry of his term until he is replaced or re-appointed.

8. Every vacancy on the board of directors shall be filled in accordance with the mode of appointment prescribed for the appointment of the member to be replaced.

9. The members of the Institut other than the president and vice-presidents are not remunerated. They are, however, entitled, to the extent and on the conditions determined by the Government, to an attendance allowance and to the reimbursement of the reasonable expenses they incur in the performance of their duties.

10. The president shall preside over the meetings of the board of directors, direct its operation and assume all the other functions conferred on him by the by-laws of the Institut. He shall also perform the duties of a director general.

The director general shall be responsible for the management and direction of the Institut.

11. The vice-presidents shall perform the duties determined by the president within the scope of the by-laws of the Institut.

12. If the president is absent or temporarily unable to act, the Government shall designate a member to replace him during his absence or temporary incapacity.

13. The head office of the Institut shall be at the place determined by the Government; notice of the address or any transfer of the head office shall be published in the *Gazette officielle du Québec*.

The Institut may hold its sittings anywhere in Québec.

14. A majority of the members, including the president or, in the case contemplated in section 12, the person replacing him, are a quorum at sittings of the Institut.

In case of a tie-vote, the president has a casting vote.

15. The president and vice-presidents shall not, under pain of forfeiture of office, have any direct or indirect interest in an undertaking causing their personal interest to conflict with that of the Institut.

However, forfeiture is not incurred if such an interest devolves to them by succession or gift, provided they renounce or dispose of it with all possible dispatch.

16. Every member other than the president or a vice-president shall disclose any conflict of interest in writing to the president and abstain from voting on any decision of the board of directors concerning a contract or a benefit that may be granted to him or to an undertaking in which he has an interest.

17. The minutes of the sittings of the board of directors of the Institut, if approved by the board and certified by the president or by any person authorized by him in writing for that purpose, are authentic. The same applies to documents or copies emanating from the Institut or forming part of its records, if so certified.

18. The Institut shall determine by regulation the remuneration and other conditions of employment applicable to the members of its personnel.

The regulation comes into force from the date of its approval by the Government.

DIVISION II

FUNCTIONS

19. The Institut is responsible for informing the public on the comparative state and evolution of the total remuneration of the employees of the Government and of the school boards, colleges and establishments, and the total remuneration of any other category of persons employed in Québec that it determines.

The Institut may conduct surveys, studies and analyses on the remuneration in various occupations or groups of employees in Québec.

Not later than 30 November each year, the Institut shall publish a report of its findings.

20. The Institut shall also carry out any study or research mandate defined by the board of directors in concert with all the members who are present at a meeting specially called for that purpose.

21. In no case may the Institut, except with the authorization of the Government, contract any loan that would increase the total amount of its unrepaid borrowings to over \$1 000 000.

22. The Institut shall not acquire or hold shares of another corporation nor operate an enterprise alone or jointly with another person.

23. The Institut shall, not later than ninety days after the end of its fiscal year, transmit to the President of the National Assembly a report of its activities for the preceding fiscal year. The report shall be tabled before the National Assembly if it is in session, or if it is not sitting, within thirty days of the opening of the next session or resumption.

24. The books and accounts of the Institut shall be audited by the Auditor General every year and whenever so ordered by the Government; the Government may appoint another auditor.

The report of the Auditor General or of the auditor appointed by the Government shall accompany the report of activities.

CHAPTER III

COLLECTIVE AGREEMENTS OF THE EDUCATION AND SOCIAL AFFAIRS SECTORS

DIVISION I

GENERAL PROVISION

25. The clauses of a collective agreement binding between an association of employees and a school board, a college or an establishment shall be negotiated and agreed by unions and management at the national level or at the local or regional level in accordance with the provisions of this chapter.

DIVISION II

ORGANIZATION OF THE PARTIES

§ 1.—*The unions*

26. Every association of employees that belongs to a group of associations of employees shall negotiate and agree the clauses contemplated in section 44 through a bargaining agent appointed by that group.

A group of associations of employees includes a union, federation, confederation, corporation, labour body or other organization which an association of employees representing persons employed by a school board, a college or an establishment joins, or to which it belongs or is affiliated.

27. Every association of employees that does not belong to a group of associations of employees shall negotiate and agree the clauses contemplated in section 44 as well as those contemplated in sections 57 and 58 that are applicable to the employees that it represents, through a bargaining agent appointed by that association.

28. The clauses negotiated and agreed by a group of associations of employees are binding on every new association of employees that affiliates to that group during the term of the collective agreement.

29. For the purposes of the negotiation of a collective agreement binding between an association of employees and a school board or a college, the following classes of personnel shall form separate groups:

- (1) the teachers employed by the school boards or, as the case may be, by the colleges;
- (2) the non-teaching professional staff;
- (3) the support staff.

§ 2.—*Management*

1. The education sector

30. In the education sector, the following committees are established:

- (1) a management negotiating committee for the school boards for Catholics;

(2) a management negotiating committee for the school boards for Protestants;

(3) a management negotiating committee for the colleges.

31. The committees established under section 30 shall be composed of persons appointed by the Minister of Education, or as the case may be, the Minister of Higher Education, Science and Technology and persons appointed, as the case may be, by the group of school boards for Catholics, the group of school boards for Protestants or the group of colleges.

A group of school boards or group of colleges includes an association, federation or other organization to which the majority of school boards for Catholics or school boards for Protestants, or of colleges, belongs and which is considered to be representative of such school boards or colleges by the Minister of Education or, as the case may be, the Minister of Higher Education, Science and Technology, if it is not already recognized as such by law.

32. The members shall designate, in each committee, a chairman and a vice-chairman, one of whom shall be chosen from among the members appointed by the group and the other from among the members appointed by the minister.

The members shall agree in writing on the mode of operation of the committee and on the determination of the matters in respect of which the representatives of the group or the representatives of the Minister have a casting vote at deliberations of the committee.

Similarly, they shall agree on the mode of financing of the committee, the term of office of the members and, where such is the case, their remuneration and that of the agents of the committee.

The signature of the chairman of the Conseil du trésor shall confirm the commitment of the Government with respect to an agreement under this section.

33. The committees shall be responsible, under the authority delegated by the Government to the minister, for the negotiation and agreement of the clauses contemplated in section 44. For that purpose, they shall prepare draft bargaining proposals, require bargaining mandates from the Conseil du trésor and, within the scope of the mandates determined by the latter, organize, direct and co-ordinate the negotiations carried on by the management party with the groups of associations of employees or, as the case may be, with the associations of employees.

34. The clauses negotiated and agreed by a committee shall be signed by the minister and the chairman and vice-chairman of the committee.

The clauses are binding on all the school boards for Catholics, all the school boards for Protestants, or all the colleges, as the case may be.

35. Two management negotiating committees are established for the Cree School Board and the Kativik School Board.

The committees shall consist of persons appointed by the Minister of Education and by the school board. Sections 32 to 34, adapted as required, are applicable to them.

The function of the committees is to negotiate and agree the clauses negotiated and agreed in accordance with sections 44 to 51 as well as those that are contemplated in sections 57 and 58 and that are applicable to the school boards.

The Cree School Board, the Kativik School Board and the associations of employees representing the employees of the school boards are bound by the clauses concerning salaries and salary scales that are negotiated and agreed at the national level and determined under sections 52 to 56.

2. The social affairs sector

36. A management negotiating committee and five management negotiating subcommittees shall be established in the social affairs sector.

The management negotiating committee for the social affairs sector shall consist of the chairmen and vice-chairmen of the management subcommittees and of a chairman.

Each subcommittee shall consist of persons appointed by the Minister of Social Affairs and of persons appointed by the group of establishments that are representative of any of the following classes of establishments:

- (1) public hospital centres;
- (2) local community service centres;
- (3) public reception centres;
- (4) social service centres;

(5) private establishments under an agreement within the meaning of the Act respecting social services and local services.

37. A group of establishments includes an association, union, federation or other organization to which the majority of the establishments of a class belongs and which is considered to be representative of such class by the Minister of Social Affairs, if it is not already recognized as such by law.

38. The members of the committee and the members of each subcommittee shall designate, respectively, a chairman and a vice-chairman, one of whom is chosen from among the persons designated by the groups of establishments and the other from among the persons designated by the minister.

The members shall agree in writing on the mode of operation of the committee or subcommittee and on the determination of the matters in respect of which the representatives of the groups or the representatives of the minister have a casting vote at deliberations of the committee or subcommittee.

Similarly, they shall agree on the mode of financing of the committee or subcommittee, the term of office of the members and, where such is the case, on their remuneration and that of the agents of the committee or subcommittee.

The signature of the chairman of the Conseil du trésor shall confirm the commitment of the Government with respect to an agreement under this section.

39. The management negotiating committee shall be responsible, under the authority delegated to the Minister of Social Affairs by the Government, for the negotiation and agreement of those of the clauses contemplated in section 44 defined by management subcommittees, with the consent of the unions, as clauses to be negotiated and agreed for all the establishments or for more than one class of establishments.

A management negotiating subcommittee shall be responsible, under the authority delegated to the Minister of Social Affairs by the Government, for the negotiation and agreement, for the class of establishments that it represents, of the clauses contemplated in section 44.

40. For the negotiation of the clauses within their competence, the management committee and subcommittees shall prepare draft bargaining proposals, require bargaining mandates from the Conseil du trésor and, within the scope of the mandates determined by the latter,

organize, direct and co-ordinate the negotiations carried on by the management party with the groups of associations of employees or, as the case may be, with the associations of employees.

41. The clauses negotiated and agreed by the management negotiating committee shall be signed by the minister and by the chairman and vice-chairman of the committee. They are binding on the establishments of the classes concerned.

The clauses negotiated and agreed by a subcommittee shall be signed by the Minister of Social Affairs and by the chairman and the vice-chairman of the subcommittee. They are binding on establishments belonging to the class for which the subcommittee is established.

3. The Conseil du trésor

42. In accordance with the guidelines established by the Government, the Conseil du trésor shall

(1) ensure the orderly progress of the negotiation of the clauses contemplated in section 44, and, for that purpose, may delegate an observer to the negotiating sessions;

(2) authorize the bargaining mandates of the management committees and subcommittees in those matters that it considers to be of governmental interest, except matters defined as being the subject of clauses negotiated and agreed at the local or regional level under sections 57 and 58;

(3) exercise, for the purposes of the negotiations contemplated in paragraph 1, the other powers conferred on it by law.

43. The Conseil du trésor shall invite the Minister of Higher Education, Science and Technology and the Minister of Education or, as the case may be, the Minister of Social Affairs, to participate in its deliberations where they deal with the negotiations contemplated in sections 44 and 53.

DIVISION III

MODE OF NEGOTIATION

§ 1.—*Clauses negotiated and agreed at the national level*

44. The clauses negotiated and agreed at the national level shall deal with all the matters contained in the collective agreement, except

those matters that are defined as being the subject of clauses negotiated and agreed at the local or regional level under sections 57 and 58.

They may also provide for modes of discussion between the parties for the duration of the collective agreement for the purpose of resolving difficulties.

45. The clauses negotiated and agreed at the national level may be the subject of arrangements negotiated and agreed at the local or regional level in accordance with section 70.

46. Either party may request the Minister of Labour to entrust a mediator with attempting to settle a dispute on matters that are the subject of a clause negotiated and agreed at the national level.

47. If no agreement is reached thirty days after the date of his appointment, the mediator shall transmit to the parties a report containing his recommendations on the settlement of the dispute.

The report shall be made public at the request of one of the parties.

The period provided for in the first paragraph may be extended with the consent of the parties.

48. The parties may agree on a procedure of mediation other than that provided in sections 46 and 47. They may, in particular, appeal to a board of mediation or a public interest group.

A third party designated under the first paragraph shall make to the parties a report of its recommendations on the settlement of the dispute within the time limit they determine.

The report shall be made public at the request of one of the parties.

49. In case of a dispute on a matter that is the subject of a clause negotiated and agreed at the national level, the parties may also agree to make a joint report on the subject of their dispute and make it public.

50. Every person or group by whom or which a report is made public pursuant to section 47, 48 or 49 shall, on the same day, give a written notice thereof to the Minister of Labour.

The minister shall, without delay, inform the parties of the date he received the notice.

51. The conditions of employment provided for under clauses negotiated and agreed at the national level shall continue to apply,

notwithstanding their expiry, until the coming into force of a new collective agreement.

§ 2.—*Salaries and salary scales*

52. The clauses of the collective agreement which deal with salaries and salary scales shall be negotiated and agreed at the national level for a period ending, at the latest, on the last day of the year in the course of which an agreement concerning such clauses has been reached at the national level.

For each of the two years following the year for which the clauses are applicable, the salaries and salary scales shall be determined in accordance with the provisions which follow.

53. After publication by the Institut of the report contemplated in section 19, the Conseil du trésor, in collaboration with the management negotiating committees established under this chapter, shall negotiate with the groups of associations of employees or, as the case may be, the associations of employees in view of reaching an agreement on the clauses dealing with salaries and salary scales.

54. The chairman of the Conseil du trésor shall, each year, during the second or third week in March, table in the National Assembly a draft regulation fixing the salaries and salary scales for the current year.

If the National Assembly is not sitting during the second or third week in March, the chairman of the Conseil du trésor shall cause the draft to be published during those weeks in the *Gazette officielle du Québec*.

The draft regulation shall be accompanied with a notice that it will be submitted to the Government, for adoption with or without amendment, during the second or third week in April.

In no case may the draft regulation be submitted to the Government for adoption until the parties have been invited to a hearing on its content before a Parliamentary Committee.

55. The salaries and salary scales applicable for the current year are those provided for in the regulation adopted by the Government during the second or third week in April. In no case may the salaries and salary scales be lower than those of the preceding year.

The regulation shall come into force on the date of its adoption. It shall be published in the *Gazette officielle du Québec*.

56. Once fixed by regulation, the salaries and salary scales shall form part of the collective agreement and have the same effect as clauses negotiated and agreed at the national level.

§ 3.—*Clauses negotiated and agreed
at the local or regional level*

57. In the social affairs sector and, in the education sector, in respect of the support staff and the non-teaching professional staff of school boards, the matters pertaining to the clauses negotiated and agreed at the local or regional level are those that are defined by the parties in the course of the negotiation of the clauses negotiated and agreed at the national level.

58. In the education sector, in respect of the teaching staff, and in the case of colleges, in respect of the non-teaching professional staff, the matters listed in Schedule A are the subject of clauses negotiated and agreed at the local or regional level.

The same applies, in respect of the same classes of personnel, to any other matter defined by the parties in the course of the negotiation of the clauses negotiated and agreed at the national level.

59. Every clause dealing with a matter defined as being the subject of clauses negotiated and agreed at the local or regional level has effect until it is amended, repealed or replaced pursuant to an agreement between the parties.

It shall continue to have effect notwithstanding the expiry of the clauses of the collective agreement which are negotiated and agreed at the national level.

60. In matters defined as being the subject of clauses negotiated and agreed at the local or regional level, an association of employees and an employer may, at all times, negotiate and agree on the replacement, amendment, addition or repeal of a clause of the collective agreement.

In no case, however, may any negotiation under the first paragraph give rise to a dispute.

61. An agreement under section 60 shall come into force from its filing at the office of the labour commissioner general in accordance with section 72 of the Labour Code. In no case may the agreement be the subject of negotiations before the expiry of two years, unless the parties decide to amend it before the lapse of that term.

62. If after not fewer than three negotiating sessions no agreement is reached on a matter that is the subject of clauses negotiated and agreed at the local or regional level, one party may request the Minister of Labour to appoint a mediator-arbitrator in view of the settlement of the disagreement.

63. The mediator-arbitrator shall endeavour to bring the parties to settle their disagreement. For that purpose, he shall meet the parties and, in case of refusal to attend a meeting, give them an opportunity to present their views.

64. If disagreement still subsists thirty days after the appointment of the mediator-arbitrator, the parties may, in common agreement, request the mediator-arbitrator to rule on the subject of the disagreement. If the mediator-arbitrator is then of opinion that a settlement is not likely to be reached by the parties, he shall rule on the question and inform the parties of his decision.

The decision of the mediator-arbitrator is deemed to be an agreement within the meaning of section 60.

65. If the mediator-arbitrator makes no decision under section 64, he shall make a report of his recommendations on the subject of the disagreement to the parties.

The mediator-arbitrator shall make the report public ten days after having transmitted it to the parties.

66. The parties may agree on any other mode of settlement of a disagreement.

67. Any clause negotiated and agreed at the local or regional level has no effect where it modifies the scope of a clause negotiated and agreed at the national level or a clause contemplated in section 56.

The same rule applies to every decision made by a person appointed to rule on the subject of a disagreement pursuant to section 64, section 66 or the second paragraph of section 68.

68. Where a clause ceases to have effect by reason of the application of section 67, the parties shall negotiate in view of its replacement.

If a disagreement on the replacement of the clause still subsists thirty days after the appointment of a mediator-arbitrator, one party may request him to rule on the matter that is the subject of the disagreement.

69. Except in matters of jurisdiction, no action pursuant to article 33 of the Code of Civil Procedure may be taken nor any extraordinary recourse within the meaning of the said Code be exercised, and no provisional remedy may be ordered against the mediator-arbitrator appointed by the minister under section 62.

§ 4.—*Local arrangements*

70. In the social affairs sector and, in the education sector, in respect of the support staff and in respect of the non-teaching professional staff of the school boards, the parties may, once the collective agreement is in force, agree on local or regional arrangements in view of the implementation or replacement of a clause of the collective agreement negotiated and agreed at the national level on a matter provided for in Schedule B and that is applicable to the establishment, to the school board or, as the case may be, to the college.

In addition to what is provided for in the first paragraph, the parties to a collective agreement may also negotiate and agree such arrangements to the extent that a clause negotiated and agreed at the national level provides therefor.

71. In no case may the negotiation of a local arrangement give rise to a dispute.

72. An arrangement agreed upon pursuant to section 70 is without effect where it alters the scope of a clause negotiated and agreed at the national level and which is not subject to a local arrangement.

73. Every arrangement agreed upon locally or regionally shall have effect until the date of its replacement or, at the latest, until the coming into force of the new collective agreement.

74. Every arrangement agreed upon locally or regionally shall be filed at the office of the labour commissioner general, in the same manner as if it were a clause negotiated and agreed pursuant to the Labour Code.

CHAPTER IV

COLLECTIVE AGREEMENTS IN THE GOVERNMENT AGENCIES SECTOR

75. The clauses of a collective agreement binding between an association of employees and a government agency shall be negotiated and agreed in accordance with this chapter.

76. The Government may strike off from Schedule C any agency appearing in it, add to it any agency it has struck off or any other agency. It may also add or strike off a subsidiary of any agency it designates.

77. Every association of employees shall negotiate and agree all the clauses of a collective agreement binding between it and a government agency through a bargaining agent appointed by the association.

78. Before undertaking the negotiation of a collective agreement with an association of employees, every government agency shall submit to the minister responsible a draft document setting out the general components of a policy on remuneration and conditions of employment.

The minister shall submit the draft, for approval, to the Conseil du trésor which shall determine, in collaboration with the minister and the agency, the terms and conditions according to which the orderly progress of the negotiations is ensured.

79. The policy on remuneration and conditions of employment approved with or without amendment by the Conseil du trésor, and the terms and conditions determined for ensuring the orderly progress of the negotiations are binding on the agency, and it must comply therewith.

80. Every government agency shall negotiate, agree and sign the clauses of a collective agreement within the framework defined in sections 78 and 79.

CHAPTER V

PROVISION APPLICABLE TO THE PUBLIC SERVICE

81. Sections 46 to 56, adapted as required, apply to a collective agreement binding between the Government and an association of employees recognized or certified under sections 64 to 67 of the Public Service Act (R.S.Q., chapter F-3.1.1).

CHAPTER VI

AMENDMENTS TO THE LABOUR CODE

82. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by inserting after the words "Office des ressources humaines," in the tenth and eleventh lines of subparagraph 3 of paragraph 1, the words "Institut de recherche sur la rémunération".

83. Section 111.0.12 of the said Code, enacted by section 6 of chapter 37 of the statutes of 1982, is repealed.

84. Section 111.0.20 of the said Code is amended by adding the following paragraph:

“The council may also exercise the powers conferred on it by sections 111.16 and 111.17 if the essential services provided for in an agreement or in a list are not rendered during a strike.”

85. The said Code is amended by replacing section 111.6 by the following section:

“111.6 Every collective agreement binding on a college, a school board or an establishment contemplated in the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (1985, chapter *insert here the chapter number of Bill 37*) shall be negotiated and agreed in accordance with the said Act.

Every collective agreement contemplated in the first paragraph shall expire, for the application of this Code, on the date of expiration of the clauses negotiated and agreed at the national level.

The clauses of such a collective agreement that are negotiated and agreed at the local or regional level have effect notwithstanding the expiration of the collective agreement.”

86. Section 111.8 of the said Code, amended by section 9 of chapter 37 of the statutes of 1982, is amended

(1) by inserting, after the word “committees” in the first line of subsection 3, the words “and subcommittees”;

(2) by striking out subsections 4 and 5.

87. The said Code is amended by replacing sections 111.10 to 110.10.6, enacted by sections 11 and 12 of chapter 37 of the statutes of 1982, by the following sections:

“111.10 In the event of a strike in an establishment, the percentage of employees to be maintained per work shift from among the employees who would usually be on duty during that period shall be at least

(1) 90% in an establishment providing the services of a reception centre or long-term care, an establishment providing specialized care in psychiatry, neurology or cardiology and a hospital centre having a department of clinical psychiatry or a community health department;

(2) 80% in a hospital centre for short term care and a health care centre not contemplated in paragraph 1;

(3) 60% in a local community service centre other than a health care centre;

(4) 55% in a social service centre.

“111.10.1 The parties shall negotiate the number of employees to be maintained per unit of care and class of services from among the employees usually assigned to such units of care and classes of services. The agreement shall, in addition to conforming to section 111.10, include provisions designed to ensure the normal operation of intensive care units and emergency care units, if necessary.

The agreement shall be transmitted to the council for approval.

“111.10.2 The council, at its own initiative or at the request of either party, may designate a person to help the parties to reach an agreement.

“111.10.3 If no agreement is reached, every certified association shall transmit to the council for approval a list providing, per unit of care and class of services, the number of employees of the bargaining unit who are maintained in the event of a strike.

The list shall provide, from among the employees of the bargaining unit usually assigned to a care unit or class of services in the establishment, that a number of employees at least equal to the percentage provided in subparagraphs 1 to 4 of section 111.10 that is applicable to the establishment, are maintained.

The list shall also include provisions designed to ensure the normal operation of intensive care units and emergency care units, if necessary.

Any list providing for a number of employees greater than the usual number of employees required in the service concerned is null and void.

“111.10.4 On receiving an agreement or a list, the council shall assess, with reference to the applicable criteria set forth in sections 111.10, 111.10.1 and 111.10.3 whether or not the essential services provided for therein are sufficient.

In case of disagreement between the parties, the council may, to the exclusion of any other person, rule on the qualification of an establishment for the purposes of the application of the percentages provided in section 111.10.

The parties are bound to attend any sitting of the council to which they are convened.

“111.10.5 Even where a list or agreement is consistent with the criteria set forth in sections 111.10, 111.10.1 and 111.10.3, the council, before approving it, may, if the situation of the establishment justifies it, increase or modify the services provided for therein.

If it considers the services insufficient, the council may make to the parties the recommendations that it considers appropriate in view of amending the list or agreement, or it may approve the list with amendments.

“111.10.6 No list approved by the council may be amended thereafter except at the latter’s request. If an agreement is reached between the parties after the list is filed with the council, the agreement approved by the council shall prevail.

“111.10.7 Every list or agreement consistent with the applicable provisions of sections 111.10, 111.10.1 and 111.10.3, is considered to be approved as filed if, within ninety days of its receipt by the council, the latter has not ruled on the sufficiency of the services provided for in it.

“111.10.8 In no case may a party declare a strike or a lockout before the lapse of a period of twenty days from the date on which the minister received the notice provided for in section 50 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors.”

88. Sections 111.12 to 111.15 of the said Code, enacted by section 14 of chapter 37 of the statutes of 1982, are replaced by the following sections:

“111.12 In the case of an establishment, no strike may be declared by a certified association unless an agreement or a list has been approved by the council or unless a list or agreement consistent with sections 111.10, 111.10.1 and 111.10.3 has been submitted to it for approval not less than ninety days previously and unless the list or agreement was transmitted to the employer not less than ninety days previously.

“111.13 Lockouts are prohibited in an establishment.

Notwithstanding an apprehended strike, every establishment shall provide its usual services without changes in the norms applicable to the access to or provision of the services.

The council may, in case of contravention of this section, make an order under section 111.17.

“111.14 Strikes and lockouts are prohibited in respect of a matter defined as pertaining to clauses negotiated and agreed at the local or regional level or subject to local arrangements pursuant to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors.”

89. The said Code is amended by adding, after Division III of Chapter V, the following:

“DIVISION IV

“REMEDIAL POWERS

“111.16 Where, contrary to a provision of law, a lockout, strike or slowdown occurs in a public service, a government department or in an agency of the public and parapublic sectors, the Conseil des services essentiels, of its own initiative or at the request of an interested person, may inquire into the consequences of the conflict on the provision of the services to which the public is entitled.

The council may also endeavour to bring the parties to an agreement or entrust a person it designates with attempting to bring them to an agreement and to report on the situation.

“111.17 The council, if it considers that a conflict is or is likely to be prejudicial to a service to which the public is entitled, may, after giving the parties the opportunity to submit their views, make an order to ensure that a service to which the public is entitled is available or to require compliance with the law, a collective agreement or an agreement or list on essential services.

The council may

(1) enjoin any person involved in the conflict or any category of these persons it determines to take the necessary measures to comply with the first paragraph of this section, or abstain from doing anything in contravention thereof;

(2) require from any person involved in the conflict to remedy any act or omission done or made in contravention of the law;

(3) order a person or group of persons involved in a conflict, taking into consideration the conduct of the parties, the application of the measures of redress it considers best appropriate, including the establishment of a fund for the benefit of the users of the service that has been adversely affected, and the terms and conditions governing the administration and use of that fund;

(4) order every person involved in the conflict to do or abstain from doing anything that it considers reasonable in the circumstances in view of maintaining services for the public;

(5) order, where that is the case, that the grievance or arbitration procedure under a collective agreement be accelerated;

(6) order a party to make known publicly its intention to comply with the order of the council.

“111.18 The council may, in the same manner, exercise the powers conferred on it by sections 111.16 and 111.17, if, in the course of a conflict, it considers that a concerted action other than a strike or a slowdown is or is likely to be prejudicial to a service to which the public is entitled.

“111.19 The council may, instead of making an order, record a person’s undertaking to ensure to the public the service or services to which it is entitled or to comply with the law, the collective agreement or an agreement or list on essential services.

Non-observance of an undertaking under this section shall constitute a violation of an order of the council.

“111.20 The council may file a true copy of an order made under section 111.17 or section 111.0.20 at the office of the prothonotary of the Superior Court of the district in which the public service or agency involved is situated.

Every order filed under the first paragraph has the same force and effect as if it were a judgment of the Superior Court.”

CHAPTER VII

FINAL PROVISIONS

90. The Minister of Labour is responsible for the administration of this Act.

91. This Act replaces the Act respecting management and union parties organization in collective bargaining in the sectors of education, social affairs and government agencies (R.S.Q., chapter O-7.1).

In any Act, regulation, order, decree, contract, collective agreement, or other document, any reference to the said Act is a reference to this Act or to the equivalent provision of this Act, unless otherwise indicated by the context.

92. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

93. This Act will come into force on the date fixed by proclamation of the Government except the provisions excluded by the proclamation which will come into force, wholly or in part, on any later date that may be fixed by proclamation of the Government.

SCHEDULE A

LIST OF THE MATTERS NEGOTIATED AND
APPROVED AT THE LOCAL OR REGIONAL
LEVEL IN THE EDUCATION SECTOR

– COLLEGES SECTOR

(a) IN RESPECT OF THE TEACHING STAFF

- 1- Recognition of local parties
- 2- Union dues
- 3- Release for union activities (except for union releases at the national level)
- 4- Meetings and posting
- 5- Information (except information transmitted by the Department)
- 6- Labour relations committee
- 7- Departments
- 8- Selection of teachers
- 9- Education committee
- 10- Engagement (subject to employment security, priorities of employment and tenure acquisition)
- 11- Seniority (subject to calculation for purposes of re-assignment)
- 12- Disciplinary measures
- 13- Leaves for professional activities and leaves without pay (except those provided for parental leaves or leaves for participation in public affairs)
- 14- Payment of salary
- 15- Moving expenses
- 16- Civil liability
- 17- Professional improvement (subject to allocated amounts and apportionment of provincial fund)
- 18- Hygiene and safety
- 19- Placement on reserve
- 20- Distribution of work-load
- 21- Annual vacations (except quantum)
- 22- Grievance and arbitration (on matters negotiated locally)
- 23- Parking

- 24- Savings fund
- 25- Sexual harassment

(b) IN RESPECT OF NON-TEACHING PROFESSIONAL STAFF

- 1- Recognition of local parties
- 2- Union dues
- 3- Release for union activities (except for union releases at the national level)
- 4- Meetings and posting
- 5- Information (except information transmitted by the Department)
- 6- Labour relations committee
- 7- Practice and professional liability
- 8- Educational and professional activities
- 9- Education committee
- 10- Engagement (subject to employment security, priorities of employment and tenure acquisition)
- 11- Seniority (subject to calculation for purposes of re-assignment)
- 12- Disciplinary measures
- 13- Leaves for professional activities and leaves without pay (except those provided for parental leaves or leaves for participation in public affairs)
- 14- Method of payment of salary
- 15- Moving expenses
- 16- Overtime
- 17- Professional training and improvement at the local level (subject to allocated amounts and apportionment of the provincial fund destined for the regions)
- 18- Hygiene and safety
- 19- Work schedule (except quantum)
- 20- Transfer
- 21- Annual vacations (except quantum)
- 22- Grievance and arbitration (except on matters negotiated locally)
- 23- Parking
- 24- Savings fund
- 25- Sexual harassment

26- Paid holidays (except quantum)

27- Contract work

– SCHOOL BOARDS SECTOR

IN RESPECT OF THE TEACHING STAFF

- 1- Recognition of local parties
- 2- Communication and posting of union notices
- 3- Use of school board premises
- 4- Documentation
- 5- Union prerogatives
- 6- Union representative
- 7- Deduction of union dues or equivalent dues
- 8- Mechanisms of participation
- 9- Engagement (subject to employment security, priorities of employment and tenure acquisition)
- 10- Personal record
- 11- Dismissal and non re-engagement
- 12- Resignation and breach of contract
- 13- Regulations concerning absences
- 14- Leaves without pay (except those provided for parental leaves and for participation in public affairs)
- 15- Leaves for activities relating to education
- 16- Distribution of work days in the calendar year
- 17- Hygiene and safety
- 18- Payment of salary
- 19- Travel expenses
- 20- Assignment and transfer
- 21- Distribution of duties and responsibilities among the teachers of a school board
- 22- Work week, supply teaching, supervision, group meetings
- 23- Civil liability
- 24- Professional improvement (subject to allocated amounts and provincial improvement programs)
- 25- Grievance and arbitration (on matters negotiated locally)
- 26- Savings fund

SCHEDULE B

LIST OF THE MATTERS THAT MAY BE
THE SUBJECT OF ARRANGEMENTS AT THE
LOCAL OR REGIONAL LEVEL

– SOCIAL AFFAIRS SECTOR

- 1- Rules of ethics between the parties
- 2- Union recognition
- 3- Union prerogatives
- 4- Union dues
- 5- Posting of notices
- 6- Conditions governing work by contract entered into by the employer
- 7- Employee's record:
 - components of the record
 - employee's access to his record
- 8- Grievance procedure
- 9- Arbitration procedure
- 10- Duration and conditions of probationary period
- 11- Recognition of years of experience
- 12- Conditions governing the merger of positions
- 13- Vacant temporary position
 - definition
 - required circumstances for filling the position
- 14- Conditions governing the setting up of a mobile team
- 15- Conditions governing re-assignment within the establishment
- 16- Rules applicable to employees on temporary assignment
- 17- Rules applicable to voluntary transfer within the establishment, except those relating to employees having employment security and those relating to remuneration
- 18- Bumping procedure
- 19- Weekly schedule and hours of work
- 20- Conditions governing time compensation for overtime work, recall and standby duties, except rates
- 21- Paid holidays, except the quantum
- 22- Annual vacations, except the quantum and the remuneration
- 23- Granting of and conditions applicable to a leave without pay
- 24- Liability insurance

- 25- Professional corporation
- 26- Professional practice and liability
- 27- Special conditions applicable during transportation of recipients
- 28- Loss or destruction of personal property
- 29- Activities outside establishment with recipients
- 30- Rules governing the wearing of required by the employer uniforms
- 31- Locker room and dressing room
- 32- Payment of salary
- 33- Establishment of a savings fund
- 34- Mode of operation of local committees provided for in the collective agreement
- 35- Moving allowances, except the quantum

– EDUCATION SECTOR

1) IN THE COLLEGE SECTOR, IN RESPECT OF THE SUPPORT STAFF

- 1- Recognition of local parties
- 2- Union security
- 3- Union dues
- 4- Release for union activities (except releases at the national level)
- 5- Meetings and posting
- 6- Information (except information transmitted by the Department)
- 7- Labour relations committee
- 8- Education committee
- 9- Engagement (subject to employment security, priorities of employment and tenure acquisition)
- 10- Seniority (subject to calculation for purposes of re-assignment)
- 11- Disciplinary measures
- 12- Leave without pay (except those provided for parental leaves and for participation in public affairs)
- 13- Payment of salary
- 14- Civil liability
- 15- Work schedule (except quantum)
- 16- Overtime work

- 17- Professional training and improvement (subject to allocated amounts)
- 18- Hygiene and safety
- 19- Clothes and uniforms
- 20- Temporary lay-off
- 21- Annual vacation (except the quantum)
- 22- Grievance and arbitration (on matters negotiated locally)
- 23- Parking
- 24- Savings fund
- 25- Sexual harassment
- 26- Paid holidays (except the quantum)
- 27- Contract work

2) SCHOOL BOARDS SECTOR

a) In respect of the non-teaching professional staff

- 1- Communication and posting of union notices
- 2- Use of school board premises
- 3- Documentation
- 4- Union prerogatives
- 5- Union representative
- 6- Deduction of union dues or equivalent deductions
- 7- Consultation mechanism
- 8- Engagement (subject to employment security, priorities of employment and tenure acquisition)
- 9- Personal record and disciplinary measures
- 10- Dismissal, non re-engagement, breach of contract and resignation
- 11- Regulations concerning absences
- 12- Leaves without pay
- 13- Leaves for education related activities
- 14- Work schedule
- 15- Hygiene and safety
- 16- Payment of salary
- 17- Travel expenses
- 18- Assignment and transfer
- 19- Staggering of paid holidays
- 20- Civil liability

21- Professional improvement (except quantum and regional improvement)

22- Grievance and arbitration (on matters negotiated locally)

b) In respect of the support staff

1- Posting

2- Union meetings and use of premises

3- Documentation

4- Union prerogatives

5- Union representation

6- Union dues

7- Labour relations committee (participation)

8- Disciplinary measures

9- Leaves without pay

10- Work schedule

11- Hygiene and safety

12- Payment of remuneration

13- Travel expenses

14- Transfer of personnel

15- Distribution of paid holidays

16- Professional improvement (except quantum)

17- Civil liability

18- Grievance and arbitration (on matters negotiated locally)

SCHEDULE C

LIST OF GOVERNMENT AGENCIES

- The Commission des droits de la personne
- The Commissions de formation professionnelle de la main d'oeuvre
- The Commission des services juridiques
- The Conseil de la santé et des services sociaux de la région de Montréal métropolitain
- The Conseil de la santé et des services sociaux de la région de Québec
- The Conseil de la santé et des services sociaux de la région de Trois-Rivières
- The Conseil de la santé et des services sociaux de la région d'Abitibi-Témiscamingue
- The Corporations d'aide juridique
- Hydro-Québec
- The Office de la construction du Québec
- The Régie des installations olympiques
- The Société des alcools du Québec
- The Société des loteries et courses du Québec
- The Société de radio-télévision du Québec
- The Société des traversiers du Québec
- The Sûreté du Québec

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