
NATIONAL ASSEMBLY

THIRTY-SECOND LEGISLATURE

FOURTH SESSION

Bill 17

An Act to amend the Labour Code and various legislation

First reading



Introduced by
Mr Raynald Fréchette
Minister of Labour

Québec Official Publisher

1983

EXPLANATORY NOTES

The primary object of this bill is to amend various provisions of the Labour Code regarding the right of association, certification, collective agreements, settlement of disputes and grievances and anti strike-breaking measures.

Firstly, it broadens safeguards to the right of association by providing that discrimination and reprisals against an employee because he exercises a right arising under the Labour Code will henceforth be unfair practices for which the employer may be prosecuted and the employee compensated. It further stipulates that a labour commissioner will be authorized to order the payment of interest on an indemnity owing by an employer and that an order to reinstate an employee will be executory notwithstanding appeal.

This bill entrenches the rule according to which the first filing of a petition for certification, where an investigation is being conducted into a certification regarding non-unionized employees, renders any subsequent petition for certification inadmissible. As a counter-measure, it establishes that the question of dominance over a petitioning association of employees may be raised at any time. It authorizes certification on the basis of a simple majority where there are several petitioning associations and they represent an absolute majority of the employees concerned. It states precisely who are interested persons in these deliberations and sets out various rules on certification, seeing to it however that negotiations are not stalled by a disagreement over who is contemplated by the certification. Lastly, it simplifies the rules concerning the labour commissioner.

The bill stipulates that information gathered by a conciliation officer in the performance of his duties are confidential and cannot be disclosed before a court of law.

The bill is designed to accelerate arbitration of disputes and grievances by replacing the council of arbitration or court of arbitration, which may consist of three members, by a single arbitrator, who, if the parties so wish, may be seconded by union and management assessors. The bill sets out the arbitrator's powers and the rules on grievances and the procedure of arbitration.

The bill provides that the arbitrator may act where he thinks it unlikely that the parties negotiating a first collective agreement will reach it in a reasonable time.

The bill establishes the duration of an arbitration award and removes the restrictions regarding the execution and retroactivity of an arbitration award applicable to a municipal corporation.

In addition, it tightens up the anti strike-breaking provisions, in particular by prohibiting an employer from retaining the services in his establishment of a legal person to carry out the duties of an employee on strike.

Lastly, this bill amends various legislation to provide concordance and at the same time makes an amendment to the Act respecting labour standards in order to simplify the rules on computation of the indemnity attached to the annual leave accruing to an employee on maternity leave.

ACTS AMENDED BY THIS ACT

- the Act respecting the Barreau du Québec (R.S.Q., chapter B-1)
- the Education Act (R.S.Q., chapter I-14)
- the Act respecting labour standards (R.S.Q., chapter N-1.1)
- the Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14)
- the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20)

Bill 17

An Act to amend the Labour Code and various legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by inserting, after the words “by this Act” in the ninth line of subparagraph 3 of paragraph 1, the words, “the building commissioner or the placement commissioner and deputy-commissioners contemplated in the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20)”.

2. Section 14 of the said Code is amended by replacing the first paragraph by the following paragraph:

“**14.** No employer nor any person acting for an employer or an employers’ association may refuse to employ any person because that person exercises a right arising from this Code, or endeavour by intimidation, discrimination or reprisals, threat of dismissal or other threat, or by the imposition of a sanction or by any other means, to compel an employee to refrain from or to cease exercising a right arising from this Code.”

3. Section 15 of the said Code is replaced by the following section:

“Where an employer or a person acting for an employer or an employers’ association dismisses, suspends or transfers an employee, practises discrimination or takes reprisals against him or imposes any other sanction upon him because the employee exercises a right arising from this Code, the labour commissioner may

(a) order the employer or a person acting for an employer or an employers’ association to reinstate such employee in his employment, within eight days of the service of the decision, with all his rights and

privileges, and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to dismissal, suspension or transfer.

That indemnity is due in respect of the whole period comprised between the time of dismissal, suspension or transfer and that of the carrying out of the order, or the default of the employee to resume his employment after having been duly recalled by his employer.

If the employee has worked elsewhere during the above mentioned period, the salary which he so earned shall be deducted from such indemnity;

(b) order the employer or the person acting for an employer or an employers' association to cancel the sanction or to cease practising discrimination or taking reprisals against the employee and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to the sanction, discrimination or reprisals."

4. Section 16 of the said Code is replaced by the following section:

"16. An employee who believes that he has been the victim of a sanction or action contemplated in section 15 must, if he wishes to take advantage of that section, present his complaint in writing to the labour commissioner-general within thirty days of the sanction or action of which he complains, or mail it to him within the same time. The labour commissioner-general shall appoint a labour commissioner to make an investigation and decide as to the complaint."

5. Section 17 of the said Code is replaced by the following section:

"17. If it is shown to the satisfaction of the labour commissioner having cognizance of the matter that the employee exercises a right arising from this Code, there is a presumption in his favour that the sanction was imposed on him or the action was taken against him because he exercised such right, and the burden of proof is upon the employer that he resorted to the sanction or action against the employee for good and sufficient reason."

6. Section 18 of the said Code is repealed.

7. Section 19 of the said Code is amended by replacing the first paragraph by the following paragraphs:

"19. On the application of the employer or of the employee, the labour commissioner may fix the quantum of an indemnity and order payment of interest at the legal rate from the date of filing of the complaint on the amount due pursuant to the order.

There may be added, to the amount fixed, an indemnity computed by applying to the amount, from such date, a percentage equal to the excess of the interest rate fixed according to section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) over the legal interest rate.”

8. Section 20 of the said Code is amended by replacing the first line by the following:

“**20.** Before rendering a decision under section 15,”.

9. Section 21 of the said Code is amended

(1) by replacing the word and figure “section 37” in the third line of the first paragraph by the words and figures “section 32 or 37”;

(2) by inserting, after the first paragraph, the following paragraph:

“An association of employees which, in the cases provided for in section 37.1, obtains the greatest number of votes in a ballot is also entitled to be certified.”

10. Section 22 of the said Code is amended by replacing paragraph *a* by the following paragraph:

“(a) at any time, in the case of a group of employees not represented by a certified association and not already contemplated, in whole or in part, in an application for certification;”.

11. The said Code is amended by inserting, after section 23, the following section:

“**23.1** The labour commissioner-general may remove a labour commissioner from a matter and assign another labour commissioner to it at any time before hearing or subsequently if the labour commissioner is absent or unable to act.

The labour commissioner-general may cause an investigation or research to be made into any question connected with certification and safeguard of the right of association.”

12. Section 25 of the said Code is amended by replacing the words “The association” in the fifth line by the words “On receiving the petition, the labour commissioner-general”.

13. The said Code is amended by inserting, after section 27, the following section:

“**27.1** The filing of a petition regarding a group of employees not represented by a certified association renders any subsequent petition

regarding all or some of the employees contemplated by the first petition inadmissible.

For the purposes of the first paragraph, a petition is deemed filed in the office of the labour commissioner-general upon its receipt there.”

14. Section 28 of the said Code is amended by replacing paragraph *c* by the following paragraph:

“(c) If the employer refuses his agreement on the bargaining unit applied for, he must, in writing, set forth his reasons therefor and propose the unit he thinks suitable to the certification agent, who shall record them in the report made to the labour commissioner-general. If the employer neglects or refuses to communicate the reasons for his disagreement and to propose the unit he thinks suitable within fifteen days of receipt of the petition, he is deemed to have given his agreement on the bargaining unit. The certification agent shall then follow the procedure provided under paragraph *a* or paragraph *b*, as the case may be.”

15. Section 29 of the said Code is replaced by the following section:

“**29.** The labour commissioner-general shall order the certification agent to suspend his investigation upon the latter’s indicating to him that he has reason to believe that section 12 has not been complied with or upon an interested or third person’s filing a complaint under that section.”

16. Section 31 of the said Code is amended by adding the following paragraph:

“In addition, a labour commissioner to whom a petition for accreditation is referred may *ex officio* and at any time invoke non-compliance with section 12.”

17. Section 32 of the said Code is replaced by the following section:

“**32.** The labour commissioner to whom the matter is referred shall, after investigation, settle any matter relating to the bargaining unit and the persons contemplated by it; he may for that purpose modify the unit proposed by the petitioning association.

He shall also decide as to the representative nature of the petitioning association after investigating this question in any manner he thinks advisable, more particularly by calculating the membership of the petitioning association or holding a vote by secret ballot.”

18. The said Code is amended by inserting, after section 32, the following section:

“32.1 Only the following are deemed interested parties:

(a) in determining the bargaining unit and the employees included in the unit:

- i. an employer contemplated in the petition;
- ii. the association of employees which has applied for certification regarding a group of employees not represented by a certified association;
- iii. the certified association of employees and an association of employees which has applied for certification regarding the whole or part of the contemplated group of employees, within the time provided in paragraph *c* or *d* of section 22;

(b) in determining the representative nature of an association of employees:

- i. an employee included in a bargaining unit;
- ii. the association of employees which has applied for certification regarding a group of employees not represented by a certified association;
- iii. the certified association of employees and an association of employees which has applied for certification regarding the whole or part of the contemplated group of employees, within the time provided in paragraph *c* or *d* of section 22.”

19. Section 36 of the said Code is replaced by the following section:

“36. The fact that a person belongs to an association of employees shall not be revealed by anyone during the certification or decertification proceedings, except to the labour commissioner-general, the deputy labour commissioner-general, the labour commissioner, the certification agent, or the judge of a court to which an action provided for in Title VI of Book V of the Code of Civil Procedure (R.S.Q., chapter C-25) relating to a certification is referred. Such persons and every other person who becomes aware of the fact that the person belongs to the association is bound to secrecy.”

20. Section 37 of the said Code is replaced by the following section:

“37. The labour commissioner must order a vote by secret ballot whenever a petitioning association comprises between 35% and 50% of the employees in the appropriate bargaining unit. Only the petitioning association or associations comprising each not fewer than 35% of the employees contemplated and the certified association, if any, may compete for election.

This section does not apply if one of the associations comprises an absolute majority of the employees.”

21. The said Code is amended by inserting, after section 37, the following section:

“37.1 Where a vote by secret ballot is held in accordance with section 32 or 37, there is more than one association of employees involved, the associations together comprise an absolute majority of the employees included in the appropriate bargaining unit and no association of employees obtains an absolute majority of the votes of the employees of the employer who are entitled to vote, the labour commissioner shall,

(a) where two associations are competing, certify the association receiving the greater number of votes;

(b) where more than two associations are competing, hold a new ballot, excluding the association having received the smallest number of votes and, if there are no longer more than two associations competing, certify the association receiving the greater number of votes.”

22. Section 39 of the said Code is amended by striking out the second paragraph.

23. Section 41 of the said Code is amended

(1) by replacing the words “the second paragraph of section 32” in the first line of the second paragraph by the words “paragraph b of section 32.1”;

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

“A certification agent responsible for examining the representative nature of the association shall send a copy of his report to the petitioner, the association and the employer. The latter persons and association may contest the report by stating their reasons in writing to the labour commissioner-general or the labour commissioner to whom the matter has been referred, as the case may be, within ten days of receiving the report, failing which a decision may be rendered without calling the parties for a hearing.”

24. Section 47.4 of the said Code is amended by replacing the word “fifteen” in the first line by the word “thirty”.

25. Section 49 of the said Code is replaced by the following section:

“49. A labour commissioner may, *ex officio* or at the request of a party, reconsider or revoke any decision or order provided that, in

cases where there may be an appeal, an appeal has not been brought to the Court from the decision or order or the Court has not yet disposed of the appeal.

A labour commissioner may also correct, in the same manner, at any time, any decision or order in which there is an error in writing or calculation or any other clerical error.”

26. The said Code is amended by inserting, after section 53, the following section:

“**53.1** Neither the employer nor the certified association may refuse to negotiate or delay the negotiation on the sole ground that the parties disagree on who are contemplated by the certification.”

27. The said Code is amended by inserting, after section 57, the following section:

“**57.1** In no case may a conciliation officer be compelled to divulge any fact that has been disclosed to him or that has come to his knowledge in the discharge of his duties, or to produce any document made or obtained in the discharge of his duties, before any court, body or agency or any person exercising judicial or quasi-judicial functions.”

28. Section 58 of the said Code is amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

29. The said Code is amended by replacing the heading of Division I of Chapter IV by the following heading:

“DISPUTES ARBITRATORS”.

30. Section 74 of the said Code is amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

31. Section 75 of the said Code is replaced by the following section:

“**75.** The Minister shall notify the parties that he is referring the dispute to arbitration.”

32. Section 76 of the said Code is amended by replacing the words “The members of a council of arbitration must not have any pecuniary interest in the dispute submitted to them” by the words “In no case may an arbitrator have any pecuniary interest in the dispute submitted to him”.

33. Section 77 of the said Code is replaced by the following section:

“77. Within ten days of receiving the notice provided for in section 75, the parties must consult together as to the choice of an arbitrator; if they agree, the Minister shall appoint to such office the person they have chosen. Failing agreement, the Minister shall appoint him *ex officio*.

Every arbitrator appointed *ex officio* shall be selected from a list drawn up annually by the Minister after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

The Minister shall also appoint a clerk.”

34. Section 78 of the said Code is replaced by the following section:

“78. The arbitrator shall proceed to the arbitration with assessors if, within fifteen days of his appointment, there is agreement to that effect between the parties.

Where there is agreement, each party shall designate, within the time prescribed in the first paragraph, an assessor to assist the arbitrator and represent it during the hearing of the dispute and the deliberation. If a party refuses to give effect to the agreement within the prescribed time, the arbitrator may proceed in the absence of that party’s assessor.

He may proceed in the absence of an assessor who does not attend after having been duly convened.”

35. Section 79 of the said Code is replaced by the following section:

“79. Every arbitrator must, before acting, make oath to decide according to equity and good conscience.

In rendering his award, the arbitrator may take into account, in particular, the conditions of employment that prevail in similar undertakings or similar circumstances and the conditions of employment that are applicable to the other employees of the undertaking.”

36. Section 80 of the said Code is replaced by the following section:

“80. An arbitrator who resigns, refuses to act or is otherwise unable to act is replaced according to the procedure prescribed for the original appointment.

If an assessor resigns, refuses to act or is otherwise unable to act, the party which appointed him shall appoint a person to replace him. The arbitrator may continue the arbitration if the party fails to appoint a person to replace the assessor within the time he indicates.”

37. Section 81 of the said Code is amended by replacing the words “The council” by the words “The arbitrator”.

38. Section 82 of the said Code is replaced by the following section:

“**82.** Arbitration sittings shall be public, but the arbitrator of his own motion or upon application of either party may order private sittings.

The arbitrator and the assessors are bound to keep the deliberations secret until the date of the award.”

39. Section 83 of the said Code is amended by replacing the words “The president shall have all the powers of a judge of the Superior Court over sittings of the council” by the words “The arbitrator has all the powers of a judge of the Superior Court for the conduct of arbitration sittings”.

40. Section 84 of the said Code is amended by replacing the words “the council” by the words “the arbitrator”.

41. Section 85 of the said Code is amended by replacing the words “council of arbitration” by the word “arbitrator”.

42. Section 87 of the said Code is amended by replacing the words “the council” by the words “the arbitrator”.

43. Section 88 of the said Code is replaced by the following section:

“**88.** The arbitration award must give reasons for the decision and be in writing. It must be signed by the arbitrator.”

44. Section 89 of the said Code is amended by replacing the words “The president” by the words “The arbitrator”.

45. Section 90 of the said Code is amended by replacing the words “The award of the council shall be rendered within sixty days after the president has been appointed unless, at the president’s request” by the words “The award of the arbitrator must be rendered within sixty days of his appointment unless, at his request,”.

46. Section 91 of the said Code is amended by replacing the words “a council of arbitration may render any temporary award that it” by the words “an arbitrator may render any temporary award that he”.

47. Section 92 of the said Code is replaced by the following section:

“**92.** The award of the arbitrator shall bind the parties for a period of not less than one year nor more than two years.”

48. Sections 93.1 and 93.3 of the said Code are amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

49. Section 93.4 of the said Code is replaced by the following section:

“93.4 The arbitrator must decide to determine the content of the first collective agreement where he is of opinion that it is unlikely that the parties will be able to reach a collective agreement within a reasonable time. He shall then inform the parties and the Minister of his decision.”

50. Section 93.5 of the said Code is amended by replacing the words “the council of arbitration informs the parties that it” by the words “the arbitrator informs the parties that he”.

51. Section 93.6 of the said Code is repealed.

52. Section 93.8 of the said Code is replaced by the following section:

“93.8 Notwithstanding section 92, the parties may agree to amend all or part of the content of an arbitration award.”

53. Section 93.9 of the said Code is replaced by the following section:

“93.9 Sections 75 to 93 apply to the arbitration provided for in this division.”

54. Section 94 of the said Code is amended

(1) by inserting, after the word “corporation” in the first line, the words “or an intermunicipal management board”;

(2) by replacing the words “a council of arbitration” in the third and fifth lines by the words “an arbitrator”.

55. Section 95 of the said Code is repealed.

56. Section 96 of the said Code is amended by replacing the words “councils of arbitration constituted” by the words “the arbitration provided for”.

57. Section 97 of the said Code is amended by inserting, after the word “corporation” in the second line, the words “or an intermunicipal management board”.

58. Section 98 of the said Code is amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

59. Section 99 of the said Code is repealed.

60. The said Code is amended by replacing the heading of Division III of Chapter IV by the following heading:

“GRIEVANCES ARBITRATOR”.

61. Section 100 of the said Code is amended

(1) by replacing the figure “78” in the second paragraph by the figure “77”;

(2) by striking out the third paragraph.

62. The said Code is amended by inserting, after section 100, the following sections:

“**100.0.1** Notwithstanding any provision of a collective agreement providing for a shorter period, a grievance may be submitted to arbitration within thirty days of the date that the cause of action arose.

“**100.0.2** Where the parties have settled a grievance before it has been referred to arbitration and one of the parties refuses to give effect to the settlement reached, the other party may refer the grievance to arbitration notwithstanding any agreement to the contrary and notwithstanding the expiry of the periods provided for in sections 71 and 100.0.1 or in the collective agreement.”

63. Section 100.1 of the said Code is amended by replacing the words “No member of the court of arbitration may” by the words “No arbitrator may”.

64. The said Code is amended by inserting, after section 100.1, the following sections:

“**100.1.1** The arbitrator shall proceed with the arbitration with assessors if, within fifteen days of his appointment, there is agreement to that effect between the parties.

Where there is agreement, each party shall designate, within the time prescribed in the first paragraph, an assessor to assist the arbitrator and represent it during the hearing of the dispute and the deliberation. If a party refuses to give effect to the agreement within the prescribed time, the arbitrator may proceed in the absence of that party’s assessor.

He may proceed in the absence of an assessor who does not attend, after having been duly convened.

“100.1.2 An arbitrator who resigns, refuses to act or is otherwise unable to act is replaced according to the procedure prescribed for the original appointment.

An assessor who resigns, refuses to act or otherwise is unable to act is replaced by an appointment made by the party who designated him. The arbitrator may continue the arbitration if the party fails to appoint a person to replace the assessor within the time he indicates.”

65. Section 100.2 of the said Code is amended by replacing the words “The court of arbitration” in the first line of the first paragraph by the words “The arbitrator”, and the word “it” in the last line by the word “he”.

66. The said Code is amended by inserting, after section 100.2, the following section:

“100.2.1 No grievance may be considered as null or rejected because of a defect of form or irregularity in the procedure.”

67. Section 100.3 of the said Code is amended by replacing the words “the court of arbitration” by the words “the arbitrator”, and the word “it” by the word “he” wherever it refers to the arbitrator.

68. Section 100.4 of the said Code is amended by replacing the words “The sittings of the court of arbitration shall be public; however, the court may, of its” by the words “Arbitration sittings shall be public, but the arbitrator may, of his”.

69. Section 100.5 of the said Code is amended

(1) by replacing the words “The court of arbitration” in the first line of the first paragraph by the words “The arbitrator”;

(2) by replacing the words “the court of arbitration” in the third and fourth lines of the second paragraph by the words “the arbitrator”, and the word “it” in the fifth line by the word “he”.

70. Section 100.6 of the said Code is amended

(1) by replacing the words “, the chairman of the court of arbitration” in the first and second lines of the first paragraph by the words “or of his own initiative, the arbitrator”;

(2) by replacing the words “The court of arbitration” in the first line of the third paragraph by the words “The arbitrator”.

71. Section 100.7 of the said Code is replaced by the following section:

“**100.7** The arbitrator may ask a witness any question he deems useful.”

72. Section 100.9 of the said Code is amended

(1) by replacing the first two paragraphs by the following paragraph:

“**100.9** Upon application of one of the parties or of his own initiative, the arbitrator may visit the place relating to the grievance referred to him. He shall then invite the parties to accompany him.”;

(2) by replacing the words “the chairman of the court of arbitration” in the first and second lines of the third paragraph by the words “the arbitrator”.

73. Section 100.11 of the said Code is amended by replacing the words “The court of arbitration” by the words “The arbitrator”.

74. Section 100.12 of the said Code is replaced by the following section:

“**100.12** In the exercise of his duties the arbitrator may

(a) interpret and apply any Act or regulation to the extent necessary to settle a grievance;

(b) fix the terms and conditions of reimbursement of an overpayment by an employer to an employee;

(c) order the payment of interest at the legal rate, from the filing of the grievance, on any amount due under an award he has made.

There may be added to that amount an indemnity computed by applying to that amount, from the same date, a percentage equal to the amount by which the rate of interest fixed according to section 28 of the Act respecting the Ministère du Revenu exceeds the legal rate of interest;

(d) upon request of a party, fix the amount due under an award he has made;

(e) correct at any time a decision in which there is an error in writing or calculation or any other clerical error;

(f) in disciplinary matters, confirm, amend or set aside the decision of the employer and, if such is the case, substitute therefor the decision he deems fair and reasonable, taking into account the circumstances concerning the matter. However, where the collective agreement provides for a specific sanction for the fault alleged against the employee in the case submitted to arbitration, the arbitrator shall only

confirm or set aside the decision of the employer, or, if such is the case, amend it to bring it into conformity with the sanction provided for in the collective agreement;

(g) render any other decision intended to protect the rights of the parties.”

75. Sections 100.13 to 100.15 of the said Code are repealed.

76. Section 100.16 of the said Code is amended by replacing the words “The court may order, of its” by the words “The arbitrator may order, of his”.

77. Section 101 of the said Code is amended by replacing the words “and binds the parties” by the words “, binds the parties and, where such is the case, any employee concerned”.

78. Section 101.1 of the said Code is repealed.

79. Section 101.2 of the said Code is replaced by the following section:

“**101.2** The arbitration award must state the grounds on which it is based and be rendered in writing. It must be signed by the arbitrator.”

80. Section 101.3 of the said Code is amended by replacing the words “Every member of the court of arbitration must” by the words “The arbitrator and assessors must”.

81. Section 101.4 of the said Code is repealed.

82. Section 101.5 of the said Code is amended by replacing the words “the court of arbitration must render its award within 90 days of the appointment of the chairman of the court of arbitration” by the words “the arbitrator must render his award within ninety days of his appointment”.

83. Section 101.6 of the said Code is amended by replacing the words “The chairman of the court of arbitration” by the words “the arbitrator”.

84. Section 101.7 of the said Code is amended by replacing the words “the chairman of the court of arbitration” by the words “the arbitrator”.

85. Sections 101.8 and 101.9 of the said Code are amended by replacing the words “The chairman of the court of arbitration” by the words “The arbitrator”.

86. Section 103 of the said Code is amended by replacing the first paragraph by the following paragraph:

“103. The Government shall determine by regulation the remuneration of the arbitrators of disputes and grievances.”

87. Section 105 of the said Code is amended by adding, at the end, the words “or an intermunicipal management board.”

88. Section 109.1 of the said Code, amended by section 2 of chapter 37 of the statutes of 1982, is replaced by the following section:

“109.1 For the duration of a strike declared in accordance with this Code or a lock-out, every employer is prohibited from

(a) utilizing the services of a natural person to discharge the duties of an employee who is a member of the bargaining unit then on strike or locked out when such person was hired between the day the negotiation stage begins and the end of the strike or lock-out;

(b) utilizing, in the establishment where the strike or lock-out has been declared, the services of a legal person to discharge the duties of an employee who is a member of the bargaining unit on strike or locked out;

(c) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee who is a member of the bargaining unit then on strike or locked out unless

i. an agreement has been reached for that purpose between the parties, but only to the extent that the agreement so provides;

ii. a list has been submitted as stipulated in section 111.0.18 or 111.10 and to the extent that the list so provides; or

iii. an order is made by the Government pursuant to section 111.0.24 or 111.13;

(d) utilizing, in another of his establishments, the services of an employee who is a member of the bargaining unit then on strike or locked out;

(e) utilizing, in an establishment where a strike or lock-out has been declared, the services of a person he employs in another establishment;

(f) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee he employs in the establishment to discharge the duties of an employee who is a member of the bargaining unit on strike or locked out.”

89. Section 109.2 of the said Code, amended by section 3 of chapter 37 of the statutes of 1982, is again amended by replacing the words “paragraph *b*” by the words “paragraph *c*”.

90. Section 110.1 of the said Code is amended by replacing the words “to the court of arbitration” in the third and fourth lines of the second paragraph by the words “to the arbitrator”.

91. Section 129 of the said Code is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) in matters respecting refusal or granting of certification, an interested party contemplated in paragraph *b* of section 32.1;

“(b) in matters respecting the description of a bargaining unit or the inclusion or exclusion of persons contemplated by it, an interested party contemplated in paragraph *a* of section 32.1;”.

92. Section 130 of the said Code is amended by adding, at the end, the following paragraph:

“However, the order of reinstatement rendered under section 15 is executory notwithstanding the appeal.”

93. Section 138 of the said Code is amended by replacing the words “court of arbitration” in subparagraph *e* of the first paragraph by the words “grievances arbitrator”.

94. Section 139 of the said Code is amended by replacing the words “council of arbitration, court of arbitration” by the word “arbitrator”.

95. Amendments made under this Act to section 20 of the said Code apply to every order made from 1 September 1983.

96. Amendments made under this Act to sections 28, 32 and 129 of the said Code, and sections 27.1 and 32.1 of the said Code enacted by this Act apply only to petitions filed from 1 September 1983.

97. Amendments made under this Act to section 21 of the said Code, and section 37.1 of the said Code enacted by this Act apply to a ballot held from 1 September 1983.

98. Section 99 of the said Code, as it read before being repealed by section 59 of this Act, continues to apply to a signed collective agreement or to an arbitration award settling a dispute, made within ninety days of 1 September 1983.

99. Sections 74 to 93.3 and 93.5 to 98 of the said Code, as they read before being amended by sections 30 to 48 and 50 to 58 of this

Act, continue to apply in the case of a dispute when the chairman of the council of arbitration is appointed within ninety days of 1 September 1983.

100. A court of arbitration established under the provisions of a collective agreement signed before 1 September 1983 or within the following ninety days is validly established for the purposes of the carrying out of Division III of Chapter IV of the said Code, and every reference to an arbitrator in the said division is a reference to the chairman of the court of arbitration, its members or the court of arbitration, as the case may be.

101. Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing subparagraph 1 of paragraph *a* of subsection 2 by the following subparagraph:

“(1) a conciliation officer or an arbitrator on disputes or grievances, within the meaning of the Labour Code;”.

102. Section 190 of the Education Act (R.S.Q., chapter I-14) is amended by replacing the words “council of arbitration”, in the second and third paragraphs, by the word “arbitrator”.

103. Section 208 of the said Act is amended by replacing the words “council of arbitration”, in the fifth paragraph, by the word “arbitrator”.

104. Section 74 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended

(1) by striking out the words “or on maternity leave” in the first two lines of the second paragraph;

(2) by adding, at the end, the following paragraph:

“The indemnity relating to the annual leave to which an employee is entitled during her maternity leave is determined by regulation of the Government.”

105. Section 126 of the said Act is amended by replacing the figure “78”, in the second paragraph, by the figure “77”.

106. Section 14 of the Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14) is amended by replacing the figure “78”, in the fifth line of the third paragraph, by the figure “77”.

107. Section 62 of the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20) is amended by replacing the figure “78” in the last line of the first paragraph by the figure “77”.

108. Section 105 of the said Act is amended by replacing the figure “78” in the last line of the second paragraph by the figure “77”.

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

110. This Act comes into force on 1 September 1983, except section 104, which will come into force on the date fixed by government proclamation.