

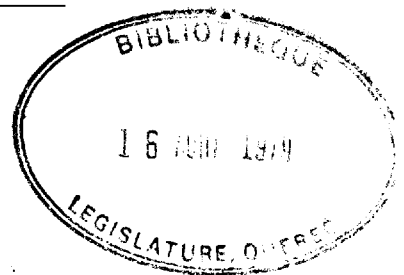
FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 17

An Act respecting occupational health and safety

First reading
Second reading
Third reading



M. PIERRE MAROIS
Ministre d'État au développement social

L'ÉDITEUR OFFICIEL DU QUÉBEC

EXPLANATORY NOTES

The intent of this bill is to provide mechanisms for the participation of workers and employers in the elimination of the causes of occupational accidents and occupational diseases.

To that end, the bill sets out the rights and obligations of the workers, employers, owners and suppliers who are subject to this legislation.

The bill recognizes the right every worker has to working conditions that respect his health, his safety and his physical well-being and, in particular, ensures his right to refuse to perform his work if he has reason to believe it would endanger his health, his safety or his physical well-being or would expose another person to similar risk, if that risk is not ordinarily and normally inherent in the functions assigned to that worker.

The bill ensures the pregnant worker the benefit of re-assignment where her working conditions involve physical danger for her unborn child, or for herself due to her pregnancy.

The bill creates a health and safety committee in certain categories of establishments, determines its composition and specifies the mode of appointment of its members, the nature of its powers and the number of meetings it must hold. It provides for the appointment of a safety representative from the workers who are members of the health and safety committee and determines his functions. It allows the creation of joint sector-based associations for the purpose of providing the workers and employers of each sector they represent with training, information and counselling services in matters of occupational health and safety.

The public health network will have the responsibility of organizing and dispensing health services at the workplace. The bill specifies the functions of the employer, of the safety and health committee, of the community health department of a hospital centre, of the Ministère des affaires sociales and of the

Commission de la santé et de la sécurité du travail in connection with the preparation and implementation of health programmes. It also determines the mode of appointment of the physician who is to be responsible for health services in an establishment.

This bill establishes a new agency, the Commission de la santé et de la sécurité du travail, which will replace the Commission des accidents du travail du Québec and will assume responsibility for implementing the occupational health and safety plan. The Commission is provided with an executive committee where workers and employers have an equal number of representatives and with the various regulatory powers required for the carrying out of its duties.

The bill provides for the appointment of inspectors charged with ensuring that the act is being complied with. The costs of inspections will be assumed by the Government.

Special provisions concerning the construction sector specify the obligations of employers in that sector, assign the duties of the safety representative to the job-site steward, provide for the setting-up of job-site committees, adapt the terms and conditions of exercise of the right of refusal to that sector and ensure a more intensive inspection of construction sites.

The bill guarantees to the worker the protection of the Labour Code if he is dismissed, demoted or subjected to a disciplinary measure for exercising his rights or functions under the bill.

In addition, this bill provides for penalties applicable in case of contravention and grants to the Labour Court the power to issue orders.

Finally, the bill provides for the transition from the existing legislation and states that the minister responsible for the application of the act will be designated by the Government.

Bill 17

An Act respecting occupational health and safety

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

CHAPTER I

DEFINITIONS

1. In this act and the regulations, unless otherwise indicated by the context,

(1) “certified association” means a certified association within the meaning of the Labour Code (Revised Statutes, 1964, chapter 141);

(2) “sector-based association” means a sector-based association established pursuant to section 73 or 74;

(3) “hospital centre” means a hospital centre within the meaning of the Act respecting health services and social services (1971, chapter 48);

(4) “construction site” means a place where construction work within the meaning of the Construction Industry Labour Relations Act (1968, chapter 45) is carried out, including any place where the work contemplated in paragraph 7 of section 2 of the said act is carried out, and the lodging, eating or recreational facilities put at the disposal of construction workers by the employer;

(5) “job-site committee” means a committee established pursuant to section 166;

(6) “health and safety committee” means a committee established pursuant to section 56 or 57;

(7) "labour commissioner" means a labour commissioner within the meaning of the Labour Code;

(8) "labour commissioner-general" means the labour commissioner-general within the meaning of the Labour Code;

(9) "Commission" means the Commission de la santé et de la sécurité du travail established pursuant to section 102;

(10) "Commission des affaires sociales" means the Commission des affaires sociales established under the Social Affairs Commission Act (1974, chapter 39);

(11) "contaminant" means a solid, liquid or gaseous matter, a microorganism, a sound, a vibration, rays, heat or any combination of these declared to be a contaminant by regulation;

(12) "community health department" means a community health department established in a hospital centre;

(13) "employer" means a person who, under a contract of lease of personal service or a contract of apprenticeship, even without remuneration, retains the services of a worker;

(14) "establishment" means all the installations and equipment materially grouped and organized under the authority of one person or of related persons in view of producing goods or services, except a construction site; this word includes, in particular, a school, a construction firm and the lodging, eating or recreational facilities put at the disposal of workers by the employer, excepting, however, private lodging facilities;

(15) "inspector" or "regional chief inspector" means a person appointed under section 134;

(16) "workplace" means any place in or at which a person is required to be present out of or in the course of work, including an establishment, a construction site and a means of transportation;

(17) "principal contractor" means the owner or any other person who, on a construction site, is responsible for the carrying out of all the work;

(18) "occupational disease" means an occupational disease within the meaning of the Workmen's Compensation Act (Revised Statutes, 1964, chapter 159);

(19) "dangerous substance" means any substance declared dangerous by regulation;

(20) "minister" means the minister designated by the Government pursuant to section 287;

(21) “ray” means any transmission of energy in the form of particles or electromagnetic waves with or without the production of ions when they pass through matter;

(22) “regulation” means a regulation made in conformity with this act;

(23) “safety representative” means a person appointed pursuant to section 67;

(24) “worker” means a person, including a student in the cases determined by regulation, who, under a contract of lease of personal service or a contract of apprenticeship, even without remuneration, carries out work for an employer, except

(a) a person employed as manager, superintendent, foreman or as representative of the employer in his relations with his workers;

(b) a director or officer of a corporation, except where a person acts as such in relation to his employer after being designated by the workers or by a certified association;

(25) “Court” means the Labour Court established pursuant to the Labour Code.

CHAPTER II

SCOPE

2. Every employer, principal contractor, supplier, owner and worker is bound to comply with this act and the regulations that are applicable to him.

3. This act is of public order.

Except to the extent that it contains provisions more advantageous for the health, safety and physical well-being of the worker, every agreement which derogates from this act is null *pleno jure*.

4. This act binds the Government, government departments and agencies that are mandataries of the Government.

5. Every self-employed natural person who, for another person, and without the assistance of workers, carries out work in an establishment or on a construction site where there are workers is subject to the obligations imposed on a worker pursuant to this act and the regulations.

Moreover, that person must then comply with the obligations imposed on an employer in respect of products, processes, equipment, materials, contaminants or dangerous substances.

6. Section 5 also applies to the employer who carries out work in person in an establishment or on a construction site where there are workers.

7. Nothing in this act or in the regulations must be construed as a limitation of the rights of a worker under a collective agreement, an act, a regulation, a decree, an order in council or an order in force.

CHAPTER III

RIGHTS AND OBLIGATIONS

DIVISION I

THE WORKER

§ 1.—*General rights*

8. Every worker has a right to working conditions which have proper regard for his health, safety and physical well-being.

9. Every worker has, in particular, a right

(1) to be informed of the hazards related to his work and to his work environment and to receive appropriate instruction, training and supervision;

(2) to benefit, in accordance with this act and the regulations, with the preventive and curative health services relating to the risks to which he may be exposed;

(3) to participate, in accordance with this act and the regulations, in devising and implementing norms, regulations, research programmes, prevention programmes and preventive measures.

10. Every manager, superintendent, foreman or other person representing an employer in his relations with workers has the rights granted to workers under section 9.

§ 2.—*Right of refusal*

11. A worker has a right to refuse to perform any work if he has reasonable grounds to believe that the performance of

that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger.

12. The exercise of the right contemplated in section 11 is possible only if the performance of the work entails a risk that is not normally and usually inherent in the functions exercised.

13. Where a worker refuses to perform any work, he must immediately inform his supervisor, his employer or an agent of his employer; if none of these persons is present at the workplace, the worker must take reasonable steps to ensure that one of them is informed as soon as possible.

14. On being informed, the supervisor or, as the case may be, the employer or his agent shall convoke the safety representative to examine the matter as soon as possible or, if he is not available, or if there is no safety representative, a representative of the certified association or, if there is no such representative or if none is available, any other worker designated by the worker who refuses to perform his work.

15. The employer must allow the safety representative or, as the case may be, the representative of the certified association or the worker designated pursuant to section 14, to participate, without loss of pay, in the examination of the matter.

16. In the cases where a health and safety committee exists, if, after investigation of the matter the worker still refuses to perform his work despite the corrective measures that may have been taken, the worker, the employer or his representative may require the intervention of the committee to reexamine the matter.

17. The committee shall immediately commission two of its members, one representing the employer and the other representing the workers; the latter may be the safety representative.

18. If the two members agree, they may, on such conditions as they may determine,

(1) recommend to the worker that he resume his work; or

(2) recommend to the worker that he maintain his refusal to perform the work.

19. If, contrary to the recommendation of the two members of the committee, the worker still refuses to perform the work, or, if in the opinion of the two members of the committee, the

refusal to work is based on grounds that are acceptable in the particular case of that worker but do not justify another worker's refusing to perform the work, the employer may, notwithstanding section 26, have the work performed by another worker.

20. The worker, the employer or his representative may require the intervention of an inspector

(1) in the case where there is no health and safety committee in the establishment, if the worker, after the matter has been examined, maintains his refusal to perform his work despite the corrective measures which may have been taken; or

(2) in cases where there is a committee,

(a) if it is impossible to require it to re-examine the matter in accordance with section 16 or if the two members of the committee are not present sixty minutes after the request was made;

(b) if the two members commissioned by the committee do not agree; or

(c) if, whatever the recommendation of the committee, the worker still maintains his refusal to work.

21. The inspector shall determine immediately whether or not a danger exists that would justify the worker's refusal to work. He may require that corrective measures be taken.

If, in the opinion of the inspector, the refusal to work is based on grounds that are acceptable in the particular case of that worker but do not justify another worker's refusing to perform the work, the employer may, notwithstanding section 26, have the work performed by another worker.

22. The decision of the inspector is executory notwithstanding any application for a review or for a revocation.

23. Every worker or employer directly affected by a decision of the inspector may within five days apply to the chief regional inspector to review or revoke the decision. The application is made in writing.

The application may also be made by the certified association which represents the worker.

The period mentioned in the first paragraph runs only during the days on which the worker who exercised his right to refuse to work would normally have worked.

If no application is made within the prescribed period, the decision of the inspector is final.

24. The Commission may, in accordance with section 148, review any decision rendered under this chapter by an inspector, a chief regional inspector or by the Commission itself.

25. A final decision applies as long as the circumstances remain unchanged.

26. For as long as a worker exercises his right to refuse to work and until an executory decision is rendered by the inspector, the employer shall not, subject to section 19 and the second paragraph of section 21, have the work performed by another employer or by a person who ordinarily works outside the establishment, and the worker shall not incur any decrease of wages or be deprived of any of the benefits related to his employment.

27. An employer may require a worker who has exercised his right to refuse to work to remain at the workplace and assign him temporarily to other duties that he is capable of performing.

28. In cases where the exercise of the right to refuse to work prevents at least two other workers from working, the inspector must be present on the premises not later than six hours after his intervention was required.

If the inspector is not present within that time, the employer may have the work performed by another worker who agrees to do the work after being informed that the right to refuse to work has been exercised.

29. Where several workers refuse to perform any work by reason of the same danger, their cases are examined jointly and may be the subject of recommendations, authorizations or decisions concerning them jointly.

30. Where the exercise of the right to refuse to work results in depriving of work other workers in the undertaking, the employer is required to remunerate such other workers at their usual wage rate for the duration of the work stoppage; the employer may, however, assign such workers to other duties that they are capable of performing or require that they remain available at the workplace during the whole period thus remunerated.

31. The employer shall not, until a final decision is rendered, dismiss or transfer a worker or impose a disciplinary measure on him by reason of his refusal to perform work.

Notwithstanding any other period specified in a collective agreement, the employer may, within ten days of a final decision, according to the circumstances, dismiss or transfer a worker or

impose a disciplinary measure on him if the refusal was exercised in bad faith.

§ 3.—*Re-assignment of the pregnant worker*

32. A pregnant worker employed in an establishment who furnishes to the employer a medical certificate attesting that her working conditions may be physically dangerous to her unborn child, or to herself by reason of her pregnancy, may request to be assigned to other duties involving no such danger until she is entitled to a maternity leave pursuant to the Act respecting labour standards (1979, chapter *insert here the chapter number of Bill 126*).

The employer must take reasonable measures to comply with the request.

33. If the assignment requested is not made immediately, the pregnant worker may cease to work until the assignment is made or until the date on which she is entitled to a maternity leave.

The pregnant worker is then entitled, until that date, to the indemnity provided for by section 39 of the Workmen's Compensation Act.

34. The Commission shall deal with that application as it deals with the case of a worker who is the victim of an accident that occurred out of or in the course of work.

35. On receiving the application, the Commission may make temporary payments if it is of opinion that it will probably grant the indemnity.

If the Commission comes to the conclusion that the application must not be granted, the amounts paid as temporary payments shall not be recoverable.

36. The funds required for payment of that indemnity are taken by the Commission out of the special fund established under subsection 2 of section 93 of the said Workmen's Compensation Act.

37. The worker who exercises the rights conferred on her under sections 32 and 33 retains all the rights and privileges attached to her regular employment before her assignment to other duties.

§ 4.—*Obligations*

38. The worker must

- (1) familiarize himself with the prevention programme applicable to him;
- (2) take the necessary measures to ensure his health, safety and physical well-being;
- (3) see to it that he does not endanger the health, safety or physical well-being of other persons at or near his workplace;
- (4) undergo the medical examinations required for the application of this act and the regulations;
- (5) participate in the identification and elimination of all risks of work accidents or occupational diseases at his workplace;
- (6) cooperate with the health and safety committee and, where such is the case, with the job site committee and with any person charged with the application of this act and the regulations.

DIVISION II

THE EMPLOYER

§ 1.—*General rights*

39. Every employer has, in accordance with this act, a right

- (1) to training, information and counselling services in matters of occupational health and safety;
- (2) to take part in the preparation of the standards and regulations;
- (3) to take part in the determination of priorities in research programmes;
- (4) to be informed of the obligations imposed on him under this act and the regulations.

§ 2.—*General obligations*

40. An employer must take the necessary measures to protect the health and ensure the safety and physical well-being of a worker. He must, in particular,

- (1) see to it that the establishments under this authority are so equipped and laid out as to ensure the protection of the worker;

(2) require the pre-employment medical check-up and the periodical examinations that are prescribed by regulation;

(3) supervise the maintenance of the workplace, provide sanitary installations, drinking water, adequate lighting, ventilation and heating and see to it that meals are eaten in clean quarters at the workplace;

(4) provide safe tools, instal them as prescribed by the supplier and ensure that they are maintained in good condition;

(5) ensure that the work organization and the methods and techniques used to carry out the work do not adversely affect the safety or health of the worker;

(6) use methods and techniques intended for the identification, control and elimination of all risks which could adversely affect the safety or health of the worker;

(7) give the worker adequate information as to the risks connected with his work and, if necessary, provide him with the appropriate training, assistance or supervision to ensure that he possesses the skill and knowledge required to safely perform the work assigned to him;

(8) transmit to the worker and, as the case may be, to the health and safety committee, to the certified association and to the Commission, the list of the contaminants and dangerous substances used in the undertaking;

(9) designate the members of his personnel who are to be charged with health and safety matters and post their names in a conspicuous place easily accessible to the worker;

(10) post or put at the disposal of the workers, in a conspicuous place easily accessible to the worker, the information furnished by the Commission or by the community health department;

(11) take the fire prevention measures prescribed by regulation;

(12) provide the worker with all the individual protective health and safety devices or equipment selected by the health and safety committee in accordance with paragraph 1 of section 63 or, as the case may be, the individual or common protective devices or equipment determined by regulation, and require that the worker use these devices and equipment while engaged in his work;

(13) ensure that a worker utilizes equipment, a contaminant or a dangerous substance only in conformity with the regulations or, if its use is not governed by regulation, ensure that such

utilization does not adversely affect the health or safety of any person in the workplace;

(14) cooperate with the health and safety committee and with any person responsible for the application of this act and the regulations and provide them with all necessary information;

(15) put at the disposal of the health and safety committee the equipment, premises and clerical personnel necessary for the carrying out of its functions.

41. The employer shall, in accordance with the regulations, keep and maintain a register of the characteristics of the work performed by each worker in his employ.

42. The employer shall not have any work performed

(1) by a worker who has not reached the age determined by regulation to perform such work;

(2) beyond the daily or weekly maximum number of hours fixed by regulation.

43. In the cases determined by regulation, no employer nor owner may undertake the construction of an establishment or alter its installations or equipment unless he has previously transmitted to the Commission the plans and specifications of an architect or engineer attesting to their conformity with the regulations, in accordance with the terms and conditions and within the time prescribed by regulation.

44. When an employer takes possession of an establishment, he must send to the Commission a notice of opening of an establishment within the time and in accordance with the terms and conditions provided by regulation. When he closes an establishment he must, in the same manner, transmit a closing notice.

45. Where one building is used by several employers, the owner must see to it that the necessary measures to protect the health and to ensure the safety of workers are taken in those parts of the building that are not under the authority of an employer.

46. In any establishment or construction site considered remote, within the meaning of the regulations, the employer must maintain the living conditions determined by regulation.

§ 3.—*Prevention programme*

47. The employer must see to it that a prevention programme for each establishment under his authority is implemented, taking into account the responsibilities of the health and safety committee, if any.

48. The object of a prevention programme is to eliminate the source of risks to the health, safety and physical well-being of workers.

Such a programme, taking into account the health programme contemplated in section 93, and in addition to any component prescribed by regulation, must contain, in particular,

(1) the identification of individual protective devices and equipment which, while in compliance with the regulations, are best adapted to meet the needs of the workers of the establishment;

(2) training and information programmes for workers in matters of health and safety;

(3) programmes for the adaptation of the establishment to the standards prescribed by the regulations respecting the layout of workplaces, the work organization, the equipment, tools, contaminants, dangerous substances and the processes in use;

(4) measures of supervision and preventive maintenance;

(5) the specific standards of health and safety for the establishment;

(6) the terms and conditions of implementation of any other rule relating to health and safety in the establishment, which must include, as a minimum, the contents of the regulations applicable to the establishment.

The components contemplated in subparagraphs 1 and 2 of the second paragraph are determined by the health and safety committee, if any, in accordance with paragraphs 1 and 2 of section 63.

49. A copy of the prevention programme and of each updating of it must be sent to the Commission in accordance with the terms and conditions and within the time prescribed by regulation.

The Commission may order the contents of a programme changed or the submission of a new programme to it within such time as it may determine.

A copy is also transmitted to the sector-based association, if any.

50. The employer shall inform the worker, the health and safety committee, the certified association and the safety representative of the contents of the prevention programme and shall post it in a conspicuous place easily accessible to the worker.

§ 4.—*Accidents*

51. Where an accident that occurred at a workplace has caused a serious injury or a death, the employer must, within the 24 hours following the accident, notify the chief regional inspector of it in the form and with the information prescribed by regulation. Copy of the notice must, in such a case, be sent to the health and safety committee and to the certified association.

No person may, unless authorized by the inspector, displace any thing whatever at the scene of an accident unless necessary in order to

- (1) come to the aid of a person;
- (2) prevent another accident or injuries;
- (3) prevent major material or economic damage or loss.

DIVISION III

THE SUPPLIER

52. No person may manufacture, supply, sell, distribute, instal or utilize any product, process, equipment, tool, contaminant or dangerous substance unless it is safe and in conformity with the standards prescribed by regulation.

53. Except for research purposes, no person may manufacture, supply, sell, distribute, instal or utilize any product, process, equipment, tool, contaminant or dangerous substance not previously manufactured, supplied or utilized in Québec unless prior notice of it has been given to an inspector in accordance with the regulations.

54. The inspector may obtain an expert opinion on any process, equipment, tool, product, contaminant or dangerous substance in order to determine the risks to the health and safety of the worker utilizing it. The cost of that expert opinion may be claimed from one or more manufacturers, suppliers or users, and they must pay that cost.

55. A supplier must see to it that any dangerous substance supplied by him is labelled in accordance with the regulations; if there is no regulation, the label must indicate at least the compo-

sition of the dangerous substance, the risks attached to its utilization and the measures to be taken in case of emergency. There is no obligation to reveal manufacturing secrets.

CHAPTER IV

HEALTH AND SAFETY COMMITTEES

56. A health and safety committee may be established in any establishment employing more than ten workers and belonging to a class identified for that purpose by regulation.

57. A health and safety committee is established upon a written notice sent to the employer by a certified association or, if there is no certified association, by at least ten per cent of the workers or, in the case of an establishment employing fewer than forty workers, by at least four of these, or upon such a notice sent by the employer to a certified association or, if there is no certified association, to the workers as a whole.

The Commission, where it considers it expedient, may require the establishment of a health and safety committee, regardless of the number of workers in the establishment.

58. The number of members of a committee, and the terms and conditions of designation of the workers' representatives where there is no certified association or where the workers are not all represented by the same certified association, are determined by regulation, taking into account the class to which the establishment belongs.

Where there is a certified association, it shall appoint at least one-half of the members to the committee. The other members are appointed by the employer.

59. The workers' representatives as a whole and the employer's representatives as a whole are entitled to only one vote, respectively, on the committee.

60. The physician in charge of health services in the establishment may participate, without the right to vote, in the meetings of the committee.

61. The health and safety committee shall meet at least once every three months, subject to the regulations.

The meetings are held during regular working hours, unless the committee decides otherwise.

If the committee fails to establish its own rules of operation, it must apply those established by regulation.

62. The workers' representatives shall participate, without loss of pay, in the meetings and the work of the committee.

63. The functions of the health and safety committee are

(1) to select the individual protective devices and equipment which, while complying with the regulations, are best adapted to the needs of the workers of the establishment;

(2) to establish, within the prevention programme, training and information programmes in matters of health and safety;

(3) to make recommendations to the employer regarding the content of the prevention programme in respect of the establishment's programmes of adaptation to the standards prescribed by regulation in respect of the planning of workplaces, work organization, equipment, tools, contaminants, dangerous substances and use processes;

(4) to cooperate with the employer in preparing the other components of the prevention programme and to see to their implementation;

(5) in accordance with section 88, to choose the physician in charge of health services and to cooperate with that physician in preparing the terms and conditions of application of the health programme in the establishment;

(6) to intervene, in accordance with section 17, in the cases where a worker exercises the right of refusal;

(7) to make recommendations to the employer respecting the specific measures of preventive supervision and maintenance and the specific health and safety standards for the establishment;

(8) to receive a copy of notices of accidents and to inquire into events that have caused or may cause a work accident or an occupational disease and to submit the appropriate recommendations to the employer or the Commission;

(9) to receive complaints from the workers and the employer relating to occupational health and safety, and to examine, preserve and answer these complaints;

(10) to receive and study the reports of inspections made in the establishment;

(11) to receive and study the statistical data produced by the physician in charge, the community health department and the Commission;

(12) to keep registers of work accidents, occupational diseases and events which may cause them;

(13) to send to the Commission the information required by it and an annual report of activities, in accordance with the regulations.

64. If the committee fails to reach an agreement on decisions it must make in accordance with paragraph 1 and 2 of section 63, the workers' representatives shall present their recommendations in writing to the employers' representatives, who must reply in writing.

If the dispute continues, it may be submitted by any of the parties to the Commission, whose decision is executory.

65. The employer must post up the names of the members of the health and safety committee in a conspicuous place in the establishment, easily accessible to the worker.

66. The employer shall not dismiss or transfer a worker or impose a disciplinary measure on him by reason of that worker's performing his functions on a health and safety committee.

CHAPTER V

SAFETY REPRESENTATIVE

67. Where a health and safety committee exists in an establishment, the workers shall choose one or more persons from among their representatives on the committee for the office of safety representative.

The workers shall designate the safety representative in the manner they designate their representatives to the health and safety committee.

68. The Commission shall designate those establishments employing ten workers or fewer in which the certified association or, if there is no certified association, the workers may appoint a safety representative.

69. The functions of the safety representative are

(1) to inspect workplaces to ensure that the regulations and the prevention programme are being complied with;

(2) to take cognizance of the events that have caused a serious or fatal accident;

(3) to identify situations that may be a source of danger for the workers;

(4) to make such recommendations to the health and safety committee as he deems appropriate;

(5) to assist workers in the exercise of their rights under this act and the regulations;

(6) to accompany the inspector on visits of inspection.

70. The safety representative may, without loss of pay, take such time from his work as is necessary to participate in training programmes of such content and duration as are approved by the Commission.

Registration, travel and accommodation expenses are borne by the Commission, in accordance with its policies in force.

71. The health and safety committee, taking into account the regulations, shall determine how much time the safety representative may devote to the exercise of his functions. If the committee fails to reach an agreement, the representative must devote the minimum time fixed by regulation to his functions.

72. The employer must cooperate with the safety representative, provide him with the instruments and apparatus he may reasonably need and allow him to perform his functions under this act and the regulations without loss of pay. He shall not dismiss or transfer the safety representative or impose a disciplinary measure on him by reason of his performing his functions.

CHAPTER VI

SECTOR-BASED ASSOCIATIONS

73. One or several employers' associations and one or several union associations belonging to the same sector of activity may make an agreement establishing a joint sector-based association on occupational health and safety.

The sector-based association is administered by a board of directors composed, in equal numbers, of representatives of the employers' associations and of representatives of the union associations.

The agreement must contain all the components prescribed by regulation, particularly a procedure for the solution of disagreements. The agreement comes into force on the approval of the Commission.

74. The representative associations within the meaning of the Construction Industry Labour Relations Act and the Association des entrepreneurs en construction du Québec shall enter into an agreement establishing the joint sector-based construction association.

Failing such an agreement, the Commission shall determine the composition of the joint sector-based construction association.

75. The Commission shall grant to a sector-based association an annual subsidy, in accordance with the conditions and criteria determined by regulation.

The Commission may at any time require the necessary information from a sector-based association on the use made of the amounts granted.

Furthermore, the Commission shall furnish technical assistance, on such conditions and in such manner as it may determine.

76. The object of a sector-based association is to provide training, information, research and counselling services to the employers and workers in the sector of activities which it represents.

It may, in particular,

(1) assist in the formation and operation of health and safety committees and job-site committees;

(2) prepare standard training and information programmes to be used by health and safety committees and job-site committees;

(3) make recommendations relating to occupational health and safety standards and regulations;

(4) cooperate with the Commission and community health departments in the preparation of records or studies on the health of workers and on the risks to which they are exposed;

(5) prepare specific prevention guides for the activities of establishments;

(6) give its opinion on the qualifications required of inspectors;

(7) adopt by-laws for its internal management;

(8) acquire or lease moveable or immoveable property and the necessary equipment;

(9) make arrangements with private or public bodies for the use or exchange of premises, equipment or services;

(10) from among the members of its board of directors or by calling upon other qualified persons, form such committees as it considers necessary for the attainment of its objects and the conduct of its affairs, and define their functions;

(11) hire the required administrative and skilled personnel;

(12) perform or do whatever else may be necessary for the attainment of its objects.

77. A sector-based association shall, each year, prepare a detailed report of its activities and send it to the Commission.

78. A sector-based association has no right of intervention or consultation at the level of labour relations.

It has no power to levy assessments.

CHAPTER VII

UNION ASSOCIATIONS AND EMPLOYERS' ASSOCIATIONS

79. The Commission may grant a subsidy to a union association or to an employers' association each year, for the training and information of its members in the fields of occupational health and safety.

80. The Commission may, in addition, grant a subsidy to a union association or to an employers' association to allow it to participate effectively in the establishment and operation of a sector-based association or in the work of the Commission.

The Commission may at any time require information from an association on the use made of the amounts granted.

CHAPTER VIII

OCCUPATIONAL HEALTH SERVICES

DIVISION I

GENERAL PROGRAMMES AND STANDARD CONTRACTS

81. The Commission shall prepare and draw up

(1) general occupational health programmes applicable in such territories or to such establishments or classes of establishments as it determines;

(2) a standard contract indicating the minimum content of contracts to be entered into between the Commission and hospital centres in which a community health department is set up, for the purposes of the implementation of a general programme.

A draft general programme or a draft standard contract must be submitted to the Ministre des affaires sociales.

82. A general programme or a standard contract comes into force upon its approval by the Government.

83. The Commission shall enter, with every hospital centre in which a community health department is set up, into a contract under the terms of which the hospital centre undertakes to provide the services necessary for the implementation of the general occupational health programme in the territory delimited in the contract or to the establishments identified in the contract.

The contract must comply with the standard contract.

84. Each year the Commission shall establish a budget for health services. It shall assign a portion of that budget to each of the hospital centres where a community health department is set up, in accordance with the contract entered into with that hospital centre.

Out of the portion of the budget assigned to it, the hospital centre shall remunerate the professional, technical and clerical staff, except physicians, that provides occupational health services or collaborates in the implementation of occupational health programmes.

Furthermore, the hospital centre shall defray, out of these funds, the costs connected with examinations and analyses and the provision of premises and equipment.

85. The physician in charge of health services in an establishment, chosen in accordance with section 88, and the other physicians who provide services therein within the scope of programmes contemplated in this chapter, shall be remunerated by the Régie de l'assurance-maladie du Québec, by way of salary or of fees, according to the agreements entered into under section 15 of the Health Insurance Act (1970, chapter 37).

DIVISION II

IN THE ESTABLISHMENTS

86. Health services for workers in an establishment shall be provided in a hospital centre, a local community service centre

within the meaning of the Act respecting health services and social services, or the establishment itself, under the authority of a physician in charge.

The head of a community health department may, however, allow the services to be provided in a private consulting office if the other premises are not available.

87. No physician may be placed in charge of health services in an establishment unless his qualifications in occupational medicine have been recognized by the hospital centre whose community health department provides these services. In addition, he must have entered with that hospital centre into a contract of service the content of which complies with the regulations.

88. The physician in charge shall be chosen by the health and safety committee. If there is no agreement between the employer's representatives and the workers' representatives on the committee, the physician in charge shall be designated by the Commission after consultation with the head of the community health department.

If there is no committee, the head of the community health department shall designate the physician in charge.

89. The appointment of a physician in charge by a committee is valid for four years. An appointment made by the Commission or the head of a community health department is valid for two years.

90. In an establishment, the professional and technical staff collaborating in the implementation of the health programme, and the other physicians, are under the authority of the physician in charge.

91. The workers' representatives or the employer's representatives on the health and safety committee, the committee itself, or, if there is no committee, the certified association, or the employer, or, if there is no certified association, a worker or the employer may apply to the Commission des affaires sociales to dismiss a physician in charge of health services from his duties in an establishment.

Similarly, a physician whose application has not been accepted by a hospital centre in accordance with section 87 may appeal from the decision before the Commission des affaires sociales.

92. The application and appeal contemplated in section 91 are made in accordance with the Social Affairs Commission Act.

In its examination, the Commission des affaires sociales shall take into account, as the case may be, the qualifications of the physician, his scientific competence, his behaviour, his compliance with the regulations and, more particularly, his relevant experience in the field of occupational medicine.

DIVISION III

OCCUPATIONAL HEALTH PROGRAMME

93. The physician in charge, in consultation with the employer and the health and safety committee, must prepare a specific health programme for the establishment and see to its implementation.

94. The health programme of an establishment must comply with the requirements of the general health programme and the contract entered into between the Commission and the hospital centre.

95. A copy of the health programme must be transmitted to the Commission and to the head of the community health department.

96. An employer shall not implement a health programme in addition to that provided by this act unless he has previously obtained the consent of the workers' representatives on the health and safety committee.

Any additional health programme shall be at the expense of the employer.

DIVISION IV

ROLE OF THE PHYSICIAN IN CHARGE

97. The physician in charge of health services in an establishment, in cooperation with the head of the community health department, must assess the professional, technical and financial resources required to implement the specific health programme of the establishment.

98. While respecting the confidential nature of medical records and industrial processes, the physician must notify the Commission, the employer, the workers, the certified association, the health and safety committee and the head of the community health department of any deficiency in the health, safety or

sanitation conditions that is likely to require a preventive measure. He must send a report of his activities to them on request.

99. The physician is entrusted with the custody and confidentiality of the medical record of a worker in accordance with the procedure in force at the community health department; he must, on request, communicate that medical record to the worker or, with the latter's written authorization, to any person designated by the worker.

The second paragraph of section 7 of the Act respecting health services and social services applies to the record contemplated in this section.

DIVISION V

HEAD OF THE COMMUNITY HEALTH DEPARTMENT

100. The head of a community health department is responsible for the implementation of the general health programmes for the territory and the establishments contemplated in the contract entered into between the hospital centre and the Commission; he must, in particular,

(1) see to the application of the specific health programmes, in cooperation with the physicians in charge;

(2) cooperate with the committee on the examination of qualifications of the council of physicians and dentists and with the board of directors of the hospital centre, for the study of applications of physicians wishing to work in the field of occupational medicine, in accordance with this act, the regulations and the Act respecting health services and social services;

(3) provide the professional and technical personnel required for the setting up and carrying out of specific health programmes, taking account of the available resources;

(4) coordinate the resources of the territory to provide the analyses and expert opinions necessary for the carrying out of the health programmes;

(5) collate the results of the detection examinations effected;

(6) ensure the keeping of a worker's medical record for a period of not less than twenty years after the end of the employment of the worker or forty years after the beginning of his employment, whichever is longer;

(7) carry out epidemiological studies;

(8) assess particular health programmes and make the appropriate recommendations to the Commission, to the physicians in charge and to the health and safety committees concerned;

(9) transmit to the Commission the statistical data on the state of health of the workers and any information the Commission may require in accordance with this act and the regulations;

(10) visit the undertakings in the territory and take cognizance of all the information necessary for the performance of his duties.

101. The head of the community health department shall transmit to the Commission, employers, workers, certified associations and health and safety committees of the establishments in the territory, the statistical data on the state of health of the workers in that territory and the results of the activities at the level of health services.

CHAPTER IX

THE COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

DIVISION I

ESTABLISHMENT

102. A body is established under the name of "Commission de la santé et de la sécurité du travail".

103. The Commission is a corporation within the meaning of the Civil Code and has the general powers of such a corporation and the special powers conferred upon it by this act.

104. The Commission shall have its corporate seat at the place determined by the Government; a notice of the location or of any change of the corporate seat shall be published in the *Gazette officielle du Québec*.

The Commission may hold its sittings anywhere in Québec.

105. The Commission is composed of eleven members, including a chairman who, in addition, holds the office of director general.

106. The members of the Commission shall be appointed by the Government. Except the chairman, they shall be designated in the following manner:

(1) five members are chosen from the lists provided by the most representative union associations;

(2) five members are chosen from the lists provided by the most representative employers' associations.

107. In addition, the Government shall appoint four assistant directors general.

108. The chairman and the assistant directors general are appointed for not more than five years. The other members are appointed for two years. The terms of office are renewable.

However, two of the first members contemplated in paragraph 1 of section 106 are appointed for one year and three members for two years. Two of the first members contemplated in paragraph 2 of that section are appointed for one year and three members for two years.

109. The Ministre des affaires sociales shall appoint an observer to the Commission. That observer shall participate in all the meetings of the Commission, with no voting rights.

110. The chairman and assistant directors general must devote their time exclusively to the duties of their office.

111. Each member of the Commission remains in office, notwithstanding the expiry of his term, until he is replaced or reappointed.

112. Any vacancy occurring during the term of office of a member of the Commission shall be filled for the remainder of the term of that member.

113. The Government shall fix the salary and, where necessary, the additional salary, fees and allowances of each member and of the assistant directors general, and the indemnities to which they are entitled.

The salaries, fees, allowances, indemnities and other operating expenses of the Commission shall be charged to the Commission.

114. Six members including the chairman or, in the case provided for in section 118, an assistant director general constitute a quorum of the Commission.

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

115. The chairman and the assistant directors general shall not, under pain of forfeiture of office, have a direct or indirect interest in an undertaking putting their personal interest in conflict with that of the Commission.

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

The other members of the Commission must disclose their direct interest on any question putting their personal interest in conflict with that of the Commission.

116. A member must abstain from voting on the decisions of the Commission under which a contract or other advantage may be granted to himself or to an undertaking in which he is interested.

117. The director general of the Commission is responsible for the administration and direction of the Commission.

118. In the case where the chairman is temporarily absent or unable to act, one of the assistant directors general, designated by the internal management by-laws, shall replace him and exercise all his powers.

119. An executive committee shall be composed of

- (1) the chairman;
- (2) one person designated by the workers' representatives on the board of directors and chosen from among such representatives;
- (3) one person designated by the employers' representatives on the board of directors and chosen from among such representatives.

120. The secretary and the other officers of the Commission shall be appointed and remunerated in accordance with the Civil Service Act (1978, chapter 15).

121. The minutes of the sittings of the Commission and of the executive committee, approved by the Commission or by the committee and certified by the secretary or by the person designated for that purpose by the internal management by-laws, are authentic; the same rule applies to copies and documents emanating from the Commission or forming part of its records, when so certified.

Section 2 of the Photographic Proof of Documents Act (Revised Statutes, 1964, chapter 280) does not apply to the Commission.

122. A decision signed by all the members has the same value as if it had been taken at an ordinary sitting.

123. For the exercise of its powers, the Commission or a person designated by it may inquire into any matter within its jurisdiction. The Commission or the designated person is vested with the powers and immunity of commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11), except the power to impose imprisonment.

The person designated to make an inquiry shall not disclose the information obtained during that inquiry except in the performance of his duties or with the authorization of the Commission or of a tribunal.

124. Neither the Commission, its members, its assistant directors general nor its officers may be sued by reason of official acts done by them in good faith in the exercise of their functions.

125. The fiscal period of the Commission ends on 31 December each year.

126. Before 1 April each year, the Commission must make a report to the Minister of its activities for the previous fiscal period. That report must be accompanied with a financial report audited by a chartered accountant, including, in particular, the balance sheet and the statement of revenues and expenditures. That report shall contain all the information prescribed by the Minister.

The Minister must, without delay, table that report before the Assemblée nationale, if it is in session or, if it is not, within fifteen days after the opening of the next session or resumption.

127. The Commission must furnish to the Minister any information of a general or administrative nature he may require, except medical records.

128. The books and accounts of the Commission shall be audited by the Auditor General each year and also whenever ordered by the Government; the certificate of the Auditor General must accompany the annual report of the Commission.

DIVISION II

FUNCTIONS OF THE COMMISSION

129. In addition to the other functions assigned to it by this act, the regulations or any other act or regulation, the Commission shall carry out the following functions in particular:

(1) the collecting of information in the fields contemplated in this act and the regulations;

(2) the maintaining of an information and management system comprising statistical data in the fields contemplated in this act and the regulations;

(3) cooperation with bodies pursuing objects similar to its own outside Québec;

(4) the planning and conducting of information campaigns on the protection of the health, safety and physical well-being of workers, in cooperation with the *Ministre des affaires sociales* where appropriate;

(5) participating, in cooperation with the *Ministre de l'éducation* where appropriate, in the preparation and setting up of training methods and programmes for persons engaged in the prevention of work accidents and occupational diseases;

(6) the submitting of recommendations to the *Ministre de l'éducation* for the integration of training and information programmes on occupational health and safety into teaching programmes;

(7) the granting of technical assistance to health and safety committees and the granting of technical and financial assistance to joint sector-based associations;

(8) the preparing of a programme of adaptation to mechanisms by which employers and workers may participate in matters of occupational health and safety;

(9) the identifying of research priorities and needs in matters of occupational health and safety;

(10) the commissioning of studies and research on the prevention of work accidents and occupational diseases;

(11) the making of grants to agencies empowered by law to grant subsidies for research, on the conditions determined by regulation;

(12) the submitting of recommendations to the *Ministre des affaires sociales* in view of his coordinating the implementation of programmes to supervise the state of health of workers and his

seeing that the personnel employed is properly qualified and that the equipment and premises used for purposes of occupational health and safety are of the proper quality;

(13) the establishing of priorities in the matter of the health of workers;

(14) the analysing, where necessary, in cooperation with the *Ministre des affaires sociales*, of the data collected by the various bodies and persons working in the field of occupational health and safety, and the compiling of statistics therefrom;

(15) the assessing, in cooperation, where appropriate, with the *Ministre des affaires sociales*, of the effectiveness of prevention programmes.

130. The Commission shall not, except with the written approval of the *Ministre des affaires sociales*, grant a research contract in the field of occupational health to persons working in an establishment within the meaning of the Act respecting health services and social services.

131. The Commission may

(1) make with the Government, an agency or a person, an agreement on any matter within its jurisdiction, but if it comprises a delegation of powers, this delegation must be submitted to the approval of the Government and tabled before the *Assemblée nationale*;

(2) enter into agreements with another Canadian government, a foreign government or a department or agency of such a government, for the application of this act and the regulations, in accordance with the *Intergovernmental Affairs Department Act* (1974, chapter 15).

132. The Commission may delegate generally or specially to its assistant directors general or to such of its officers as it may designate, its powers to examine, hear and decide any matter or question declared to be within its jurisdiction by this act.

133. The Commission may require from any person the information necessary for the application of this act and the regulations.

It shall see to the confidentiality of information; only impersonal analyses of it may be disclosed.

CHAPTER X

INSPECTION

134. For the purposes of the application of this act and the regulations, inspectors and chief regional inspectors shall be appointed and remunerated pursuant to the Civil Service Act.

135. In the performance of his duties, an inspector may, at any time, enter any place where activities in the fields contemplated in this act and the regulations are carried on.

An inspector has access, at any time, to all books, registers and records of an employer, a principal contractor, a supplier or any other person carrying on an activity in any field contemplated in this act and the regulations. Every person who has the custody, possession or control of such books, registers or records shall communicate them to the inspector and facilitate his examination of them.

An inspector shall, however, exhibit a certificate attesting his office.

136. In addition to the general powers assigned to him, the inspector may

- (1) investigate any matter within his competence;
- (2) require from the employer or principal contractor, as the case may be, the plan of the installations and of the layout of the equipment;
- (3) take samples of any nature, free of charge, for purposes of analysis, particularly samples of objects used by workers; he shall then inform the employer and, wherever possible, return the objects or samples to him after analyzing them;
- (4) conduct tests and make photographs or recordings at a workplace;
- (5) require the employer, principal contractor or owner to furnish an attestation of stability signed by an engineer or architect, so as to ascertain the stability of a building, structure or civil engineering work;
- (6) instal a measuring instrument at a workplace;
- (7) be accompanied by an expert for an investigation.

137. Upon his arrival at a workplace, the inspector shall, before undertaking an investigation or inspection, inform the employer, the certified association and the health and safety

committee. On a construction site, he shall inform the principal contractor, the job-site steward and the job-site committee.

138. If he considers it advisable, the inspector may issue a remedial order enjoining compliance with this act or the regulations and fix the period within which it must be carried out.

139. The inspector shall communicate the results of his investigation or inspection to the employer, to the certified association and the job-site committee, if any, to the health and safety committee and to the head of the community health department; he shall transmit a copy of any remedial order to them. Where there is no committee, the employer shall post a copy of the remedial order in a conspicuous place easily accessible to the worker.

140. A person to whom an inspector has given a remedial order shall carry it out within the prescribed period; he shall also immediately inform the certified association and the health and safety committee of the specific measures he intends to take.

141. No person may hinder an inspector conducting an investigation in accordance with this act and the regulations, mislead or attempt to mislead him by concealment or false or misleading declarations, refuse to give him his surname, given names and address or neglect to comply with any order he may give under this act or the regulations.

142. The inspector may order the suspension of the work or the shutdown, in whole or in part, of a workplace and, if necessary, affix seals, where he considers that the safety, health or physical well-being of a worker is endangered.

He shall then substantiate his decision in writing and indicate the measures to be taken to eliminate the danger.

143. During the suspension of work or the shutdown, the workers affected shall be considered to have worked regularly and, in particular, shall be remunerated accordingly.

144. No person may be admitted to a workplace that has been shut down.

However, the application of the first paragraph does not prevent an employer, principal contractor or owner from taking such measures as may be necessary to avoid the destruction or serious deterioration of moveable or immoveable property.

Such measures must be exclusively measures of conservation.

145. Work shall not be resumed nor the workplace reopened until authorized by the inspector.

146. Where a person contravenes this act or the regulations, the inspector may order him to cease to make, supply, sell, distribute, instal or use the product, process, equipment, materials, contaminant or dangerous substance concerned and affix seals or confiscate such property.

He shall then substantiate his decision in writing and indicate, as the case may be, the measures to be taken in order to bring such property into conformity with the law and the regulations.

The making, supply, sale, distribution, installation or use of such property shall not be resumed until authorized by the inspector.

147. An order or decision of the inspector is executory so long as it is not reviewed by the Commission.

148. Any order or decision of an inspector rendered in application of this act and the regulations may be reviewed by the Commission on the application of any interested party.

The decisions of the Commission are final and executory.

149. The inspectors, chief regional inspectors and the staff required for the application of this chapter and of Division VI of Chapter XI are under the authority of the Executive Council or of such body as may be designated by the Government.

CHAPTER XI

SPECIAL PROVISIONS RESPECTING CONSTRUCTION SITES

DIVISION I

DEFINITIONS

150. For the purposes of this chapter,

(1) "representative association" means a representative association within the meaning of the Construction Industry Labour Relations Act;

(2) "job-site steward" means a job-site steward within the meaning of Chapter VI of the said act or a delegate in charge of representing workers engaged in the setting in or installation of flat glass;

(3) "professional employer" means a professional employer within the meaning of the said act;

(4) "construction worker" means an employee within the meaning of the said act, including a student, in the cases determined by regulation.

DIVISION II

PRINCIPAL CONTRACTORS AND PROFESSIONAL EMPLOYERS

151. Principal contractors and professional employers shall observe all the obligations imposed on employers by this act and the regulations and, in particular, take the measures required to protect the health and ensure the safety and physical well-being of construction workers.

152. When activities commence on a construction site or when they terminate, the principal contractor shall, as the case may be, transmit to the Commission a notice of opening or of closing of the site, within such period and on such terms and conditions as are provided by regulation.

In the same manner, any person establishing or discontinuing a construction undertaking shall, as the case may be, transmit to the Commission a notice of opening or closing of the undertaking, within such period and on such terms and conditions as are provided for by regulation.

153. Where it is foreseen that a construction site is to occupy ten construction workers or more simultaneously at a certain stage of the work, the principal contractor shall, before work begins, see that a prevention programme is prepared. The programme must be prepared in conjunction with the professional employers.

154. The object of the prevention programme is to eliminate the sources of danger to the health, safety and physical well-being of the construction workers. The programme must contain every component prescribed by regulation.

155. The programme shall be transmitted to the Commission,

(1) where it is foreseen that the construction site is to occupy one hundred construction workers or more simultaneously at a certain stage of the work;

(2) in the case of the construction of a building, where the total cost of the works is estimated at over five million dollars; or

(3) where the construction site presents a high risk of accident as defined by regulation.

156. The Commission may order the content of a programme modified or the submission of a new programme to it within the period it determines.

157. The principal contractor shall see to it that any professional employer working on a construction site where a prevention programme is implemented binds himself in writing to see that it is complied with.

158. The prevention programme of the principal contractor prevails over that of the construction undertaking, if they are inconsistent.

DIVISION III

RIGHT OF REFUSAL

159. A construction worker has a right to refuse to perform any work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being or would expose another person to similar danger.

160. The exercise of the right contemplated in section 159 is possible only if the performance of the work entails a risk that is not normally and usually inherent in the functions exercised.

161. Where a construction worker refuses to perform any work, he shall immediately inform his supervisor, his employer or an agent of his employer; if none of these persons is present at the workplace, the worker must take reasonable steps to ensure that one of them is informed as soon as possible.

162. On being informed, the supervisor or, as the case may be, the employer or his agent shall convoke the job-site steward to examine the matter as soon as possible or, if the latter is unavailable or there is no job-site steward, the business agent or any other representative of the union or, if there is none or none

is available, any other construction worker designated by the worker who refuses to perform his work.

163. The employer must allow the job-site steward or, as the case may be, the representative of the union or the construction worker designated pursuant to section 162, to participate, without loss of pay, in the examination of the matter.

164. If, contrary to the unanimous recommendation of the two persons who have examined the matter, the construction worker still refuses to perform the work or if, in the opinion of these two persons, the refusal to work is based on grounds that are acceptable in the particular case of that worker but do not justify another construction worker's refusing to perform the work, the employer may have the work performed by another construction worker.

165. If, after investigation of the matter, the construction worker still refuses to perform his work despite the corrective measures that may have been taken, the construction worker or the employer may require the intervention of an inspector.

Sections 20 to 31 then apply, *mutatis mutandis*.

DIVISION IV

JOB-SITE COMMITTEE

166. Where it is foreseen that a construction site will last over two months and will occupy twenty-five construction workers or more simultaneously at a certain stage of the work, the principal contractor shall form a job-site committee as soon as the work begins.

167. The job-site committee is composed of the representatives of the following persons, from time to time, as they are present on the construction site:

- (1) at least one representative of the principal contractor;
- (2) one representative of each of the professional employers and of each of the other employers, if any;
- (3) one representative of the person in charge of the plans and specifications and, as the case may be, of the supervision of the works;
- (4) one representative of each of the representative associations having at least one member working on the construction site.

168. The functions of the job-site committee are

- (1) to supervise the application of the prevention programme;
- (2) in view of the safety of the construction workers, to supervise the setting up and operation of mechanisms to coordinate the activities of the professional employers and the other employers carrying on simultaneously on the construction site;
- (3) to receive and dispose of the complaints of construction workers, professional employers, other employers and the principal contractor respecting the application of the health and safety standards;
- (4) to receive a copy of notices of accidents having caused serious injury or death and to submit the appropriate recommendations to the principal contractor, the professional employer or the Commission;
- (5) to examine the inspection reports;
- (6) to receive and examine the statistical information issued by the community health department or the Commission;
- (7) to transmit to the Commission, upon request and according to the procedure established by regulation, information regarding the composition of the committee, the minutes of the meetings and any other information that may be required of it.

169. A job-site committee shall meet at least once every two weeks, subject to the regulations.

The meetings are held during regular working hours, unless the committee decides otherwise.

If the committee fails to establish its own rules of operation, it must apply those established by regulation.

170. Sections 62 and 66 apply to the representatives of representative associations who form part of the job-site committee, *mutatis mutandis*.

DIVISION V

JOB-SITE STEWARDS

171. In addition to the functions assigned to them by the Construction Industry Labour Relations Act, the functions of a job-site steward are

- (1) to inspect the workplaces where the construction workers they represent work, to ensure that the regulations and the prevention programme are being complied with;

(2) to take cognizance of the events that have caused a serious or fatal accident;

(3) to identify situations that may be a source of danger for the construction workers;

(4) to make such recommendations as he deems appropriate to the job-site committee, if any, and to his employer;

(5) to assist construction workers in the exercise of their rights under this act and the regulations;

(6) to accompany an inspector at his request.

172. Where construction workers are not represented by a job-site steward, the business agent or any other representative of the union or association to which they belong shall carry out the activities described in section 171.

173. The job-site steward or, as the case may be, the person exercising his functions, shall participate in the training programmes that the Commission determines by regulation.

He may, without loss of pay, take such time from his work as is necessary to participate in such programmes.

Registration, travel and accommodation expenses are borne by the Commission, in accordance with its policies in force.

174. The time devoted by the job-site steward to the activities described in section 171 is fixed by agreement with his employer.

Failing an agreement, the time to be devoted to those activities is that determined by the Commission by regulation, according to the category of construction site contemplated.

175. Section 72 applies, *mutatis mutandis*, to the job-site steward and, as the case may be, to the person exercising his functions.

DIVISION VI

INSPECTION

176. The terms and conditions under which inspectors perform their duties on construction sites shall be established by regulation.

The regulations shall also determine, by category of construction sites, the cases in which one or more inspectors must be present permanently.

177. Where an inspector finds that a workplace, or a tool, device or machine in use does not comply with the regulations, the prevention programme, if any, or any other safety standard, and that it endangers the health, safety or physical well-being of a construction worker as a result, he shall order the principal contractor to take the appropriate measures.

178. The inspector may order such device or machine as he designates stopped, and even the complete stoppage of work. His orders are executory.

179. Where the situation is corrected to his satisfaction, the inspector may authorize the resumption of work or the re-operation of the device or machine.

180. The Commission may review or revoke the order of an inspector.

DIVISION VII

MAJOR CONSTRUCTION SITES

181. No person may open a construction site which to all appearances will be a major construction site within the meaning of the regulations without notifying the Commission of it in writing at least one hundred and eighty days before the commencement of work.

When so informed, the Commission shall convoke and meet the principal contractor and each of the representative associations. The principal contractor shall furnish to the Commission all the information it requests regarding the intended construction site.

182. The Commission shall adopt the prevention programme that is to apply on the construction site during the construction work. The programme must determine, in particular, the respective roles, in health and safety matters, of the principal contractor, the professional employers, the representative associations, the job-site committee, the job-site steward, the inspectors and the construction workers.

183. The programme comes into force on approval by the Government. The Commission shall communicate the content of the programme to the principal contractor and the representative associations.

184. This act and the regulations apply to major construction sites, to the extent that they are not inconsistent with the prevention programme.

CHAPTER XII

REGULATIONS

185. The Commission may make regulations

(1) establishing categories of establishments, according to the activities carried on, the number of employees or the frequency and seriousness of accidents and occupational diseases;

(2) establishing categories of construction sites, according to the intended duration of work on the site, how many construction workers it is foreseen will be working on the site at one time and the risks of accident, and defining what constitutes a high risk of accident;

(3) determining the minimum compulsory content of prevention programmes, by category of establishments or construction sites;

(4) determining the categories of establishments in which a health and safety committee may be formed and fixing, by category, the minimum and maximum number of members of a committee; establishing rules of operation for committees and determining the procedure, terms and conditions of appointment of the members representing the workers, where there is no certified association or where the workers are not all represented by the same certified association;

(5) fixing, for committees in establishments of such categories as it identifies, a minimum number of meetings different from that provided by this act; indicating what information a committee must transmit to it, and the procedure, terms and conditions of its transmission;

(6) establishing the rules of operation of job-site committees and fixing, for committees instituted on construction sites of such categories as it identifies, a minimum number of meetings different from that provided by this act; indicating what information a committee must transmit to it, and the procedure, terms and conditions of its transmission;

(7) approving the content and duration of the training programmes in which job-site stewards must participate;

(8) determining, by category of construction sites, the minimum amount of time that, in the absence of an agreement with

the principal contractor, the job-site steward must devote to the exercise of the functions assigned to him by this act;

(9) determining, by category of establishments, the cases in which health services must be supplied to workers; determining the minimum necessary content of the contracts that must be entered into under section 87;

(10) determining, by category of establishments, the minimum amount of time that a prevention officer must devote to the exercise of the functions assigned to him by this act;

(11) delimiting the sectors of activities, and indicating which establishments, employers, workers, unions or categories of any of these form part of a particular sector of activities within the meaning of section 73;

(12) determining what constitutes a union association or an association of employers for the purposes of section 73 and prescribing the minimum compulsory content of the agreements contemplated in section 73;

(13) establishing the conditions and criteria according to which subsidies may be granted to sector-based associations in application of section 75;

(14) determining, by category of establishments or construction sites, the individual and common protective devices and equipment that the employer must put at the disposal of the worker;

(15) determining the safety measures against fire that must be taken by the employer or principal contractor;

(16) determining the cases in which, according to circumstances, a student must be considered a worker within the meaning of this act;

(17) fixing the minimum age at which a worker may carry out any work it specifies;

(18) fixing the maximum daily or weekly number of hours which may be devoted to particular work, according to the nature of the work, the place where it is carried out and the physical capacity of the worker;

(19) determining the cases or circumstances where an employer must require a worker to undergo a pre-employment medical check-up or periodical examinations during employment, the content of such examinations and the frequency of periodical examinations;

(20) indicating the cases or circumstances where a person must be considered not to have the physical capacity to carry out certain work;

(21) determining the characteristics that the employer must note in the register he keeps in accordance with section 41;

(22) indicating the cases or circumstances in which new construction or alterations to existing installations must not be undertaken without prior transmission to the Commission of the architect's or engineer's plans and specifications, and indicating the periods, terms and conditions of their transmission; prescribing standards of construction, development, maintenance and demolition;

(23) prescribing standards applicable to any establishment, construction site or building, in view of ensuring the health, safety and physical well-being of workers, particularly with regard to lighting, heating, sanitary installations, drinking water supply, the place for eating meals and the cleanliness of the workplace, and determining the hygienic and safety standards to be complied with by the employer where he makes premises available to workers for lodging, meal service or leisure activities;

(24) determining the cases and circumstances where an establishment or a construction site must be considered remote and determining the living conditions to be maintained by the employer for the benefit of the workers;

(25) specifying the period in which and the terms and conditions on which the notice of opening or closing of an establishment or a construction site is to be transmitted;

(26) determining the form and content of the notice to be given by an employer in application of section 51;

(27) defining and describing what constitutes a contaminant or a dangerous substance;

(28) drawing up the list of contaminants, classifying them, as it sees fit, and determining, for each class or contaminant, a maximum permissible quantity or concentration of emission, deposit, issuance or discharge at a workplace, prohibiting the use of a contaminant or prohibiting any emission, deposit, issuance or discharge of a contaminant;

(29) determining the cases and circumstances where a label or a public notice must indicate the dangers inherent in a dangerous substance, specifying the content of such label or public notice, and indicating the place where it must be affixed and the person responsible;

(30) prescribing standards respecting the safety of such processes, equipment, materials, products, contaminants or dangerous substances as it specifies, indicating the directions for their use, maintenance and repair, and prohibiting their use;

(31) determining the terms and conditions of the financing required for the application of this act;

(32) establishing its own rules of internal management;

(33) enacting rules of proof, procedure and practice applicable to the examination, hearing and decision of matters under the authority of an inspector, the regional chief inspector or the Commission itself;

(34) delegating certain of its powers in accordance with paragraph 1 of section 131;

(35) exempting certain categories of persons, workers, employers, workplaces, establishments or construction sites from the application of this act or certain of its provisions;

(36) generally prescribing any other measure to facilitate the application of this act.

The content of the regulations may vary according to the categories of persons, workers, employers, workplaces, establishments or construction sites to which they apply. The regulations may also provide the periods within which they are to be applied, which periods may vary according to the object and scope of each regulation.

186. The regulations of the Commission shall be published in the *Gazette officielle du Québec* with a notice that they will be submitted to the Government for approval at the expiry of the sixty days following such notice.

187. If the Commission fails to make a regulation within a period the Government considers reasonable, the Government itself may make the regulation.

No such regulation may be made unless sixty days' prior notice is published in the *Gazette officielle du Québec*, reproducing the text of the regulation.

188. The regulations come into force on the date of publication in the *Gazette officielle du Québec* of a notice indicating their approval by the Government or, if amended by it, of their final text, or on any later date fixed in the notice or final text.

CHAPTER XIII

RECOURSES

189. Any worker who believes he has been illegally dismissed, transferred or subjected to a disciplinary measure for

exercising his rights or functions under this act and the regulations may submit his complaint to the labour commissioner-general within fifteen days of the dismissal, transfer or disciplinary measure or mail it to the labour commissioner-general within that period. The latter shall designate a labour commissioner to make an inquiry and dispose of the complaint.

190. Where a worker is dismissed, transferred or subjected to a disciplinary measure imposed by the employer or his agent for exercising his rights or functions under this act and the regulations, the labour commissioner may order the employer to reinstate the worker in all his rights and privileges within eight days of the service of the decision, and to pay him an amount equal to the wages and other benefits of which he has been deprived.

If the worker has worked elsewhere during the period mentioned above, his wages earned thereby must be deducted from the amount paid to him.

191. If it is established to the satisfaction of the labour commissioner seized with the case that the worker exercised his rights or functions under this act, a presumption exists in favour of the worker that he was dismissed, transferred or subjected to a disciplinary measure for exercising those rights or functions, and the burden of proof is on the employer that the worker acted in bad faith or that the employer had other fair and sufficient cause.

Sections 17 to 19, 103 to 114, 121, 122, 129a and 133 to 135 of the Labour Code then apply, *mutatis mutandis*.

192. The decision of the commissioner must be rendered within sixty days following the hearing.

193. A worker or his certified association may elect to follow the ordinary grievance procedure rather than to file a complaint with the labour commissioner-general.

The arbitration award is without appeal and binds the parties.

194. Where both of the recourses provided for in sections 189 and 191 are exercised, the arbitration officer shall refuse to hear the grievance.

CHAPTER XIV

OFFENCES

195. Every person who, in any manner whatever, reveals or divulges a manufacturing or operating secret or process of

which he learns in the course of his functions under this act and the regulations is guilty of an offence.

196. Every person who makes a false declaration or neglects or refuses to provide the information necessary for the application of this act or the regulations is guilty of an offence.

197. Every person who contravenes any provision of this act or a regulation or refuses to conform to a decision or ordinance rendered under this act or incites a person to do so, is guilty of an offence and liable, on summary proceedings, in addition to the costs, to a fine of not less than \$200 nor more than \$500 or, in default of payment, to imprisonment for not under one month nor over six months in the case of an individual, and to a fine of not less than \$500 nor more than \$1 000 in the case of a corporation.

For any subsequent offence, the fines provided for in the preceding paragraph are increased to a minimum of \$500 and a maximum of \$1 000 in the case of an individual and to a minimum of \$1 000 and a maximum of \$2 000 in the case of a corporation.

198. Every person who acts in such a way as to directly and seriously compromise the safety or the health of a worker is liable, on summary proceedings, in addition to the costs, to a fine of not less than \$500 nor more than \$1 000 or, in default of payment, to imprisonment for not under two months nor over six months in the case of an individual and to a fine of not less than \$5 000 nor more than \$20 000 in the case of a corporation.

For any subsequent offence, the fines provided for in the preceding paragraph are increased to a minimum of \$1 000 and a maximum of \$2 000 in the case of an individual and to a minimum of \$10 000 and a maximum of \$50 000 in the case of a corporation.

199. Where an offence continues for more than one day, it constitutes a separate offence for each day during which it continues.

200. In addition to the penalties provided for in sections 197 and 198, the court may order the offender to conform to the requirements of the act or of a regulation within the period of time it fixes or to carry out any measure it considers likely to contribute to the prevention of work accidents or occupational disease, the whole on pain of contempt of court.

201. In proceedings contemplated in this chapter, proof that an offence has been committed by an agent, mandatary or worker employed by an employer suffices to establish that it was

committed by that employer, unless that employer establishes that the offence was committed without his knowledge or consent and despite provisions made to prevent its being committed.

202. Where a worker is being prosecuted for an offence against this act or the regulations, proof that the offence was committed as a result of formal instructions given by his employer and despite the worker's disagreement suffices to release him from his responsibility.

203. Where a corporation has committed an offence, every director, officer, employee or agent of that corporation who has prescribed or authorized the action or the omission that constitutes the offence or who has consented thereto is deemed to have participated in the offence and is liable to the same penalty, whether or not the corporation has been prosecuted or found guilty.

204. Proceedings under this act may be instituted by a regional chief inspector, by the Commission or a person it designates generally or specially for that purpose, or by any interested person.

205. In the cases contemplated in the first paragraph of section 197, proceedings may not be instituted until thirty days after a prior notice has been mailed to the offender describing the offence and specifying the minimum fine, the amount of the costs and the place where payment must be made.

Payment of the required amount within the period fixed precludes penal prosecution.

After such payment, the offender is deemed to have been found guilty of the offence.

206. Proceedings under this act or the regulations are brought before the Court and sections 104*b*, 104*d* to 105, 110 to 113 and 130 of the Labour Code apply thereto.

207. No proceedings may be instituted under this act or the regulations more than twelve months after the date on which the offence was committed.

208. The fines imposed belong to the Commission.

CHAPTER XV

FINANCING

209. The Commission shall collect from the employers the sums required to defray all the costs it must assume pursuant to this act and the regulations.

210. The Commission has for that purpose all the powers and duties vested in it by the Workmen's Compensation Act for the determination and collection of contributions and the management of the funds thus collected.

[[**211.** The sums required for the application of this act and the regulations relative to inspection are taken out of the moneys granted annually for that purpose by the Legislature.]]

CHAPTER XVI

TRANSITIONAL PROVISIONS

212. Section 45 of the Civil Service Superannuation Plan (Revised Statutes, 1964, chapter 14), amended by section 16 of chapter 15 of the statutes of 1965 (1st session), section 8 of chapter 6 of the statutes of 1966, section 72 of chapter 9, section 39 of chapter 11, section 3 of chapter 12, section 5 of chapter 13, section 83 of chapter 17, section 4 of chapter 18 and section 31 of chapter 60 of the statutes of 1968, section 17 of chapter 15, section 34 of chapter 17, section 78 of chapter 28, section 40 of chapter 48 and section 30 of chapter 62 of the statutes of 1969, section 2 of chapter 8, section 87 of chapter 17 and section 21 of chapter 43 of the statutes of 1970, section 2 of chapter 17, section 199 of chapter 19, section 65 of chapter 20 and section 26 of chapter 77 of the statutes of 1971, section 96 of chapter 14, section 133 of chapter 49, section 66 of chapter 53, section 175 of chapter 55 and section 11 of chapter 58 of the statutes of 1972, section 162 of chapter 12, section 28 of chapter 21, section 265 of chapter 43 and section 28 of chapter 67 of the statutes of 1973, section 12 of chapter 10 of the statutes of 1974, section 22 of chapter 22 of the statutes of 1977, section 28 of chapter 38 of the statutes of 1978 and by section 13 of chapter (*insert here the chapter number of Bill 50*) of the statutes of 1979, is again amended by striking out subparagraph o of paragraph 5.

213. Section 7 of the Public Buildings Safety Act (Revised Statutes, 1964, chapter 149) is replaced by the following section:

“7. Inspectors shall be appointed and remunerated in accordance with the Civil Service Act (1978, chapter 15) to ensure the application of this act and the regulations.”

214. Section 8 of the said act is repealed.

215. Section 10 of the said act is amended by adding, at the end, the following subsections:

“(6) They may take samples of material, free of charge, for purposes of analysis; they must then inform the owner of the public building and, wherever possible, return the samples taken to him after analyzing them.

“(7) They may make photographs of public buildings.

“(8) The Lieutenant-Governor in Council may, by regulation, specify the powers granted to inspectors and provide for other powers to allow them to see to the application of this act.”

216. The said act is amended by inserting, between sections 10 and 11, the following section:

“10a. The Minister may grant to other civil servants the powers granted to inspectors under this act and the regulations.”

217. Section 31 of the said act is amended by replacing the fifth paragraph by the following paragraph:

“Owners of hotels which can accomodate at least fifteen boarders, shall have their houses inspected, and obtain a certificate attesting that all the precautions for the safety of the boarders have been taken, as required by law and by the regulations. Such certificate shall be given by the inspector free of charge. The owner shall post it in a conspicuous place in the house.”

218. Section 39 of the said act, amended by section 140 of chapter 48 of the statutes of 1971, is again amended:

(a) by striking out paragraph *c* of subsection 1;

(b) by adding, at the end, the following subsection:

“(4) Any regulation made under this section applies to an establishment contemplated in the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*) but which is not contemplated in section 2, to the extent that the safety of the public must be ensured.”

219. This act replaces the Industrial and Commercial Establishments Act (Revised Statutes, 1964, chapter 150).

220. The regulations made pursuant to the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

221. The Scaffolding Inspection Act (Revised Statutes, 1964, chapter 151) is repealed.

222. Section 2 of the Electricians and Electrical Installations Act (Revised Statutes, 1964, chapter 152), amended by section 1 of chapter 52 of the statutes of 1965 (1st session), by section 65 of chapter 51 of the statutes of 1969, by section 84 of chapter 53 of the statutes of 1975 and by section 1 of chapter 54 of the statutes of 1978, is again amended by replacing paragraph 1 by the following paragraph:

“(1) The words “public buildings” shall have the meaning given to them in the Public Buildings Safety Act (Revised Statutes, 1964, chapter 149), and shall include, in addition, the establishments and construction sites contemplated by the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*), garages having a floor space in excess of six thousand square feet, transformer rooms and all installations of transformers on posts or other supports set up on any private property;”.

223. Section 1 of the Master Pipe-Mechanics Act (Revised Statutes, 1964, chapter 155), amended by section 95 of chapter 51 of the statutes of 1969 and by section 126 of chapter 53 of the statutes of 1975, is again amended:

(a) by replacing paragraph 12 by the following paragraph:

“(12) “owners of public buildings” means persons, companies and corporations who are owners, tenants or occupants, under any title, of any public building within the meaning of section 2 of the Public Buildings Safety Act (Revised Statutes, 1964, chapter 149) or of any industrial establishment, and their agents;”;

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

“(13) “industrial establishment” includes manufactories, works, workshops, workyards including construction and demolition workyards and forestry worksites, mills of all kinds and dependencies of each of those establishments. A camp is deemed a dependency. No property nor place is excluded from this definition for the sole reason that such property or place is outdoors.”

224. Section 2 of the Pressure Vessels Act (Revised Statutes, 1964, chapter 156) is amended by replacing paragraph 5 by the following paragraph:

“(5) The words “industrial establishment” mean manufactories, works, workshops, workyards including construction and demolition workyards and forestry worksites, mills of all kinds and dependencies of each of those establishments. A camp is deemed a dependency. No property nor place is excluded from this definition for the sole reason that such property or place is outdoors.”

225. Section 2 of the Stationary Enginemen Act (Revised Statutes, 1964, chapter 157), amended by section 33 of chapter 60 of the statutes of 1977 and by section 2 of chapter 56 of the statutes of 1978, is again amended by replacing paragraph 1 by the following paragraph:

“(1) The words “stationary engine” include the following apparatus when used in a public building contemplated in the Public Buildings Safety Act (Revised Statutes, 1964, chapter 149) or in an establishment or on a construction site contemplated in the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*):

- (a) boilers or generators operated by steam, hot water or any other fluid substance;
- (b) steam engines or turbines;
- (c) refrigerating plants;
- (d) internal combustion engines;
- (e) any other apparatus determined by regulation of the Lieutenant-Governor in Council;
- (f) the piping and accessories used for operating the apparatus contemplated in subparagraphs *a* to *e*.”

226. Section 15 of the Lightning Rods Act (Revised Statutes, 1964, chapter 158) is replaced by the following section:

“15. The holder of any licence under this act shall, upon demand, exhibit it to any officer authorized by the Minister, to the inspectors of public buildings, to the electrician-inspectors and examining electricians, to any mayor or secretary-treasurer of a municipality, to the fire commissioner; to any coroner, police officer or constable and to any person to whom lightning rods are sold or offered for sale.”

227. Section 3 of the Workmen’s Compensation Act (Revised Statutes, 1964, chapter 159), amended by section 1 of chapter 52 of the statutes of 1966/1967, section 1 of chapter 52 of the statutes of 1969, and by section 5 of chapter 57 of the statutes of 1978, is again amended by replacing subsection 2 by the following subsection:

“(2) This section does not apply to a person whose employment is of a casual nature or foreign to the employer’s industry.”

228. Section 48 of the said act, amended by section 30 of chapter 57 of the statutes of 1978, is again amended:

(a) by striking out subsection 10;

(b) by replacing the first paragraph of subsection 13 by the following paragraph:

“(13) Subject to subsection 11, expenses and disbursements that may be effected for medical aid are paid by the Commission and levied in the manner provided in Division x.”

229. Sections 52, 54, 55 and 56 of the said act are repealed.

230. Section 57 of the said act is amended:

(a) by striking out subsection 1;

(b) by replacing subsections 2 and 3 by the following subsections:

“(2) When the Commission, or any person designated by it, holds an inquiry at the chief-place of a judicial district, the sheriff shall supply premises for the holding of such inquiry.

“(3) When an inquiry is held in a place where there is a Provincial Court, the clerk of such court shall allow the Commission, or the person designated by the Commission, the use of the premises intended for the Provincial Court, unless the court is then sitting therein.”

231. Section 58 of the said act is repealed.

232. Section 59 of the said act, amended by section 7 of chapter 42 of the statutes of 1977 and by section 33 of chapter 57 of the statutes of 1978, is again amended:

(a) by replacing paragraph c of subsection 2 by the following paragraph:

“(c) any matter or question relating to the classification of industries, employers’ assessment, medical aid or rehabilitation.”

(b) by striking out subsection 5.

233. Section 61 of the said act is repealed.

234. Section 63 of the said act is replaced by the following section:

“63. (1) The Commission, after inquiry, or upon the report of any person designated by it to make the inquiry, may adopt such conclusions as it may deem just and render a decision accordingly.

(2) A person designated by the Commission to make an inquiry shall, for the purposes of the inquiry, have the powers conferred upon the Commission by section 60.”

235. Sections 67, 68 and 72 of the said act are repealed.

236. Section 85 of the said act, replaced by section 47 of chapter 57 of the statutes of 1978, is again replaced by the following section:

“85. The Commission, or any person designated by it, has the right to examine the books and accounts of any employer and to make such other inquiry as the Commission may deem necessary for the purpose of ascertaining whether any statement furnished to it under the provisions of section 82 is an accurate statement of the matters which are required to be stated therein, or of ascertaining the amount of the pay-roll of any employer, or of ascertaining any other fact necessary for the application of this act.”

237. Section 87 of the said act, amended by section 49 of chapter 57 of the statutes of 1978, is replaced by the following section:

“87. (1) The Commission, or a person designated by it, shall have the right at all reasonable hours to enter into the establishment and the premises connected with it and every part of it, of any employer who is liable to contribute to the accident fund, for the purpose of determining the proportion in which such employer should contribute to the accident fund.”

238. Sections 110 and 111 of the said act are repealed.

239. Section 114*i* of the said act, enacted by section 68 of chapter 57 of the statutes of 1978, is replaced by the following section:

“114*i*. Any person who omits to file a declaration required by the Commission or makes or files a false or incorrect declaration to or with the Commission, or is a party to an agreement contrary to this act, or who infringes a prescription of the act or of a regulation, in respect of which no penalty is specially provided, is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than one hundred dollars, in the case of an individual;

(b) to a fine of not less than three hundred dollars, in the case of an artificial person.”

240. Schedule B of the said act is amended by replacing subsection 1 by the following subsection:

“(1) The industry or business contemplated by paragraph *e* of subsection 2 of section 2.”

241. Division XXVIII of the Mining Act (1965, 1st session, chapter 34), including sections 256 to 267, is repealed.

242. Section 268 of the said act, amended by section 24 of chapter 36 of the statutes of 1968, section 37 of chapter 27 of the statutes of 1970 and by section 22 of chapter 31 of the statutes of 1972, is again amended by striking out paragraphs *o* and *p*.

243. The regulations made pursuant to section 261 and paragraphs *o* and *p* of section 268 of the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

244. Section 2 of the Labour and Manpower Department Act (1968, chapter 43) is replaced by the following section:

“**2.** The Minister shall have charge of the carrying out of the laws respecting labour relations between employers and employees, conditions of employment of employees, associations of employees, manpower, and safety in public buildings, except those laws the carrying out of which is entrusted by law to another minister and subject to the functions conferred upon other ministers.”

245. Section 3 of the said act is amended by replacing paragraph *d* by the following paragraph:

“(d) to compile, analyse and publish available information respecting wages and other conditions of employment, strikes and lock-outs, collective labour agreements and decrees, employment, safety in public buildings, accidents due to work, the rehabilitation of accident victims and various other sectors of the field of labour, and the activities of the branches of his department and of the bodies under its jurisdiction.”

246. Section 32a of the Construction Industry Labour Relations Act (1968, chapter 45) is repealed.

247. Section 32*b* of the said act, enacted by section 2 of chapter 46 of the statutes of 1971 and replaced by section 15 of chapter 51 of the statutes of 1975, is amended by replacing subsection 2 by the following subsection:

“(2) Any regulation made by the board under section 32 or 32*b* shall be submitted to the Lieutenant-Governor in Council for approval.”

248. Section 32*n* of the said act, enacted by section 3 of chapter 50 of the statutes of 1975, is amended by replacing the first paragraph by the following paragraph:

“**32*n*.** Any clause relating to the functions of job-site steward in a collective agreement or in a decree is deemed not written, except a clause concerning the function of job-site delegate in matters of occupational health and safety.”

249. Section 32*o* of the said act, enacted by section 3 of chapter 50 of the statutes of 1975, is amended by replacing the first paragraph by the following paragraph:

“**32*o*.** Subject to the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*) and to the application of a clause of a collective agreement or of a decree relating to work under hazardous conditions,”.

250. Section 32*p* of the said act, enacted by section 3 of chapter 50 of the statutes of 1975, is replaced by the following section:

“**32*p*.** Every clause of a collective agreement or of a decree relating to the matters contemplated in paragraphs *a* and *b* of section 32*o* is deemed not written, except a clause concerning occupational health and safety.”

251. Section 3 of the Health Insurance Act (1970, chapter 37), amended by section 2 of chapter 38 of the statutes of 1970, section 2 of chapter 47 of the statutes of 1971, section 2 of chapter 30 of the statutes of 1973, section 2 of chapter 40 of the statutes of 1974, by section 1 of chapter 60 of the statutes of 1975 and by section 2 of chapter 44 of the statutes of 1977, and replaced by section 2 of chapter (*insert here the chapter number of Bill 84*) of the statutes of 1979, is again amended by adding, at the end, the following paragraph:

“Notwithstanding the foregoing, the services contemplated in the first paragraph remain insured services even if they constitute services rendered pursuant to the Act respecting occupa-

tional health and safety (1979, chapter *insert here the chapter number of Bill 17*)."

252. Section 43*b* of the Act respecting health services and social services (1971, chapter 48), enacted by section 18 of chapter 42 of the statutes of 1974 and replaced by section 12 of chapter 72 of the statutes of 1978, is amended by adding, at the end, the following paragraph:

"In addition, the organization plan of a hospital centre designated by the Lieutenant-Governor in Council must provide for the organization of a community health department."

253. Section 1 of the Public Health Protection Act (1972, chapter 42), amended by section 1 of chapter 63 of the statutes of 1975 and by section 1 of chapter 47 of the statutes of 1977, is again amended by replacing paragraph *b* by the following paragraph:

"(b) "laboratory" means a place outside an establishment equipped for manufacturing or repairing orthoses or prosthetic devices, making medical biology examinations, particularly in the fields of biochemistry, haematology, bacteriology, immunology, histopathology and virology, for making radioisotope or radiology examinations for purposes of prevention, diagnosis and treatment of disease in humans, or for making examinations in the fields of toxicology, audiology, optometry and the physiology of respiration;"

254. Section 47 of the said act, amended by section 13 of chapter 63 of the statutes of 1975, is again amended by replacing the second paragraph by the following paragraph:

"He may enter a filtration plant to verify the functioning and operation of the fluoration device."

255. Section 50 of the said act, amended by section 15 of chapter 63 of the statutes of 1975 and by section 7 of chapter 47 of the statutes of 1977, is again amended by striking out subparagraphs *o*, *p*, *q* and *r* of the first paragraph.

256. The regulations made pursuant to subparagraphs *o*, *p*, *q* and *r* of the first paragraph of section 50 of the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

257. Sections 72, 73, 74 and 75 of the Environment Quality Act (1972, chapter 49) are repealed.

258. Section 87 of the said act, amended by section 29 of chapter 64 of the statutes of 1978, is again amended by replacing paragraph *a* by the following paragraph:

“(a) to prescribe the sanitary and hygienic standards applicable to any class of immoveables already occupied or intended to be occupied for residential, commercial, industrial, agricultural, municipal or school purposes and the use of all apparatus, equipment or vehicles intended for any of such purposes, except sanitary and hygienic standards for the protection of workers prescribed pursuant to the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*);”.

259. Sections 88 and 89 of the said act are repealed.

260. Section 91 of the said act is replaced by the following section:

“**91.** Whoever owns or uses any source of radiation or other energy vector must use it in accordance with the terms, conditions and standards determined by regulation of the Lieutenant-Governor in Council.”

261. Section 92 of the said act is amended by striking out paragraph *c*.

262. Section 106 of the said act, replaced by section 2 of chapter 94 and section 35 of chapter 64 of the statutes of 1978, is amended by striking out, in the second line, the figures “72, 73”.

263. The said act is amended by inserting, after section 126, the following section:

“**126a.** Divisions IX and X of this act do not apply to an establishment contemplated in the Act respecting occupational health and safety where only the health, safety and physical well-being of the workers are concerned.”

265. The regulations made pursuant to sections 72, 73, 74 and 88 remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

266. Section 2 of the Government and Public Employees Retirement Plan (1973, chapter 12), amended by section 1 of chapter 9 of the statutes of 1974, section 47 of chapter 41 of the statutes of 1975, section 9 of chapter 51 of the statutes of 1976, section 1 of chapter 21 and section 232 of chapter 68 of the statutes of 1977, by section 105 of chapter 7, section 31 of chapter

38, section 25 of chapter 18, section 31 of chapter 24 and section 53 of chapter 64 of the statutes of 1978 and by section 34 of chapter (*insert here the chapter number of Bill 2*) of the statutes of 1979, is again amended by adding after paragraph 17 of the first paragraph, the following paragraph:

“(18) the president and director general and the associate directors general of the Commission de la santé et de la sécurité du travail.”

267. Section 3 of the Social Affairs Commission Act (1974, chapter 39), amended by section 1 of chapter 64 of the statutes of 1975, section 1 of chapter 49 and section 225 of chapter 68 of the statutes of 1977, is again amended by replacing the first paragraph by the following paragraph:

“**3.** The Commission shall consist of members appointed for a term not exceeding ten years by the Lieutenant-Governor in Council, who shall determine their number and shall choose a president and a vice-president among them and fix the fees, allowances or salaries or, as the case may be, the additional salaries of each of them.”

268. Section 6a of the said act, enacted by section 2 of chapter 64 of the statutes of 1975 and amended by section 2 of chapter 49 and section 227 of chapter 68 of the statutes of 1977, is again amended by replacing the second paragraph by the following paragraph:

“In making each appointment, the Lieutenant-Governor in Council shall identify the divisions to which the assessor is attached. The number of assessors shall be determined by the Lieutenant-Governor in Council.”

269. Section 20 of the said act, amended by section 53 of chapter 22, section 17 of chapter 42, section 44 of chapter 48, section 4 of chapter 49 and section 228 of chapter 68 of the statutes of 1977, section 106 of chapter 7 and section 32 of chapter 16 of the statutes of 1978, and by section 59 of chapter (*insert here the chapter number of Bill 84*) of the statutes of 1979, is again amended by adding, at the end, the following paragraphs:

“(w) the applications made pursuant to section 91 of the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*);

“(x) the appeals brought pursuant to section 91 of the Act respecting occupational health and safety.”

270. Section 26 of the said act, replaced by section 108 of chapter 7 of the statutes of 1978, is again replaced by the following section:

"26. The requests and applications contemplated in paragraphs *d, e, f* and *w* of section 20 and the appeals contemplated in paragraphs *g, h, j, l, r, s, t* and *x* of the said section 20 shall be heard by the health services and social services division."

271. Section 27 of the said act, amended by section 13 of chapter 64 of the statutes of 1975 and by section 109 of chapter 7 of the statutes of 1978, is again amended by replacing the third paragraph by the following paragraph:

"In the case of an appeal contemplated in paragraphs *g, l* or *x* of section 20 and of an application contemplated in paragraph *w*, three members, including one assessor who is a physician, constitute a quorum."

272. The said act is amended by inserting, after section 29, the following section:

"29a. The applications contemplated in paragraph *w* of section 20 are made by means of a declaration in writing addressed to the Commission and may be presented at any time.

"The appeals contemplated in paragraph *x* of section 20 are made by means of a declaration in writing addressed to the Commission within ninety days following the date of the decision or within one hundred and eighty days of the appeal if no decision has been transmitted.

"The third paragraph of section 29 applies to this section."

273. Section 30 of the said act, amended by section 55 of chapter 22, section 20 of chapter 42, section 7 of chapter 49 and section 231 of chapter 68 of the statutes of 1977 and replaced by section 111 of chapter 7 of the statutes of 1978, is replaced by the following section:

"30. Where the Commission is seized of a request, application or appeal contemplated in paragraphs *e, f, h, i* and *j* of section 20, the secretary or the assistant-secretary shall issue forthwith a copy of the declaration to the *Ministre des affaires sociales*; where the Commission is seized of an appeal contemplated in paragraph *k* of the said section 20, a copy must be issued forthwith to the *Ministre du revenu*; where the Commission is seized of an appeal contemplated in paragraphs *m, n* and *o* of the said section 20, a copy must be issued forthwith to the *Commission de la santé et de la sécurité du travail*; where the Commission is seized of an appeal contemplated in paragraph *p* of the said section 20, a copy must be issued forthwith to the *Commission administrative du régime de retraite*; where the Commission

is seized of an appeal contemplated in paragraph *q* of the said section 20, a copy must be issued forthwith to the Régie de l'assurance automobile du Québec; where the Commission is seized of an appeal contemplated in paragraphs *r* to *v* of the said section 20, a copy must be issued forthwith to the Office des personnes handicapées du Québec; where the Commission is seized of an application contemplated in paragraph *w* of the said section 20, a copy must be issued forthwith to the interested parties contemplated in the first paragraph of section 91 of the Act respecting occupational health and safety; where the Commission is seized of an appeal contemplated in paragraph *x* of the said section 20, a copy must be issued forthwith to the hospital centre contemplated in the second paragraph of section 91 of the Act respecting occupational health and safety.

“A Minister, the Commission de la santé et de la sécurité du travail, the Commission administrative du régime de retraite, the Régie de l'assurance automobile du Québec, the Office des personnes handicapées du Québec, the interested parties or the hospital centre contemplated in section 91 of the Act respecting occupational health and safety to whom copy of a declaration was forwarded in accordance with this section may intervene at any stage of the proceedings.”

274. Section 46 of the Charter of human rights and freedoms (1975, chapter 6) is replaced by the following section:

“**46.** Every person who works has a right, in accordance with the law, to fair and reasonable conditions of employment which have proper regard for his health, safety and physical well-being.”

275. Section 31 of the Building Contractors Vocational Qualifications Act (1975, chapter 53), replaced by section 4 of chapter (*insert here the chapter number of Bill 110*) of the statutes of 1979 is amended by adding, at the end, the following paragraph:

“(g) prove to the board that he has sufficient knowledge in the field of occupational health and safety and that he has passed the examinations provided for by regulation.”

276. Section 43 of the said act is amended by replacing subparagraph vi of paragraph *b* by the following subparagraph:

“vi. has been convicted more than once of offences against the Act respecting occupational health and safety (1979, chapter *insert here the chapter number of Bill 17*) or against the regulations adopted under the said act. Such suspension or cancellation shall be imposed only in accordance with the regulations that the board, in collaboration with the Commission de la santé et de la sécurité

du travail established by the Act respecting occupational health and safety, may make to determine the number or the seriousness of such offences justifying such suspension or cancellation.”

277. Section 58 of the said act, amended by section 13 of chapter (*insert here the chapter number of Bill 110*) of the statutes of 1979, is again amended by adding, at the end, the following paragraph:

“(t) to require every applicant for a contractor’s licence or, in the case of a partnership or corporation, every qualifying person, to pass examinations to evaluate his knowledge in the field of occupational health and safety, to determine the content of such examinations and the conditions of admission to or exemption from them, and provide which cases of renewal of a licence entail exemption from those examinations.”

278. The said act is amended by inserting, after section 58, the following section:

“**58a.** The board shall obtain the opinion of the Commission de la santé et de la sécurité du travail in making the regulation provided for in paragraph t of section 58.”

279. Section 2 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (1975, chapter 55), amended by section 12 of chapter 42 of the statutes of 1977, is again amended by replacing that part of subsection 1 that precedes paragraph a by the following:

“**2.** (1) The worker suffering from permanent disability resulting from silicosis or asbestosis medically established by diagnosis is entitled:”.

280. A joint health and safety committee formed pursuant to a regulation made under the Industrial and Commercial Establishments Act or to a collective agreement becomes, from (*insert here the date of the coming into force of Bill 17*), a health and safety committee established pursuant to this act where

(1) the establishment in which it was formed employs more than ten workers; and

(2) the establishment belongs to a category of establishments identified by regulation pursuant to section 185 as establishments where a health and safety committee may be formed.

Such a committee from that date enjoys the same rights and is subject to the same obligations as a health and safety committee established pursuant to this act, in addition to any consistent power or obligation it may have under the collective agreement.

281. The Commission is substituted for the Commission des accidents du travail du Québec and, in that capacity, it assumes all the powers and obligations and acquires all the rights thereof.

The Commission becomes, without continuance of suit, a party to any suit brought by or against the Commission des accidents du travail du Québec.

282. In any act or proclamation, order in council, contract or document, the words "La Commission des accidents du travail du Québec" are replaced by the words "La Commission de la santé et de la sécurité du travail".

283. The officers of the Commission des accidents du travail du Québec in office on (*insert here the date of the coming into force of section 283 of Bill 17*) become officers of the Commission de la santé et de la sécurité du travail.

284. The files and records of the Commission des accidents du travail du Québec become the files and records of the Commission de la santé et de la sécurité du travail.

285. In any act, proclamation, order in council, contract or document, a reference to the Industrial and Commercial Establishments Act is a reference to the corresponding provisions of this act.

286. The body that may be designated by the Government pursuant to section 149 is deemed a department for purposes of the application of section 7 of the Executive Power Act (Revised Statutes, 1964, chapter 9).

CHAPTER XVII

FINAL PROVISIONS

287. The Government shall designate a minister to be responsible for the application of this act.

288. This act will come into force on the date to be fixed by proclamation of the Government, except the sections excluded by such proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.