

FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 91

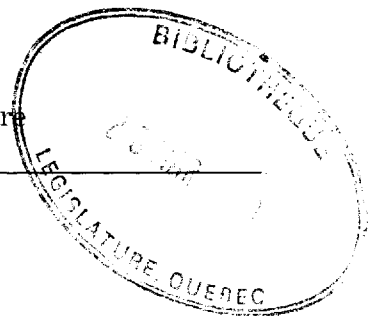
**An Act to amend the Act respecting labour
standards and the Act respecting manpower
vocational training and qualification**

First reading
Second reading
Third reading

M. PIERRE MARC JOHNSON
Ministre du travail et de la main-d'œuvre

L'ÉDITEUR OFFICIEL DU QUÉBEC

1980



EXPLANATORY NOTES

This bill is presented as a corrective measure.

The bill is designed to prevent an employee who is receiving salary, sickness or disability insurance benefits from becoming eligible for another first period of benefits by the fact that he takes his annual leave.

It ensures that an employee paid otherwise than on a time basis or a production basis receives an annual leave indemnity that takes overtime pay into account, and changes the basis of computation of the annual leave of seasonal employees.

It proposes that the right to prior notice conferred on employees by section 82 of the Act respecting labour standards, and the obligations imposed on employers by section 45 of the Act respecting vocational training and qualification, be extended to layoffs for more than six months.

This bill also proposes to rectify certain omissions or lacks of precision appearing in the final text of Bill 126, sanctioned on 22 June 1979.

Sec. 1. *This section specifies what provisions of the act are applicable to the pregnant employee working in the construction industry within the scope of application of a regulation concerning maternity leaves.*

Sec. 2. *This section rectifies a lack of precision.*

Sec. 3. *This section is designed to prevent an employee who is receiving benefits under a plan of salary, sickness or disability insurance from becoming entitled again to a first period of benefits on the ground that he ceased to be a beneficiary of the plan during his annual leave.*

Bill 91

An Act to amend the Act respecting labour standards and the Act respecting manpower vocational training and qualification

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

1. Section 3 of the Act respecting labour standards (1979, c. 45) is amended by adding, after the words “of section 89” at the end of paragraph 3, the following words: “and, within the scope of application of that regulation, in respect of the last paragraph of section 74, sections 96, 97, 122, 123, paragraph 6 of section 140 and sections 141 to 147”.

2. Section 42 of the said act is amended by replacing the word “cashable” at the end of the second paragraph by the following words: “cashable within the two working days following its issue”.

3. Section 70 of the said act is replaced by the following section:

“70. The annual leave must be taken within twelve months following the end of the reference year, except where a collective agreement or a decree allows it to be deferred until the following year.

Notwithstanding any contrary clause of a collective agreement, decree or contract, any period of salary insurance, sickness insurance or disability insurance interrupted by a leave taken in accordance with the first paragraph is continued, where applicable, after the leave, as if it had never been interrupted.”

Sec. 4. *This section proposes to ensure the employee paid on a basis other than a time basis or a production basis an annual leave indemnity that takes overtime pay into account, and to establish the annual leave indemnity of a seasonal employee on the basis of his actual period of work.*

Sec. 5. *This section extends the right to prior notice to an employee who is laid off for at least 6 months.*

Sec. 6. *This section empowers the Government to establish a different minimum wage for employees who are less than 18 years of age.*

Sec. 7. *This section is a corrective provision.*

Sec. 8. *This section provides concordance with paragraph 6 of section 89 of the Act respecting labour standards and with sections 40 and following of the Act respecting occupational health and safety (1979, c. 63).*

Sec. 9. *This section is a corrective provision.*

Sec. 10 and 11. *These sections propose to amend the application of section 45 of the Act respecting manpower vocational training and qualification, in particular, by extending it to layoffs for more than six months.*

4. Section 74 of the said act is replaced by the following section:

“74. The indemnity relating to the annual leave of the employee contemplated in sections 67 and 68 is equal to 4% of the gross wages of the employee during the reference year. In the case of the employee contemplated in section 69, the indemnity is equal to 6% of the gross wages of the employee during the reference year.

Should an employee be absent owing to sickness or accident or on maternity leave during the reference year and should that absence result in the reduction of that employee's annual leave indemnity, the employee is then entitled to an indemnity equal, as the case may be, to twice or three times the weekly average of the wage earned during the period of work. An employee contemplated in section 67 whose annual leave is less than two weeks is entitled to that amount in proportion to the days of leave credited to his account.”

5. Section 82 of the said act is amended by adding, after the word “dismissed”, at the end of the first paragraph, the following words: “, or being laid off for not less than six months”.

6. Section 91 of the said act is amended by adding the following paragraph:

“Furthermore, in the case of a regulation made pursuant to paragraph 1 of section 89, the Government may fix a different minimum wage for employees who are less than 18 years of age.”

7. Section 94 of the said act is amended by inserting, after the word “agreement”, the following words: “or a decree”.

8. Section 122 of the said act is amended by striking out the second paragraph.

9. Section 157 of the said act is amended:

(1) by adding after the word “section” at the end of the second paragraph, the following words: “and to a decree passed, prolonged or renewed within the same period of time”;

(2) by inserting, after the word “expiry” in the third paragraph, the following word: “, prolongation”.

10. Section 1 of the Act respecting manpower vocational training and qualification (R.S.Q., c. F-5), amended by section 29 of chapter 2 of the statutes of 1979, is again amended by inserting, after paragraph o, the following paragraphs:

Sec. 12 and 13. *The purpose of these sections is to provide for concordance between the coming into force of certain sections of the act and certain regulations.*

“(o¹) “dismissal”: the termination of employment by the employer, including a layoff;

“(o²) “collective dismissal”: a dismissal involving not fewer than 10 employees in the course of two consecutive months;”.

11. Section 45 of the said act is amended by adding the following paragraph:

“(d) This section applies to an employer who dismisses all his employees or certain of his employees of one or several of his establishments in a given region.

It does not apply to an employer who dismisses employees for an indeterminate period, but in fact less than 6 months, nor to establishments affected by a strike or a lockout within the meaning of the Labour Code.”

12. The Act respecting labour standards (1979, c. 45) is amended by adding after section 170, the following section:

“170.1 Sections 33 to 38 and 88 to 92 have effect from 20 March 1980.”

13. Section 6 has effect from 20 March 1980.

14. This act comes into force on the day of its sanction.