

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 52

**An Act to amend the Construction Industry
Labour Relations Act**

First reading
Second reading
Third reading

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EXPLANATORY NOTES

The main objects of the amendments proposed in the Construction Industry Labour Relations Act are:

(a) to grant the right to vote to the holders of classification certificates under the Regulation on the placement of employees in the construction industry provided that such holders have worked at least three hundred hours;

(b) to grant the eligibility to vote only to workers domiciled in Québec;

(c) to establish the representativeness of an association of employees according to the total number of workers who have actually voted;

(d) to provide appeals regarding placement.

Sec. 1. *The purpose of this section is to fix new conditions of eligibility to the trade-union membership vote held by the Office de la construction du Québec; further, the section establishes concordances with the Regulation on the placement of employees in the construction industry.*

Sec. 2. *The existing section 7c provides that the board must send to each association a certificate of representativeness before the end of the fifth month preceding the expiry date of the decree.*

This section cancels that time limit but provides for dates for the coming into force of a certificate of representativeness.

Bill 52

An Act to amend the Construction Industry Labour Relations Act

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

1. Section 6 of the Construction Industry Labour Relations Act (1968, chapter 45), replaced by section 5 of chapter 28 of the statutes of 1973 and section 3 of chapter 51 of the statutes of 1975, is amended by replacing the first paragraph by the following paragraphs:

“6. The board must prepare a list of all the employees:

(a) holding a classification certificate issued under the Regulation on the placement of employees in the construction industry;

(b) having worked at least three hundred hours during the first twelve of the fifteen complete calendar months preceding the month during which the poll provided for in section 7*a* is held; and

(c) domiciled in Québec on the last day of the eighth month preceding the expiry date of the decree.

Subparagraph *b* of the first paragraph does not apply to employees who, on the last day of the seventh month preceding the expiry of the decree, are fifty years old or over.”

2. Section 7*c* of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following:

“7*c*. The board ascertains the degree of representativeness of an association in accordance with the criteria set out in section 7*d*.

It issues to each association entered on the list prepared under section 5, a certificate establishing its degree of representativeness

Sec. 3. *This section provides for a new way of establishing the representativeness of an association of employees.*

Section 7d presently reads as follows:

"7d. The representativeness of an association of employees corresponds to the arithmetic average of the following percentages:

(a) the percentage that the number of employees who informed the board, in accordance with section 7a, of their membership in that association and whose names appear on the monthly employers' report filed at the board during the first twelve months of the fifteen complete calendar months preceding the month during which the poll contemplated in section 7a is held, is of all the employees whose names appear on the same reports during the same period;

(b) the percentage that the number of hours worked during the first twelve months of the fifteen complete calendar months preceding the month during which the poll contemplated in section 7a is held by the employees who made known, in accordance with paragraph a, their membership in that association, is of the total hours worked by all the employees whose names appear on the reports mentioned in paragraph a during the same period."

Sec. 4. *The existing section 7e provides that the board should send a card to every employee before the end of the third month preceding the expiry of the decree.*

This section cancels that time limit but provides for a date for the coming into force of the card.

Sec. 5. *This amendment is of concordance.*

and the list of the employees who have become members of such association in accordance with section 7*a*.

This certificate has effect from the first day of the second month preceding the expiry of the decree, except for the purposes of chapters IV and V, for which it has effect from the first day of the fourth month preceding the expiry of the decree."

3. Section 7*d* of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following:

"**7*d*.** The representativeness of an association of employees corresponds to the percentage that the number of employees who informed the board, in accordance with section 7*a*, of their choice in favour of that association is of all the employees who made their choice known."

4. Section 7*e* of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

"**7*e*.** The board shall send to each employee whose name appears on the list contemplated in section 7*b*, a card indicating, in particular:

- (*a*) his name;
- (*b*) his social insurance number;
- (*c*) the name of the representative association he has elected for in accordance with section 7*a*.

This card has effect from the first day of the second month preceding the expiry of the decree."

5. Section 7*f* of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

"**7*f*.** The card contemplated in section 7*e* is incontestable proof of its content and is the only one that the employer is to consider for the purposes of employment of an employee, and also the only one for all purposes of the board."

Sec. 6. *This amendment is of concordance.*

Sec. 7. *The object of this section is to introduce a right of appeal regarding placement. The provisions it introduces are entirely new law.*

6. Section 7*h* of the said act, enacted by section 3 of chapter 51 of the statutes of 1975, is replaced by the following section:

“7*h*. No employer may employ an employee from the first day of the second month preceding the expiry date of the decree unless such employee has previously obtained from the board the card contemplated in section 7*e*, after such employee has informed the board, in accordance with the procedure established by it, of his membership in a representative association and the board has accordingly notified the association concerned.”

7. The said act is amended by inserting, after section 45, the following chapter, title and sections:

“CHAPTER IX

“APPEAL IN THE MATTER OF PLACEMENT

“§ 1.—*Appeal to the Labour Court*

“46. In this chapter,

(*a*) “certificate” means a classification certificate issued under the Regulation on the placement of employees in the construction industry;

(*b*) “licence” means a licence issued to a placement agency under the Regulation on the placement of employees in the construction industry.

“47. Any person may appeal to the Labour Court from any decision rendered by the board

(*a*) refusing to issue or renew his licence;

(*b*) cancelling or suspending his licence;

(*c*) refusing him or withdrawing his authorization to operate a branch.

“48. The appeal must be brought within thirty days from the date when such decision is rendered, by way of a notice setting out

(*a*) the name and domicile of the applicant;

(*b*) the date and nature of the decision of the board;

(*c*) the relevant facts; and

(*d*) the conclusions sought.

The filing of the notice of appeal does not suspend the execution of the decision of the board, unless the Court orders otherwise.

“48a. So far as they are applicable, chapters VI and VII of the Labour Code (Revised Statutes, 1964, chapter 141) apply in the case of an appeal contemplated in section 47.

§ 2.—*Appeal to the placement commissioner*

“48b. A placement commissioner is appointed by the Minister for a term not exceeding two years.

[[**“48c.** The Lieutenant-Governor in Council may fix the fees, allowances or salary of the placement commissioner or, as the case may be, his additional salary.]]

[[**“48d.** The Minister also appoints deputy-commissioners. Their remuneration is fixed by the Lieutenant-Governor in Council.]]

“48e. The placement commissioner directs, coordinates and allots the work of the deputy-commissioners.

“48f. The placement commissioners and each of his deputies are invested with the powers and immunity granted to the commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11).

“48g. Any person may bring an appeal to the placement commissioner from any decision of the board

(a) refusing to issue or renew his certificate;

(b) issuing a certificate that he does not consider appropriate.

An employer may also bring an appeal to the placement commissioner from such a decision where it is in his interest that such person should hold a certificate.

“48h. A person wishing to exercise the recourse provided for by section 48g must, beforehand, send a complaint in writing to the board.

“48i. If the board finds that the complaint has merit it may reconsider its decision.

The board must render a decision within ten days after it receives the complaint contemplated in section 48h.

“48j. The appeal must be brought to the commissioner within thirty days of the decision reconsidered by the board or of the expiry of the delay provided for by section 48i, by way of a notice setting out

Sec. 8. *Section 55b, proposed by section 8, is entirely new law.*

- (a) the name and domicile of the applicant;
- (b) the date and nature of the decision of the board;
- (c) the relevant facts; and
- (d) the conclusions sought.

“48k. The commissioner or one of his deputies may confirm, amend or quash any decision submitted to him and render the decision that, in his opinion, should have been rendered in the first place.

“48l. The decision of the commissioner or of one of his deputies is without appeal.

“48m. None of the extraordinary recourses provided for in articles 834 to 850 of the Code of Civil Procedure may be exercised, nor any injunction granted against the commissioner or a deputy-commissioner, acting in his official capacity.

“48n. Two judges of the Court of Appeal may, upon a motion, annul summarily any writ, order or injunction issued or granted contrary to section 48m.”

8. The said act is amended by inserting, after section 55a, the following:

“55b. Every person who hires an employee contrary to a regulation made under section 32, or keeps him in his employ, is guilty of an offence and is liable, for each day or part of a day during which the offence continues, in addition to the costs, to the fines provided for in section 56.”

[[**9.** The sums required for the carrying into effect of Chapter IX of the said act are paid, for the fiscal year 1978/1979, out of the consolidated revenue fund and, for the subsequent fiscal years, out of the moneys granted every year for that purpose by the legislature.]]

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