

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 126

An Act respecting labour standards

First reading
Second reading
Third reading

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Ministre du travail et de la main-d'oeuvre

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill introduces a new act respecting labour standards.

The bill revises and replaces the existing Minimum Wage Act.

A Commission des normes du travail is established to replace the Commission du salaire minimum.

The proposed act contains eight chapters.

Chapters I and II contain definitions peculiar to this act and define the scope of the act.

Chapter III deals with the Commission des normes du travail, describing its structure and functions. The Commission is to have at most seven members, including the chairman, and is to act by way of regulation, not ordinance.

Chapter IV is devoted exclusively to labour standards, and has nine divisions. The first seven regard

- wages*
- hours of work*
- statutory holidays with pay*
- annual leave with pay*
- rest periods and miscellaneous leaves*
- prior notice and work certificates*
- other labour standards*

The eighth division provides that the Government may make regulations, regarding, in particular, maternity leaves, and the adaptation of certain of the labour standards already referred to to certain categories of employees in consideration of the special nature of their work.

The ninth division sets out the effects of the labour standards and declares them to be of public order.

Chapter V indicates the recourses available to an employee if his employer disregards his obligations under this bill. It also provides the Commission with powers of inquiry for cases of this kind, and the authority, in certain cases, to indemnify an employee whose rights have been disregarded.

Chapter VI empowers the Commission to pay full or partial compensation to an employee, in the manner provided by regulation, for losses incurred through the bankruptcy of his employer.

Chapter VII deals with offences and the related penalties.

Chapter VIII sets out transitional provisions.

Bill 126

An Act respecting labour standards

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

CHAPTER I

DEFINITIONS

1. In this act, unless the context indicates a different meaning,

(a) “delivery” means the natural or the lawfully, medically induced end of a pregnancy by child-birth, whether or not the child is viable;

(b) “Commission” means the Commission des normes du travail established under section 4;

(c) “agreement” means an individual contract of employment, a collective agreement within the meaning of paragraph *e* of section 1 of the Labour Code (Revised Statutes, 1964, chapter 141) or any other agreement relating to conditions of employment;

(d) “decree” means a decree adopted under the Collective Agreement Decrees Act (Revised Statutes, 1964, chapter 143);

(e) “employer” means any person who has work done by an employee;

(f) “professional employer” means an employer who habitually has one or several employees contemplated by this act in his employ;

(g) “Minister” means the Ministre du travail et de la main-d’oeuvre;

(h) "employee" means a person who works for an employer and who is entitled to a wage, including an employee who is a party to a contract, who

i. undertakes to perform specified work for a person within the scope and in accordance with the methods and means determined by that person;

ii. undertakes to furnish, for the carrying out of the contract, the material, equipment, raw materials or merchandise chosen by that person and to use them in the manner indicated by him; and

iii. keeps, as remuneration, the amount remaining to him from the sum he has received in conformity with the contract, after deducting the expenses entailed in the performance of that contract;

(i) "week" means a period of seven consecutive days from midnight at the beginning of a particular day to midnight at the end of the seventh day;

(j) "continuous service" means the uninterrupted period during which the employee is bound to the employer by a contract of employment, even if the performance of work has been interrupted without cancellation of the contract.

CHAPTER II

SCOPE

2. This act applies to the employee regardless of where he works. It also applies

(a) to the employee who performs work both in Québec and outside Québec for an employer whose residence, domicile, undertaking, head office or office is in Québec;

(b) to the employee domiciled or resident in Québec who performs work outside Québec for an employer contemplated in paragraph a, provided that, under the law of his place of work, he is not entitled to a minimum wage.

3. This act does not apply

(a) to an employee employed for the operation of a farm operated by a natural person whose principal occupation is the operation of that farm with the assistance of not more than three employees in addition to his consort, ascendants and descendants;

(b) to an employee who performs domestic duties and who resides elsewhere than at his employer's residence or who, in

that capacity, works fewer than thirty hours per week for the same employer;

(c) to the employer and the employee governed by the Construction Industry Labour Relations Act (1968, chapter 45), except in respect of a regulation made under paragraph *f* of section 87.

CHAPTER III

THE COMMISSION

4. A body is established under the name of "Commission des normes du travail".

5. It is the function of the Commission to supervise the establishment and application of labour standards. It may, for that purpose,

(a) inform the population on matters dealing with labour standards;

(b) supervise the application of labour standards and, where necessary, transmit its recommendations to the Minister;

(c) receive complaints from employees and indemnify them to the extent provided in this act and the regulations;

(d) following the bankruptcy of an employer, compensate his employees in accordance with this act and the regulations.

6. 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.

7. The Commission has its head office at the place determined by the Government; a notice of the location or of any change of location of the head office is published in the *Gazette officielle du Québec*.

The Commission may hold its sittings at any place in Québec.

8. The Commission is composed of not more than seven members, including a chairman, appointed by the Government after consultation with the most representative milieux of employers and employees.

9. The chairman of the Commission is appointed for a term of not over five years. The other members are appointed for a term of not over three years.

10. The chairman holds office on a full-time basis. He presides at meetings of the Commission.

He is also the director general of the Commission and, in that capacity, is responsible for the administration and direction of the Commission within the scope of its regulations.

11. The Commission may generally or specially authorize a person to exercise the powers conferred upon it by this act.

12. At the expiry of their term of office, the members of the Commission remain in office until they are replaced or re-appointed.

13. If a member does not complete his term of office, the Government shall appoint a person to replace him for the remainder of his term.

14. If the chairman is absent or unable to act, the Government may appoint a person to replace him temporarily.

15. The Commission shall meet at least once every three months.

16. The majority of the members including the chairman are a quorum of the Commission.

Decisions are taken by the majority of votes; in the case of a tie-vote, the chairman has a casting vote.

17. A decision signed by all the members has the same value as if it had been taken at a regular meeting.

18. Minutes of the sittings of the Commission approved by the latter are authentic, as are copies or extracts certified true by the chairman or the secretary of the Commission.

19. The Government shall determine, as the case may be, the conditions of employment, salaries, additional salaries, allowances and indemnities or social benefits to which the chairman and the other members of the Commission are entitled.

20. The secretary and the members of the personnel of the Commission are appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14).

21. The expenses of the Commission, including the salaries, allowances and indemnities or social benefits of its members and those of its personnel, are paid out of its revenues.

22. No member of the Commission may be prosecuted by reason of an act done in good faith in the performance of his duties.

No extraordinary recourse provided in articles 834 to 850 of the Code of Civil Procedure may be exercised nor any injunction granted against the Commission or its members acting in their official capacity.

23. Two judges of the Court of Appeal may, on a motion, summarily annul any writ, order or injunction issued or granted contrary to section 22.

24. The chairman, on pain of forfeiture of office, shall not have a direct or indirect interest in an undertaking creating a conflict between his personal interest and that of the corporation. However, he shall not be removed from office if such interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

Every other member of the Commission having a direct or indirect interest in an undertaking must, on pain of forfeiture of office, disclose it in writing to the other members of the Commission and refrain from participating in any decision in connection with the undertaking in which he has that interest.

25. The fiscal year of the Commission ends on 31 March each year.

26. Not later than three months after the end of its fiscal year, the Commission must remit to the Minister a report of its activities for that fiscal year; this report must contain all the information the Minister may require.

The Commission must furnish to the Minister any other information he may require on its operations.

27. The Minister shall table the report of the Commission before the Assemblée nationale, if it is in session, within thirty days of receiving it; if he receives it while it is not sitting, he shall table it within thirty days of the opening of the next session or resumption, as the case may be.

28. The books and accounts of the Commission shall be audited each year by the Vérificateur général and, in addition, every time the Government so orders.

The report of the Vérificateur général must accompany the annual report of the Commission.

29. The Commission may, by regulation,

- (a) adopt rules of internal management;
- (b) determine the functions and powers of the chairman and of the personnel of the Commission;
- (c) establish committees to examine such matters as it may determine;
- (d) require a professional employer to have a system for the registration of all work governed by the Commission or to keep a register for the entry of the surname, given name, residence and employment of each of his employees, the time at which the work was begun, interrupted, resumed and finished every day, the nature of the work, the wage paid for it and the mode and time of payment, and any other information deemed useful in the application of this act or the regulations;
- (e) require a professional employer or a category of professional employers to transmit written reports to it, at such intervals as it may determine, containing the surname, given name, address and employment of each of his employees, the number of regular and overtime hours of work done each week and the wage paid;
- (f) determine the nature of the claims that give entitlement to the benefits it may pay to an employee following the bankruptcy of an employer, the conditions of eligibility for such benefits, the amount of such benefits and the terms and conditions of payment of such benefits to the employee;
- (g) require a professional employer to give written notice to the Commission within ten days after the beginning of the operation of an undertaking, indicating the name or firm name, address and nature of the undertaking;
- (h) levy, upon professional employers, an amount not exceeding one per cent of their total wage bill, fix the maximum amount of wages that is subject to the levy and the minimum wage bill that makes an employer subject to the levy; this regulation must fix the method and rate of the levy and the period for which it is exigible, and be accompanied with an estimated statement of receipts and expenditures of the Commission.

Municipal corporations, school corporations, the School Council of the island of Montreal, fabriques, corporations of trustees for the erection of churches, establishments, health and social service councils and foster families contemplated in paragraphs *a*, *f* and *o*, respectively, of section 1 of the Act respecting health services and social services (1971, chapter 48) proportionately to the amounts of money they receive under that act, charitable institutions or bodies whose object is to assist, gra-

tuitously and directly, natural persons in need, religious institutions, educational institutions, parity committees and employers subject to a decree are not subject to the levy described in subparagraph *h*.

30. The regulations contemplated in subparagraphs *a* to *c* of section 29 come into force on the approval of the Government.

31. The regulations contemplated in subparagraphs *d* to *h* of section 29 are transmitted to the Minister and submitted to the approval of the Government.

32. A regulation contemplated in section 31 must, before being approved, be preceded by a draft regulation published in the *Gazette officielle du Québec*, with a notice specifying that any objection to its approval must be made to the Minister within sixty days.

33. The Minister may order the holding of an inquiry into the merits of an objection made following a notice provided for in section 32.

34. After the expiry of the delay provided for in section 32 or, as the case may be, after the holding of the inquiry provided for in section 33, the Government may approve the regulation with or without amendment.

35. A regulation contemplated in section 31 and approved by the Government comes into force on the day of the publication in the *Gazette officielle du Québec* of a notice that it has received that approval or, if it has been approved with amendments, on the day of the publication in the *Gazette officielle du Québec* of the regulation as approved, or on any later date mentioned in the notice.

36. Notwithstanding section 32, a regulation of the Commission may be approved without prior publication if the urgency of the situation or the public interest requires its immediate approval.

37. Notwithstanding section 32, the absence of prior publication of a regulation of the Commission does not render that regulation invalid.

38. The Commission may

(a) determine if a person is an employee within the meaning of paragraph *h* of section 1;

(b) ascertain the wage paid to an employee by his employer;
 (c) establish forms to be used by employers and employees;
 (d) establish or fill out the certificate of employment provided for in section 101 when the employer refuses or neglects to do so;

(e) collect or receive the amounts owing to an employee under this act or a regulation and remit them to him;

(f) accept for an employee, when he consents to it, partial payment of the amounts due to him by his employer, without prejudice to the rights of the employee as to the remainder;

(g) pay the amounts it deems to be due by an employer to an employee under this act or a regulation up to the minimum wage, taking into account, where such is the case, the increases provided for therein;

(h) pay to an employee, following the bankruptcy of his employer, the benefits contemplated in subparagraph *f* of section 29;

(i) institute in its own name and on behalf of an employee, where such is the case, proceedings to recover amounts due by the employer under this act or a regulation, notwithstanding any act to the contrary, any opposition or any express or implied waiver by the employee and without having to justify an assignment of debt of the employee;

(j) intervene in its own name and on behalf of an employee, where such is the case, in proceedings relating to the insolvency of the employer;

(k) intervene at any time in an action relating to this act or a regulation;

(l) authorize a mode of payment of wages other than that provided for in section 41;

(m) authorize staggered working hours on a basis other than that provided for in this act or the regulations.

CHAPTER IV

LABOUR STANDARDS

DIVISION I

WAGES

39. The minimum wage payable to an employee shall be determined by regulation of the Government.

40. No benefit having pecuniary value may be taken into account in computing the minimum wage.

41. Wages must be paid in cash or by cheque. The payment may be made by bank transfer if the employee agrees to it in writing.

An employee is deemed not to have received payment of the wages due to him if the cheque delivered to him is not cashable.

42. Wages must be paid at regular intervals of not over sixteen days.

43. The wages of an employee must be paid directly to him in a sealed envelope, at his place of employment and on a working day, except where the payment is made by bank transfer or is sent by mail.

The wages of an employee may also, at his written request, be remitted to a third person.

44. If the usual day of payment of wages falls on a general statutory holiday, the wages are paid to the employee on the working day preceding that day.

45. The employer must remit to the employee, together with his wages, a pay sheet containing the following particulars:

- (a) the name of his employer;
- (b) the surname and given name of the employee;
- (c) the occupation of the employee;
- (d) the date of the payment and the work period corresponding to the payment;
- (e) the number of hours paid at the prevailing rate;
- (f) the number of hours of overtime paid with the applicable premium;
- (g) the nature and amount of the bonuses, indemnities or allowances that are being paid;
- (h) the hourly wage rate, where applicable;
- (i) the amount of wages before deductions;
- (j) the nature and amount of the deductions effected;
- (k) the amount of the net wages paid to the employee.

The Government, by regulation, may require any other particular it deems pertinent.

46. No signing formality other than that establishing that the sum remitted to the employee corresponds to the amount of net wages indicated on the pay sheet may be required upon payment of the wages.

47. Acceptance of a pay sheet by an employee does not entail his renunciation of the payment of all or part of the wages that are due to him.

48. No employer may make deductions from wages unless he is required to do so pursuant to an act, a regulation, a court order, a labour agreement or a decree, or unless he is authorized to do so in writing by the employee.

The employee may at all times revoke that authorization except where it pertains to membership in a group insurance plan, or a supplemental pension plan within the meaning of the Supplemental Pension Plans Act (1965, 1st session, chapter 25). The employer shall remit the sums so withheld to their intended receiver.

49. Any gratuity paid directly or indirectly by patrons to an employee belongs to him of right and does not form part of the wages that are otherwise due to him.

Any gratuity collected by the employer shall be remitted to the employee. The word "gratuity" includes the service charge added to the patron's bill.

50. The maximum amount that an employer may require for the employee's room and board is that which is fixed by regulation of the Government.

DIVISION II

HOURS OF WORK

51. For the purposes of computing overtime, the regular workweek is forty-four hours except in the cases where it is fixed by regulation of the Government.

52. A collective agreement or a decree may provide, without the authorization provided for under paragraph *m* of section 38 being necessary, for the staggering of working-hours on a basis other than that provided for in this act or the regulations.

53. The number of hours of the regular workweek determined in section 51 does not apply to the following employees:

- (a) the consort and the children of the employer;
- (b) a student employed in a vacation camp incorporated pursuant to Part III of the Companies Act (Revised Statutes, 1964, chapter 271);
- (c) a supernumerary employee during the harvesting period;
- (d) an executive officer of an undertaking.

54. Any work performed in addition to the regular work-week entails a premium of 50% of the prevailing hourly wage.

55. For the purposes of computing overtime, general statutory holidays with pay are counted as days of work.

56. An employee who is at the disposal of his employer and is required to wait for work to be assigned to him is deemed to be working.

57. An employee who reports for work at his place of employment at the formal request of his employer or in the regular course of his employment and who works fewer than three consecutive hours is entitled to an indemnity equal to three hours' wages at the prevailing hourly rate.

This provision does not apply in the case where the nature of the work or the conditions of execution are such that the work is ordinarily completed within a three hour period, such as the work of ushers or usherettes, school crossing attendants or school monitors.

58. An employee is deemed to be working during the coffee break.

DIVISION III

GENERAL STATUTORY HOLIDAYS AND NON-WORKING DAYS WITH PAY

59. When falling on a working day, the following days are statutory general holidays:

- (a) 1 January;
- (b) 25 December;
- (c) any other day fixed by regulation of the Government.

60. No person may reduce the wages of an employee by reason of the fact that a day indicated in section 59 is a non-working day.

61. The employer shall pay to the employee remunerated on a time basis, on the basis of production or on any other basis an indemnity equal to the wages lost by him due to the fact that a statutory holiday contemplated in section 59 is a non-working day.

62. If an employee must work on one of the days indicated in section 59, the employer, in addition to paying to the employee working on that general holiday the wages for the work done, must pay to such employee an indemnity equal to his wages for a regular day of work, or grant him a compensatory holiday of one day. In this case, the holiday must be taken within three weeks before or after that day.

63. If an employee is on annual leave on one of the days contemplated in section 59, that holiday shall be taken on a date agreed upon between the employer and the employee.

64. To benefit by a general statutory holiday contemplated in section 59, the employee must be entitled to wages, or to an indemnity in lieu thereof, for at least ten days during the thirty days preceding that holiday and not be absent from work without the employer's authorization or without valid cause on the day preceding or on the day following that holiday.

DIVISION IV

ANNUAL LEAVE WITH PAY

65. The reference year is a period of twelve consecutive months during which an employee progressively acquires entitlement to an annual leave.

That period extends from 1 May of the preceding year to 30 April of the current year unless the interested parties agree upon a different starting date for that period.

66. An employee who, at the end of a reference year, is credited with less than one year of uninterrupted service with the same employer during that period, is entitled to an interrupted leave for a duration determined at the rate of one working day for each month of uninterrupted service, for a total leave not exceeding two weeks.

67. An employee who, at the end of a reference year, is credited with one year of uninterrupted service with the same employer during that period is entitled to an annual leave of a minimum duration of two weeks.

68. An employee who, at the end of a reference year, is credited with ten years of uninterrupted service with the same employer, is entitled to an annual leave for a minimum duration of three weeks, two of which may be consecutive.

69. The annual leave must be taken within twelve months following the end of the reference year.

70. The annual leave may be divided into two periods where so requested by the employee. A leave not exceeding one week shall not be divided.

71. An employee is entitled to know the dates of his annual leave at least two weeks in advance.

72. Employers are prohibited from replacing a holiday contemplated in sections 66, 67 and 68 by a compensatory indemnity.

73. The indemnity relating to the annual leave of the employee contemplated in sections 66 and 67 is equal to the greater of the following amounts: the wages corresponding to two regular workweeks of the employee, and an amount equal to 4% of the gross wages of the employee during the reference year.

In the case of the employee contemplated in section 68, the indemnity is equal to the greater of the following amounts: the wages corresponding to three regular workweeks of the employee and an amount equal to 6% of the gross wages of the employee during the reference year.

74. The indemnity pertaining to the annual leave of an employee must be paid to him before the beginning of the leave.

75. If a contract of employment is cancelled before the employee is able to benefit by all the days of leave to which he is entitled, the employee shall receive a compensatory indemnity determined in accordance with section 73 in proportion to the fraction of the leave that he did not enjoy.

76. Sections 65 to 75 do not apply to the following persons:

(a) the consort and the children of the employer;

(b) a student employed in a vacation camp incorporated pursuant to Part III of the Companies Act (Revised Statutes, 1964, chapter 271);

(c) a salesman within the meaning of paragraph *b* of section 1 of the Real Estate Brokerage Act (Revised Statutes, 1964, chapter 267), entirely remunerated on commission;

(d) a salesman within the meaning of paragraph 12 of section 1 of the Securities Act (Revised Statutes, 1964, chapter 274), entirely remunerated on commission;

(e) a supernumerary employee during the harvesting period;

(f) a trainee within the framework of a vocational training programme recognized by law.

DIVISION V

REST PERIODS AND MISCELLANEOUS LEAVES

77. An employee is entitled to a weekly minimum rest period of twenty-four consecutive hours.

78. During a period of five consecutive hours of work, an employee is allowed a rest period with pay of thirty minutes, or a period without pay of sixty minutes, for meals. However, in an establishment employing a single employee, the meal period may be divided, but is always with pay.

This provision does not prevent the application of sections 15 and 18 of the Industrial and Commercial Establishments Act (Revised Statutes, 1964, chapter 150).

79. An employee may be absent from work for one day without reduction of wages by reason of the death or the funeral of his consort or child, father, mother, brother or sister. He may also be absent from work, without pay, for three more days on such occasion.

For the purposes of this section, the word "consort" means either of a man and a woman who

(a) are married or

(b) are living together as husband and wife and who at the time of the death

i. had resided together for three years, or for one year if a child was born of their union and

ii. had publicly been represented as consorts.

80. An employee may be absent from work, without pay, on the day of the wedding of one of his children, and for two days for the birth or adoption of a child.

DIVISION VI

PRIOR NOTICE AND WORK CERTIFICATE

81. Except in the case of a contract for a fixed term or for a specific undertaking, an employee who is credited with twelve months of uninterrupted service with the same employer is entitled to two weeks' prior notice before being dismissed. An employee credited with under twelve months of uninterrupted service is entitled to one week's prior notice.

Notwithstanding article 1668 of the Civil Code, this provision does not apply in the case of managerial personnel.

82. Except in the case of grave fault of the employee, insolvency of the employer or irresistible force, an employer failing to give such prior notice must pay to the employee, at the time his employment terminates, a compensatory indemnity equal to the employee's wages for a period equal to the period of the prior notice.

83. At the expiry of the contract of employment, an employee may require his employer to issue to him a work certificate in which the following information, and only the following information, is set forth: the nature and the duration of his employment, the dates on which his employment began and terminated, and the name and address of the employer. The certificate shall not carry any mention of the quality of the work or the conduct of the employee.

DIVISION VII

OTHER LABOUR STANDARDS

84. If the employer requires the wearing of a uniform, he shall not deduct any amount from the minimum wage for the purchase, wearing or care of that uniform.

85. The labour standards relating to various premiums, indemnities and allowances and to tools, showers, cloakrooms and rest areas are the standards established by regulation of the Government.

DIVISION VIII

REGULATIONS

86. The Government may make regulations making such bodies as it may designate subject to or exempt from the whole

or a part of the application of this act or the regulations, or exempting such category or categories of employees as it may designate from the whole or a part of the application of Division I of Chapter IV, for such time and on such conditions as it may fix, and determining, as required, the special labour standards for these employees, namely, managerial personnel, employees on commission, employees engaged in logging operations, security guards, employees who habitually receive gratuities, supernumeraries employed during the harvesting period, students employed in vacation camps, domestic servants, students working during the school year in an establishment chosen by the administration of a teaching establishment under a job familiarization programme approved by the Ministre de l'éducation, and trainees under a programme of vocational training recognized by law.

87. The Government, by regulation, may fix labour standards respecting the following matters:

(a) the minimum wage, which may be established on a time basis, a productivity basis or any other basis;

(b) pay sheets;

(c) the maximum amount that may be required of an employee for board and lodging;

(d) the standard workweek of employees, particularly that of domestic servants, or of employees engaged in the retail food trade or in logging operations, working in saw mills or at public works, or working in isolated areas that are inaccessible by motor roads forming part of the road network of Québec, or in fishing, fish processing or fish canning establishments;

(e) general statutory holidays with pay;

(f) the right to a maternity leave granted in the expectation of delivery and, as the case may be, the indemnity attached to such leave, the terms and conditions of application, the duration and distribution of such leave and, generally, the rights and benefits granted to a pregnant employee where she is or is deemed to be at work;

(g) various premiums, indemnities and allowances;

(h) tools, showers, cloakrooms and rest areas.

88. The Government may, by regulation, wholly or partly exempt certain establishments or categories of establishments for physical, mental or social re-education from this act and the regulations and, as the case may be, fix labour standards applicable to the persons working in them.

89. The standards contemplated in sections 86 to 88 may vary according to the field of activity and the type of work.

90. Sections 32 to 37 apply *mutatis mutandis* to the regulations made by the Government under this division.

DIVISION IX

EFFECT OF LABOUR STANDARDS

91. The labour standards contained in this act and the regulations are of public order.

92. Agreements with an employee or an association of employees stipulating conditions of employment inferior to the standards provided for by this act or the regulations are prohibited.

In an agreement or decree, any provision that contravenes a labour standard or that is inferior thereto is null *pleno jure*.

93. A professional employer who enters into a contract with a subcontractor, directly or through an intermediary, is responsible jointly and severally with that subcontractor and that intermediary for the pecuniary obligations fixed by this act or the regulations and for the deductions owed to the Commission.

94. The alienation or concession of the whole or a part of an undertaking otherwise than by judicial sale does not invalidate any civil claim arising from the application of this act or a regulation which is not paid at the time of such alienation or concession. The former employer and the new employer are bound jointly and severally in respect of that claim.

95. The alienation or concession in whole or in part of the undertaking, or the modification of its juridical structure, namely by amalgamation, division or otherwise, does not affect the continuity of the application of the labour standards.

96. For the application of the labour standards, the contract of employment in force on the day of the alienation or concession of the undertaking or of the modification of its juridical structure subsists between the new employer and the employee.

CHAPTER V

RECOURSES

97. Where an employee is engaged at a higher wage than the minimum wage established under section 39 and the employer fails to pay such wage, the Commission may claim from such employer the part of such wage equal to the minimum wage.

98. Where the employer fails to pay the other pecuniary benefits resulting from the application of this act or a regulation, the Commission may claim these benefits on the basis of the prevailing hourly wage.

99. The employee retains the right to exercise himself, if necessary, his recourse for that part of his wages which, where that is the case, exceeds the minimum wage.

100. Any settlement of a claim between an employer and an employee which involves a reduction of the amount claimed is null.

101. Subject to section 115, an employee who believes that one of his rights under this act or a regulation has been violated may present a complaint in writing to the Commission.

102. An employee lodging a complaint may require of the Commission that his identity not be disclosed during the inquiry.

103. On receipt of a complaint, the Commission shall make an inquiry with due dispatch.

104. The Commission may also make an inquiry of its own initiative.

105. The Commission may refuse to proceed with an inquiry if it finds that the complaint is frivolous or made in bad faith.

106. Where the Commission refuses to proceed with an inquiry under section 105 or where it finds that the complaint is groundless, it shall give notice of its decision to the employee by registered mail, together with the reasons therefor.

107. The Commission, or any person it may designate generally or specially for that purpose, is vested, for the purposes of an inquiry contemplated in sections 103 and 104, with the powers and immunity granted to commissioners appointed

under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11), except the power to impose imprisonment.

The Commission may authorize a person generally or specially to inquire into a matter relating to this act or a regulation. Such person must, upon request, present a certificate of his authority signed by the chairman.

108. In proceeding with an inquiry, the Commission or any person designated by it for such purpose may

(a) enter at any reasonable time any place of work or establishment of an employer and make an inspection thereof; such inspection may include the examination of registers, books, accounts, vouchers and other documents;

(b) require any information regarding the application of this act or a regulation, and the production of any document related thereto.

109. A document contemplated in section 108 which has been examined by the Commission or a person designated by it, or which has been produced to either of them, may be copied or photocopied. Any copy or photocopy of such document certified true to the original by the chairman or that said person is admissible as evidence and has the same value as the original.

110. Where, following an inquiry, the Commission considers that an amount of money is due to an employee, in accordance with this act or the regulations, it shall put the employer in default to pay such amount to the Commission within twenty days of the mailing of such putting in default by registered mail.

The Commission shall at the same time send a copy of such putting in default to the employee.

111. If the employer fails to pay such amount within the delay fixed in section 110, the Commission may, on its own authority, indemnify the employee to the extent provided for in paragraph *g* of section 38.

If the Commission indemnifies the employee, it is thenceforth substituted in all the rights of the employee up to the amount thus paid.

112. The Commission may take the appropriate action on behalf of the employee if he fails to inform the Commission of his intention to proceed himself at the expiry of the delay provided for in section 110.

113. Where it exercises the recourses provided for in sections 111 and 112, the Commission may claim, in addition to the amount due under this act or a regulation, an amount equal to 20% of such amount. This additional amount of 20% belongs entirely to the Commission.

The amount due to the employee bears interest at the rate fixed by regulation under section 28 of the Revenue Department Act (1972, chapter 22), from the putting in default contemplated in section 110.

114. No employer or his agent may suspend or transfer an employee

(a) on the ground that such employee has exercised one of his rights under this act or a regulation;

(b) on the ground that such employee has given information to the Commission or one of its representatives on the application of the labour standards or that he has given evidence in a proceeding related thereto;

(c) on the ground that a seizure by garnishment has been or may be effected against such employee;

(d) on the ground that such employee is pregnant;

(e) for the purpose of evading the application of this act or a regulation.

115. Every employee who believes that he has been dismissed, suspended or transferred for one of the reasons mentioned in section 114 and who wishes to vindicate his rights, shall do so before a labour commissioner appointed under the Labour Code, as in the case of a dismissal, suspension or transfer by reason of the exercise by an employee of one of his rights under the Labour Code. Sections 14 to 19, 103 to 114, 121, 122, 129a and sections 133 to 135 of the labour Code then apply, *mutatis mutandis*.

116. A civil action brought under this act or a regulation is prescribed by one year from each due date.

This prescription runs only from 1 May following the date of execution of the work in respect of employees engaged in logging operations.

117. A notice of inquiry sent by the Commission to the employer by registered mail interrupts prescription in respect of all his employees for six months from the date of mailing.

118. A civil action for the recovery of a deduction is prescribed by five years from the due date.

119. In the case of a false entry in the required register, the system of registration or the pay-list, or of a secret rebate or any other fraud, prescription runs against the Commission's recourses only from the date on which the Commission becomes aware of the fraud.

120. The recourses of several employees against the same employer may be joined in the same suit, whether it is instituted by the employees or by the Commission, and the total amount claimed determines the jurisdiction, both in first instance and in appeal.

121. After being put in default by the Commission, an employer cannot validly discharge the amounts forming the object of the claim except by remitting them to the Commission. This provision does not apply in the case of an action brought by the employee himself.

122. Subject to section 111 and to the first paragraph of section 113, the Commission shall remit to the employee the amount it collects by exercising his recourse.

CHAPTER VI

BANKRUPTCY

123. The Commission may, out of its funds and in the manner provided for by regulation, compensate an employee for the whole or part of the loss of wages or of any other pecuniary benefit accruing to him under this act or a regulation, where he has incurred such loss on account of the bankruptcy of his employer.

124. For the application of this chapter, an employer is bankrupt where a receiving order is made against him under the Bankruptcy Act (Revised Statutes of Canada, 1970, chapter B-3), where he makes an assignment of his property within the meaning of that act and, if it is a corporation, where a winding-up order is made against it under the Act respecting the winding-up of insolvent companies (Revised Statutes of Canada, 1970, chapter W-10), for insolvency within the meaning of the said act.

125. The Commission, where compensating an employee in the event of a bankruptcy, is subrogated in all his rights up to the amount so paid.

CHAPTER VII

OFFENCES AND PENALTIES

126. Every professional employer who knowingly destroys, alters or falsifies any register, pay-list, registration system or document dealing with the carrying out of this act or a regulation, or fails, neglects or refuses to keep such document, is guilty of an offence and liable, in addition to the costs, to a fine of not less than \$200 nor more than \$500 and, for every subsequent offence within two years, to a fine of not less than \$500 nor more than \$3 000.

127. Every person who in any way hinders the Commission or any person authorized by it in the discharge of its duties, deceives it by concealment or false declaration, refuses to give it any information or document it is entitled to obtain under this act, or conceals a document or anything related to an inquiry, is guilty of an offence and liable, in addition to the costs, to a fine of not less than \$200 nor more than \$500 and, for every subsequent offence within two years, to a fine of not less than \$500 nor more than \$3 000.

128. Every person who infringes any other provision of this act or a regulation, or makes with an employee or association of employees an agreement stipulating conditions of employment inferior to the labour standards determined under this act and the regulations, is guilty of an offence and liable, in addition to the costs, to a fine of not less than \$200 nor more than \$500 and, for every subsequent offence within two years, to a fine of not less than \$500 nor more than \$3 000.

129. Every person who attempts to commit an offence contemplated in sections 126 to 128, or aids or incites another person to commit an offence against this act or a regulation, is guilty of an offence and liable to the penalties provided for such offence.

130. Where a corporation commits an offence, every officer, director, employee or agent of that corporation who has prescribed or authorized the perpetration of the offence or agreed or was a party thereto, is deemed to be a party to the offence.

131. Prosecutions under this act are brought by the Procureur général or any person generally or specially authorized by him in writing for that purpose; the Summary Convictions Act (Revised Statutes, 1964, chapter 35) applies to such prosecutions.

132. Penal proceedings must be instituted within a delay of one year after the Commission has become aware of the offence.

133. The fines collected pursuant to a judgment shall be paid to the Commission.

134. No evidence shall be permitted with a view to establishing that any action or suit contemplated by this act was brought following upon the complaint of an informer or to discovering the identity of the latter.

135. For the application of section 28a of the Summary Convictions Act, a person designated by the Commission for that purpose is a person entrusted with supervising the application of this act or a regulation.

CHAPTER VIII

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

136. This act replaces the Minimum Wage Act (Revised Statutes, 1964, chapter 144).

137. In any act, regulation, ordinance or proclamation and in any order in council, contract or other document, any reference to the Minimum Wage Act is deemed to be a reference to this act or to the equivalent provision of this act.

138. Wherever the expression "Minimum Wage Commission" occurs in this act, a regulation, ordinance, proclamation, order in council, contract or any other document, it means the "Commission des normes du travail".

139. Every certificate issued under section 15 of the Minimum Wage Act remains in force until the coming into force of the Act to secure the handicapped in the exercise of their rights (1978, chapter *insert here the chapter number of Bill 9*).

140. Every regulation made and every resolution adopted by the Commission du salaire minimum remains in force, except where it is inconsistent with this act, until it is repealed, amended or replaced by a regulation or resolution of the Commission des normes du travail.

141. Every provision of the ordinances adopted by the Commission du salaire minimum which may be the object of a

regulation under sections 86 and 87 remains in force until it is repealed, amended or replaced by a regulation made under the said sections. Such provision has, for the purposes of this act, the same value and effect as a regulation made under this act.

142. The Commission des normes du travail succeeds the Commission du salaire minimum and, for that purpose, acquires the rights and assumes the liabilities of that body.

143. Every matter pending before the Commission du salaire minimum and every case not yet prescribed under the provisions of the Minimum Wage Act at the time the latter is replaced, are continued and decided without continuance of suit, in accordance with this act, by the Commission des normes du travail.

144. The functionaries and employees of the Commission du salaire minimum in office on (*insert here the date of the coming into force of section 144 of Bill 126*) become the members of the personnel of the Commission des normes du travail.

145. Notwithstanding section 8, a commissioner of the Commission du salaire minimum who is appointed a part-time member of the Commission des normes du travail may, by giving notice to the Commission administrative du régime de retraite, continue to contribute to the pension plan applicable to him on the basis of the salary he would receive if he held office on a full-time basis.

146. Notwithstanding section 92, any collective agreement in force under the Labour Code on (*insert here the date of the coming into force of Bill 126*) being contrary to the labour standards adopted under this act or a regulation, or in which one or another of those standards is lacking, remains effective until its expiry.

The same rule applies to a decree in force under the Collective Agreement Decrees Act on (*insert here the date of the coming into force of Bill 126*).

However, minimum wage standards apply from (*insert here the date of the coming into force of Division I of Chapter IV of Bill 126*).

147. This act applies to employees working as domestic servants from the coming into force of the regulations made under section 86 and paragraph *d* of section 87 respecting them.

148. Article 294a of the Code of Civil Procedure, enacted by section 2 of chapter 84 of the statutes of 1968, replaced by section 21 of chapter 83 of the statutes of 1975 and amended by section 12 of chapter 73 of the statutes of 1977, is again amended by replacing the third paragraph of article 294a by the following paragraph:

“This article applies, *mutatis mutandis*:

(a) to the report of a financial institution on the state of the deposits and investments of a person;

(b) to the report of a member of the Sûreté, of a municipal policeman or of a special constable, as defined in the Police Act (1968, chapter 17);

(c) to the report of the Commission des normes du travail or of any person appointed by it, respecting the application of the labour standards enacted by the Act respecting labour standards (1979, chapter *insert here the chapter number of Bill 126*).”

149. Section 16 of the Collective Agreement Decrees Act (Revised Statutes, 1964, chapter 143) is amended by replacing the second paragraph by the following paragraph:

“The Lieutenant-Governor in Council may, however, order that the observance of a decree be supervised and ensured by an already-existing committee, if the latter consent thereto, or by the Commission des normes du travail.”

150. Section 23a of the said act, enacted by section 2 of chapter 49 of the statutes of 1969, is amended by adding at the end the following paragraph:

“The Minister may appoint the Commission des normes du travail to act as administrator in such case.”

151. Section 63 of the Manpower Vocational Training and Qualification Act (1969, chapter 51) is repealed.

152. The Weekly Day of Rest Act (Revised Statutes, 1964, chapter 145) is repealed.

153. The National Holiday Act (1978, chapter *insert here the chapter number of Bill 48*) is amended:

(a) by replacing section 9 by the following section:

“**9.** Any person who fails to comply with any provision of this act is guilty of an offence and is liable, in addition to costs, to a fine of \$100 to \$500.

Chapter VII of the Act respecting labour standards (1979, chapter *insert here the chapter number of Bill 126*) applies, *mutatis mutandis*.”;

(b) by adding after section 17 the following sections:

“**17a.** For the application of this act, section 5 and Chapter V of the Act respecting labour standards apply, *mutatis mutandis*.

“**17b.** The Ministre du travail et de la main-d’oeuvre is responsible for the application of this act.”

[[**154.** The Government may authorize the Ministre des finances to pay or advance to the Commission the sums necessary to pay the salaries of its members and personnel and the other expenses necessary for the application of this act. To repay these sums, the Commission must pay the Ministre des finances out of its revenue.]]

155. The Minister is responsible for the application of this act.

156. This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date that may be fixed by proclamation of the Government.