

1995, chapter 8

AN ACT TO AMEND THE ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING AND MANPOWER MANAGEMENT IN THE CONSTRUCTION INDUSTRY AND OTHER LEGISLATIVE PROVISIONS

Bill 46

Introduced by Madam Louise Harel, Minister of Employment

Introduced 8 December 1994

Passage in principle 20 December 1994

Passage 4 February 1995

Assented to 8 February 1995

**Coming into force: 8 February 1995, except the provisions of sections 5, 6 and 51 to 53,
which will come into force on the date fixed by the Government**

– 28 June 1995: ss. 5, 6, 51-53
G.O., 1995, Part 2, p. 1871

Legislation amended:

Act respecting land use planning and development (R.S.Q., chapter A-19.1)

Building Act (R.S.Q., chapter B-1.1)

Act respecting labour relations, vocational training and manpower management in the
construction industry (R.S.Q., chapter R-20)

Act to establish the Office de la construction du Québec and to again amend the Construction
Industry Labour Relations Act (1975, chapter 51)

Act to incorporate the Association of Building Contractors of Québec (1976, chapter 72)

Act to amend the Act respecting labour relations, vocational training and manpower
management in the construction industry and other legislative provisions (1993, chapter 61)





CHAPTER 8

An Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions

[Assented to 8 February 1995]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. R-20, s. 1,
am.

1. Section 1 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20), amended by section 1 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the words “one or more representative associations of employees and the employers’ association mandated for that purpose by a sector-based employers’ association” in paragraph *g* by the words “the negotiating parties of that sector”;

(2) by replacing paragraph *y* by the following paragraph:

“residential
sector”

“(y) “residential sector”: the sector of construction of buildings or complexes of adjoining buildings, including installations and equipment physically attached or not to the buildings, at least 85% of the area of which, excluding parking space, is reserved for residential use, and the number of aboveground storeys of which, excluding any part of the basement and reckoned from any side of the building or complex, does not exceed six in the case of new buildings or eight in other cases.”;

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

Applicability

“Subparagraphs *v* to *y* of the first paragraph do not apply to the determination of the scope of this Act.”

c. R-20,
s. 1.1, added

2. The said Act is amended by inserting, after section 1, the following section:

“construc-
tion”

“1.1 The word “construction” defined in subparagraph *f* of the first paragraph of section 1 includes and has always included the laying of resilient floor coverings that are an integral part of the building.”

c. R-20,
s. 3.2, am.

3. Section 3.2 of the said Act, amended by section 2 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the word “thirteen” in the second line of the first paragraph by the word “seventeen”;

(2) by replacing the word “four” in the first line of subparagraph 1 of the second paragraph by the word “six”;

(3) by replacing the word “four” in subparagraph 2 of the second paragraph by the word “six”.

c. R-20, s. 4,
am.

4. Section 4 of the said Act, amended by section 4 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the words “of manpower” in subparagraph 2 of the first paragraph by the words “of workers and labour mobility”;

(2) by inserting the words “cooperate in the fulfilment of the commitments of the Government of Québec under intergovernmental agreements respecting labour mobility or the mutual recognition of qualifications, skills and work experience for construction trades and occupations; the Commission shall also” after the word “shall” in the first line of the second paragraph.

c. R-20,
s. 7.1, am.

5. Section 7.1 of the said Act is amended by inserting the words “and to the application of the Building Act or the regulations with respect to the qualification of contractors and owner-builders,” after the word “regulations” in the second line of subparagraph 2 of the first paragraph.

c. R-20,
ss. 7.3-7.10,
added

6. The said Act is amended by inserting, after section 7.2, the following sections:

Proof

“7.3 The Commission may, in the exercise of its powers under section 7.1, request any person who carries out construction work or causes construction work to be carried out to prove to the Commission that he is the holder of the appropriate licence issued under the Building Act and, where applicable, of the appropriate competency certificate or proof of exemption issued under this Act and that any person whose services he hires to carry out construction work or whom he assigns to construction work is the holder of such a

competency certificate or proof of exemption or, where applicable, of such a licence.

Request The Commission shall make its request in writing and fix a time limit for compliance.

Client **“7.4** The person to whom a request under section 7.3 is addressed shall inform his client without delay.

**Suspension
of work** If the person fails to comply within the time fixed, the Commission may, after providing interested persons informed of the request with an opportunity to express their views, order the suspension of the work to the extent it indicates.

Decision The Commission shall make its decision in writing and send a copy to every interested person who expressed his views, and shall post a copy of the decision in a conspicuous place on the premises where the work is carried out.

Proof **“7.5** The Commission may authorize the resumption of the suspended construction work upon proof by the person who intends to carry out the work or cause the work to be carried out that he is the holder of the appropriate licence issued under the Building Act and, where applicable, of the appropriate competency certificate or proof of exemption issued under this Act and that every person whose services he intends to hire to carry out the work or whom he intends to assign to such work is the holder of such a competency certificate or proof of exemption or, where applicable, of such a licence.

Powers **“7.6** The powers provided for in sections 7.3 to 7.5 may be exercised by any member of the personnel of the Commission authorized by the Commission for that purpose. The person shall, on request, identify himself and show the certificate referred to in the second paragraph of section 7.1.

Review **“7.7** Every person who believes that he has been wronged by a decision rendered under section 7.4 may, within ten days of being notified of the decision, apply for a review of the decision to the building commissioner, who may refer the case to a building deputy-commissioner.

Application Applications for review are heard and decided by preference.

**Provisions
applicable** Sections 21.2 to 23.1 apply to such applications for review.

True copy **“7.8** The Commission may file a true copy of a decision rendered under section 7.4 at the expiry of the time allowed to apply for review

or, if there has been a review, a true copy of a final decision of the building commissioner or building deputy-commissioner, at the office of the prothonotary of the Superior Court of the district in which the premises to which the decision pertains are situated.

Effect of
decision

Upon the filing of the true copy, the decision becomes enforceable as and has all the effects of a judgment of the Superior Court that is final and without appeal.

Data,
reports,
information

“7.9 The Commission shall transmit to the Minister, at his request, the statistical data, reports or other information concerning the application of sections 7.3 to 7.8, within the time and in the form he determines.

Immunity

“7.10 No judicial proceeding may be instituted against the Commission or any person referred to in section 7.1 or 7.6 by reason of official acts performed in good faith in the performance of their duties.”

c. R-20,
s. 17, am.

7. Section 17 of the said Act, amended by section 7 of chapter 61 of the statutes of 1993, is again amended

(1) by adding, at the end of subsection 1, the words “and the contractors’ associations”;

(2) by replacing subsection 3 by the following subsection:

Designation

“(3) The employers’ association and the contractors’ associations shall each designate one member.”;

(3) by replacing the words “and the employers’ association” in the first line of subsection 4 by the words “, the employers’ association and each contractors’ association”;

(4) by inserting the words “and the contractors’ associations” after the word “association” in the first line of subsection 7;

(5) by replacing the words “majority and the employers’ association” in the second line of subsection 9 by the words “and employers’ majority”.

c. R-20,
s. 18.3, am.

8. Section 18.3 of the said Act, amended by section 8 of chapter 61 of the statutes of 1993, is again amended by replacing the word “eleven” by the word “thirteen”.

c. R-20,
s. 18.4, am.

9. Section 18.4 of the said Act, amended by section 9 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the second paragraph by the following paragraph:

Designation “The employers’ association and the contractors’ associations shall each designate one member.”;

(2) by replacing the word “five” in the first line of the third paragraph by the word “six”;

(3) by replacing the word “five” in the first line of subparagraph 2 of the third paragraph by the word “six”.

c. R-20,
s. 18.9, am. **10.** Section 18.9 of the said Act, amended by section 10 of chapter 61 of the statutes of 1993, is again amended by inserting the words “the employers’ association and” after the word “representing” in the first line.

c. R-20,
s. 19, am. **11.** Section 19 of the said Act, amended by section 11 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing subparagraph 10 of the first paragraph by the following subparagraph:

“(10) construction work relating to gutters, garage doors, central vacuum cleaner systems and landscaping, including yards, asphalt or concrete driveways or sidewalks, where the work is carried out in respect of a single-family dwelling by a person other than a professional employer or by an employee who ordinarily does not carry out construction work other than work referred to in this subparagraph;”;

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

“(11) the transport of bulk material effected by the holder of a single bulk material transport permit issued under the Transport Act (R.S.Q., chapter T-12), where the truck operated under the permit is driven by the holder of the permit or, in the case of a legal person, by the administrator or principal shareholder of the legal person, or by a person who is replacing the permit holder, administrator or shareholder because he is temporarily physically disabled;

“(12) pavement marking on public or private roads.”

c. R-20,
s. 21, am. **12.** Section 21 of the said Act is amended

(1) by replacing the word “the” in the third line by the word “a”;

(2) by adding the following paragraph:

Disputes “The building commissioner shall also, on the application of any interested party, hear and settle disputes as to competency which relate to the practice of any trade or occupation. He may refer the dispute to a building deputy-commissioner.”

c. R-20,
s. 21.1,
replaced **13.** Section 21.1 of the said Act is replaced by the following sections:

Term of
office “**21.1** The building commissioner and building deputy-commissioners are appointed by the Government for a specified term of not more than five years.

Expiry of
term “**21.1.1** The building commissioner or a building deputy-commissioner may, after the expiry of his term, continue to perform his duties of office in order to carry through to completion the matters which he has begun to hear but has yet to rule on.

Remuner-
ation “**21.1.2** The Government shall fix the remuneration, social benefits and other conditions of employment of the building commissioner and building deputy-commissioners.

Remuner-
ation Once fixed, the remuneration of the building commissioner or building deputy-commissioners shall not be reduced.

Prohibition “**21.1.3** The building commissioner or a building deputy-commissioner may not, on pain of forfeiture of office, hold an office, carry on an activity or put himself in a situation incompatible with his duties of office.

Conflict of
interest Furthermore, the building commissioner or a building deputy-commissioner may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise putting his personal interest in conflict with that of his office. However, such forfeiture is not incurred if the interest devolves to him by succession or gift, provided he renounces or disposes of it with dispatch.”

c. R-20,
s. 23, am. **14.** Section 23 of the said Act is amended by replacing the words “the building deputy-commissioner shall have for such purposes” in the first and second lines by the words “building deputy-commissioners have, for the purposes of their inquiries, decisions or orders,”.

c. R-20,
ss. 23.1,
23.2, added **15.** The said Act is amended by inserting, after section 23, the following sections:

Powers

“23.1 The building commissioner and building deputy-commissioners have all the powers necessary for the exercise of their competence; they may make any order they deem appropriate to safeguard the rights of the parties and decide any question of law or fact.

Visite of
construc-
tion site

“23.2 The building commissioner or a building deputy-commissioner may, on his own initiative, if he considers it useful for the examination of any matter, visit, at any reasonable time, a construction site or any other premises related to the matter. He shall inform the person responsible for the premises and invite the parties to accompany him.

Visite of
construc-
tion site

During a visit to the premises, the commissioner or deputy-commissioner may examine any movable or immovable property related to the matter to be resolved. He may also, on that occasion, question the persons found on the premises.

Access to
premises

The person responsible for the premises visited is required to allow access thereto to enable the commissioner or deputy-commissioner to exercise his powers.”

c. R-20,
s. 34, am.

16. Section 34 of the said Act, amended by section 18 of chapter 61 of the statutes of 1993, is again amended

(1) by striking out the words “and its degree of sectorial representativeness for negotiation purposes in accordance with section 35.1” at the end of the first paragraph;

(2) by striking out the words “its degree of sectorial representativeness as well as” in the second paragraph.

c. R-20,
s. 35.1,
repealed

17. Section 35.1 of the said Act, enacted by section 19 of chapter 61 of the statutes of 1993, is repealed.

c. R-20,
s. 41, am.

18. Section 41 of the said Act, amended by section 21 of chapter 61 of the statutes of 1993, is again amended by replacing the first two paragraphs by the following paragraphs:

Employers’
agents

“41. The employers’ association and the sector-based employers’ associations are the agents of the employers for the purposes of negotiating, making and applying collective agreements under this Act.

Employers’
sole agent

The employers’ association is the sole agent of the employers as regards matters mentioned in section 61.1. In that respect, the

employers' association shall be given its mandates by the sector-based employers' associations. It shall also provide them with assistance in labour relations matters.

Employers'
sole agent

A sector-based employers' association is, for its sector, the sole agent of the employers as regards matters other than those mentioned in section 61.1. Each sector-based employers' association may, however, entrust the employers' association with a mandate to fulfil that function wholly or partly for its sector."

c. R-20,
ss. 41.1,
41.2, added

19. The said Act is amended by inserting, after section 41, the following sections:

Share of
assessments

"41.1 The employers' association shall allocate, in the proportion and according to the basis of apportionment it determines, a share of the assessments remitted by the Commission under section 40 to each sector-based employers' association.

Information

The employers' association shall also, as regards its members who have the right to participate in the meetings of and ballots held by the sector-based employers' associations, provide the sector-based associations with all information relevant to such purposes.

Copy of
constitution
and by-laws

"41.2 Every sector-based employers' association shall transmit to the Commission a true copy of its constitution and by-laws, and any amendment thereto.

Content

The constitution and by-laws must, among other things, set out

(1) the mode of calling meetings at which labour relations matters are to be discussed;

(2) that every employer belonging to the employers' association who, during the period and according to the reports referred to in the second paragraph of section 44.1, has declared a number of hours as having been worked in the sector concerned has the right to participate in such meetings and in the ballots held under this Act and express his views freely without incurring any penalty;

(3) the type of majority required in such ballots and, where the sector-based association deems it appropriate, a method to determine, according to the number of hours declared as having been worked in the sector, the relative value of the vote cast by each member of the employers' association participating in a ballot;

(4) that every officer entrusted with the financial management of the sector-based association must deposit with the Commission security in the amount determined by the Commission;

(5) that every member of the employers' association who has the right to participate in the meetings of and ballots held by the sector-based association is entitled to obtain free of charge from the sector-based association, at the end of each fiscal year, a detailed statement of its income and expenditures."

c. R-20,
s. 42, am.

20. Section 42 of the said Act, amended by section 22 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the words "the employers' association, or the employers' association" in the first and second lines of the first paragraph by the words "a sector-based employers' association, or a sector-based employers' association";

(2) by adding, after the word "sector" at the end of the first paragraph, the words "of the sector-based association";

(3) by inserting the words "and the employers' association" after the word "association" in the first line of the third paragraph;

(4) by replacing the first sentence of the fourth paragraph by the following: "The negotiations must begin between the associations of employees whose representativeness is more than 50% and the sector-based employers' association or the employers' association, according to their respective roles, and must be pursued with all possible dispatch and in good faith."

c. R-20,
s. 43.7, am.

21. Section 43.7 of the said Act, enacted by section 24 of chapter 61 of the statutes of 1993, is amended by striking out the words "in the sector" in the fourth line of the first paragraph.

c. R-20,
s. 44, am.

22. Section 44 of the said Act, replaced by section 25 of chapter 61 of the statutes of 1993, is amended

(1) by replacing the words "in that sector and by the employers' association entrusted with a mandate for that purpose" in the fifth and sixth lines of the first paragraph by the word "and";

(2) by replacing the word "En" in the first line of the second paragraph of the French text by the word "Au".

c. R-20,
s. 44.1, am.

23. Section 44.1 of the said Act, enacted by section 26 of chapter 61 of the statutes of 1993, is amended

(1) by striking out the words "entrust the employers' association with a mandate to" in the first and second lines of the second paragraph;

(2) by replacing the words “declared, in that twelve-month period, more than 50% of the hours declared as having been worked in the sector by all employers having sent monthly reports to the Commission in that twelve-month period” in the ninth, tenth, eleventh and twelfth lines of the second paragraph by the words “constitute a majority under the terms of the constitution and by-laws of the sector-based employers’ association or, failing a provision in that respect in the constitution and by-laws, if the employers favourable to the agreement constitute a majority of those who exercised their right to vote.”

c. R-20,
s. 44.2, am.

24. Section 44.2 of the said Act, enacted by section 26 of chapter 61 of the statutes of 1993, is amended by replacing the words “declared, in that twelve-month period, more than 50% of the hours declared as having been worked in the sector by all employers having sent monthly reports to the Commission in that twelve-month period” in the ninth, tenth, eleventh and twelfth lines of the second paragraph by the words “constitute a majority under the terms of the constitution and by-laws of the sector-based employers’ association or, failing a provision in that respect in the constitution and by-laws, if the employers favourable to the agreement constitute a majority of those who exercised their right to vote.”

c. R-20,
s. 44.3, am.

25. Section 44.3 of the said Act, enacted by section 26 of chapter 61 of the statutes of 1993, is amended by replacing the words “complete calendar year preceding the date of expiry of the collective agreements” in the sixth and seventh lines of the third paragraph by the words “first twelve of the fifteen complete calendar months preceding the month referred to in the first paragraph”.

c. R-20,
s. 45, am.

26. Section 45 of the said Act, replaced by section 27 of chapter 61 of the statutes of 1993, is amended by replacing the words “in the sector concerned and by the employers’ association entrusted with a mandate for that purpose by the sector-based employers’ association in that sector” in the last three lines of the second paragraph by the words “and by the sector-based employers’ association of the sector concerned”.

c. R-20,
s. 45.4, am.

27. Section 45.4 of the said Act, enacted by section 28 of chapter 61 of the statutes of 1993, is amended

(1) by striking out the words “in that sector” at the end of the second paragraph;

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

Lock-out

“A lock-out is permitted from the same time provided that it is imposed by the sector-based employers’ association of the sector for all the employers carrying out construction work or causing construction work to be carried out in the sector and that the lock-out is authorized by secret ballot and on the conditions and according to the procedure applicable to the making of an agreement referred to in the first paragraph of section 44.”

c. R-20,
s. 46, am.

28. Section 46 of the said Act, amended by section 29 of chapter 61 of the statutes of 1993, is again amended by inserting the words “subject to Chapter VI.1” after the word “therein;” in the first paragraph.

c. R-20,
s. 47, am.

29. Section 47 of the said Act, replaced by section 31 of chapter 61 of the statutes of 1993, is amended by replacing the second paragraph by the following paragraph:

Expiry date

“The expiry date of a collective agreement shall be 30 April every three years, from 30 April 1995.”

c. R-20,
s. 48, am.

30. Section 48 of the said Act, replaced by section 32 of chapter 61 of the statutes of 1993, is amended

(1) by replacing the words “the employers’ association” in the second line of the first paragraph by the words “a sector-based employers’ association” and by inserting the word “sector-based” before the word “employers’” in the second sentence of that paragraph;

(2) by inserting the words “applicable in its sector” after the word “agreement” in the first line of the first paragraph;

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

Copy of
collective
agreement

“The sector-based employers’ association shall also transmit a copy or true copy of the collective agreement and the schedules thereto to the employers’ association.”

c. R-20,
ss. 54, 54.1,
replaced

31. Sections 54 and 54.1 of the said Act, amended by sections 38 and 39 of chapter 61 of the statutes of 1993, are replaced by the following section:

Wages

“54. The wages due by a sub-contractor constitute a solidary obligation between the sub-contractor and the contractor with whom

he has contracted, and between the sub-contractor, the sub-contractor with whom he has contracted, the contractor and every intermediary sub-contractor.

Extinction
of solidary
obligation

Where the employer holds the appropriate licence issued under the Building Act, such solidary obligation is extinguished six months after the end of the work carried out by the employer, unless the employee concerned filed a complaint with the Commission concerning his wages, a civil action was brought, or a claim was sent by the Commission pursuant to the third paragraph of subsection 1 of section 122 before the expiry of the six-month period.

Solidary
obligation

Such solidary obligation extends to the client having contracted, directly or through an intermediary, with a contractor who does not hold the appropriate licence issued under the Building Act, in respect of the wages due by the contractor and each of his sub-contractors.”

c. R-20,
ss. 60.2,
60.3, added

32. The said Act is amended by inserting, after section 60.1, the following chapter:

“CHAPTER VI.1

“SPECIAL AGREEMENTS

Conditions
of
employment

“60.2 A sector-based employers’ association and one or more associations whose representativeness is 50% or more may make a special agreement on the conditions of employment that will apply to a major construction project in the sector of that sector-based employers’ association. Except with respect to the matters mentioned in section 61.1, such conditions of employment may be different from the conditions applicable in the sector concerned.

“major
construction
project”

For the purposes of this chapter, a “major construction project” means a construction project which, according to the estimates approved by the parties to the agreement, will require the simultaneous work of at least 500 employees at any time during the project.

Provisions
applicable

“60.3 Except for sections 42, 43 to 45.3, 46 and 47 and the third paragraph of section 48, and unless the context indicates otherwise, the provisions of this Act which concern a collective agreement or the application thereof, adapted as required, apply to a special agreement. Such an agreement may not be made, however, after a first call for tenders has been made for the carrying out of construction work relating to the major construction project.

Collective
agreement

If, on the date a special agreement is filed under section 48, there is a collective agreement applicable in the sector concerned by the

special agreement, the special agreement becomes a schedule to that collective agreement. Otherwise, the special agreement becomes a collective agreement of limited application until a collective agreement takes effect in the sector concerned, in which case the special agreement becomes a schedule to that collective agreement.

Limited
application

The application of the clauses of a special agreement is limited, for the period determined therein, to the employees and employers who carry out construction work or cause construction work to be carried out as part of the major construction project to which the agreement pertains.”

c. R-20,
s. 61, am.

33. Section 61 of the said Act, amended by section 45 of chapter 61 of the statutes of 1993, is again amended by replacing the words “mobility of manpower” in the second line of the third paragraph by the words “labour mobility, the movement of manpower”.

c. R-20,
s. 61.2, am.

34. Section 61.2 of the said Act, enacted by section 46 of chapter 61 of the statutes of 1993, is amended

(1) by striking out the words “placement or” in paragraph 3;

(2) by inserting the words “or any association or group of employees or employers” after the word “employer” in paragraph 5;

(3) by inserting, after paragraph 5, the following paragraph:

“(5.1) introduce a provision inconsistent with the commitments of the Government of Québec under an intergovernmental agreement respecting labour mobility;”.

c. R-20,
s. 62, am.

35. Section 62 of the said Act, amended by section 47 of chapter 61 of the statutes of 1993, is again amended by replacing the words “mobility of manpower” in the second line by the words “labour mobility, the movement of manpower”.

c. R-20,
s. 80,
repealed
c. R-20,
s. 80.1, am.

36. Section 80 of the said Act is repealed.

37. Section 80.1 of the said Act is amended by replacing the words “shall also hear” in the first line of the first paragraph by the words “established pursuant to paragraph c of section 41 of the Act respecting manpower vocational training and qualification (chapter F-5) shall hear”.

c. R-20,
s. 81, am.

38. Section 81 of the said Act, amended by section 52 of chapter 61 of the statutes of 1993, is again amended

(1) by inserting, after subparagraph *c.1* of the first paragraph, the following subparagraph:

“(c.2) recover from the employer who fails to transmit to it the monthly report prescribed by subparagraph *b* of the first paragraph of section 82, the amounts corresponding to the indemnities, contributions, assessments and levies which should have been transmitted with the report, and an additional amount equal to 20% of such amounts; the total amount claimed may be determined by an expert evaluation on the basis of the scope of the work performed under the contract entered into by the employer;”;

(2) by replacing the words “the three foregoing paragraphs” in subparagraph *d* of the first paragraph by the words “subparagraphs *a* to *c.2*”.

c. R-20,
s. 81.2, am.

39. Section 81.2 of the said Act is amended by replacing the words “subparagraph *c.1* of section 81” in the third line by the words “subparagraphs *c.1* and *c.2* of the first paragraph of section 81, except the following:

“(1) an amount equal to the amount of union dues which is given to the representative associations according to the percentages determined under section 35;

“(2) an amount equal to the amount of the employer contribution which is given to the employers’ association; and

“(3) an amount equal to the sum of the levy and the additional amount which the Commission recovers pursuant to subparagraph *c.2* of the first paragraph of section 81, which it retains.”

c. R-20,
s. 82, am.

40. Section 82 of the said Act, amended by section 53 of chapter 61 of the statutes of 1993, is again amended

(1) by inserting the words “and fix a minimum amount which an employer is bound to pay per monthly period” after the word “administration” in the third line of subparagraph *c* of the first paragraph;

(2) by inserting the words “except where the total of such amounts is less than the minimum amount that an employer may be bound to pay per monthly period,” before the words “such levy” in the first line of subparagraph 2 of subparagraph *c* of the first paragraph.

c. R-20,
s. 90.1,
repealed

41. Section 90.1 of the said Act, enacted by section 56 of chapter 61 of the statutes of 1993, is repealed.

c. R-20,
s. 92, am.

42. Section 92 of the said Act, amended by section 57 of chapter 61 of the statutes of 1993, is again amended by replacing the words “the employees no longer subject to a collective agreement made under this Act, if their own collective agreement or decree so permits” at the end of subsection 3 by the words “employees

“(a) who are no longer subject to a collective agreement made under this Act;

“(b) who are temporarily carrying out work to which this Act does not apply, to the extent that their participation in the plan is not prohibited by a collective agreement or decree applicable to them;

“(c) to whom a collective agreement or a decree is applicable which expressly provides for their participation in the plan.

Amount

The by-law shall determine the amount of their assessments and contributions under the plan.”

c. R-20,
s. 123.1, am.

43. Section 123.1 of the said Act is amended

(1) by replacing the words “authorize the Commission to” in the first line of paragraph 9 by the words “provide for the cases in which it may and those in which it must”;

(2) by inserting the words “, as the case may be,” after the word “determine” in the fourth line of paragraph 9;

(3) by striking out the word “placement,” in the first line of paragraph 13;

(4) by adding, at the end, the following paragraphs:

By-laws

“The provisions of the by-laws made under this section may vary according to sector, region, bordering zone and target group; they may also vary to facilitate recognition of qualifications, skills and work experience as well as the mobility and hiring of persons domiciled in the territory of a state or province the government of which is, together with the Government of Québec, party to an intergovernmental agreement respecting labour mobility or the mutual recognition of qualifications, skills and work experience in trades and occupations in the construction industry.

By-laws

The by-laws may also prescribe different standards in respect of women so as to favour their access to and maintenance and greater representation on the labour market in the construction industry.”

c. R-20,
ss. 126.0.1,
126.0.2,
added

44. The said Act is amended by inserting, after section 126, the following sections:

Women's
access to
labour
market

"126.0.1 The Commission, after consultation with the Commission des droits de la personne, shall develop measures to favour the access of women to and their maintenance and greater representation on the labour market in the construction industry.

Report,
information

The Commission shall transmit to the Minister, at his request, any report or other information concerning the application of the first paragraph, within the time and in the form he determines.

Fee

"126.0.2 A fee of \$0.075 per hour of work is payable to the Commission by every person who transmits to it contributions and assessments under supplemental fringe benefit plans in respect of an employee who is not an employee subject to this Act.

Fee

A fee of \$0.075 per hour of work is payable to the Commission by an employee referred to in the first paragraph; such fee may be deducted from the employee's salary or wages.

Effect

This section takes effect on 26 February 1995 and shall remain in effect until the coming into force of a regulation concerning such fees made by the Government under paragraph 8.1 of section 123."

OTHER AMENDING PROVISIONS

1993, c. 61,
ss. 63, 73,
repealed

45. Sections 63 and 73 of the Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions (1993, chapter 61) are repealed.

1993, c. 61,
s. 77, am.

46. Section 77 of the said Act is amended by inserting the words "or the Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions (1995, chapter 8) after the word "Act" in the sixth line.

1993, c. 61,
s. 83, am.

47. Section 83 of the said Act is amended by replacing the words "sectorial representativeness of a sector-based employers' association and of a representative association" in the second and third lines by the words "representativeness of a sector-based employers' association".

1993, c. 61,
s. 85, am.

48. Section 85 of the said Act is amended

(1) by striking out the words “the degree of sectorial representativeness of the representative associations and” in the first and second lines of subparagraph 2 of the first paragraph;

(2) by replacing the word “are” in the fourth line of subparagraph 2 of the first paragraph by the word “is”.

1975, c. 51,
s. 34, am.

49. Section 34 of the Act to establish the Office de la construction du Québec and to again amend the Construction Industry Labour Relations Act (1975, chapter 51), amended by section 70 of chapter 61 of the statutes of 1993, is again amended by striking out the words “and to the coordination of the negotiation of collective agreements pursuant to the Act respecting labour relations, vocational training and manpower management in the construction industry” in the first paragraph.

1976, c. 72,
s. 2, am.

50. Section 2 of the Act to incorporate the Association of Building Contractors of Québec (1976, chapter 72), amended by section 71 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the word “les” in the first line of paragraph *b* of the French text by the word “des”;

(2) by replacing paragraph *d* by the following paragraph:

“(d) to provide sector-based employers’ associations with assistance in labour relations matters, to coordinate at their request all or certain of their actions in labour relations matters and to act as mandatary for the purpose of negotiating and making a collective agreement or a special agreement or part thereof pursuant to the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20).”

c. A-19.1,
s. 120, am.

51. Section 120 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), amended by section 11 of chapter 32 of the statutes of 1994, is again amended by adding, at the end, the following paragraphs:

Application

“An application relating to the construction of a new single-family dwelling must also indicate whether the dwelling is intended for the personal use of the applicant or the use of his family and be accompanied with a declaration attesting

(1) that the construction work is to be carried out by a contractor holding the appropriate licence issued under the Building Act (R.S.Q., chapter B-1.1) and specifying the number and expiry date of the licence; or

(2) that the applicant is an owner-builder and stating on what grounds he is not required to hold a licence under the Building Act.

Information,
documents

The Government may, by regulation, determine what information and documents must be required to support a declaration under the second paragraph and determine to which departments and other bodies the information determined by the Government must be transmitted.

Applicable
provisions

The second and third paragraphs apply notwithstanding any inconsistent provision of a charter or special Act applicable to a municipality.”

c. B-1.1,
Chap. II,
Div. IV,
repealed

52. Division IV of Chapter II of the Building Act (R.S.Q., chapter B-1.1) is repealed.

c. B-1.1,
s. 132, am.

53. Section 132 of the said Act, amended by section 60 of chapter 74 of the statutes of 1991, is again amended by striking out the figure “,28.1” in the first paragraph.

Regulation
amended

54. Section 19 of the Regulation respecting the vocational training of manpower in the construction industry, approved by Order in Council 313-93 dated 10 March 1993, is amended by adding, at the end, the following paragraph:

“Notwithstanding the first paragraph, the ratio of apprentices to journeymen in the same trade employed by an employer may, in the residential sector, exceed the ratio indicated in Schedule B and reach the ratio of one apprentice per journeyman.”

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

Regulation
amended

55. The Regulation respecting the issuance of competency certificates, approved by Order in Council 673-87 dated 29 April 1987, as amended, is again amended by inserting, after section 15.1, the following section:

“15.1.1 The Commission shall issue, on request, an exemption from the obligation to hold an apprentice competency certificate to any person 16 years of age or older who is domiciled in the territory of a state or province the government of which is, together with the Government of Québec, party to a bilateral intergovernmental agreement respecting the mutual recognition of qualifications, skills

and occupations in trades and occupations in the construction industry.

To obtain such an exemption, the applicant must, however, hold an apprenticeship booklet issued in that state or province by a body having competence to do so and recognized for that purpose under the agreement, and the apprenticeship booklet must authorize him to carry on, in that state or province, a trade that, under the agreement, corresponds to a trade for which the exemption is being applied for; the applicant must also, in accordance with the provisions of the agreement, meet the requirements applicable to training in occupational health and safety.

The exemption issued by the Commission is valid for a term of one year.

Notwithstanding section 16, the Commission shall renew an expired exemption, issued under this section, where a monthly report filed with the Commission by a registered employer establishes that the holder worked in the construction industry during the fourteen months preceding the renewal. It shall also renew such an exemption on request.”

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

Regulation
amended

56. The said Regulation is amended by inserting, after section 15.3, the following section:

“15.4 The Commission shall issue, on request, an exemption from the obligation to hold an occupation competency certificate to any person 16 years of age or older who is domiciled in the territory of a state or province the government of which is, together with the Government of Québec, party to a bilateral intergovernmental agreement respecting the mutual recognition of qualifications, skills and work experience in trades and occupations in the construction industry.

To obtain such an exemption, the applicant must, however, prove that he is working or has worked, in that state or province, in the carrying out of tasks corresponding to one or more occupations recognized in Québec as forming part of the construction industry; the applicant must also, in accordance with the provisions of the agreement, meet the requirements applicable to training in occupational health and safety.

The exemption issued by the Commission is valid for a term of one year.

Notwithstanding section 16, the Commission shall renew an expired exemption, issued under this section, where a monthly report filed with the Commission by a registered employer establishes that the holder worked in the construction industry during the fourteen months preceding the renewal. It shall also renew such an exemption on request.”

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

Regulation
amended

57. The said Regulation is amended by inserting the words and figures “and in sections 15.1.1 and 15.4”, after the figure “14” in the second paragraph of section 24.7.

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

Regulation
amended

58. The said Regulation is amended by inserting the words and figures “or for the renewal of an exemption referred to in section 15.1.1 or in section 15.4” after the figure “8” in section 24.10.

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

Regulation
amended

59. The Regulation respecting the hiring and mobility of employees in the construction industry, approved by Order in Council 1946-82 dated 25 August 1982, as amended, is again amended by inserting, after section 39, the following section:

“39.1 For the purposes of paragraph 1 of section 35, an employee holding an exemption issued under section 15.1.1 or 15.4 of the Regulation respecting the issuance of competency certificates is deemed to be domiciled in the region where the work relating to the work offered is being carried out. If he is hired to carry out such work, he is deemed to be domiciled in that region throughout such employment.

Notwithstanding section 35.1, the first paragraph also applies to an employee holding a journeyman competency certificate issued by the Commission, where the employee is domiciled in the territory of a state or province the government of which is, together with the Government of Québec, party to a bilateral intergovernmental agreement respecting the mutual recognition of qualifications, skills and work experience in trades and occupations in the construction industry.”

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

Regulation
amended

60. Section 1 of the Levy Regulation of the Commission de la construction du Québec, approved by Order in Council 1758-94 dated 14 December 1994, is amended by replacing the word “and” at the end of paragraph *a*, by the following: “however, from 26 February 1995, the minimum amount that an employer or an independent contractor is bound to pay per monthly period of work is \$10;”.

The amendment made by this section is deemed to have been made in accordance with the Act respecting labour relations, vocational training and manpower management in the construction industry.

TRANSITIONAL AND FINAL PROVISIONS

Cases
pending

61. Section 2 has no effect with regard to cases pending on 8 February 1995.

Effect

62. Until 30 June 1995, paragraph 1 of section 11 does not have effect in respect of work under a contract entered into not later than 8 December 1994, provided that a dated and signed copy of the contract is received by the Commission de la construction du Québec not later than 10 March 1995.

Extension

The application of section 89 of the Act to amend the Act respecting labour relations, vocational training and manpower management in the construction industry and other legislative provisions (1993, chapter 61) is extended until 30 June 1995 in respect of an employee carrying out work referred to in the first paragraph and who continued in 1994 to participate in supplemental fringe benefits plans under that section.

“collective
agreement”

63. For the purposes of sections 60.2 and 60.3 of the Act respecting labour relations, vocational training and manpower

management in the construction industry, enacted by section 32 of this Act and until the taking of effect, after the coming into force of that section, of the first collective agreement applicable in a sector, the expression “collective agreement” means, as the case may be and unless the context indicates otherwise, either the Construction Decree made by Order in Council 172-87 dated 4 February 1987, as amended and in force, or the conditions of employment contained in the Decree and maintained by the effect of section 82 of chapter 61 of the statutes of 1993.

Provisions
applicable

64. For the year 1994, section 289.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 5 of chapter 5 of the statutes of 1993, adapted as required, applies to the gross wages of a worker who in 1994 carried out construction work on buildings reserved exclusively for residential use, including the installations and equipment physically attached or not to such buildings, where the buildings contained a total of eight dwellings or less.

Provisions
applicable

Until 30 June 1995, such application also extends to the gross wages of a worker carrying out such work if the first paragraph of section 62 applies to such work.

Presump-
tion

65. The building commissioner and the building deputy-commissioner appointed by the Minister and whose terms of office have not expired on 8 February 1995 are deemed to have been appointed by the Government under section 21.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry, enacted by section 13 of this Act.

Council of
arbitration

66. The council of arbitration established under paragraph *c* of section 41 of the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5) remains seized of any application submitted to it under section 80 of the Act respecting labour relations, vocational training and manpower management in the construction industry prior to the repeal of that section by section 36 of this Act.

Reference

67. In any other Act and in any regulation, order, proclamation, decree, order in council, contract, agreement or other document, a reference to the council of arbitration established under paragraph *c* of section 41 of the Act respecting manpower vocational training and qualification becomes, to the extent that it concerns the jurisdiction vested in the council of arbitration by section 80 of the Act respecting labour relations, vocational training and manpower management in the construction industry prior to the repeal of that section by section

36 of this Act, a reference to the building commissioner or to a building deputy-commissioner, adapted as required, unless the context indicates otherwise.

“construction industry”

68. For the purposes of sections 7, 7.1, 9, 24.9 and 24.10 of the Regulation respecting the issuance of competency certificates, approved by Order in Council 673-87 dated 29 April 1987, as amended, the expression “construction industry” also includes, for the period extending from 1 January 1994 to 8 February 1995, construction work on buildings reserved exclusively for residential use, including the installations and equipment physically attached or not to such buildings, where the buildings contain a total of eight dwellings or less.

“construction industry”

For the same purposes and until 30 June 1995, the expression also includes such work where the first paragraph of section 62 applies thereto.

Exemption

69. The Commission de la construction du Québec, pursuant to paragraph 5 of section 14 of the Regulation respecting the issuance of competency certificates, shall issue, on application, an exemption referred to in that section to any person who proves that he carried out, for at least 300 hours in 1994, construction work relating to buildings reserved exclusively for residential use, including the installations and equipment physically attached or not to such buildings, where the buildings contain a total of eight dwellings or less.

Territory

In the case of workers who, in 1994, were resident in the territory of a state or of a province of Canada the government of which is, together with the Government of Québec, party to an operative intergovernmental agreement which provides for the mutual recognition of qualifications and work experience in trades and occupations in the construction industry, the 300 hours of work referred to in the first paragraph can have been validly performed in the territory of that state or province.

Validity of exemption

Notwithstanding the fifth paragraph of section 15 of the Regulation respecting the issuance of competency certificates, an exemption issued under the first paragraph is valid until 31 December 1995; the exemption applies to construction work relating to buildings or complexes of adjoining buildings including installations and equipment physically attached or not to the buildings, at least 85% of the area of which, excluding parking space, is reserved for residential use, and the number of aboveground storeys of which,

excluding any part of the basement and reckoned from any side of the building or complex, does not exceed six in the case of new buildings or eight in other cases.

Exemption **70.** An exemption issued under section 69 may pertain to an apprentice competency certificate or an occupation competency certificate.

Exemption An exemption pertains to an apprentice competency certificate corresponding to a trade where the person applying for the exemption proves that he performed, in 1994, the trade work defined in the trade definitions appearing in Schedule A to the Regulation respecting the vocational training of manpower in the construction industry, approved by Order in Council 313-93 dated 10 March 1993, as amended, and provided that, in the case of the trades the work of which is defined in the trade definitions in Schedule A to the Regulation respecting the vocational training and qualification of manpower, covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than the construction industry (R.R.Q., 1981, c. F-5, r.4), the person applying for the exemption proves that he held, in 1994, the qualification certificate or the apprenticeship booklet or card, as the case may be, required by that Regulation.

Proof Where, subject to that same condition, the person applying for an exemption pertaining to an apprentice competency certificate proves that he performed, in 1994, work belonging to more than one trade as defined in the trade definitions appearing in Schedule A to the Regulation respecting the vocational training of manpower in the construction industry, the person shall choose, from among the trades in which he performed work, the trade to which the exemption issued under section 69 is to pertain. That choice may not be modified once the exemption has been issued.

Certificate **71.** The Commission de la construction du Québec shall, in accordance with conditions set out in the Regulation respecting the issuance of competency certificates, issue on request an apprentice competency certificate or an occupation competency certificate to a person who held an exemption under section 69 and who performed, in 1995, work covered by that exemption.

**Apprentice
competency
certificate** Notwithstanding section 2.1 of the Regulation, an apprentice competency certificate shall be issued to a person who does not hold a secondary school vocational certificate granted by the Minister of Education for the construction trade concerned, if the person satisfies the conditions set out in section 3 of the Regulation. In the case of a person residing in the territory of a state or province of Canada the

government of which is, together with the Government of Québec, party to an operative intergovernmental agreement which provides for the mutual recognition of qualifications and work experience in the construction industry, the condition set out in paragraph 1 of section 3 of the said Regulation is deemed to be satisfied if the person, in accordance with the provisions of the agreement, meets the requirements applicable to training in occupational health and safety. For the purposes of the renewal of the certificate, the second paragraph of section 7 of the Regulation applies and the expression “training program” includes an equivalent training program provided by a government body that is party, together with the Government of Québec, to an intergovernmental agreement on the mutual recognition of qualifications and work experience in the trades and occupations of the construction industry.

Occupation
competency
certificate

Notwithstanding section 4 of the Regulation, an occupation competency certificate may be issued to a person who has not taken the course on general knowledge of the industry approved by the Commission if the person was unable to take the course in 1995 but successfully completed the safety course required by the Safety Code for the Construction Industry (R.R.Q., 1981, c. S-2.1, r.6) or, in the case of a person residing in the territory of a state or province of Canada the government of which is, together with the Government of Québec, party to an agreement referred to in the second paragraph, if the person, in accordance with the provisions of the agreement, meets the requirements applicable to training in occupational health and safety.

Directors

72. Notwithstanding section 26 of the Règlement de l'Association des entrepreneurs en construction du Québec, approved by Order in Council 880-94 dated 15 June 1994, the number of directors forming the board of directors of the association shall be increased from eleven to sixteen.

Directors

Pursuant to the first paragraph, each contractors' association shall, before 10 March 1995, designate another director.

Amendment

73. The board of directors of the Association of Building Contractors of Québec, as formed pursuant to section 72, shall amend the by-law referred to in the first paragraph of that section to bring it into conformity with the provisions of this Act and shall submit it for approval to the Government before 9 April 1995.

Number of
directors

If the amended by-law does not grant the chairman of the board of directors a casting vote, the number of directors forming the board shall, notwithstanding section 72, be increased to seventeen, the seventeenth director being designated by the board of directors.

- Amendment Sections 68 and 69 of the *Règlement de l'Association des entrepreneurs en construction du Québec* do not apply to the amendment required by the first paragraph; however, the amendment requires the approval of at least eleven directors.
- Report **74.** The Minister of Employment shall, not later than 8 February 1998, submit a report to the Government on the application of sections 7.3 to 7.8 and of Chapters V to VI.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry.
- Report The report shall be laid before the National Assembly within the following 15 days if it is sitting, or if it is not sitting, within 15 days of resumption.
- Intergovernmental agreement **75.** The provisions of this Act shall be construed in a manner consistent with the commitments of the Government of Québec under an intergovernmental agreement respecting labour mobility or the mutual recognition of qualifications, skills and work experience for all construction trades and occupations.
- Coming into force **76.** This Act comes into force on 8 February 1995, except the provisions of sections 5, 6 and 51 to 53, which will come into force on the date fixed by the Government.