

1993, chapter 37

AN ACT RESPECTING THE CONDITIONS OF EMPLOYMENT IN THE PUBLIC SECTOR AND THE MUNICIPAL SECTOR

Bill 102

Introduced by Mr Daniel Johnson, Minister for Administration and the Public Service and
Chairman of the Conseil du trésor

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Assented to 17 June 1993

**Coming into force: on the date or dates to be fixed by the Government, except section 45
which comes into force on 17 June 1993**

- 15 September 1993: ss. 1 to 19, 26, 27, 29 to 39, 43 to 55, 57
G.O., 1993, Part 2, p. 5275
- 1 October 1993: ss. 20 to 25, 28, 40 to 42, 56
G.O., 1993, Part 2, p. 5275

Act amended:

Act respecting the conditions of employment and the pension plan of the Members of the National
Assembly (R.S.Q., chapter C-52.1)



CHAPTER 37

An Act respecting the conditions of employment in the public sector and the municipal sector

[Assented to 17 June 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

INTERPRETATION

Public
bodies

1. For the purposes of this Act, the following bodies are public bodies:

(1) the Government, its departments and the government agencies whose personnel is appointed or remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1);

(2) school boards, colleges, establishments or institutions, any body which is similar to a school board or classified as an establishment or institution and government agencies to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) applies, as well as regional health and social services boards, regional health and social services councils and the Conseil scolaire de l'Île de Montréal;

(3) any other body of which the personnel is remunerated according to standards and scales which are, by law, determined or approved by the Government or stipulated in a collective agreement negotiated and agreed with the concurrence of the Government;

(4) educational institutions at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1);

(5) educational institutions accredited for purposes of subsidies in accordance with the Act respecting private education (1992, chapter 68).

Public
bodies

2. The National Assembly, persons designated by the National Assembly under an Act, and persons designated by the Government under an Act, where their personnel is appointed or remunerated in accordance with the Public Service Act, shall be regarded as public bodies.

Public
bodies

Holders of ambulance service permits shall also be regarded as public bodies.

Municipal
bodies

3. Municipalities, mandatory bodies of municipalities and supramunicipal bodies within the meaning of sections 18 and 19 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) are municipal bodies.

Expiration

4. For the purposes of this Act, the date of expiration of a collective agreement or an agreement referred to in subdivision 3 of Division III of Chapter II is the date on which the agreement terminates, regardless of this Act and taking into account, where applicable, the Act respecting the placing of a temporary ceiling on remuneration in the public sector (1991, chapter 41) and the Act respecting the prolongation of collective agreements and the remuneration in the public sector (1992, chapter 39).

"collective
agreement"

The term "collective agreement" means a collective agreement or that which is in lieu thereof within the meaning of the Labour Code (R.S.Q., chapter C-27) or a labour contract within the meaning of the Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14).

CHAPTER II

PUBLIC BODIES

DIVISION I

PROLONGATION OF COLLECTIVE AGREEMENTS

Date of
expiration

5. The date of expiration of a collective agreement which is binding on a public body and an association of employees and in force on 15 September 1993 shall be deferred for two years, subject to section 10.

Date of
expiration

6. The date of expiration of a collective agreement between a public body and an association of employees which expires before 15 September 1993 shall also be deferred for two years if, on that date, no agreement for its renewal or replacement has been entered into.

Applicable
provisions

Where the date of expiration of a collective agreement to which the Act respecting the placing of a temporary ceiling on remuneration in the public sector and the Act respecting the prolongation of collective agreements and the remuneration in the public sector apply has not been deferred by agreement in conformity with either of those Acts, the provisions concerning the date of expiration and the ceiling on remuneration contained in either or both of those Acts, as the case may be, shall apply to the collective agreement from its original date of expiration, and the provisions of this division shall apply from the date of expiration thus deferred.

Postpone-
ment

7. Notwithstanding sections 5 and 6, a collective agreement which provides for a ceiling on the salary rates and scales and the premiums of employees from 1992 or 1993 shall be postponed until a date occurring two years after the date on which the ceiling provided for in the agreement began to apply.

Salary rates
and scales
and pre-
miums

8. In the case of a first collective agreement ratified after the coming into force of this section between a public body and an association of employees, the salary rates and scales and the premiums applicable to the employees concerned, on the day preceding the date on which the first collective agreement takes effect, shall be maintained for two years from such effective date.

Applicability

The first paragraph does not apply to a group of employees whose rates, scales and premiums were subject to the ceiling provided for in section 26 or 27 for at least two years before the first collective agreement took effect. If the ceiling has applied to the group of employees for a period of less than two years, the rates, scales and premiums applicable on the day preceding the effective date of the first collective agreement shall be maintained from such effective date, until a date occurring two years after the date on which the ceiling began to apply.

Calculation

9. The period referred to in section 7 or the second paragraph of section 8 during which the ceiling is applicable shall be calculated independently of the deferment period of six months provided for in section 5 of the Act respecting the placing of a temporary ceiling on remuneration in the public sector.

Date of
expiration

10. The date of expiration of a collective agreement governed by any of the following agreements shall be deferred for one year:

(1) the “Entente sur la prolongation jusqu’au 30 juin 1994 des conventions collectives se terminant le 30 juin 1992” entered into between the Gouvernement du Québec and the Centrale de l’enseignement du Québec on 29 June 1992;

(2) the agreement entered into on 3 July 1992 between the management negotiating committee for the school boards for Protestants, Protestant confessional school boards and dissentient school boards for Protestants (CPNCP) and the Provincial Association of Protestant Teachers of Québec (PAPT) whose object is the prolongation, until 30 June 1994, of an agreement between the parties ending on 30 June 1992;

(3) the agreement entered into on 7 August 1992 between the management negotiating committee for the school boards for Catholics, the Catholic confessional school boards and the dissentient school boards for Catholics (CPNCC) and the Provincial Association of Catholic Teachers (PACT) whose object is the prolongation, until 30 June 1994, of an agreement between the parties ending on 30 June 1992.

Salary rates
and scales
and pre-
miums

11. The salary rates and scales and the premiums in force on the date of expiration of a collective agreement referred to in section 5 or 6 shall remain in force, without increases, for the period during which the collective agreement is prolonged.

Salary rates
and scales
and pre-
miums

12. In the case of a collective agreement referred to in section 10, the salary rates and scales and the premiums in force on 30 June 1993 shall remain in force, without increases, until the new date of expiration of the collective agreement, notwithstanding any inconsistent stipulation.

Notice

13. If the Government considers that a collective agreement binding a public body referred to in paragraph 1, 2 or 3 of section 1 contains a stipulation causing a ceiling similar to that resulting from the application of section 11 or 12, as the case may be, to become applicable to employees for a period of not less than two years from the year 1992, 1993, 1994 or 1995, it may, by order, notify the parties. In such a case, sections 5 to 12 shall not apply or shall cease to apply to the employees governed by such collective agreement.

Applicability

If a collective agreement binding another public body contains a stipulation having an effect similar to that provided for in the first

paragraph, sections 5 to 12 shall not apply or shall cease to apply to the employees governed by the collective agreement, where the parties so provide.

Term The term of a collective agreement referred to in this section may exceed three years.

Deferred date of expiration **14.** In all cases where the date of expiration of a collective agreement is deferred, the period provided for in paragraph *d* of section 22 and sections 73, 111.3 and 111.4 of the Labour Code is determined on the basis of the original term of the collective agreement.

Prohibition **15.** Notwithstanding section 61 of the Labour Code, no association of employees may terminate a collective agreement the date of expiration of which has been deferred, or declare it null before its new date of expiration.

New association **16.** Where an association of employees governed by a collective agreement the date of expiration of which has been deferred is a new association certified following an application made between the two hundred and seventieth day and the two hundred and fortieth day before the date of expiration, the standard collective agreement of the new association shall apply from the thirtieth day following the date of coming into force of this section or, if later, the date of the decision granting the certification.

Negotiation stage **17.** For the negotiation of a collective agreement which renews or replaces a collective agreement the date of expiration of which has been deferred, the negotiation stage provided for in section 111.7 of the Labour Code shall begin on the day following the new date of expiration. The parties may, however, by agreement, fix another date for the beginning of the negotiation stage.

Calculation For the application of the Labour Code to the negotiation of such a collective agreement, the day referred to in the first paragraph or fixed thereunder by the parties is considered to be the one hundred and eightieth day preceding the date of expiration, and the time limits prescribed in section 111.8 shall be calculated accordingly.

Beginning of negotiation stage Where section 53 of the Labour Code applies to the negotiation of a collective agreement which renews or replaces a collective agreement the date of expiration of which has been deferred, the beginning of the negotiation stage shall be determined according to the new date of expiration of the collective agreement.

Union leave **18.** Notwithstanding any inconsistent stipulation, the employees of the public bodies referred to in paragraph 1 of section 1 and those referred to in paragraph 2 of the said section, except government agencies to which paragraph 2 applies, who are members of bargaining committees shall be granted union leave only from the new date on which the negotiation stage will begin and the conditions concerning salary maintenance and the number of persons on union leave shall be determined at that time by agreement between the parties. Any stipulation contained in an agreement in force on 15 September 1993 which fixes a date from which salaried persons who are members of bargaining committees will be granted union leave is deemed never to have been effective.

Strikes **19.** For the purposes of the Labour Code, strikes are prohibited during the term of a collective agreement referred to in section 5, 6 or 10, even if the agreement contains a clause permitting a review thereof by the parties.

DIVISION II

REDUCTION OF THE AMOUNT OF EXPENSES ARISING OUT OF THE APPLICATION OF COLLECTIVE AGREEMENTS

Unpaid leaves **20.** Every public body, for the purpose of reducing by 1 % the annual amount of its expenses relating to the remuneration and social benefits of the employees governed by a collective agreement, must, before 31 March 1994 and every twelve-month period thereafter, give each employee such number of unpaid leaves as is determined by the Government not in excess of three days.

Alternative For such groups of employees as are determined by the Government, the public body must take, however, as an alternative to the allotment of unpaid leaves, any measure prescribed by the Government from among the following measures:

(1) an equivalent reduction of the number of sick-leaves credited, insofar as they are refundable each year, or a reduction of the indemnity standing in lieu of sick-leaves;

(2) an equivalent number of unpaid holidays or days of vacation;

(3) an equivalent reduction of the indemnity pertaining to the annual vacation.

Dates and conditions **21.** The dates of and the conditions applicable to unpaid leaves or other measures provided by section 20 shall be determined by each public body.

Deduction The public body shall, where applicable, deduct the salary pertaining to each day of unpaid leave, holiday or vacation at the rate of not more than one day's salary per period of pay.

Dates of unpaid leaves In the case of public bodies which provide instruction, the dates of the employees' unpaid leaves must be determined without reduction in the number of days of instruction.

Powers **22.** For the purposes of the provisions of section 20, the Government may, in respect of any group of employees it determines,

(1) establish the number of unpaid leaves to be allotted by a public body to its employees;

(2) prescribe rules for the determination by public bodies of the dates of and the conditions applicable to the unpaid leaves;

(3) prescribe the implementation of any of the alternative measures set out in the second paragraph of section 20.

Amendments **23.** The parties to a collective agreement may negotiate and ratify amendments to the conditions of employment of employees entailing a reduction of at least 1 % of the annual amount of expenses referred to in section 20.

Negotiation For the purposes of a reduction to which the first paragraph applies, any stipulation of a collective agreement may, in the sectors of education and social affairs to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors applies, be negotiated and agreed for the whole of Québec or at the local level. In the latter case, the stipulation shall be negotiated and agreed with the approval of the Minister of Education, the Minister of Higher Education and Science or the Minister of Health and Social Services, as the case may be, within the scope of a mandate authorized by the Conseil du trésor.

Notice **24.** Where the Government considers that an agreement entered into between a public body referred to in paragraph 1, 2 or 3 of section 1 and an association of employees on stipulations referred to in section 23 entails a reduction of at least 1 % of the annual amount of expenses referred to in section 20, it may, by order, notify the parties. In such a case, the stipulations negotiated and ratified by the parties shall replace, in respect of the employees to whom they apply, the provisions of sections 20 and 22.

Replacement If an agreement is entered into between another public body and an association of employees on stipulations having the same effect as

that provided for in the first paragraph, the stipulations negotiated and ratified by the parties shall replace, in respect of the employees to whom they apply, the provisions of sections 20 to 22, where the parties so provide.

25. Sections 20 to 23 apply, notwithstanding any inconsistent provision or stipulation of an Act or collective agreement.

DIVISION III

PERSONS NOT GOVERNED BY A COLLECTIVE AGREEMENT

§ 1.—*Members and personnel of public bodies*

26. Administrators of state and chief executive officers and members of public bodies referred to in paragraphs 1 to 3 of section 1 shall be remunerated, for the period beginning on 1 July 1993 and ending on 30 June 1995, according to the salary rates and scales and the premiums in force on 30 June 1993.

The same applies to the remuneration of the management personnel and other members of the personnel of the public service not governed by a collective agreement.

27. Every person empowered to determine the salary rates and scales and the premiums of persons not referred to in section 26 who are officers, chief executive officers, members of the management personnel or other members of the personnel of a public body not governed by a collective agreement shall, for a two-year period beginning in 1992, 1993, 1994 or 1995, fix those rates, scales and premiums subject to a ceiling similar to that applicable to the employees to whom Division I applies.

28. Notwithstanding any inconsistent provision of an Act, every public body shall apply to its chief executive officers, officers and management personnel and to the other members of its personnel who do not belong to a bargaining unit, the measures set out in sections 20 to 22; the same applies to the Government in respect of administrators of state.

The public body may, however, adopt another measure in respect of the remuneration or social benefits of the persons referred to in the first paragraph which causes a reduction equivalent to that provided for in the first paragraph to be effected. The provisions of the said paragraph shall, in that case, cease to apply to those persons.

Total payroll **29.** The total payroll applicable, on 31 March 1993, to the members of the office staff of a minister, the staff of an office to which section 124.1 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) applies and the staff of the Members of the National Assembly shall be maintained from 1 April 1993 and shall not be increased until 1 April 1995.

§ 2.—*Members of the National Assembly*

Increase **30.** The increase of the annual indemnity of the Members of the National Assembly taking effect on 1 October 1993 pursuant to section 16 of the Act respecting the prolongation of collective agreements and the remuneration in the public sector is cancelled.

§ 3.—*Health professionals*

General tariff objectives **31.** In any agreement under section 19 of the Health Insurance Act (R.S.Q., chapter A-29) in force on 15 September 1993 and in any agreement which renews or replaces such an agreement, the amounts of the general tariff objectives applicable to medical specialists, general practitioners and optometrists and the tariffs applicable for the provision of insured services under that Act shall be reduced by 1 % from 1 December 1993 and shall not, thereafter, be increased before 1 December 1995.

Tariffs **32.** The tariffs applicable to specialists in oral and maxillo-facial surgery, dental surgeons and proprietary pharmacists for the provision of insured services under the Health Insurance Act, in force on 30 November 1993, shall be reduced by 1 % from 1 December 1993 and shall not, thereafter, be increased before 1 December 1995.

Notice **33.** Where the chairman of the Conseil du trésor is of the opinion that the stipulations of an agreement result in setting a limit on the remuneration to be paid to the professionals concerned in a manner comparable to that provided for in section 31 or 32 and in effecting an equivalent reduction in cost, he may so advise the parties. Section 31 or 32, as the case may be, does not, in that case, apply to the health professionals concerned by the agreement.

Salary rates and scales and pre-miums **34.** The salary rates and scales and the premiums in force on 30 November 1993 and applicable to medical specialists, general practitioners and dental surgeons for the provision of insured services under the Health Insurance Act shall be maintained in force, without increases, until 30 November 1995.

Applicable provisions Sections 20 to 25, adapted as required, apply to professionals referred to in the first paragraph who receive a salary or fixed fees.

Applicable provisions **35.** Sections 5, 6, 11 and 13 to 25, adapted as required, apply from 1 July 1993 to every agreement binding on pharmacists practising in an establishment or institution, entered into under section 432 of the Act respecting health services and social services and amending various legislation (1991, chapter 42) or under section 3 of the Hospital Insurance Act (R.S.Q., chapter A-28).

Applicable provisions The same applies, from 1 January 1994, to every agreement binding on medical residents, entered into under section 19.1 of the Health Insurance Act.

CHAPTER III

MUNICIPAL BODIES

DIVISION I

PROLONGATION OF COLLECTIVE AGREEMENTS

Date of expiration **36.** The date of expiration of a collective agreement between a municipal body and an association of employees, in force on 15 September 1993, shall be deferred for two years.

Date of expiration **37.** The date of expiration of a collective agreement which expires before 15 September 1993 shall also be deferred for two years if, on that date, no agreement for its renewal or replacement has been entered into.

Salary rates and scales and premiums **38.** The salary rates and scales and the premiums in force on the date of expiration of a collective agreement to which section 36 or 37 applies shall remain in force, without increases, for the period during which the collective agreement is prolonged.

Applicable provisions **39.** Section 7, the second paragraph of section 13, sections 14 and 15, the third paragraph of section 17 and section 19, adapted as required, apply in respect of a collective agreement the date of which is deferred pursuant to section 36 or 37.

Applicable provisions Section 8, adapted as required, applies to a first collective agreement between a municipal body and an association of employees ratified after the coming into force of this Act.

DIVISION II

REDUCTION OF THE AMOUNT OF EXPENSES ARISING OUT OF THE APPLICATION OF THE COLLECTIVE AGREEMENTS

Unpaid
leaves

40. Every municipal body shall, in order to reduce by 1 % the annual amount of its expenses relating to the remuneration and social benefits of the employees governed by a collective agreement, allot, each year from 1 January 1994, to each employee concerned, a maximum of three unpaid leaves fixed by the municipal body, or take, in respect of those employees, any of the measures it determines from among the measures provided for in the second paragraph of section 20.

Applicable
provisions

The first and second paragraphs of section 21, adapted as required, apply.

Amend-
ments

41. A municipal body and an association of employees may negotiate and ratify amendments to the conditions of employment of employees which entail a reduction of a least 1 % of the annual amount of expenses referred to in section 40. Where the parties so provide, the stipulations shall replace the provisions of section 40 in respect of the employees to whom they apply.

Applicable
provisions

42. Sections 40 and 41 apply, notwithstanding any inconsistent provision or stipulation of an Act or collective agreement.

DIVISION III

ELECTED MUNICIPAL OFFICERS AND PERSONS NOT GOVERNED BY A COLLECTIVE AGREEMENT

Remunera-
tion

43. The remuneration attaching to the offices of elected municipal officers, fixed in accordance with the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001) and applicable in a municipality on 31 December 1993, shall be reduced by 1 % from 1 January 1994 and shall not be increased, thereafter, before 1 January 1996.

Remunera-
tion

The same rule applies to any other remuneration attaching to the offices of members of the council or of a committee or board of a municipal body.

Salary rates
and scales
and pre-
miums

44. The municipal body which determines the salary rates and scales and the premiums of its chief executive officers and management personnel or any member of its personnel not governed by a collective agreement shall, for a period of two years beginning

in 1992, 1993, 1994 or 1995, fix those rates, scales and premiums, subject to the same ceiling as that applicable to the other employees to whom Division I applies.

Measures
applicable

The municipal body shall, in addition, apply, in respect of such employees, the measures set out in section 40. It may, however, adopt, in respect of the remuneration or social benefits of the persons referred to in the first paragraph, another measure which causes the reduction provided for in section 40 to be effected. The provisions of that section shall, in that case, cease to apply to those persons.

DIVISION IV

WITHDRAWAL

Waiver

45. A municipal body may, by a resolution adopted before 15 September 1993, waive the application of Divisions I to III of this chapter. Where such is the case, the provisions of those divisions are deemed never to have had effect in respect of that municipal body.

Copy

46. Where a municipal body adopts a resolution under section 45, it shall transmit a copy thereof to each association of employees certified to represent its employees.

Copy

It shall, in addition, file a copy of the resolution at the office of the labour commissioner-general. The filing of such a copy has the effect of a filing under section 72 of the Labour Code.

CHAPTER IV

MISCELLANEOUS AND FINAL PROVISIONS

Amendment

47. Every amendment to the conditions of employment of employees which results from the provisions of sections 5 to 12 and 36 to 38 is considered to form part of the collective agreements that are binding on those employees.

Adjustment

48. This Act is not intended to restrict the application of a stipulation of a collective agreement in force on 15 September 1993 which provides for an adjustment to the salary rates or scales or the premiums within the framework of an evaluation of the salary relativity of groups of employees.

Amount or
date of
payment

49. Notwithstanding any inconsistent provision of any Act, regulation, order in council, order, budgetary rule, directive or instruction, the Government may, without further formality, fix or change the amount or date of payment of any subsidy that the

Government or a minister or a mandatory body of the Government pays to a public body or a municipal body in order to comply with the provisions of this Act.

Order **50.** Any order made by the Government under this Act takes effect on the date on which it is made or on any prior or later date fixed therein. The Regulations Act (R.S.Q., chapter R-18.1) does not apply to such an order, if any.

Compliance **51.** This Act does not dispense the public bodies, associations of employees and employees to whom or which this Act applies from the obligation to comply with the provisions of the Act respecting the placing of a temporary ceiling on remuneration in the public sector and the Act respecting the prolongation of collective agreements and the remuneration in the public sector which are applicable to them.

Date of expiration **52.** For the purposes of this Act, the date of expiration of a collective agreement referred to in section 27 of the Act respecting the prolongation of collective agreements and the remuneration in the public sector which has not been deferred by agreement according to the first or second paragraph of section 5 of that Act shall be considered to have been deferred for one year under the third paragraph of that section. The date shall also be deferred for two years in accordance with section 5 of this Act.

Applicable provisions Sections 11, 13, 14, 15, the third paragraph of section 17 and section 19 apply to a collective agreement to which the first paragraph applies.

Applicability **53.** Sections 5 to 7 and 10 do not apply to the Commission scolaire crie or to the Commission scolaire Kativik established, respectively, pursuant to sections 570 and 602 of the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14). For the negotiation of the salary and social benefits under section 668 of that Act, sections 8 and 9 apply to such school boards and associations of employees concerned as in the case of a first collective agreement.

Applicable provisions **54.** Sections 6 and 37 apply to a collective agreement even if its renewal or replacement is the subject of a dispute which has been referred to arbitration. In such a case, the arbitrator is bound by the provisions of those sections and of sections 11 and 38 for the period during which the collective agreement is prolonged; as regards other matters, the arbitrator may, where applicable, record the agreement of the parties.

Applicable provisions The same rule applies to section 8 in respect of a first collective agreement.

Prolongation **55.** The prolongation resulting from the application of sections 6 and 37 is without effect in respect of acts validly performed, between the date of expiration of a collective agreement and 15 September 1993, by reason of the absence of a collective agreement. It is also without effect in respect of offences committed during that period.

c. C-52.1,
s. 1, am. **56.** Section 1 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) is amended by inserting the words “an amount corresponding to 99 % of” after the word “on” in the second line.

Coming into force **57.** The provisions of this Act will come into force on the date or dates to be fixed by the Government, except section 45 which comes into force on 17 June 1993.

Coming into force The dates of coming into force of the provisions of sections 20 to 25, 28 and 56 shall not be prior to 1 October 1993.