

NATIONAL ASSEMBLY  
Thirty-second Legislature, fourth session

1983, chapter 22

## AN ACT TO AMEND THE LABOUR CODE AND VARIOUS LEGISLATION

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### **Bill 17**

Introduced by Mr Raynald Fréchette, Minister of Labour

First reading: 19 May 1983

Second reading: 15 June 1983

Third reading: 22 June 1983

**Assented to: 23 June 1983**

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**Coming into force: 1 September 1983, except section 103 which will come into force by proclamation of the Government**

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### **Acts amended:**

Act respecting the Barreau du Québec (R.S.Q., chapter B-1)

Labour Code (R.S.Q., chapter C-27)

Education Act (R.S.Q., chapter I-14)

Act respecting labour standards (R.S.Q., chapter N-1.1)

Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14)

Act respecting labour relations in the construction industry (R.S.Q., chapter R-20)



## CHAPTER 22

An Act to amend the Labour Code  
and various legislation

*[Assented to 23 June 1983]*

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. C-27, s. 1,  
am.

**1.** Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by inserting, after the words “by this Act” in the ninth line of subparagraph 3 of paragraph 1, the words, “the building commissioner or the placement commissioner and deputy-commissioners contemplated in the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20)”.

c. C-27, s.  
14, am.

**2.** Section 14 of the said Code is amended by replacing the first paragraph by the following paragraph:

Discrimina-  
tion

“**14.** No employer nor any person acting for an employer or an employers’ association may refuse to employ any person because that person exercises a right arising from this Code, or endeavour by intimidation, discrimination or reprisals, threat of dismissal or other threat, or by the imposition of a sanction or by any other means, to compel an employee to refrain from or to cease exercising a right arising from this Code.”

c. C-27, s.  
15, replaced

**3.** Section 15 of the said Code is replaced by the following section:

Reinstatement

“**15.** Where an employer or a person acting for an employer or an employers’ association dismisses, suspends or transfers an employee, practises discrimination or takes reprisals against him or imposes any other sanction upon him because the employee exercises a right arising from this Code, the labour commissioner may

(a) order the employer or a person acting for an employer or an employers’ association to reinstate such employee in his employment, within eight days of the service of the decision, with all his rights and

privileges, and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to dismissal, suspension or transfer.

Indemnity      That indemnity is due in respect of the whole period comprised between the time of dismissal, suspension or transfer and that of the carrying out of the order, or the default of the employee to resume his employment after having been duly recalled by his employer.

Deduction      If the employee has worked elsewhere during the above mentioned period, the salary which he so earned shall be deducted from such indemnity;

(b) order the employer or the person acting for an employer or an employers' association to cancel the sanction or to cease practising discrimination or taking reprisals against the employee and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to the sanction, discrimination or reprisals."

c. C-27, s. 16, replaced      **4.** Section 16 of the said Code is replaced by the following section:

Complaint      "**16.** An employee who believes that he has been the victim of a sanction or action contemplated in section 15 must, if he wishes to take advantage of that section, present his complaint in writing to the labour commissioner-general within thirty days of the sanction or action of which he complains, or mail it to him within the same time. The labour commissioner-general shall appoint a labour commissioner to make an investigation and decide as to the complaint."

c. C-27, s. 17, replaced      **5.** Section 17 of the said Code is replaced by the following section:

Burden of proof      "**17.** If it is shown to the satisfaction of the labour commissioner having cognizance of the matter that the employee exercises a right arising from this Code, there is a presumption in his favour that the sanction was imposed on him or the action was taken against him because he exercised such right, and the burden of proof is upon the employer that he resorted to the sanction or action against the employee for good and sufficient reason."

c. C-27, s. 18, repealed      **6.** Section 18 of the said Code is repealed.

c. C-27, s. 19, am.      **7.** Section 19 of the said Code is amended by replacing the first paragraph by the following paragraphs:

Indemnity      "**19.** On the application of the employer or of the employee, the labour commissioner may fix the quantum of an indemnity and order payment of interest at the legal rate from the date of filing of the complaint on the amount due pursuant to the order.

## Interest

There must be added, to the amount fixed, an indemnity computed by applying to the amount, from such date, a percentage equal to the excess of the interest rate fixed according to section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) over the legal interest rate.”

c. C-27, s.  
20, am.

**8.** Section 20 of the said Code is amended by replacing the first line by the following:

Hearing of  
parties

“**20.** Before rendering a decision under section 15,”.

c. C-27, s.  
21, am.

**9.** Section 21 of the said Code is amended

(1) by replacing the word and figure “section 37” in the third line of the first paragraph by the words and figures “section 32 or 37”;

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

Certification

“An association of employees which, in the case provided for in section 37.1, obtains the greatest number of votes in a ballot is also entitled to be certified.”

c. C-27, s.  
22, am.

**10.** Section 22 of the said Code is amended by replacing paragraph *a* by the following paragraph:

“(a) at any time, in the case of a group of employees not represented by a certified association and not already contemplated, in whole or in part, in an application for certification;”.

c. C-27, s.  
23.1, added

**11.** The said Code is amended by inserting, after section 23, the following section:

Replacement  
of commis-  
sioner

“**23.1** The labour commissioner-general may remove a labour commissioner from a matter and assign another labour commissioner to it at any time before hearing or subsequently if the labour commissioner is absent or unable to act.

Investigation

The labour commissioner-general may cause an investigation or research to be made into any question connected with certification and safeguard of the right of association.”

c. C-27, s.  
25, replaced

**12.** Section 25 of the said Code is replaced by the following section:

Petition for  
certification

“**25.** An association of employees shall apply for certification by means of a petition to be made to the labour commissioner-general accompanied with applications for membership provided for in subparagraph *b* of section 36.1. Such petition shall be authorized by a resolution of the association, signed by its authorized representatives and indicating which group it wishes to represent.

List of  
employees

Upon receipt of the petition, the labour commissioner-general shall send a copy of such petition to the employer who, within five days after it is received, shall post up in a conspicuous place the complete list of the employees of the undertaking contemplated by the petition mentioning the function of each of them. The employer shall send forthwith a copy of such list to the petitioning association and maintain a copy thereof at the disposal of the certification agent seized of the petition."

c. C-27, s.  
27.1, added

**13.** The said Code is amended by inserting, after section 27, the following section:

Petition  
inadmissible

**"27.1** The filing of a petition regarding a group of employees not represented by a certified association renders any petition filed from the day following the first filing, regarding all or some of the employees contemplated by the first petition inadmissible.

Filing

For the purposes of the first paragraph, a petition is deemed filed in the office of the labour commissioner-general on the day of its receipt there."

c. C-27, s.  
28, am.

**14.** Section 28 of the said Code is amended by replacing paragraph *c* by the following paragraph:

Disagree-  
ment on unit

**"(c)** If the employer refuses his agreement on the bargaining unit applied for, he must, in writing, set forth his reasons therefor and propose the unit he thinks suitable to the certification agent, who shall record them in the report made to the labour commissioner-general. If the employer neglects or refuses to communicate the reasons for his disagreement and to propose the unit he thinks suitable within fifteen days of receipt of the petition, he is deemed to have given his agreement on the bargaining unit. The certification agent shall then follow the procedure provided under paragraph *a* or paragraph *b*, as the case may be."

c. C-27, s.  
29, replaced

**15.** Section 29 of the said Code is replaced by the following section:

Suspension  
of investiga-  
tion

**"29.** The labour commissioner-general shall order the certification agent to suspend his investigation upon the latter's indicating to him that he has reason to believe that section 12 has not been complied with or upon an interested or third person's filing a complaint under that section."

c. C-27, s.  
31, am.

**16.** Section 31 of the said Code is amended by adding the following paragraph:

Power of the  
labour  
commis-  
sioner

"In addition, a labour commissioner to whom a petition for certification is referred may *ex officio* and at any time invoke non-compliance with section 12."

c. C-27, s.  
32, replaced

**17.** Section 32 of the said Code is replaced by the following section:

Bargaining  
unit

**“32.** The labour commissioner to whom the matter is referred shall, after an investigation held in the presence of any association in question and of the employer, settle any matter relating to the bargaining unit and the persons contemplated by it; he may for that purpose modify the unit proposed by the petitioning association.

Representa-  
tive nature

He shall also decide as to the representative nature of the petitioning association after investigating this question in any manner he thinks advisable, more particularly by calculating the membership of the petitioning association or holding a vote by secret ballot.

Interested  
parties

Only the employees included in the bargaining unit and the interested association of employees are deemed interested parties in determining the representative nature of an association of employees.”

c. C-27, s.  
36, replaced

**18.** Section 36 of the said Code is replaced by the following section:

Confidentiali-  
ty

**“36.** The fact that a person belongs to an association of employees shall not be revealed by anyone during the certification or decertification proceedings, except to the labour commissioner-general, the deputy labour commissioner-general, the labour commissioner, the certification agent, or the judge of a court to which an action provided for in Title VI of Book V of the Code of Civil Procedure (R.S.Q., chapter C-25) relating to a certification is referred. Such persons and every other person who becomes aware of the fact that the person belongs to the association is bound to secrecy.”

c. C-27, s.  
37, replaced

**19.** Section 37 of the said Code is replaced by the following section:

Secret ballot

**“37.** The labour commissioner must order a vote by secret ballot whenever a petitioning association comprises between 35% and 50% of the employees in the appropriate bargaining unit. Only the petitioning association or associations comprising each not fewer than 35% of the employees contemplated and the certified association, if any, may compete for election.

Exception

This section does not apply if one of the associations comprises an absolute majority of the employees.”

c. C-27, s.  
37.1, added

**20.** The said Code is amended by inserting, after section 37, the following section:

New vote

**“37.1** Where a vote by secret ballot ordered under this division involves more than two associations of employees which, together, obtain an absolute majority of the votes of the employees who are entitled to vote without any association obtaining an absolute majority,

the labour commissioner shall order a new vote by secret ballot, excluding the association having received the smallest number of votes.

**Certification** Where a vote by secret ballot ordered under this division involves two associations of employees, the labour commissioner shall certify the association which has obtained the greater number of votes if the two associations, together, obtain an absolute majority of the votes of the employees entitled to vote."

**c. C-27, s. 39, am.** **21.** Section 39 of the said Code is amended by striking out the second paragraph.

**c. C-27, s. 40, replaced** **22.** Section 40 of the said Code is replaced by the following section:

**Renewal of petition** **"40.** A petition for certification shall not be renewed within three months of its refusal by a labour commissioner or withdrawal by a petitioning association unless the petition is not admissible under section 27.1, the withdrawal occurs following a union or amalgamation of school or municipal corporations, an integration of personnel with an urban community or the establishment of a transit commission."

**c. C-27, s. 41, am.** **23.** Section 41 of the said Code is amended

(1) by replacing the words "the second paragraph of section 32" in the first line of the second paragraph by the words "the third paragraph of section 32";

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

**Contestation of report** "A certification agent responsible for examining the representative nature of the association shall send a copy of his report to the petitioner, the association and the employer. The latter persons and association may contest the report by stating their reasons in writing to the labour commissioner-general or the labour commissioner to whom the matter has been referred, as the case may be, within ten days of receiving the report, failing which a decision may be rendered without calling the parties for a hearing."

**c. C-27, s. 47.4, am.** **24.** Section 47.4 of the said Code is amended by replacing the word "fifteen" in the first line by the word "thirty".

**c. C-27, s. 49, replaced** **25.** Section 49 of the said Code is replaced by the following section:

**Revocation or revision of decision** **"49.** A labour commissioner may, *ex officio* or at the request of a party, reconsider or revoke any decision or order provided that, in cases where there may be an appeal, an appeal has not been brought to the Court from the decision or order or the Court has not yet disposed of the appeal.

Correction A labour commissioner may also correct, in the same manner, at any time, any decision or order in which there is an error in writing or calculation or any other clerical error.”

c. C-27, s. 53.1, added **26.** The said Code is amended by inserting, after section 53, the following section:

Refusal to negotiate **“53.1** Neither the employer nor the certified association may refuse to negotiate or delay the negotiation on the sole ground that the parties disagree on who are contemplated by the certification.”

c. C-27, s. 57.1, added **27.** The said Code is amended by inserting, after section 57, the following section:

Confidentiality **“57.1** In no case may a conciliation officer be compelled to divulge any fact that has been disclosed to him or that has come to his knowledge in the discharge of his duties, or to produce any document made or obtained in the discharge of his duties, before any court, arbitrator, body or agency or any person exercising judicial or quasi-judicial functions.”

c. C-27, s. 58, am. **28.** Section 58 of the said Code is amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

c. C-27, Chap. IV, Div I, heading, replaced **29.** The said Code is amended by replacing the heading of Division I of Chapter IV by the following heading:

“DISPUTES ARBITRATORS”.

c. C-27, s. 74, am. **30.** Section 74 of the said Code is amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

c. C-27, s. 75, replaced **31.** Section 75 of the said Code is replaced by the following section:

Referral **“75.** The Minister shall notify the parties that he is referring the dispute to arbitration.”

c. C-27, s. 76, am. **32.** Section 76 of the said Code is amended by replacing the words “The members of a council of arbitration must not have any pecuniary interest in the dispute submitted to them” by the words “In no case may an arbitrator have any pecuniary interest in the dispute submitted to him”.

c. C-27, s. 77, replaced **33.** Section 77 of the said Code is replaced by the following section:

Choice of arbitrator **“77.** Within ten days of receiving the notice provided for in section 75, the parties must consult together as to the choice of an arbitrator; if they agree, the Minister shall appoint to such office the



person they have chosen. Failing agreement, the Minister shall appoint him *ex officio*.

List            Every arbitrator appointed *ex officio* shall be selected from a list drawn up annually by the Minister after consultation with the Conseil consultatif du travail et de la main-d'oeuvre.

Clerk            The Minister shall also appoint a clerk."

c. C-27, s. 78, replaced        **34.** Section 78 of the said Code is replaced by the following section:

Assessors            **"78.** The arbitrator shall proceed to the arbitration with assessors unless, within fifteen days of his appointment, the parties reach an agreement to the contrary.

Assessors            Each party shall designate, within fifteen days of the appointment of the arbitrator, an assessor to assist the arbitrator and represent it during the hearing of the dispute and the deliberation. If a party fails to designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

Assessors            He may proceed in the absence of an assessor who does not attend after having been duly convened."

c. C-27, s. 79, replaced        **35.** Section 79 of the said Code is replaced by the following section:

Oath            **"79.** Every arbitrator must, before acting, make oath to decide according to equity and good conscience.

Award            In rendering his award, the arbitrator may take into account, in particular, the conditions of employment that prevail in similar undertakings or similar circumstances and the conditions of employment that are applicable to the other employees of the undertaking."

c. C-27, s. 80, replaced        **36.** Section 80 of the said Code is replaced by the following section:

Replacement of arbitrator        **"80.** An arbitrator who resigns, refuses to act or is otherwise unable to act is replaced according to the procedure prescribed for the original appointment.

Replacement of assessor        If an assessor resigns, refuses to act or is otherwise unable to act, the party which appointed him shall appoint a person to replace him. The arbitrator may continue the arbitration if the party fails to appoint a person to replace the assessor within the time he indicates."

c. C-27, s. 81, am.            **37.** Section 81 of the said Code is amended by replacing the words "The council" by the words "The arbitrator".

c. C-27, s. 82, replaced        **38.** Section 82 of the said Code is replaced by the following section:

Sittings

**“82.** Arbitration sittings shall be public, but the arbitrator of his own motion or upon application of either party may order private sittings.”

c. C-27, s.  
83, am.

**39.** Section 83 of the said Code is amended by replacing the words “The president shall have all the powers of a judge of the Superior Court over sittings of the council” by the words “The arbitrator has all the powers of a judge of the Superior Court for the conduct of arbitration sittings”.

c. C-27, s.  
84, am.

**40.** Section 84 of the said Code is amended by replacing the words “the council” by the words “the arbitrator”.

c. C-27, s.  
85, am.

**41.** Section 85 of the said Code is amended by replacing the words “council of arbitration” by the word “arbitrator”.

c. C-27, s.  
87, am.

**42.** Section 87 of the said Code is amended by replacing the words “the council” by the words “the arbitrator”.

c. C-27, s.  
88, replaced

**43.** Section 88 of the said Code is replaced by the following section:

Award

**“88.** The arbitration award must give reasons for the decision and be in writing. It must be signed by the arbitrator.”

c. C-27, s.  
89, am.

**44.** Section 89 of the said Code is amended by replacing the words “The president” by the words “The arbitrator”.

c. C-27, s.  
90, am.

**45.** Section 90 of the said Code is amended by replacing the words “The award of the council shall be rendered within sixty days after the president has been appointed unless, at the president’s request” by the words “The award of the arbitrator must be rendered within sixty days of his appointment unless, at his request,”.

c. C-27, s.  
91, am.

**46.** Section 91 of the said Code is amended by replacing the words “a council of arbitration may render any temporary award that it” by the words “an arbitrator may render any temporary award that he”.

c. C-27, s.  
92, replaced

**47.** Section 92 of the said Code is replaced by the following section:

Duration of  
award

**“92.** The award of the arbitrator shall bind the parties for a period of not less than one year nor more than two years. The parties may, however, agree to amend the content, wholly or in part.”

c. C-27, ss.  
93.1, 93.3,  
am.

**48.** Sections 93.1 and 93.3 of the said Code are amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

c. C-27, s.  
93.4,  
replaced

**49.** Section 93.4 of the said Code is replaced by the following section:

Decision to  
determine  
content

**“93.4** The arbitrator must decide to determine the content of the first collective agreement where he is of opinion that it is unlikely that the parties will be able to reach a collective agreement within a reasonable time. He shall then inform the parties and the Minister of his decision.”

c. C-27, s.  
93.5, am.

**50.** Section 93.5 of the said Code is amended by replacing the words “the council of arbitration informs the parties that it” by the words “the arbitrator informs the parties that he”.

c. C-27, s.  
93.6, repealed

**51.** Section 93.6 of the said Code is repealed.

c. C-27, s.  
93.8, repealed

**52.** Section 93.8 of the said Code is repealed.

c. C-27, s.  
93.9,  
replaced

**53.** Section 93.9 of the said Code is replaced by the following section:

Applicable  
provisions

**“93.9** Sections 75 to 93 apply to the arbitration provided for in this division.”

c. C-27, s.  
94, am.

**54.** Section 94 of the said Code is amended

(1) by inserting, after the word “corporation” in the first line, the words “or an intermunicipal management board”;

(2) by replacing the words “a council of arbitration” in the third and fifth lines by the words “an arbitrator”.

c. C-27, s.  
95, repealed

**55.** Section 95 of the said Code is repealed.

c. C-27, s.  
96, am.

**56.** Section 96 of the said Code is amended by replacing the words “councils of arbitration constituted” by the words “the arbitration provided for”.

c. C-27, s.  
97, am.

**57.** Section 97 of the said Code is amended by inserting, after the word “corporation” in the second line, the words “or an intermunicipal management board”.

c. C-27, s.  
98, am.

**58.** Section 98 of the said Code is amended by replacing the words “a council of arbitration” by the words “an arbitrator”.

c. C-27, s.  
99, repealed

**59.** Section 99 of the said Code is repealed.

c. C-27,  
Chap. IV,  
Div III,  
heading  
replaced

**60.** The said Code is amended by replacing the heading of Division III of Chapter IV by the following heading:

“GRIEVANCES ARBITRATOR”.

c. C-27, s.  
100, am.

**61.** Section 100 of the said Code is amended

(1) by replacing the figure “78” in the second paragraph by the figure “77”;

(2) by striking out the third paragraph.

c. C-27, ss.  
100.0.1,  
100.0.2,  
added

**62.** The said Code is amended by inserting, after section 100, the following sections:

Dismissal of  
grievance

**“100.0.1** No grievance submitted to the other party within fifteen days of the date that the cause of action arose may be dismissed by the arbitrator on the sole ground that the time limit prescribed in the collective agreement was not observed.

Referral of  
grievance

**“100.0.2** Where the parties have settled a grievance before it has been referred to arbitration and one of the parties refuses to give effect to the settlement reached, the other party may refer the grievance to arbitration notwithstanding any agreement to the contrary and notwithstanding the expiry of the periods provided for in sections 71 and 100.0.1 or in the collective agreement.”

c. C-27, s.  
100.1, am.

**63.** Section 100.1 of the said Code is amended by replacing the words “No member of the court of arbitration may” by the words “No arbitrator may”.

c. C-27, s.  
100.1.1,  
100.1.2, am.

**64.** The said Code is amended by inserting, after section 100.1, the following sections:

Assessors

**“100.1.1** The arbitrator shall proceed with the arbitration with assessors if, within fifteen days of his appointment, there is agreement to that effect between the parties.

Assessors

Where there is agreement, each party shall designate, within the time prescribed in the first paragraph, an assessor to assist the arbitrator and represent it during the hearing of the grievance and the deliberation. If a party refuses to give effect to the agreement within the prescribed time, the arbitrator may proceed in the absence of that party’s assessor.

Assessors

He may proceed in the absence of an assessor who does not attend, after having been duly convened.

Replacement  
of arbitrator

**“100.1.2** An arbitrator who resigns, refuses to act or is otherwise unable to act is replaced according to the procedure prescribed for the original appointment.

Replacement  
of assessor

An assessor who resigns, refuses to act or otherwise is unable to act is replaced by an appointment made by the party who designated him. The arbitrator may continue the arbitration if the party fails to appoint a person to replace the assessor within the time he indicates.”

c. C-27, s.  
100.2, am. **65.** Section 100.2 of the said Code is amended by replacing the words “The court of arbitration” in the first line of the first paragraph by the words “The arbitrator”, and the word “it” in the last line by the word “he”.

c. C-27, s.  
100.2.1, am. **66.** The said Code is amended by inserting, after section 100.2, the following section:

Irregularity **“100.2.1** No grievance may be considered as null or rejected because of a defect of form or irregularity in the procedure.”

c. C-27, s.  
100.3, am. **67.** Section 100.3 of the said Code is amended by replacing the words “the court of arbitration” by the words “the arbitrator”, and the word “it” by the word “he” wherever it refers to the arbitrator.

c. C-27, s.  
100.4, am. **68.** Section 100.4 of the said Code is amended by replacing the words “The sittings of the court of arbitration shall be public; however, the court may, of its” by the words “Arbitration sittings shall be public, but the arbitrator may, of his”.

c. C-27, s.  
100.5, am. **69.** Section 100.5 of the said Code is amended  
(1) by replacing the words “The court of arbitration” in the first line of the first paragraph by the words “The arbitrator”;  
(2) by replacing the words “the court of arbitration” in the third and fourth lines of the second paragraph by the words “the arbitrator”, and the word “it” in the fifth line by the word “he”.

c. C-27, s.  
100.6, am. **70.** Section 100.6 of the said Code is amended  
(1) by replacing the words “, the chairman of the court of arbitration” in the first and second lines of the first paragraph by the words “or of his own initiative, the arbitrator”;  
(2) by replacing the words “The court of arbitration” in the first line of the third paragraph by the words “The arbitrator”.

c. C-27, s.  
100.7,  
replaced **71.** Section 100.7 of the said Code is replaced by the following section:

Interrogation **“100.7** The arbitrator may ask a witness any question he deems useful.”

c. C-27, s.  
100.9, am. **72.** Section 100.9 of the said Code is amended  
(1) by replacing the first two paragraphs by the following paragraph:

Visit of  
premises

“**100.9** Upon application of one of the parties or of his own initiative, the arbitrator may visit the place relating to the grievance referred to him. He shall then invite the parties to accompany him.”;

(2) by replacing the words “the chairman of the court of arbitration” in the first and second lines of the third paragraph by the words “the arbitrator”.

c. C-27, s.  
100.11, am.

**73.** Section 100.11 of the said Code is amended by replacing the words “The court of arbitration” by the words “The arbitrator”.

c. C-27, s.  
100.12,  
replaced

**74.** Section 100.12 of the said Code is replaced by the following section:

Powers of  
the  
arbitrator

“**100.12** In the exercise of his duties the arbitrator may

(a) interpret and apply any Act or regulation to the extent necessary to settle a grievance;

(b) fix the terms and conditions of reimbursement of an overpayment by an employer to an employee;

(c) order the payment of interest at the legal rate, from the filing of the grievance, on any amount due under an award he has made.

Interest

There must be added to that amount an indemnity computed by applying to that amount, from the same date, a percentage equal to the amount by which the rate of interest fixed according to section 28 of the Act respecting the Ministère du Revenu exceeds the legal rate of interest;

(d) upon request of a party, fix the amount due under an award he has made;

(e) correct at any time a decision in which there is an error in writing or calculation or any other clerical error;

(f) in disciplinary matters, confirm, amend or set aside the decision of the employer and, if such is the case, substitute therefor the decision he deems fair and reasonable, taking into account the circumstances concerning the matter. However, where the collective agreement provides for a specific sanction for the fault alleged against the employee in the case submitted to arbitration, the arbitrator shall only confirm or set aside the decision of the employer, or, if such is the case, amend it to bring it into conformity with the sanction provided for in the collective agreement;

(g) render any other decision intended to protect the rights of the parties.”

- c. C-27, ss.  
100.13-100.15,  
repealed **75.** Sections 100.13 to 100.15 of the said Code are repealed.
- c. C-27, s.  
100.16, am. **76.** Section 100.16 of the said Code is amended by replacing the words “The court may order, of its” by the words “The arbitrator may order, of his”.
- c. C-27, s.  
101, am. **77.** Section 101 of the said Code is amended by replacing the words “and binds the parties” by the words “, binds the parties and, where such is the case, any employee concerned”.
- c. C-27, s.  
101.1, repealed **78.** Section 101.1 of the said Code is repealed.
- c. C-27, s.  
101.2,  
replaced **79.** Section 101.2 of the said Code is replaced by the following section:
- Grounds of  
award **“101.2** The arbitration award must state the grounds on which it is based and be rendered in writing. It must be signed by the arbitrator.”
- c. C-27, s.  
101.3, am. **80.** Section 101.3 of the said Code is amended by replacing the words “Every member of the court of arbitration must” by the words “The arbitrator and assessors must”.
- c. C-27, s.  
101.4, repealed **81.** Section 101.4 of the said Code is repealed.
- c. C-27, s.  
101.5, am. **82.** Section 101.5 of the said Code is amended by replacing the words “the court of arbitration must render its award within 90 days of the appointment of the chairman of the court of arbitration” by the words “the arbitrator must render his award within ninety days of his appointment”.
- c. C-27, s.  
101.6, am. **83.** Section 101.6 of the said Code is amended by replacing the words “The chairman of the court of arbitration” by the words “The arbitrator”.
- c. C-27, s.  
101.7, am. **84.** Section 101.7 of the said Code is amended by replacing the words “the chairman of the court of arbitration” by the words “the arbitrator”.
- c. C-27, ss.  
101.8, 101.9,  
am. **85.** Sections 101.8 and 101.9 of the said Code are amended by replacing the words “The chairman of the court of arbitration” by the words “The arbitrator”.
- c. C-27, s.  
103, am. **86.** Section 103 of the said Code is amended by replacing the first paragraph by the following paragraph:
- Remunera-  
tion of  
arbitrators **“103.** The Government shall determine by regulation the remuneration of the arbitrators of disputes and grievances.”

c. C-27, s.  
105, am.

**87.** Section 105 of the said Code is amended by adding, at the end, the words “or an intermunicipal management board.”

c. C-27, s.  
109.1,  
replaced

**88.** Section 109.1 of the said Code, amended by section 2 of chapter 37 of the statutes of 1982, is replaced by the following section:

Prohibited  
practices

**“109.1** For the duration of a strike declared in accordance with this Code or a lock-out, every employer is prohibited from

(a) utilizing the services of a person to discharge the duties of an employee who is a member of the bargaining unit then on strike or locked out when such person was hired between the day the negotiation stage begins and the end of the strike or lock-out;

(b) utilizing, in the establishment where the strike or lock-out has been declared, the services of a person employed by another employer or the services of another contractor to discharge the duties of an employee who is a member of the bargaining unit on strike or locked out;

(c) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee who is a member of the bargaining unit then on strike or locked out unless

i. an agreement has been reached for that purpose between the parties, but only to the extent that the agreement so provides;

ii. a list has been submitted as stipulated in section 111.0.18 or 111.10 and to the extent that the list so provides; or

iii. an order is made by the Government pursuant to section 111.0.24 or 111.13;

(d) utilizing, in another of his establishments, the services of an employee who is a member of the bargaining unit then on strike or locked out;

(e) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee he employs in another establishment;

(f) utilizing, in an establishment where a strike or a lock-out has been declared, the services of a person other than an employee he employs in another establishment, except where the employees of the latter establishment are members of the bargaining unit on strike or locked out;

(g) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee he employs in the establishment to discharge the duties of an employee who is a member of the bargaining unit on strike or locked out.”



- c. C-27, s. 109.2, am. **89.** Section 109.2 of the said Code, amended by section 3 of chapter 37 of the statutes of 1982, is again amended by replacing the words “paragraph *b*” by the words “paragraph *c*”.
- c. C-27, s. 110.1, am. **90.** Section 110.1 of the said Code is amended by replacing the words “to the court of arbitration” in the third and fourth lines of the second paragraph by the words “to the arbitrator”.
- c. C-27, s. 130, am. **91.** Section 130 of the said Code is amended by adding, at the end, the following paragraph:
- Reinstatement “However, the order of reinstatement rendered under section 15 is executory notwithstanding the appeal.”
- c. C-27, s. 138, am. **92.** Section 138 of the said Code is amended by replacing the words “court of arbitration” in subparagraph *e* of the first paragraph by the words “grievances arbitrator”.
- c. C-27, s. 139, am. **93.** Section 139 of the said Code is amended by replacing the words “council of arbitration, court of arbitration” by the word “arbitrator”.
- Applicability **94.** Amendments made under this Act to section 19 of the said Code apply to every order made from 1 September 1983.
- Applicability **95.** Amendments made under this Act to sections 22, 28 and 32 of the said Code, and section 27.1 of the said Code enacted by this Act apply only to petitions filed from 1 September 1983.
- Applicability **96.** Amendments made under this Act to section 21 of the said Code, and section 37.1 of the said Code enacted by this Act apply to a ballot held from 1 September 1983.
- Applicability **97.** Section 99 of the said Code, as it read before being repealed by section 59 of this Act, continues to apply to an arbitration award settling a dispute, made within ninety days of 1 September 1983.
- Applicability **98.** Sections 74 to 93.3 and 93.5 to 98 of the said Code, as they read before being amended or repealed by sections 30 to 48 and 50 to 58 of this Act, continue to apply in the case of a dispute when the chairman of the council of arbitration is appointed within ninety days of 1 September 1983.
- Interpretation **99.** A court of arbitration established under the provisions of a collective agreement taking effect before 1 September 1983 or within the following ninety days is validly established for the purposes of the carrying out of Division III of Chapter IV of the said Code, and every reference to an arbitrator in the said division is a reference to the

chairman of the court of arbitration, its members or the court of arbitration, as the case may be.

c. B-1, a.  
128, am.

**100.** Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing subparagraph 1 of paragraph *a* of subsection 2 by the following subparagraph:

“(1) a conciliation officer or an arbitrator of disputes or grievances, within the meaning of the Labour Code;”.

C. I-14, s.  
190, am.

**101.** Section 190 of the Education Act (R.S.Q., chapter I-14), replaced by section 14 of chapter 45 of the statutes of 1982, is amended by replacing the words “court of arbitration”, wherever they appear in subparagraph 2 of the second paragraph, by the word “arbitrator”.

c. I-14, s.  
208, am.

**102.** Section 208 of the said Act, replaced by section 15 of chapter 45 of the statutes of 1982, is amended by replacing the words “council of arbitration”, wherever they appear in subparagraph 5 of the second paragraph, by the word “arbitrator”.

c. N-1.1, s.  
74, am.

**103.** Section 74 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended

(1) by striking out the words “or on maternity leave” in the first two lines of the second paragraph;

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

Indemnity

“The indemnity relating to the annual leave to which an employee is entitled during her maternity leave is determined by regulation of the Government.”

c. N-1.1, s.  
126, am.

**104.** Section 126 of the said Act is amended by replacing the figure “78”, in the second paragraph, by the figure “77”.

c. R-14, s.  
14, am.

**105.** Section 14 of the Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14) is amended by replacing the figure “78”, in the fifth line of the third paragraph, by the figure “77”.

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

**106.** Section 62 of the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20) is amended by replacing the figure “78” in the last line of the first paragraph by the figure “77”.

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

**107.** Section 105 of the said Act is amended by replacing the figure “78” in the last line of the second paragraph by the figure “77”.

Exception

**108.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the

Canada Act, chapter 11 in the 1982 volume of the Act of the Parliament of the United Kingdom).

Coming into  
force

**109.** This Act comes into force on 1 September 1983, except section 103, which will come into force on the date fixed by government proclamation.