

1982, chapter 45

AN ACT RESPECTING THE CONDITIONS OF EMPLOYMENT IN THE PUBLIC SECTOR

Bill No. 105

Introduced by Mr Yves Bérubé, President of the Conseil du trésor and Minister responsible for Administrative Reform

First reading: 9 December 1982

Second reading: 11 December 1982

Third reading: 11 December 1982

Assented to: 11 December 1982

Coming into force: 11 December 1982

Acts amended:

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

Act respecting remuneration in the public sector (1982, chapter 35)



CHAPTER 45

An Act respecting the conditions
of employment in the public sector

[Assented to 11 December 1982]

HER MAJESTY, with the advice and consent of the National
Assembly of Québec, enacts as follows:

DIVISION I

APPLICABILITY

Employers
contem-
plated.

1. This Act applies to the following employers:

(1) the Government and its departments;

(2) agencies whose personnel is appointed or remunerated in accordance with the Civil Service Act (R.S.Q., chapter F-3.1), including the services of the National Assembly of Québec and any person appointed by the latter according to law;

(3) the colleges and school boards contemplated in the Act respecting management and union party organization in collective bargaining in the sectors of education, social affairs and government agencies (R.S.Q., chapter O-7.1) as well as the corporations contemplated in section 30.1 of the General and Vocational Colleges Act (R.S.Q., chapter C-29) and the Cree and Kativik school boards;

(4) the establishments contemplated in the Act respecting management and union party organization in collective bargaining in the sectors of education, social affairs and government agencies as well as the health and social service councils established under the Act respecting health services and social services (R.S.Q., chapter S-5);

(5) the government agencies mentioned in the Schedule.

University
establish-
ments.

For the purposes of section 4, this Act also applies to university establishments and the establishments contemplated in section 7 of the Act respecting remuneration in the public sector (1982, chapter 35).

Employees
contem-
plated.

This Act also applies to employees of the employers referred to in the first paragraph who are included in a bargaining unit for which an association of employees is certified under the Labour Code (R.S.Q., chapter C-27) or the Civil Service Act (R.S.Q., chapter F-3.1), and to an association of employees certified to represent employees.

Exceptions.

It does not apply, however, to employees contemplated in paragraph *d* of section 110 of chapter F-3.1 or in paragraph *b* of section 1 of chapter R-14 of the Revised Statutes of Québec. Section 6 does not apply to the employees represented by the Syndicat professionnel des médecins du gouvernement du Québec or by the Association des Chirugiens dentistes du gouvernement du Québec, or to those associations of employees.

DIVISION II

REMUNERATION MODIFIED FOR THE PERIOD FROM 1 JANUARY TO 1 APRIL 1983

Text
relating to
remunera-
tion.

2. Within five days of the date of sanction of this Act, the chairman of the Conseil du trésor shall file in the office of the labour commissioner-general the text of new provisions concerning the salary or wages, premiums, lump sums and, where such is the case, additional amounts that may be received, from 1 January to 1 April 1983, by employees bound by a collective agreement the term of which has been extended by section 3 of the Act respecting remuneration in the public sector (1982, chapter 35).

Content.

The text shall reproduce the provisions of Sessional Paper No. 650 tabled before the National Assembly of Québec on 9 December 1982.

Collective
agreement.

3. With regard to each employer, each association of employees and each group of employees concerned by the provisions, the provisions of the text filed in the office of the labour commissioner-general pursuant to section 2 form part of the collective agreement in force and replace the provisions appearing in Sessional Paper No. 350 tabled before the National Assembly of Québec on 26 May 1982.

Filing.

The filing of a copy of the text in the office has the same effect as if it were filed pursuant to section 72 of the Labour Code.

Collective
agreement
amended
by order.

4. The Government may, by order, amend the collective agreements the terms of which have been extended by three months pursuant to section 11 of the Act respecting remuneration in the public sector so as to render applicable to the employees bound by such collective agreements an adjustment of remuneration comparable to that which results from the application of section 2.

Effect of
the order.

An order made under this section is effective from the date it is made or on any earlier or later date indicated therein. It shall be published in the *Gazette officielle du Québec*.

DIVISION III

COLLECTIVE AGREEMENTS APPLICABLE TO EMPLOYEES

C.T.C.-
U.M.

5. This division applies equally to the Commission de transport de la Communauté urbaine de Montréal and to its employees who are included in a bargaining unit for which the Syndicat du Transport de Montréal (Employés des Services d'entretien) (CSN) is certified, as well as to that association of employees.

Société des
alcools.

This division also applies to the Société des alcools du Québec and to its employees who are included in a bargaining unit for which the Syndicat du personnel technique et professionnel de la Société des alcools du Québec or the Syndicat des employés de magasins et de bureaux de la Société des alcools du Québec is certified, as well as to those associations of employees.

Text rela-
ting to
conditions
of employ-
ment.

6. Within five days of the date of sanction of this Act, the chairman of the Conseil du trésor shall file in the office of the labour commissioner-general the text of provisions relating to the conditions of employment of the employees.

Content.

The text shall reproduce the provisions of Sessional Paper No. 651 tabled before the National Assembly of Québec on 9 December 1982 as amended by the provisions of Sessional Paper No. 653 tabled on 11 December 1982.

Cree and
Kativik
school
boards.

7. With regard to the Cree and Kativik school boards, the chairman of the Conseil du trésor is authorized to file in the office of the labour commissioner-general the text of the provisions relating to the conditions of employment of their employees if either of the school boards so requests.

Newly cer-
tified
associa-
tions.

8. In the case of an association of employees that obtains certification in accordance with the Labour Code between 29 November 1982 and 31 December 1985, the chairman of the Conseil du trésor is authorized to file in the office of the labour commissioner-general the text of provisions he shall determine concerning the conditions of employment of the employees represented by the association.

Applica-
bility.

If the association is affiliated to a union, federation or confederation, the provisions filed pursuant to the first paragraph are those contemplated in section 6 to the extent that they may be applied, taking into account the functions held by the employees and the employer concerned.

Conditions of employment.

These provisions replace, as the case may be, those filed pursuant to section 6.

Effect of filing.

9. With regard to each employer, each association of employees and each group of employees concerned by the provisions, the provisions of a text filed in the office of the labour commissioner-general pursuant to sections 6 to 8 constitute a collective agreement within the meaning of the Labour Code, and the filing of a copy of the text has the same effect as if it were effected under section 72 of the Labour Code.

Coming into force of collective agreements.

10. The collective agreements contemplated in sections 6 to 8 bind the parties from the date provided therein even where the date precedes the date prescribed by law for the expiry of the collective agreements now in force. In the case where no other date is provided for in a collective agreement, it comes into force on 2 April 1983.

Expiration.

The collective agreements expire on 31 December 1985, except the collective agreement binding the Commission de transport de la Communauté urbaine de Montréal and the Syndicat du Transport de Montréal (Employés des Services d'entretien) (CSN), which expires on 11 January 1984, and the collective agreement binding the Société des alcools du Québec and the Syndicat des employés de magasins et de bureaux de la Société des alcools du Québec, which expires on 31 December 1984.

DIVISION IV

GENERAL AND FINAL PROVISIONS

Labour Code.

11. The Labour Code applies to the collective agreements filed under sections 6 to 8 and to the provisions filed under section 2 to the extent that it is not inconsistent with this Act.

Newly certified association.

In no case, however, may a newly certified association terminate a collective agreement contemplated in this Act or declare it void.

Applicability of collective agreements.

12. A collective agreement contemplated in section 9 is deemed to contain a provision to the effect that the conditions of employment applicable on the date of its expiry continue to apply until the coming into force of a new collective agreement, if the collective agreement renews a collective agreement which, on 26 May 1982, contained such a stipulation.

1982, c. 35, s. 15, repealed.

13. Section 15 of the Act respecting remuneration in the public sector is repealed.

R.S.Q., c. I-14, s. 190, replaced.

14. Section 190 of the Education Act (R.S.Q., chapter I-14) is replaced by the following section:

Cancellation of engagement.

“**190.** School commissioners and trustees shall cancel the engagement of persons holding pedagogical or educational positions in accordance with the collective agreement governing the parties.

Grounds and procedure.

However, failing an agreement or if the agreement does not provide for cancellation of engagement, the following provisions apply:

(1) The school commissioners or trustees shall, after mature deliberation at a meeting called for that purpose, cancel the engagement of persons holding pedagogical or educational positions on account of incapacity, negligence in the performance of their duties, insubordination, misconduct or immorality.

(2) Any person who holds a pedagogical or educational position and is dismissed under the preceding paragraph may submit his grievance to arbitration, in accordance with sections 100 to 102 of the Labour Code. In such case, the court of arbitration seized of the grievance shall determine whether the procedure prescribed for the dismissal has been followed and whether the reasons alleged by the school board in support of such dismissal constitute one of the causes of cancellation contemplated in the preceding paragraph. The court of arbitration may set aside the decision of the school board if the procedure prescribed has not been followed or, if the reasons for the dismissal are not well founded, order that the person concerned be reinstated in his duties and determine, if need be, the amount of the compensation to which he is entitled.”

R.S.Q., c. I-14, s. 208, replaced.

15. Section 208 of the said Act is replaced by the following section:

Non-reengagement.

“**208.** School commissioners or trustees may decide not to re-engage for the following year a person holding a pedagogical or educational position in accordance with the collective agreement governing the parties.

Grounds and procedure.

However, failing a collective agreement or if the collective agreement does not provide for the non-reengagement, the following provisions apply:

(1) School commissioners or trustees, after having decided by resolution at a regularly held meeting not to re-engage for the following year a person holding a pedagogical or educational position, shall, at least thirty days before the date of expiration of the engagement of such person or, in the case of an engagement terminating at the end of a school year, before 1 June preceding the end of such school year, notify him in writing of their intention to terminate the said engagement, but need not in such notice assign any cause therefor.

(2) They shall, however, upon the written and personal request of such person delivered at least fifteen days before the date of expiration of his engagement or, in the case of an engagement terminating at the end of a school year, before 15 June preceding the end of such school year, give him in writing within the fifteen days following the expiry of such fifteen days, or in the case of an engagement terminating at the end of a school year, before 30 June, the reasons for their decision, but no right of action shall result from reasons so given in good faith.

(3) Such person, if he is of the opinion that the procedure provided in this paragraph for the non-renewal of his contract has not been followed, may submit a grievance to arbitration. If he contests the reasons given by the school commissioners or trustees, he may also submit a grievance to arbitration, but he may do so only if he has been in the employ of a school board, a school administered by a government department, or another educational institution designated by the Minister, in which such person has held a pedagogical or educational position for three periods of eight months or more, each of which was contained in a separate year of engagement comprised in a continuous period of not more than five years. An individual contract of employment may stipulate, for the purposes of the application of this paragraph, that periods of absence be deemed periods of employment in a pedagogical or educational position.

(4) The grievance must be submitted to arbitration not later than on the date of the termination of the contract of engagement of such person in accordance with sections 100 to 102 of the Labour Code.

(5) The council of arbitration seized of the grievance shall determine whether the procedure prescribed for the non-reengagement has been followed and, if necessary, whether the reasons on which the decision of the school commissioners or trustees is based are well founded. If such procedure has not been followed or if, as the case may be, the reasons on which the decision of the school commissioners or trustees is based are not well founded, the council of arbitration may set aside the decision of the school commissioners or trustees, order that the person concerned be reinstated in his duties and determine if need be the amount of the compensation to which such person is entitled."

R.S.Q., c.
I-14, s.
209, am.

16. Subsection 1 of section 209 of the said Act is amended

(1) by inserting the words "or who have not been reengaged in accordance with the provisions of the collective agreement" after the word "therein" in the third line;

(2) by replacing the words “in paragraph 2 of section 189” in the fifth line by the words “in section 190 or in the collective agreement”.

Exception. **17.** 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 Acts of the Parliament of the United Kingdom).

Coming into force. **18.** This Act comes into force on the day of its sanction.

SCHEDULE

- The Commission des droits de la personne;
- The manpower vocational training commissions;
- The Commission des services juridiques;
- The legal aid corporations;
- The Société des traversiers du Québec;
- The Régie des installations olympiques;
- The Office de la construction du Québec;
- The Office franco-québécois pour la jeunesse;
- The Société des loteries et courses.