



CHAPTER 21

An Act to promote the payment of support

[Assented to 18 June 1980]

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

R.S.Q.,
c. C-25,
a. 42, am.

1. The Code of Civil Procedure (R.S.Q., c. C-25) is amended by replacing the word and figure “and 584” in article 42 by the word and figures “, 584 and 659.5”.

R.S.Q.,
c. C-25,
a. 545, am.

2. Article 545 of the said Code is amended by replacing the word and figure “and 544” by the word and figures “, 544 and 546.1”.

R.S.Q.,
c. C-25,
a. 546.1,
added.

3. The said Code is amended by adding, after article 546, the following article:

“546.1 Where a judgment awarding support has become executory, a judge may, on the motion of the person entitled to support and if circumstances justify it, order a person to furnish the person entitled to support with the information he has on the residence and place of work of the debtor in default and, if need be, allow him to be interrogated to that effect before the prothonotary.

This article applies notwithstanding any inconsistent provision of a general law or special act providing for the confidentiality or non-disclosure of certain information or documents. It does not, however, apply to a person who has received the information in the practice of his profession and who is bound to the debtor by professional secrecy.”

R.S.Q.,
c. C-25,
a. 553, am.

4. Article 553 of the said Code, amended by section 29 of chapter 37 of the statutes of 1979, is again amended

(1) by replacing paragraph 7 by the following paragraph:

“7. Benefits granted to employees out of a pension plan created by law or registered under the Act respecting supplemental pension plans (R.S.Q., c. R-17) as well as contributions paid or to be paid into such plans;”;

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

“However, notwithstanding any contrary provision of a general law or special act, any income referred to in paragraph 6, 7, 8, 10 or 11 is unseizable, in the case of a debt for support, only to the extent of fifty per cent.”

R.S.Q.,
c. C-25,
a. 598, am.

5. Article 598 of the said Code is amended by inserting, at the end, the following paragraph:

“In the matter of support, the opposition is taken by motion and is heard and decided by preference.”

R.S.Q.,
c. C-25,
a. 634, am.

6. Article 634 of the said Code is amended by adding at the end of the first paragraph the following words: “or, if the writ has been served by mail, service has been proved in accordance with the second paragraph of article 146.”

R.S.Q.,
c. C-25,
aa. 641.1,
641.2,
added.

7. The said Code is amended by adding, after article 641, the following articles:

“**641.1** Where a seizure by garnishment takes place for the execution of a judgment awarding support or if a claim to that effect is filed in the record of a seizure by garnishment, the seizure has effect for payments to become due as well as for arrears, as indexed, if such is the case, and it remains binding until release is given.

If there is no other claim in the record and if execution has not been suspended in accordance with article 659.5, no release may be given until one year after the arrears of support, including all arrears accrued from the time of the seizure, have been paid.

“**641.2** If a judgment amends the amount of support while a seizure is binding or its execution is suspended in accordance with article 659.5, the amount of the seizure or of the claim of the person entitled to support is amended accordingly, of right, from the service of the judgment on the prothonotary.”

R.S.Q.,
c. C-25,
a. 641a,
renum-
bered.

8. Article 641a of the said Code is renumbered 641.3.

R.S.Q.,
c. C-25,
a. 647, am.

9. Article 647 of the said Code is amended by replacing the second paragraph by the following paragraphs:

“If a claim has been filed, the prothonotary, after collocating the seizing creditor for his costs, must distribute among the creditors, in proportion to their claims, the amounts deposited and have sent to each creditor at his last known address the amount to which he is entitled.

However, the prothonotary must then pay exclusively to the person entitled to support the difference between the moneys seized in accordance with the last paragraph of article 553 and that part of all income that is ordinarily seizable. Furthermore, he must pay to the person entitled to support, out of that part, the amounts required to make the total of the sums distributed to him equal to at least one-half of the moneys deposited every month, up to such amounts as may be due to him, and this does not affect his right to be collocated for his share with the other creditors.

The distribution to the creditors must be made at least once every three months but it must be made at least once every month to the person entitled to support.”

R.S.Q.,
c. C-25,
aa. 659.1-
659.10,
added.

10. The said Code is amended by adding, after article 659, the following:

“SECTION IV.1

“SEIZURE IN EXECUTION OF MOVEABLES FOR THE PAYMENT OF SUPPORT

659.1 Upon the application of the creditor of a judgment awarding support, a collector of support payments appointed by the Minister of Justice shall cause compulsory execution to be effected against the moveable property of the debtor.

659.2 From the time a payment of support is not paid when due, the creditor may apply for the compulsory execution of the judgment awarding support to the collector of support payments in the district in which the judgment was rendered or in the district of his residence, by filing in the record a certified true copy of the judgment and an affidavit indicating

(a) his surname, given name and residential address;

(b) the surname and given name of the debtor, and, if known, his residential address, the name of his employer and the place where he works, and a description of his moveable and immovable property;

(c) the date of the default of the debtor, the amount of support and of the payments to become due and the amount of arrears, if any.

“659.3 The collector of support payments of the district in which the application was made acts as seizing creditor for the judgment creditor; he may also enter any proceeding aimed at favouring the execution of the judgment.

Where the application concerns a foreign judgment that has become executory in Québec by filing or by registration, the collector of support payments of the district in which the judgment was filed or registered acts as seizing creditor.

“659.4 Service of a writ of seizure by garnishment may be made by registered or certified mail.

“SECTION IV.2

“SUSPENSION OF SEIZURE BY GARNISHMENT OF SALARY OR WAGES

“659.5 Where the execution is effected by way of seizure by garnishment of salary or wages and there is no other claim in the record, the prothonotary may, on the application of the debtor and once the arrears are paid, suspend the execution of the seizure, if the debtor offers to pay directly to him the payments of support when due, and if he furnishes satisfactory guarantees that he will comply with his undertakings.

The suspension is granted for a period of not less than six months nor more than one year.

“659.6 If the prothonotary grants the application of the debtor, he gives notice thereof, by registered or certified mail, to the creditor and the garnishee, who, upon receiving the notice, ceases his deposits with the prothonotary.

“659.7 During the period when the seizure is suspended, the prothonotary pays to the person entitled to support, at least once a month, the amounts he receives from the debtor.

“659.8 When the debtor fails to make a payment when due, or if a claim is filed by a third person in the record of the seizure by garnishment, the seizure becomes executory again; the prothonotary then gives notice thereof, by registered or certified mail, to the creditor and the garnishee, who, within five days after receiving the notice, must deposit with the prothonotary, personally or by registered or certified mail, the seizable portion of what he owes to the debtor.

“659.9 Where the execution has been suspended, the debtor is released from the seizure at the expiration of the period

fixed for the suspension, unless the seizure has become executory again.

“659.10 In such cases as it may determine, the Government may, by regulation, impose on the debtor the payment of costs connected with the application of this section and establish the tariff thereof.”

R.S.Q.,
c. C-25,
a. 661.1,
added.

11. The said Code is amended by adding, after article 661, the following article:

“661.1 The collector of support payments in the district in which an application was made in accordance with article 659.2 may act as seizing creditor for the judgment creditor.”

R.S.Q.,
c. C-25,
a. 662, am.

12. Article 662 of the said Code is amended by adding, at the end, the following paragraph:

“However, where the collector of support payments acts as seizing creditor under article 661.1, no advance may be required by the seizing officer.”

R.S.Q.,
c. C-25,
a. 993,
am.

13. The second paragraph of paragraph 5 of article 993 of the said Code is repealed.

C.C.,
a. 169.1,
added.

14. The Civil Code is amended by adding, after article 169, the following article:

“169.1 The court orders, even *ex officio*, that maintenance payable as a pension be indexed according to the annual Pension Index established in accordance with section 119 of the Act respecting the Québec Pension Plan (chapter R-9), unless the condition of the parties justifies the fixing of another index.”

C.C.,
a. 170.1,
added.

15. The said Code is amended by adding, after article 170, the following article:

“170.1 The debtor from whom arrears are claimed may oppose any change which has occurred in his condition or in that of his creditor since the judgment and be released, wholly or in part, from payment.

However, where the arrears claimed are due for over six months, in no case may the debtor be released from payment unless he shows that he was unable to exercise his recourses to obtain a review of the judgment fixing the alimentary pension.”

C.C.,
a. 2260b,
added.

16. The said Code is amended by inserting, after article 2260a, the following article:

“2260b. Arrears of support awarded by judgment are prescribed by three years.”

C.C.,
a. 2267,
am.

17. Article 2267 of the said Code is amended by inserting, after the figure “2260a”, the figure “, 2260b”.

R.S.Q.,
c. A-16,
s. 13,
replaced,
ss. 13.1,
13.2,
added.
Aid
pending
payment.

18. Section 13 of the Social Aid Act (R.S.Q., c. A-16) is replaced by the following sections:

“13. A person may receive social aid pending payment of a sum that is to accrue to him from the exercise of a right, including the execution of a judgment, or from the winding-up of a business, if he is otherwise eligible for social aid.

Refund.

He then assumes the obligation to repay the amount of the aid so granted to him, up to the sums of money or the value of the property he is to receive, unless the Minister has elected to be subrogated in the rights of such person up to the amount of such sums and the value of such property.

Minister
subro-
gated.

“13.1 If social aid is paid to a judgment creditor of support, the Minister is subrogated of right in the rights of the creditor up to the amount of the aid granted and the amounts due by the debtor, unless the creditor elects to exercise his recourse himself.

Pro-
ceeding.

The Minister may, to exercise the subrogation, take any proceeding that the creditor himself could have taken.

Collection
of differ-
ence.

If the amount of the support is greater than the amount of the aid, the creditor may mandate the Minister in writing, if he is subrogated, to collect the difference on his behalf.

Part to
Minister.

“13.2 A beneficiary may authorize the collector of support payments who acts for his benefit under article 659.3 or 661.1 of the Code of Civil Procedure, or the prothonotary of the district in which the seizure is effected, to pay to the Minister part of the sums that he collects.”

R.S.Q.,
c. A-16,
s. 26,
repealed.
Termina-
tion of
subroga-
tion.

19. Section 26 of the said act is repealed.

20. The Minister of Social Affairs may terminate a subrogation which has been effected *pleno jure* in his favour under the former section 13 of the Social Aid Act.

Coming
into force.

21. This act will come into force not later than 1 January 1981 or, in whole or in part, on any earlier dates fixed by government proclamation. (*)

(*) Sections 2, 3 and 14 to 17 of this act came into force on 1 August 1980 (Gazette officielle du Québec, 1980, Part II, page 3449).

Section 4 came into force on 1 August 1980 (Gazette officielle du Québec, 1980, Part II, page 3535).



CHAPTER 22

An Act respecting certain disputes between teachers
and school boards

[Assented to 24 October 1980]

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

DIVISION I

INTERPRETATION

Interpreta-
tion:

1. In this act, unless otherwise indicated by the context,

"teacher";

"teacher" means a teacher within the meaning of the Education Act who on 23 October 1980 is an employee of a school board and is included in the bargaining unit for which an association of employees is certified;

"association
of employ-
ees";

"association of employees" means an association of teachers that is certified in respect of a school board and that on 23 October 1980 is a member of, belongs to or is affiliated to the Centrale de l'enseignement du Québec;

"school
board";

"school board" means the Commission scolaire régionale Carignan, the Commission scolaire de Sorel, the Commission scolaire régionale des Vieilles Forges, the Commission scolaire du Cap-de-la-Madeleine, the Commission scolaire de Grand-Pré, the Commission scolaire des Chenaux, the Commission scolaire de Chavigny and the Commission scolaire de Trois-Rivières;

"collective
agreement",
"dispute",
"strike",
"lockout",
"employee".

"collective agreement", "dispute", "strike", "lockout" and "employee" have the same meaning as in the Labour Code.

DIVISION II

RESUMPTION OF SERVICES

- Return to work. **2.** From 00:01 hours on 27 October 1980, every teacher, taking account of his work schedule, shall appear for work and perform all the duties attached to his functions pursuant to the conditions of employment that are applicable to him.
- Resumption of services. **3.** From the time named in section 2, every school board shall do what is necessary to see that the services for which it is responsible by law are provided.
- Compliance. **4.** Every association of employees must take appropriate measures to induce the employees it represents to comply with section 2.

DIVISION III

TEMPORARY CONDITIONS OF EMPLOYMENT

- Agreement. **5.** The conditions of employment already approved in accordance with chapter 14 of the statutes of 1978 in the agreement reached on 26 May 1980 between the Comité patronal de négociation des commissions pour catholiques and the Centrale de l'enseignement du Québec apply to the teachers, the associations of employees and the school boards from 27 October 1980.

DIVISION IV

SETTLEMENT OF DISPUTES

- Arbitration. **6.** After 15 days from the coming into force of this act, a school board or an association of employees may, on making a written application to the Minister of Labour and Manpower, submit, to an arbitrator appointed by the Minister, a dispute regarding a matter dealt with by a clause that must be negotiated and approved at the local or regional level in accordance with chapter 14 of the statutes of 1978 and the decrees adopted by the Government pursuant to the second paragraph of section 5 of that act.
- Mandate. **7.** The arbitrator is bound by the agreement referred to in section 5.
- Written agreement. **8.** Every clause agreed to in writing between the parties during the negotiations must be written in the award, to the extent that this clause is in conformity with the agreement mentioned in section 5.

Restriction.

In no case may the arbitrator amend the clause except to bring it into concordance with a provision of the award.

Collective agreement.

9. The award of the arbitrator and the agreement referred to in section 5 are the collective agreement binding between the school board and the association of employees.

Applicability of the Labour Code.

10. Section 76, the second paragraph of section 77, section 79, the first paragraph of section 80, sections 81 to 87, the first paragraph of section 88, sections 89, 90 and 91, the second paragraph of section 93 and sections 139 and 140 of the Labour Code apply, *mutatis mutandis*, to the arbitrator and to the award.

DIVISION V

GENERAL PROVISIONS

Local clauses.

11. The clauses negotiated and approved at the local or regional level must be conformable to the clauses already approved at the national level and provided for in the agreement mentioned in section 5.

Hiring of teachers.

12. Subject to the provisions that are subject to arbitration in clause 8-9.01E of the agreement, in no case may a school board undertake to engage a number of teachers based on the rules prescribed in section 8-9.00 but it must apply the rules concerning the formation of pupil groups provided in section 8-5.00 and those concerning the teacher's teaching load provided in section 8-2.00.

Recall of teachers.

The school board may, nevertheless, agree to rules providing terms and conditions for the recall of teachers on availability or not re-engaged for surplus of personnel up to the total number of teachers obtained by the application of section 8-9.00 of the agreement. The said rules must conform to the provisions of paragraphs 1 and 4 of clause 5-3.18 of the agreement. However, in no case may the school board be bound to engage additional teachers by the effect of those rules.

Applicability.

13. Section 12 applies to a school board mentioned in section 1.

Applicability.

It also applies to a local or regional school board not mentioned in section 1 that will, after 23 October 1980, enter into a collective agreement now being negotiated with an association of employees not contemplated in section 1 which is certified in respect of that school board to represent teachers and which is a member of, belongs to or is affiliated to the Centrale de l'enseignement du Québec on 23 October 1980.

Exception. It does not apply, however, to a school board contemplated in the second paragraph if the collective agreement entered into after 23 October 1980 is the ratification of a written agreement respecting the whole of the conditions of employment entered into before 24 October 1980.

Arbitration award. Where section 12 applies to a school board, no award granted under Division IV of this act or under Division I of Chapter IV of the Labour Code may contain a conclusion that conflicts with section 11.

DIVISION VI

SANCTIONS

Offences and penalties. **14.** Every association of employees that contravenes section 4, and an association of employees, as well as the federation, confederation or Centrale to which the association of employees belongs or is affiliated or of which it is a member, that authorizes, encourages or incites a person to contravene section 2 or to participate in a strike or a slowdown during the period included between the date of the coming into force of this act and the date of the coming into force of the collective agreement is guilty of an offence and is liable, in addition to costs, to a fine of \$5 000 to \$50 000 for each day or part of a day during which the offence continues.

Parties to an offence. Where any of such associations, federations or confederations or the Centrale is guilty of an offence contemplated in the first paragraph, each of its officers, directors, employees, agents or advisers who participated in the commission of the offence or who acquiesced in it is deemed a party to the offence and is liable to the fine provided for in the first paragraph of section 15, whether the association, federation, confederation or the Centrale has or has not been prosecuted or convicted.

Offences and penalties. **15.** Every officer, director, employee, agent or adviser of an association of employees, federation, confederation or the Centrale contemplated in section 14, who authorizes, encourages or incites a person to contravene section 2 or to participate in a strike or a slowdown during the period contemplated in the first paragraph of section 14, is guilty of an offence and is liable, in addition to costs, to a fine of \$1 000 to \$10 000 for each day or part of a day during which the offence continues.

Parties to an offence. An association of employees, federation, confederation or the Centrale contemplated in the first paragraph of section 14, of which an officer, director, employee, agent or adviser is guilty of an offence contemplated in the first paragraph, is a party to the offence and is liable to the fine provided for in the first paragraph of section 14.

Offences
and pen-
alties.

16. Every employee who contravenes section 2, or participates in a strike or slowdown during the period contemplated in the first paragraph of section 14, is guilty of an offence and is liable, in addition to costs, to a fine of \$100 to \$200 for each day or part of a day during which the offence continues.

Offences
and pen-
alties.

17. Every commissioner, director, employee, agent or adviser of a school board who participates or acquiesces in a lock-out during the period contemplated in the first paragraph of section 14 or in an act done by the school board contrary to section 3, is guilty of an offence and is liable, in addition to costs, to a fine of \$1 000 to \$10 000 for each day or part of a day during which the offence continues.

Proceed-
ings.

18. Proceedings are instituted in accordance with the Summary Convictions Act (R.S.Q., c. P-15) by the Attorney General or by a person generally or specially authorized by him for that purpose.

Union
dues.

19. Where of the opinion that less than 70% of the teachers represented by an association of employees have complied with section 2, the Government may order that the obligation to pay union dues to that association cease.

Union
dues.

20. From the time the government decision is communicated to a school board, the school board is prohibited from withholding union dues from the salary of the teachers represented by that association of employees.

Union
dues.

21. The order suspending the obligation to pay union dues provided for under section 19 and the prohibition provided in section 20 are effective for a period of two months for each day or part of a day during which less than 70% of the teachers comply with section 2.

Offences
and penal-
ties.

22. Every commissioner, director, employee, agent or adviser of a school board who participates or acquiesces in an act contrary to section 20 is guilty of an offence and is liable to the fine provided for in section 17.

DIVISION VII

FINAL PROVISIONS

Applicabil-
ity of the
Labour
Code.

23. This act does not have the effect of exempting a school board, teacher or association of employees from the application of the Labour Code.

Coming
into force.

24. This act comes into force on the day of its sanction.