



CHAPTER 52

An Act to amend the Labour Code

[Assented to 23 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

R.S.,
c. 141,
s. 32, am.

1. Section 32 of the Labour Code (Revised Statutes, 1964, chapter 141), amended by section 19 of chapter 47 and section 17 of chapter 48 of the statutes of 1969 and replaced by section 26 of chapter 41 of the statutes of 1977, is again amended by replacing the first paragraph by the following paragraph:

Cancellation of certification.

“32. A labour commissioner may, at the time fixed in paragraph *c* or *d* of section 21 or, if such is the case, in section 99*c*, cancel the certification of an association that

(*a*) has ceased to exist, or

(*b*) no longer comprises the absolute majority of the employees of the bargaining unit for which it was certified.”

R.S.,
c. 141,
s. 97*a*, am.

2. Section 97*a* of the said Code, enacted by section 53 of chapter 41 of the statutes of 1977, is amended:

(*a*) by replacing the word and figure “section 99” in the fourth line of paragraph *a* by the words and figures “sections 99, 99*k* and 99*l*”, and by replacing the words “notice of negotiation was given, or is deemed to have been”, in the fifth and sixth lines, by the words and figures “the negotiation stage begins in accordance with section 41 or 99*g*”;

(*b*) by replacing the word and figure “section 99” in the third line of paragraph *b* by the words and figures “sections 99, 99*k* and 99*l*” and by replacing subparagraphs *i* and *ii* by the following subparagraphs:

“(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 99j and to the extent that the list so provides;

(iii) an order is rendered under section 99; or

(iv) a decision is rendered by the Lieutenant-Governor in Council pursuant to section 99l;”;

(c) by replacing the word and figure “section 99” in the third and fourth lines of paragraph c by the words and figures “sections 99, 99k and 99l”;

(d) by replacing the word and figure “section 99” in the third line of paragraph d, by the words and figures “sections 99, 99k and 99l”.

R.S.,
c. 141,
s. 97b,
replaced.

3. Section 97b of the said Code, enacted by section 53 of chapter 41 of the statutes of 1977, is replaced by the following section:

Exemp-
tion.

“97b. Where the certified association violates or the employees it represents violate an agreement, a list, an order or a decision contemplated in subparagraph i, ii, iii or iv of paragraph b of section 97a, the employer is exempt from the application of section 97a to the extent that that is necessary to ensure compliance with the violated agreement, list, order or decision.”

R.S.,
c. 141,
ss. 99a-
99h,
added.

4. The said Code is amended by inserting after section 99, the following chapter, heading and sections:

“CHAPTER VA

“SPECIAL PROVISIONS APPLICABLE TO THE PUBLIC AND PARAPUBLIC SECTORS

Applica-
bility.

“99a. Excluding Division IA of Chapter IV, the provisions of this Code apply to labour relations in the public and parapublic sectors except where they are inconsistent with this chapter.

Interpre-
tation.

“99b. In this chapter, “public and parapublic sectors” means the Government and the government departments, and those government agencies whose personnel is appointed and remunerated in accordance with the Civil Service Act, as well as the colleges, school boards and establishments contemplated in the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies (1978, chapter 14).

Date of application for accreditation.

“99c. Notwithstanding paragraph *d* of section 21, certification may be applied for in respect of a group of employees of the public and parapublic sectors between two hundred and seventy days and two hundred and forty days before the date of expiration of a collective agreement or the document in lieu thereof.

Agreement, etc., binding.

This collective agreement or the document in lieu thereof is binding on the parties for its duration, notwithstanding the certification of a new association of employees. The new association is bound by that agreement as if it were named therein and it becomes *ipso facto* a party to every proceeding relating to it in the place and stead of the former association.

Delay for becoming a member of another association.

“99d. No certified association that is a party to a collective agreement, and no group of employees governed by such an agreement, or the document in lieu thereof, may take measures in view of becoming a member of another association or of affiliating with it, except between two hundred and seventy days and one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

Information committee.

“99e. (1) A committee of information on negotiations charged with informing the public of what is at stake in the negotiations, of the respective positions of the parties, of the differences between the parties and of the progress of the negotiations is established by the chief judge of the Labour Court before the negotiation stage begins.

Reports.

(2) This committee must report to the public, not later than thirty days following the day of the filing of the employer's proposals and on the date of the expiration of the collective agreement, or the document in lieu thereof. The committee must also make a report at any time, at the request of the parties. The committee may in addition report to the public at any time it deems it expedient.

Composition.

(3) This committee is composed of at least five and not over seven members appointed by the chief judge of the Court.

Salaries, etc., fixed by Lt.-G. in C.

The Lieutenant-Governor in Council shall fix the salary or, where necessary, the additional salaries, allowances or fees of the members of the committee.

Moneys required.

The moneys required for this purpose are taken out of the consolidated revenue fund.

Internal management.

(4) The committee may adopt internal management by-laws.

Committee abolished.

(5) The committee is abolished by the Lieutenant-Governor in Council after obtaining the advice of the chief judge of the Court. The Minister must table before the Assemblée nationale, within fifteen days of the decision of the Lieutenant-Governor in Council,

the advice of the chief judge of the Court and the order in council ordering the abolition of the said committee. If the Assemblée nationale is not in session, that tabling takes place within fifteen days after resumption.

Determina-
tion of
matters
negotiated,
etc., at
national
and other
levels.

“99f. In the case of the colleges, school boards and establishments contemplated in paragraphs *b*, *c* and *f* of section 1 of the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies, the division between those matters that are negotiated and approved at the national level and those negotiated and approved at a level other than national, shall be determined in accordance with that act between two hundred and seventy days and one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

Negotia-
tion stage.

“99g. The negotiation stage begins one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

Presenta-
tion of
proposals
by associa-
tions
forming
part of
a group.

“99h. (1) Every certified association of the public and parapublic sectors forming part of an employee-associations group contemplated in paragraph *g* of section 1 of the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies must, through its bargaining agent, present in writing to the other party and to the committee of information on negotiations, not later than one hundred and fifty days before the date of expiration of a collective agreement or the document in lieu thereof, its proposals on all the matters that are to be negotiated at the national level.

Id., by
associa-
tions not
forming
part of a
group.

(2) Every certified association of the public and parapublic sectors not forming part of an employee-associations group mentioned in subsection 1 must, through its bargaining agent, present in writing to the other party and to the committee of information on negotiations, not later than one hundred and fifty days before the date of expiration of a collective agreement or the document in lieu thereof, its proposals on all the matters that are to be negotiated at the national level.

Id., by
manage-
ment com-
mittees.

(3) The management negotiating committees established by the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies must, within sixty days following the receipt of these proposals, present, in writing, to the other party and to the committee of information on negotiations,

their proposals on all the matters that are to be negotiated at the national level.

Presentation of proposals to employer, etc.

(4) Every certified association of the public and parapublic sectors must, in addition, present, in writing, to the employer and to the committee of information on negotiations, not later than one hundred and fifty days before the date of expiration of a collective agreement or the document in lieu thereof, its proposals on all the matters that are to be negotiated at a local or regional level.

Presentation of proposals by employer.

(5) Every employer of the public and parapublic sectors must, in addition, within sixty days following the receipt of these proposals, present, in writing, to the other party and to the committee of information on negotiations, his proposals on all the matters that are to be negotiated at the local or regional level.

Committee on maintenance of health services and social services.

99i. (1) A committee on the maintenance of health services and social services in the event of a labour dispute is established by the chief judge of the Court before the beginning of the negotiations. This committee is entrusted with informing the public on the prevailing situation in the matters of agreements, union lists and maintenance of essential services in the event of a labour dispute.

Composition.

(2) This committee is composed of at least five and not over seven members appointed by the chief judge of the Court, after consultation with the Commission des droits de la personne, the Association des conseils de médecins et dentistes du Québec Inc., the Comité provincial des malades and other persons or agencies.

Powers.

(3) The committee may establish regional and local committees. It may, in addition, require the services of experts to report to it on the maintenance of health services and social services in the event of a labour dispute. The choice of these experts must be ratified by the chief judge of the Court.

Salaries, etc., fixed by Lt.-G. in C.

(4) The Lieutenant-Governor in Council fixes the salary or, as the case may be, the additional salaries, allowances or fees of the members of the committee and of the members of the regional or local committees.

Moneys required.

The moneys required for that purpose are taken out of the consolidated revenue fund.

Committee abolished.

(5) The committee is abolished by the Lieutenant-Governor in Council after obtaining the advice of the chief judge of the Court. The Minister must table before the Assemblée nationale, within fifteen days of the decision of the Lieutenant-Governor in Council, the advice of the chief judge of the Court and the order in council ordering the abolition of the said committee. If the Assemblée nationale is not in session, that tabling takes place within fifteen days after resumption.

- Number of employees to be maintained in event of labour dispute. **“99j.** In the case of an establishment contemplated in paragraph *f* of section 1 of the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies, the parties must negotiate the number of employees per class of services to be maintained in the event of a labour dispute. This agreement is transmitted by the parties to the committee contemplated in section 99*i*.
- Transmission of list of employees and services. If there is no agreement, a certified association must, not later than one hundred and eighty days before the date of expiry of a collective agreement or the document in lieu thereof, transmit to the other party and to the committee contemplated in section 99*i* a list determining the number of employees per class of services maintained by the establishment in the event of a labour dispute. The list cannot be amended thereafter, but if an agreement is entered into between the parties after the list is filed, the agreement prevails.
- Free access to establishment. An agreement or a list must in particular provide free access for a recipient, as defined by paragraph *p* of section 1 of the Act respecting health services and social services (1971, chapter 48), to an establishment.
- Prohibition. No person may contravene the provisions of the agreement entered into nor derogate from the list filed.
- Notice of strike or lock-out. **“99k.** Subject to the fourth paragraph of section 99*l*, a party may declare a strike or a lock-out on the date of expiration of the collective agreement or the document in lieu thereof, provided that a prior notice of at least two days has been given in writing to the Minister and to the other party indicating to them the time when it intends to resort to that action.
- Renewal of notice. No such notice of strike or lock-out may be renewed until after the day indicated in the prior notice as the time when the party intended to resort to the strike or the lock-out.
- Strike prohibited. **“99l.** In the case of an establishment contemplated in paragraph *f* of section 1 of the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies, no strike may be declared by a certified association unless an agreement is entered into or a list filed.
- Suspension of right to strike. If the Lieutenant-Governor in Council is of opinion that a strike that is apprehended or in progress in an establishment endangers the public health or public safety, he may, for a period not exceeding thirty days, suspend the exercise of the right to strike.
- Injunction. Only the attorney general may apply for the injunction provided for in the Code of Civil Procedure upon the refusal to carry out the decision contemplated in the second paragraph.

Lock-out. The right to a lock-out is not acquired if the agreements or the lists covering the establishment are complied with or if a decision rendered under the second paragraph is complied with in that establishment.

Applicability. **5.** Chapter VA, enacted by section 4 of this act, does not apply to negotiations in view of the renewal of a collective agreement in the case of a certified association of employees in the public and parapublic sectors whose collective agreement or document in lieu thereof expires before 1 July 1978.

Provisions applicable. Notwithstanding the first paragraph, the following provisions apply:

(a) such an association must enter into an agreement with the employer or, failing an agreement, file a list. This list or agreement is transmitted to the other party and to the committee on the maintenance of health services and social services in the event of a labour dispute as soon as it is established;

(b) a strike shall not be declared except after the expiration of a delay of forty-five days after the date of that agreement or of transmission of that list to the other party;

(c) section 99*i* of the Labour Code, enacted by section 4 of this act, and the second, third and fourth paragraphs of section 99*l*, also enacted by section 4 of this act.

Idem. **6.** Notwithstanding section 68 of the Act to amend the Labour Code and the Labour and Manpower Department Act (1977, chapter 41), sections 97*a* and 97*b* of the Labour Code, amended, respectively, by sections 2 and 3 of this act and sections 97*c* and 97*d* of the said Code apply in the case of a certified association contemplated in section 5.

1975, c. 52, repealed. **7.** The Act to ensure the provision of essential health services and social services in the event of a labour dispute (1975, chapter 52) is repealed.

Coming into force. **8.** This act comes into force on the day of its sanction.