



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 133
(2002, chapter 76)

**An Act to amend the Act respecting
occupational health and safety and other
legislative provisions**

**Introduced 7 November 2002
Passage in principle 13 December 2002
Passage 18 December 2002
Assented to 19 December 2002**

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EXPLANATORY NOTES

This bill amends the Act respecting occupational health and safety to provide for the establishment of a social trust patrimony within the meaning of the Civil Code of Québec, to be known as the Fonds de la santé et de la sécurité du travail. The fund will be made up, for the greater part, of the assets of the Commission de la santé et de la sécurité du travail, which is to be the trustee of the fund. The patrimony of the fund will be dedicated to the payment of the sums or benefits to which any person may be entitled under the Acts administered by the Commission and to the achievement of any purpose provided for in those Acts.

The bill also exempts the Commission from the application of the Financial Administration Act, the Act respecting the Service des achats du gouvernement, the Act respecting government services to departments and public bodies, the Act respecting the Société immobilière du Québec and, in part, from the application of the Public Administration Act. The bill, however, imposes on the Commission the obligation to prepare and publish a service statement setting out its objectives as regards the level and quality of the services provided, to prepare a strategic plan that must be transmitted to the Minister of Labour and tabled in the National Assembly and to adopt policies concerning the terms of its contracts and the security and management of its information resources. The Commission is also made subject to reporting obligations.

The bill eliminates the office of chairman and chief of operations of the Commission. Lastly, the bill provides that certain draft regulations of the Commission do not require government approval.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

Bill 133

AN ACT TO AMEND THE ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

1. Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), amended by section 168 of chapter 26 of the statutes of 2001 and section 10 of chapter 38 of the statutes of 2002, is again amended by inserting the following definition after the definition of “establishment” :

““**fund**” means the Fonds de la santé et de la sécurité du travail established under section 136.1 ;”.

2. The said Act is amended by inserting the following chapter after section 136 :

“CHAPTER VIII.1

“THE FONDS DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

“**136.1.** The Commission shall transfer to a fund known as the Fonds de la santé et de la sécurité du travail the sums in its possession on 31 December 2002, including the securities deposited with the Caisse de dépôt et placement du Québec, except the sums kept on deposit in accordance with the Acts administered by the Commission.

“**136.2.** The fund, established as a social trust patrimony, shall be dedicated to

(1) the payment of the sums or benefits to which any person may be entitled under the Acts administered by the Commission ;

(2) the achievement of any purpose provided for in those Acts.

“**136.3.** The Commission is the trustee of the fund.

The Commission is deemed to have accepted the trusteeship and the obligations arising therefrom as of 1 January 2003.

The Commission shall act in the best interest of the purpose pursued by the fund.

“**136.4.** Articles 1260 to 1262, 1264 to 1266, 1270, 1274, 1278, 1280, 1293, 1299, 1306 to 1308, 1313 and 1316 are the only provisions of Title VI and Title VII of Book IV of the Civil Code of Québec that apply to the fund and the Commission in its capacity of trustee, with the necessary modifications.

“**136.5.** The Commission shall transfer to the fund all the sums it collects, as and when collected, except the sums kept on deposit in accordance with the Acts administered by the Commission.

“**136.6.** The sums transferred to the fund by the Commission shall be deposited with a bank governed by the Bank Act (Statutes of Canada, 1991, chapter 46) or a financial services cooperative governed by the Act respecting financial services cooperatives (chapter C-67.3).

“**136.7.** Any of the sums making up the fund that are not required immediately shall be deposited with the Caisse de dépôt et placement du Québec.

“**136.8.** The expenses related to the administration of the fund are payable by the fund.

The expenses of the Commission related to the application of the Acts administered by the Commission are also payable by the fund, except those that are paid out of the sums it keeps on deposit.

“**136.9.** Where the Commission takes a sum of money out of the fund, the Commission is acting in its capacity of trustee.

“**136.10.** The Commission must, not less than three months before 31 December each year, transmit to the fund its budget estimates for the following fiscal year.

“**136.11.** The fiscal year of the fund ends on 31 December each year.

“**136.12.** Before 30 June each year, the Commission shall submit to the Minister a report on the activities of the fund for the previous fiscal year. The report must contain all the information prescribed by the Minister.

The Minister must table the report before the National Assembly within 15 days of receiving it if the National Assembly is sitting or, if it is not sitting, within 15 days of resumption.

“**136.13.** The books and accounts of the fund shall be examined by the Auditor General every year and whenever ordered by the Government.

The certificate of the Auditor General must accompany the report referred to in section 136.12.”

3. Section 141.1 of the said Act is repealed.

4. Section 143 of the said Act is amended by striking out “, the chairman and chief of operations” in the first and second lines.

5. Section 145 of the said Act is amended

(1) by replacing “, the chairman of the Conseil du trésor and the Minister of Health and Social Services shall each” in the first paragraph by “shall”;

(2) by replacing “The observers” in the second paragraph by “The observer”.

6. Section 146 of the said Act is amended by striking out “, the chairman and chief of operations” in the first and second lines.

7. Section 147 of the said Act is amended by striking out “, the chairman and chief of operations” in the first and second lines.

8. Section 148 of the said Act is amended by striking out “, of the chairman and chief of operations” in the second line.

9. Section 149 of the said Act is amended by striking out “, of the chairman and chief of operations” in the third line of the first paragraph.

10. Section 152 of the said Act is amended

(1) by striking out “, the chairman and chief of operations” in the second line of the first paragraph;

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

“The members of the board of directors are not in conflict of interest for the sole reason that they are required to perform the duties imposed on the Commission under section 136.3.”

11. Sections 154.1 and 154.2 of the said Act are repealed.

12. Section 155 of the said Act is amended by striking out “, the chairman and chief of operations” in the first and second lines.

13. Section 161 of the said Act is amended by striking out “its chairman and chief of operations,” in the first and second lines.

14. The said Act is amended by inserting the following after section 161 :

“DIVISION I.1

“SERVICE STATEMENT AND STRATEGIC PLAN

“161.1. The Commission shall publish a service statement setting out its objectives with regard to the level and quality of the services provided.

The statement shall specify the time frame within which services are to be provided and give clear information on their nature and accessibility.

“161.2. The Commission must

- (1) remain receptive to the expectations of its clients ;
- (2) simplify service delivery rules and procedures to the greatest extent possible ;
- (3) encourage the members of its personnel to provide quality services and to collaborate in achieving the results targeted by the Commission.

“161.3. The Commission must adopt a strategic plan covering a period of more than one year.

“161.4. The strategic plan must state

- (1) the mission of the Commission ;
- (2) the context in which the Commission acts and the main challenges it faces ;
- (3) the strategic directions, objectives and lines of intervention selected ;
- (4) the results targeted over the period covered by the plan ;
- (5) the performance indicators to be used in measuring results.

“161.5. The Commission shall transmit the strategic plan to the Minister, who shall table it in the National Assembly.

“DIVISION I.2

“REPORTING”.

15. Section 163 of the said Act is amended by replacing the first paragraph by the following paragraphs :

“163. Before 30 June each year, the Commission shall submit to the Minister a report stating the results achieved measured against the objectives fixed in the strategic plan referred to in section 161.4.

In addition, the report must state

- (1) the mandates conferred on the Commission;
- (2) the service statement referred to in section 161.1;
- (3) the programs placed under the administration of the Commission;
- (4) the personnel turnover;

(5) a statement by the chairman of the board of directors and chief executive officer concerning the reliability of the information and of the monitoring mechanisms.”

16. The said Act is amended by inserting the following section after section 163:

“**163.1.** The chairman of the board of directors and chief executive officer is, as provided by law, in particular as concerns the exercise of the authority and powers of the minister under whose authority he falls, accountable to the National Assembly for his administrative management.

The competent parliamentary committee of the National Assembly shall hear the minister at least once each year, if the minister considers it appropriate and, where applicable, shall also hear the chairman of the board of directors and chief executive officer to examine their administrative management.

The parliamentary committee may examine

- (1) the service statement and the results achieved in relation to the administrative aspects of the strategic plan;
- (2) the results achieved in relation to the objectives of an affirmative action program or hiring plan for handicapped persons that is applicable to the Commission;
- (3) any other matter of an administrative nature under the authority of the Commission that is noted in a report of the Auditor General or the Public Protector.”

17. The said Act is amended by inserting the following sections after section 167:

“**167.1.** The Commission must adopt policies concerning the terms of its contracts and the security and management of its information resources.

“**167.2.** The policy concerning the terms of the contracts of the Commission must be made public not later than 30 days after its adoption.

Such policy must be consistent with the agreements on the liberalization of public procurement applicable to the Commission and reflect general government policy on public procurement.”

18. The said Act is amended by inserting the following section after section 170:

“**170.1.** Notwithstanding sections 176.0.1 and 176.0.2, the Commission may enter with the Government or with any of its departments or bodies into an agreement enabling the Commission to obtain resources or services placed at the disposal of the Government or that government department or body under the Acts referred to in those sections.”

19. Section 172 of the said Act is amended by striking out “the chairman and chief of operations,” in the second and third lines of the first paragraph.

20. The said Act is amended by inserting the following division after section 176:

“DIVISION III

“PROVISIONS NOT APPLICABLE

“**176.0.1.** The Financial Administration Act (chapter A-6.001), the Act respecting the Service des achats du gouvernement (chapter S-4), the Act respecting government services to departments and public bodies (chapter S-6.1) and the Act respecting the Société immobilière du Québec (chapter S-17.1) do not apply to the Commission.

“**176.0.2.** The Public Administration Act (chapter A-6.01) does not apply to the Commission, except sections 30 and 31, the first paragraph of section 32, sections 33 to 40 and, as concerns human resources management, section 78.”

21. Section 224 of the said Act is replaced by the following section:

“**224.** Every draft regulation made by the Commission under section 223 shall be submitted to the Government for approval.”

22. Section 226 of the said Act is repealed.

23. Section 246 of the said Act is amended by replacing “to the Commission” in the first paragraph by “to the fund”.

24. Section 247 of the said Act is amended

(1) by striking out “, subject to section 250” at the end of the first paragraph;

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

“The Commission shall exercise for that purpose all the powers and duties vested in it by the Act respecting industrial accidents and occupational diseases (chapter A-3.001).”

25. Section 248 of the said Act is replaced by the following section :

“**248.** The Commission shall reimburse to the Régie de l’assurance maladie du Québec the sums disbursed for the purposes of Chapter VIII.”

26. Section 250 of the said Act is repealed.

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

27. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), amended by section 76 of chapter 6 of the statutes of 2002, is again amended by inserting the following definition after the definition of “establishment” :

““**fund**” means the Fonds de la santé et de la sécurité du travail established under section 136.1 of the Act respecting occupational health and safety;”.

28. Section 205 of the said Act is amended by replacing “and chief of operations” in the first line of the third paragraph by “of the board of directors and chief executive officer”.

29. Section 282 of the said Act is amended by replacing “of the Commission” in the second line by “of the fund”.

30. Section 283 of the said Act is amended by replacing “of the Commission” in the second line by “of the fund”.

31. Sections 287 and 288 of the said Act are repealed.

32. Section 348 of the said Act is amended by replacing “its assets” in the third line of the second paragraph by “the fund”.

33. Section 455 of the said Act is amended by replacing the first paragraph by the following paragraph :

“**455.** Every draft regulation made by the Commission under subparagraphs 1, 2, 3 to 4.1 and 14 of the first paragraph of section 454 shall be submitted to the Government for approval.”

34. Section 474 of the said Act is amended by replacing “to the Commission” in the first paragraph by “to the fund”.

FINANCIAL ADMINISTRATION ACT

35. The Financial Administration Act (R.S.Q., chapter A-6.001) is amended by striking out “Commission de la santé et de la sécurité du travail” in Schedule 3.

ACT RESPECTING THE CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC

36. Section 19 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2) is amended by replacing “of which the latter is owner” by “of the Fonds de la santé et de la sécurité du travail established under section 136.1 of the Act respecting occupational health and safety (chapter S-2.1)”.

TRANSITIONAL AND FINAL PROVISIONS

37. From 1 January 2003, the fund shall assume all the obligations of a financial nature contracted by the Commission before that date and any document evidencing such an obligation is deemed to evidence an obligation of the fund.

38. Any reference to the chairman and chief of operations of the Commission de la santé et de la sécurité du travail in an Act, a regulation, an order, a contract, an agreement or any other document is a reference to the chairman of the board of directors and chief executive officer of the Commission.

39. The first strategic plan of the Commission de la santé et de la sécurité du travail described in Division I.1 of Chapter IX of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) may include a period prior to 1 January 2003.

40. Subject to the second and third paragraphs of this section, the Regulation respecting supply contracts, construction contracts and service contracts of government departments and public bodies enacted by Order in Council 961-2000 (2000, G.O. 2, 4377) constitutes the policy of the Commission as regards the terms of its contracts until the Commission adopts another policy.

Any power of authorization granted by the regulation to a person or body outside the Commission is deemed to be a power of authorization granted to the chairman of the board of directors and chief executive officer of the Commission or a person he designates.

Any obligation to submit a report or a document towards a person or body outside the Commission under that regulation is deemed to be an obligation towards the chairman of the board of directors and chief executive officer of the Commission or a person he designates.

Such policy is deemed to have been made public within the meaning of section 167.2 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), enacted by section 17 of this Act.

41. This Act comes into force on 1 January 2003.