



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 47

(1999, chapter 57)

An Act respecting the conditions of employment in certain sectors of the clothing industry and amending the Act respecting labour standards

Introduced 13 May 1999

Passage in principle 25 May 1999

Passage 9 November 1999

Assented to 11 November 1999

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EXPLANATORY NOTES

This bill extends the term of the collective agreement decrees in force in four sectors of the clothing industry to 30 June 2000. After that date, the Government may prescribe, by regulation, minimum labour standards applicable to those sectors of the clothing industry for a transition period not exceeding eighteen months.

After the two-year transition period, the Government may prescribe labour standards that will be applicable to the four sectors of the clothing industry presently covered by the collective agreement decrees. The standards may relate to the minimum wage, the standard workweek, statutory holidays, annual leave, meal periods and leave for family events.

In addition, the bill provides that the Commission des normes du travail must establish a specific program for the monitoring of the clothing industry and that the Commission must consult a representative body in that respect. For the purposes of the program, the Commission is empowered to impose an additional contribution on employers in the clothing industry.

Lastly, the bill includes provisions designed to finance the deficit of the vacation fund in the women's clothing industry.

Bill 47

AN ACT RESPECTING THE CONDITIONS OF EMPLOYMENT IN CERTAIN SECTORS OF THE CLOTHING INDUSTRY AND AMENDING THE ACT RESPECTING LABOUR STANDARDS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING LABOUR STANDARDS

1. Section 29 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended

(1) by inserting the following paragraph after paragraph 3 :

“(3.1) require an employer or every employer of a category of clothing industry employers it indicates who would be covered by a decree referred to in the third paragraph of section 39.0.2 had the decree not expired, to transmit to the Commission, in accordance with the procedure and frequency and during the period it determines, a report containing the particulars required under paragraph 3 it indicates and any other information deemed useful in the application of this Act or the regulations;”;

(2) by replacing “the rate” in the first line of paragraph 7 by “the rates”.

2. Section 39.0.2 of the said Act is amended by adding the following paragraphs at the end :

“Every employer subject to contribution who would be governed by a decree referred to in the third paragraph, had the decree not expired, shall, in respect of a calendar year, pay to the Minister of Revenue a supplementary contribution equal to the product obtained by multiplying, by the rate fixed for that purpose by a regulation under paragraph 7 of section 29, that portion of any amount referred to in the first paragraph on which the employer is required to pay the contribution provided for therein and which, had the decree not expired, would come under paragraph 3 of the definition of “remuneration subject to contribution” in the first paragraph of section 39.0.1.

The decrees referred to in the second paragraph are

(1) the Decree respecting the men’s and boys’ shirt industry (R.R.Q., 1981, c. D-2, r.11);

(2) the Decree respecting the women's clothing industry (R.R.Q., 1981, c. D-2, r.26);

(3) the Decree respecting the men's clothing industry (R.R.Q., 1981, c. D-2, r.27);

(4) the Decree respecting the leather glove industry (R.R.Q., 1981, c. D-2, r.32).

For the purposes of this chapter, the contribution of an employer subject to contribution means the contribution payable under the first paragraph and, where applicable, the contribution payable under the second paragraph.”

3. The said Act is amended by inserting the following division after section 92:

“DIVISION VIII.1

“LABOUR STANDARDS IN THE CLOTHING INDUSTRY

“92.1. The Government may, by regulation, in respect of all employers and employees in the clothing industry that would be covered by a decree referred to in the third paragraph of section 39.0.2 had the decree not expired, fix labour standards respecting the following matters:

(1) the minimum wage, which may be established on a time basis, a production basis or any other basis;

(2) the standard workweek;

(3) paid statutory general holidays and the indemnity relating to such holidays, which may be established on a production basis or any other basis;

(4) the duration of an employee's annual leave, established according to the employee's uninterrupted service with the same employer, and the division of and indemnity relating to the leave;

(5) the duration of the meal period, with or without pay;

(6) the number of days during which an employee may be absent, with or without pay, for family events referred to in sections 80 and 80.1.

For the purposes of this Act, sections 63 to 66, 71.1, 73, 75 to 77 and 80.2 shall be read with reference to the provisions prescribed pursuant to the first paragraph, with the necessary modifications.

“92.2. To establish the labour standards referred to in section 92.1, the Minister may consult a body the Minister considers to be representative.

If the body fails to transmit its recommendations concerning such labour standards to the Minister within six months after the date of coming into force of a regulation under section 158.1, that responsibility becomes the responsibility of the Commission, which in such a case shall transmit its recommendations to the Minister within the three following months.

“92.3. The Commission shall establish a specific program for the monitoring of compliance with the labour standards applicable in the clothing industry and, in that respect, shall consult the body considered to be representative by the Minister under section 92.2.

“92.4. The body considered to be representative may, on its own initiative, propose to the Minister standards to be established under section 92.1 and propose to the Commission intervention priorities regarding the monitoring of the clothing industry.”

4. The said Act is amended by inserting the following sections after section 158:

“158.1. The Government may, by regulation, determine minimum conditions of employment respecting the matters listed in section 92.1 applicable, until the coming into force of a regulation made under that section but for a period not exceeding 18 months beginning on 1 July 2000, to employees who perform work which, had it been performed before that date, would have been within the fields of activity covered by one of the decrees listed in the third paragraph of section 39.0.2. The minimum conditions of employment respecting the matters listed in subparagraphs 1, 2 and 4 of the first paragraph of section 92.1 may vary according to the factors specified for those matters in any of such decrees. In addition, the hours of the standard workweek may be distributed as provided for in any of such decrees.

The Government may also, by regulation, prescribe any provision it considers expedient in order to harmonize the minimum conditions of employment applicable to the employees where such conditions vary from one decree to another, in particular a variation in the duration of the reference year provided for in section 66.

For the purposes of this Act, the minimum conditions of employment determined under this section are deemed to be labour standards, and sections 63 to 66, 71.1, 73, 75 to 77 and 80.2 shall be read with reference to the provisions prescribed pursuant to the first and second paragraphs, with the necessary modifications.

“158.2. Where the nature of the work performed by an employee gives rise to a difficulty in the application of the minimum conditions of employment determined under section 158.1, the Commission may refer the difficulty to a single arbitrator as if it were a case of double coverage under the Act respecting collective agreement decrees (chapter D-2), and the provisions of sections 11.4 to 11.9 of that Act apply, with the necessary modifications.”

TRANSITIONAL AND FINAL PROVISIONS

5. The following collective agreement decrees are extended until 30 June 2000:

(1) the Decree respecting the men's and boys' shirt industry (R.R.Q., 1981, c. D-2, r.11);

(2) the Decree respecting the women's clothing industry (R.R.Q., 1981, c. D-2, r.26);

(3) the Decree respecting the men's clothing industry (R.R.Q., 1981, c. D-2, r.27);

(4) the Decree respecting the leather glove industry (R.R.Q., 1981, c. D-2, r.32).

6. The Decree respecting the women's clothing industry is amended by striking out

(1) section 8.02, effective 1 March 2000;

(2) section 8.03, effective 11 March 2000.

7. Notwithstanding the expiry of the Decree respecting the women's clothing industry, an employee to whom an employer has credited sums as compulsory annual vacation pay between 1 March 1999 and 29 February 2000 is entitled to payment during the year 2000 of annual vacation pay equal to 8% of the monthly earnings reported in respect of the employee, for that period, to the joint committee responsible for monitoring and ensuring compliance with the decree, provided the vacation indemnities have been collected as provided in section 8.03 of the decree.

The joint committee shall pay to such an employee, not later than 8 July 2000, vacation pay equal to 6% of those earnings, and, not later than 8 December 2000, the Commission des normes du travail shall pay to the employee vacation pay equal to 2% of the same earnings.

In the case of the death of such an employee, the payments may be made at any time, upon request, to the employee's heirs.

8. Every employer bound in November 1999 by the Decree respecting the women's clothing industry must send to the joint committee referred to in section 7 at the same time as its monthly pay report, on the tenth day of each month for the preceding month, a sum equal to 1.85% of the gross wages earned by each employee covered by the decree for the period from 1 March 2000 to 30 June 2000, to finance the deficit arising from the compulsory annual vacation provided for in the decree.

For the same purpose and for the period from 1 July 2000 to 28 February 2001, every employer referred to in the first paragraph must also send to the Commission des normes du travail, on the tenth day of each month for the preceding month, a sum equal to 1.85% of the gross wages earned by each employee who would have been covered by the Decree respecting the women's clothing industry had the decree not expired.

For the purposes of the Act respecting collective agreement decrees (R.S.Q., chapter D-2) and the Act respecting labour standards, the obligations imposed by this section are deemed to be obligations imposed by the Decree respecting the women's clothing industry and the Act respecting labour standards, respectively.

For the purposes of applying the first paragraph and the Regulation respecting the monthly report of the Ladies' Clothing Joint Commission (O.C. 359-93 dated 17 March 1993) in respect of an employer referred to in that paragraph, the Decree respecting the women's clothing industry is deemed to subsist until 11 July 2000.

9. Notwithstanding the expiry on 30 June 2000 of the Decree respecting the women's clothing industry, the funds kept in trust until that date by the joint committee referred to in section 7 for the compulsory annual vacation pay provided for in the decree and the sums collected pursuant to section 8 or for the purposes of the compulsory annual vacation pay of the employees who were covered by the decree shall continue to be kept in trust and shall be allocated exclusively to payment of the annual vacation pay provided for in section 7.

Immediately after making the payments provided for in the second paragraph of that section, the joint committee shall transfer any balance of the funds to the Commission des normes du travail. It shall also remit to the Commission, upon receipt, any sum it collects thereafter pursuant to section 8 or for the purposes of the compulsory annual vacation pay of the employees who were covered by the decree.

10. As soon as the transfer of funds provided for in the second paragraph of section 9 has been completed, the Commission des normes du travail shall assume the obligations of the joint committee referred to in section 7 as regards payment of the compulsory annual vacation pay which, before 1 July 2000, had been provided for in the Decree respecting the women's clothing industry. The funds and sums transferred to the Commission and the sums collected by the Commission pursuant to section 8 become funds kept in trust by the Commission for the sole purpose of paying that vacation pay and making the payments provided for in section 7, and subparagraph *o* of the second paragraph of section 22 of the Act respecting collective agreement decrees does not apply to such funds and sums.

The Minister of Labour shall allocate, out of the remaining property referred to in section 27 of the Act respecting collective agreement decrees, the sums

required to provide for the vacation pay and payments referred to in the first paragraph if the funds kept in trust by the Commission are insufficient. Not later than three years after the transfer of funds provided for in the second paragraph of section 9, any balance of the funds kept in trust shall be remitted to the Minister who may allocate the funds as if they were the remaining property referred to in section 27 of the Act respecting collective agreement decrees.

11. The employees of a joint committee responsible for monitoring and ensuring compliance with a decree referred to in section 5 who, on 13 May 1999, were assigned to inspection activities and who are covered by a decision of the Conseil du trésor shall become employees of the Commission des normes du travail, subject to the terms and conditions provided for in the decision. The employees transferred are deemed to have been appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1) and shall be remunerated accordingly.

The Conseil du trésor may determine rules, standards or policies with respect to the classification, the determination of salary rates, permanent tenure or any other condition of employment applicable to employees transferred under the first paragraph.

12. On 1 July 2000, the records and other documents of a joint committee referred to in section 11 that are required by the Commission des normes du travail for the exercise of the responsibilities entrusted to it by this Act and the Act respecting labour standards become records and documents of the Commission.

13. The Minister of Labour shall, not later than 30 June 2004, report to the Government on the application of section 92.1 of the Act respecting labour standards, enacted by section 3 of this Act. The report shall be prepared in collaboration with the Minister of Industry and Trade.

The report shall be tabled in the National Assembly by the Minister of Labour within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

14. This Act comes into force on 11 November 1999.