



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 98

(2008, chapter 30)

An Act to amend the Act respecting labour standards principally with regard to reservists

**Introduced 18 June 2008
Passed in principle 18 June 2008
Passed 23 October 2008
Assented to 29 October 2008**

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EXPLANATORY NOTES

This Act amends the Act respecting labour standards to provide for the right of an employee who is a reservist of the Canadian Forces to be absent, without pay, in order to take part in the annual training and various operations of the Canadian Forces outside Canada and, in certain cases, in Canada. The Act specifies the conditions on which and manner in which that right is to be exercised.

The Act makes other amendments respecting labour standards. It allows persons to be considered as spouses even if they cease temporarily to cohabit or if one of them is required to live permanently in another place for health reasons or because of imprisonment. The Act also stipulates that an employee who wants to take a paternity leave must give advance notice to the employer. Lastly, the Act makes a technical amendment respecting the manner in which a demand notice is to be sent to the employer by the Commission des normes du travail.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting labour standards (R.S.Q., chapter N-1.1).

Bill 98

AN ACT TO AMEND THE ACT RESPECTING LABOUR STANDARDS PRINCIPALLY WITH REGARD TO RESERVISTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by adding the following paragraph:

“Persons to whom subparagraph 3 of the first paragraph applies are considered to be cohabiting despite the temporary absence of one of them. The same rule applies if one of the persons is required to live permanently in another place for health reasons or because of imprisonment, unless the other person is cohabiting with another spouse within the meaning of that subparagraph.”

2. Section 70 of the Act, amended by section 2 of chapter 36 of the statutes of 2007, is again amended by inserting the following paragraph after the third paragraph:

“Similarly, if the employee is a reservist of the Canadian Forces and at the end of the 12 months following the end of a reference year, the employee is absent for one of the reasons set out in section 81.17.1, the employer may either defer the annual leave until the following year or pay the indemnity for that leave.”

3. The Act is amended by inserting the following section after section 81.2:

“81.2.1. A paternity leave may be taken after giving written notice of not less than three weeks to the employer, stating the expected date of the leave and that of the return to work.

However, the notice may be shorter if the birth of the child occurs before the expected date.”

4. Section 81.13 of the Act is amended by inserting “81.2.1,” after “section” in the second line of the first paragraph.

5. The Act is amended by inserting the following division after section 81.17:

“DIVISION V.1.1**“ABSENCES OF RESERVISTS EMPLOYEES**

“81.17.1. An employee who is also a reservist of the Canadian Forces may be absent from work, without pay, for one of the following reasons:

(1) if the employee is credited with 12 months of uninterrupted service, to take part in an operation of the Canadian Forces outside Canada, including preparation, training, rest and transportation from the reservist’s place of residence and back, for a maximum period of 18 months;

(2) to take part in an operation of the Canadian Forces in Canada whose purpose is to

(a) provide assistance in the case of a major disaster within the meaning of the Civil Protection Act (chapter S-2.3);

(b) aid the civil power, on request of the Attorney General of Québec under the National Defence Act (Revised Statutes of Canada, 1985, chapter N-5); or

(c) intervene in any other emergency situation designated by the Government;

(3) to take part in the annual training for the period prescribed by regulation or, if no such period is prescribed, for a period of not more than 15 days; or

(4) to take part in any other operation of the Canadian Forces, in the cases, on the conditions and for the period prescribed by regulation.

The designation of an emergency situation under subparagraph *c* of subparagraph 2 of the first paragraph comes into force on the date set by the Government, which date may be earlier than the date of the designation, and is published in the *Gazette officielle du Québec*.

“81.17.2. Section 81.17.1 does not apply if the absence of an employee could endanger the life, health or security of other employees or the population or cause the destruction or serious deterioration of certain property or in a case of superior force, or if the absence is inconsistent with the employee’s professional code of ethics.

“81.17.3. To take advantage of the right provided for in section 81.17.1, an employee must give to the employer advance written notice of not less than four weeks of the date on which the absence is to begin, the reason for it and its duration. However, the notice may be shorter for serious cause, in which case the employee must notify the employer as soon as possible.

The employee may return to work before the expected date after giving the employer written notice of not less than three weeks.

“81.17.4. On request, an employee must provide the employer with any document justifying the employee’s absence.

“81.17.5. An employee who is absent for one of the reasons set out in section 81.17.1 for a period greater than 12 weeks may not be absent again for one of those reasons before the expiry of a period of 12 months from the date of the return to work.

“81.17.6. Sections 79.4, 79.5 and 79.6 apply to an employee who is absent for one of the reasons set out in section 81.17.1.”

6. Section 111 of the Act is amended by replacing all that follows “it shall” in the first paragraph by “demand, by notice in writing, that the employer pay such amount to the Commission within 20 days of the sending of the demand notice.”

7. Section 114 of the Act is amended by replacing all that follows “(chapter M-31),” in the second paragraph by “from the sending of the demand notice under section 111.”

8. This Act comes into force on 29 October 2008.