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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-NINTH LEGISLATURE

## **Bill 33**

(2011, chapter 30)

### **An Act to eliminate union placement and improve the operation of the construction industry**

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**Introduced 6 October 2011  
Passed in principle 3 November 2011  
Passed 2 December 2011  
Assented to 2 December 2011**

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## EXPLANATORY NOTES

*This Act introduces a new referral mechanism to replace union placement of employees in the construction industry, and proposes various measures to improve the operation of the construction industry.*

*Union placement is eliminated, with all labour referrals going through the labour-referral service for the construction industry, administered by the Commission de la construction du Québec. Union associations and employers' associations that wish to refer employees must do so through that service, after obtaining a licence to that effect. It is prohibited and constitutes an offence to force or attempt to force an employer to hire specific employees or a specific number of employees.*

*The composition of the board of directors of the Commission de la construction du Québec is modified, as well as that of various board committees; they are now to include independent members appointed by the Government. The Committee on employee benefits in the construction industry is established. Funds for the compensation and the training of employees in the construction industry are also established.*

*The term of collective agreements in the construction industry is increased from three to four years. All representative associations are entitled to take part in negotiations for those collective agreements, and recognized clients may be consulted.*

*Changes are made to the rules governing polls in order to ensure that employees in the construction industry may exercise free choice.*

*Employees may file a complaint with the Commission des relations du travail against their union. The Commission may then authorize an employee to change unions if it concludes that the union failed in its duty to represent the employee.*

*Union and employers' associations must have their financial statements audited, send a copy of them to their members and to the Minister, and send the Minister a declaration to be posted on the website of the Ministère du Travail.*

*Other measures are introduced to improve the operation of the construction industry, including regulatory powers to determine the application of the law to forest road work and concerning volunteer work in the construction industry, a review mechanism for the activities included in a construction trade and the evaluation every five years of developments in the construction industry.*

*Lastly, consequential and transitional provisions are introduced, notably to provide for the examination by the competent committee of the National Assembly of the first regulation determining the method of operation of the labour-referral service for the construction industry and the creation of a working committee to draw up recommendations for the Minister of Labour on the standards to include in the regulation and any other matter the Minister submits to it.*

**LEGISLATION AMENDED BY THIS ACT:**

- Labour Code (R.S.Q., chapter C-27);
- Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20);
- Anti-Corruption Act (2011, chapter 17).



## Bill 33

### AN ACT TO ELIMINATE UNION PLACEMENT AND IMPROVE THE OPERATION OF THE CONSTRUCTION INDUSTRY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 1 of the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20) is amended, in the first paragraph,

(1) by striking out subparagraph *e*;

(2) by inserting the following subparagraph after subparagraph *i*:

“(i.1) “recognized client”: an enterprise that is the client of an employer, or an association of such enterprises, recognized by the Minister for the purpose of the consultation held under section 42, after consultation with the Minister of Economic Development, Innovation and Export Trade;”.

**2.** The Act is amended by replacing the heading of Chapter II by the following heading:

“COMMISSION DE LA CONSTRUCTION DU QUÉBEC, COMMITTEE ON VOCATIONAL TRAINING IN THE CONSTRUCTION INDUSTRY AND COMMITTEE ON EMPLOYEE BENEFITS IN THE CONSTRUCTION INDUSTRY”.

**3.** The Act is amended by replacing “*organization*” in the heading of subdivision 1 of Division I of Chapter II by “*administration*”.

**4.** Section 3.2 of the Act is amended

(1) by replacing “17” in the first paragraph by “15”;

(2) by replacing subparagraphs 1 to 5 of the second paragraph by the following:

“(1) one member after consultation with the employers’ association;

(2) four members after consultation with the contractors’ associations;

(3) five members after consultation with the representative associations;  
and

(4) four independent members, taking into account the expertise and experience profiles approved by the board of directors.

In this Act, “independent member” means a member who has no direct or indirect relation or interest, for example of a financial, commercial, professional or philanthropic nature, likely to interfere with the quality of the decisions made as regards the interests of the Commission.

A member is deemed not to be independent if that member

(1) is in the employ of the Commission or was in such employ in the three years before being appointed;

(2) is in the employ of the Government or a government agency or enterprise within the meaning of sections 4 and 5 of the Auditor General Act (chapter V-5.01);

(3) is or was, in the three years preceding appointment to office, a member, an employee, an officer or a representative of an association listed or described in any of subparagraphs *a* to *c.2* of the first paragraph of section 1 or of an association of employees affiliated with a representative association; or

(4) has an immediate family member who is a senior officer of the Commission.

The Government may adopt a policy on the situations it intends to examine to determine whether a member qualifies as an independent member. It may specify in the policy the meaning it intends to give to the expression “immediate family member”.

An independent member must disclose in writing to the board of directors and to the Minister any situation likely to affect the member’s status.”

**5.** Section 3.3 of the Act is amended

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

**“3.3.** The chair is appointed by the Government for not more than five years. The other members of the board of directors are appointed for not more than three years.”;

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

“The terms of the board members are renewable. However, independent members may be reappointed only twice, for a consecutive or non-consecutive term.”

**6.** Sections 3.10 to 3.12 of the Act are repealed.

**7.** The Act is amended by inserting the following subdivision before subdivision 2 of Division I of Chapter II:

“§1.1 — *Board committees*

**“3.13.** The board of directors must establish a governance and ethics committee and an audit committee.

The board may also establish other committees to examine specific issues or facilitate the smooth operation of the Commission.

**“3.14.** The functions of the governance and ethics committee include

(1) formulating governance rules and a code of ethics for conducting the operations of the Commission;

(2) formulating a code of ethics applicable to the members of the board of directors, the officers appointed by the Commission and the employees of the Commission, subject to a regulation made under sections 3.0.1 and 3.0.2 of the Act respecting the Ministère du Conseil exécutif (chapter M-30);

(3) developing expertise and experience profiles to be used in appointing the independent members of the board; the profiles must include management experience that is relevant to the position;

(4) formulating criteria for evaluating board members other than the chair;

(5) formulating criteria for assessing the performance of the board; and

(6) developing initiation and ongoing training programs for board members.

The committee must conduct the assessment referred to in subparagraph 5 of the first paragraph in accordance with the criteria approved by the board of directors.

**“3.15.** The governance and ethics committee is composed of five members designated from among the members of the board of directors, as follows:

(1) three members from among the independent members of the Commission, one of whom is designated the chair;

(2) one member from among the members of the employers’ association and the contractors’ associations; and

(3) one member from among the members of the representative associations.

**“3.16.** The functions of the audit committee include

- (1) approving the annual internal audit plan;
- (2) making sure that a plan for the optimal use of the Commission’s resources is put in place, and following up on that plan;
- (3) seeing to it that appropriate and effective internal control mechanisms are put in place;
- (4) making sure that a risk management process is put in place;
- (5) reviewing any activity likely to be detrimental to the Commission’s financial health that is brought to its attention by the internal auditor or an officer;
- (6) examining the financial statements with the Auditor General; and
- (7) recommending the approval of the financial statements by the board of directors.

The audit committee must notify the board of directors in writing on discovering operations or management practices that are unsound or do not comply with the law or the regulations or with the policies of the Commission.

**“3.17.** The audit committee is composed of four members designated from among the members of the board of directors, as follows:

- (1) two members from among the independent members of the Commission, one of whom is designated the chair;
- (2) one member from among the members of the employers’ association and the contractors’ associations; and
- (3) one member from among the members of the representative associations.

**“3.18.** Three members, including the chair, are a quorum at meetings of the governance and ethics committee and the audit committee.

In the case of a tie, the chair has a casting vote.”

**8.** Section 4 of the Act is amended by replacing subparagraphs 8 and 9 of the first paragraph by the following subparagraphs:

“(8) administer the Compensation Fund for Employees in the Construction Industry established by Division I of Chapter VIII.1;



“(9) administer the Training Fund for Employees in the Construction Industry established by Division II of Chapter VIII.1; and

“(10) administer the labour-referral service for the construction industry provided for in section 107.7.”

**9.** Section 10 of the Act is amended by replacing “Joint Committee on Construction” in the second paragraph by “Committee on employee benefits in the construction industry”.

**10.** Section 12 of the Act is repealed.

**11.** Division II of Chapter II of the Act, comprising sections 16 to 18, is repealed.

**12.** Section 18.3 of the Act is amended by replacing “13” by “12”.

**13.** Section 18.4 of the Act is amended by replacing the second and third paragraphs by the following paragraphs:

“The employers’ association and the contractors’ associations shall each designate one member, except the corporations listed in subparagraph c.1 of the first paragraph of section 1, which shall designate a single member for both corporations.

The Minister of Education, Recreation and Sports shall designate one member.

The representative associations shall designate five members.

Each representative association shall designate one member. If the five places to which the representative associations are entitled are not filled in this manner, they are filled by the associations, in turn, in the order of their representativeness, until all the places are filled.”

**14.** The Act is amended by inserting the following after section 18.14:

#### “DIVISION III.1

#### “COMMITTEE ON EMPLOYEE BENEFITS IN THE CONSTRUCTION INDUSTRY

“**18.14.1.** The Minister shall set up the Committee on employee benefits in the construction industry.

“**18.14.2.** The function of the Committee on employee benefits in the construction industry is to define the content of the complementary social benefits plans.

**“18.14.3.** The Committee on employee benefits in the construction industry is composed of 11 members.

**“18.14.4.** The Committee on employee benefits in the construction industry is chaired by the chair of the Commission or by a person the chair designates from among the personnel of the Commission.

The employers' association and the sector-based employers' associations shall each designate one member, except the Association de la construction du Québec, which shall designate two members.

The representative associations shall designate five members.

Each representative association shall designate one member. If the five places to which the representative associations are entitled are not filled in this manner, they are filled by the associations, in turn, in the order of their representativeness, until all the places are filled.

**“18.14.5.** The Committee on employee benefits in the construction industry may make any by-law to give effect to a clause of a collective agreement intended for the establishment or amendment of a complementary social benefits plan. Only an express clause of the collective agreement can change the amount of the assessments or contributions affected to the complementary social benefits plans, or amend or abolish any express clause of the collective agreement respecting that plan.

The Committee may establish by by-law the procedure for transferring a sum to another plan from the assets of a supplemental pension plan applicable to the construction industry for a group of employees subject until then to a collective agreement made under this Act. It may also establish by by-law the procedure for maintaining a social benefits plan in favour of employees

(1) who are no longer subject to a collective agreement made under this Act;

(2) who are temporarily carrying out work to which this Act does not apply, to the extent that their participation in the plan is not prohibited by a collective agreement or decree applicable to them; or

(3) to whom a collective agreement or a decree is applicable which expressly provides for their participation in the plan.

The by-law shall determine the amount of their assessments and contributions under the plan.

**“18.14.6.** The Committee on employee benefits in the construction industry may, in accordance with the law, make an agreement with any person or association to allow the reciprocal transfer of all or part of the sums accumulated to the credit of a beneficiary under a complementary social benefits

plan which that person or association administers. The Committee may establish by by-law the procedure for giving effect to such an agreement.

**“18.14.7.** With the exception of sections 15 and 20, the Regulations Act (chapter R-18.1) does not apply to a by-law made under section 18.14.5 or 18.14.6.

**“18.14.8.** The chair, three members representing the employers’ association and the sector-based employers’ associations, and three members representing the representative associations are a quorum at meetings of the Committee on employee benefits in the construction industry.

**“18.14.9.** The Committee on employee benefits in the construction industry may adopt rules of internal management.

**“18.14.10.** The members of the Committee on employee benefits in the construction industry are not remunerated, except in the cases, on the conditions and to the extent determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

The sums required for the carrying out of this section are borne by the Commission.

**“18.14.11.** Sections 18.10, 18.11 and 18.13 apply to the Committee on employee benefits in the construction industry, with the necessary modifications.”

**15.** Section 19 of the Act is amended

(1) by adding the following at the end of subparagraph 5 of the first paragraph: “, or to construction work on forest roads defined by regulation of the Government, if the conditions and particularities set out in that regulation are present”;

(2) by adding the following subparagraph at the end of the first paragraph:

“(14) volunteer construction work defined by regulation of the Government, if the conditions and particularities set out in that regulation are present.”

**16.** Section 24 of the Act is amended by replacing “binds” by “must take into account the possible effects on the efficiency of work organization. The decision binds”.

**17.** Section 26 of the Act is amended

(1) by replacing the first paragraph of subsection 1 by the following paragraph:

**“26.** (1) A person convicted, in Canada or elsewhere, of common assault, mischief, assault causing bodily harm, theft, intimidation, intimidation of justice system participants, an offence against freedom of association, criminal harassment, uttering threats, uttering threats and retaliating, drawing a document without authority, offering or accepting secret commissions, trafficking in substances under the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19), importation, exportation or production under that Act, conspiracy to commit any of those acts or a criminal offence under sections 467.11 to 467.13 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or, if related to the activities the person carries out in the construction industry, an offence against a fiscal law or a criminal offence other than those listed in subsection 2, may not hold a management or representation position in or for an association listed or described in any of subparagraphs *a* to *c.2* of the first paragraph of section 1 or an association of employees affiliated with a representative association, or be elected or appointed as job-site steward, or be a member of the board of directors of the Commission or of a committee established under this Act.”;

(2) by replacing subsection 2 by the following subsection:

“(2) A person convicted, in Canada or elsewhere, of murder, attempted murder, manslaughter, robbery, extortion, arson, breaking and entering, fraud, kidnapping or aggravated assault, or of conspiracy to commit any of those acts, may not hold a management or representation position in or for an association listed or described in any of subparagraphs *a* to *c.2* of the first paragraph of section 1 or an association of employees affiliated with a representative association, or be elected or appointed as job-site steward, or be a member of the board of directors of the Commission or of a committee established under this Act.”;

(3) by striking out subsection 3.

**18.** Section 27 of the Act is amended by adding the following paragraph at the end:

“However, section 47.2 of the Code applies to such an association, with the necessary modifications. An employee who believes that the association that represents the employee has contravened that section may, within six months, file a complaint with the Commission des relations du travail and request that it exercise the powers granted under section 47.5 of the Code. In addition to the powers entrusted to it by the Code, the Commission des relations du travail may allow an employee to elect a new representative association within 30 days of the Commission’s decision, in accordance with the procedure established by regulation under section 35.2 of this Act.”

**19.** Section 28 of the Act is amended by inserting “(SQC)” after “Syndicat québécois de la construction”.

**20.** Section 30 of the Act is amended

(1) by replacing “first twelve of the fifteen complete calendar months preceding the month during which the poll provided for in section 32 is held” in subparagraph *b* of the first paragraph by “first twelve of the fifteen monthly periods preceding the month during which the poll provided for in section 32 begins”;

(2) by striking out the second paragraph;

(3) by replacing the fourth paragraph by the following paragraph:

“The Commission shall send to each employee whose name appears on the list established in accordance with this section a document identifying the employee as an elector for the purposes of section 32.”

**21.** Section 31 of the Act is amended

(1) by replacing “during the twelfth month preceding the expiry date of the collective agreement made under section 47” in the first paragraph by “during a period that begins on the first day of the twelfth month that precedes the expiry date of the collective agreement made under section 47 and ends on the day before the first day of the voting period”;

(2) by replacing “in section 115” in the last paragraph by “in sections 115 and 119.11”.

**22.** Section 32 of the Act is amended by replacing the second, third and fourth paragraphs by the following paragraphs:

“The election is made by secret ballot held under the supervision of a representative of the Commission, as prescribed by regulation of the Government.

The voting period begins on the first Monday of the eleventh month preceding the expiry date of the collective agreement made under section 47 and ends 21 days later, that is, on the closing date for receiving the ballot papers.

The Commission must designate an independent presiding officer to supervise the poll. A representative of the Commission acts as returning officer, assisted by the necessary personnel.

Any dispute relating to the poll must be decided by the presiding officer within 30 days of the end of the poll. The presiding officer’s decision is final.

An employee who is entitled to make an election, but has not expressed it in accordance with this section, is deemed, for the purposes of sections 33, 35 and 38, to have elected for the association in favour of which the employee already made an election in the cases provided by this Act, provided that the name of that association is published in accordance with section 29.

A person who does not qualify as an independent member under the fourth paragraph of section 3.2 may not be designated to act as presiding officer.”

**23.** Section 35.2 of the Act is amended

(1) by replacing “it establishes by regulation” by “established by regulation of the Government”;

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

“The Commission must draw up a list of all the employees who may make an election under this section. The list is sent to the associations referred to in section 29 not later than 15 days before the holding of the poll provided for in section 32.”

**24.** Section 35.3 of the Act is amended by replacing “regulation of the Commission” in the second paragraph by “regulation of the Government”.

**25.** Section 36 of the Act is amended

(1) by inserting “union” before “card” in the first paragraph;

(2) by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) his identification number;”;

(3) by adding the following subparagraph at the end of the first paragraph:

“(d) the date on which the card becomes valid and that on which it expires.”;

(4) by striking out the last paragraph.

**26.** Section 36.1 of the Act is amended

(1) by replacing “a card under section 36” in the first paragraph by “a union card”;

(2) by replacing “the document” in the second paragraph by “the union card”.

**27.** Section 37 of the Act is amended

(1) by replacing “a certificate, exemption or card referred to in section 36” by “a union card”;

(2) by replacing “the document concerned is replaced” by “the card is replaced”.

**28.** Section 39 of the Act is amended by replacing “a document referred to in section 36” by “a union card”.

**29.** Section 40 of the Act is amended by replacing the second paragraph by the following paragraph:

“The Commission shall remit to the employers’ association the assessments received, along with a nominal roll. The assessment may include a part that is common to all sectors, on the basis chosen by the employers’ association, and a part that is specific to a sector, on the basis chosen by the sector-based employers’ association. A part that is specific to a sector shall be remitted to the sector concerned.”

**30.** The Act is amended by inserting the following sections before section 42:

“**41.3.** A representative association may take part in negotiations for a collective agreement applicable to the employees it represents.

“**41.4.** In addition to the rule established by section 42.1, the representative associations take part in negotiations in the manner set out in a protocol agreed to among the associations.

The representative associations as a whole must notify the Minister that they have agreed on a protocol at least six months before the date set in section 42 for the sending of the notice of negotiation. Failing that, the Minister shall appoint an arbitrator to decide on the applicable protocol.

Sections 75 to 77, 79 to 81, 83, 88 to 91.1 and 139 to 140 of the Labour Code (chapter C-27) apply to the protocol arbitration, with the necessary modifications.

In rendering a decision, the arbitrator draws on protocols previously agreed on or decided, as the case may be. The parties may at any time agree to modify the content of the arbitrator’s decision.”

**31.** Section 42 of the Act is amended

(1) by inserting “, as determined in the protocol provided for in section 41.4,” after “representative associations may” in the first paragraph;

(2) by inserting the following paragraph after the third paragraph:

“Upon receiving or sending a notice, the sector-based employers’ association for the institutional and commercial sector, the industrial sector or the civil engineering and roads sector must consult the recognized clients in order to obtain their comments and suggestions on the renewal of the collective agreement. However, the association is not bound by the comments and suggestions obtained.”;

(3) by replacing “the associations of employees whose representativeness is more than 50%” in the fourth paragraph by “the representative associations”.

**32.** Section 43.7 of the Act is amended by replacing “one or more” in the first paragraph by “at least three”.

**33.** Section 44 of the Act is amended

(1) by replacing “one or more associations” in the first and third paragraphs by “at least three associations”;

(2) by replacing “one or more sector-based employers’ associations” in the third paragraph by “at least two sector-based employers’ associations”.

**34.** Section 45 of the Act is amended by replacing the second paragraph by the following paragraph:

“If the dispute concerns one or several matters listed in section 61.1, the agreement relating to arbitration must be made by at least three associations whose representativeness is over 50% in the sector and by the employers’ association entrusted with a mandate for that purpose by at least two sector-based employers’ associations whose representativeness is over 50%. If the dispute concerns other matters, the agreement relating to arbitration must be made by at least three associations whose representativeness is over 50% and by the sector-based employers’ association of the sector concerned.”

**35.** Section 45.4 of the Act is amended

(1) by replacing “one or more” in the second paragraph by “at least three”;

(2) by inserting the following paragraph after the third paragraph:

“A strike or a lock-out begins on the day a notice to that effect is filed with the Minister by each of the associations having acquired the right to strike in accordance with the second paragraph, or by the sector-based employers’ association referred to in the third paragraph. A copy of the notice must be sent to the parties and to the Commission.”



**36.** Section 47 of the Act is amended by replacing “every three years, from 30 April 1995” in the second paragraph by “every four years, from 30 April 2013”.

**37.** Section 53.1 of the Act is amended by inserting “, in respect of the job site to which the decision applies,” after “without delay”.

**38.** The Act is amended by inserting the following section after section 58:

**“58.1.** In the case of a strike, a work slow-down or a lock-out contrary to the provisions of this Act, the Commission des relations du travail may, on the request of an interested party, exercise the powers given it in section 119 of the Labour Code (chapter C-27), with the necessary modifications.”

**39.** Section 60.2 of the Act is amended by replacing “one or more” in the first paragraph by “at least three”.

**40.** Section 61 of the Act is amended by adding the following sentences at the end of the third paragraph: “The procedure must be in keeping with the duty to act fairly and ensure a timely resolution of jurisdictional conflicts. It must provide in particular that any agreement, recommendation or decision be substantiated and recorded in writing.”

**41.** Section 61.1 of the Act is amended by striking out paragraph 7.

**42.** Section 61.2 of the Act is amended

(1) by adding “, placement or labour referral” at the end of paragraph 3;

(2) by striking out “directly or through the Commission or a union reference” in paragraph 4;

(3) by inserting the following paragraph after paragraph 5.1:

“(5.2) introduce a provision that imposes on the Commission an obligation or a procedure for carrying out an obligation that is not provided by law;”.

**43.** Section 62 of the Act is amended by adding the following paragraphs at the end:

“An association listed or described in any of subparagraphs *b*, *c* or *c.2* of the first paragraph of section 1 may also, with the Commission’s authorization, have recourse to arbitration in the same manner, in order to obtain a determination on a difficulty in interpreting a clause on any other subject listed in section 61.

A recourse under the second paragraph suspends the prescription of any civil action that may be based on the clause under arbitration, until the arbitration award is rendered.

The Commission must take into account any arbitration award rendered under the second paragraph in applying a collective agreement.”

**44.** Section 78 of the Act is amended

(1) by inserting “Subject to section 107.5,” at the beginning;

(2) by replacing “to the placement” by “to the referral”.

**45.** Section 80.1 of the Act is amended by adding the following subparagraphs after subparagraph 7 of the first paragraph:

“(8) denying an employee admission to an examination;

“(9) classifying an employee at a training level the employee considers inappropriate.”

**46.** Section 82 of the Act is amended

(1) by inserting “by the employer’s designated representative or” after “number of hours done” in subparagraph *b* of the first paragraph;

(2) by inserting the following subparagraphs after subparagraph *b* of the first paragraph:

“(b.0.1) oblige a category of employers to file the monthly reports and any document or information required under this Act or the regulations electronically or on a computer-generated medium, and determine the applicable conditions and procedures;

“(b.0.2) determine the information the persons involved in construction work must send in so that the scope and importance of the work may be evaluated;”;

(3) by adding “or whenever it is necessary to change the method or rate in force” at the end of subparagraph 1 of subparagraph *c* of the first paragraph;

(4) by striking out subparagraphs *d* and *e* of the first paragraph;

(5) by inserting the following subparagraph after subparagraph *h* of the first paragraph:

“(i) determine the conditions to be met and the fee exigible for the issue of a letter describing the situation and the information that may be contained in

such a letter on construction work carried out on a job site or for the purposes of a tender.”

**47.** Section 85 of the Act is amended by replacing “such an association is affiliated, nor enter into a service agreement with such an association or organization” in the second paragraph by “such an association or any other group of construction employees is affiliated or otherwise linked, nor enter into a service agreement with such an association or organization”.

**48.** The Act is amended by inserting the following section after section 85.6:

“**85.7.** A competency certificate or a proof of exemption must contain the following information on the holder:

- (1) name;
- (2) address and region of domicile;
- (3) date of birth;
- (4) identification number; and
- (5) trade or occupation, in the case of a competency certificate.

The competency certificate or proof of exemption states the date on which it becomes valid and that on which it expires, and must include a photo of the employee as well as any other information required by law.”

**49.** Section 92 of the Act is amended

- (1) by replacing subsection 1 by the following subsection:

“**92.** (1) The Commission shall administer the complementary social benefits plans. It shall continue to manage those plans, which remain in force, even following the expiry of the collective agreement.”;

- (2) by striking out subsections 3, 3.1 and 6.

**50.** Section 93 of the Act is replaced by the following section:

“**93.** A person who believes he has been wronged by a decision of the Commission regarding the person’s eligibility to a social benefits plan or the amount of a benefit may, within 60 days of receiving the decision, apply to the Commission for a review.

The Commission shall render its review decision within 60 days following the application. The review decision may be contested before the Commission

des relations du travail within 60 days after being received; the Commission's decision is final.

Failing an initial decision regarding the person's eligibility or the amount of a benefit, or a review decision within 90 days of the application, the person concerned may apply to the Commission des relations du travail within 60 days of the prescribed time."

**51.** The Act is amended by inserting the following after section 93:

**"93.1.** An association listed or described in any of subparagraphs *a*, *b*, *c* or *c.2* of the first paragraph of section 1 and any association of employees affiliated with a representative association must keep and divide its accounts so that each kind of service and benefit granted to the members may be administered separately, and the funds kept distinct.

Such associations are required to have their financial statements audited every year in accordance with generally accepted accounting principles and send a free copy of them to their members. The associations must also send a copy of the financial statements to the Minister with a declaration whose content is determined by order of the Minister. The declaration is published on the website of the Ministère du Travail. The Minister may require that the associations provide any information the Minister deems useful after examining the declaration and the financial statements, and that the latter be subjected to further examination.

## **"CHAPTER VIII.1**

### **"FUND**

#### **"DIVISION I**

##### **"COMPENSATION FUND**

**"93.2.** The Compensation Fund for Employees in the Construction Industry is established.

The Fund is to be used exclusively to compensate employees having suffered a loss of pay, in accordance with the terms and the procedure prescribed by regulation.

**"93.3.** The Compensation Fund for Employees in the Construction Industry is made up of contributions paid by the employers, determined by regulation of the Commission, the money recovered following a proceeding brought under this Act, the interest earned on the money in the Fund and any increase in the assets of the Fund.

Any insufficiency of assets is to be offset by a loan contracted by the Commission. The loan must be repaid out of the Fund.

**“93.4.** The Compensation Fund for Employees in the Construction Industry is administered by the Commission. The Commission shall keep separate books for the money in the Fund; the costs incurred for the administration and operation of the Fund are paid out of the Fund.

The assets of the Fund are not part of the Commission’s assets and may not be used to perform the Commission’s other obligations.

**“93.5.** The Commission shall compensate employees in accordance with the rules prescribed by regulation.

## **“DIVISION II**

### **“TRAINING FUND FOR EMPLOYEES IN THE CONSTRUCTION INDUSTRY**

**“93.6.** The Training Fund for Employees in the Construction Industry is established.

The Fund is to be used exclusively to promote and finance development activities for employees in the construction industry and comprises two components:

(1) a component covering the institutional and commercial sector, the industrial sector, and the civil engineering and roads sector, dedicated to promoting and financing the development activities of the employees in those sectors; and

(2) the residential sector component, dedicated to promoting and financing the development activities of the employees in that sector.

**“93.7.** The Training Fund for Employees in the Construction Industry is made up of contributions paid by the employers, determined by regulation of the Commission, the interest earned on the money in the Fund and any increase in the assets of the Fund.

The money is credited to the Fund component identified in section 93.6 that corresponds to the purposes for which it is paid.

Any insufficiency of assets is to be offset by a loan contracted by the Commission. The loan must be repaid out of the Fund.

**“93.8.** Subject to section 18.10.1, the Training Fund for Employees in the Construction Industry is administered by the Commission. The Commission shall keep separate books for the money in the Fund, by component; the costs incurred for the administration and operation of the Fund are paid out of the Fund.

The assets of the Fund are not part of the Commission's assets and may not be used to perform the Commission's other obligations."

**52.** Section 97 of the Act is repealed.

**53.** Section 101 of the Act is amended by striking out the third paragraph.

**54.** The Act is amended by inserting the following section after section 101:

**"101.1.** An association of employees may not, with respect to employees it represents, act in an arbitrary or discriminatory manner when making employment references."

**55.** Section 103 of the Act is repealed.

**56.** Section 104 of the Act is amended by replacing "to employment bureau of such" by "the".

**57.** The Act is amended by inserting the following after section 107:

#### **"CHAPTER IX.1**

#### **"LABOUR REFERRAL**

#### **"DIVISION I**

#### **"LICENCE**

**"107.1.** No person may provide a labour-referral service for the construction industry unless the person holds a licence issued for that purpose by the Bureau des permis de service de référence de main-d'œuvre.

Only an association listed or described in any of subparagraphs *a* to *c.2* of the first paragraph of section 1 or an association of employees affiliated with a representative association may hold such a licence.

An officer, employee, representative, business agent or job-site steward of such an association who exercises labour-referral activities is deemed to act on behalf of the association.

**"107.2.** The holder of a labour-referral service licence may participate in the referral service that the Commission administers under subparagraph 10 of the first paragraph of section 4, to the extent specified by a government regulation made under subparagraph 8.6 of the first paragraph of section 123.

**"107.3.** An association that applies for a labour-referral service licence must meet the following conditions:

(1) none of its officers or representatives in any capacity whatever has been convicted, in the five years preceding the application, of an offence listed in section 26 or of a penal or criminal offence which, in the opinion of the Bureau des permis de service de référence de main-d'œuvre, is connected to labour relations, vocational training or workforce management in the construction industry; and

(2) it meets the other conditions set out in the government regulation made under subparagraph 8.7 of the first paragraph of section 123.

## “DIVISION II

### “BUREAU DES PERMIS DE SERVICE DE RÉFÉRENCE DE MAIN-D'ŒUVRE

“**107.4.** A bureau to be known as the Bureau des permis de service de référence de main-d'œuvre is established within the Ministère du Travail.

“**107.5.** In keeping with the regulation made under subparagraph 8.7 of the first paragraph of section 123, the functions of the Bureau consist in

- (1) administering the labour-referral service licence issuing system; and
- (2) receiving and processing complaints related to labour referral.

The Bureau shall also send the Commission any information it considers relevant when it believes an offence has been committed under this Act, related to labour placement or referral.

“**107.6.** The Commission shall pay the expenses of the Bureau, including the salaries of its personnel.

The amounts to be paid by the Commission and the terms of payment are determined by the Government.

## “DIVISION III

### “SERVICE DE RÉFÉRENCE DE MAIN-D'ŒUVRE DE L'INDUSTRIE DE LA CONSTRUCTION

“**107.7.** The Commission shall administer a labour-referral service for the construction industry to be known as the Service de référence de main-d'œuvre de l'industrie de la construction in order to provide qualified employees as candidates to meet employers' labour needs.

An employee holding a valid competency certificate or proof of exemption is registered *ex officio* in the Service. The employee must inform the Service of the employee's availability and update that information in accordance with the terms and the procedure prescribed by government regulation.

In this division, “employer” means an employer referred to in a regulation of the Government made under subparagraph 8.6 of the first paragraph of section 123, according to the situations the regulation determines.

**“107.8.** The mode of operation of the Service is determined by a government regulation made under subparagraph 8.6 of the first paragraph of section 123. In addition to the elements set out in the regulation, the mode of operation must provide

(1) that an employer having labour needs for construction work must declare those needs to the Service; and

(2) that, apart from the Commission, only associations holding a labour-referral service licence may have access to the labour needs declared to the Service and meet those needs by providing, through the Service, the contact information of qualified candidates.

**“107.9.** No employer may hire employee candidates unless the employer has first made a declaration of labour needs for a number equal to or greater than the number of candidates hired, in accordance with paragraph 1 of section 107.8.

An employer who has declared a labour need is not required to hire a candidate referred by the Service. The employer may not, however, ask an association referred to in section 107.1 to refer a candidate to the employer, whether or not the association holds a licence.

**“107.10.** Before hiring a candidate, an employer must obtain a hiring number assigned by the Commission for each candidate, in accordance with the terms and the procedure prescribed by regulation.

On receiving the employer’s application for a hiring number, the Commission verifies it and, if the conditions prescribed by regulation are met, assigns a hiring number.

**“107.11.** An employer must notify the Commission of the hiring, layoff, temporary layoff or departure of an employee, in accordance with the terms and the procedure prescribed by a regulation of the Commission made under subparagraph 13 of the first paragraph of section 123.1.”

**58.** Section 111 of the Act is amended by replacing “section 63” by “section 73”.

**59.** The Act is amended by inserting the following section after section 113.1:

**“113.2.** Any person who requires an employer to hire specific employees or a specific number of employees is guilty of an offence and liable to a fine of \$1,440 to \$14,372.



For any subsequent conviction, the fines are doubled.”

**60.** Section 115 of the Act is amended by striking out the last sentence.

**61.** Section 119 of the Act is amended

(1) by replacing “101 to 103” in the first paragraph by “101 to 102”;

(2) by striking out the second paragraph.

**62.** The Act is amended by inserting the following sections after section 119:

**“119.0.1.** The following are guilty of an offence and liable to a fine of \$1,000 to \$2,000 in the case of a natural person and to a fine of \$2,028 to \$4,056 in other cases:

(1) an association referred to in section 107.1 that refers labour or offers or provides, directly or indirectly, a labour-referral service other than by participating in the labour-referral service for the construction industry;

(2) a union representative, a job-site steward or any other representative of an association referred to in paragraph 1 who directly or indirectly refers labour or offers or provides a labour-referral service other than by participating in the labour-referral service for the construction industry; or

(3) any other person who offers or provides a labour-referral service for the construction industry.

**“119.0.2.** An employer who contravenes paragraph 1 of section 107.8, section 107.9, the first paragraph of section 107.10 or section 107.11 is guilty of an offence and liable to a fine of \$1,000 to \$2,000.”

**63.** Section 119.6 of the Act is repealed.

**64.** The Act is amended by inserting the following sections after section 119.7:

**“119.8.** The following are guilty of an offence and liable to a fine of \$500 to \$2,000:

(1) any person who falsifies a ballot report;

(2) any person who destroys a ballot paper before the end of the period for which it is to be kept;

(3) any person who counterfeits a document issued by the Commission regarding a ballot;

(4) any person who hinders the work of a polling officer;

(5) any person who prints or uses a false ballot paper or defaces or counterfeits a ballot paper; and

(6) any person who, to be admitted to vote or to make an election respecting an association whose name was published in accordance with section 29, or to allow someone to vote or to make such an election, makes a false declaration, produces a fraudulent document as identification or assumes the identity of another person.

**“119.9.** Any person who violates an election in respect of an association whose name was published in accordance with section 29, inhibits the freedom to vote or to make an election in respect of an association, prevents any proceeding relating to the vote or election, or alters the results of the vote or the election is guilty of an offence and liable to a fine of \$2,000 to \$10,000 in the case of a natural person, and \$5,000 to \$30,000 in the case of a legal person.

**“119.10.** The following are guilty of an offence and liable to a fine of \$2,000 to \$10,000:

(1) an association that, itself or through another person, in order to influence the vote of an employee, obtains the employee’s vote or election respecting an association whose name was published in accordance with section 29, or incites the employee to abstain from voting or making an election, by promising or granting the employee a gift, loan, office, employment or other benefit; and

(2) a person who, in order to obtain or because the person has obtained a gift, loan, office, employment or other benefit, agrees to abstain from voting or making an election respecting an association whose name was published in accordance with section 29.

**“119.11.** Any natural person convicted, by a final judgment, of an offence listed in any of sections 113.2, 115, 119, 119.0.1 and 119.8 to 119.10 is disqualified from leading and from representing, in any capacity whatever, an association listed or described in any of subparagraphs *a* to *c.2* of the first paragraph of section 1 or an association of employees affiliated with a representative association for five years from the day sentence is rendered.”

**65.** Section 120 of the Act is amended by replacing “in section 62” by “in the first paragraph of section 62”.

**66.** Section 123 of the Act is amended by inserting the following subparagraphs after subparagraph 8.5 of the first paragraph:

“(8.6) determine the method of operation of the labour-referral service for the construction industry, as well as the conditions, restrictions and prohibitions applicable to its use by the employers or the categories of employers the

Government determines, employees and holders of a labour-referral service licence;

“(8.7) provide for the issue of labour-referral service licences and, more particularly, determine categories of licences, their terms, and any conditions, restrictions or prohibitions pertaining to their issue, the activities they permit or their renewal, the penalties applicable for failure to comply with applicable conditions, restrictions or prohibitions, the proceedings that may be brought before the Commission des relations du travail, and any element of procedure specific to such proceedings;”.

**67.** Section 123.1 of the Act is amended

(1) by replacing “and examinations” in subparagraph 5 of the first paragraph by “and the various types of examinations”;

(2) by inserting “or on a job site, as well as how those ratios are applied” after “by an employer” in subparagraph 10 of the first paragraph;

(3) by replacing subparagraph 11 of the first paragraph by the following subparagraph:

“(11) determine the fee exigible for admission to the various types of examinations, for the issue or renewal of a journeyman competency certificate, an occupation competency certificate, an apprentice competency certificate and an apprenticeship booklet, and for the opening, analysis and processing of an employee training record or employee qualification record;”;

(4) by replacing “establish regional priority rules in matters of workforce hiring and mobility” in subparagraph 13 of the first paragraph by “establish rules for labour pool management and regional priority rules in matters of labour hiring and labour mobility management”;

(5) by inserting the following subparagraphs after subparagraph 13 of the first paragraph:

“(13.1) establish the conditions and method of operation of the Compensation Fund for Employees in the Construction Industry, including the contributions to be paid by employers according to their category, the circumstances in which compensation is payable, the compensation procedure and the rules for the administration and investment of the money making up the Fund, and prescribe the maximum compensation payable, in particular, the maximum amount that may be paid to an employee in respect of an employer and the maximum amount that may be paid to all employees in respect of an employer;

“(13.2) establish the conditions and method of operation of the Training Fund for Employees in the Construction Industry, other than the general rules for use determined under the third paragraph of section 18.2, including the

contributions to be paid by employers according to their category and the rules for the administration and investment of the money making up the Fund;”;

(6) by inserting the following paragraph after the first paragraph:

“A regulation made under subparagraph 2 of the first paragraph must be the subject of a report to the Minister every five years. The report pertains to the advisability of revising the regulation and includes any information the Minister requires. It is accompanied, if warranted, by a draft regulation amending or replacing it.”;

(7) by inserting “, Native persons, persons who are members of visible minorities because of their race or the colour of their skin, and immigrants” after “women” in the last paragraph.

**68.** Section 123.3 of the Act is amended

(1) by striking out the first paragraph;

(2) by replacing “The Joint Committee on Construction or the Committee on vocational training, as the case may be,” in the third paragraph by “The Committee”.

**69.** Section 126.0.3 of the Act is repealed.

**70.** The Act is amended by inserting the following section after section 126.0.4:

“**126.0.5.** Every five years, in collaboration with the Commission, the Minister shall conduct or commission a study on developments in the Québec construction industry.”

#### AMENDING, TRANSITIONAL AND FINAL PROVISIONS

**71.** Section 72 of the Anti-Corruption Act (2011, chapter 17) is amended by adding the following sentence at the end of the first paragraph: “It may also, in the same manner and if warranted by the circumstances, extend a time limit set by section 69 or 70.”

**72.** The Labour Code (R.S.Q., chapter C-27) is amended, in paragraph 18 of Schedule 1,

(1) by inserting “, 27, 58.1” after “21”;

(2) by replacing “the third paragraph of section 93 and section 105” by “the second and third paragraphs of section 93, section 105 and subparagraph 8.7 of the first paragraph of section 123”.

**73.** Despite subparagraph 5 of the second paragraph of section 3.2 of the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20), as it reads on (*insert the date of coming into force of section 4*), the Government need not take expertise and experience profiles into account for the appointment of the first independent members.

**74.** Despite the second paragraph of section 3.3 of the Act respecting labour relations, vocational training and workforce management in the construction industry, the term of office of members other than the chair who are not replaced or reappointed ends with the creation of the first board of directors after the coming into force of section 4.

**75.** The term of office of the members of the Joint Committee on Construction is at an end.

**76.** The first government regulation made under each new provision of sections 32, 35.2 and 35.3 and subparagraphs 8.6 and 8.7 of the first paragraph of section 123 of the Act respecting labour relations, vocational training and workforce management in the construction industry is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1). Despite section 17 of that Act, it comes into force on the date of its publication in the *Gazette officielle du Québec*.

The first regulation made under subparagraph 8.6 of the first paragraph of section 123 of the Act respecting labour relations, vocational training and workforce management in the construction industry must, however, be examined by the competent committee of the National Assembly before it is adopted by the Government.

Prior to the examination under the second paragraph, the Minister of Labour forms a working committee made up, among others, of representatives of associations the Minister considers representative of the construction industry, the Commission de la construction du Québec and the Ministère du Travail, which assumes the leadership of the committee and the secretarial work for it. Within the time the Minister specifies, the committee must send a report containing recommendations on the standards to include in the regulation referred to in the second paragraph and any other matter the Minister submits to it.

**77.** A regulation made under subsection 1, 3 or 3.1 of section 92 of the Act respecting labour relations, vocational training and workforce management in the construction industry continues to apply until it is replaced by a regulation made under section 18.14.5 or 18.14.6 of that Act.

**78.** The provisions of section 93 of the Act respecting labour relations, vocational training and workforce management in the construction industry apply, as soon as they come into force, to applications pending.

**79.** The rules relating to the special compensation fund set out in the collective agreements made under the Act respecting labour relations, vocational training and workforce management in the construction industry and in force on 31 December 2011 continue to apply until the coming into force of a regulation under subparagraph 13.1 of the first paragraph of section 123.1 of that Act.

**80.** The rules relating to the training fund for the construction industry and the training plan for the residential sector set out in the collective agreements made under the Act respecting labour relations, vocational training and workforce management in the construction industry and in force on 31 December 2011 continue to apply until the coming into force of a regulation under subparagraph 13.2 of the first paragraph of section 123.1 of that Act.

**81.** The money making up the training fund for the construction industry established under the collective agreements of the institutional and commercial sector, the industrial sector, and the civil engineering and roads sector is transferred to the Training Fund for Employees in the Construction Industry established by section 93.6 of the Act respecting labour relations, vocational training and workforce management in the construction industry, and is credited to the component covering the institutional and commercial sector, the industrial sector, and the civil engineering and roads sector.

The records and other documents of the training fund for the construction industry established under the collective agreements of the institutional and commercial sector, the industrial sector, and the civil engineering and roads sector become records and documents of the Commission de la construction du Québec.

**82.** The money making up the fund established to finance the training plan for the residential sector under the residential sector collective agreement is transferred to the Training Fund for Employees in the Construction Industry established by section 93.6 of the Act respecting labour relations, vocational training and workforce management in the construction industry and is credited to the residential component.

The records and other documents of the training plan for the residential sector established under the residential sector collective agreement become records and documents of the Commission de la construction du Québec.

**83.** Any management agreement, cooperation agreement or other agreement entered into before 31 December 2011 between the Commission de la construction du Québec and the training fund for the construction industry or the management committee of the training plan for the residential sector concerning the training fund for the construction industry or the training plan for the residential sector established under the collective agreements of the construction industry end on 31 January 2012.

**84.** The money making up the special compensation fund established under the collective agreements made in accordance with the Act respecting labour relations, vocational training and workforce management in the construction industry is transferred to the Compensation Fund for Employees in the Construction Industry established by section 93.2 of that Act.

**85.** The first report required under the second paragraph of section 123.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry must be sent not later than 2 December 2013.

**86.** An association referred to in section 107.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry must, until that section comes into force, send to the Commission a report on any referral of one of its members to an employer.

The report must be sent once a week and contain the following information:

- (1) the name of the applicant employer, the date of the application, the number of persons required and the qualifications sought;
- (2) a copy of the list of referred candidates sent to the employer; and
- (3) any other information required by the Commission.

An association that fails to comply with this section is guilty of an offence and is liable, for each offence, to the penalties prescribed in section 119.0.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry.

**87.** The amendments made by this Act to the Act respecting labour relations, vocational training and workforce management in the construction industry do not affect the validity of the collective agreements made under that Act and in force on 2 December 2011.

**88.** The provisions of this Act come into force on 2 December 2011, except

(1) sections 3 to 5, 7, 8 insofar as it concerns the labour-referral service for the construction industry, 25 to 28, 44, 55 to 57 and 62, which come into force on 2 December 2012, unless their coming into force is set by the Government for an earlier date or dates;

(2) sections 8 and 51 insofar as they concern the Compensation Fund for Employees in the Construction Industry and the Training Fund for Employees in the Construction Industry, and sections 79 to 84, which come into force on 1 January 2012;

(3) section 36, which comes into force on 30 April 2013; and

(4) section 48 insofar as it concerns the employee's photo, which comes into force on the date to be set by the Government.