



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 142

(2017, chapter 9)

An Act to ensure the resumption of work in the construction industry and the settlement of disputes for the renewal of the collective agreements

Introduced 29 May 2017

Passed in principle 29 May 2017

Passed 30 May 2017

Assented to 30 May 2017

EXPLANATORY NOTES

The purpose of this Act is to end the current strikes in the construction industry in order to ensure that construction work is resumed.

The Act provides for the resumption of the work interrupted by the strikes and imposes obligations and prohibitions on the employees, representative associations, employers and employers' associations with regard to the resumption and continued performance of work.

The Act also provides for the maintenance of the conditions of employment in force on 30 April 2017 contained in the respective collective agreements for the institutional and commercial sector, the industrial sector, the residential sector and the civil engineering and roads sector until new collective agreements replacing them take effect and for a 1.8% wage rate increase as of the date on which work resumes.

To ensure the renewal of the collective agreement for each sector, the Act provides for a mediation period which is to be followed by arbitration if mediation fails.

Lastly, the Act prescribes civil and penal sanctions for any failure to comply with the obligations or contravention of the prohibitions it imposes.

Bill 142

AN ACT TO ENSURE THE RESUMPTION OF WORK IN THE CONSTRUCTION INDUSTRY AND THE SETTLEMENT OF DISPUTES FOR THE RENEWAL OF THE COLLECTIVE AGREEMENTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

PURPOSE

1. The purpose of this Act is to ensure the resumption of work in the sectors governed by the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20).

The purpose of this Act is also to ensure the settlement of disputes for the renewal of the collective agreements binding between the sector-based employers' associations and the representative associations governed by that Act.

DIVISION II

APPLICATION AND INTERPRETATION

2. This Act applies to the employers, employees and associations and to work in the institutional and commercial sector, the industrial sector, the residential sector and the civil engineering and roads sector governed by the Act respecting labour relations, vocational training and workforce management in the construction industry.

Unless the context indicates otherwise, the definitions provided in sections 1 and 1.1 of that Act apply to this Act.

DIVISION III

RESUMPTION OF WORK

§1. — *Employees and representative associations*

3. Employees must, as of 31 May 2017, report for work according to their regular work schedule and other applicable conditions of employment.

4. Employees must, as of 31 May 2017 and at their usual start time for work, perform all the duties attached to their respective functions, according to the applicable conditions of employment, without any stoppage, slowdown, reduction or degradation of their normal activities.

Employees cannot, as part of a concerted action, refuse to provide services to an employer.

5. A representative association, its officers and its representatives are prohibited from calling or continuing a strike or participating in any form of concerted action that involves a contravention of section 3 or 4 by employees the association represents.

6. A representative association must take the appropriate measures to induce the employees it represents to comply with sections 3 and 4 and not contravene sections 10 and 11.

It must, before the scheduled return to work on 31 May 2017, communicate the content of this Act publicly to the employees it represents and send an attestation that it has done so to the Minister.

§2. — *Employers and employers' associations*

7. Employers must, as of the employees' scheduled return to work on 31 May 2017, take the appropriate measures to ensure the resumption of work interrupted by the strike.

8. The employers' association and sector-based employers' associations are prohibited from declaring or continuing a lock-out or from participating in any form of concerted action that prevents employees from complying with the prescriptions of section 4.

9. The employers' association and sector-based employers' associations must take the appropriate measures to induce the employers they represent to comply with section 7 and not contravene sections 10 and 11.

They must, before the scheduled return to work on 31 May 2017, communicate the content of this Act publicly to the employers they represent and send an attestation that they have done so to the Minister.

§3. — *Prohibitions*

10. No one may, by omission or otherwise, in any manner prevent or impede the resumption of construction work or the carrying out of construction work by employees, or directly or indirectly contribute to slowing down, degrading or delaying the carrying out of such work.

11. No one may hinder a person's access to a job site to which the person has a right of access to perform his or her functions.

DIVISION IV

CONDITIONS OF EMPLOYMENT

12. Despite section 47 of the Act respecting labour relations, vocational training and workforce management in the construction industry, the conditions of employment in force on 30 April 2017 contained in the respective collective agreements for the institutional and commercial sector, the industrial sector, the residential sector and the civil engineering and roads sector apply, with the necessary modifications, until new collective agreements replacing them take effect.

However, the wage rates applicable to employees in force on 30 April 2017 are increased by 1.8% as of 31 May 2017.

In addition, the parties may at any time enter into an agreement on the matters listed in section 61.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry, in accordance with the third and fourth paragraphs of section 44 of that Act. Section 48 of that Act applies as if the agreement entered into were an amendment to the collective agreement in force on 30 April 2017 referred to in the first paragraph.

DIVISION V

MEDIATION

13. After consultation with the parties, the Minister appoints a mediator for each of the sectors referred to in section 2 to help the parties settle their dispute.

14. The parties are required to attend all meetings to which they are convened by the mediator.

15. The mediation on the renewal of the collective agreements is to end not later than 30 October 2017.

The mediator puts an end to the mediation period at the joint request of the parties of a sector who wish to refer their dispute to arbitration in accordance with Division VI.

16. The mediation also ends in a sector as soon as an agreement on what could become a collective agreement applicable to that sector is reached between the parties in accordance with the first paragraph of section 43.7, the first, second and third paragraphs of section 44 and sections 44.1 and 44.2 of the Act respecting labour relations, vocational training and workforce management in the construction industry.

The mediator records the agreement in a report and gives the report to each of the parties of the sector concerned and to the Minister.

A collective agreement made for a sector is binding on the parties until 30 April 2021 and takes effect in accordance with section 48 of that Act.

17. If there is no agreement at the expiry of the mediation period or at any time during that period if the mediator considers that the mediation has failed, the mediator gives the parties of the sector or sectors concerned a report specifying the matters on which there has been agreement as well as each party's position with respect to the matters which are still in dispute. The mediator gives a copy of the report to the Minister. The mediator also makes comments to the Minister, together with recommendations on the subjects referred to in section 23, including on the matters which must be submitted to arbitration in accordance with Division VI.

DIVISION VI

ARBITRATION

18. At the joint request of the parties of a sector under section 15 or on receipt by the Minister of a report from the mediator under section 17 to the effect that the mediation has failed, the Minister refers the dispute or disputes to arbitration and notifies the parties.

19. After consultation with the parties, the Minister determines the applicable mode of arbitration, whether by an individual arbitrator or by a council of arbitration composed of three members, including a chair, and specifies the mode determined in the notice sent under section 18.

20. Within 15 days of receiving the notice sent under section 18, the parties must agree on the choice of an arbitrator or the choice of the members and chair of the council of arbitration, as the case may be, and on the fees and expenses to which the arbitrator or members will be entitled. The parties must inform the Minister accordingly within that time.

If the parties fail to come to an agreement on all points within the time specified in the first paragraph, the Minister appoints the arbitrator or the members of the council of arbitration, including the chair, on the basis of a list drawn up by the Minister under section 77 of the Labour Code (chapter C-27). The Minister also determines the fees and expenses to which the arbitrator or members are entitled. The Minister informs the parties accordingly.

21. The Minister sends the arbitrator or council of arbitration a copy of the mediator's report.

22. The Minister may, at the joint request of the parties concerned, consent to having arbitration apply to more than one sector.

23. After recommendations are made by the mediator under section 17, the Minister may, within 15 days of sending the notice under section 18, determine by ministerial order

(1) the matters which must be submitted to arbitration, after having consulted with the parties;

(2) the arbitration method, which may, among other methods, consist in the best final offer method as assessed clause by clause or globally; and

(3) the criteria that the arbitrator or council of arbitration must examine to form the basis of the arbitrator's or council's decision, such as recognized clients' ability to pay, the conditions of employment and evolution of wage rates among comparable groups of positions in Québec and elsewhere in Canada, the maintenance of construction industry workers' purchasing power, and the balance between work organization flexibility and the constraints occasioned by flex time.

The arbitrator or council of arbitration decides on the arbitration method and on the criteria the arbitrator or council must examine to form the basis of the arbitrator's or council's decision if the Minister has not determined them pursuant to subparagraph 2 or 3 of the first paragraph.

Only the matters determined under subparagraph 1 of the first paragraph may be submitted to arbitration.

24. The arbitrator or council of arbitration is bound by the provisions of the ministerial order made under section 23.

25. Subject to section 45.0.2 of the Act respecting labour relations, vocational training and workforce management in the construction industry, section 76, the first paragraphs of sections 79 and 80 and sections 82 to 89, 91, 91.1, 93 and 139 to 140 of the Labour Code, as well as section 81 of that Code subject to the ministerial order made under section 23 of this Act, apply to the arbitration and in respect of the arbitrator, the council of arbitration and its members, with the necessary modifications.

26. The parties may, at any time, come to an agreement on any matter in dispute and the corresponding stipulations must be recorded in the arbitration award.

The arbitrator or council of arbitration may not amend such stipulations except for the purpose of making the modifications that are necessary to make the stipulations consistent with a clause of the award.

27. In the arbitration award, the arbitrator or council of arbitration records the stipulations relating to the matters submitted to arbitration in accordance with section 23, the stipulations relating to the other matters on which the parties came to an agreement in the course of mediation, and the renewal of

the stipulations relating to the other matters contained in each of the collective agreements expired on 30 April 2017.

28. The arbitrator or council of arbitration must render an award not later than 30 April 2018.

29. The arbitration award is binding on the parties until 30 April 2021 and may not have retroactive effect.

30. Arbitration fees and expenses are borne equally by the parties, that is, between the representative associations on one hand and the sector-based employers' association for the employers concerned and the employers' association, as applicable, on the other.

DIVISION VII

SANCTIONS

§1. — *Civil liability*

31. A representative association is liable for any injury caused by employees it represents during a contravention of section 3 or 4 unless it is established that the injury is not attributable to the contravention or that the contravention is not part of any concerted action.

Any person who suffers injury because of an act in contravention of section 3 or 4 may apply to the competent court to obtain reparation.

32. The employers' association and the sector-based employers' associations are liable for any injury caused by the employers they represent during a contravention of section 7 unless it is established that the injury is not attributable to the contravention.

Any person who suffers injury as a result of an act in contravention of section 7 may apply to the competent court to obtain reparation.

§2. — *Penal provisions*

33. Anyone who contravenes a provision of sections 3 to 11 is guilty of an offence and is liable, for each day or part of a day during which the offence continues, to a fine of

(1) \$100 to \$500 in the case of an employee or a natural person other than a person referred to in paragraph 2 or 3;

(2) \$7,000 to \$35,000 in the case of an officer, an employee or a representative of a representative association or of an association of employees affiliated with a representative association, or an officer or a representative of an employer, of the employers' association or of a sector-based employers' association; and

(3) \$25,000 to \$125,000 in the case of a representative association, an association of employees affiliated with a representative association, an employer, the employers' association or a sector-based employers' association.

34. Anyone who helps or, by abetment, advice, consent, authorization or command, induces a person to commit an offence under this Act is guilty of an offence.

A person who is found guilty under this section is liable to the same penalty as that prescribed for the offence the person helped or induced another person to commit.

DIVISION VIII

FINAL PROVISIONS

35. The Commission de la construction du Québec oversees the implementation of the provisions of this Act. For such purpose, it has the powers conferred on it by the Act respecting labour relations, vocational training and workforce management in the construction industry.

36. The Minister responsible for Labour is responsible for the administration of this Act.

37. This Act comes into force on 30 May 2017.