



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 152
(2018, chapter 12)

**An Act to amend various labour-related
legislative provisions mainly to give
effect to certain Charbonneau
Commission recommendations**

**Introduced 15 November 2017
Passed in principle 22 February 2018
Passed 31 May 2018
Assented to 31 May 2018**

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EXPLANATORY NOTES

The main purpose of this Act is to give effect to certain recommendations of the final report of the Commission d'enquête sur l'octroi et la gestion des contrats publics dans l'industrie de la construction by introducing amendments to the Act respecting labour relations, vocational training and workforce management in the construction industry and the Act respecting occupational health and safety.

Under the Act, public recognized clients are required to report all demonstrations of violence or intimidation in connection with the construction work they carry out or cause to be carried out to the Commission de la construction du Québec (Commission). The penal provision prohibiting the use of intimidation or threats is broadened to include any intimidating or threatening behaviour reasonably likely to disrupt activities on a job site.

New offences are added to the list of offences disqualifying a convicted person from leading or representing an employers' association or union association.

In addition, the prescription period applicable in penal matters is extended to three years from the date on which the prosecutor becomes aware of the commission of the offence but may not exceed seven years after the offence was committed. The Act also extends, from one to three years, the prescription period applicable to civil proceedings arising from a collective agreement or from the Act respecting labour relations, vocational training and workforce management in the construction industry.

The Act standardizes the rules concerning the documents the employers' associations and the union associations must provide to the Commission and the rules relating to the information those associations must file with the Commission and keep up to date, and introduces penal provisions for non-compliance with those rules.

The Commission's inspection powers are increased.

Immunity against civil proceedings and protection against reprisals is granted to any person who, in good faith, communicates information to the Commission concerning an act or omission that the person believes constitutes a violation or offence with respect to

the Act respecting labour relations, vocational training and workforce management in the construction industry or the regulations. Penal provisions are introduced for cases where persons take reprisals or where they provide information to the Commission that they know to be false or misleading.

The Act also places a limit on the number of terms, consecutive or not, that certain members of the board of directors of the Commission de la construction du Québec and certain members of the board of directors of the Commission des normes, de l'équité, de la santé et de la sécurité du travail may complete. It prohibits a person holding a management position within an employers' association or a union association from being a member of the board of directors of one of those bodies if that person is already a member of the other body's board of directors.

Lastly, the Act contains consequential, transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting labour standards (chapter N-1.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);
- Act respecting occupational health and safety (chapter S-2.1).

Bill 152

AN ACT TO AMEND VARIOUS LABOUR-RELATED LEGISLATIVE PROVISIONS MAINLY TO GIVE EFFECT TO CERTAIN CHARBONNEAU COMMISSION RECOMMENDATIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING LABOUR STANDARDS

1. Section 3.1 of the Act respecting labour standards (chapter N-1.1), amended by section 201 of chapter 27 of the statutes of 2017, is again amended by replacing “14” in the second paragraph by “15”.

2. Section 122 of the Act, amended by section 202 of chapter 27 of the statutes of 2017, is again amended by adding the following subparagraph at the end of the first paragraph:

“(15) on the ground that the employee has, in good faith, communicated information referred to in section 123.6 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) to the Commission de la construction du Québec or cooperated in an inquiry, verification or inspection carried out on the basis of such a communication.”

3. Section 140 of the Act, amended by section 203 of chapter 27 of the statutes of 2017, is again amended by replacing “, 13 and 14” in paragraph 6 by “and 13 to 15”.

ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING AND WORKFORCE MANAGEMENT IN THE CONSTRUCTION INDUSTRY

4. Section 3.3 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) is amended by replacing the second sentence of the third paragraph by the following sentence: “However, members other than the chair may not be reappointed more than three times, for a consecutive or non-consecutive term.”

5. The Act is amended by inserting the following section after section 3.8:

“3.8.1. A person holding a management position in an association listed or described in any of subparagraphs *a* to *c.2* of the first paragraph of section 1 may not be a member of both the board of directors of the Commission and that of the Commission des normes, de l'équité, de la santé et de la sécurité du travail.”

6. Section 7.1 of the Act is amended by adding the following subparagraph at the end of the first paragraph:

“(3) take photographs or make videos or sound recordings on a construction site and use them.”

7. Section 41.2 of the Act is amended

(1) by striking out the first paragraph;

(2) by replacing the introductory clause of the second paragraph by “The constitution and by-laws of every association listed in subparagraph *c* or *c.2* of the first paragraph of section 1 must, among other things, set out”.

8. Section 83 of the Act is amended by inserting the following paragraph after paragraph 2:

“(2.1) every employer who does not keep all or part of a document for the time prescribed under paragraph *a.1* of section 82;”.

9. Section 86 of the Act is amended by replacing “in the form” and “immediately forward the declaration to the Commission, in the manner determined by it” in the fourth paragraph of paragraph 1 of the second paragraph by “within 10 days of his election and in the form” and “forward the declaration to the Commission within 10 days of receiving it, in the manner determined by the Commission”, respectively.

10. The Act is amended by inserting the following section after section 86:

“86.1. Every association listed or described in any of subparagraphs *a* to *c* or *c.2* of the first paragraph of section 1 must file the following information with the Commission and keep it up to date:

(1) its name;

(2) the address of its head office and, if the head office is outside Québec, the address of its establishment in Québec;

(3) the name and address of its officers and of its representatives other than job-site stewards, the position held by each one and a statement that each of them complies with the conditions set out in section 26;

(4) the name and address of any union, federation, confederation, trades council or federation of such councils with which it is affiliated or with which it has entered into a service contract; and

(5) its legal status.

The association must also provide the Commission with a true copy of its constitution and by-laws or, if it is not endowed with legal personality, of the contract by which it is constituted.

The documents and information required under the first and second paragraphs must be sent to the Commission in the manner it specifies, along with a declaration of an officer attesting that they are true. Any modification to the documents and information must be sent to the Commission within 30 days of the modification.”

11. Section 95 of the Act is repealed.

12. Section 96 of the Act is amended by replacing the introductory clause of subsection 2 by “The constitution of a professional union representing construction employees as well as the contract for the constitution of a group of construction employees not constituted as a legal person must meet the following minimum standards:”.

13. Section 109.1 of the Act is amended by replacing “subsection 4 of section 122 shall be prescribed by one year” and “five” by “this Act are prescribed by three years” and “seven”, respectively.

14. Section 113 of the Act is amended by replacing “\$57 to \$199” by “\$199 to \$965”.

15. Section 113.1 of the Act is amended by replacing “to cause” by “that are reasonably likely to cause”.

16. Section 113.2 of the Act is amended

(1) by replacing “requires an employer to hire specific employees or a specific number of employees” in the first paragraph by “uses intimidation or threats that are reasonably likely to compel an employer to make a decision regarding workforce management in the construction industry or to prevent the employer from making such a decision, or otherwise imposes such a decision”;

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

“Any act listed or described in the second paragraph of section 101 constitutes a decision regarding workforce management.”

17. The Act is amended by inserting the following section after section 113.2:

“113.3. Any person who requires or imposes the payment of wages or benefits not reported in the monthly report referred to in subparagraph *b* of the first paragraph of section 82 or of any other benefit not provided for by a collective agreement, makes, receives or participates in such a payment, or incites a person to make such a payment is guilty of an offence and is liable to a fine of \$1,137 to \$11,370.”

18. The Act is amended by inserting the following section after section 113.3:

“113.4. Any person who offers, requires from or imposes on an employee, in consideration for hiring the latter, conditions of employment that are inferior to those provided for in a law, regulation or collective agreement is guilty of an offence and is liable to a fine of \$1,137 to \$11,370.”

19. Section 115.1 of the Act is amended by adding the following paragraph at the end:

“(4) any association that contravenes section 86.1.”

20. The Act is amended by inserting the following section after section 119.0.4:

“119.0.5. The following are guilty of an offence and liable to a fine of \$2,000 to \$20,000 in the case of a natural person and to a fine of \$10,000 to \$250,000 in other cases:

(1) any person who, when communicating information under section 123.5, provides information that the person knows to be false or misleading; and

(2) any person who contravenes section 123.7.

For any subsequent conviction, the fines are doubled.”

21. Section 119.11 of the Act is amended

(1) by replacing “113.2, 115, 119, 119.0.1” by “113.1, 113.2, 115, 119, 119.0.1, 119.0.3, 119.0.5”;

(2) by inserting “or from being a member of the Commission’s board of directors or of a committee established under this Act” after “representative association”.

22. Section 122 of the Act is amended

(1) by replacing the introductory clause of subsection 2 by “Except where section 123.7 applies, every employer who, without valid reason, proof of which lies on him, dismisses, suspends or lays off an employee or threatens to do so”;

- (2) by inserting “or section 123.7” after “subsection 2” in subsection 3;
- (3) by striking out both occurrences of “knowingly” in subsection 4;
- (4) by replacing “\$3,638” in subparagraph *b* of subsection 4 by “\$5,685”.

23. The Act is amended by inserting the following section after section 123.4.4:

“123.4.5. A public body listed or described in section 4 or 7 of the Act respecting contracting by public bodies (chapter C-65.1) or a municipal body that carries out or causes to be carried out construction work within the meaning of this Act must report to the Commission all demonstrations of violence, threats or intimidation in connection with the carrying out of that work that are brought to its attention.

For the purposes of this section,

(1) “municipal body” means a municipality, metropolitan community, intermunicipal board, public transit authority or northern village, the Kativik Regional Government, a mixed enterprise company or any other body that, under the law, is subject to sections 573 to 573.3.4 of the Cities and Towns Act (chapter C-19), articles 934 to 938.4 of the Municipal Code of Québec (chapter C-27.1), sections 106 to 118.2 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01), sections 99 to 111.2 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02) or sections 92.1 to 108.2 of the Act respecting public transit authorities (chapter S-30.01); and

(2) “mixed enterprise company” means such a company established under the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01) or any similar body established under any of chapters 56, 61 and 69 of the statutes of 1994, chapter 84 of the statutes of 1995 and chapter 47 of the statutes of 2004.”

24. Section 123.5 of the Act is replaced by the following:

“CHAPTER XIII.2

“IMMUNITY AND PROTECTION AGAINST REPRISALS

“123.5. Any person may communicate to the Commission information concerning an act or omission that the person believes constitutes a violation or offence with respect to this Act or the regulations.

The first paragraph applies despite the provisions on the communication of information provided for in the Act respecting the protection of personal information in the private sector (chapter P-39.1) and the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), except those provided for in section 33 of the latter Act. It also applies despite any other communication restrictions under a law and any duty of confidentiality or loyalty that may be binding on the person, including toward his employer or, if applicable, his client.

However, the lifting of professional secrecy authorized under this section does not apply to professional secrecy between a lawyer or a notary and a client.

“123.6. Any person who, in good faith, communicates to the Commission information referred to in section 123.5 or any other information required or authorized to be communicated under this Act or the regulations does not incur any civil liability for doing so.

“123.7. It is forbidden to take a reprisal against a person on the ground that the person has, in good faith, communicated information referred to in section 123.6 or cooperated in an inquiry, verification or inspection carried out on the basis of such a communication.

It is also forbidden to threaten to take a reprisal against a person so that the person will abstain from communicating information to the Commission or from cooperating in an inquiry, verification or inspection carried out on the basis of such a communication.

The demotion, suspension, dismissal or transfer of a person having communicated information or any measure that adversely affects such a person's employment or conditions of employment is presumed to be a reprisal.

“123.8. The Commission shall take the measures necessary to ensure that any information communicated to it, including the identity of the person who communicated it, remains confidential.

Despite sections 9, 83 and 89 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no one may have access to or rectify information communicated to the Commission.”

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

25. Section 144 of the Act respecting occupational health and safety (chapter S-2.1) is amended

(1) by replacing “two” in the first sentence by “three”;

(2) by replacing the second sentence by the following sentence: “They may be reappointed only three times, for consecutive or non-consecutive terms, in accordance with the appointment procedure set out in section 141.”

26. The Act is amended by inserting the following section after section 153:

“153.1. A person holding a management position in an employers’ association or a union association may not be a member of both the board of directors of the Commission and that of the Commission de la construction du Québec.”

TRANSITIONAL AND FINAL PROVISIONS

27. Despite section 4, any person, other than the chair, who is a member of the board of directors of the Commission de la construction du Québec on the date of coming into force of that section remains in office. Such a member is considered to be starting a first term on that date.

Such a member may not be reappointed more than three times, for consecutive or non-consecutive terms.

28. Despite section 25, any person, other than the chair of the board of directors and chief executive officer, who is a member of the board of directors of the Commission des normes, de l’équité, de la santé et de la sécurité du travail on the date of coming into force of that section remains in office. Such a member is considered to be starting a first term on that date.

Such a member may not be reappointed more than three times, for consecutive or non-consecutive terms.

29. The provisions of this Act come into force on the date or dates to be set by the Government, except section 8, which comes into force on the date of coming into force of section 165 of chapter 16 of the statutes of 2013.