



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 53

**An Act to update the Act respecting
collective agreement decrees mainly to
facilitate its application and enhance the
transparency and accountability of
parity committees**

Introduction

**Introduced by
Mr. Sam Hamad
Minister of Labour, Employment and Social Solidarity**

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EXPLANATORY NOTES

This bill makes changes to the Act respecting collective agreement decrees, mainly concerning the amending of such decrees, the procedure for making by-laws under that Act, parity committee transparency and accountability, proceedings before the Commission des relations du travail, and the amounts of fines for offences under that Act.

Under the bill, applications for amendments to a collective agreement decree may be filed at any time, including after negotiations among the parity committee members with respect to conditions of employment, and a decree may include provisions to make a certificate of qualification mandatory or to ensure the effective enforcement of the decree.

As regards regulations, the Minister is given the responsibility for approving, by order, the regulations of parity committees and any amendments made to collective agreement decrees. The Minister is also granted the power to amend or repeal parity committee regulations. The Government may make a regulation to define the terms used in the Act or further clarify the definitions in the Act.

As regards transparency and accountability, the bill determines such aspects as the information that must be posted on a parity committee's website, and allows the Minister to establish directives for sound committee governance and appoint observers to attend committee sittings. Complaints may be filed with the Commission des relations du travail for any discriminatory acts on the part of a parity committee.

The Commission des relations du travail is made responsible for deciding questions relating to the coverage of a decree made under the Act respecting collective agreement decrees.

The amounts of the fines that may be imposed for offences under the Act respecting collective agreement decrees are updated and certain provisions are clarified to facilitate their application.

Lastly, the Decree respecting hairdressers in the Outaouais region is repealed.

LEGISLATION AMENDED BY THIS BILL:

- Labour Code (chapter C-27);
- Act respecting collective agreement decrees (chapter D-2);
- Act to amend the Act respecting collective agreement decrees (1996, chapter 71).

DECREE REPEALED BY THIS BILL:

- Decree respecting hairdressers in the Outaouais region (chapter D-2, r. 4).

Bill 53

AN ACT TO UPDATE THE ACT RESPECTING COLLECTIVE AGREEMENT DECREES MAINLY TO FACILITATE ITS APPLICATION AND ENHANCE THE TRANSPARENCY AND ACCOUNTABILITY OF PARITY COMMITTEES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING COLLECTIVE AGREEMENT DECREES

1. Section 1 of the Act respecting collective agreement decrees (chapter D-2) is amended by adding the following paragraph at the end:

“The Government may, for the purposes of this Act and the decrees and regulations made under it, make a regulation to define words and expressions used in the Act, decrees and regulations or to further clarify the definitions in this section.”

2. The Act is amended by inserting the following sections after section 6:

“**6.0.1.** The parties to the agreement may, at any time, apply for amendments to a decree.

“**6.0.2.** The committee may also apply for amendments to a decree, in particular after having assumed responsibility for negotiating, among its members, changes to the conditions of employment determined in the decree.

In the latter case, the committee shall inform the employees and professional employers by a notice published on its website. The committee shall also inform the Minister, who may, at any time, require a report on the progress of the negotiations.

At any stage of the negotiations on changes to the conditions of employment, the committee may request the Minister to appoint a conciliation officer to help it reach an agreement on the changes to be made to the conditions of employment determined in the decree. Sections 55 to 57 of the Labour Code (chapter C-27) apply, with the necessary modifications.”

3. Section 6.2 of the Act is amended

(1) by replacing “the first paragraph of section 6.1, he” in the first paragraph by “section 6.0.1 or 6.0.2, the Minister”;

(2) by replacing the last sentence of the first paragraph by the following sentence: “The Minister may also, at any time and if the Minister considers it appropriate, revise any provision of the decree on the same basis and, in particular, after having reassessed the relevance of the scope of application of the provision.”;

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

“The Minister may, for such purposes, require any information or document the Minister considers necessary.”

4. Section 6.3 of the Act is replaced by the following sections:

“6.3. Before refusing an application for amendment or amending a decree under section 6.2, the Minister shall inform the applicant in writing of the intended decision, including reasons, and give the applicant an opportunity to submit observations and produce documents.

“6.4. Any amendment to a decree is made by an order of the Minister. However, if a change in the field of activity defined as the scope of the decree broadens the nature of the work covered by the decree or extends the area in which the decree is applicable, the Minister must consult any other minister who the Minister believes might be concerned in the matter.”

5. Section 7 of the Act is amended by inserting “or an order amending a decree” after “decree”.

6. Section 8 of the Act is replaced by the following section:

“8. The Minister may recommend to the Government that a decree be repealed if the Minister considers that the criteria in section 6 are no longer satisfied.

However, before recommending the repeal of the decree, the Minister shall inform the committee of the intended recommendation, including reasons, and give the committee an opportunity to submit observations and produce documents. The Minister shall also, before recommending the repeal of the decree, consult with the Comité consultatif du travail et de la main-d’œuvre established under section 12.1 of the Act respecting the Ministère du Travail (chapter M-32.2) and specify the time limit for submitting an opinion.”

7. Section 9 of the Act is amended by adding the following paragraphs at the end:

“(3) rendering obligatory a certificate of qualification for a trade or vocation for which a program has been established under section 29.1 of the Act respecting workforce vocational training and qualification (chapter F-5); or

“(4) ensuring the effective carrying out of its provisions by the committee, in matters other than those provided for in section 18 or 22.2.”

8. Section 11.3 of the Act is amended by replacing “an arbitrator” by “the Commission des relations du travail”.

9. Section 11.4 of the Act is repealed.

10. Section 11.5 of the Act is amended

(1) by replacing “The arbitrator” in the first paragraph by “The Commission des relations du travail”;

(2) by replacing the second paragraph by the following paragraph:

“In rendering its decision, the Commission may, subject to the third paragraph, take into account the agreements made and the decisions rendered in similar circumstances.”;

(3) by replacing “the arbitrator must render his award” and “he may consider” in the third paragraph by “the Commission must render its decision” and “the Commission may consider”, respectively and with the necessary modifications, including striking out “for arbitration”.

11. Sections 11.6 and 11.7 of the Act are repealed.

12. Section 11.8 of the Act is amended by replacing “an arbitration award” by “a decision of the Commission des relations du travail”.

13. Section 11.9 of the Act is repealed.

14. The Act is amended by inserting the following section after section 11.9:

“**11.10.** The Commission des relations du travail is also responsible for hearing and settling any conflict relating to a decree’s coverage, on the application of any interested party.”

15. Section 17 of the Act is amended by adding the following paragraph at the end:

“The Minister may also appoint an observer to observe the committee for the term determined by the Minister. In such a case, the committee shall convene the observer to its meetings. The observer, whose travelling and living expenses determined by the Minister are borne by the committee, shall participate in the meetings of the committee, with no voting rights. The observer shall report to the Minister on the observer’s activities and observations in the manner determined by the Minister.”

16. Section 18 of the Act is amended by inserting “the attendance allowance to which its members are entitled in addition to their actual travelling expenses,” after “replacing,” in the first paragraph.

17. Section 19 of the Act is amended

(1) by replacing “by the Government” in the first paragraph by “by order of the Minister”;

(2) by adding the following sentence at the end of the third paragraph: “From the time of publication, the committee is a legal person.”;

(3) by replacing “by the Government” in the fifth paragraph by “by order of the Minister”.

18. Section 20 of the Act is amended

(1) by replacing “The Government, after consultation with the Comité consultatif du travail et de la main-d’œuvre established under section 12.1 of the Act respecting the Ministère du Travail (chapter M-32.2), may” in the first paragraph by “The Minister may, by order and after consulting with the Comité consultatif du travail et de la main-d’œuvre,”;

(2) by adding the following sentence at the end of the first paragraph: “The opinion of the Comité consultatif du travail et de la main-d’œuvre must be given within the time specified by the Minister.”

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

“20.1. The Minister may issue directives to promote good governance of the committees.

A directive binds the committees as of the date set in it.”

20. Section 21 of the Act is replaced by the following section:

“21. The Minister may, by order, repeal or amend any parity committee regulation in force or any provision contained in such a regulation.

However, before repealing or amending a committee regulation, the Minister shall inform the committee of the intended decision, including reasons, and give the committee an opportunity to submit observations and produce documents. The Minister shall also, before repealing such a regulation, consult with the Comité consultatif du travail et de la main-d’œuvre and specify the time limit for submitting an opinion.

The regulation or, as applicable, the provision ceases to be in force or is amended from the publication of a notice to that effect in the *Gazette officielle du Québec*.”

21. Section 22 of the Act is amended

(1) by replacing the first paragraph and the portion of the second paragraph before subparagraph *a* by the following:

“**22.** In exercising its functions, a committee may”;

(2) by striking out the second, third and fourth paragraphs of subparagraph *e* of the second paragraph;

(3) by striking out subparagraphs *g*, *h*, *i*, *k*, *l* and *n* to *r* of the second paragraph and the third paragraph.

22. The Act is amended by inserting the following sections after section 22:

“**22.1.** The general manager, the secretary and any inspector may, as of right and at any reasonable time, enter any place of work or establishment of any employer, examine the registration system, the compulsory register and the pay-list of any employer and take copies or extracts of them, verify as regards any employer and any employee the wage rate, duration of work, apprenticeship system and compliance with the other provisions of the decree, require, even under oath and privately, from any employer or employee, even at the place of work, all information considered necessary, and, such information having been written down, require the signature of the person concerned.

The general manager, the secretary or an inspector shall, on request, provide identification and produce a certificate of authority issued by the committee.

The general manager, the secretary or an inspector may also require the production of any document referred to in the first paragraph or any document relating to the application of this Act, a decree or a regulation, make a copy of that document and certify it as a true copy of the original. The copy is admissible as evidence and has the same probative force as the original.

“**22.2.** A committee may, by regulation,

(1) render obligatory for any professional employer a system of registration for any work that the employer controls, the keeping of a register in which is shown the prescribed information considered useful for the application of the decree, and the filing of a monthly report containing some or all of the information, in the manner prescribed by the committee;

(2) prescribe the contribution that must be paid by a professional employer or an employee for the application of the decree, which contribution must not exceed the percentage set by order of the Minister, and oblige a professional employer to collect and pay to the committee, in the prescribed manner, the contribution required from employees;

(3) prescribe the contribution that must be paid by an artisan covered by the decree and the procedure for payment;

(4) prescribe the contribution that must be paid by a professional employer and an employee to the workforce skills development committee, which contribution must not exceed the percentage set by order of the Minister, as well as the procedure for payment, and oblige a professional employer to withhold the employees' contribution from their salary and pay it to the committee;

(5) render obligatory the certificate of classification for employees exempted from the certificate of vocational qualification issued under the Act respecting workforce vocational training and qualification (chapter F-5);

(6) determine, for the administration of the funds provided for by this Act, the sums that it may take out of the funds kept in trust; and

(7) set the fees payable for using services offered by the workforce skills development committee and determine exemptions.

A regulation of the committee is approved by order of the Minister, with or without amendment.

“22.3. Every committee shall post on its website:

(1) the name and professional address of each of its members and the name of the association they represent;

(2) an updated version of the regulations made under this Act;

(3) any directive that is applicable to the committee under section 20.1;

(4) any application submitted to the Minister for the amendment of a regulation;

(5) the text of any draft regulation published as such in the *Gazette officielle du Québec*, and the notice of publication;

(6) the text of any regulation approved within the last six months, accompanied by the ministerial order providing for its coming into force;

(7) the most recent version of the annual report, audited financial statements and budget estimates transmitted to the Minister under section 23;

(8) the agenda of the committee meetings of the last 12 months; and

(9) any other information determined by order of the Minister.”

23. Section 23 of the Act is amended by inserting the following paragraph after the first paragraph:

“The annual budgetary estimates and the audited financial statements must present separately the revenues and expenditures relating to workforce development, if any.”

24. The Act is amended by inserting the following section after section 24:

“**24.1.** The Minister may, by order, determine a review process for the decisions made by the committee under section 24.”

25. Section 28.2 of the Act is amended by replacing “The Government may, by regulation,” by “The Minister may, by order,”.

26. Section 30 of the Act is amended by replacing “\$200 to \$500” and “\$500 to \$3,000” by “\$600 to \$1,200” and “\$1,200 to \$6,000”, respectively.

27. The Act is amended by inserting the following section after section 31:

“**31.1.** In exercising any function provided for in this Act, the committee must not act in bad faith or in an arbitrary or discriminatory manner or exhibit gross negligence towards employees and employers that are, or may be, covered by a decree.

If an employee or an employer is of the opinion that the committee has contravened the first paragraph, the employee or employer may, within six months, file a complaint with the Commission des relations du travail and request it to render any decision it considers appropriate.”

28. Section 32 of the Act is amended by replacing “not exceeding \$25” by “of \$100 to \$300 and, in the case of a second or subsequent conviction, to a fine of \$200 to \$600”.

29. Section 33 of the Act is amended

(1) by replacing “in subparagraph *e* of section 22” by “in section 22.1”;

(2) by replacing “in said paragraph” by “in that section”;

(3) by replacing “\$200 to \$500” and “\$500 to \$3,000” by “\$600 to \$1,200” and “\$1,200 to \$6,000”, respectively.

30. Section 34 of the Act is amended by replacing “of not less than \$200 but not exceeding \$500 for the first offence, and to a fine of not less than \$500 but not exceeding \$3,000 in the case of a second or subsequent conviction” by “of \$600 to \$1,200 and, in the case of a second or subsequent conviction, to a fine of \$1,200 to \$6,000”.

31. Sections 35 and 36 of the Act are amended by replacing “\$50 to \$200” and “\$200 to \$500” by “\$300 to \$500” and “\$600 to \$1,200”, respectively.

32. Section 37 of the Act is amended by replacing “\$100” and “\$1,000” by “\$800” and “\$7,000”, respectively.

33. Section 37.1 of the Act is amended by replacing “\$500 to \$5,000” and “\$1,000 to \$10,000” by “\$700 to \$7,000” and “\$1,500 to \$15,000”, respectively.

34. Section 38 of the Act is amended by replacing “\$50 to \$200” and “\$200 to \$500” by “\$100 to \$1,200” and “\$1,200 to \$6,000”, respectively.

35. The Act is amended by inserting the following section after section 39:

“39.0.1. A fine under this Act is indexed annually according to the percentage increase in the average of the Consumer Price Index for Canada published by Statistics Canada under the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19), for the 12 months of the preceding year in relation to the 12 months of the year preceding that year.

The resulting amount is increased to the nearest dollar if it contains decimals equal to or greater than 50; the amount is reduced to the nearest dollar if it contains decimals lower than 50.

The Minister shall publish the results of any indexation carried out under this section in the *Gazette officielle du Québec*.”

36. Section 46 of the Act is amended by striking out “net” in the first paragraph.

OTHER AMENDING PROVISIONS

LABOUR CODE

37. Schedule I to the Labour Code (chapter C-27) is amended by replacing paragraph 5 by the following paragraph:

“(5) sections 11.5 and 11.10, the first paragraph of section 30.1 and the first paragraph of section 31.1 of the Act respecting collective agreement decrees (chapter D-2);”.

ACT TO AMEND THE ACT RESPECTING COLLECTIVE AGREEMENT DECREES

38. Section 39 of the Act to amend the Act respecting collective agreement decrees (1996, chapter 71) is repealed.

DECREE RESPECTING HAIRDRESSERS IN THE OUTAOUAIS REGION

39. The Decree respecting hairdressers in the Outaouais region (chapter D-2, r. 4) and all the regulations made under that decree are repealed.

TRANSITIONAL AND FINAL PROVISIONS

40. This Act applies to any application for amendment to a decree submitted to the Minister before (*insert the date of assent to this Act*).

41. Section 11.10 of the Act respecting collective agreement decrees (chapter D-2), as enacted by section 14, does not apply to proceedings before a court of law instituted before (*insert the date of assent to this Act*).

42. Sections 11.3 to 11.9 of the Act respecting collective agreement decrees, as they read on (*insert the date that precedes the date of assent to this Act*), continue to apply to an arbitration in progress on that date.

43. A regulation made under any of subparagraphs *g, h, i, l, n* and *o* of the second paragraph of section 22 of the Act respecting collective agreement decrees, as they read on (*insert the date that precedes the date of assent to this Act*), is deemed to have been made under the corresponding provision of section 18 or 22.2 of that Act, as amended and enacted by sections 16 and 22, respectively.

44. Until the coming into force of an order provided for in paragraph 2 or 4 of section 22.2 of the Act respecting collective agreement decrees, as enacted by section 22, the maximum percentage of the contribution that may be required is 1/2% of the remuneration of an employee and 1/2% of the pay-list of a professional employer.

45. This Act comes into force on (*insert the date of assent to this Act*), except for section 22 as regards section 22.3 of the Act respecting collective agreement decrees, which comes into force on (*insert the date that is six months after the date of assent to this Act*).

