



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 17

**An Act to provide for the
implementation of a special plan
concerning employment injuries and
occupational health and safety**

Introduction

**Introduced by
Mr. Geoffrey Kelley
Minister responsible for Native Affairs**

**Québec Official Publisher
2011**

EXPLANATORY NOTES

The purpose of this bill is to implement an agreement on employment injuries and occupational health and safety between the Gouvernement du Québec and the Mohawks of Kahnawake by providing that a special plan will apply to workers who are domiciled or work in the territory defined in the bill in accordance with the agreement.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

Bill 17

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF A SPECIAL PLAN CONCERNING EMPLOYMENT INJURIES AND OCCUPATIONAL HEALTH AND SAFETY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

1. The Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by inserting the following subdivision after section 24:

“§4. — *Special plan*

“**24.1.** The purpose of this subdivision is the implementation of any agreement on employment injuries and occupational health and safety between the Government and the Mohawks of Kahnawake represented by the Mohawk Council of Kahnawake.

“**24.2.** A special plan established by the Mohawks of Kahnawake to provide compensation for employment injuries and the consequences they entail for beneficiaries is substituted for the general plan established under this Act as of the date set by the Government after it has deemed that the special plan is similar to the general plan. Thus, the provisions of the special plan take precedence over those of this Act and the regulations, except the provisions of this subdivision and, with the necessary modifications, sections 2 to 4 and 438 to 442 and any other provision the Government may determine by regulation.

Any amendment to the special plan comes into force on the date set by the Government after it has deemed that the plan so amended remains similar to the general plan.

“**24.3.** The special plan applies to workers who suffer an industrial accident or contract an occupational disease on any of the following lands or sites:

(1) all lands contained within the area commonly known as Kahnawake Indian Reserve No. 14;

(2) the construction sites on the Honoré-Mercier Bridge linking the shores of the St. Lawrence River; and

(3) should the case arise,

(a) any lands added to the lands identified in subparagraph 1;

(b) any lands set apart for the use and benefit of the Mohawks of Kahnawake in accordance with section 36 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

(c) any public lands placed under the management or administration of the Mohawks of Kahnawake ; and

(d) following an agreement with the communities concerned, all lands contained within the area commonly known as Doncaster Indian Reserve No. 17 and any lands added to those lands.

In the cases mentioned in subparagraph 3 of the first paragraph, the Government shall publish, in the *Gazette officielle du Québec*, a notice of the date on which the contingency arose.

“24.4. A worker assigned to work outside his or her usual place of work, on a project whose duration does not exceed five consecutive working days, does not cease to be covered by the plan applicable at his or her usual place of work.

“24.5. Despite section 24.3, workers not domiciled on lands covered by the special plan who suffer an industrial accident or contract an occupational disease on a land or site covered by the special plan may opt to benefit from the provisions of the general plan by filing a claim with the Commission.

Workers domiciled on such lands who suffer an industrial accident or contract an occupational disease outside the lands or sites covered by the special plan may opt to benefit from the provisions of the special plan by filing a claim with the entity entrusted with the administration of the special plan.

The option exercised by the worker upon filing the claim is irrevocable and continues to apply in the case of a recurrence, relapse or aggravation.

The entity responsible for the plan for which a worker has opted shall be reimbursed for its costs relating to the claim by the entity responsible for the plan that would have otherwise applied.

“24.6. Sections 24.3 to 24.5 do not apply to

(1) persons covered by an interprovincial or international agreement entered into by the Commission or the Government;

(2) persons covered by an agreement under any of sections 15 to 17, unless a similar agreement is entered into by the entity entrusted with the administration of the special plan; or

(3) any other person the Government may determine by regulation.

“24.7. The Commission and the entity entrusted with the administration of the special plan shall enter into any agreement to facilitate the carrying out of this subdivision. Such an agreement must, among other things, determine the guarantees required for and the terms and conditions applicable to the reimbursement provided for in section 24.5.

“24.8. In any other Act or statutory instrument, unless otherwise indicated by the context or otherwise provided by government regulation, a reference to this Act or the regulations is also a reference, with the necessary modifications, to the provisions of the special plan. Among other modifications, the entity entrusted with the administration of the special plan replaces the Commission, except in provisions concerning the review or contestation of a decision taken by the Commission and in provisions providing a remedy before the Commission, which are not applicable.

The Government may, by regulation, take any other necessary measures to carry out this subdivision, such as providing for any modifications to be applied to an existing Act or statutory instrument.

“24.9. Any regulation made under section 24.2, 24.6 or 24.8 requires the prior concurrence of the Mohawks of Kahnawake.

“24.10. The Minister shall post the special plan on the department’s website not later than the date of coming into force of the special plan and, should the special plan cease to have effect, leave it posted for five years after its date of cessation of effect.

“24.11. Should the initial agreement and any amendments be terminated, sections 24.1 to 24.9 cease to have effect as of the date of termination. In that case, the Government may, by regulation, take any necessary transitional measures.

“24.12. A regulation under this subdivision is not subject to the publication requirement set out in section 8 of the Regulations Act (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* or any later date set in the regulation. However, after publication and if the regulation so provides, it may apply from a date not prior to the date of coming into force of the special plan or, in the case of a regulation under section 24.11, not prior to the date on which the special plan ceases to have effect.”

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

2. The Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by inserting the following before section 2:

“DIVISION I

“GENERAL PROVISIONS”.

3. The Act is amended by inserting the following division after section 8.1:

“DIVISION II

“SPECIAL PLAN

“8.2. The purpose of this division is the implementation of any agreement on employment injuries and occupational health and safety between the Government and the Mohawks of Kahnawake represented by the Mohawk Council of Kahnawake.

“8.3. A special plan established by the Mohawks of Kahnawake to eliminate dangers to workers’ health, safety and well-being at their source is substituted for the general plan established under this Act as of the date set by the Government after it has deemed that the special plan is similar to the general plan. Thus, the provisions of the special plan take precedence over those of this Act and the regulations, except the provisions of this division and, with the necessary modifications, sections 1 and 3 to 6 and any other provision the Government may determine by regulation.

Any amendment to the special plan comes into force on the date set by the Government after it has deemed that the plan so amended remains similar to the general plan.

“8.4. The special plan applies to any work carried out on any of the following lands or sites:

(1) all lands contained within the area commonly known as Kahnawake Indian Reserve No. 14;

(2) the construction sites on the Honoré-Mercier Bridge linking the shores of the St. Lawrence River; and

(3) should the case arise,

(a) any lands added to the lands identified in subparagraph 1;

(b) any lands set apart for the use and benefit of the Mohawks of Kahnawake in accordance with section 36 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

(c) any public lands placed under the management or administration of the Mohawks of Kahnawake; and

(d) following an agreement with the communities concerned, all lands contained within the area commonly known as Doncaster Indian Reserve No. 17 and any lands added to those lands.

In the cases mentioned in subparagraph 3 of the first paragraph, the Government shall publish, in the *Gazette officielle du Québec*, a notice of the date on which the contingency arose.

“8.5. Despite section 8.4, pregnant or breast-feeding workers not domiciled on lands covered by the special plan and working on a land or site covered by the special plan may opt to benefit from the protective reassignment measures for pregnant women under the general plan by filing an application with the Commission.

Pregnant or breast-feeding workers domiciled on such lands and working outside the lands or sites covered by the special plan may opt to benefit from the protective reassignment measures for pregnant women under the special plan by filing an application with the entity entrusted with the administration of the special plan.

The option exercised by the worker upon filing the application is irrevocable.

The entity responsible for the plan for which a worker has opted shall be reimbursed for its costs relating to the application by the entity responsible for the plan that would have otherwise applied.

“8.6. The Commission and the entity entrusted with the administration of the special plan shall enter into any agreement to facilitate the carrying out of this division. Such an agreement must, among other things, determine the guarantees required for and the terms and conditions applicable to the reimbursement provided for in section 8.5.

“8.7. In any other Act or statutory instrument, unless otherwise indicated by the context or otherwise provided by government regulation, a reference to this Act or the regulations is also a reference, with the necessary modifications, to the provisions of the special plan. Among other modifications, the entity entrusted with the administration of the special plan replaces the Commission, except in provisions concerning the review or contestation of a decision taken by the Commission and in provisions providing a remedy before the Commission, which are not applicable.

The Government may, by regulation, take any other necessary measures to carry out this division, such as providing for any modifications to be applied to an existing Act or statutory instrument.

“8.8. Any regulation made under section 8.3 or 8.7 requires the prior concurrence of the Mohawks of Kahnawake.

“8.9. The Minister shall post the special plan on the department’s website not later than the date of coming into force of the special plan and, should the special plan cease to have effect, leave it posted for five years after its date of cessation of effect.

“8.10. Should the initial agreement and any amendments be terminated, sections 8.2 to 8.8 cease to have effect as of the date of termination. In that case, the Government may, by regulation, take any necessary transitional measures.

“8.11. A regulation under this division is not subject to the publication requirement set out in section 8 of the Regulations Act (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* or any later date set in the regulation. However, after publication and if the regulation so provides, it may apply from a date not prior to the date of coming into force of the special plan or, in the case of a regulation under section 8.10, not prior to the date on which the special plan ceases to have effect.”

FINAL PROVISION

4. This Act comes into force on (*insert the date of assent of this Act*).