



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 60

**An Act mainly to modernize the
occupational health and safety plan and
extend its application to domestics**

Introduction

**Introduced by
Madam Lise Thériault
Minister of Labour**

**Québec Official Publisher
2012**

EXPLANATORY NOTES

The main purpose of this bill is to modernize the occupational health and safety plan as regards the prevention of, and the provision of compensation for, employment injuries. The plan is extended to cover domestics, and new governance rules for the Commission de la santé et de la sécurité du travail are introduced.

Certain employers that run two or more establishments are given the option of establishing a single prevention program for all of them and, if they do, of setting up a single health and safety committee. Assessment discounts are introduced as financial incentives to encourage prevention efforts.

The Commission is given the power to establish occupational health priorities. The health system's role in occupational health matters is clarified through adjustments to the powers and obligations of the public health director that reflect the fact that each employer is responsible for developing an establishment-specific occupational health program in collaboration with the physician in charge of the establishment.

The Commission is required to communicate to the Régie du bâtiment du Québec any information relating to a conviction for an offence under the Act respecting occupational health and safety so that the Régie can enforce the provisions of the Building Act, whether in connection with the issue, amendment, suspension or cancellation of a licence.

With respect to the provision of compensation for employment injuries, the Commission is conferred the regulatory power to determine conditions and monetary limits for medical aid, including medical aid in the form of medicines. In addition, the range of measures that can be taken by the Commission and by employers to facilitate the reinstatement of workers who have suffered an employment injury is expanded.

Changes are made as to the content and submission schedule of some medical reports. When a worker's employment injury is consolidated, the Bureau d'évaluation médicale is required to provide an opinion on the existence and degree of any permanent physical

or mental impairment and on the existence and assessment of any functional disability, unless such an opinion cannot be formed for medical reasons.

The occupational health and safety plan is extended to automatically cover all domestics, except those working as such sporadically or for a short period of time. However, the latter may register with the Commission to be entitled, should they suffer an employment injury, to the benefits provided for by law for workers within the meaning of the Act respecting industrial accidents and occupational diseases.

As regards the Commission's governance, the bill revisits the composition of the board of directors to include seats for two government-appointed independent members. The board of directors is required to form a governance and ethics committee and an audit committee. Other provisions of the bill relate to the protection of board members if sued in the exercise of their functions, to the Commission's annual report and to the Commission's internal by-laws.

The Commission is allowed to communicate to the Régie du bâtiment du Québec and the Commission de la construction du Québec any information that is necessary for the purposes of the Building Act and the Act respecting labour relations, vocational training and workforce management in the construction industry.

The Minister is required to report to the Government every five years on the carrying out of the Act respecting occupational health and safety and the Act respecting industrial accidents and occupational diseases, and on the advisability of maintaining them in force or amending them.

Amendments are made to the Code of Penal Procedure as regards the rules and sentences applicable to law-breaking partnerships.

Lastly, the bill contains technical and consequential amendments as well as transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

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

- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

Bill 60

AN ACT MAINLY TO MODERNIZE THE OCCUPATIONAL HEALTH AND SAFETY PLAN AND EXTEND ITS APPLICATION TO DOMESTICS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

1. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

(1) by replacing the definition of “domestic” by the following definition:

“**“domestic”** means a natural person whose primary duty under a contract of remunerated employment entered into with an individual consists in doing housework, caring for or supervising a child or a person who is ill, disabled or elderly or performing any other houseworker’s task in the individual’s dwelling;”;

(2) by replacing paragraph 1 of the definition of “worker” by the following paragraph:

“(1) a domestic who works as such sporadically or for a short period of time;”;

(3) by striking out paragraph 2 of the definition of “worker”.

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

“5.1. The dwelling of an individual who retains the services of a domestic is an establishment for the purposes of this Act as it applies to domestics.”

3. Section 18 of the Act is amended by replacing the first paragraph by the following paragraph:

“18. Independent operators, domestics who work as such sporadically or for a short period of time, family-type resources, intermediate resources, employers (except individuals who engage domestics), executive officers and members of the boards of directors of legal persons may register with the Commission for protection under this Act.”

4. Section 19 of the Act is amended by striking out “or of domestics” in the first paragraph.

5. Section 22 of the Act is amended

(1) by striking out “or of domestics” in the first paragraph;

(2) by inserting “for” in the first paragraph before “each of them”.

6. Section 24 of the Act is amended by striking out “or of domestics” in the first paragraph.

7. Section 31 of the Act is amended by adding “, his employment reinstatement program or job search support services provided under section 182.1” at the end of subparagraph 2 of the first paragraph.

8. Section 33 of the Act is amended by striking out “or of domestics” in the third paragraph.

9. Section 34 of the Act is amended by adding the following paragraph after the third paragraph:

“This section does not apply to the employers of domestics.”

10. Section 43 of the Act is amended by replacing “fourth” by “second”.

11. Section 115 of the Act is amended by inserting “or an employment reinstatement program or avail himself of job search support services provided under section 182.1” after “rehabilitation program”.

12. Section 142 of the Act is amended

(1) by inserting the following subparagraph after subparagraph *d* of paragraph 2:

“(d.1) neglects or refuses to avail himself of the measures or services included in his employment reinstatement program;”;

(2) by inserting the following subparagraph after subparagraph *e* of paragraph 2:

“(e.1) neglects or refuses to avail himself of the job search support services provided under section 182.1;”.

13. Section 167 of the Act is amended by replacing “assistance in finding employment” in paragraph 4 by “job search support services”.

14. Section 173 of the Act is amended

(1) by replacing “A worker who has suffered an employment injury and who becomes again able to carry on his employment may receive assistance in finding employment” in the first paragraph by “The Commission shall provide job search support services to a worker who has suffered an employment injury and is again able to carry on his employment”;

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

“The Commission shall also provide job search support services to a worker who is unable to carry on his employment as a result of his employment injury and becomes able to carry on suitable employment, if suitable employment is not available.

The job search support services provided to a worker under this section are deemed to be part of the worker’s personal rehabilitation program.”

15. Section 174 of the Act is amended by replacing “assistance in finding employment” by “job search support services”.

16. The heading of Division II of Chapter IV of the Act is replaced by the following heading:

“OTHER EMPLOYMENT REINSTATEMENT MEASURES”.

17. The Act is amended by inserting the following before section 179:

“§1.—*Employment reinstatement program*

“**178.1.** On recognizing an employment injury, the Commission may, in collaboration with the worker and the employer, prepare and implement an employment reinstatement program which, according to the worker’s needs, may provide for measures or services to facilitate reinstatement in his employment.

The program is submitted to the physician in charge of the worker for a determination of whether it is appropriate in light of the worker’s state of health.

The physician’s favourable opinion is attached to the program, and the program constitutes the Commission’s decision on the measures or services the worker is entitled to. Every program modification supported by a favourable opinion of the physician in charge of the worker constitutes a new decision of the Commission.

“**178.2.** The employment reinstatement program ends on the earliest of the following events:

(1) the worker’s return to work, if the measures or services included in the program are no longer necessary;

- (2) the completion of the measures or services included in the program; and
- (3) the implementation of a personal rehabilitation program.

“§2.—*Temporary work assignment*”.

18. Section 179 of the Act is amended by inserting the following paragraph after the first paragraph:

“An employer may temporarily assign work to a worker only if the physician in charge of the worker has recorded a favourable opinion in this regard on the form prescribed by the Commission.”

19. Section 180 of the Act is amended by adding the following paragraph at the end:

“The employer may pay a worker assigned to part-time work such salary or wages and benefits according to the number of working hours involved, provided the employer informs the Commission beforehand. In such a case, the Commission shall pay the worker an income replacement indemnity to cover the difference between the amount of the income replacement indemnity the worker would have been entitled to had the worker not been assigned to part-time work and the net salary or wages derived from that work.”

20. Section 181 of the Act is amended by inserting “, an employment reinstatement program or job search support services provided under section 182.1” after “personal rehabilitation program” in the second paragraph.

21. Section 182 of the Act is amended by inserting “, an employment reinstatement program or job search support services provided under section 182.1” after “personal rehabilitation program”.

22. The Act is amended by inserting the following section after section 182:

“**182.1.** The Commission shall provide job search support services to a worker entitled to an indemnity under section 48 or 49 who does not have a personal rehabilitation program.

The determination of the services to be provided constitutes a decision of the Commission and every modification to those services constitutes a new decision of the Commission.”

23. Section 183 of the Act is amended

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

“**183.** The Commission may suspend or terminate all or part of a personal rehabilitation program, an employment reinstatement program or the job search support services provided under section 182.1 if the worker neglects or refuses

to avail himself of a measure or a service included in the program or support services.”;

(2) by replacing “rehabilitation measure” in the second paragraph by “measure or a service”.

24. Section 189 of the Act is amended

(1) by replacing “, the conditions on which and up to what amount payments may be made” in paragraph 5 by “and the conditions on which payments may be made, the applicable monetary limits”;

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

“A regulation of the Commission may, as regards the medicines and other pharmaceutical products referred to in subparagraph 3 of the first paragraph, specify the cases where and the conditions on which payments may be made, the applicable monetary limits, as well as the prior authorizations to which such payments may be subject.”

25. Section 194 of the Act is amended by adding “, up to the monetary limits determined in this Act or the regulations” at the end of the first paragraph.

26. Section 198.1 of the Act is amended by replacing “, the conditions on which and up to what amounts payments may be made,” in the first paragraph by “and the conditions on which payments may be made, the applicable monetary limits”.

27. Sections 200 and 201 of the Act are replaced by the following section:

“200. In the case described in subparagraph 2 of the first paragraph of section 199, the physician in charge of the worker must also send to the Commission, within six days after the first examination of the worker, on the form prescribed by the Commission for that purpose, a medical report stating, among other particulars,

(1) the date on which the industrial accident occurred;

(2) the main diagnosis and any relevant additional information;

(3) the foreseeable time the employment injury will take to consolidate;

(4) the fact that the worker is awaiting investigation, treatment or hospitalization, or is receiving treatment or is hospitalized; and

(5) so far as the physician can determine, the possibility of permanent sequelae.

The same applies to any physician who is subsequently in charge of the worker.

In addition, if changes in the worker's pathological condition significantly alter the nature or duration of the care or treatment prescribed or administered, the physician in charge of the worker must so inform the Commission by sending a new medical report to the Commission."

28. Section 221 of the Act is amended by adding the following paragraph after the second paragraph:

"When expressing an opinion on the date of consolidation of an employment injury or once the injury is consolidated, the member of the Bureau d'évaluation médicale must also give his opinion on the existence and degree of any permanent physical or mental impairment and on the existence and assessment of any functional disability if these matters have not been determined. If, however, such an opinion cannot be formed for medical reasons, the member must state as much, giving reasons."

29. Section 256 of the Act is amended by adding the following paragraph at the end:

"However, the Commission may not order an employer who has dismissed a domestic to reinstate the domestic. It may only order the employer to pay the domestic, until it decides the complaint, an amount equivalent to the salary or wages and other benefits of which the domestic is deprived."

30. Section 257 of the Act is amended by adding the following paragraph at the end:

"However, the Commission may not order an employer who has dismissed a domestic to reinstate the domestic. It may only order the employer to pay the domestic an amount equivalent to the salary or wages and benefits of which the domestic was deprived."

31. Section 259 of the Act is amended by adding the following paragraph at the end:

"However, if the worker involved is a domestic, the Commission may only order the employer to pay the domestic an amount equivalent to the salary or wages and benefits of which the domestic was deprived."

32. Section 280 of the Act is amended by adding the following paragraph after the third paragraph:

"This section does not apply to employers of domestics."

33. The Act is amended by inserting the following section after section 310:

“310.1. The Commission may grant assessment discounts to employers who put in place measures to prevent employment injuries.

In that case, the Commission makes a regulation setting the amount and terms of the discounts and determining the conditions that must be met by an employer, which may include holding certification issued by the Commission according to criteria and conditions also set by regulation.

The Commission may accredit persons for the purpose of certifying employers.”

34. Section 316 of the Act is amended by adding the following paragraph after the fourth paragraph:

“This section does not apply to employers of domestics.”

35. Section 337 of the Act is amended

(1) by adding “and the danger involved in the work carried on for each of them in terms of contracting the occupational disease” at the end of the first paragraph;

(2) by striking out “a kind of” in the second paragraph;

(3) by replacing “of mailing a written notice given to him by the Commission” in the second paragraph by “after the Commission sends him a written notice to that effect”.

36. Section 345 of the Act is amended by striking out “the second paragraph of section 315 and”.

37. Section 358 of the Act is amended by inserting “to grant an assessment discount under section 310.1 or” after “or to refuse” in the third paragraph.

38. Section 363 of the Act is amended by inserting “or in the employment reinstatement program” after “personal rehabilitation program”.

39. Section 429.30 of the Act is amended by adding “or the employment reinstatement program implemented in accordance with section 178.1” at the end of paragraph 1.

40. Section 454 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 3 of the first paragraph:

“(3.0.1) specifying, with regard to medicines and other pharmaceutical products forming part of the medical aid referred to in paragraph 3 of section 189, the cases where and the conditions on which payments may be

made, the applicable monetary limits as well as the prior authorizations to which such payments may be subject;”;

(2) by replacing “, the conditions on which and up to what amount payments may be made” in subparagraphs 3.1 and 4.1 of the first paragraph by “and the conditions on which payments may be made and the applicable monetary limits”;

(3) by inserting the following subparagraph after subparagraph 8 of the first paragraph:

“(8.0.1) setting, for the purposes of section 310.1, the amount and terms of assessment discounts, which terms may include the obligation, on the employer’s part, to hold certification, and determining any conditions and criteria applicable to certification;”.

41. The Act is amended by inserting the following section after section 455:

“455.1. Despite section 455, approval by the Government is not required in the case of a draft regulation amending a regulation made under subparagraphs 3.0.1, 3.1 and 4.1 of the first paragraph of section 454 to change the monetary limits specified by, for instance, changing or indexing the maximum cost the Commission will assume for a good or service or a package of goods or services, the price for such goods or services and what the price includes or the method for setting the purchase or replacement price, and the term of the warranty.

Such an amending regulation is not subject to the requirements as to publication nor the date of coming into force set out in sections 8 and 17 of the Regulations Act (chapter R-18.1). It comes into force on the date it is posted on the Commission’s website or any later date specified in the regulation. Posting on the website imparts authentic value to the regulation.

Before 1 April of the year following any year in which a regulation made under subparagraphs 3.0.1, 3.1 and 4.1 of the first paragraph of section 454 is amended under this section, the Commission shall publish a notice of the date of the amendment in Part 2 of the *Gazette officielle du Québec*. The notice must include the address of the website on which the regulation is posted.”

42. Section 461 of the Act is amended by striking out “or domestics”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

43. Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended

(1) by inserting the following definition after the definition of “agreement”:

“**building**” means a structure used to shelter or house people, animal or things, including the facilities and equipment it contains;”;

(2) by inserting the following definition after the definition of “decree”:

“**domestic**” means a domestic within the meaning of the Act respecting industrial accidents and occupational diseases (chapter A-3.001);”;

(3) by adding the following paragraph after paragraph 2 of the definition of “worker”:

“(3) a domestic working as such sporadically or for a short period of time;”.

44. The Act is amended by inserting the following sections after section 8.1:

“8.1.1. For the purposes of sections 14, 28, 33 and 37 and subparagraph 9 of the first paragraph of section 223 as they apply to domestics, the dwelling of the individual who retains the services of a domestic is an establishment.

“8.1.2. Section 8, paragraphs 2, 6 and 10 of section 51, sections 52 and 54 and subdivision 5 of Division II of Chapter III do not apply to employers of a domestic. However, such employers must make sure that the workplace under their authority is so equipped and laid out as to ensure the domestic’s safety.

Section 56 does not apply in cases where the workers concerned are domestics.

Section 188 does not apply in cases where the workplace is the dwelling of a domestic’s employer.”

45. Section 16 of the Act is amended by inserting the following paragraph after the first paragraph:

“In the cases specified by regulation, a worker designated by the workers’ representatives to the health and safety committee is summoned instead of the safety representative. The third paragraph and sections 17 to 19, 29 and 31 apply in such cases with the necessary modifications.”

46. Section 19 of the Act is amended by replacing “transmitted by registered or certified mail” in the third paragraph by “sent, by any means that provides proof of sending,”.

47. Section 29 of the Act is amended by replacing “, 18, 21 and 23” in the first paragraph by “and 18”.

48. Section 56 of the Act is amended by replacing “Where one building is used by several employers, the owner” by “The owner of a building that is used by one or more employers”.

49. Section 58 of the Act is amended by adding the following paragraphs at the end:

“An employer with more than 50 workers working in two or more establishments of a category identified by regulation may opt to implement a single prevention program for all such establishments. The program must take into account all the activities carried on in the establishments. An employer who opts to implement such a program is dispensed from the obligation imposed by the first paragraph.

Despite the second paragraph, the Commission may, if it considers it appropriate, require that an employer implement a prevention program specific to each establishment.”

50. Section 59 of the Act is amended by replacing subparagraph 2 of the second paragraph by the following subparagraph:

“(2) measures to monitor the quality of the work environment and preventive maintenance measures;”.

51. Section 68 of the Act is amended by adding the following paragraphs at the end:

“An employer who opts for the provisions of the second paragraph of section 58 must establish a health and safety committee acting for all the establishments concerned, instead of health and safety committees under the first paragraph.

The provisions of this chapter that are applicable to a committee established for a single establishment apply, with the necessary modifications, to a committee established under the second paragraph.

However, despite the regulatory powers provided for in sections 70, 72 and 74, the number of committee members, their mode of appointment and the committee’s rules of operation are determined by agreement between the employer and the certified association or associations representing the workers in each of the establishments concerned or, if there is no certified association, between the employer and the workers in all the establishments. In the absence of such agreement, one of the parties may ask the Commission to determine the number of members, the mode of appointment or the rules of operation. The Commission’s decision is enforceable immediately.

An employer who terminates a prevention program implemented under the second paragraph of section 58 must put an end to the activities of the health and safety committee established under the second paragraph.”

52. Section 78 of the Act is amended by replacing paragraph 2 by the following paragraph:

“(2) to approve the health program described in section 113;”.

53. Section 83 of the Act is amended by replacing “except to choose the physician in charge of health services and to approve the health program prepared by the physician in charge” by “except as regards choosing the physician in charge of health services and approving the establishment-specific occupational health program”.

54. Section 85 of the Act is amended by replacing “the health program prepared by the physician in charge” by “the establishment-specific occupational health program”.

55. The heading of Division I of Chapter VIII of the Act is replaced by the following heading:

“OCCUPATIONAL HEALTH PROGRAMS AND FRAMEWORK AGREEMENT”.

56. Sections 107 to 109 of the Act are replaced by the following sections:

“**107.** After consulting with the Minister of Health and Social Services, the Commission shall establish occupational health programs that set the occupational health priorities to be pursued in the territories or in the establishments or categories of establishments it determines.

“**108.** The Commission shall prepare occupational health program implementation specifications for the agencies.

“**109.** For the purposes of the occupational health programs and in keeping with the specifications, the Commission and the Minister of Health and Social Services shall conclude a management and accountability framework agreement specifying the minimum content of the contracts to be entered into between the Commission and the agencies.

The framework agreement must include the rules that are to apply to the management of contracts between the Commission and the agencies and to the accountability reporting required under its terms.

“**109.1.** The Commission shall enter into a contract with each agency under which, in accordance with the specifications, the agency undertakes to provide the services required to implement the occupational health program in the territory it serves or in the establishments or categories of establishments determined by the Commission that are located in that territory.

In accordance with the specifications, each agency must develop a service offer describing the means it intends to use to implement the occupational health program and stating the cost of the services it is to provide.

Each contract must, in addition to the content prescribed in the framework agreement, include the service offer developed by the agency.

In the contract, the agency must designate any person operating a hospital centre or a local community service centre who is to deliver services that the agency is unable to provide itself among those referred to in the first paragraph; every such person is bound by the contract.

The contract is filed by the agency with the Minister of Health and Social Services.”

57. The heading of Division II of Chapter VIII of the Act is replaced by the following heading:

“ESTABLISHMENT-SPECIFIC OCCUPATIONAL HEALTH PROGRAM”.

58. Sections 112 to 114 of the Act are replaced by the following sections:

“**112.** An employer must see that an occupational health program specific to the employer’s establishment is implemented in the establishment.

The establishment-specific occupational health program must be consistent with the occupational health program established by the Commission under section 107. It must be sent to the physician in charge of health services in the establishment and submitted for approval to the health and safety committee if there is one in the establishment. It must be included in the prevention program that is applicable in the establishment.

“**113.** In addition to including the action plan developed under section 114, the establishment-specific occupational health program must

(1) include measures to identify the health risks workers are exposed to in the course of their work and to ensure that the quality of the work environment is monitored and assessed; and

(2) provide for the maintenance of an adequate emergency first aid service.

“**114.** The employer must, in collaboration with the physician in charge of health services in the establishment, develop an occupational health action plan specific to the establishment.

The action plan must include

(1) activities to inform workers, the employer and, if applicable, the health and safety committee and the certified association about the nature of the risks in the work environment, and the necessary preventive measures;

(2) measures to ensure the medical monitoring of workers for the prevention and early detection of adverse health effects that might be caused or aggravated by their work;

(3) medical examinations during employment, as prescribed by regulation; and

(4) the establishment and updating of a list of workers exposed to a contaminant, based on the registers kept by the employer.

The action plan must be consistent with the contract entered into between the Commission and the agency serving the territory in which the establishment is located.”

59. Section 122 of the Act is replaced by the following section:

“122. The physician in charge of health services in an establishment shall see to the implementation of the action plan developed under section 114.”

60. Section 124 of the Act is amended by inserting “or the person the physician in charge designates” after “physician in charge”.

61. Section 125 of the Act is amended by inserting “or the person the physician in charge designates” after “physician in charge”.

62. Section 127 of the Act is replaced by the following section:

“127. The public health director is responsible for the implementation, in the territory served by the agency, of the contract entered into under section 109.1 and must, among other things,

(1) examine all establishment-specific occupational health programs and make appropriate recommendations to the Commission;

(2) cooperate with the committee on the examination of qualifications of the council of physicians, dentists and pharmacists and with the board of directors of the operator of a hospital centre or local community service centre, for the examination of applications of physicians who wish to work in the field of occupational medicine in accordance with this Act and the regulations and the Act respecting health services and social services (chapter S-4.2) and the regulations or, as applicable, the Act respecting health services and social services for Cree Native persons (chapter S-5) and the regulations;

(3) coordinate the use of resources in the territory for the purposes of the examinations, analyses and expert opinions needed to implement the health programs;

(4) collate data on the workers’ state of health and the health risks workers are exposed to;

(5) ensure that the medical records of workers are kept for a period of not less than 20 years after the end of or 40 years after the beginning of their employment, whichever is longer; and

(6) send the Commission statistical data on the workers' state of health and any information the Commission may require under this Act or the regulations.”

63. Section 141 of the Act is amended

(1) by replacing subparagraphs 1 and 2 of the first paragraph by the following subparagraphs:

“(1) six members, after consultation with the most representative union associations;

“(2) six members, after consultation with the most representative employers' associations; and

“(3) two independent members, on the basis of the expertise and experience profiles approved by the board.”;

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

“In this Act, “independent member” means a board 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 board member

(1) who is in the employ of the Commission or has been in such employ in the three years preceding appointment to the board,

(2) who 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) who is in the employ of a union association or an employers' association or is an officer or other representative of such an association, or has been in such employ or has been such an officer or other representative in the three years preceding appointment to the board, or

(4) whose immediate family member is a senior officer of the Commission, is deemed not to be an independent member.

The Government may adopt a policy concerning situations it intends to examine to determine whether a board member qualifies as an independent member. The Government may specify in the policy the intended meaning of 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 independent member's status.”

64. Section 144 of the Act is amended by replacing “two” by “three”.

65. Section 145 of the Act is repealed.

66. Section 149 of the Act is replaced by the following section:

“149. The Government shall determine the remuneration, employee benefits and other conditions of employment of the chair of the board of directors and chief executive officer and of the vice-presidents.

The other members of the board shall receive no remuneration except in the cases, on the conditions and to the extent the Government may determine. They shall, however, be entitled to the reimbursement of the expenses they incur in the exercise of their functions, on the conditions and to the extent determined by the Government.

The sums required for the purposes of this section and the other operating expenses of the Commission are borne by the Commission.”

67. Section 155 of the Act is amended by replacing “may” by “shall”.

68. The Act is amended by inserting the following sections after section 155:

“155.1. The functions of the board of directors of the Commission include

(1) determining the Commission’s strategic directions and seeing to their implementation;

(2) adopting the strategic plan;

(3) approving the Commission’s capital plan, operating plan, financial statements, annual report and budget;

(4) approving the Commission’s governance rules;

(5) approving the code of ethics and conduct applicable to the board members and the vice-presidents, subject to any regulation under sections 3.0.1 and 3.0.2 of the Act respecting the Ministère du Conseil exécutif (chapter M-30);

(6) approving the expertise and experience profiles to be used in appointing independent members;

(7) approving criteria for assessing the board’s work;

(8) establishing policies for management of the risks associated with the Commission's operations;

(9) seeing to it that the board committees exercise their functions properly;

(10) approving the information technology investment plan;

(11) determining delegations of authority; and

(12) adopting measures to assess the Commission's effectiveness and performance, including benchmarking against similar bodies, to be applied every five years by an independent firm.

“155.2. The board of directors of the Commission shall review the integrity of internal controls, information disclosure controls and information systems, and approve a financial disclosure policy.

“155.3. The Commission shall make sure that initiation and ongoing training programs are implemented for the members of its board of directors.

“155.4. The board of directors of the Commission must establish the following committees:

(1) a governance and ethics committee; and

(2) an audit committee.

These committees must be chaired by independent members. If the independent member chairing a committee is absent or unable to act, the chair of the board of directors and chief executive officer or another independent member may act as committee chair.

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

“155.5. The board of directors of the Commission may establish other committees to examine specific issues or to facilitate the Commission's operation.

“155.6. The chair of the board of directors and chief executive officer may take part in any committee meeting.

“155.7. The functions of the governance and ethics committee include

(1) formulating governance rules and a code of ethics for the conduct of the Commission's affairs;

(2) formulating a code of ethics and conduct applicable to the members of the board of directors and the vice-presidents, subject to any regulation 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 independent members; the profiles must include management experience that is relevant to the position;

(4) formulating criteria for assessing the board's work; and

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

The committee shall conduct the assessment referred to in subparagraph 4 of the first paragraph in accordance with the criteria approved by the board.

“155.8. The audit committee must include members with accounting or financial expertise.

At least one committee member must be a member of one of the professional orders of accountants governed by the Professional Code (chapter C-26); otherwise, the committee must retain the services of a person who is a member of one of those orders to advise the committee members.

“155.9. The functions of the audit committee include

(1) approving the annual internal audit plan;

(2) making sure that a plan for the optimal utilization of the Commission's resources is put in place, and following up on that plan;

(3) seeing that internal control mechanisms are put in place and making sure that they are appropriate and effective;

(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;

(6) examining the financial statements with the Auditor General; and

(7) recommending the approval of the financial statements by the board of directors.

“155.10. 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 Commission's policies.

“155.11. The internal audit department shall operate under the authority of the audit committee.

The head of the internal audit department is under the administrative authority of the chair of the board of directors and chief executive officer.”

69. The Act is amended by inserting the following sections after section 161:

“161.0.1. If a member of the board of directors is sued by a third party for an act done in the exercise of the functions of office, the Commission shall assume the board member’s defence and pay any damages awarded as compensation, unless the board member committed a gross fault or a personal fault separable from those functions.

In penal or criminal proceedings, however, the Commission shall pay the defence costs of a board member only if the board member is discharged or acquitted or if the Commission judges that the board member acted in good faith.

“161.0.2. If the Commission sues a member of the board of directors for an act done in the exercise of the functions of office and loses its case, it shall pay the board member’s defence costs where the court so decides.

If the Commission wins its case only in part, the court may determine the amount of the defence costs it must pay.”

70. The Act is amended by inserting the following sections after section 163:

“163.0.1. The annual report of the Commission must contain a summary of the following reports, submitted to the board of directors:

(1) the report of the governance and ethics committee on its activities during the fiscal year, including a summary of its assessment of the board’s work; and

(2) the report of the audit committee on the discharge of its mandate and on the optimal resource utilization plan.

The report must also state the results obtained from the benchmarking measures adopted by the board of directors.

“163.0.2. The annual report of the Commission must comprise a section on its governance, including the following information concerning the members of the board of directors:

(1) the dates of appointment and expiry of term of all board members;

(2) the identification of any other board of directors on which a board member sits;

(3) a summary of the expertise and experience profile of each independent member and a statement of the board members’ attendance at board and committee meetings; and

(4) the code of ethics and rules of professional conduct applicable to board members.

“163.0.3. The annual report of the Commission must state, among other things,

(1) the remuneration and benefits paid to each of the members of the board of directors; and

(2) the remuneration and other benefits paid to the chair of the board of directors and chief executive officer and to each of the five most highly remunerated vice-presidents.”

71. Section 174 of the Act is amended by replacing “The Commission may” in the second paragraph by “Despite the first paragraph, the Commission may communicate to the Régie du bâtiment du Québec any information that is necessary for the purposes of the Building Act (chapter B-1.1). Similarly, it may communicate to the Commission de la construction du Québec any information that is necessary for the purposes of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20). It may also”, and by replacing “application” in that paragraph by “purposes”.

72. The Act is amended by inserting the following section after section 174.1:

“174.2. The Commission must communicate to the Régie du bâtiment du Québec any information relating to a conviction concerning an offence under this Act, to the extent that the information is necessary for the purposes of the Building Act (chapter B-1.1) as regards the issue, amendment, suspension or cancellation of a licence.”

73. The Act is amended by inserting the following section after section 175:

“175.1. For the purposes of the Acts under its administration, the Commission may determine signature requirements for technology-based documents within the meaning of the Act to establish a legal framework for information technology (chapter C-1.1), including what may stand in lieu of a signature.”

74. Section 223 of the Act is amended, in the first paragraph,

(1) by replacing “prescribing measures for the supervision of the quality of the work environment and standards applicable to every establishment or construction site in view of ensuring” in subparagraph 7 by “prescribing measures to monitor the quality of the work environment and standards applicable to every workplace so as to ensure”;

(2) by replacing “rules for its internal management” in subparagraph 36 by “internal by-laws”;

(3) by inserting the following subparagraph after subparagraph 41:

“(41.1) setting, for the categories of establishments it specifies, rules different from those prescribed by this Act as regards the prevention program, the health and safety committee and the safety representative;”.

75. Section 224 of the Act is amended

(1) by inserting “, except a draft internal by-law,” after “section 223”;

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

“An internal by-law of the Commission comes into force on the date it is posted on the Commission’s website or on any later date specified in the by-law.”

76. The Act is amended by inserting the following section after section 336:

“336.1. Every five years, the Minister must report to the Government on the carrying out of this Act and the Act respecting industrial accidents and occupational diseases (chapter A-3.001) and on the advisability of maintaining them in force or amending them.

The report is tabled in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption.”

77. The Act is amended by replacing all occurrences of “chairman”, “vice-chairman” and “vice-chairmen” by “chair”, “vice-president” and “vice-presidents”, respectively.

CODE OF PENAL PROCEDURE

78. The Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended by inserting the following article after article 2:

“2.1. The provisions of this Code that apply to legal persons also apply to partnerships with the necessary modifications.”

79. The Code is amended by inserting the following article after article 232:

“232.1. Unless otherwise provided by law, a sentence that is applicable to a legal person is also applicable to a partnership.”

TRANSITIONAL AND FINAL PROVISIONS

80. Section 173 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as amended by section 14, applies to a worker described in section 48 or 49 of that Act who becomes entitled, after (*insert the date that precedes the date of coming into force of section 14*), to an income replacement indemnity payable for not more than one year from the

date on which the worker is again able to carry on his or her employment or a suitable employment, as the case may be.

The same holds, with the necessary modifications, for section 182.1 of that Act, enacted by section 22.

81. Section 221 of the Act respecting industrial accidents and occupational diseases, as amended by section 28, applies to cases submitted by the Commission to the Bureau d'évaluation médicale on or after (*insert the date of assent to this Act*).

82. A specific health program for an establishment that is applicable on (*insert the date of coming into force of section 58*) is considered to be a health program implemented under the newly enacted version of section 112 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1). Subsequent changes to the program are governed by the newly enacted provisions.

83. Despite subparagraph 3 of the first paragraph of section 141 of the Act respecting occupational health and safety, as it reads on (*insert the date of coming into force of section 63*), the Government is not required to appoint the first independent members on the basis of expertise and experience profiles.

84. The term of office of the members of the board of directors of the Commission, other than the chair of the board of directors and chief executive officer, in office on (*insert the date that precedes the date of coming into force of section 63*) ends on (*insert the date of coming into force of section 63*).

85. Despite paragraph 12 of section 155.1 of the Act respecting occupational health and safety, enacted by section 68, the first benchmarking against similar bodies must be conducted not later than (*insert the date that occurs three years after the date of coming into force of section 68*).

86. This Act comes into force on (*insert the date of assent to this Act*), except

(1) sections 52 to 59 and 62, which come into force on (*insert the date that occurs one year after the date of assent to this Act*), unless the Government sets an earlier date or earlier dates; and

(2) sections 7, 11 to 17, 20 to 23, 38, 39, 63 to 65, 68 to 70, paragraph 2 of section 74 and sections 75 and 76, which come into force on the date or dates to be set by the Government.

