

chapter C-27

LABOUR CODE**TITLE I****LABOUR RELATIONS****CHAPTER I****DEFINITIONS**

1. In this Code, unless the context requires otherwise, the following expressions mean:

(a) “association of employees”: a group of employees constituted as a professional syndicate, union, brotherhood or otherwise, having as its objects the study, safeguarding and development of the economic, social and educational interests of its members and particularly the negotiation and application of collective agreements;

(b) “certified association”: the association recognized by decision of the Commission as the representative of all or some of the employees of an employer;

(c) “employers' association”: a group organization of employers having as its objects the study and safeguarding of the economic interests of its members, and particularly assistance in the negotiation and application of collective agreements;

(d) “collective agreement”: an agreement in writing respecting conditions of employment made between one or more certified associations and one or more employers or employers' associations;

(e) “dispute”: a disagreement respecting the negotiation or renewal of a collective agreement or its revision by the parties under a clause expressly permitting the same;

(f) “grievance”: any disagreement respecting the interpretation or application of a collective agreement;

(g) “strike”: the concerted cessation of work by a group of employees;

(h) “lock-out”: the refusal by an employer to give work to a group of his employees in order to compel them, or the employees of another employer, to accept certain conditions of employment;

(i) “Commission”: the Commission des relations du travail established by this Code;

(j) “Minister”: The Minister of Labour;

(k) “employer”: anyone, including the State, who has work done by an employee;

(l) “employee”: a person who works for an employer and for remuneration, but the word does not include:

(1) a person who, in the opinion of the Commission, is employed as manager, superintendent, foreman or representative of the employer in his relations with his employees;

(2) a director or officer of a legal person, unless a person acts as such with regard to his employer after having been designated by the employees or a certified association;

(3) a public servant of the Government whose position is of a confidential nature in the opinion of the Commission or under the terms of an agreement binding the Government and the associations certified in

accordance with Chapter IV of the Public Service Act (chapter F-3.1.1) which are parties to a collective agreement that otherwise would apply to such public servant; such is the position of a conciliation officer, a mediator or a mediator-arbitrator of the Ministère du Travail, a member of the staff of the executive council, of the Auditor General, of the Commission de la Fonction publique or of the executive staff of a minister or of a deputy minister, or a public servant who, in a department or agency of the Government, is a member of the personnel service or of a personnel management division;

(3.1) a public servant of the Ministère du Conseil exécutif, except in the cases that the Government may determine by order;

(3.2) a public servant of the Conseil du trésor, except in the cases that the Government may determine by order;

(3.3) a public servant of the Institut de la statistique du Québec assigned to functions referred to in section 4 of the Act respecting the Institut de la statistique du Québec (chapter I-13.011);

(4) a criminal and penal prosecuting attorney;

(5) a member of the Sûreté du Québec;

(6) a member of the personnel of the chief electoral officer;

(7) a public servant of the Commission assigned to functions referred to in section 137.48 or 137.48.1;

(m) (paragraph repealed);

(n) "logging operations": all activities in the forest related to the felling and harvest of timber, including cutting, cross-cutting, barking, hauling, piling and loading, but excluding highway transportation of timber;

(o) "logging operator": the holder of a timber supply guarantee granted under the Sustainable Forest Development Act (chapter A-18.1) or a forest producer supplying a wood processing plant from a private forest;

(p) (paragraph repealed);

(q) (paragraph repealed);

(r) (paragraph repealed).

R. S. 1964, c. 141, s. 1; 1965 (1st sess.), c. 14, s. 76; 1968, c. 17, s. 97; 1969, c. 20, s. 10; 1969, c. 47, s. 2; 1969, c. 48, s. 1; 1969, c. 14, s. 18; 1971, c. 20, s. 66; 1971, c. 48, s. 161; 1972, c. 55, s. 173; 1972, c. 60, s. 29; 1977, c. 5, s. 14; 1977, c. 41, s. 1, s. 2; 1978, c. 15, s. 124; 1981, c. 9, s. 34; 1982, c. 37, s. 1; 1982, c. 54, s. 52; 1982, c. 53, s. 56; 1983, c. 22, s. 1; 1983, c. 55, s. 138; 1984, c. 47, s. 26; 1984, c. 51, s. 561; 1985, c. 12, s. 82; 1986, c. 89, s. 50; 1986, c. 108, s. 242; 1988, c. 73, s. 72; 1990, c. 69, s. 1; 1993, c. 6, s. 1; 1994, c. 12, s. 66; 1994, c. 18, s. 33; 1996, c. 29, s. 43; 1996, c. 35, s. 18; 1998, c. 46, s. 58; 1998, c. 44, s. 46; 1999, c. 40, s. 59; 2001, c. 26, s. 1; 2004, c. 22, s. 14; 2005, c. 34, s. 51; 2007, c. 3, s. 72; 2006, c. 58, s. 1; 2011, c. 16, s. 129; 2010, c. 3, s. 268; 2013, c. 2, s. 66.

2. (Repealed).

R. S. 1964, c. 141, s. 2; 1969, c. 47, s. 3; 1969, c. 48, s. 2; 1977, c. 41, s. 1; 1986, c. 108, s. 243; 2001, c. 26, s. 2; 2013, c. 2, s. 67.

CHAPTER II ASSOCIATIONS

DIVISION I RIGHT OF ASSOCIATION

3. Every employee has the right to belong to the association of employees of his choice, and to participate in

the formation, activities and management of such association.

R. S. 1964, c. 141, s. 3; 1977, c. 41, s. 3.

4. Municipal constables shall not be members of an association of employees which does not consist solely of municipal constables or which is affiliated with another organization.

R. S. 1964, c. 141, s. 4.

5. No person, in the name or on behalf of an association of employees, shall, during working hours, solicit an employee to join an association.

R. S. 1964, c. 141, s. 5.

6. No association of employees shall hold any meeting of its members at the place of employment unless it is certified and has obtained the consent of the employer.

R. S. 1964, c. 141, s. 6.

7. *(Repealed).*

R. S. 1964, c. 141, s. 7; 2013, c. 2, s. 67.

8. *(Repealed).*

R. S. 1964, c. 141, s. 8; 1969, c. 47, s. 4; 1969, c. 48, s. 3; 1977, c. 41, s. 4; 1979, c. 45, s. 149; 1986, c. 108, s. 244; 2001, c. 26, s. 3; 2010, c. 3, s. 269; 2013, c. 2, s. 67.

9. Subject to the Act respecting the lands in the domain of the State (chapter T-8.1), the owner of a mining operation where employees are living on lands under his control must allow any representative of an association of employees holding a permit issued by the Commission in accordance with the regulations made for such purpose under section 138 to have access to such lands.

The operator of such an operation must supply such representative with food and shelter at the current price for employees.

R. S. 1964, c. 141, s. 9; 1969, c. 47, s. 5; 1969, c. 48, s. 4; 1977, c. 41, s. 1; 1987, c. 23, s. 97; 2001, c. 26, s. 4.

10. Every employer has the right to belong to the employers' association of his choice, and to participate in the formation, activities and management of such association.

R. S. 1964, c. 141, s. 10; 1977, c. 41, s. 5.

11. A school board may give an association of school boards an exclusive mandate for the purposes of sections 52 to 93.

Such mandate shall not be revocable except at the time fixed by section 22 for making an application for certification.

The Commission may decide as to the validity of such mandate.

While it is in force, the obligations contemplated by sections 53 and 56 shall rest upon the mandatory only.

1965 (1st sess.), c. 50, s. 1; 1969, c. 47, s. 6; 1977, c. 41, s. 1; 1988, c. 84, s. 700; 1997, c. 47, s. 64; 2001, c. 26, s. 5.

12. No employer, or person acting for an employer or an association of employers, shall in any manner seek to dominate, hinder or finance the formation or the activities of any association of employees, or to participate therein.

No association of employees, or person acting on behalf of any such organization, shall belong to an association of employers or seek to dominate, hinder or finance the formation or activities of any such association, or to participate therein.

R. S. 1964, c. 141, s. 11.

13. No person shall use intimidation or threats to induce anyone to become, refrain from becoming or cease to be a member of an association of employees or an employers' association.

R. S. 1964, c. 141, s. 12; 1977, c. 41, s. 6.

14. No employer nor any person acting for an employer or an employers' association may refuse to employ any person because that person exercises a right arising from this Code, or endeavour by intimidation, discrimination or reprisals, threat of dismissal or other threat, or by the imposition of a sanction or by any other means, to compel an employee to refrain from or to cease exercising a right arising from this Code.

This section shall not have the effect of preventing an employer from suspending, dismissing or transferring an employee for a good and sufficient reason, proof whereof shall devolve upon the said employer.

R. S. 1964, c. 141, s. 13; 1983, c. 22, s. 2.

14.1. *(Repealed).*

1987, c. 85, s. 2; 2001, c. 26, s. 173.

15. Where an employer or a person acting for an employer or an employers' association dismisses, suspends or transfers an employee, practises discrimination or takes reprisals against him or imposes any other sanction upon him because the employee exercises a right arising from this Code, the Commission may

(a) order the employer or a person acting for an employer or an employers' association to reinstate such employee in his employment, within eight days of the service of the decision, with all his rights and privileges, and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to dismissal, suspension or transfer.

That indemnity is due in respect of the whole period comprised between the time of dismissal, suspension or transfer and that of the carrying out of the order, or the default of the employee to resume his employment after having been duly recalled by his employer.

If the employee has worked elsewhere during the above mentioned period, the salary which he so earned shall be deducted from such indemnity;

(b) order the employer or the person acting for an employer or an employers' association to cancel the sanction or to cease practising discrimination or taking reprisals against the employee and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to the sanction, discrimination or reprisals.

R. S. 1964, c. 141, s. 14; 1969, c. 47, s. 7; 1977, c. 41, s. 1, s. 7; 1983, c. 22, s. 3; 2001, c. 26, s. 6.

16. The employees who believe that they have been the victim of a sanction or action referred to in section 15 must, if they wish to avail themselves of the provisions of that section, file a complaint at one of the offices of the Commission within thirty days of the sanction or action.

R. S. 1964, c. 141, s. 15; 1969, c. 47, s. 7; 1969, c. 48, s. 5; 1977, c. 41, s. 1; 1983, c. 22, s. 4; 2001, c. 26, s.

7.

17. If it is shown to the satisfaction of the Commission that the employee exercised a right arising from this Code, there is a simple presumption in his favour that the sanction was imposed on him or the action was taken against him because he exercised such right, and the burden of proof is upon the employer that he resorted to the sanction or action against the employee for good and sufficient reason.

R. S. 1964, c. 141, s. 16; 1969, c. 47, s. 7; 1969, c. 48, s. 6; 1977, c. 41, s. 1; 1983, c. 22, s. 5; 1999, c. 40, s. 59; 2001, c. 26, s. 8; 2006, c. 58, s. 2.

18. *(Repealed).*

R. S. 1964, c. 141, s. 17; 1983, c. 22, s. 6.

19. On the application of the employer or of the employee, the Commission may fix the quantum of an indemnity and order payment of interest at the legal rate from the date of filing of the complaint on the amount due pursuant to the order.

There must be added, to the amount fixed, an indemnity computed by applying to the amount, from such date, a percentage equal to the excess of the interest rate fixed according to section 28 of the Tax Administration Act (chapter A-6.002) over the legal interest rate.

R. S. 1964, c. 141, s. 18; 1969, c. 47, s. 8; 1969, c. 48, s. 7; 1977, c. 41, s. 1, s. 8; 1983, c. 22, s. 7; 2001, c. 26, s. 9; 2010, c. 31, s. 175.

19.1. *(Repealed).*

1977, c. 41, s. 8; 1992, c. 61, s. 173; 2001, c. 26, s. 10.

20. *(Repealed).*

R. S. 1964, c. 141, s. 19; 1969, c. 48, s. 8; 1977, c. 41, s. 1; 1983, c. 22, s. 8; 2001, c. 26, s. 10.

20.0.1. Every employer who intends to make changes to the mode of operation of his undertaking entailing the conversion of the status of an employee to whom a certification or a petition for certification applies to that of contractor without employee status, must so inform the association of employees concerned by means of a written notice containing a description of the changes.

Where the association does not share the opinion of the employer on the consequences of the changes on the status of the employee, the association may, within 30 days after receipt of the notice, apply to the Commission for a determination as to the consequences of such changes on the status of the employee. The association must, without delay, transmit a copy of the application to the employer.

The employer may not implement the changes referred to in the first paragraph before the expiry of the time fixed in the second paragraph or, if the association of employees has, at that time, requested the intervention of the Commission, before an agreement is reached with the association as to the consequences of the changes on the status of the employee, or before the decision of the Commission is rendered, whichever occurs first.

The Commission must render its decision within 60 days after receipt of the association's application.

2001, c. 26, s. 11.

DIVISION II

CERTAIN OBLIGATIONS OF CERTIFIED ASSOCIATIONS

20.1. Every election to an office within a certified association must be held by secret ballot in accordance with the constitution and by-laws of the association.

In the absence in the constitution and by-laws of the association of a provision that the election must be held by secret ballot, such election must be held by secret ballot at the intervals provided for in the constitution and by-laws or, failing such a provision, every year.

1977, c. 41, s. 9.

20.2. No strike may be declared unless it has been authorized by secret ballot decided by the majority vote of the members of the certified association who are comprised in the bargaining unit and who exercise their right to vote.

The association shall take the measures necessary, having regard to the circumstances, to inform its members, at least 48 hours in advance, that the ballot is to be held.

1977, c. 41, s. 9; 1994, c. 6, s. 1.

20.3. The signing of a collective agreement shall not take place unless it has been authorized by secret ballot decided by the majority vote of the members of the certified association who are comprised in the bargaining unit and who exercise their right to vote.

1977, c. 41, s. 9.

20.4. Failure to comply with section 20.2 or 20.3 shall give rise to the application of Chapter IX only.

1977, c. 41, s. 9; 1992, c. 61, s. 174.

20.5. The constitution and by-laws of a certified association may include requirements superior to those provided for in sections 20.1 to 20.3.

1977, c. 41, s. 9.

DIVISION III

CERTIFICATION OF ASSOCIATIONS OF EMPLOYEES

21. Any association of employees comprising the absolute majority of the employees of an employer or, in the case provided for in paragraph *b* of section 28 or in section 32 or 37, the association that obtains, following the ballot provided for in the said sections, the absolute majority of the votes of the employees of the employer having the right to vote, is entitled to be certified.

An association of employees which, in the case provided for in section 37.1, obtains the greatest number of votes in a ballot is also entitled to be certified.

The right to be certified shall avail all the employees of the employer or each group of the said employees which constitutes a separate group for the purposes of this Code, according to the agreement between the employer and the association of employees, ascertained by the labour relations officer or according to the decision of the Commission.

A single employee may form a group for the purposes of this section.

Persons employed in the operation of a farm shall not be deemed to be employees for the purposes of this division unless at least three of such persons are ordinarily and continuously so employed.

R. S. 1964, c. 141, s. 20; 1965 (1st sess.), c. 50, s. 2; 1969, c. 47, s. 9; 1969, c. 48, s. 9; 1970, c. 33, s. 1; 1971, c. 44, s. 1; 1973, c. 43, s. 242; 1977, c. 5, s. 14, s. 229; 1977, c. 41, s. 1, s. 11; 1983, c. 22, s. 9; 2001, c. 26, s. 12.

22. Certification may be applied for

(a) at any time, in the case of a group of employees not represented by a certified association and not already contemplated, in whole or in part, in an application for certification;

(b) *(paragraph repealed)*;

(b.1) subject to subparagraph b.2, 12 months after the date of a certification, in the case of a group of employees for whom a collective agreement has not been made and for whom a dispute has not been submitted for arbitration or is not the object of a strike or lock-out permitted by this Code;

(b.2) 12 months after the decision of the Commission on the description of the bargaining unit rendered under paragraph d.1 of section 28, in the case of a group of employees for whom a collective agreement has not been made and for whom a dispute has not been submitted for arbitration or is not the object of a strike or lock-out permitted by this Code;

(c) nine months after the date of expiration of a collective agreement or of an arbitration award in lieu thereof, in the case of a group of employees for whom a collective agreement has not been made and for whom a dispute has not been submitted for arbitration or is not the object of a strike or lock-out permitted by this Code;

(d) from the ninetieth to the sixtieth day prior to the date of expiration of an arbitration award in lieu of a collective agreement or the date of expiration of a collective agreement or of its renewal where the term of the collective agreement is three years or less;

(e) from the one hundred and eightieth to the one hundred and fiftieth day prior to the date of expiration of a collective agreement or of its renewal where the term of the collective agreement is more than three years and, where such term so allows, during the period extending from the one hundred and eightieth to the one hundred and fiftieth day prior to the sixth anniversary of the signing of the collective agreement or of its renewal and every other anniversary thereafter, except where such a period would end within 12 months or less of the one hundred and eightieth day prior to the date of expiration of the collective agreement or of its renewal.

R. S. 1964, c. 141, s. 21; 1977, c. 41, s. 12; 1979, c. 32, s. 3; 1983, c. 22, s. 10; 1994, c. 6, s. 2; 2001, c. 26, s. 13; 2003, c. 26, s. 1.

23. *(Repealed)*.

1969, c. 47, s. 10; 1969, c. 48, s. 10; 1977, c. 5, s. 14; 1977, c. 41, s. 1, s. 13; 1978, c. 15, s. 140; 1979, c. 45, s. 150; 1981, c. 23, s. 6; 1981, c. 9, s. 34; 1982, c. 53, s. 56; 1983, c. 55, s. 161; 1994, c. 12, s. 66; 1996, c. 29, s. 43; 2000, c. 8, s. 242; 2001, c. 26, s. 14.

23.1. *(Repealed)*.

1983, c. 22, s. 11; 2001, c. 26, s. 14.

24. *(Repealed)*.

1969, c. 48, s. 11; 1977, c. 41, s. 1; 1999, c. 40, s. 59; 2001, c. 26, s. 14.

25. Certification shall be applied for by an association of employees by means of a petition filed with the Commission which shall, upon receipt of the petition, send a copy to the employer together with any information it considers appropriate.

The petition must be authorized by a resolution of the association and signed by its authorized representatives, indicate which group of employees the association wishes to represent, and be accompanied with the applications for membership provided for in subparagraph b of the first paragraph of section 36.1 or with copies of those applications and of any document or information required by a regulation.

The employer must post a copy of the petition and of the notice of the Commission hearing in a conspicuous place on or before the first working day following the day the petition is received, and keep it posted for at

least five consecutive days. The employer must also, within five days after copy of the petition is received, post, in a conspicuous place, the complete list of the employees of the undertaking concerned by the petition indicating the function of each. The employer must send forthwith a copy of the list to the petitioning association and place a copy thereof at the disposal of the labour relations officer seized of the petition.

R. S. 1964, c. 141, s. 22; 1969, c. 47, s. 11; 1969, c. 48, s. 12; 1977, c. 41, s. 14; 1983, c. 22, s. 12; 1986, c. 36, s. 1; 2001, c. 26, s. 15; 2006, c. 58, s. 3.

25.1. *(Repealed).*

1987, c. 85, s. 10; 2001, c. 26, s. 173.

26. The Commission may require the petitioning or certified association to file its constitution and by-laws.

R. S. 1964, c. 141, s. 23; 1977, c. 41, s. 15; 2001, c. 26, s. 16.

27. The Commission shall, by any means it considers appropriate, make a copy of the petition for certification available to the public for consultation.

R. S. 1964, c. 141, s. 24; 1969, c. 47, s. 12; 1969, c. 48, s. 13; 1977, c. 5, s. 14; 1977, c. 41, s. 1; 1981, c. 9, s. 34; 1982, c. 53, s. 56; 1994, c. 12, s. 66; 1996, c. 29, s. 43; 2001, c. 26, s. 17.

27.1. The filing of a petition regarding a group of employees not represented by a certified association renders any petition filed from the day following the first filing, regarding all or some of the employees contemplated by the first petition inadmissible.

For the purposes of the first paragraph, a petition is deemed to have been filed on the day it is received in one of the offices of the Commission.

1983, c. 22, s. 13; 2001, c. 26, s. 18.

28. In addition, upon receipt of the petition, the following procedure must be followed:

(a) the Commission shall forthwith send a labour relations officer who shall assure himself of the representative character of the association and its right to be certified. For such purpose, the labour relations officer shall examine the books and records of the association and the list of the employer's employees; he may, at any time, examine any association, employer or employee to ascertain whether he or it is complying with Chapter II and examine any fact it is his duty to investigate. If he comes to the conclusion that the association has the representative character required, and if he ascertains that there is agreement between the employer and the association on the bargaining unit and the persons contemplated by it, he must certify it in writing immediately, and indicate which group of employees constitutes the bargaining unit. If he does not come to the conclusion that the association has the representative character required, the labour relations officer must present a summary report on his examination to the Commission and transmit a copy to the parties. The report must specify the reasons why the labour relations commissioner did not grant certification;

(b) if the labour relations officer ascertains that there is agreement between the employer and the association on the bargaining unit and on the persons contemplated by it, and that 35% to 50% of the employees comprised in that unit are members of the association of employees, he shall hold a ballot to assure himself of the representative character of the association. He shall certify the association if it obtains the absolute majority vote of the employees comprised in the bargaining unit. If he does not come to the conclusion that the association has the representative character required, the labour relations officer must present a summary report on his examination to the Commission and transmit a copy to the parties. The report must specify the reasons why the labour relations commissioner did not grant certification;

(c) if the employer refuses his agreement on the bargaining unit applied for, he must, in writing, set forth his reasons therefor and propose the unit he thinks suitable to the labour relations officer. The labour relations officer must present a summary report concerning the disagreement to the Commission and transmit a copy to the parties. The report must contain the reasons set forth by the employer, a description of the unit that the employer thinks suitable and, if applicable, the indication that 35% to 50% of the employees comprised in the

bargaining unit are members of the association of employees. If the employer neglects or refuses to communicate the reasons for his disagreement and to propose the unit he thinks suitable within fifteen days of receipt of the petition, he is presumed to have given his agreement on the bargaining unit. The labour relations officer shall then follow the procedure provided under paragraph *a* or paragraph *b*, as the case may be;

(*d*) if the labour relations officer ascertains that there is agreement between the employer and the association on the bargaining unit but not on certain persons contemplated in the petition, he shall nevertheless certify the association immediately if it has the required representative character for the bargaining unit applied for regardless of the fact that the persons in respect of whom there is no agreement are eventually, according to the decision of the Commission, included in the bargaining unit or, as the case may be, excluded. At the same time, the labour relations officer shall make a report on the disagreement referred to hereinabove to the Commission and send a copy of it to the parties. Such disagreement shall not have the effect of preventing the making of a collective agreement;

(*d.1*) the labour relations officer shall immediately certify the association, even where there is no agreement with the employer as regards part of the bargaining unit, if the officer considers that the association is nevertheless representative and that it will remain representative regardless of any decision of the Commission on the description of the bargaining unit. The labour relations officer shall, at the same time, make a report on the disagreement to the Commission and send a copy of the report to the parties. No notice of negotiation may be given by the certified association before the decision of the Commission on the description of the bargaining unit;

(*e*) where a certified association already exists, or where there is more than one petitioning association of employees, the labour relations officer shall, if the officer ascertains that there is agreement on the bargaining unit and on the persons contemplated by the bargaining unit between the employer and any association concerned, certify the association grouping the absolute majority of the employees or, if not, hold a secret ballot in accordance with the provisions of section 37 and, consequently, certify the association that has obtained the greatest number of votes in accordance with the provisions of section 37.1. If there is disagreement on the bargaining unit or on the persons to whom it applies, the officer shall make a report on the disagreement to the Commission and send a copy thereof to the parties.

1969, c. 47, s. 12; 1969, c. 48, s. 14; 1977, c. 41, s. 1, s. 16; 1983, c. 22, s. 14; 1999, c. 40, s. 59; 2001, c. 26, s. 19.

29. A labour relations officer may not certify an association whenever he has reason to believe that section 12 has not been complied with or is informed that a third party or an interested party has filed a complaint under that section. However, the labour relations officer may, on his own initiative or at the request of the Commission, make an investigation into the alleged contravention of section 12.

The labour relations officer may also suspend an examination made under section 28.

For the purposes of the inquiry referred to in the first paragraph, the labour relations officer may

(1) have access, at any reasonable time, to any work place or establishment of a party to obtain information necessary for the application of this Code;

(2) require any information necessary for the application of this Code and the production of any relevant document for examination and reproduction.

The labour relations officer shall, on request, produce identification and show the certificate of capacity issued by the Commission.

1969, c. 47, s. 12; 1969, c. 48, s. 14; 1977, c. 41, s. 1; 1983, c. 22, s. 15; 2001, c. 26, s. 20.

30. The labour relations officer shall make a report on any investigation made on his own initiative or at the request of the Commission. The labour relations officer shall also make a report on any examination suspended by the officer pursuant to section 29.

Such a report must be sent to the president of the Commission, entered in the record of the case and sent to

the interested parties. Interested parties may present their observations in writing to the Commission within five days from receipt of the report. The parties' observations, if any, shall also be entered in the record of the case.

1969, c. 47, s. 12; 1969, c. 48, s. 14; 1977, c. 41, s. 1, s. 17; 2001, c. 26, s. 20.

31. The Commission may not certify an association of employees if it is established to the satisfaction of the Commission that section 12 has not been complied with.

Where the Commission must rule on a petition for certification, the Commission may, of its own motion, invoke non-compliance with section 12.

1969, c. 48, s. 14; 1977, c. 41, s. 18; 1983, c. 22, s. 16; 2001, c. 26, s. 20.

32. The Commission shall, where a petition for certification is referred to it, dispose of any matter relating to the bargaining unit and the persons contemplated by the bargaining unit ; the Commission may, for that purpose, modify the unit proposed by the petitioning association.

Only any association concerned and the employer are deemed interested parties as regards the bargaining unit and the persons contemplated by the bargaining unit.

The Commission shall also decide as to the representative nature of the petitioning association after investigating this question in any manner it thinks advisable, more particularly by calculating the membership of the petitioning association or holding a vote by secret ballot.

Only the employees included in the bargaining unit and the interested association of employees are considered interested parties in determining the representative nature of an association of employees.

1969, c. 48, s. 14; 1977, c. 41, s. 1; 1983, c. 22, s. 17; 1999, c. 40, s. 59; 2001, c. 26, s. 21.

33. *(Repealed).*

1969, c. 48, s. 14; 1977, c. 41, s. 1, s. 19; 1992, c. 61, s. 175; 2001, c. 26, s. 22.

34. *(Repealed).*

1969, c. 48, s. 14; 1977, c. 41, s. 20; 2001, c. 26, s. 22.

35. The record of the Commission shall include the reports produced by the labour relations officer under sections 28 and 30, the exhibits and documents filed, the recording or stenographic notes of the testimony, where applicable, and the decision of the Commission. It shall not include the list of members of the associations concerned nor the exhibits or documents which identify the association of employees to which the employee belongs.

1969, c. 48, s. 14; 1977, c. 41, s. 21; 2001, c. 26, s. 23.

36. The fact that a person belongs to an association of employees shall not be revealed by anyone during the certification or decertification proceedings, except to the Commission, a member of its personnel, or the judge of a court to which an action provided for in Title VI of Book V of the Code of Civil Procedure (chapter C-25) relating to a certification is referred. Such persons and every other person who becomes aware of the fact that the person belongs to the association is bound to secrecy.

1969, c. 48, s. 14; 1977, c. 41, s. 1; 1983, c. 22, s. 18; 2001, c. 26, s. 24.

36.1. For the purposes of establishing the representative character of an association of employees or assessing the representative character of a certified association, a person shall be recognized as a member of such association when he meets the following conditions:

(a) he is an employee included in the bargaining unit contemplated in the petition;

(b) he has signed an application for membership, duly dated and not revoked before the filing of the petition for certification or the demand for assessment of the representative character of the association;

(c) he has personally paid as union dues an amount of not less than \$2 within the twelve months preceding the demand for assessment of the representative character of the association or the filing of the petition for certification or its mailing by registered or certified mail;

(d) he has met the conditions provided for in subparagraphs a to c on or before the day the demand for assessment of the representative character of the association or of the filing of the petition.

The Commission shall not take account of any other condition exigible under the constitution and by-laws of such association of employees.

1977, c. 41, s. 22; 2001, c. 26, s. 25.

37. The Commission must order a vote by secret ballot whenever a petitioning association comprises between 35% and 50% of the employees in the appropriate bargaining unit. Only the petitioning association or associations comprising each not fewer than 35% of the employees contemplated and the certified association, if any, may compete for election.

This section does not apply if one of the associations comprises an absolute majority of the employees.

R. S. 1964, c. 141, s. 25; 1969, c. 47, s. 13; 1977, c. 41, s. 1, s. 23; 1983, c. 22, s. 19; 2001, c. 26, s. 26.

37.1. Where a vote by secret ballot ordered under this division involves more than two associations of employees which, together, obtain an absolute majority of the votes of the employees who are entitled to vote without any association obtaining an absolute majority, the Commission shall order a new vote by secret ballot, excluding the association having received the smallest number of votes.

Where a vote by secret ballot ordered under this division involves two associations of employees, the Commission shall certify the association which has obtained the greater number of votes if the two associations, together, obtain an absolute majority of the votes of the employees entitled to vote.

1983, c. 22, s. 20; 2001, c. 26, s. 27.

37.2. Where the Commission holds a secret ballot or orders a vote by secret ballot under this Code or another Act, it shall determine the ballot rules and may take any measures and give any instructions it considers necessary for the smooth and proper conduct of the ballot.

2006, c. 58, s. 4.

38. Every employer shall be obliged to facilitate the holding of the vote and every employee in a group specified by the Commission must vote, unless he has a legitimate excuse.

R. S. 1964, c. 141, s. 26; 1969, c. 47, s. 13; 1977, c. 41, s. 1; 2001, c. 26, s. 27.

39. Of its own motion during its investigation and at any time upon request by an interested party, the Commission may decide if a person is an employee or a member of an association, if he is included in the bargaining unit, and any other matters relating to certification.

R. S. 1964, c. 141, s. 30; 1969, c. 47, s. 17; 1977, c. 41, s. 1, s. 24; 1983, c. 22, s. 21; 2001, c. 26, s. 27.

40. A petition for certification shall not be renewed within three months of its refusal by the Commission or withdrawal by a petitioning association unless the petition is not admissible under section 27.1, the withdrawal occurs following a union or amalgamation of the territories of local municipalities or school boards, an integration of personnel with a metropolitan community or the establishment of a transit authority.

R. S. 1964, c. 141, s. 31; 1969, c. 47, s. 18; 1977, c. 41, s. 1, s. 25; 1983, c. 22, s. 22; 1988, c. 84, s. 701; 1993, c. 67, s. 110; 1996, c. 2, s. 219; 2000, c. 56, s. 218; 2001, c. 26, s. 28.

41. The Commission may, at the time fixed in paragraph *b.1, b.2, c, d* or *e* of section 22 or, if such is the case, in section 111.3, cancel the certification of an association that

(a) has ceased to exist, or

(b) no longer comprises the absolute majority of the employees of the bargaining unit for which it was certified.

Notwithstanding the fourth paragraph of section 32, an employer may, within the delay provided for in the preceding paragraph, request the Commission to examine whether the association still exists or whether it still represents the absolute majority of the employees belonging to the bargaining unit for which it was certified.

A labour relations officer responsible for examining the representative nature of the association shall send a copy of his report to the petitioner, the association and the employer. The latter persons and association may contest the report by stating their reasons in writing to the Commission within 10 days after receiving the report.

R. S. 1964, c. 141, s. 32; 1969, c. 47, s. 19; 1969, c. 48, s. 17; 1977, c. 41, s. 1, s. 26; 1978, c. 52, s. 1; 1983, c. 22, s. 23; 1994, c. 6, s. 3; 2001, c. 26, s. 29.

42. Following a petition for certification or for reconsideration or cancellation of certification or a petition concerning a matter relating to the application of section 45, the Commission may order the suspension of negotiations and of the period for exercising the right to strike or to a lock-out and prevent the renewal of a collective agreement.

In such case, the conditions of employment specified in the collective agreement remain in force and section 60 applies until the decision of the Commission is rendered.

R. S. 1964, c. 141, s. 33; 1969, c. 47, s. 20; 1969, c. 48, s. 18; 1977, c. 41, s. 27; 1994, c. 6, s. 4; 1999, c. 40, s. 59; 2001, c. 26, s. 30; 2006, c. 58, s. 5.

43. The certification of an association of employees shall annul *ipso facto* the certification of any other association for the group contemplated by the new certification.

R. S. 1964, c. 141, s. 34; 1969, c. 47, s. 21.

44. The cancellation of certification shall prevent the renewal of any collective agreement made by the association whose certification is cancelled and shall also *ipso facto* deprive it of its rights and advantages under such collective agreement.

R. S. 1964, c. 141, s. 35; 1969, c. 47, s. 22.

45. The alienation or operation by another in whole or in part of an undertaking shall not invalidate any certification granted under this Code, any collective agreement or any proceeding for the securing of certification or for the making or carrying out of a collective agreement.

The new employer, notwithstanding the division, amalgamation or changed legal structure of the undertaking, shall be bound by the certification or collective agreement as if he were named therein and shall become *ipso facto* a party to any proceeding relating thereto, in the place and stead of the former employer.

The second paragraph does not apply in the case of the transfer of part of the operation of an undertaking where such transfer does not entail the transfer to the transferee, in addition to functions or the right to operate, of most of the elements that characterize the part of the undertaking involved.

R. S. 1964, c. 141, s. 36; 1969, c. 47, s. 23; 1969, c. 48, s. 19; 2001, c. 26, s. 31; 2003, c. 26, s. 2.

45.1. *(Repealed).*

2001, c. 26, s. 32; 2003, c. 26, s. 3.

45.2. Where the operation of part of an undertaking is transferred, the following rules apply:

(1) for the purposes of labour relations between the new employer and the association of employees involved, a collective agreement referred to in the second paragraph of section 45 that has not expired on the effective date of the transfer is deemed to expire on the day the transfer becomes effective;

(2) the new employer is not bound by the certification or the collective agreement where a special agreement on the transfer includes a clause to the effect that the parties waive the application of the second paragraph of section 45. Such a clause binds the Commission but does not affect the effect, within the transferring employer's enterprise, of the certification of the association of employees having signed the agreement.

Subparagraph 1 of the first paragraph does not apply in the case of the transfer of the operation of part of an undertaking between employers of the public and parapublic sectors within the meaning of paragraph 1 of section 111.2.

2001, c. 26, s. 32; 2003, c. 26, s. 4.

45.3. Where an undertaking subject to the Canada Labour Code (Revised Statutes of Canada, 1985, chapter L-2) as regards labour relations becomes, in that regard, subject to the legislative authority of Québec, the following provisions shall apply:

(1) a certification granted, a collective agreement made by a certified union and proceedings commenced under the Canada Labour Code for the securing of certification or the making or carrying out of a collective agreement are deemed to be a certification granted, a collective agreement made and filed and proceedings commenced under this Code;

(2) the employer remains bound by the certification or collective agreement or, where the second paragraph of section 45 would have been applicable had the undertaking been under the legislative authority of Québec, the new employer becomes bound by the certification or collective agreement as if the employer were named therein and becomes *ipso facto* a party to any related proceeding in the place and stead of the former employer;

(3) proceedings in progress for the securing of certification or the making or carrying out of a collective agreement shall be continued and decided according to the provisions of this Code, with the necessary modifications;

(4) the provisions of the third paragraph of section 45 or those of section 45.2, as the case may be, apply where the undertaking becomes subject to the legislative authority of Québec as a result of the transfer of part of the operation of the undertaking.

2001, c. 26, s. 32; 2003, c. 26, s. 5.

46. It shall be the duty of the Commission, upon the motion of an interested party, to dispose of any matter relating to the application of sections 45 to 45.3. For that purpose, the Commission may, in particular, determine the applicability of those sections.

The Commission may also, upon the motion of an interested party, settle any difficulty arising out of the application of those sections and of their effects in the manner it considers the most appropriate. To that end, the Commission may, in particular, render any decision necessary for the implementation of an agreement reached by the interested parties on the description of the bargaining units and on the designation of an association to represent the group of employees to whom the bargaining unit described in the agreement applies or on any other question of common interest.

Where two or more associations of employees are concerned by the application of sections 45 and 45.3, the Commission may also, to the same end,

(1) grant or amend a certification;

(2) certify the association of employees that includes the absolute majority of the employees or hold a secret ballot in accordance with the provisions of section 37 and, consequently, certify the association that has obtained the greatest number of votes in accordance with the provisions of section 37.1;

(3) describe or modify a bargaining unit;

(4) merge bargaining units and, where two or more collective agreements apply to the employees of the new employer included in a bargaining unit resulting from the merger, determine the collective agreement that remains in force and make any modification or adaptation to the provisions of the collective agreement it considers necessary.

The merger of bargaining units entails the merger, if any, of the employees' seniority lists to which they applied, according to the rules determined by the Commission governing the employees' integration.

Where the operation of an undertaking is transferred to another during certification proceedings, the Commission may decide that the transferring employer and the transferee are successively bound by the certification.

The Commission may also, on the motion of an interested party filed not later than the thirtieth day following the effective date of the transfer of the operation of part of an enterprise and where it considers that the transfer was carried out for the main purpose of hindering the formation of an association of employees or undermining the continued integrity of a certified association of employees:

(1) set aside the application of the third paragraph of section 45 and render any appropriate decision to facilitate the application of the second paragraph of the said section;

(2) set aside the application of subparagraph 1 of the first paragraph of section 45.2 and determine that the new employer remains bound by the collective agreement referred to in the second paragraph of section 45 until the date fixed for its expiration.

R. S. 1964, c. 141, s. 37; 1969, c. 47, s. 24; 1969, c. 48, s. 20; 1977, c. 41, s. 1; 1990, c. 69, s. 2; 2001, c. 26, s. 33; 2003, c. 26, s. 6.

47. An employer must withhold from the salary of every employee who is a member of a certified association the amount stated as an assessment by such association.

The employer must also withhold from the salary of every other employee who is a member of the bargaining unit in respect of which such association was certified, an amount equal to the amount provided for in the first paragraph.

The employer must remit monthly to the certified association the amounts so withheld with a statement indicating the amount taken from each employee and the employee's name.

R. S. 1964, c. 141, s. 38; 1977, c. 41, s. 28.

47.1. A certified association must disclose its financial statement to its members every year. It must also remit a copy of such financial statement free of charge to any member who requests it.

1977, c. 41, s. 28.

47.2. A certified association shall not act in bad faith or in an arbitrary or discriminatory manner or show serious negligence in respect of employees comprised in a bargaining unit represented by it, whether or not they are members.

1977, c. 41, s. 28.

47.2.1. *(Repealed).*

1987, c. 85, s. 21; 2001, c. 26, s. 173.

47.3. If an employee who has been dismissed or the subject of a disciplinary sanction or who believes he has been the victim of psychological harassment under sections 81.18 to 81.20 of the Act respecting labour standards (chapter N-1.1), believes that, in that respect, the certified association has contravened section 47.2, the employee must, if he wishes to rely on that section, file, within six months, a complaint with and apply in writing to the Commission for an order directing that the employee's claim be referred to arbitration.

1977, c. 41, s. 28; 1994, c. 6, s. 5; 2001, c. 26, s. 34; 2002, c. 80, s. 77.

47.4. *(Repealed).*

1977, c. 41, s. 28; 1983, c. 22, s. 24; 1994, c. 6, s. 6; 2001, c. 26, s. 35.

47.5. If the Commission considers that the association has contravened section 47.2, it may authorize the employee to submit his claim to an arbitrator appointed by the Minister for decision in the manner provided for in the collective agreement, as in the case of a grievance. Sections 100 to 101.10 apply with the necessary modifications. The association shall pay the employee's costs.

The Commission may, in addition, make any other order it considers necessary in the circumstances.

1977, c. 41, s. 28; 2001, c. 26, s. 36.

47.6. If a claim is referred to an arbitrator pursuant to section 47.5, the employer shall not allege the association's non-observance of the procedure and periods provided for in the collective agreement for the settlement of grievances.

1977, c. 41, s. 28; 1999, c. 40, s. 59.

48. *(Repealed).*

R. S. 1964, c. 141, s. 39; 1969, c. 47, s. 25; 1969, c. 48, s. 21; 1977, c. 41, s. 29.

49. *(Repealed).*

1969, c. 47, s. 26; 1969, c. 48, s. 22; 1977, c. 41, s. 30; 1983, c. 22, s. 25; 1986, c. 95, s. 79; 2001, c. 26, s. 37.

50. *(Repealed).*

1969, c. 47, s. 26; 1969, c. 48, s. 23; 1977, c. 41, s. 1, s. 31; 2001, c. 26, s. 37.

DIVISION IV

Repealed, 2001, c. 26, s. 37.

50.1. *(Repealed).*

1994, c. 6, s. 7; 2001, c. 26, s. 37.

50.2. *(Repealed).*

1994, c. 6, s. 7; 2001, c. 26, s. 37.

51. *(Repealed).*

1969, c. 47, s. 26; 1969, c. 48, s. 24; 1977, c. 41, s. 1, s. 32; 2001, c. 26, s. 37.

51.1. *(Repealed).*

1977, c. 41, s. 33; 2001, c. 26, s. 37.

CHAPTER III **COLLECTIVE AGREEMENTS**

52. The certified association shall give to the employer, or the latter shall give to the certified association, at least eight days' written notice of the day and hour when and the place where its or his representatives will be ready to meet the other party or his or its representatives for the purpose of making a collective agreement.

The certified association or the employer may give such a notice within the 90 days preceding the expiration of the agreement, unless another period is provided for therein.

The certified association or the employer may give such notice within the 90 days preceding the expiration of an arbitration award made in lieu of a collective agreement.

In the case of a collective agreement referred to in subparagraph 1 of the first paragraph of section 45.2, the certified association or the employer may give such notice within 30 days following the deemed expiration of the agreement.

R. S. 1964, c. 141, s. 40; 1969, c. 47, s. 27; 1969, c. 48, s. 25; 1977, c. 41, s. 34; 1999, c. 40, s. 59; 2003, c. 26, s. 7.

52.1. The party giving notice under section 52 shall transmit the notice to the addressee by fax, messenger service or registered or certified mail or cause it to be served on him by a bailiff.

1977, c. 41, s. 35; 1994, c. 6, s. 8.

52.2. If no notice is given in accordance with section 52, the notice provided for in the said section is deemed to have been received on the day of the expiration of the collective agreement or of the arbitration award made in lieu of it, except in the situation referred to in the fourth paragraph of the said section, where it is deemed to have been received on the thirtieth day following the deemed expiration of the agreement.

If the newly certified association has not given such a notice, the notice is deemed to have been received 90 days after the date the association obtained certification.

At all times, the Commission may, on a mere request by any interested person, determine the date of expiration of a collective agreement when such date is not clearly indicated.

1977, c. 41, s. 35; 1994, c. 6, s. 9; 2001, c. 26, s. 38; 2003, c. 26, s. 8.

53. The negotiating stage begins once the notice referred to in section 52 has been received by the addressee or is deemed to have been received in accordance with section 52.2.

Negotiations must be begun and carried on diligently and in good faith.

R. S. 1964, c. 141, s. 41; 1977, c. 41, s. 36; 1994, c. 6, s. 10.

53.1. Neither the employer nor the certified association may refuse to negotiate or delay the negotiation on the sole ground that the parties disagree on who are contemplated by the certification.

1983, c. 22, s. 26.

54. At any stage of the negotiations, either of the parties may request the Minister to designate a conciliation officer to assist them in reaching an agreement.

Notice of such request must be given to the other party on the same day.

Upon receiving such request, the Minister must designate a conciliation officer.

R. S. 1964, c. 141, s. 42; 1977, c. 41, s. 36.

55. At any stage of the negotiations, the Minister may, *ex officio*, designate a conciliation officer; he must then inform the parties of such appointment.

R. S. 1964, c. 141, s. 43; 1977, c. 41, s. 36.

56. The parties are bound to attend any meeting to which the conciliation officer calls them.

R. S. 1964, c. 141, s. 44; 1977, c. 41, s. 36.

57. The conciliation officer shall make a report to the Minister if he so requests.

R. S. 1964, c. 141, s. 45; 1977, c. 41, s. 36.

57.1. (*Repealed*).

1983, c. 22, s. 27; 1987, c. 68, s. 39; 1993, c. 6, s. 2.

58. The right to strike or to a lock-out shall be acquired 90 days after reception, by the person to whom it is addressed, of the notice served on him or transmitted to him in accordance with section 52.1 or that he is deemed to have received in accordance with section 52.2, unless a collective agreement has been reached between the parties or unless, by mutual consent, they decide to submit their dispute to an arbitrator.

R. S. 1964, c. 141, s. 46; 1977, c. 41, s. 36; 1983, c. 22, s. 28; 1994, c. 6, s. 11.

58.1. The party which declares a strike or a lock-out must notify the Minister in writing within forty-eight hours following the declaration of the strike or lock-out, as the case may be, and indicate the number of employees comprised in the bargaining unit concerned.

1977, c. 41, s. 36.

58.2. The Commission may, at the request of the employer and if it considers that it may foster the negotiation or making of a collective agreement, order a certified association to hold, on the date or within the time limit it determines, a secret ballot to give those of its members that are included in the bargaining unit an opportunity to accept or refuse the last offers made by the employer concerning all the matters still in dispute between the parties.

The Commission may order the holding of such a ballot only once during the negotiation of a collective agreement.

The ballot shall be held under the supervision of the Commission.

2001, c. 26, s. 39; 2006, c. 58, s. 6.

59. From the filing of a petition for certification and until the right to lock out or to strike is exercised or an arbitration award is handed down, no employer may change the conditions of employment of his employees without the written consent of each petitioning association and, where such is the case, certified association.

The same rule applies on the expiration of the collective agreement until the right to lock out or to strike is exercised or an arbitration award is handed down.

The parties may stipulate in a collective agreement that the conditions of employment contained therein shall continue to apply until a new agreement is signed.

R. S. 1964, c. 141, s. 47; 1969, c. 47, s. 28; 1977, c. 41, s. 37; 1994, c. 6, s. 12.

60. During the period referred to in section 59, it is forbidden to advise or enjoin employees not to continue furnishing their services to their employer under the same conditions of employment.

R. S. 1964, c. 141, s. 48.

61. A certified association shall be subrogated by operation of law in all the rights and obligations resulting from a collective agreement in force and made by another association; but it may terminate the same or declare it null by written notice sent to the employer and the Commission.

R. S. 1964, c. 141, s. 49; 1969, c. 47, s. 29; 1977, c. 41, s. 1; 2001, c. 26, s. 40.

61.1. In the case of a logging operation, a certified association is subrogated of right in all the rights and obligations arising from a collective agreement in force made by another association, including the deductions of union contributions. However, it shall not terminate such collective agreement or declare it void where its term is three years or less.

1977, c. 41, s. 38; 1994, c. 6, s. 13.

62. The collective agreement may contain any provision respecting conditions of employment which is not contrary to public order or prohibited by law.

R. S. 1964, c. 141, s. 50 (*part*).

63. No employer shall be bound, under any provision of a collective agreement, to dismiss an employee for the sole reason that the certified association has refused or deferred his admission as a member, has suspended his membership or excluded him from the association except in the following cases:

(a) the employee has been employed contrary to a provision of the collective agreement;

(b) the employee has participated, at the instigation or with the direct or indirect assistance of his employer or a person acting on behalf of his employer, in an activity against the certified association.

R. S. 1964, c. 141, s. 50 (*part*); 1977, c. 41, s. 39.

64. A collective agreement is not invalidated by the nullity of one or more of its clauses.

R. S. 1964, c. 141, s. 52.

65. A collective agreement shall have a specified term of not less than one year.

In the case of a first collective agreement for a group of employees contemplated by the certification, the term shall not be more than three years.

R. S. 1964, c. 141, s. 53; 1965 (1st sess.), c. 50, s. 3; 1994, c. 6, s. 14.

66. An agreement having no fixed and definite term is presumed to be in force for one year.

R. S. 1964, c. 141, s. 54.

67. A collective agreement shall be binding upon all the present or future employees contemplated by the certification.

The certified association and the employer shall make only one collective agreement with respect to the group of employees contemplated by the certification.

R. S. 1964, c. 141, s. 55; 1969, c. 47, s. 30; 1969, c. 48, s. 26.

68. A collective agreement made by an employers' association shall be binding upon all employers who are members of such association and to whom it can apply, including those who subsequently become members thereof.

A collective agreement made by an association of school boards shall bind those only which have given it an exclusive mandate as provided in section 11.

R. S. 1964, c. 141, s. 56; 1965 (1st sess.), c. 50, s. 4; 1988, c. 84, s. 700.

69. A certified association may exercise all the recourses which the collective agreement grants to each employee whom it represents without being required to prove that the interested party has assigned his claim.

R. S. 1964, c. 141, s. 57; 1969, c. 47, s. 31.

70. The recourse of several employees against the same employer may be cumulated in a single demand and the total claimed shall determine the competency of the court of original jurisdiction as well as of appeal.

R. S. 1964, c. 141, s. 58.

71. The rights and recourses arising out of a collective agreement or an award made *in lieu* thereof shall be prescribed by six months from the day when the cause of action arose. Recourse to the procedure respecting grievances shall interrupt prescription.

R. S. 1964, c. 141, s. 59.

72. A collective agreement takes effect only on the filing of two duplicate originals or two true copies of the collective agreement and its schedules with the Minister. The same rule applies to any amendment subsequently made to such collective agreement.

Such filing has retroactive effect to the date provided in the collective agreement for its coming into force or, failing such date, to the date of the signing of the collective agreement.

Failing such filing within 60 days of the signing of the collective agreement or of any amendment thereto, the right to certification shall thereupon be acquired by any other association, with respect to the group of employees for whom such collective agreement or such amendments have been made, provided that such other association applies therefor after the expiry of such 60 days but before such filing has been effected, and provided that certification is subsequently granted to it.

The party so filing must indicate the number of employees governed by the collective agreement and comply with the other regulatory provisions established to that effect under section 138.

R. S. 1964, c. 141, s. 60; 1969, c. 47, s. 32; 1969, c. 48, s. 27; 1977, c. 41, s. 40; 1994, c. 6, s. 15; 2001, c. 26, s. 41; 2006, c. 58, s. 7.

73. No certified association that has entered into a collective agreement, and no group of employees subject to such agreement or to an arbitration award having the effect thereof, shall take steps to become a member of another association or to affiliate therewith, except, as the case may be,

(1) in the 90 days preceding the date of expiration of the arbitration award or the date of expiration or

renewal of the collective agreement where its term is three years or less;

(2) in the 180 days counting from the beginning of any period in which certification may be applied for where the term of the agreement is more than three years.

R. S. 1964, c. 141, s. 61; 1969, c. 47, s. 33; 1977, c. 41, s. 41; 1994, c. 6, s. 16.

CHAPTER IV

SETTLEMENT OF DISPUTES AND GRIEVANCES

DIVISION I

DISPUTES ARBITRATORS

74. Any dispute shall be submitted to an arbitrator upon written application to the Minister by the parties.

R. S. 1964, c. 141, s. 62; 1983, c. 22, s. 30.

75. The Minister shall notify the parties that he is referring the dispute to arbitration.

R. S. 1964, c. 141, s. 63; 1983, c. 22, s. 31.

76. In no case may an arbitrator have any pecuniary interest in the dispute submitted to him or have acted in such dispute as business agent, attorney, adviser or representative of a party thereto.

R. S. 1964, c. 141, s. 64; 1983, c. 22, s. 32.

77. Within 10 days of receiving the notice provided for in section 75, the parties must consult together as to the choice of an arbitrator; if they agree, the Minister shall appoint to such office the person they have chosen. Failing agreement, the Minister shall appoint him *ex officio*.

Every arbitrator appointed *ex officio* shall be selected from a list drawn up annually by the Minister after consultation with the Comité consultatif du travail et de la main-d'oeuvre established under section 12.1 of the Act respecting the Ministère du Travail (chapter M-32.2). The Minister may, in the same manner, amend the list in the course of the year.

R. S. 1964, c. 141, s. 65; 1977, c. 41, s. 43; 1983, c. 22, s. 33; 1991, c. 76, s. 3; 1994, c. 6, s. 17; 2011, c. 16, s. 86.

78. The arbitrator shall proceed to the arbitration with assessors unless, within fifteen days of his appointment, the parties reach an agreement to the contrary.

Each party shall designate, within fifteen days of the appointment of the arbitrator, an assessor to assist the arbitrator and represent it during the hearing of the dispute and the deliberation. If a party fails to designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

He may proceed in the absence of an assessor who does not attend after having been duly convened.

R. S. 1964, c. 141, s. 66; 1969, c. 47, s. 34; 1977, c. 5, s. 14; 1983, c. 22, s. 34.

79. Every arbitrator shall decide according to equity and good conscience.

In rendering his award, the arbitrator may take into account, in particular, the conditions of employment that prevail in similar undertakings or similar circumstances and the conditions of employment that are applicable to the other employees of the undertaking.

R. S. 1964, c. 141, s. 67; 1983, c. 22, s. 35; 1994, c. 6, s. 18.

80. An arbitrator who resigns, refuses to act or is unable to act is replaced according to the procedure

prescribed for the original appointment.

If an assessor resigns, refuses to act or is unable to act, the party which appointed him shall appoint a person to replace him. The arbitrator may continue the arbitration if the party fails to appoint a person to replace the assessor within the time he indicates.

R. S. 1964, c. 141, s. 68; 1983, c. 22, s. 36; 1999, c. 40, s. 59.

81. The arbitrator shall proceed with all dispatch with the inquiry into the dispute in accordance with such procedure and mode of proof as it deems appropriate.

R. S. 1964, c. 141, s. 69; 1983, c. 22, s. 37.

82. Arbitration sittings shall be public, but the arbitrator of his own motion or upon application of either party may order private sittings.

R. S. 1964, c. 141, s. 70; 1983, c. 22, s. 38.

83. The arbitrator has all the powers of a judge of the Superior Court for the conduct of arbitration sittings; but he cannot order imprisonment.

R. S. 1964, c. 141, s. 71; 1983, c. 22, s. 39.

84. Upon application by the parties or on the initiative of the arbitrator, witnesses shall be summoned by means of a written order signed by the arbitrator. The arbitrator may administer the oath.

R. S. 1964, c. 141, s. 72; 1983, c. 22, s. 40; 1994, c. 6, s. 19.

85. Any person duly summoned to appear before an arbitrator who refuses to attend or to testify, may be compelled to do so as if he had been summoned according to the Code of Civil Procedure (chapter C-25).

R. S. 1964, c. 141, s. 73; 1983, c. 22, s. 41; 1990, c. 4, s. 227.

86. Every person summoned to testify before an arbitrator is entitled to the same taxation as witnesses before the Superior Court and to the reimbursement of his travelling and living expenses.

Such taxation is payable by the party who proposed the summons, but the person who receives his salary during such period is entitled only to the reimbursement of travelling and living expenses.

Where a person is duly summoned on the initiative of an arbitrator, the taxation is payable in equal shares by the parties.

R. S. 1964, c. 141, s. 74; 1994, c. 6, s. 20; 2001, c. 26, s. 42.

87. The arbitrator may communicate or otherwise serve any order, document or proceeding issued by him or the parties involved.

R. S. 1964, c. 141, s. 75; 1983, c. 22, s. 42; 1994, c. 6, s. 21.

88. The arbitration award must give reasons for the decision and be in writing. It must be signed by the arbitrator.

R. S. 1964, c. 141, s. 76; 1983, c. 22, s. 43.

89. The arbitrator shall forward the original of the award to the Minister and send, at the same time, a copy to each party.

R. S. 1964, c. 141, s. 77; 1977, c. 41, s. 44; 1983, c. 22, s. 44; 2001, c. 26, s. 43; 2006, c. 58, s. 8.

90. The award of the arbitrator must be rendered within 60 days after the end of the last arbitration sitting.

If the arbitrator is unable to act, the Minister may, at the request of the arbitrator or of a party, grant an extension of a specific number of days to the arbitrator.

If the Minister considers that the circumstances and the interest of the parties so warrant, the Minister may also, at the request of the arbitrator, grant the latter an extension of not more than 30 days which may, on the same conditions, be extended.

R. S. 1964, c. 141, s. 78; 1983, c. 22, s. 45; 1999, c. 40, s. 59; 2001, c. 26, s. 44.

91. At any time before the final award, an arbitrator may render any temporary award that he deems fair and useful.

R. S. 1964, c. 141, s. 79; 1983, c. 22, s. 46.

91.1. The arbitrator may at any time correct an award containing a mistake in writing or calculation or any other clerical error.

1993, c. 6, s. 3.

92. The award of the arbitrator shall bind the parties for a period of not less than one year nor more than three years. The parties may, however, agree to amend the content, wholly or in part.

Even if the award expires on a date prior to the date on which it is rendered, it may nevertheless cover all matters on which no agreement has been reached by the parties.

R. S. 1964, c. 141, s. 80; 1983, c. 22, s. 47; 2001, c. 26, s. 45.

93. The award shall have the effect of a collective agreement signed by the parties.

It may be executed under the authority of a court of competent jurisdiction at the suit of a party who shall not be obliged to implead the person for whose benefit he is acting.

R. S. 1964, c. 141, s. 81.

DIVISION I.1

FIRST COLLECTIVE AGREEMENT

93.1. Where a first collective agreement is negotiated for the group of employees contemplated by the certification, a party may apply to the Minister to submit the dispute to an arbitrator after the intervention of the conciliator has not been successful.

1977, c. 41, s. 45; 1983, c. 22, s. 48.

93.2. The application to the Minister must be in writing and a copy of it must be sent to the other party at the same time.

1977, c. 41, s. 45.

93.3. Even if the conciliation officer has continued to assist the parties in trying to reach a collective agreement after the application for arbitration, the Minister may entrust an arbitrator with endeavouring to settle the dispute.

1977, c. 41, s. 45; 1983, c. 22, s. 48; 2006, c. 58, s. 9.

93.4. The arbitrator must decide to determine the content of the first collective agreement where he is of opinion that it is unlikely that the parties will be able to reach a collective agreement within a reasonable time. He shall then inform the parties and the Minister of his decision.

1977, c. 41, s. 45; 1983, c. 22, s. 49.

93.5. If a strike or lock-out is in progress at that time, it must end from the time when the arbitrator informs the parties that he has deemed it necessary to determine the content of the collective agreement to settle the dispute.

From such time, the conditions of employment applicable to the employees comprised in the bargaining unit shall be those the maintenance of which is provided for in section 59.

1977, c. 41, s. 45; 1983, c. 22, s. 50.

93.6. *(Repealed).*

1977, c. 41, s. 45; 1983, c. 22, s. 51.

93.7. At any time, the parties may agree upon one of the matters of the dispute.

The agreement shall be recorded in the arbitration award, which shall not amend it.

1977, c. 41, s. 45.

93.8. *(Repealed).*

1977, c. 41, s. 45; 1983, c. 22, s. 52.

93.9. Sections 75 to 93 apply to the arbitration provided for in this division.

1977, c. 41, s. 45; 1983, c. 22, s. 53; 2001, c. 26, s. 46; 2006, c. 58, s. 10.

DIVISION II

POLICEMEN AND FIREMEN

94. Upon a joint application by the parties, the Minister shall appoint a mediator to help a municipality or an intermunicipal board and an association of employees certified to represent its policemen or firemen to settle their dispute.

The mediator has 60 days to bring the parties to an agreement. The Minister may, only once and at the request of the mediator, extend the period of mediation by not more than 30 days.

R. S. 1964, c. 141, s. 82; 1969, c. 47, s. 35; 1977, c. 41, s. 46; 1983, c. 22, s. 54; 1993, c. 6, s. 4; 1996, c. 2, s. 221; 1996, c. 30, s. 1.

95. *(Repealed).*

R. S. 1964, c. 141, s. 83; 1983, c. 22, s. 55; 1993, c. 6, s. 4; 1996, c. 30, s. 2.

96. If there is no agreement at the expiry of the period of mediation, the mediator shall give to the parties a report specifying the matters on which there has been agreement and the matters which are still in dispute.

The mediator shall, at the same time, give a copy of the report to the Minister with his comments.

R. S. 1964, c. 141, s. 84; 1983, c. 22, s. 56; 1993, c. 6, s. 4; 1996, c. 30, s. 3.

97. After receiving a report of unsuccessful mediation or a written application for arbitration, the Minister shall refer the dispute to the form of arbitration selected by the parties.

The dispute shall be referred to an arbitrator at the request of one of the parties or to a mediator-arbitrator at joint request of the parties.

R. S. 1964, c. 141, s. 85; 1983, c. 22, s. 57; 1993, c. 6, s. 4; 1996, c. 30, s. 3.

98. Within 10 days after receiving notice from the Minister that he intends to refer the dispute to the form of arbitration selected, the parties shall consult each other regarding the selection of an arbitrator from a list drawn up by the Minister specifically for the arbitration of disputes under this division.

If there is agreement between the parties, the Minister shall appoint the person selected by them as arbitrator. If there is no agreement, the Minister shall appoint an arbitrator from the list.

If mediation has taken place, the Minister shall forward a copy of the mediator's report to the arbitrator.

R. S. 1964, c. 141, s. 86; 1983, c. 22, s. 58; 1993, c. 6, s. 4; 1996, c. 30, s. 3.

99. The Minister may enter on the list referred to in section 98 the names of persons proposed jointly by all associations recognized by order of the Government as being the most representative associations of municipalities, intermunicipal boards, policemen and firemen.

The associations referred to in the first paragraph shall send their joint proposals to the Minister not later than 90 days before the date of expiry of the list.

If there is not a sufficient number of joint proposals approved of by the Minister, the latter shall enter on the list the names he selects from among those appearing on the list referred to in section 77.

The list referred to in section 98 shall be valid for a period of five years. During this period, the Minister may amend the list after consulting the associations referred to in the first paragraph.

R. S. 1964, c. 141, s. 87; 1983, c. 22, s. 59; 1993, c. 6, s. 4; 1996, c. 2, s. 221.

99.1. A person, in order to be entered on the list referred to in section 98, must agree in writing not to act as arbitrator with respect to a grievance which relates to the interpretation or implementation of an arbitrator's award which he rendered in accordance with this division.

The written agreement shall be valid for the period the person's name is entered on the list or on any subsequent list.

1993, c. 6, s. 4.

99.1.1. The mediator-arbitrator shall, before proceeding with arbitration, attempt to settle the dispute referred by the Minister.

Where, in the opinion of the mediator-arbitrator, there is no likelihood of the parties reaching agreement on a collective agreement within a reasonable period of time, he shall proceed to determine the content of the collective agreement. He shall so inform the parties and the Minister.

1996, c. 30, s. 4.

99.2. The arbitrator shall proceed by arbitration with assessors unless, within 15 days of his appointment, there has been agreement to the contrary between the parties.

Each party shall designate, within 15 days of the appointment of the arbitrator, an assessor to assist the arbitrator and represent the party during the hearing of the dispute and the deliberations. Where one of the

parties does not designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

He may proceed in the absence of an assessor who does not attend after having been duly convened.

1993, c. 6, s. 4.

99.3. Every arbitrator shall render his award according to equity and good conscience.

1993, c. 6, s. 4; 1994, c. 6, s. 22.

99.4. Only matters not having been the subject of agreement between the parties may be referred to arbitration.

The arbitrator has exclusive jurisdiction to determine such matters on the basis of the mediator's report or, as the case may be, on the basis of his own observation of the matters on which no agreement was reached during his mediation.

1993, c. 6, s. 4; 1996, c. 30, s. 5.

99.5. Subject to section 99.6, the arbitrator must, in rendering his award, take into account the conditions of employment of the other employees of the municipality concerned or of the municipalities which are party to the agreement creating the intermunicipal board concerned, the conditions of employment prevailing in similar municipalities or intermunicipal boards or in similar circumstances, as well as prevailing and anticipated wage and economic conditions in Québec.

He may also take into account any other piece of evidence referred to in section 99.6.

1993, c. 6, s. 4; 1996, c. 2, s. 221; 1996, c. 30, s. 6.

99.6. The arbitrator shall render an award based on the evidence collected at the inquiry.

1993, c. 6, s. 4.

99.7. The arbitrator shall record in his award stipulations relating to the matters which were the subject of an agreement evidenced in the mediator's report or, as the case may be, that he ascertained during his mediation.

The parties may, at any time, come to an agreement on a matter which is the subject of the dispute and the corresponding stipulations shall also be recorded by the arbitrator in the award.

The arbitrator shall not amend such stipulations except for the purpose of making such adaptations as are necessary to make the stipulations consistent with a clause of the award.

1993, c. 6, s. 4; 1996, c. 30, s. 7.

99.8. The arbitrator's award shall bind the parties for a period of not less than one year nor more than three years. The parties may, however, agree to amend the content, wholly or in part.

Even if the award expires on a date prior to the date on which it is rendered, it may nevertheless cover all matters on which no agreement has been reached by the parties.

1993, c. 6, s. 4; 2001, c. 26, s. 47.

99.9. Sections 54 and 55 and Divisions I and I.1 of this chapter shall not apply to a dispute concerning policemen or firemen in the employ of a municipality or an intermunicipal board.

However, section 76, sections 80 to 91.1 and section 93 shall apply to the arbitration of a dispute referred to

in this division.

1993, c. 6, s. 4; 1994, c. 6, s. 23; 1996, c. 2, s. 221; 2001, c. 26, s. 48; 2006, c. 58, s. 11.

99.10. Where there is a disagreement, other than a dispute or a grievance, between a municipality or an intermunicipal board and an employee's association certified to represent its policemen or its firemen, the Minister may entrust a mediator with the responsibility of meeting the parties and attempting to bring them to an agreement.

1993, c. 6, s. 4; 1996, c. 2, s. 221.

99.11. Upon receipt of the mediator's report, the Minister may, notwithstanding section 102, refer the disagreement to an arbitrator as if it were a dispute referred to in this division.

1993, c. 6, s. 4.

DIVISION III

GRIEVANCES ARBITRATOR

100. Every grievance shall be submitted to arbitration in the manner provided in the collective agreement if it so provides and the certified association and the employer abide by it; otherwise it shall be referred to an arbitrator chosen by the parties or, failing agreement, appointed by the Minister.

The arbitrator appointed by the Minister is selected from the list contemplated in section 77.

Except where provided to the contrary, the provisions of this division prevail over the provisions of any collective agreement in case of incompatibility.

R. S. 1964, c. 141, s. 88; 1969, c. 47, s. 36; 1969, c. 48, s. 28; 1977, c. 41, s. 48; 1983, c. 22, s. 61.

100.0.1. No grievance submitted to the other party within fifteen days of the date that the cause of action arose may be dismissed by the arbitrator on the sole ground that the time limit prescribed in the collective agreement was not observed.

1983, c. 22, s. 62.

100.0.2. Where the parties have settled a grievance before it has been referred to arbitration and one of the parties refuses to give effect to the settlement reached, the other party may refer the grievance to arbitration notwithstanding any agreement to the contrary and notwithstanding the expiry of the periods provided for in sections 71 and 100.0.1 or in the collective agreement.

1983, c. 22, s. 62.

100.1. No arbitrator may be prosecuted for acts done in good faith in the performance of his duties.

1977, c. 41, s. 48; 1983, c. 22, s. 63.

100.1.1. The arbitrator shall proceed with the arbitration with assessors if, within fifteen days of his appointment, there is agreement to that effect between the parties.

Where there is agreement, each party shall designate, within the time prescribed in the first paragraph, an assessor to assist the arbitrator and represent it during the hearing of the grievance and the deliberation. If a party refuses to give effect to the agreement within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

He may proceed in the absence of an assessor who does not attend, after having been duly convened.

1983, c. 22, s. 64.

100.1.2. An arbitrator who resigns, refuses to act or is unable to act is replaced according to the procedure prescribed for the original appointment.

An assessor who resigns, refuses to act or is unable to act is replaced by an appointment made by the party who designated him. The arbitrator may continue the arbitration if the party fails to appoint a person to replace the assessor within the time he indicates.

1983, c. 22, s. 64; 1999, c. 40, s. 59.

100.2. The arbitrator shall proceed with all dispatch with the inquiry into the grievance and, unless otherwise provided in the collective agreement, in accordance with such procedure and mode of proof as he deems appropriate.

For such purpose, he may, *ex officio*, call the parties to proceed with the hearing of the grievance.

For the purposes set out in section 136, the arbitrator may also hold a pre-hearing conference prior to the hearing of the grievance.

1977, c. 41, s. 48; 1983, c. 22, s. 65; 2001, c. 26, s. 49.

100.2.1. No grievance may be rejected because of a defect of form or irregularity in the procedure.

1983, c. 22, s. 66; 1999, c. 40, s. 59.

100.3. If the arbitrator is notified in writing of the total or partial settlement or of the discontinuance of a grievance of which he has been seized, he shall commit it to writing and file his award in accordance with section 101.6.

1977, c. 41, s. 48; 1983, c. 22, s. 67.

100.4. Arbitration sittings shall be public, but the arbitrator may, of his own initiative or at the request of one of the parties, order them held *in camera*.

1977, c. 41, s. 48; 1983, c. 22, s. 68.

100.5. The arbitrator must give the interested certified association, the employer and employee an opportunity to be heard.

If an interested party hereinabove duly notified by a written notice of at least five clear days of the date, time and place at which it or he can be heard does not appear or refuses to be heard, the arbitrator may proceed with the hearing of the matter and no judicial recourse shall be based on the fact that he has so proceeded in the absence of such party.

1977, c. 41, s. 48; 1983, c. 22, s. 69.

100.6. Upon application of any of the parties or of his own initiative, the arbitrator may summon a witness to testify to what he knows, to file a document or to do both unless he is of opinion that the application for summons is frivolous on the face of it. The writ of summons must be served at least five clear days before appearance.

A person so summoned who refuses to appear, to testify or to file the required documents may be compelled to do so as if he had been summoned according to the Code of Civil Procedure (chapter C-25).

The arbitrator may require and administer the oath of a witness.

A summoned witness is entitled to the same taxation as witnesses before the Superior Court and to the reimbursement of his travelling and living expenses.

Such taxation is payable by the party who proposed the summons, but the person who receives his salary during such period is entitled only to the reimbursement of travelling and living expenses.

Where a person is duly summoned on the initiative of an arbitrator, the taxation is payable in equal shares by the parties.

1977, c. 41, s. 48; 1983, c. 22, s. 70; 1990, c. 4, s. 228; 1999, c. 40, s. 59; 2001, c. 26, s. 50.

100.7. The arbitrator may ask a witness any question he deems useful.

1977, c. 41, s. 48; 1983, c. 22, s. 71.

100.8. A witness shall not refuse to answer for the reason that his reply might tend to incriminate him or to expose him to a legal proceeding of any kind; but if he objects on that ground, his reply shall not be used against him in any penal proceedings instituted under a law of Québec.

1977, c. 41, s. 48.

100.9. Upon application of one of the parties or of his own initiative, the arbitrator may visit the place relating to the grievance referred to him. He shall then invite the parties to accompany him.

When visiting the place of work, the arbitrator may examine any property related to the grievance. He may also, on such visit, interrogate the persons who are there.

1977, c. 41, s. 48; 1983, c. 22, s. 72; 1999, c. 40, s. 59.

100.10. Any disagreement relating to the maintenance of the conditions of employment provided for in section 59 or 93.5, must be referred to arbitration by the interested association of employees as if it were a grievance.

1977, c. 41, s. 48.

100.11. The arbitrator must render an award based on the evidence collected at the inquiry.

1977, c. 41, s. 48; 1983, c. 22, s. 73.

100.12. In the exercise of his duties the arbitrator may

- (a) interpret and apply any Act or regulation to the extent necessary to settle a grievance;
- (b) fix the terms and conditions of reimbursement of an overpayment by an employer to an employee;
- (c) order the payment of interest at the legal rate, from the filing of the grievance, on any amount due under an award he has made.

There must be added to that amount an indemnity computed by applying to that amount, from the same date, a percentage equal to the amount by which the rate of interest fixed according to section 28 of the Tax Administration Act (chapter A-6.002) exceeds the legal rate of interest;

- (d) upon request of a party, fix the amount due under an award he has made;
- (e) correct at any time a decision in which there is an error in writing or calculation or any other clerical error;
- (f) in disciplinary matters, confirm, amend or set aside the decision of the employer and, if such is the case, substitute therefor the decision he deems fair and reasonable, taking into account the circumstances concerning the matter. However, where the collective agreement provides for a specific sanction for the fault alleged against the employee in the case submitted to arbitration, the arbitrator shall only confirm or set aside

the decision of the employer, or, if such is the case, amend it to bring it into conformity with the sanction provided for in the collective agreement;

(g) render any other decision, including a provisional order, intended to protect the rights of the parties.

1977, c. 41, s. 48; 1983, c. 22, s. 74; 2001, c. 26, s. 51; 2010, c. 31, s. 175.

100.13. *(Repealed).*

1977, c. 41, s. 48; 1983, c. 22, s. 75.

100.14. *(Repealed).*

1977, c. 41, s. 48; 1983, c. 22, s. 75.

100.15. *(Repealed).*

1977, c. 41, s. 48; 1983, c. 22, s. 75.

100.16. The arbitrator may order, of his own motion, that the inquiry be re-opened.

1977, c. 41, s. 48; 1983, c. 22, s. 76.

101. The arbitration award is without appeal, binds the parties and, where such is the case, any employee concerned. Section 129 applies, with the necessary modifications, to the arbitration award; however, the authorization of the Commission provided for in that section is not required.

R. S. 1964, c. 141, s. 89; 1977, c. 41, s. 49; 1983, c. 22, s. 77; 2001, c. 26, s. 52.

101.1. *(Repealed).*

1977, c. 41, s. 50; 1983, c. 22, s. 78.

101.2. The arbitration award must state the grounds on which it is based and be rendered in writing. It must be signed by the arbitrator.

1977, c. 41, s. 50; 1983, c. 22, s. 79.

101.3. The arbitrator and assessors must keep the secret of the advisement until the date of the award.

1977, c. 41, s. 50; 1983, c. 22, s. 80.

101.4. *(Repealed).*

1977, c. 41, s. 50; 1983, c. 22, s. 81.

101.5. If no period is fixed in the collective agreement, the arbitrator must render his award within 90 days after either the end of the last arbitration sitting or, if there are no arbitration sittings, the beginning of the advisement, unless the parties consent in writing before the expiry of the period to grant an additional period of a precise number of days.

1977, c. 41, s. 50; 1983, c. 22, s. 82; 1994, c. 6, s. 24; 1999, c. 40, s. 59.

101.6. The arbitrator shall file two duplicate originals or two true copies of the award with the Minister and, at the same time, send a copy of the award to each party.

1977, c. 41, s. 50; 1983, c. 22, s. 83; 2001, c. 26, s. 53; 2006, c. 58, s. 12.

101.7. If the arbitrator fails to render his award within the period provided for in section 101.5 or to file and to send it to the parties in accordance with section 101.6, the Commission may, upon petition by a party, make the order it deems necessary in order that such award may be rendered, filed and sent with the least possible period.

1977, c. 41, s. 50; 1983, c. 22, s. 84; 1994, c. 6, s. 25; 1999, c. 40, s. 59; 2001, c. 26, s. 54.

101.8. The arbitrator shall not be entitled to any fees or expenses unless he renders his award within a period in accordance with section 101.5 and he produces to the parties proof that the award has been sent to the Minister.

1977, c. 41, s. 50; 1983, c. 22, s. 85; 1999, c. 40, s. 59; 2001, c. 26, s. 55; 2006, c. 58, s. 13.

101.9. The arbitrator must keep the record of arbitration for two years from the filing of the award.

1977, c. 41, s. 50; 1983, c. 22, s. 85.

101.10. (*Repealed*).

1977, c. 41, s. 50; 2001, c. 26, s. 56; 2006, c. 58, s. 14.

102. During the period of a collective agreement, any disagreement other than a grievance within the meaning of section 1 or other than a dispute that may result from the application of section 107, shall not be settled except in the manner provided in the agreement and to the extent that the agreement so provides. If such a disagreement is submitted to arbitration, sections 100 to 101.10 apply.

R. S. 1964, c. 141, s. 90; 1977, c. 41, s. 51.

DIVISION IV

REGULATIONS

103. The Government may determine, by regulation, after consultation with the Comité consultatif du travail et de la main-d'oeuvre established under section 12.1 of the Act respecting the Ministère du Travail (chapter M-32.2), the remuneration and expenses to which the arbitrators of disputes and grievances appointed by the Minister are entitled, one or more methods for determining the remuneration and expenses to which the arbitrators chosen by the parties are entitled, and the situations in which the regulation does not apply.

The regulation may also determine who shall assume the payment of such remuneration and expenses and, where applicable, in what proportion.

The Government may also make any regulation deemed necessary to give effect to the provisions of chapter IV.

R. S. 1964, c. 141, s. 91; 1977, c. 41, s. 52; 1983, c. 22, s. 86; 1991, c. 76, s. 4; 1994, c. 6, s. 26; 2001, c. 26, s. 57; 2011, c. 16, s. 86.

104. Such regulations shall come into force only after publication in the *Gazette officielle du Québec*.

R. S. 1964, c. 141, s. 92.

CHAPTER V

STRIKES AND LOCK-OUTS

105. Strikes are prohibited in all circumstances to the police officers and firemen in the employ of a municipality or an intermunicipal management board.

Firemen in the employ of an undertaking that is under contract with a municipality or an intermunicipal management board to provide fire protection services in the territory of a municipality are deemed, for the purposes of this section, to be in the employ of the municipality or the intermunicipal management board, as the case may be.

R. S. 1964, c. 141, s. 93; 1983, c. 22, s. 87; 1985, c. 27, s. 36; 1996, c. 2, s. 220.

106. It is forbidden to strike so long as an association of the employees concerned has not been certified and has not obtained the right to strike under section 58.

R. S. 1964, c. 141, s. 94; 1969, c. 47, s. 37.

107. It is forbidden to strike during the period of a collective agreement, unless the agreement contains a clause permitting the revision thereof by the parties and the conditions prescribed in section 106 have been observed.

R. S. 1964, c. 141, s. 95.

108. No association of employees or person acting in the interests of such an association or of a group of employees shall order, encourage or support a slackening of work designed to limit production.

R. S. 1964, c. 141, s. 96.

109. Any lock-out is prohibited except in the case where an association of employees has acquired the right to strike.

R. S. 1964, c. 141, s. 97.

109.1. For the duration of a strike declared in accordance with this Code or a lock-out, every employer is prohibited from

(a) utilizing the services of a person to discharge the duties of an employee who is a member of the bargaining unit then on strike or locked out when such person was hired between the day the negotiation stage begins and the end of the strike or lock-out;

(b) utilizing, in the establishment where the strike or lock-out has been declared, the services of a person employed by another employer or the services of another contractor to discharge the duties of an employee who is a member of the bargaining unit on strike or locked out;

(c) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee who is a member of the bargaining unit then on strike or locked out unless

(i) an agreement has been reached for that purpose between the parties, to the extent that the agreement so provides, and, in the case of an institution contemplated in section 111.2, unless the agreement has been approved by the Commission;

(ii) in a public service, a list has been transmitted or, in the case of an institution contemplated in section 111.2, approved pursuant to Chapter V.1, to the extent that the list so provides;

(iii) in a public service, an order has been made by the Government pursuant to section 111.0.24.

(d) utilizing, in another of his establishments, the services of an employee who is a member of the bargaining unit then on strike or locked out;

(e) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee he employs in another establishment;

(f) utilizing, in an establishment where a strike or a lock-out has been declared, the services of a person

other than an employee he employs in another establishment, except where the employees of the latter establishment are members of the bargaining unit on strike or locked out;

(g) utilizing, in an establishment where a strike or lock-out has been declared, the services of an employee he employs in the establishment to discharge the duties of an employee who is a member of the bargaining unit on strike or locked out.

1977, c. 41, s. 53; 1978, c. 52, s. 2; 1982, c. 37, s. 2; 1983, c. 22, s. 88; 1985, c. 12, s. 83; 1992, c. 21, s. 375; 2011, c. 16, s. 130.

109.2. Where the certified association violates or the employees it represents violate an agreement, a list or an order contemplated in subparagraph i, ii or iii of paragraph c of section 109.1, the employer is exempt from the application of section 109.1 to the extent that that is necessary to ensure compliance with the violated agreement, list or order.

1977, c. 41, s. 53; 1978, c. 52, s. 3; 1982, c. 37, s. 3; 1983, c. 22, s. 89.

109.3. The application of section 109.1 does not have the effect of preventing an employer from taking, where such is the case, the necessary measures to avoid the destruction or serious deterioration of his property.

Such measures shall exclusively be conservation measures and not measures designed to enable the continuation of the production of goods and services which section 109.1 would not permit otherwise.

1977, c. 41, s. 53; 1999, c. 40, s. 59.

109.4. Upon application, the Minister may dispatch an investigator to ascertain whether or not section 109.1, 109.2 or 109.3 is being complied with.

The investigator may visit the place of work at any reasonable time and be accompanied by a person designated by the certified association, by a person designated by the employer and by any other person whose presence he considers necessary for the purposes of his investigation.

The investigator shall, on request, identify himself and produce a certificate of his capacity signed by the Minister.

Upon the completion of his investigation, the investigator shall make a report to the Minister and send a copy of such report to the parties.

The investigator is vested, for the purposes of his investigation, with the powers, immunity and privileges of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

1977, c. 41, s. 53; 1986, c. 95, s. 80; 1992, c. 61, s. 176.

109.5. *(Repealed).*

1987, c. 85, s. 32; 2001, c. 26, s. 173.

110. No person shall cease to be an employee for the sole reason that he has ceased to work in consequence of a strike or lock-out.

Nothing in this Code shall prevent an interruption of work that is not a strike or a lock-out.

R. S. 1964, c. 141, s. 98.

110.1. At the end of a strike or a lock-out, any employee who has been on strike or has been locked out is entitled to recover his employment by priority over any other person unless the employer has a good and

sufficient reason, proof whereof devolves upon him, for not recalling such employee.

Any disagreement between the employer and the certified association relating to the non-recall to work of an employee who has been on strike or locked out must be referred to the arbitrator as if it were a grievance, within six months of the date when the employee should have recovered his employment.

Sections 47.2 to 47.6 and 100 to 101.10 apply.

1977, c. 41, s. 54; 1983, c. 22, s. 90.

111. (Repealed).

R. S. 1964, c. 141, s. 99; 1965 (1st sess.), c. 50, s. 5; 1982, c. 37, s. 4.

CHAPTER V.1

SPECIAL PROVISIONS APPLICABLE TO THE PUBLIC SERVICES AND TO THE PUBLIC AND PARAPUBLIC SECTORS

DIVISION I *Repealed, 2011, c. 16, s. 131.*

111.0.1. (Repealed).

1982, c. 37, s. 6; 2011, c. 16, s. 131.

111.0.2. (Repealed).

1982, c. 37, s. 6; 1984, c. 45, s. 1; 2011, c. 16, s. 131.

111.0.3. (Repealed).

1982, c. 37, s. 6; 1984, c. 45, s. 2; 1989, c. 53, s. 12; 1995, c. 27, s. 18; 2011, c. 16, s. 131.

111.0.4. (Repealed).

1982, c. 37, s. 6; 1984, c. 45, s. 3; 2011, c. 16, s. 131.

111.0.5. (Repealed).

1982, c. 37, s. 6; 1984, c. 45, s. 4; 2011, c. 16, s. 131.

111.0.6. (Repealed).

1982, c. 37, s. 6; 2011, c. 16, s. 131.

111.0.7. (Repealed).

1982, c. 37, s. 6; 1984, c. 45, s. 5; 2011, c. 16, s. 131.

111.0.8. (Repealed).

1982, c. 37, s. 6; 1984, c. 45, s. 6; 1985, c. 12, s. 84; 1998, c. 23, s. 1; 2011, c. 16, s. 131.

111.0.9. (Repealed).

1982, c. 37, s. 6; 2011, c. 16, s. 131.

111.0.10. *(Repealed).*

1982, c. 37, s. 6; 1985, c. 12, s. 85; 2011, c. 16, s. 131.

111.0.10.1. *(Repealed).*

1993, c. 6, s. 5; 2011, c. 16, s. 131.

111.0.11. *(Repealed).*

1982, c. 37, s. 6; 2011, c. 16, s. 131.

111.0.12. *(Repealed).*

1982, c. 37, s. 6; 1985, c. 12, s. 86; 1985, c. 40, s. 2; 2011, c. 16, s. 131.

111.0.13. *(Repealed).*

1982, c. 37, s. 6; 2000, c. 8, s. 110; 2011, c. 16, s. 131.

111.0.14. *(Repealed).*

1982, c. 37, s. 6; 2011, c. 16, s. 131.

DIVISION II

PUBLIC SERVICES

111.0.15. The provisions of this Code apply to labour relations in a public service, except where they are inconsistent with this division.

1982, c. 37, s. 6.

111.0.16. In this division, “public service” means

(1) a municipality or intermunicipal agency;

(1.1) an institution governed by the Act respecting health services and social services (chapter S-4.2) that is not contemplated in paragraph 2 of section 111.2;

(1.2) a health and social services agency;

(2) an institution or regional council within the meaning of paragraphs *a* and *f* of section 1 of the Act respecting health services and social services for Cree Native persons (chapter S-5) that is not contemplated in paragraph 2 of section 111.2;

(3) a telephone service;

(4) a fixed schedule land transport service such as a railway or a subway, or a transport service carried on by bus or by boat;

(5) an undertaking engaged in the production, transmission, distribution or sale of gas or electricity and a gas storage enterprise;

(5.1) a service operating or maintaining a waterworks system or sewer system or a water purification or treatment system;

(5.2) an organization for the protection of the forest against fire certified under section 181 of the Sustainable

Forest Development Act (chapter A-18.1);

(6) an undertaking engaging in the incineration of waste or the removal, transportation, storage, treatment, processing or elimination of household garbage, bio-medical waste, dead animals unfit for human consumption or animal residues intended for salvaging;

(7) an ambulance service enterprise, Corporation d'urgences-santé and a health communication centre governed by the Act respecting pre-hospital emergency services (chapter S-6.2) or an enterprise involved in the collection, transportation or distribution of blood or blood products or human organs for transplantation; or

(8) an agency that is a mandatary of the State, except the Société des alcools du Québec and an agency or body whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1).

1982, c. 37, s. 6; 1983, c. 55, s. 161; 1988, c. 47, s. 3; 1990, c. 69, s. 3; 1992, c. 21, s. 128, s. 375; 1994, c. 6, s. 27; 1994, c. 23, s. 23; 1996, c. 2, s. 221; 1998, c. 23, s. 2; 1999, c. 40, s. 59; 2000, c. 8, s. 242; 2002, c. 69, s. 125; 2005, c. 32, s. 308; 2006, c. 58, s. 15; 2010, c. 3, s. 270.

111.0.17. On the recommendation of the Minister, the Government, if of the opinion that a strike in a public service might endanger the public health or public safety, may, by order, require an employer and a certified association in that public service to maintain essential service in the event of a strike.

The order comes into force on the date it is made or on any later date indicated therein and has effect until the filing of a collective agreement or of another document in lieu thereof. It may be made at any time prior to such filing. The order must be published in the *Gazette officielle du Québec* and the Commission shall inform the parties thereof.

From the date indicated therein, the order suspends the exercise of the right to strike until the certified association concerned meets the requirements of sections 111.0.18 and 111.0.23.

1982, c. 37, s. 6; 1984, c. 45, s. 7; 1990, c. 69, s. 4; 2011, c. 16, s. 132.

111.0.18. In a public service contemplated in an order made pursuant to section 111.0.17, the parties must negotiate what essential services must be maintained in the event of a strike. The parties shall forward their agreement to the Commission.

The Commission, of its own initiative or at the request of either party, may designate a person to help the parties to reach an agreement.

If no agreement is reached, the certified association must forward to the employer and to the Commission a list determining the essential services that must be maintained in the service concerned in the event of a strike.

In no case may the list be amended thereafter except at the request of the Commission. If an agreement is entered into between the parties after the list is filed, the agreement prevails.

1982, c. 37, s. 6; 2011, c. 16, s. 132.

111.0.19. On receiving an agreement or a list, the Commission shall assess whether or not the essential services provided for therein are sufficient.

The parties shall attend every meeting to which they are convened by the Commission.

If the Commission considers the services to be insufficient, it may, before reporting it to the Minister pursuant to section 111.0.20, make the appropriate recommendations to the parties to amend the agreement or the list. The Commission may also order the certified association to postpone the exercise of its right to strike until the association informs the Commission of the action it intends to take in respect of the recommendations.

1982, c. 37, s. 6; 1984, c. 45, s. 8; 2001, c. 26, s. 58; 2011, c. 16, s. 132.

111.0.20. The Commission must report every case to the Minister where the essential services provided for in an agreement or in a list are insufficient, or are not rendered during a strike.

The report must specify how the essential services provided for or actually rendered are insufficient and to what extent that constitutes a danger to the public health or public safety.

1982, c. 37, s. 6; 2011, c. 16, s. 132.

111.0.21. The Commission must inform the public of the content of any report made to the Minister under section 111.0.20.

1982, c. 37, s. 6; 2011, c. 16, s. 132.

111.0.22. No person may derogate from the provisions of an agreement or a list.

Any list providing for a number of employees greater than the number ordinarily required in the service concerned is absolutely null.

1982, c. 37, s. 6; 1999, c. 40, s. 59.

111.0.23. Subject to section 111.0.24, a certified association in a public service may declare a strike provided it has acquired the right to strike in accordance with section 58 and has given to the Minister and the employer, and to the Commission in the case of a public service contemplated in an order made under section 111.0.17, a prior notice in writing of not less than seven clear juridical days of the time when it intends to go on strike.

In no case may the strike notice be renewed until after the day indicated in the original notice as the time when the certified association intended to go on strike.

In the case of a public service contemplated in an order made under section 111.0.17, no strike may be declared by a certified association unless an agreement has been forwarded to the Commission not less than seven days previously, or unless a list has been forwarded to the Commission and to the employer not less than seven days previously.

The time contemplated in the third paragraph is computed without reference to the application of the fourth paragraph of section 111.0.18.

Unless an agreement has been reached by the parties, no employer shall change the conditions of employment of the employees providing essential services.

1982, c. 37, s. 6; 1984, c. 45, s. 9; 2011, c. 16, s. 132.

111.0.23.1. A certified association in a public service contemplated in an order made under section 111.0.17 must give the Minister, the employer and the Commission a written notice indicating its intention not to resort to a strike at the time indicated in the notice given under section 111.0.23 or, as the case may be, the time at which a return to work is intended.

The notice must be given during the working hours of the public service.

An employer is not required to allow the work to be performed after the time indicated in the strike notice or, as the case may be, in the return-to-work notice, before the expiration of a four-hour period after receipt of the notice given in accordance with the second paragraph. However, the parties may agree upon a shorter period. In the case of a public service contemplated by an order made under section 111.0.17, essential services shall be maintained until the date of return to work.

1994, c. 6, s. 28; 2011, c. 16, s. 132.

111.0.24. In a public service contemplated by an order made under section 111.0.17, the Government, on the recommendation of the Minister, may, by order, suspend the right to strike if it is of opinion that the essential services provided for or actually rendered where a strike is apprehended or in progress are insufficient and that it endangers the public health or public safety.

The suspension has effect until proof is made to the satisfaction of the Government that where the right to strike is exercised, essential services will be sufficiently maintained in that public service.

Every order made under the first paragraph comes into force on the day it is made or on any later date indicated therein. It must be published in the *Gazette officielle du Québec* and in a newspaper circulated in the region where the public service concerned is provided.

1982, c. 37, s. 6.

111.0.25. Only the Attorney General may apply for an injunction in the case of refusal to observe the suspension of the right to strike ordered under section 111.0.24.

1982, c. 37, s. 6.

111.0.26. Lock-out is prohibited in a service contemplated in an order made under section 111.0.17.

1982, c. 37, s. 6.

DIVISION III

PUBLIC AND PARAPUBLIC SECTORS

111.1. Excluding Division I.1 of Chapter IV and the possibility of agreeing on a term of more than three years for a collective agreement, the provisions of this Code apply to labour relations in the public and parapublic sectors except where they are inconsistent with this division.

1978, c. 52, s. 4; 1982, c. 37, s. 7; 1994, c. 6, s. 29.

111.2. In this division,

(1) “public and parapublic sectors” means the Government and the government departments and those government agencies and bodies whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1), as well as the colleges, school boards and institutions contemplated in the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2);

(2) “institution” means an institution contemplated in section 1 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2).

1978, c. 52, s. 4; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1982, c. 37, s. 7; 1985, c. 12, s. 99; 1992, c. 21, s. 375; 2000, c. 8, s. 242.

111.3. Notwithstanding paragraph *d* of section 22, certification may be applied for in respect of a group of employees of the public and parapublic sectors between two hundred and seventy days and two hundred and forty days before the date of expiration of a collective agreement or the document in lieu thereof.

This collective agreement or the document in lieu thereof is binding on the parties for its duration, notwithstanding the certification of a new association of employees. The new association is bound by that agreement as if it were named therein and it becomes *ipso facto* a party to every proceeding relating to it in the place and stead of the former association.

1978, c. 52, s. 4; 2001, c. 26, s. 59.

111.4. No certified association that is a party to a collective agreement, and no group of employees governed by such an agreement, or the document in lieu thereof, may take measures in view of becoming a

member of another association or of affiliating with it, except between two hundred and seventy days and one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

1978, c. 52, s. 4.

111.5. (Repealed).

1978, c. 52, s. 4; 1982, c. 37, s. 8.

111.6. Every collective agreement binding on a college, a school board or an institution contemplated in the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2) shall be negotiated and agreed in accordance with the said Act.

Every collective agreement contemplated in the first paragraph shall expire, for the purposes of this Code, on the date of expiration of the clauses negotiated and agreed at the national level.

The clauses of such a collective agreement that are negotiated and agreed at the local or regional level shall continue to have effect notwithstanding the expiration of the clauses negotiated and agreed at the national level, until they are amended, repealed or replaced by agreement between the parties.

1978, c. 52, s. 4; 1985, c. 12, s. 87; 1992, c. 21, s. 375.

111.7. The negotiation stage begins one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

1978, c. 52, s. 4.

111.8. (1) Every certified association of the public and parapublic sectors forming part of an employee-associations group contemplated in section 1 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2) must, through its bargaining agent, present in writing to the other party, not later than 150 days before the date of expiration of a collective agreement or the document in lieu thereof, its proposals on all the matters that are to be negotiated at the national level except salaries and salary scales.

(2) Every certified association of the public and parapublic sectors not forming part of an employee-associations group mentioned in subsection 1 must, through its bargaining agent, present in writing to the other party, not later than 150 days before the date of expiration of a collective agreement or the document in lieu thereof, its proposals on all the matters that are to be negotiated at the national level except salaries and salary scales.

(3) The management negotiating committees established by the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors must, within 60 days following the receipt of these proposals, present, in writing, to the other party, their proposals on all the matters that are to be negotiated at the national level except salaries and salary scales.

(4) Every association of employees contemplated in subsection 1 or subsection 2 and every management negotiating committee contemplated in subsection 3 shall transmit, in writing, to the other party their proposals on salaries and salary scales within 30 days of the date of publication of the report of the Institut de la statistique du Québec provided for in section 4 of the Act respecting the Institut de la statistique du Québec (chapter I-13.011).

(5) *(Subsection replaced).*

1978, c. 52, s. 4; 1982, c. 37, s. 9; 1985, c. 12, s. 88, s. 99; 1998, c. 44, s. 47; 2005, c. 32, s. 242.

111.9. (Repealed).

1978, c. 52, s. 4; 1982, c. 37, s. 10.

111.10. In the event of a strike in an institution, the percentage of employees to be maintained per work shift from among the employees who would usually be on duty during that period shall be at least

(1) 90% in the case of an institution operating a residential and long-term care centre, a rehabilitation centre, a psychiatric hospital, a hospital providing specialized care in neurology or cardiology or a hospital centre having a department of clinical psychiatry or a community health department, in the case of an institution to which an agency entrusts functions relating to public health, or in the case of a hospital centre belonging to the class of hospital centres for long-term care or a reception centre;

(2) 80% in the case of an institution operating a hospital centre other than those contemplated in subparagraph 1;

(3) 60% in the case of an institution operating a local community service centre;

(4) 55% in the case of an institution operating a child and youth protection centre or in the case of a social services centre.

In the case of a body declared by the Government to be classified as an institution under the fourth paragraph of section 1 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2), the number of employees to be maintained shall be determined by agreement between the parties or, failing an agreement, by a list established in accordance with section 111.10.3. The agreement or the list shall be approved by the Commission.

1978, c. 52, s. 4; 1985, c. 12, s. 89; 1985, c. 40, s. 2; 1992, c. 21, s. 129, s. 375; 2005, c. 32, s. 243; 2011, c. 16, s. 132.

111.10.1. The parties shall negotiate the number of employees to be maintained per unit of care and class of services from among the employees usually assigned to such units of care and classes of services. The agreement shall, in addition to conforming to section 111.10, in the case of an institution contemplated therein, include provisions designed to ensure the normal operation of intensive care units and emergency care units, if necessary. It shall also include provisions designed to ensure a person's freedom of access to the services of the institution.

The agreement shall be transmitted to the Commission for approval.

1982, c. 37, s. 12; 1984, c. 45, s. 33; 1985, c. 12, s. 89; 1985, c. 40, s. 2; 1992, c. 21, s. 130, s. 375; 2011, c. 16, s. 132.

111.10.2. Every institution shall, upon request, inform the Commission of the number of employees per bargaining unit, work shift, unit of care and class of services, who are usually on duty for the period indicated in the request.

1982, c. 37, s. 12; 1985, c. 12, s. 89; 1985, c. 40 s. 2; 1992, c. 21, s. 375; 2011, c. 16, s. 132.

111.10.3. If no agreement is reached, every certified association shall transmit to the Commission for approval a list providing, per unit of care and class of services, the number of employees of the bargaining unit who are maintained in the event of a strike.

The list shall provide, from among the employees of the bargaining unit usually assigned to a care unit or class of services in the institution, that a number of employees at least equal to the percentage provided in subparagraphs 1 to 4 of the first paragraph of section 111.10 that is applicable to the institution, are maintained.

The list shall also include provisions designed to ensure the normal operation of intensive care units and emergency care units, if necessary. It shall also include provisions designed to ensure a person's freedom of access to the services of the institution.

Any list providing for a number of employees greater than the usual number of employees required in the

service concerned is absolutely null.

1982, c. 37, s. 12; 1985, c. 12, s. 89; 1985, c. 40, s. 2; 1992, c. 21, s. 131, s. 375; 1999, c. 40, s. 59; 2011, c. 16, s. 132.

111.10.4. On receiving an agreement or a list, the Commission shall assess, with reference to the applicable criteria set forth in sections 111.10, 111.10.1 and 111.10.3, whether or not the essential services provided for therein are sufficient.

In case of disagreement between the parties, the Commission may, to the exclusion of any other person, rule on the qualification of an institution for the purposes of the application of the percentages provided in the first paragraph of section 111.10.

The parties are bound to attend any sitting of the Commission to which they are convened.

1982, c. 37, s. 12; 1985, c. 12, s. 89; 1985, c. 40, s. 2; 1992, c. 21, s. 375; 2011, c. 16, s. 132.

111.10.5. Even where a list or agreement is consistent with the criteria set forth in sections 111.10, 111.10.1 and 111.10.3, the Commission, before approving it, may, if the situation of the institution justifies it, increase or modify the services provided for therein.

If it considers that the services are insufficient, the Commission may make to the parties the recommendations that it considers appropriate in view of amending the list or agreement, or it may approve the list with amendments.

1982, c. 37, s. 12; 1985, c. 12, s. 89; 1985, c. 40, s. 2; 1992, c. 21, s. 375; 2011, c. 16, s. 132.

111.10.6. No list approved by the Commission may be amended thereafter except at the latter's request. If an agreement is reached between the parties after the list is filed with the Commission, the agreement approved by the Commission shall prevail.

1982, c. 37, s. 12; 1985, c. 12, s. 89; 1985, c. 40, s. 2; 2011, c. 16, s. 132.

111.10.7. Every list or agreement is deemed to be approved as filed if, within 90 days of its receipt by the Commission, the latter has not ruled on the sufficiency of the services provided for in it.

However, the Commission may subsequently amend, if necessary, such a list or agreement in order to bring it into conformity with the applicable provisions of section 111.10, 111.10.1 and 111.10.3.

1985, c. 12, s. 89; 1985, c. 40, s. 2; 1999, c. 40, s. 59; 2011, c. 16, s. 132.

111.10.8. No person may derogate from the provisions of a list or agreement approved by the Commission.

1985, c. 12, s. 89; 1985, c. 40, s. 2; 2011, c. 16, s. 132.

111.11. In no case may a party declare a strike or a lock-out unless 20 days have lapsed since the date on which the Minister received the notice provided for in section 50 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2) and the party has given a prior notice of at least seven clear juridical days in writing to the Minister and to the other party, and to the Commission in the case of an institution or a group of employees referred to in the second paragraph of section 69 of the Public Service Act (chapter F-3.1.1), indicating when it intends to resort to a strike or to a lock-out.

Where the parties have reached an agreement on all of the clauses negotiated and agreed at the national level except salaries and salary scales, the twenty-day period after which a strike or lock-out may be declared shall run from the date of the agreement.

In no case may the seven days' notice of strike or lock-out be renewed before the day indicated in the prior notice as the time when the party intended to resort to the strike or the lock-out.

Unless by agreement between the parties, no employer may change the conditions of employment of the employees who provide the essential services.

1978, c. 52, s. 4; 1982, c. 37, s. 13; 1984, c. 45, s. 34; 1985, c. 12, s. 90; 1992, c. 21, s. 375; 2001, c. 26, s. 60; 2011, c. 16, s. 132.

111.12. In the case of an institution, no strike may be declared by a certified association unless an agreement or a list has been approved by the Commission or unless a list or agreement is deemed to be approved under section 111.10.7 and unless the list or agreement has been transmitted to the employer not less than 90 days previously.

1978, c. 52, s. 4; 1985, c. 12, s. 91; 1985, c. 40, s. 2; 1992, c. 21, s. 375; 1999, c. 40, s. 59; 2011, c. 16, s. 132.

111.13. Lock-outs may not be declared by an institution.

Notwithstanding an apprehended strike, every institution shall provide its usual services without changes in the norms applicable to the access to or provision of the services.

The Commission may, in case of contravention of this section, exercise the powers conferred upon it by Division IV.

1982, c. 37, s. 15; 1985, c. 12, s. 91; 1985, c. 40 s. 2; 1992, c. 21, s. 132, s. 375; 2011, c. 16, s. 132.

111.14. Strikes and lock-outs are prohibited in respect of a matter defined as pertaining to clauses negotiated and agreed at the local or regional level or subject to local arrangements pursuant to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2) as well as in respect of the determination of the salaries and salary scales provided for in the second paragraph of section 52 and in sections 53 to 55 of the said Act.

1982, c. 37, s. 15; 1985, c. 12, s. 91; 1985, c. 40, s. 2.

111.15. *(Replaced).*

1982, c. 37, s. 15; 1985, c. 12, s. 91.

111.15.1. If no agreement is reached under section 69 of the Public Service Act (chapter F-3.1.1), a party may request the Commission to designate a person to help the parties to reach an agreement, or to itself determine what essential services must be maintained and in what manner. The party making the request shall notify the other party without delay.

After the request is sent, the parties must forward without delay any relevant information respecting the essential services that must be maintained to the Commission and attend any sitting of the Commission to which they are convened.

2001, c. 26, s. 61; 2011, c. 16, s. 132.

111.15.2. On receiving a request under section 111.15.1, the Commission, on its own initiative or at the request of either party, may designate a person to help the parties to reach an agreement.

The Commission may also, at any time after receiving the request, determine the essential services that must be maintained in the event of a strike and the manner of maintaining them. In addition, the Commission may at any time, at the request of either party, modify the decision so made.

2001, c. 26, s. 61; 2001, c. 49, s. 1; 2011, c. 16, s. 132.

111.15.3. No person shall derogate from any of the provisions of an agreement under section 69 of the Public Service Act (chapter F-3.1.1) or from a decision made by the Commission under section 111.15.2 of this Code.

2001, c. 26, s. 61; 2011, c. 16, s. 132.

DIVISION IV **REMEDIAL POWERS**

111.16. In public services and in the public and parapublic sectors, the Commission, of its own initiative or at the request of an interested person, may inquire into a lock-out, a strike or a slowdown that is contrary to law or during which the essential services provided for in a list or agreement are not rendered.

The Commission may also endeavour to bring the parties to an agreement or entrust a person it designates with attempting to bring them to an agreement and reporting on the situation.

1985, c. 12, s. 92; 2011, c. 16, s. 132.

111.17. The Commission, if it considers that the conflict is or is likely to be prejudicial to a service to which the public is entitled or that the essential services provided for in a list or agreement are not rendered during a strike, may, after giving the parties the opportunity to submit their views, make an order to ensure that a service to which the public is entitled is available, or require compliance with the law, a collective agreement or an agreement or list on essential services.

The Commission may

(1) enjoin any person involved in the conflict or any category of these persons it determines to do what is required to comply with the first paragraph of this section, or abstain from doing anything in contravention thereof;

(2) require from any person involved in the conflict to remedy any act or omission done or made in contravention of the law, of an agreement or of a list;

(3) order in respect of a person or group of persons involved in a conflict, taking into consideration the conduct of the parties, the application of the measures of redress it considers best appropriate, including the establishment of a fund for the benefit of the users of the service that has been adversely affected, and the terms and conditions governing the administration and use of that fund, which fund shall include any interest accrued since its establishment;

(4) order every person involved in the conflict to do or abstain from doing anything that it considers reasonable in the circumstances in view of maintaining services for the public;

(5) order, where that is the case, that the grievance or arbitration procedure under a collective agreement be accelerated;

(6) order a party to make known publicly its intention to comply with the order of the Commission.

1985, c. 12, s. 92; 1998, c. 23, s. 3; 2011, c. 16, s. 132.

111.18. The Commission may, in the same manner, exercise the powers conferred on it by sections 111.16 and 111.17, if, in the course of a conflict, it considers that a concerted action other than a strike or a slowdown is or is likely to be prejudicial to a service to which the public is entitled.

1985, c. 12, s. 92; 2011, c. 16, s. 132.

111.19. The Commission may, instead of making an order, record a person's undertaking to ensure to the public the service or services to which it is entitled or to comply with the law, the collective agreement or an agreement or list on essential services.

Non-observance of an undertaking under this section shall constitute a violation of an order of the Commission.

1985, c. 12, s. 92; 2011, c. 16, s. 132.

111.20. The Commission may file or, at the request of an interested party, authorize the filing of true copy of an order made under section 111.0.19, 111.17 or 111.18 or, where applicable, of an undertaking made under section 111.19 at the office of the clerk of the Superior Court of the district of Montréal, where the public service or the body involved is situated in the districts of Beauharnois, Bedford, Drummond, Gatineau, Iberville, Joliette, Labelle, Laval, Longueuil, Mégantic, Montréal, Pontiac, Richelieu, Saint-François, Saint-Hyacinthe or Terrebonne and, where it is situated in another district, at the office of the clerk of the Superior Court of the district of Québec.

Every order or undertaking filed under the first paragraph has the same force and effect as if it were a judgment of the Superior Court.

Any person who transgresses or refuses to comply with an order or undertaking in which the person is named or designated, or who knowingly contravenes an order or undertaking in which the person is not designated, is guilty of contempt of court and may be condemned by the court having jurisdiction, in accordance with the procedure provided for in articles 53 to 54 of the Code of Civil Procedure (chapter C-25), to a fine not exceeding \$50,000 with or without a term of imprisonment not exceeding one year. These penalties may be re-imposed until the offender complies with the order or undertaking.

1985, c. 12, s. 92; 1998, c. 23, s. 4; 2001, c. 26, s. 62; 2011, c. 16, s. 132, s. 133; 2013, c. 29, s. 6.

DIVISION V

MISCELLANEOUS PROVISIONS

111.21. The Commission must brief the parties about the essential services to be maintained during a strike.

The Commission may also provide information to the public about any matter involving the maintenance of essential services.

2011, c. 16, s. 134.

111.22. When the Commission acts under a provision of this chapter, sections 117, 121 to 123, 125, 129 and 133 do not apply.

2011, c. 16, s. 134.

CHAPTER V.2

SPECIAL PROVISIONS APPLICABLE TO LOGGING OPERATIONS

111.23. For the purposes of Chapters II and III, a logging operator is deemed to be the employer of all the employees assigned to logging operations involving the volumes of standing timber that the logging operator purchased under the timber supply guarantee or, in the case of a forest producer that supplies a wood processing plant from a private woodlot, all employees assigned to logging operations on that woodlot.

Despite the first paragraph, where two or more holders of a timber supply guarantee must conclude an integration agreement under section 103.7 of the Sustainable Forest Development Act (chapter A-18.1), they must identify, by an accord and within the time period fixed by the Minister of Natural Resources and Wildlife to prove the existence of the integration agreement, the deemed employer or employers, for the purposes of Chapters II and III, of the employees assigned to logging operations involving the volumes of standing timber which the guarantee holders purchased under their respective supply guarantees for the forest operations zones covered by the integration agreement. To that end, they may allocate responsibilities by specific forest operations zones or by the logging operations for which they assume responsibility, as long as each employee is able to identify his deemed employer. In all cases, the deemed employer may be one of the

guarantee holders designated to carry out the harvest, a group comprising some or all of the guarantee holders concerned, or an employers' association.

The accord referred to in the second paragraph must be sent, within the same time period, to the Minister of Natural Resources and Wildlife, the Minister of Labour, and the Commission. If the guarantee holders fail to reach such an accord or fail to send it to the proper authorities on time, the Minister of Natural Resources and Wildlife informs the Minister of Labour of the fact, who in turn submits the matter to the Commission so that it may designate a deemed employer after allowing the guarantee holders to make observations, in accordance with the procedure required by the Commission.

This section does not apply where it is not the logging operator who harvests the standing timber purchased, in accordance with section 103.5 or subparagraph 2 of the third paragraph of section 103.7 of the Sustainable Forest Development Act. Neither does it apply to employees who are members of a cooperative that carries out logging operations.

2013, c. 2, s. 68.

111.24. A change in the deemed employer that is due to an accord or to a decision of the Commission under section 111.23 constitutes a transfer of part of the operation of the undertaking and entails the application of the first and second paragraphs of section 45.

Section 45.2 does not apply to such a transfer. However, a collective agreement that has not expired on the effective date of the transfer under the first paragraph expires on its prescribed expiry date or 24 months after the date of transfer, whichever occurs first.

Section 46 applies, with the necessary modifications, in cases of difficulties arising out of the application of this section.

2013, c. 2, s. 68.

111.25. In logging operations, the premises set aside for employees' meals are not considered places of employment and no meeting may be held in the premises set aside as employees' living quarters.

2013, c. 2, s. 68.

111.26. Subject to the Sustainable Forest Development Act (chapter A-18.1), the logging operator or the owner of any land where logging operations are carried on must allow any representative of an association of employees holding a permit issued by the Commission in accordance with the regulations made for such purpose under section 138 to enter on the land and to have access to the logging camp.

The operator must supply the representative with food and shelter at the price fixed for the employees by regulation under the Act respecting labour standards (chapter N-1.1).

On the written application of an employee, the logging operator shall advance to the employee the sum required as first dues to an association of employees, provided that the employee has that amount to his credit.

The written authorization given by an employee to withhold from his salary the above amount constitutes a payment within the meaning of subparagraph c of the first paragraph of section 36.1; the employer must remit to the association indicated, within the following month, the amounts so withheld accompanied with a memorandum of the list of names.

This section does not apply to logging operations carried on by a farm producer on his own property.

2013, c. 2, s. 68.

CHAPTER VI

COMMISSION DES RELATIONS DU TRAVAIL

DIVISION I

ESTABLISHMENT, OBJECT AND JURISDICTION

112. A labour relations commission is hereby established under the name “Commission des relations du travail”.

R. S. 1964, c. 141, s. 100; 1969, c. 47, s. 38; 2001, c. 26, s. 63.

113. The head office of the Commission shall be situated in the territory of Ville de Québec, at the place determined by the Government. Notice of the address of the head office and of any change of address shall be published in the *Gazette officielle du Québec*.

The Commission shall have an office in the territory of Ville de Montréal and an office in the territory of Ville de Québec. Notice of the address of each office and of any change of address shall be published in the *Gazette officielle du Québec*.

R. S. 1964, c. 141, s. 101; 1969, c. 47, s. 38; 1969, c. 48, s. 29; 1977, c. 5, s. 14, s. 229; 1980, c. 11, s. 48; 1988, c. 21, s. 66; 2001, c. 26, s. 63.

114. The Commission is responsible for ensuring the diligent and efficient application of the provisions of this Code and exercising the other functions assigned to it under this Code or any other Act.

Except as regards the provisions of Chapter IX, the Commission shall hear and dispose, to the exclusion of any court or tribunal, of any complaint for a contravention of this Code, of any proceedings brought pursuant to the provisions of this Code or any other Act and of any application made to the Commission in accordance with this Code or any other Act. Proceedings brought before the Commission pursuant to another Act are listed in Schedule I.

For such purposes, the Commission shall exercise the functions, powers or duties assigned to it by this Code or any other Act.

R. S. 1964, c. 141, s. 102; 1969, c. 47, s. 38; 1969, c. 48, s. 29; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 2000, c. 8, s. 242; 2001, c. 26, s. 63; 2011, c. 16, s. 135.

115. The Commission is composed of a president, two vice-presidents, and commissioners, and of the members of its personnel who are entrusted with rendering decisions on its behalf.

1969, c. 48, s. 29; 2001, c. 26, s. 63.

115.1. The Commission shall consist of three divisions:

(1) the construction industry and vocational qualification division;

(1.1) the essential services division; and

(2) the labour relations division.

2006, c. 58, s. 16; 2011, c. 16, s. 136.

115.2. Proceedings brought before the Commission under the Building Act (chapter B-1.1), the Act respecting workforce vocational training and qualification (chapter F-5), the Stationary Enginemen Act (chapter M-6) or the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) shall be decided by the construction industry and vocational qualification division.

2006, c. 58, s. 16; 2007, c. 3, s. 72.

115.2.1. Matters arising from the enforcement of the provisions regarding essential services contained in

Chapter V.1 of this Code, the Act respecting the Agence du revenu du Québec (chapter A-7.003) or the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements (chapter R-24.0.2) shall be decided by the essential services division.

2011, c. 16, s. 137; 2011, c. 31, s. 15.

115.3. Subject to sections 115.2 and 115.2.1, proceedings brought under this Code or an Act referred to in Schedule I shall be decided by the labour relations division.

2006, c. 58, s. 16; 2011, c. 16, s. 138.

115.4. The commissioners may sit in any division.

2011, c. 16, s. 139.

116. Any complaint related to the application of sections 12 and 13 and, in the case of a refusal to employ a person, the application of section 14, shall be filed with the Commission within 30 days of knowledge of the alleged contravention.

The time limit provided for in section 47.3 applies to any complaint filed with the Commission that is related to the application of section 47.2 even where the complaint does not pertain to a dismissal or disciplinary sanction.

1969, c. 48, s. 29; 1999, c. 40, s. 59; 2001, c. 26, s. 63.

DIVISION II

DUTIES AND POWERS

117. Before rendering a decision, the Commission shall allow the parties to be heard. The Commission may, however, proceed on the record, if it considers it appropriate and if the parties consent thereto.

In respect of certification, the obligation imposed by the first paragraph does not apply in respect of a decision made by a labour relations officer. The labour relations officer shall, however, allow the interested parties to present observations and, if appropriate, to produce documents to complete their file.

1969, c. 48, s. 29; 1970, c. 9, s. 3; 2001, c. 26, s. 63.

118. The Commission may, in particular,

- (1) summarily reject any motion, application, complaint or procedure it considers to be improper or dilatory;
- (2) refuse to rule on the merits of a complaint where it considers that the complaint may be settled by an arbitration award disposing of a grievance, except in the case of a complaint referred to in section 16 of that Code or in sections 123 and 123.1 of the Act respecting labour standards (chapter N-1.1) or a complaint filed under another Act;
- (3) make any order, including a provisional order, it considers appropriate to safeguard the rights of the parties;
- (4) determine any question of law or fact necessary for the exercise of its jurisdiction;
- (5) confirm, modify or quash the contested decision or order and, if appropriate, render the decision or order which, in its opinion, should have been rendered or made initially;
- (6) render any decision it considers appropriate;
- (7) ratify an agreement, if in conformity with the law;
- (8) dissolve an association of employees if it is proved to the Commission that the association participated in

a contravention of section 12.

If an association dissolved under subparagraph 8 of the first paragraph is a professional syndicate, the Commission shall send an authentic copy of its decision to the enterprise registrar, who shall give notice of the decision in the *Gazette officielle du Québec*.

R. S. 1964, c. 141, s. 103; 1969, c. 47, s. 38; 1969, c. 48, s. 30; 1977, c. 41, s. 1; 1985, c. 6, s. 493; 1990, c. 4, s. 229; 2001, c. 26, s. 63; 2006, c. 58, s. 17.

119. Except with regard to an actual or apprehended strike, slowdown, concerted action, other than a strike or slowdown, or lock-out in a public service or in the public and parapublic sectors within the meaning of Chapter V.1, the Commission may also

(1) order a person, group of persons, association or group of associations to cease performing, not to perform or to perform an act in order to be in compliance with this Code;

(2) require any person to redress any act or remedy any omission made in contravention of a provision of this Code;

(3) order a person or group of persons, in light of the conduct of the parties, to apply the measures of redress it considers the most appropriate;

(4) issue an order not to authorize or participate in, or to cease authorizing or participating in, a strike or slowdown within the meaning of section 108 or a lock-out that is or would be contrary to this Code, or to take measures considered appropriate by the Commission to induce the persons represented by an association not to participate, or to cease participating, in such a strike, slowdown or lock-out;

(5) order, where applicable, that the grievance and arbitration procedure under a collective agreement be accelerated or modified.

R. S. 1964, c. 141, s. 104; 1969, c. 47, s. 38; 1969, c. 48, s. 30; 2001, c. 26, s. 63.

120. The Commission and its commissioners are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

1969, c. 48, s. 30; 1982, c. 16, s. 4; 2001, c. 26, s. 63.

DIVISION III

PRE-DECISION CONCILIATION AND AGREEMENTS

121. If the parties to a case consent thereto, the president of the Commission or a commissioner or member of the personnel of the Commission designated by the president may ask a personnel member to meet with the parties and attempt to bring them to an agreement.

1969, c. 48, s. 30; 2001, c. 26, s. 63; 2006, c. 58, s. 19.

122. Nothing said or written in the course of conciliation may be admitted as evidence, unless the parties consent thereto.

1969, c. 48, s. 30; 1977, c. 41, s. 1; 1992, c. 61, s. 177; 2001, c. 26, s. 63.

123. Every agreement shall be recorded in writing and the documents, if any, to which it refers shall be attached thereto. The agreement must be signed by the parties and, if applicable, by the conciliation officer, and is binding on the parties.

The agreement may be submitted to the Commission for approval at the request of either party.

If no request for approval is submitted to the Commission within 12 months from the date of the agreement,

the agreement terminates the matter at the expiry of that time.

1969, c. 48, s. 30; 1990, c. 4, s. 230; 2001, c. 26, s. 63; 2006, c. 58, s. 20.

DIVISION IV

DECISION

124. Every matter shall be heard and decided by one commissioner, except as regards certification granted under section 28.

The president may, where he considers it appropriate, assign a matter to a panel of three commissioners that includes at least one advocate or notary who shall preside the sitting.

Where a case is heard by more than one commissioner, the case is decided by a majority of the commissioners having heard it.

1969, c. 48, s. 30; 1994, c. 6, s. 30; 2001, c. 26, s. 63; 2011, c. 16, s. 140.

125. If a commissioner to whom a case is referred does not render a decision within the applicable time, the president of the Commission may, by virtue of his office or at the request of a party, remove the commissioner from the case.

Before removing a commissioner who has not rendered a decision within the applicable time, the president must take the circumstances and the interest of the parties into account.

1969, c. 48, s. 30; 1992, c. 61, s. 178; 2001, c. 26, s. 63.

126. A decision containing an error in writing or in calculation or any other clerical error may be corrected, on the record and without further formality, by the person who rendered the decision.

Where the person is unable to act or has ceased to hold office, another labour relations agent or commissioner, as the case may be, designated by the president of the Commission may correct the decision.

1969, c. 48, s. 30; 1992, c. 61, s. 179; 1999, c. 40, s. 59; 2001, c. 26, s. 63.

127. The Commission may, on application, review or revoke any decision or order it has made

(1) if a new fact is discovered which, had it been known in time, could have warranted a different decision;

(2) if an interested party, owing to reasons considered sufficient, could not present observations or be heard;
or

(3) if a substantive or procedural defect is of a nature likely to invalidate the decision.

In the case described in subparagraph 3 of the first paragraph, the decision or order may not be reviewed or revoked by the commissioner who made it. Such a decision or order may be reviewed or revoked only by a panel of three commissioners that includes at least one advocate or notary who shall preside the sitting.

1969, c. 48, s. 30; 2001, c. 26, s. 63.

128. Review or revocation proceedings are brought by a motion filed at one of the offices of the Commission within a reasonable time following the decision concerned or following the discovery of a new fact that may warrant a different decision. The motion shall refer to the decision concerned and state the grounds invoked in support of the motion. It shall contain any other information required by the rules of evidence and procedure.

The party filing the motion shall send a copy of the motion to the other parties, who may respond to it in writing within 30 days after receiving it or, if the decision was rendered under Chapter V.1, within the time determined by the president.

The Commission shall proceed on the record, unless a party demands to be heard or if, on its own initiative, the Commission considers it appropriate.

R. S. 1964, c. 141, s. 105; 1969, c. 47, s. 38; 1969, c. 48, s. 31; 1990, c. 4, s. 231; 1992, c. 61, s. 180; 2001, c. 26, s. 63; 2006, c. 58, s. 21; 2011, c. 16, s. 141.

129. The Commission may, within 12 months after the date of the decision, on application by an interested party, authorize the filing of the decision at the office of the clerk of the Superior Court of the district of the domicile of one of the parties to whom the decision applies.

The decision of the Commission becomes enforceable as if it were a final judgment of the Superior Court and has all the effects of such a judgment.

If the decision contains an order to do or not to do something, any person named or designated in the decision who transgresses the order or refuses to comply therewith, and any person not designated who knowingly contravenes the order, is guilty of contempt of court and may be condemned by the court having jurisdiction, in accordance with the procedure provided for in articles 53 to 54 of the Code of Civil Procedure (chapter C-25), to a fine not exceeding \$50,000 with or without imprisonment for not over one year. These penalties may be imposed again until the offender complies with the decision.

R. S. 1964, c. 141, s. 106; 1969, c. 47, s. 38; 1969, c. 48, s. 32; 1977, c. 41, s. 1; 2001, c. 26, s. 63; 2006, c. 58, s. 22.

DIVISION V

RULES OF EVIDENCE AND PROCEDURE

§ 1. — *General provisions*

130. Applications or complaints made to the Commission as well as any proceedings are introduced by filing a copy at one of the offices of the Commission.

Subject to the second paragraph of section 27.1, for the purposes of the first paragraph, applications, complaints, motions or proceedings are deemed to have been filed on the day they were mailed by registered or certified mail or on the day they were received if they were filed under any other mode of transmission determined by regulation of the Commission.

R. S. 1964, c. 141, s. 107; 1969, c. 47, s. 38; 1969, c. 48, s. 33; 1977, c. 41, s. 55; 1983, c. 22, s. 91; 1994, c. 6, s. 31; 2001, c. 26, s. 63.

130.1. (*Replaced*).

1994, c. 6, s. 32; 2001, c. 26, s. 63.

131. Cases in which the matters in dispute are substantially the same or whose subject-matters could suitably be combined, whether or not the same parties are involved, may be joined by order of the president or of a person designated by the president, on the conditions fixed by the president.

An order made under the first paragraph may be revoked by the Commission hearing the matter if the Commission believes that the interests of justice will be better served.

R. S. 1964, c. 141, s. 108; 1969, c. 47, s. 38; 1977, c. 41, s. 1; 1994, c. 6, s. 33; 2001, c. 26, s. 63.

132. Every decision of the Commission must be communicated in clear and concise terms.

Every order of the Commission and every decision of the Commission which, as far as a person is concerned, terminates a matter must give reasons and be set out in writing, signed and notified to the interested persons or parties, even if it has been communicated to them orally.

R. S. 1964, c. 141, s. 109; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 2001, c. 26, s. 63; 2006, c. 58, s. 23.

133. In the case of a petition for certification, the decision of the Commission must be rendered within 60 days of the filing of the petition with the Commission. However, in the case of a petition under section 111.3, the decision of the Commission must be rendered within the period comprised between the end of the period for filing a petition for certification and the date of expiry of the collective agreement or anything in lieu thereof.

In the case of a motion concerning the applicability of sections 45 to 45.3 and referred to in the first paragraph of section 46, the Commission must render a decision within 90 days after the motion is filed with the Commission.

In any other case, of any nature whatsoever, the Commission must render its decision within 90 days after the case is taken under advisement.

The president may grant an extension. Before granting an extension, the president must take the circumstances and the interest of interested persons or parties into account.

R. S. 1964, c. 141, s. 110; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 2001, c. 26, s. 63; 2003, c. 26, s. 9.

134. A decision of the Commission is without appeal and must be complied with without delay by every person to whom it applies.

R. S. 1964, c. 141, s. 111; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 1994, c. 6, s. 34; 2001, c. 26, s. 63.

§ 2. — *Provisions applicable at the time of a hearing*

135. The Commission may call the parties to a pre-hearing conference.

R. S. 1964, c. 141, s. 112; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 2001, c. 26, s. 63; 2006, c. 58, s. 24.

135.1. *(Replaced).*

1994, c. 6, s. 35; 2001, c. 26, s. 63.

135.2. *(Replaced).*

1994, c. 6, s. 35; 2001, c. 26, s. 63.

136. The pre-hearing conference is held by a commissioner for the purpose of

- (1) defining the questions to be dealt with at the hearing;
- (2) assessing the advisability of clarifying and specifying the pretensions of the parties and the conclusions sought;
- (3) ensuring that all documentary evidence is exchanged by the parties;
- (4) planning the conduct of the proceedings and proof at the hearing;
- (5) examining the possibility for the parties of admitting certain facts or of proving them by means of sworn statements ; and
- (6) examining any other question likely to simplify or accelerate the conduct of the hearing.

A pre-hearing conference may also enable the parties to reach an agreement and thus terminate a case.

R. S. 1964, c. 141, s. 113; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 2001, c. 26, s. 63; 2006, c. 58, s. 25.

137. The commissioner shall record matters on which the parties have reached an agreement, admissions, and decisions made by the commissioner in the minutes of the pre-hearing conference. The minutes shall be filed in the record and a copy shall be sent to the parties.

The agreements, admissions and decisions recorded in the minutes shall, as far as they may apply, govern the conduct of the proceeding, unless the Commission, when hearing the matter, permits a derogation therefrom to prevent an injustice.

R. S. 1964, c. 141, s. 114; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 2001, c. 26, s. 63; 2006, c. 58, s. 26.

137.1. If a party duly notified fails to appear at the time fixed for the hearing without having provided a valid excuse, or chooses not to be heard, the Commission may nonetheless proceed with the hearing and render a decision.

2001, c. 26, s. 63.

137.2. In the absence of provisions applicable to a particular case, the Commission may supply any procedure consistent with this Code and its rules of procedure.

2001, c. 26, s. 63.

137.3. Notice shall be sent to the parties within a reasonable time before the hearing, stating

(1) the purpose, date, time and place of the hearing;

(2) that the parties have the right to be assisted or represented; and

(3) that the Commission has the authority to proceed, without further delay or notice, despite the failure of a party to appear at the time and place fixed, if no valid excuse is provided.

2001, c. 26, s. 63.

137.4. The Commission may hear the parties by any means provided for in its rules of evidence and procedure.

2001, c. 26, s. 63.

137.5. Where an investigation is conducted by the Commission, the investigation report shall be filed in the record of the case and a copy thereof shall be transmitted to all interested parties.

In such a case, the president and the vice-presidents of the Commission may neither hear nor decide alone the case.

2001, c. 26, s. 63.

137.6. A party who wishes to cause witnesses to be heard and to produce documents shall proceed in the manner prescribed in the rules of evidence and procedure of the Commission.

2001, c. 26, s. 63.

137.7. Every person summoned to testify before the Commission in any case governed by this Code or any other Act is entitled to the same taxation as witnesses before the Superior Court and to the reimbursement of travelling and living expenses.

Such taxation is payable by the party who proposed the summons, but a person who receives his or her salary during such period is entitled only to the reimbursement of travelling and living expenses.

Where a person is duly summoned on the initiative of the Commission, the taxation is payable by the Commission.

2001, c. 26, s. 63.

137.8. Where, by reason of inability to act, a commissioner is unable to continue a hearing, another commissioner designated by the president of the Commission may, with the consent of the parties, continue the hearing and rely, as regards oral evidence, on the notes and minutes of the hearing or, as the case may be, on the stenographer's notes or on the recording of the hearing, subject to a witness being recalled or other evidence required where the commissioner finds the notes or the recording insufficient.

The same rule applies to the continuance of a hearing after a commissioner ceases to hold office and to any case heard but not yet decided at the time a commissioner is removed from the case.

Where a case is heard by more than one commissioner, the hearing is continued by the remaining commissioners. Where opinions are equally divided on a question, the matter is referred to the president of the Commission or to a commissioner designated by the president, to be decided according to law.

2001, c. 26, s. 63.

137.9. A commissioner who has knowledge of a valid cause for recusation must declare that cause in a writing filed in the record and must advise the parties of it.

2001, c. 26, s. 63.

137.10. A party may, at any time before the decision and provided the party acts with dispatch, apply for the recusation of a commissioner seized of the case if the party has good reason to believe that a cause for recusation exists.

The application for recusation shall be addressed to the president of the Commission. Unless the commissioner removes himself or herself from the case, the application shall be decided by the president or by a commissioner designated by the president.

2001, c. 26, s. 63.

DIVISION VI

COMMISSIONERS

§ 1. — *Appointment*

137.11. The commissioners of the Commission shall be appointed by the Government, in the number determined by the Government. Commissioners shall be appointed after consultation with the most representative associations of workers and employers' associations.

2001, c. 26, s. 63.

137.11.1. (*Repealed*).

2006, c. 58, s. 27; 2011, c. 16, s. 142.

137.12. Only a person who has knowledge of the applicable legislation and 10 years' experience pertinent to the matters under the jurisdiction of the Commission may be a commissioner of the Commission.

2001, c. 26, s. 63.

137.13. The commissioners shall be appointed from among persons declared to be qualified according to the recruiting and selection procedure established by government regulation. The regulation shall, in

particular,

- (1) determine the publicity that must be given to the recruiting procedure and the content of such publicity;
- (2) determine the procedure by which a person may seek nomination as a candidate;
- (3) authorize the establishment of selection committees to assess the qualifications of candidates and formulate an opinion concerning them;
- (4) fix the composition of the committees and the mode of appointment of committee members;
- (5) determine the selection criteria to be taken into account by the committees; and
- (6) determine the information a committee may require from a candidate and the consultations it may hold.

2001, c. 26, s. 63.

137.14. The names of the persons declared to be qualified shall be recorded in a register kept at the Ministère du Conseil exécutif.

2001, c. 26, s. 63.

137.15. A certificate of qualifications shall be valid for a period of 18 months or for such period as is determined by government regulation.

2001, c. 26, s. 63.

137.16. The members of a selection committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, subject to the conditions and to the extent determined by the Government.

2001, c. 26, s. 63.

§ 2. — *Term of office*

137.17. Subject to the following exceptions, the term of office of a commissioner is five years.

2001, c. 26, s. 63.

137.18. The Government may determine a shorter term of office of a fixed duration in the instrument of appointment of a commissioner where the candidate so requests for a valid reason or where required by special circumstances stated in the instrument of appointment.

2001, c. 26, s. 63.

137.19. The term of office of a commissioner shall be renewed for five years, according to the procedure established under section 137.20,

(1) unless the commissioner is notified otherwise at least three months before the expiry of the term by the agent authorized therefor by the Government; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of the term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where

required by special circumstances stated in the instrument of renewal.

2001, c. 26, s. 63; 2002, c. 22, s. 32.

137.20. The renewal of a term of office shall be examined according to the procedure established by government regulation. The regulation may, in particular,

(1) authorize the establishment of committees;

(2) fix the composition of the committees and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (chapter A-6.01);

(3) determine the criteria to be taken into account by the committees;

(4) determine the information a committee may require from a commissioner and the consultations it may hold.

An examination committee may not make a recommendation against the renewal of a commissioner's term of office without first having informed the commissioner of its intention to make such a recommendation and of the reasons therefor and without having given the commissioner the opportunity to present observations.

No judicial proceedings may be brought against members of an examination committee for any act done in good faith in the performance of their duties.

2001, c. 26, s. 63; 2002, c. 22, s. 32.

137.21. The members of an examination committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, subject to the conditions and to the extent determined by the Government.

2001, c. 26, s. 63.

137.22. The term of office of a commissioner may terminate prematurely only on the commissioner's retirement or resignation, or on the commissioner's being dismissed or otherwise removed from office, in the circumstances referred to in sections 137.23 to 137.25.

2001, c. 26, s. 63.

137.23. To resign, a commissioner must give the Minister reasonable notice in writing and send a copy to the president of the Commission.

2001, c. 26, s. 63.

137.24. The Government may dismiss a commissioner if the Conseil de la justice administrative so recommends, after an inquiry following a complaint for breach of the code of ethics or of the prescriptions governing conflicts of interest or incompatible functions or for a dereliction of duty under this Code. It may also impose a suspension or issue a reprimand.

A complaint must be in writing and must briefly state the grounds on which it is based. The complaint is sent to the seat of the council.

The council shall, when examining a complaint brought against a commissioner, act in conformity with the provisions of sections 184 to 192 of the Act respecting administrative justice (chapter J-3), with the necessary modifications.

However, where the council, for the purposes of section 186 of the said Act, forms an inquiry committee, two

members of the committee shall be chosen from among the members of the council referred to in paragraphs 1 to 4 and 7 to 9 of section 167 of that Act, at least one of whom shall neither practise a legal profession nor be a member of a body of the Administration whose president or chairman is a member of the council. The third member of the inquiry committee shall be the member of the council referred to in paragraph 6 of that section or shall be chosen from a list drawn up by the president of the Commission, after consulting all the commissioners of the Commission. In the latter case and if the inquiry committee finds the complaint to be justified, the third member shall take part in the deliberations of the council for the purpose of determining a penalty.

2001, c. 26, s. 63; 2002, c. 22, s. 33.

137.25. The Government may remove a commissioner from office if, in the opinion of the Government, a permanent disability prevents the commissioner from performing the duties of a commissioner satisfactorily. Permanent disability is ascertained by the Conseil de la justice administrative after an inquiry is conducted at the request of the Minister or of the president of the Commission.

The council shall, when conducting an inquiry to determine whether a commissioner is suffering from a permanent disability, act in conformity with the provisions of sections 193 to 197 of the Act respecting administrative justice (chapter J-3), with the necessary modifications; however, the inquiry committee shall be formed in accordance with the rules set out in section 137.24.

2001, c. 26, s. 63.

137.26. A commissioner may, with the authorization of and for the time determined by the president of the Commission, continue to exercise the functions of a commissioner after the expiry of his or her term of office in order to conclude the cases the commissioner has begun to hear but has yet to determine; the commissioner shall be considered to be a supernumerary commissioner for the time required.

The first paragraph does not apply to a commissioner who has been dismissed or otherwise removed from office.

2001, c. 26, s. 63.

§ 3. — *Remuneration and other conditions of employment*

137.27. The Government shall make regulations determining

(1) the mode of remuneration of the commissioners and the applicable standards and scales, and the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate;

(2) the conditions subject to which and the extent to which a commissioner may be reimbursed for the expenses incurred in the performance of his or her duties.

The Government may make regulations determining other conditions of employment applicable to all or certain commissioners, including employment benefits other than a pension plan.

The regulatory provisions may vary according to whether they apply to a full-time or part-time commissioner or to a commissioner holding an administrative office within the Commission.

The regulations come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec* or on any later date indicated therein.

2001, c. 26, s. 63; 2002, c. 22, s. 34.

137.28. The Government shall fix, in accordance with the regulations, the remuneration, employment benefits and other conditions of employment of the commissioners.

2001, c. 26, s. 63.

137.29. Once fixed, a commissioner's remuneration may not be reduced.

However, additional remuneration attaching to an administrative office within the Commission shall cease upon termination of such office.

2001, c. 26, s. 63.

137.30. The pension plan of commissioners shall be determined pursuant to the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) or the Act respecting the Civil Service Superannuation Plan (chapter R-12), as the case may be.

2001, c. 26, s. 63; 2001, c. 49, s. 2.

137.31. A public servant appointed as a commissioner of the Commission ceases to be subject to the Public Service Act (chapter F-3.1.1) in all matters concerning his office as commissioner; the public servant is, for the duration of his appointment and to discharge the duties of commissioner, on full leave without pay.

2001, c. 26, s. 63.

§ 4. — *Ethics and impartiality*

137.32. Each commissioner shall, before acting as such, take an oath, solemnly affirming the following: "I (...) swear that I will exercise the powers and fulfil the duties of my office impartially and honestly and to the best of my knowledge and abilities."

The oath shall be taken before the president of the Commission. The president of the Commission shall take the oath before a judge of the Court of Québec.

The writing evidencing the oath shall be sent to the Minister.

2001, c. 26, s. 63.

137.33. The Government shall, after consultation with the president, establish a code of ethics applicable to the commissioners.

The code comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, or on any later date indicated therein.

2001, c. 26, s. 63.

137.34. The code of ethics shall set out the rules of conduct and the duties of the commissioners towards the public, the parties, their witnesses and the persons representing them; it shall, in particular, define the conduct that is derogatory to the honour, dignity or integrity of a commissioner. In addition, the code of ethics may determine the activities or situations that are incompatible with their office, their obligations concerning the disclosure of interests, and the functions they may exercise gratuitously.

The code of ethics may provide for special rules governing part-time commissioners.

2001, c. 26, s. 63.

137.35. A commissioner may not, on pain of forfeiture of office, have a direct or indirect interest in any enterprise that could cause a conflict between the commissioner's personal interest and the commissioner's duties of office, unless the interest devolves to the commissioner by succession or gift and the commissioner renounces it or disposes of it with dispatch.

2001, c. 26, s. 63.

137.36. In addition to observing conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics established under this Code, a commissioner must refrain from pursuing an activity or placing himself or herself in a situation incompatible, within the meaning of the code of ethics, with the exercise of the commissioner's functions.

2001, c. 26, s. 63.

137.37. Full-time commissioners shall devote themselves exclusively to their office.

They may, however, carry out any mandate entrusted to them by order of the Government after consultation with the president of the Commission.

2001, c. 26, s. 63.

DIVISION VII

CONDUCT OF THE COMMISSION'S AFFAIRS

§ 1. — *Internal management*

137.38. The administrative affairs of the Commission shall be conducted in accordance with rules of internal management established by the president of the Commission, after consultation with the vice-presidents. The rules shall be submitted to the Government for approval.

2001, c. 26, s. 63.

137.39. The Commission may, in accordance with its rules of internal management, enter into an agreement with any person, association, partnership or body, and with the Government or a department or body of the Government.

The Commission may also, subject to the applicable legislative provisions, enter into an agreement with a government in Canada or abroad, a department or agency of such a government, an international organization or an agency of such an organization.

2001, c. 26, s. 63.

§ 2. — *Administrative mandate*

137.40. The Government shall appoint a president and two vice-presidents.

Those persons must comply with the requirements provided for in section 137.12 and shall be appointed after consultation with the most representative associations of workers and employers' associations.

The persons appointed under the first paragraph become, upon their appointment, commissioners of the Commission charged with an administrative office.

The president and the vice-presidents may sit in any division of the Commission.

2001, c. 26, s. 63; 2006, c. 58, s. 28; 2011, c. 16, s. 143.

137.41. The administrative mandates of the president and vice-presidents shall not exceed five years and shall be determined in the instrument of appointment.

At the expiry of their mandate, the president and the vice-presidents shall remain in office until replaced or reappointed.

They may continue to exercise their functions as commissioners in order to dispose of the matters they have begun to hear; they shall be considered to be supernumerary commissioners during such time as is necessary.

2001, c. 26, s. 63.

137.42. The Government shall fix the remuneration, employment benefits and other conditions of employment of the president and vice-presidents.

2001, c. 26, s. 63.

137.43. The president and the vice-presidents shall exercise their functions on a full-time basis.

2001, c. 26, s. 63.

137.44. The Minister shall designate a vice-president to replace the president or another vice-president.

2001, c. 26, s. 63.

137.45. The administrative mandate of the president or of a vice-president may terminate prematurely only if the president or vice-president relinquishes his or her administrative office, on the premature termination of his or her term of office as commissioner, or on his or her dismissal or removal from administrative office in circumstances referred to in section 137.46.

2001, c. 26, s. 63.

137.46. The Government may remove the president or a vice-president from administrative office if the Conseil de la justice administrative so recommends, after an inquiry is conducted at the Minister's request concerning a lapse pertaining only to administrative duties. The council shall act in accordance with the provisions of sections 193 to 197 of the Act respecting administrative justice (chapter J-3), with the necessary modifications; however, the formation of an inquiry committee is subject to the rules set out in section 137.24.

2001, c. 26, s. 63.

§ 3. — *Management and administration*

137.47. In addition to the exercise of the powers and duties that may otherwise be assigned to the president, the president is charged with the administration and general management of the Commission.

The functions of the president include

- (1) directing the personnel of the Commission and seeing to it that the personnel's functions are carried out;
- (2) promoting the professional development of the personnel of the Commission and the commissioners as regards the exercise of their functions;
- (3) fostering the participation of commissioners in the formulation of guiding principles so as to maintain a high level of quality and coherence in the decisions of the Commission;
- (4) coordinating and assigning the work of the commissioners who, in that respect, must comply with the president's orders and directives;
- (5) seeing to the observance of the standards of ethics.

2001, c. 26, s. 63.

137.48. For the exercise of the Commission's functions, duties and powers, the president may appoint labour relations officers charged with

- (a) attempting to bring the parties to an agreement;

(b) ascertaining the representative character of an association of employees or its rights to be granted certification;

(c) conducting, at the request of the president of the Commission, or on their own initiative in matters referred to them, an investigation into an apprehended contravention of section 12, a survey or research on any matter relating to certification and the safeguarding or exercise of the freedom of association.

Those persons are also charged with exercising any other functions entrusted to them by the president.

2001, c. 26, s. 63.

137.48.1. For the purposes of Chapter V.1, the Commission may engage persons to conduct an investigation or help the parties come to an agreement.

2011, c. 16, s. 144.

137.49. When a commissioner is appointed, the president assigns the commissioner to one or more divisions of the Commission.

To expedite the business of the Commission, the president may reassign or temporarily assign a commissioner to another division.

In assigning work to commissioners, the president may take their specific knowledge and experience into account.

2001, c. 26, s. 63; 2006, c. 58, s. 29; 2011, c. 16, s. 145.

137.50. The president may delegate all or part of the president's powers and duties to the vice-presidents.

2001, c. 26, s. 63.

137.51. In addition to the powers and duties that may otherwise be assigned to them or delegated to them by the president, the vice-presidents shall assist and advise the president in the exercise of his or her functions and perform their administrative functions under the president's authority.

2001, c. 26, s. 63.

§ 4. — *Immunity*

137.52. The Commission, its commissioners and the members of its personnel may not be prosecuted for an act done in good faith in the exercise of their functions.

2001, c. 26, s. 63.

137.53. No person designated by the Commission to attempt to bring the parties to an agreement may be compelled to disclose anything revealed to or learned by the person in the exercise of his functions, or to produce personal notes or a document made or obtained in the exercise of his functions before a court or tribunal or an arbitrator or before a body or person exercising judicial or quasi-judicial functions.

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person shall have access to such a document unless the document is used as the basis for an agreement and for the decision confirming an agreement following conciliation.

2001, c. 26, s. 63.

§ 5. — *Personnel and material and financial resources*

137.54. The secretary and the other members of the personnel of the Commission shall be appointed in accordance with the Public Service Act (chapter F-3.1.1).

2001, c. 26, s. 63.

137.55. The secretary shall have custody of the records of the Commission.

2001, c. 26, s. 63.

137.56. The documents emanating from the Commission are authentic if they are signed, as are copies if they are certified true, by the president, a vice-president or the secretary or, as the case may be, by any person designated by the president for that purpose.

2001, c. 26, s. 63.

137.57. Once proceedings have been completed, the parties shall reclaim the exhibits they produced and the documents they filed.

The exhibits or documents not reclaimed by the parties may be destroyed after the expiry of one year from the date of the decision of the Commission or of the proceeding terminating the proceedings, unless the president decides otherwise.

2001, c. 26, s. 63.

137.58. The fiscal year of the Commission shall end on 31 March.

2001, c. 26, s. 63.

137.59. Each year, the president shall submit the budgetary estimates of the Commission for the following fiscal year to the Minister according to the form, tenor and schedule determined by the Minister.

The estimates shall be submitted to the Government for approval.

The budgetary estimates of the Commission present, with respect to the fund of the Commission, the elements listed in subparagraphs 1 to 5 of the second paragraph of section 47 of the Financial Administration Act (chapter A-6.001) and, if applicable, the excess amount referred to in section 52 of that Act.

Despite the third paragraph of section 47 of the Financial Administration Act, the budgetary estimates of the Commission need not be prepared jointly with the Minister of Finance and the Chair of the Conseil du trésor.

The budgetary estimates of the Commission, once approved by the Government, are sent to the Minister of Finance, who includes the elements relating to the fund of the Commission in the special funds budget.

2001, c. 26, s. 63; 2011, c. 18, s. 117.

137.60. The books and accounts of the Commission shall be audited by the Auditor General each year and whenever ordered by the Government.

2001, c. 26, s. 63.

137.61. Not later than 15 days before the expiry of the time limit provided for in the second paragraph, the Commission shall submit a report of activities for the preceding fiscal year to the Minister.

The Minister shall table the report in the National Assembly within four months of the end of such fiscal year or, if the Assembly is not in session, within 15 days of resumption.

2001, c. 26, s. 63.

137.62. The sums required for the purposes of this chapter shall be debited from the fund of the Commission.

The fund shall be made up of

(1) the sums transferred to it by the Minister out of the appropriations allocated for that purpose by Parliament;

(2) the sums paid by the Commission des normes du travail under section 28.1 of the Act respecting labour standards (chapter N-1.1);

(2.1) the sums paid by the Commission de la construction du Québec under section 8.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20), by a mandatary Corporation and by the Régie du bâtiment du Québec under sections 129.11.1 and 152.1 of the Building Act (chapter B-1.1);

(2.2) the sums transferred to it by the Minister of Employment and Social Solidarity for the purposes of section 41.1 of the Act respecting manpower vocational training and qualification (chapter F-5);

(3) the sums collected in accordance with the tariff of administrative fees, professional fees and other charges attached to applications, complaints, proceedings or documents filed with or services provided by the Commission;

(4) the sums transferred to it by the Minister of Finance under the first paragraph of section 54 of the Financial Administration Act (chapter A-6.001).

Despite section 51 of the Financial Administration Act, the books of account of the fund of the Commission need not be kept separately from the books and accounts of the Commission.

2001, c. 26, s. 63; 2005, c. 42, s. 19; 2007, c. 3, s. 72; 2006, c. 58, s. 30; 2011, c. 18, s. 118.

137.63. Section 53, the second paragraph of section 54 and section 56 of the Financial Administration Act (chapter A-6.001) do not apply to the fund of the Commission.

2001, c. 26, s. 63; 2011, c. 18, s. 119.

CHAPTER VII **REGULATIONS**

138. The Government may make any regulation it deems proper to give effect to the provisions of this Code, in particular,

(a) for the issue of the permits provided for in section 8 or 9;

(b) to provide for a certification system suitable to the temporary and seasonal nature of logging operations and the fishing and fish preparation industries and in particular decide that a 30-day period referred to in paragraph *d* or *e* of section 22 is at another time;

(c) to change the number of duplicate originals or true copies to be filed in accordance with section 72 and to establish the procedure to be followed for such filing and the information which the parties must furnish him on such occasion;

(d) to determine the special terms and conditions of filing of a collective agreement applicable to several employers or to several certified associations;

(e) to establish the procedure to be followed for the filing of an arbitration award and to determine the information that the grievances arbitrator must provide on the duration of the different stages of the arbitration procedure;

(f) to determine a tariff of administrative fees, professional fees or charges attached to applications, complaints, proceedings or documents filed with or services provided by the Commission. The regulation may also

(i) provide that the administrative fees, professional fees or charges may vary according to the applications, complaints, proceedings, documents or services or according to the persons or categories or subcategories of persons;

(ii) determine the persons and categories or subcategories of persons who are exempt from the payment of duties, fees or charges and the applications, complaints, proceedings, documents or services to which the exemption applies;

(iii) prescribe, for the applications, complaints, proceedings, documents or services it designates, the terms and conditions of payment of the administrative fees, professional fees and charges;

not in force

(g) to determine the information to be included in the application for membership referred to in subparagraph *b* of the first paragraph of section 36.1;

(h) to fix the minimum amount of union dues referred to in subparagraph *c* of the first paragraph of section 36.1.

The Commission may, in a regulation passed by a majority of the commissioners, make rules of evidence and procedure specifying the manner in which the rules established under this Code or the special Acts pursuant to which the proceedings are brought are to be implemented, rules determining the documents or information that must be included in or submitted with complaints filed with, proceedings brought before or applications made to the Commission or that the Commission may consider appropriate to subsequently require, and rules concerning the mode of transmission of documents and the place where a document may be filed with the Commission.

The Commission may also establish rules to be observed by the parties in reaching an agreement or drawing up a list pursuant to Chapter V.1.

A regulation made under the second or third paragraph must be submitted to the Government for approval.

R. S. 1964, c. 141, s. 115; 1969, c. 47, s. 38; 1969, c. 48, s. 34; 1977, c. 5, s. 14; 1977, c. 41, s. 56; 1983, c. 22, s. 92; 1994, c. 6, s. 36; 1999, c. 40, s. 59; 2001, c. 26, s. 64; 2006, c. 58, s. 31; 2011, c. 16, s. 146.

CHAPTER VIII

RECOURSES

139. Except on a question of jurisdiction, none of the extraordinary recourses provided for in articles 834 to 846 of the Code of Civil Procedure (chapter C-25) may be exercised and no injunction may be granted against an arbitrator, the Commission, any of its commissioners or a labour relations officer of the Commission acting in their official capacity.

R. S. 1964, c. 141, s. 121; 1969, c. 47, s. 39; 1977, c. 41, s. 1, s. 57; 1982, c. 16, s. 5; 1983, c. 22, s. 93; 1985, c. 12, s. 93; 1990, c. 4, s. 232; 1998, c. 46, s. 59; 2001, c. 26, s. 66; 2011, c. 16, s. 147.

139.1. Except on a question of jurisdiction, article 33 of the Code of Civil Procedure (chapter C-25) does not apply to any person, body or agency mentioned in section 139 acting in their official capacities.

1982, c. 16, s. 6.

140. A judge of the Court of Appeal may annul summarily, upon petition, any writ, order or injunction issued or granted contrary to sections 139 and 139.1.

R. S. 1964, c. 141, s. 122; 1974, c. 11, s. 2; 1979, c. 37, s. 43; 1982, c. 16, s. 7.

140.1. No recourse may be exercised by reason or as a result of a report or an order made by the Commission under Chapter V.1 or publications relating thereto, as the case may be, or by reason of acts performed in good faith and in the exercise of their functions by the members of the Commission or by persons appointed by it in accordance with section 137.48.1.

1982, c. 37, s. 16; 1985, c. 12, s. 94; 2011, c. 16, s. 148.

CHAPTER IX

PENAL PROVISIONS

141. An employer who or which, having received the prescribed notice, fails to acknowledge as representing employees in his or its employ the representatives of a certified association of employees or to negotiate in good faith a collective labour agreement with them, is guilty of an offence and liable to a fine of \$100 to \$1,000 for each day or portion of a day during which such offence continues.

R. S. 1964, c. 141, s. 123.

142. Any person declaring or instigating a strike or lock-out contrary to the provisions of this Code, or participating therein, is liable, for each day or part of a day during which the strike or lock-out continues, to a fine

(1) of \$25 to \$100, in the case of an employee;

(2) of \$1,000 to \$10,000, in the case of a senior officer or employee of an association of employees or of an administrator, agent or adviser of an association of employees or of an employer;

(3) of \$5,000 to \$50,000, in the case of an employer, an association of employees or a union, federation or confederation to which an association of employees is affiliated or belongs.

R. S. 1964, c. 141, s. 124; 1982, c. 37, s. 17.

142.1. Any person who contravenes section 109.1 is guilty of an offence and is liable to a fine of not more than \$1,000 for every day or part of a day during which the offence continues.

1977, c. 41, s. 58.

143. Any person who infringes any provision of section 12, 13 or 14, is guilty of an offence and liable to a fine of \$100 to \$1,000 for each day or portion of a day during which such offence continues.

R. S. 1964, c. 141, s. 125.

143.1. Any person who impedes or hinders the action of the Commission or of a person appointed by it pursuant to Chapter V.1 or any person who misleads them by concealment or misrepresentation is guilty of an offence and liable, for each day or part of a day during which the offence continues, to a fine

(1) of \$25 to \$100, in the case of an employee;

(2) of \$100 to \$500, in the case of a senior officer or employee of an association of employees or of an administrator, agent or adviser of an association of employees or of an employer;

(3) of \$500 to \$1,000, in the case of an employer, an association of employees or a union, federation or confederation to which an association of employees is affiliated or belongs.

1982, c. 37, s. 18; 2011, c. 16, s. 149.

144. Any person who fails to comply with any obligation or prohibition imposed by this Code, by a regulation

of the Government or by a regulation or decision of the Commission, is guilty of an offence and liable, unless another penalty is applicable, to a fine of \$100 to \$500 and of \$1,000 to \$5,000 for any subsequent conviction.

R. S. 1964, c. 141, s. 126; 1969, c. 47, s. 40; 1977, c. 41, s. 1, s. 59; 1990, c. 4, s. 233; 2001, c. 26, s. 67.

145. The following shall be party to an offence and liable to the penalty provided in the same manner as the person committing the offence: any person who aids or abets the commission thereof and, when the offence is committed by a legal person or an association, every director, officer or manager shall be guilty of the offence who in any manner approves of the act which constitutes the offence or acquiesces therein.

R. S. 1964, c. 141, s. 128; 1999, c. 40, s. 59.

146. If several persons conspire to commit an offence, each of them shall be guilty of each offence committed by any of them in the carrying out of their common intention.

R. S. 1964, c. 141, s. 129.

146.1. An employer who does not comply with the order of reinstatement and, where such is the case, of payment of an indemnity, made under section 15 or by the application of section 110.1 is guilty of an offence and is liable to a fine of \$500 for each day of failure to comply.

1977, c. 41, s. 60.

146.2. Every association of employees and every employer that contravenes an agreement or a list contemplated in section 111.0.18, 111.10, 111.10.1, 111.10.3, 111.10.5 or 111.10.7 or in an agreement or a decision referred to in section 111.15.3, and every association of employees that fails to take the appropriate means to induce the employees it represents to comply with the agreement or the list or with the agreement or the decision is guilty of an offence and liable to a fine of \$1,000 to \$10,000 for each day or part of a day during which the offence continues.

1982, c. 37, s. 19; 1985, c. 12, s. 95; 2001, c. 26, s. 68.

147. *(Repealed).*

R. S. 1964, c. 141, s. 130; 1990, c. 4, s. 235.

148. Penal proceedings for an offence under a provision of section 20.2 or 20.3, instituted in accordance with article 10 of the Code of Penal Procedure (chapter C-25.1), may be instituted only by a member of the certified association included in the bargaining unit.

R. S. 1964, c. 141, s. 131; 1969, c. 47, s. 42; 1969, c. 48, s. 35; 1977, c. 41, s. 61; 1990, c. 4, s. 236; 1992, c. 61, s. 181.

149. *(Repealed).*

R. S. 1964, c. 141, s. 132; 1969, c. 47, s. 43; 1969, c. 26, s. 20; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 115; 2002, c. 45, s. 269; 2006, c. 58, s. 32.

CHAPTER X PROCEDURE

150. Any employer or association may be represented, for the purposes of this Code, by duly empowered representatives.

R. S. 1964, c. 141, s. 133.

151. No proceeding under this Code may be dismissed by reason of any defect of form or irregularity of procedure.

R. S. 1964, c. 141, s. 134; 1969, c. 48, s. 36; 1977, c. 5, s. 14; 1977, c. 41, s. 1, s. 62; 1981, c. 9, s. 34; 1982, c. 53, s. 56; 1994, c. 12, s. 66; 1996, c. 29, s. 43; 1999, c. 40, s. 59; 2001, c. 26, s. 69.

151.1. For the purposes of this Code, the following are non-judicial days:

- (a) Sundays;
- (b) 1 and 2 January;
- (c) Good Friday;
- (d) Easter Monday;
- (e) 24 June, the National Holiday;
- (f) 1 July, the anniversary of Confederation, or 2 July if 1 July is a Sunday;
- (g) the first Monday of September, Labour Day;
- (g.1) the second Monday of October;
- (h) 25 and 26 December;
- (i) the day fixed by the Governor-General for the celebration of the birthday of the Sovereign;
- (j) any other day fixed by proclamation or order of the Government as a public holiday or as a day of thanksgiving.

1977, c. 41, s. 63; 1978, c. 5, s. 14; 1979, c. 37, s. 41; 1984, c. 46, s. 17.

151.2. If the date fixed for doing anything falls on a non-judicial day, such thing may validly be done on the next following judicial day.

1977, c. 41, s. 63.

151.3. In computing any period fixed by this Code or any of its provisions,

- (1) the day which marks the start of the period is not counted, but the terminal day is counted;
- (2) non-judicial days are counted; but when the last day is a non-judicial day, the period is extended to the next following judicial day;
- (3) Saturday is considered a non-judicial day, as are 2 January and 26 December.

1977, c. 41, s. 63; 1999, c. 40, s. 59; 2006, c. 58, s. 33.

151.4. Non-judicial days are not counted in computing any period fixed by this Code to do any thing, when such period does not exceed ten days.

1977, c. 41, s. 63; 1999, c. 40, s. 59.

152. No evidence shall be admitted to establish that an investigation or prosecution contemplated by this Code has been taken on information received from an informer, or to discover the identity of the latter.

R. S. 1964, c. 141, s. 135; 1990, c. 4, s. 237.

CHAPTER X.1 RESPONSIBILITY

152.1. The Minister of Labour is responsible for the administration of this Code. The Minister's responsibility with regard to the Commission des relations du travail extends to the exercise of the Commission's functions under this Code and under any other Act.

2009, c. 32, s. 25.

CHAPTER XI



This Chapter ceased to have effect on 17 April 1987.

153. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

SCHEDULE I

PROCEEDINGS BROUGHT UNDER OTHER ACTS

In addition to the proceedings brought under this Code, the Commission shall hear and decide proceedings under

- (0.1) sections 11.1 and 164.1 of the Building Act (chapter B-1.1);
- (1) the second paragraph of section 45, the second paragraph of section 46 and the third paragraph of section 137.1 of the Charter of the French language (chapter C-11);
- (2) the second paragraph of section 72 of the Cities and Towns Act (chapter C-19);
- (3) the second paragraph of article 267.0.2 and the third paragraph of article 678.0.2.6 of the Municipal Code of Québec (chapter C-27.1);
- (4) the fourth paragraph of paragraph *g* of section 48 of the Act respecting the Commission municipale (chapter C-35);
- (5) the first paragraph of section 30.1 of the Act respecting collective agreement decrees (chapter D-2);
- (6) the second paragraph of section 88.1 and the first paragraph of section 356 of the Act respecting elections and referendums in municipalities (chapter E-2.2);
- (7) section 205 of the Act respecting school elections (chapter E-2.3);
- (8) the second paragraph of section 144 and the first paragraph of section 255 of the Election Act (chapter E-3.3);
- (9) sections 104 to 107, 110, 112 and 121, the second paragraph of section 109 and the third paragraph of section 111 of the Pay Equity Act (chapter E-12.001);
- (10) section 17.1 of the National Holiday Act (chapter F-1.1);
- (11) section 20 and the second paragraph of section 200 of the Act respecting municipal taxation (chapter F-2.1);
- (12) the second paragraph of section 65, the fourth paragraph of section 66 and the third paragraph of section 67 of the Public Service Act (chapter F-3.1.1);

(13) (*paragraph repealed*);

(13.1) section 41.1 of the Act respecting workforce vocational training and qualification (chapter F-5);

(14) the second paragraph of section 47 of the Jurors Act (chapter J-2);

(14.1) section 9.3 of the Stationary Enginemen Act (chapter M-6);

(15) sections 86.1, 123.4, 123.9, 123.12 and 126 of the Act respecting labour standards (chapter N-1.1);

(16) sections 176.1, 176.6, 176.7 and 176.11 of the Act respecting municipal territorial organization (chapter O-9);

(17) the second paragraph of section 129 of the Civil Protection Act (chapter S-2.3);

(18) the first paragraph of section 7.7, sections 21, 27, 58.1 and 61.4, the first paragraph of section 65, the second paragraph of section 74, the second paragraph of section 75, the first paragraph of section 80.1, the first paragraph of section 80.2, section 80.3, the second and third paragraphs of section 93, section 105 and subparagraph 8.7 of the first paragraph of section 123 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);

(18.1) sections 15, 21 and 23 of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01);

(18.2) sections 12, 20, 22, 42.5, 56, 57, 58 and 59.1 of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (chapter S-32.1);

(19) the second paragraph of section 5.2 of the Courts of Justice Act (chapter T-16);

(19.1) sections 10 and 17, the second paragraph of section 23, sections 32 and 76 and the second paragraph of section 82 of the Act respecting bargaining units in the social affairs sector (chapter U-0.1);

(20) the second paragraph of section 154 of the Fire Safety Act (chapter S-3.4);

(21) the second paragraph of section 73 and the seventh paragraph of section 265.1 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);

(22) the second paragraph of section 64 and the seventh paragraph of section 229 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);

(23) the second paragraph of section 73 of the Act respecting public transit authorities (chapter S-30.01);

(24) the sixth paragraph of section 57 of the Act to amend various legislative provisions concerning regional county municipalities (2002, chapter 68);

(25) the third paragraph of section 43 of the Act respecting pre-hospital emergency services (chapter S-6.2);

(26) section 19 of the Act respecting the process for determining the remuneration of criminal and penal prosecuting attorneys and respecting their collective bargaining plan (chapter P-27.1);

(27) sections 9, 10, 23, 26, 29, 31, the last paragraph of section 53 and sections 54 and 127 of the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements (chapter R-24.0.2);

(28) sections 7, 8, 21, 24, 27, 29, 55 and 104 of the Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1);

(29) section 50 of the Act respecting the Agence du revenu du Québec (chapter A-7.003);

(30) section 72 of the Anti-Corruption Act (chapter L-6.1);

(31) section 75 of the Act to amend the Sustainable Forest Development Act and other legislative provisions (2013, chapter 2).

2001, c. 26, s. 70; 2002, c. 28, s. 36; 2002, c. 68, s. 9; 2002, c. 69, s. 126; 2002, c. 80, s. 78; 2004, c. 22, s. 15; 2005, c. 42, s. 20; 2006, c. 58, s. 34; 2005, c. 34, s. 52; 2007, c. 3, s. 72; 2006, c. 58, s. 34; 2009, c. 24, s. 89; 2009, c. 32, s. 26; 2009, c. 36, s. 71; 2011, c. 17, s. 42; 2011, c. 16, s. 150; 2011, c. 30, s. 72; 2011, c. 31, s. 16; 2010, c. 3, s. 271; 2013, c. 2, s. 69; I.N. 2014-05-01.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 141 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed, except sections 136a to 140c, effective from the coming into force of chapter C-27 of the Revised Statutes.